

Summary

This thesis is a preliminary study of the socio-political role of a major polemical document against Reform Judaism. It consists of two sections: an introductory essay which provides a historical context and an analysis of *Eleh divre ha-brit*, and a translation of the text with referential and explanatory notes. The goal of this thesis was to apply the scientific method to the understanding of this important text. The materials I used were the basic text of *Eleh divre ha-brit*, biblical and Talmudic literature, and works on history and the social sciences.

**A SOCIO-POLITICAL ANALYSIS AND PARTIAL TRANSLATION OF
*ELEH DIVRE HA-BRIT***

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For my parents

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Introduction

History starts with an idea. If it is a good idea it will find acceptance. As the idea settles it becomes the norm. The idea can exist for as long as it is not threatened by new ideas. There will be new ideas. Some of these ideas will also be good ones. The new good ideas will also begin to take root. There will be some who can appreciate the new more than the old. There will be some that detest the new idea. And so the struggle between old and new will begin. The supporters of the old will always defend the old idea. And those who support the new will fight for its legitimacy. Third and fourth ideas will also come to the threatened what has come previously.

As the Middle Ages came to an end Western Europe struggled. The old idea of feudalism was being replaced by the new system of mercantilism. The power of the Catholic Church was being threatened by the changes brought by the Reformation. The Middle ages were ending, religion was being replaced with secularism, agriculture and guild unions were being replaced by international commerce, and the Age of Enlightenment was beginning.

For the typical Jew living in the ghetto, there was little or no contact with the rest of European society. While many spoke and understood the language of the non-Jewish community, Yiddish, a language spoken primarily by the Jews was their primary way of communicating with each other. Rabbinic law ruled, controversies and disputes were

settled in rabbinic courts and it was understood the rabbinic law was divinely received. The laws in the Bible, the Talmud and its commentaries were the guiding principles that governed the Jewish people. Language governance and legal exclusion by the outside world separated the Jews of Western Europe. Jews could not own land or take part in government.

The Jews of Western Europe lived in ghettos isolated from the general population. Although life for the European Jew seemed insular there were many opportunities for the Jews to have contact with their non-Jewish neighbors. By the 18th century the phenomenon of the "court Jew" was still present. Some Jews, because of their usefulness to the state, were given special privileges to do business outside of the Jewish ghetto. The rise of mercantilism gave more and more Jews entry into Christian (or what was becoming secular) society. So that while the Jews lived largely on their own they were influenced by the trends of the beginning of modernity.

The modern age begins with the age of the Enlightenment. The enlightened thinker believed that one's intellect and God are separate from each other. Enlightenment thinkers valued humanism, science, individualism, and the universality of humankind. The leaders of this movement were philosophers who valued reason above all. The Enlightenment spread through western and central Europe in the eighteenth century. The ideas of the Enlightenment seeped into the Jewish community. For some Jews it would be purely philosophical. For others the Enlightenment inspired change and reform.

The most significant effect the Enlightenment had on Europe's Jewish community was emancipation, freedom to live and work outside the ghetto. Jewish emancipation began with Napoleon and the French Sanhedrin. In 1806 after his victory in Germany, Napoleon stopped in Strasbourg he was presented with the many complaints the local people had against the Jews of Alsace-Lorraine. In response to these complaints Napoleon set up a special council of handpicked Jews to discuss the issues of Jewish loyalty to France.¹ Many of the attacks against the Jews came from the Catholic old guard, Napoleon took this as a opportunity to further impress his power on those who did not support him and at the same time try to correct Jewish behavior.²

This council was given the task of answering the Emperor's questions. Some of these questions were about Jewish religious practice: "Is it lawful for Jews to marry more than one wife?" "Is divorce allowed?" Other questions dealt with the Jews ability to live in the French state: "In the eyes of Jews are French men considered brethren or are they considered as strangers?" "Do Jews born in France consider France their country? Are they willing to defend it and obey its Laws?" The Assembly of Notables again and again asserted their love and loyalty to France. "The love of country is in the heart of Jews a sentiment so natural, so powerful, and so consonant to their religious opinions that a French Jew considers himself in England, as among strangers, although he may be among Jews; and the case is the same when English Jews in France."³ The Assembly of Notables included businessmen, Rabbis, and scholars. In April of 1807, the

Sanhedrin met in Paris to give spiritual sanction to the answers offered by the Assembly.

The Sanhedrin was meant to give firmer and more absolute answers to the "questions."

The most significant act by the Sanhedrin was to renounce the ideology of separate statehood for the Jews. This set a precedent for other Jewish communities seeking emancipation and assimilation into gentile society.

In Germany, the process of emancipation was not an easy one. At times progress was hopeful while at others history seemed to be moving backwards. When Napoleon and the "new guard" were in power emancipation was realized. With the defeat of Napoleon Jewish freedom was threatened.

The Jews of Germany witnessed the emancipation of their coreligionists in France and began to petition their local governments for greater equality. German leadership was not receptive to these requests. As Napoleon power increased throughout Europe, the Germans saw the Jews as Francophiles and foreigners to Germany and German interests. The Germans were humiliated by French defeat and vilified anything and anyone allied with Napoleon. The Jews benefited from Napoleon with emancipation.

Moses Mendelssohn (1729-1786) lived in both the German and Jewish worlds. He became a role model for other Jews seeking life outside the Ghetto. But Moses Mendelssohn not only participated in the secular Enlightenment; he brought its values to Judaism. Mendelssohn was well educated in both the Jewish and secular worlds. He saw the scientific approach that was applied to the German language. Using the tools of

German scholarship Mendelssohn translated the Pentateuch. Although Mendelssohn has been championed as one of the founders of Reform Judaism, he had not intended his scholarship or acculturation to be used as his support in favor of reform. In fact Mendelssohn had objected to any changes in the observance of ritual Judaism.⁴ He lived his life in strict observance of the law. As he wrote in his philosophic tract *Jerusalem* in 1783. Mendelssohn felt that Judaism and reason were compatible.⁵

In 1806, Napoleon captured and occupied Prussia and the city of Berlin. The salons, rightfully seen as an outgrowth of French culture, were soon disbanded as animosity toward anything French grew. Even though the salons disappeared, Jewish women were already been introduced into gentile society and did not wish to return to an isolated Jewish culture. When court Jews were permitted to enter gentile cultural society, Jewish women were taught how to participate in that society. They were taught art and language. The wealth of these families did not require the women to work in the home or in the businesses. Some scholars also argue that unlike their male brothers Jewish women were not taught about Jewish traditions and laws. As a result of their integration and lack of Jewish education, many Jewish women converted and married outside the Jewish faith. For some Jewish families the triumph of their success was a daughter's marriage to a wealthy non-Jewish man.

In 1786, Moses Mendelssohn died, and his life of acculturation continued to be a role model for many German Jews, particularly those living in Berlin. The Jews of

Berlin were a unique group, for they never experienced life in forced ghettos. By the late half of the eighteenth century Berlin's Jews were rumored to be fabulously wealthy compared to the rest of European Jewry.⁶ Their wealth was gained through the typical means that Jews earned a living. Many Jews in Berlin were "court Jews" employed by Prussian kings as brokers of precious metals and stones, many were also bankers.

Despite their usefulness to the kings and noblemen, the Jews of Berlin did not live as citizens. They did not have equal status and were forced to pay special Jewish taxes. The Jewish women of Berlin play an interesting role in the process of Jewish assimilation in to European society. Because of their wealth and special status the Jews of Berlin integrated into Berlin's wealthy elite class. Jewish women hosted women's salons. These salons were set up for intellectual discussion and social gathering. At the height of their popularity these salons were attended by Berlin's most famous and most wealthy patrons.

While Mendelssohn did not value changes in Jewish ritual observance his disciples did. David Friedlander (1750-1832) like his teacher Moses Mendelssohn was well cultured and interested in bringing the Jewish community closer to the Enlightenment. Unlike his teacher Friedlander was interested in making changes in the ways Jews understand and practice Judaism.⁷ Friedlander evaluated the Jewish community of Berlin and concluded that religiously their way of life did not reflect the values of the enlightenment. In 1778 he founded the Jewish Free School of Berlin, their secular sciences were taught to Jewish children and he participated in translating the

Hebrew prayer book in to German. Friedlander's work was met with opposition. Those who held fast to the former "old ides" would fight hard to maintain their way of life.

Friedlander had been a radical to the traditional Jew. He sought political and religious change for the Jews. He was not alone in his ideas and his efforts to see change in the Jewish community. Unfortunately Friedlander made a significant error in his efforts for reform. In 1799 Friedlander wrote that he was ready to accept Christianity on the condition that he need not accept the Trinity and he never converted, he lost his standing in the Jewish community.

Many newly emancipated Jews felt indifferent to and disaffected from traditional Judaism. For some, conversion to Christianity seemed their only option to fulfillment in German society. For others, the reform of antiquated practices and updating of ritual would be the way to keep themselves and other Jews interested and involved in Judaism. This was the beginning of Reform Judaism. Although the very early reformers were more concerned with aesthetics, those who would follow would look more closely at the philosophies of Judaism and figure out ways to live as Jews in the modern enlightened era.

In January of 1808, Napoleon's brother Jerome decreed that all Jews living in Westphalia were equal citizens in all regards to anyone else living in the region. The Jews responded to this decree by joining the German Army, and participating in local

politics. The newly found freedom also encouraged Jews to beginning reforming there own religious practices.

One wealthy Jew living in Westphalia was Israel Jacobson (1768-1828). Israel Jacobson has been called the father of German Reform.⁸ Jacobson like Friedlander sought ways to attract Jews to Judaism. He witnessed the Jews of Berlin become increasingly indifferent to their religion. Cultured society could not compete with disorganized, noisy and what appeared to be confusing synagogue life.⁹

Israel Jacobson provided the impetus for the Berlin community to create a religious service that would embrace reform. In 1815 Jacobson invited Berlin's elite to his home to celebrate his son's confirmation. The success of this first service eventually led to a regular Sabbath service in his home. As participation grew the services were moved to the more spacious home of Jacob Herz Beer, another wealthy influential Jew of Berlin society.

The changes made to the Beer service reflected form more than substance. Men and women sat together. An organ played by a non-Jew was added to the service. And while many of the prayers continued to be recited in Hebrew, some were in German. The service also attracted young rabbis who were educated in secular sciences as well as rabbinic literature and tradition. These rabbis would later lead future more substantive reform to Jewish tradition. Eduard Kley (1789-1867) was one of these preachers. He eventually left Berlin to lead the Hamburg Temple.

The traditional Jewish community rejected any reform in the traditional prayer service. And while they denounced the alternative service, the real threat to the Beer temple came from Frederick William III, the Prussian monarch. The king feared that reform ideas would attract Christians to join the group.¹⁰ By September 1823 the government completely shut down the Beer temple.

Napoleon's defeat at Waterloo in June of 1815 ended his rule and led him into exile until his death in 1821. It was the end of the era of Napoleon. European powers needed discuss political structure, to rebuild its countries and redraw its borders. The Congress of Vienna met in 1814 and 1815 in order to recreate the map of Europe. The Congress of Vienna was a victory for the old guard especially in Germany, where leaders there sought to remove all that was French. Article 16 of the Congress of Vienna was particularly damaging to the cause of Jewish emancipation.

In the name of the Holy and Indivisible Trinity. The Diet of the Confederation shall take into consideration the means effecting, in the most uniform manner, an amelioration in the civil state of the confessor of the Jewish faith in Germany, as well as the means for providing and guaranteeing for the same enjoyment of civil rights in the Confederation states in return for their assumption of all the obligations of citizens. Until then however, the rights of the adherents of this creed already granted to them by the individual Confederated States shall be maintained.¹¹

This document essentially left the Jewish question open to the sovereignty of each German State. In central Europe, especially Germany, the struggle for Jewish emancipation was set back by Article 16. Immediately after the Congress of Vienna

literature was being circulated arguing against Jewish citizenship in the German states. For most Jews, living in the German states life returned to much as it had been before the French Conquest. For Jews favoring reform this was a great set back. For the Jews who sought an end to reform, the congress of Vienna and the changing view toward Jewish emancipation bolstered their position. Reform could be equated to French idealism, surely the ruling governments would be suspicious of anything that reminded them of the French.

In the years that the Beer temple services took place the rift between the reformers and the traditionalist widened. Aaron Chorin, a Hungarian rabbi who favored reform published a collection of Responsa with two others reform supporters in defense of reform called *Nogah ha-tsedek* (The Radiance of Justice). Eliezer Liebermann, a wondering preacher about whom little is known, contributed to the defense in his *Or Nogah* (Radiant Light). These two Responsa in concert with the activities of the Hamburg Temple would lead the traditional community to publish its own defense of traditional Judaism. One of these principle works of defense of traditional Judaism was the tract *Eleh divre ha-brit*.

Eleh divre ha-brit was published in the German City of Altona. The document contains twenty-two letters signed by forty rabbis. Rabbinic leaders of the Hamburg community wrote to other leading Rabbis in central Europe asking them to comment of the situation in Hamburg. They rabbinic court of Hamburg sought and received

unequivocal support from their rabbinic peers that any innovation of Jewish ritual was forbidden and any such innovator is to be considered a "heretic."¹²

Eleh divre ha-brit does not just respond to the writings of Liebermann and Chorin, the rabbinic court sought support of their condemnation of the Hamburg Temple and its supports. The attempts of reform in Berlin ended with the closure of the Beer Temple. Eduard Kley, a regular preacher and serviced leader of that service come to Hamburg to lead "The New Temple Organization". This organization and its activities were a catalyst for the traditional community to organize itself against a new threat. The movement of reform helped to organize the movement of orthodoxy.

Napoleon and the French reminded people of the Enlightenment and its skepticism toward religion; Religion was devalued in that it was not rational. The French occupation of Hamburg ended in 1814, with Napoleon's defeat came a renewed interest in religion. However, not all of the Enlightenment's effects left with the French. The Enlightenment and Emancipation had introduced Hamburg's Jews to a world outside the confines of their previous existence. So while they sought a return to Judaism they could not return to the old tradition ways they had already left behind.¹³ Their seeking coincided with Eduard Kley's desire to spread the message of reform. On October 18, 1818 the Hamburg Temple was dedicated.

There were some obvious differences in the Hamburg Temple from that of traditional synagogues. Until the "New Temple Organization" was formed, the term

"temple" referred only to the ancient Temple of Jerusalem. The new temple, in name would reflect the new liturgy that deleted references to the restoration of the ancient Temple. Although there were some liturgical changes many of the reforms made in Hamburg continued to be aesthetic. Strict decorum was adhered to, traditional chanting was abolished and organ music was added. The lack of substantive reform would frustrate its rabbinic leadership. Later rabbis interested in reform would gather to further discuss what modern Judaism would look like. Perhaps to the contemporary Reform Jew the changes seem insignificant. However, to the traditional Jew the changes were severe and according to their halakhic viewpoint, forbidden.

The contributors to *Eleh divre ha-brit* were the leaders of Central European traditional Judaism. The most prominent contributor was Moses Sofer (1762-1839). Moses Sofer, also known as Hatam Sofer, was revered for his exceptional scholarship, moral character and leadership abilities. He was appointed head rabbi of Pressburg and there he founded a yeshiva, which would later become a center for the organization of Orthodox Jewry in its opposition to the Reform movement. Sofer rejected any reform or modernization as Judaism simply because it was new. In his two letters in *Eleh divre ha-brit*, he often quotes from or refers to the *Shulhan Arukh*; he considered it to be the final authoritative code. Through his other writings and many debates the *Shulhan Arukh* became the central law code still used by contemporary Orthodox Jews for understanding the Talmud.

One primary point which was repeated several times is the notion the one must "build a fence around the Torah." The Torah or the law is given directly from God, as a God given gift is must not be tampered with. There are rules and sanctions in the Torah that we may not understand but we must protect them. For example the Torah commands us not to work on the Sabbath.¹⁴ While the Torah does give some specific examples of what refraining from work means, such as; cooking, traveling, carrying and doing conducting business transactions, the Torah does not explicitly define 'work'. As way of understanding what the Torah's prohibition against work means the early rabbinic authorities, (or the *Tannaim*) created a list of thirty-nine activities prohibited on the on the Sabbath.¹⁵ These thirty-nine prohibitions serve as a way of protecting the Torah's law against working on the Sabbath. These prohibitions act as a fence around the Torah, a means of protecting the Divine law. The writers for *Eleh divre ha-brit* saw the suggested and implemented changes taking place in the Hamburg Temple as an assault on the Torah, actions that were to tear done the protective fences.

The traditional opponents to reform feared that one change would lead to another until reform would be the end of Judaism. The Rabbinic courts writes, "They started with the lesser laws and moved to the stricter commandments until the wicked and lawless amongst us have multiplied."¹⁶ Even if there were some changes the traditional Jew could tolerate, he must not because the reformer's path will lead to the destruction of Judaism.

The rabbinic court of Hamburg sought to confirm their three principal rulings against the "New Temple Organization". The Hamburg court issued three legal judgments, they were:

- 1) "It is forbidden to change any accepted version of the prayers that have been handed down to us by our departed predecessors of blessed memory.
- 2) It is forbidden to pray publicly in the synagogue in any language other than the holy tongue, as is the custom of the community of Israel.
- 3) It is forbidden to play a musical instrument on the Sabbath and on a festival in the synagogue, even if by a non-Jew who has been prepared for this prior to the Sabbath and festival."¹⁷

The writers and signatories of *Eleh Divre Ha-brit* confirmed and justified their rulings.

Each writer argued against any and all changes in the tradition and used Talmudic and Biblical citations to prove their points.

Moses Sofer wrote one of the strongest attacks against reform in this tract. He argues against any and all changes to traditional Judaism. He wrote that even if a change or reform seemed reasonable and even worthwhile, it must be rejected because there is no authority to make changes. The time for innovation ended with the period of the Rishonim and the Men of the Great Assembly. Sofer quotes from Maimonides *Hilkhot Mamrim* chapter two, where Rambam wrote that unless a court greater in number and in wisdom were to appear no change is permissible. Sofer challenges the reformers saying, "Let them stand up and be counted." The supporters of reform according to Moses Sofer are not wiser nor are they greater in number than the Men of the Great Assembly, therefore they have no right to make any changes.

"It is forbidden to change any accepted version of the prayers. It is forbidden to pray publicly in the synagogue in any language other than the holy tongue," Changing the prayer service was one of the most offensive acts the reformers could have committed. This attack on reform was well substantiated. The New Temple Organization published its own prayer book. Innovations in this edition were the inclusion of German prayers as well as the omission of traditional prayers for coming of the messiah or for national redemption in Zion.

The writers quote the biblical promise of redemption as one of the most basic tenets of Judaism. The reformers were keenly aware of their precarious position as newly emancipated citizens. In an effort to prove their loyalty to Germany, it was believed that Zion had to be forgotten. The traditionalists strongly disagreed, "The prophets unanimously assure us that the God of our fathers will gather our exiles together. This has always been our hope throughout the length of our exile. This belief in no way compromises the honor of the kings and of the princes may their glory rise, under whose protection we abide."¹⁸ A belief in the messiah who would restore Israel did not conflict with one's ability to be a German citizen. In addition, the writers of *Eleh divre ha-brit*, insisted that since the prayer service had been accepted since the time of the Men of the Great Assembly, too much time had passed and any changes to be made now were forbidden.

"It is forbidden to play a musical instrument on the Sabbath and on a festival in the synagogue." The traditional synagogue service usually had a cantor and small choir accompanying him. There was not instrumentation and the singers lacked any formal musical training¹⁹. Members of the Hamburg Temple had been exposed to the contemporary musical styles and could not appreciate the music of the traditional synagogue music. The constitution of the Hamburg Temple called for musical changes. "There shall be introduced at such services . . . choral singing to the accompaniment of an organ."²⁰ In response to the organ the writers of *Eleh divre ha-brit* argued that since musical instruments were never included they should not now be added. In addition Moses Sofer argued that since the time of the destruction of the Second Temple joy had been banished from the synagogue. There could be no music without the temple.

The problem of how to live a Jewish life in the modern era began in the early half of the eighteenth century. There were some who left Judaism completely in search of the secular life. There were those who clung to the traditional life style that even when permitted they remained inside the ghetto. Some where in the middle there were Jews who sought to find balance between the two worlds.

The new ideas of the beginnings of Reform Judaism could not fit into the old ideas of pre-modern Judaism. Reform Judaism began in private homes and grew into one of the largest movements in the modern world. Pre-modern and Modern Orthodox Judaism fought to hold onto its traditional rituals and observances, it too remains to be a

vital movement in the modern world. This author can only conclude that because the many differences between the branches of Judaism all Jews have an opportunity to express their Judaism and live full Jewish lives in the any day and age.

Translation of Eleh divre ha-brit

These are the Words of the Covenant:²¹

A constitution for Jacob, an eternal covenant for Israel.

God has spoken once²² and He will not change his religion for all eternity²³.

According to the Torah and the decision of this court, proclaimed by the righteous court of the holy community of Hamburg, may its light always shine. They have the support of the great scholars from the lands of Germany, Poland, France, Italy, Bohemia, Moravia and Hungary. All of them have unanimously responded with the holy words of their statements in order to invalidate this new religion [which has been fabricated by certain ordinary individuals who are not true scholars] which establishes customs contrary to the laws of Moses and Israel.²⁴ Therefore, the righteous and saintly scholars, the renowned rabbis arose to establish a proper boundary.²⁵ They found a breach and built a fence around it declaring a prohibition against three transgressions that they have grievously committed. Namely:

- 1) It is forbidden to change the customary prayer service in Israel, from the morning blessings to *Aleinu Leshabeah*; and certainly nothing is to be reduced.

- 2) It is forbidden to pray that prayer service in any language other than the holy tongue. Any prayer that is printed in an untraditional form, and not in accordance to our custom is disqualified; and it is forbidden to pray from it.
- 3) It is forbidden to have any musical instrument played on the Sabbath or Festival in the synagogue even by a non-Jew.

Happy is he who heeds the decree of the wise sages of this righteous court and the words of the pious and holy scholars. Let him not separate himself from the congregation so that he may walk in the path of the worthies. And whosoever would guard his soul would stay far away and avoid heaven forbid transgressing their words, as our sages of blessed memory have said, "Be wary of their fiery coals etc."²⁶ And what God fearing man will not fear the words of the forty pious, holy, and lofty signatories of this book? Shall he not be concerned about his soul and the souls of his household?

By the order of the righteous court of the holy community of Hamburg, printed in Altona in the year 1819.

Be advised that these letters were printed for the honor of God and His Torah, not, heaven forbid, to anger or to provoke any Jew. [They are written] also for the honor of our community, the community of Jacob, to make known that those who have stumbled and fallen into the mistakes of this new sect are few; it does not amount to one in a hundred. Rather, the entire congregation is holy, as it has been, thank God, from the day

it was founded; its majority are God fearing and perfect, upholding the Written and Oral Torah of God, and conscientious about the details of the Rabbis. And it is only a very small minority that has stumbled due to certain instigators and seducers; also strangers have come and destroyed the heritage of God. May the good Lord pardon them bring and peace to our community so that we may serve God in unity.

A DECLARATION:

From the righteous court of the holy community of Hamburg, may God protect it.

To our brethren, the children of Israel, peace, peace to all those near and far.²⁷

You, the sons of the living God, the holy seed, believers and sons of believers, today we are offering you a pure and zealous offering which records the sin of the parvenus who have brought ideas not conceived by our forefathers; who have separated themselves from the community and have fabricated different customs and wrongful laws. May these words be a remembrance to you, so that the Torah of your fathers will not be forgotten, from your mouths and from the mouths of your children, may your hearts be entirely with God always.

Behold, in our sins, for many years now, some of our people have begun to despise the word of God, the words of our sages, of blessed memory and the authors of the Mishnah and the Gemarah. They have made a breach of the fences that have been built for us. They started with the lesser laws and moved to the stricter commandments until the wicked and lawless amongst us have multiplied. But with all that, they have not completely departed from the essentials that would construct a separate sect and that would convince Jews to openly change the customs and laws of our holy Torah (heaven forbid). Whoever fears and trembles for the word of God cries secretly and prays to God to open the eyes of those who stray from the true path.

But now, because of our great sins, the disease has spread throughout the community of Israel. There are those who have begun to gather together to decree wicked laws and to change the customs of Israel against the words of our holy sages of blessed memory. They band together in evil groups supporting sinners by saying to them, that the way in which they go is correct. They have hardened their hearts to remain in their rebellion.

This has enabled them to violate the customs and the traditional order of our prayers that have been handed down to us by the Men of the Great Assembly²⁸ and our sages of blessed memory. It has been one year since some of our community gathered together upon whom the light of Torah did not shine. These people are not shepherds nor are they leaders; they have revealed their wicked intentions against the customs of all Israel to change our prayers as they have been set down, to play musical instruments in their synagogues and to pray in German.

At this time we have been asked to examine this matter and to express our opinions as to whether it is possible to permit these changes in the customs of our prayers. After close analysis we have issued these legal judgements:

- 4) It is forbidden to change any accepted version of the prayers that have been handed down to us by our departed predecessors of blessed memory.
- 5) It is forbidden to pray publicly in the synagogue in any language other than the holy tongue, as is the custom of the community of Israel.

- 6) It is forbidden to play a musical instrument on the Sabbath and on a festival in the synagogue, even if by a non-Jew who has been prepared for this prior to the Sabbath and festival.

We had indeed hoped that those men would have heeded our words, and would have heard the voice of their teachers, who alone are authorized to express an opinion on all matters concerning what is permitted and what is prohibited. Formerly, the men of our joyous city heeded the voice of their teachers, who said to them, "This is the path to take." Just as we had authority then, so do we have the authority now. And let them not dare to rebel against our words.

But we had hoped in vain, for these men rebelled in their counsel and sank into their sin. And they quickly built for themselves a house of prayer, and called it by the name TEMPLE, and published a prayer book for Sabbaths and festivals, which caused a great sadness for all of us. Tears have been brought to our eyes over the fracture of our people. They have added and diminished from the text of the prayers according to their own desires. They have omitted the private morning blessings and the blessings for the Torah, they have also abandoned the *Tehilla L'David (Ashrei)*, the *Pesukei D'zimra*, and they have shortened the traditional way of reciting the *Shema*. And with wickedness they have taken and diminished the texts: *Ayn Keirkecha*, *L'El Asher*, *El Adon*, and *Emet V'yatzev*. They have also printed most of the prayers in German and not in Hebrew, the holy tongue. Worst of all, they deleted from the text all references to the belief in the

ingathering of the exiles: e.g. *V'tolikheinu kommiut l'arzeinu*, from the blessing *Ahava Raba*, and *Sh'to'aleinu b'simha l'arzeinu* from the *Musaf* service for The Sabbath. *V'havieinu l'zion 'irekha b'rina*, and *V'karev p'zornu miben hagoyim*.

Regarding the *Musaf* service of the festivals. In this way they have acknowledged that they themselves do not believe at all in the promise of Moses our teacher, may he rest in peace. "IF AT ANYTIME YOU HAVE BEEN DISPERSED BE IT IN THE OUTERMOST PARTS OF HEAVEN, FROM THERE WILL THE LORD GOD GATHER WILL HE FETCH THEE."²⁹ This is one of the fundamental principles of our holy Torah.

The prophets unanimously assure us that the God of our fathers will gather our exiles together. This has always been our hope throughout the length of our exile. This belief in no way compromises the honor of the kings and of the princes may their glory rise, under whose protection we abide. For they all know that we believe in the coming of the Messiah and the ingathering of the exiles. No one has ever dared to challenge our belief, for they also know that we are obligated to seek peace of the people who have brought us under their protection, and who have graciously bestowed much of their goodness and kindness upon us. May God grant them success in all that they do. The scholars of our time, may their light shine, have gone on at great length on this matter in their letters. Whoever denies this belief DENIES A FUNDAMENTAL PRINCIPLE OF

OUR FAITH. Woe to the ears that hear that there are Jews who rise to violate the fundamentals of our holy faith.

And yet in all of this they are not content, for their hands are still outstretched to do evil. And right away at the dedication of their house of prayer, at the opening of the ark, the women sang and the men responded. This is against the ruling in the Gemara and in the Codes, "A woman's voice is indecent."³⁰ Such a thing should not be done anywhere in Israel, in our house of prayer, which is a small sanctuary. Who has ever heard anything like this? Who has ever seen such things? They also play the musical instruments (i.e. organ) on the holy Sabbath; they abolished the silent prayer; they abolished the recitation of *Maftir* and the *Haftarah* for the Sabbath, and the recitation of the four portions. On Purim they publicly prayed: *Havinenu* in place of the *Amida* (the Eighteen Benedictions) and in the evening they read the *Megilla* from a printed German text [and not from a scroll.] Lack of space prevents our inclusion of all their wicked practices and customs. They have chosen to mislead Holy Israel, to be insolent regarding the words of the holy sages and the court in their city; and against the vast majority of our community who are completely God fearing and who observe God's commandments.

Thus we say that now is not the time to place our hands over our mouths and be silent. It would be a sin if we were to remain silent. For they would say, "The rabbis have been silent and their silence implies consent". With a wicked mouth they would create an incitement to distract the God fearing people who are doing the right thing and

who are religiously committed by saying to them "our way is the good way. Come to us and join us and we will be one people." And if so, the Torah will disappear, heaven forbid. Not so, fellow Jews, Israel is not bereft. There are still among us judges in the land who are zealous for God's sake, who will break arms or crack skulls of anyone who continues in their perversity. Let us run to their aid and let them rise up to help them undo their counsel and set our faith on its proper foundation.

And to this end we have girded our loins and have written to the famous scholars on the holy communities of Germany, Poland, Hungary, Bohemia, Moravia, and Italy. We sent them our legal judgement that we have mentioned above, and we have asked them whether they consider it appropriate to confirm every detail of our decision after careful analysis with their pure and lofty intelligence, so that we will be enable to publicize the abomination that has been done in Israel. And every God fearing man, who heeds the word of God, will follow the words of the scholars of our time, may their light shine and our words. They will not follow the counsel of the crooked men who are leading them to perversion.

Our fellow Jews, take a good look at all THE HOLY WORDS REFINED IN THE FURNACE OF CAREFUL THOUGHT OF THE LEARNED RABBIS OF OUR TIME, MAY THEIR LIGHT SHINE, these men of note, exemplary citizens, under whose protection we live and from whose lips we seek Torah. Like burning coals, like a divine flame, their burning words unanimously say that this group of men called *The New*

Temple Organization has committed an abomination. ANYONE, WHO IS CALLED BY THE NAME JEW, IS FORBIDDEN TO PRAY FROM THEIR VERSIONS OF THE PRAYER SERVICE. Stay away from them. Do not touch them, neither them nor their cohorts, for they have blasphemed and they have turned aside. Keep your children away from even accidental attendance at their house of prayer. "Stay away from a house of ill repute."³¹ Be strong and strengthen yourself for our people and for the Torah of our God. May our hearts always fear only our God and walk in His paths. As has been given to us from a faithful shepherd, Moses, His servant, and the sages of Israel, and the masters of the Mishnah and the Talmud. Do not turn to the right or to the left from all that they have taught us. May they guide us from the circle of righteousness for our benefit forever.

However, even you, our brethren who have wandered and strayed from the correct path, listen to the voice of the teachers who always dwell on God's Torah. They will teach what you need to know and what you need to do. Look at the Rock that formed you. Are we not all children of one human being? Why should the God's community be menaced by its insurgence, in their present transgression internecinely divided from one another. This is not the way that it should be in Israel. Return; return from your ways. Return and live! The good Lord will grant you mercy and will forgive your sins when you wholeheartedly return to Him, to walk the path of the Holiness of the words of our holy Torah, both Written and Oral and the customs of our forefathers who are our guides.

Wash and change your clothes, let us arise and go up to the house of God.³² And your brothers, the whole house of Israel will welcome you who are reconciled to our people. May they be united and not divided. May we all be worthy to bask in the light of life, and to go up to Zion in joy.³³

"And there we will offer righteous offerings to worship Him in a united way."³⁴

AMEN

From the righteous court that stands for the Torah and worship in Hamburg, in the month of Iyar the 5579. 1819.

The humble BArukh son of Rabbi Meir Ozeresh from Prague, head of the court of Hamburg.

The Humble Moses Jacob Yaffe from Berlin, judge from the court of Hamburg.

The humble Yehiel Michael Speyer, judge of the Holy court of Hamburg.

A LETTER

From the great, learned and famous rabbi, a venerable sage who has acquired wisdom, our teacher Mishalem Zalman Hacoheh, president of the court of the holy community of Fiorda, author of the book of Responsa, *Bigde Kehunah* and *Nahlat Avot*.

Blessed be He, Blessed be His name, who seeks good well for our people, may God be with him. The distinguished scholar renowned in Torah, in clear decision and correct analysis. Etc...

Our teacher, BARUKH, may his light shine like the light of the sun, the head of court of the Holy community of Hamburg my God protect it.

I acknowledge receipt of your welcome letter of the 26th of *Marheshvan*, written in the name of the righteous court of Hamburg signed by BARUKH. Please excuse me for delaying my response, for I am old and aged. I have almost reached the ripe old age of eighty. In these years, one's health is not what it used to be. Some days are better than others are. And now, thank God, I am feeling well and I hasten to respond.

I read and reread the letter written with heaviness of heart and languish of soul because where evil has sprouted, wickedness flourishes. Some men from the Jewish community moved by transgression have decided to build a high place of worship, closed during the six days of the workweek and open on the seventh day where they pray, changing the structure of the prayers established by the rabbis. Then, skipping around

like a ram³⁵, they straddle the fence and disregard the first decisors, in Israel, may they rest in peace. Of them the prophet Isaiah said, "that you come to appear before me etc..."³⁶

What shall I say? How shall I speak? Arise Brothers! Let us together pray to God and ask Him to incline those men to abandon the road they are presently traveling and take up the road that leads to the house of the Lord. Let them return and understand. Let them uphold the customs of their fathers. THE CUSTOMS OF ISRAEL IS TORAH. And this will bring peace for Israel. May God repair the breaches in His vineyard, the beloved vineyard of the house of Israel. [A scripture says] And a redeemer shall to Zion.³⁷

Now, concerning the legal decision of Your Eminence, may God protect and bless you, your ruling is correct to forbid the playing of musical instruments on the Sabbath, even if played by a non-Jew. And also they should not change, heaven forbid the version of any prayer coined by the Rabbis. And anyone who is considered an Israelite is obligated to pray in the manner ordered by the *Rishonim*³⁸, whose souls have departed, may they rest in peace. The one, who changes things is be underneath, and the one who turns his ear away from hearing Torah, his prayer is an abomination. IT IS ALSO NOT PROPER AND IT IS FORBIDDEN TO PRAY IN ANY OTHER LANGUAGE OTHER THAN THE HOLY TONGUE.

More than this I cannot do. I prayed to God, may He pour out His spirit a spirit of gracious supplication for these men. Let them come to the courtyard of the house of the Lord to pray as of old. Let their hearts be complete to worship God as one. May there be peace from the master of peace. Let them rejoice in abundant peace. And may they live pleasantly forever.

These are the words of one who is ready to serve Him well. May His greatness and contentment grow. May God expand His estate for whatever good his soul desires.

Feorda 13, Kislev 5759

The humble Meshullam Zalman Hacoheh

A SECOND LETTER

From the great learned and famous rabbi, our teacher, the Rabbi Hertz Scheuer, may his light shine, head of the court in the holy community of Mayence, may God protect it. To the leaders of Israel, prominent rabbis, distinguished judges and members of the court of the holy community of Hamburg. Greetings, peace and blessing abundant to each and everyone according to his stature and position, all equal in goodness, beloved and pure.

Your pleasant letter has reached me, but because of the burden of my sacred work, both for the community and the Yeshiva, I cannot compose a lengthy response with eloquence befitting your honored status. However, I will respond briefly on the matter of the question that you have solicited my opinion as to whether:

- 1) It is permissible to change the order of prayers according to our custom and that of others.
- 2) It is permissible to pray in German instead of the holy tongue?
- 3) We can permit the playing of musical instruments on the Sabbath on instructions to a non-Jew from before the Sabbath?

My beloved rabbinic colleagues, may your light shine. I know of course that these three things are not difficult for you to resolve. The answers and explanations are to be found in the *Shulhan Arukh*, *Orah Hayyim* Chapter 115 regarding prayer, and in the *Orah Hayyim* chapters 338 and 339, regarding musical instruments. There is no need for me or

one like me [to respond] except to honor your wish; and it is my desire to honor your eminence and glory.

Briefly, not one of these three things is to be permitted, neither for an individual nor for a group. To go on at length would be superfluous. Regarding the changing of prayers: not only is it forbidden to touch those prayers and psalms that have already been fixed for us for over two thousand years. From the time of The Great Assembly, numbering one hundred and twenty elders gathered by Ezra the scribe in the time of the Babylonian exile. This included many prophets such as Haggai, Zechariah, Malachi, Daniel and his friends, and Ezra himself among them. They ordered the prayer service as it is found in Tractate *Megilla*, and it is not subject to change and it has been accepted throughout Israel and everyone uses virtually the same version. [Not only this] but also other prayers that have been set down after the time of the *Rishonim*, such as the customs of the Sephardim and the Ashkenazim, have been accepted and have spread everywhere. In each case it is forbidden to change their respective customs. Each one is equally good very special, set on its gold foundation.

Although at times the praises and exaltations appear to be repetitious, it is not for nothing that they have been set down that way. Each one has its own unique meaning. And through the slightest change its intended meaning will be destroyed. Therefore, IT IS FORBIDDEN TO CHANGE ANY SET CUSTOM, not only those mentioned in the Talmud which are applicable to everyone, but also the customs from each land and each

community that we have long accepted, going back to the days of our ancestors and theirs.. As the rabbis say, "Be careful of the customs of you fathers etc,"³⁹ as is found at length in the Talmudic chapter *Mi shenahagoo*." unless it has been clearly explained that at the outset it was a false custom, as is found in the Rosh and other halakhic authorities. And this is the case in matters that are permitted in which some authorities treat as forbidden. And all the more so with matters that have been established for the majority that we may not change or undo any of them. About this it is said. "Do not forsake the teachings of your mother."⁴⁰ And so the wise king in Ecclesiastes said, "He who breaches a stone fence will be bitten by a snake."⁴¹ And Maimonides writes in his introduction to *Zeraim* that this refers to one who violates the customs and enactments, to be sure, that have no omissions or additions with regard to the Torah, but all the more so those that have been altered for an apparent defect or established as a protective enactment.

Now we will show that this applies all the more so to the prayers. This was expressed in the *Magen Avraham*, chapter 61 with reference to the *Yerushalimi*. He says, "Though we sent to you the prayer service take good care of the one you already possess." And all the more so, we should not change what has already been out in place for many centuries. Also know, as the Ari said, may his memory be a blessing, in the book of *Kavanah*, there are twelve gates in heaven, one for every tribe according to its custom, except for what is mentioned in the Talmud which applies to everyone. As the

Magen Avraham said in his name, for that reason you may pray only in Hebrew, as has been the uncontested custom of your forefathers, to this day. For when you translate from one language to another it is impossible for corruptions not to occur in the meanings and the intentions of the Men of the Great Assembly and the *Rishonim*, the founders of the service. This can only be the case for the Hebrew tongue in its succinctness, where one word often conveys many meanings. And as you will spectacularly see in the *Sefer HaRoka'ach*, whose every word is part of the received tradition. Most of what he has said is cited in the Tur, Orah Hayyim, where in chapter 70, it discusses, the allusions contained in each individual blessing. And mentions that each word is used according to its level of meaning. Further, many verses in the *Tanakh* would with translations have lost their original sense and had their context corrupted. Was not the sole purpose of the enactment of Ezra and his court to make it possible for a stammerer to pray like a glib individual in the same language? As Maimonides states in the chapter one of *Hilkhot Tefilla*, "One should be able to order his prayer and praises of God in the holy tongue." And since Maimonides specifically mentions the holy tongue instead of any language in general, we can deduce that the essence of prayer was set down in Hebrew because of the beauty of its language and its conciseness and yet such language includes every thing, both personal and communal supplications, So we find in analyzing his brief words as legal scholars have concluded and as the Gemarah deduces from the language of the Mishnah. For that reason Maimonides wrote his *Mishneh Torah* in Hebrew, a language

more pristine than any other language, unlike his other works, all of which are in Arabic. It is without doubt for that reason that all Jews throughout the known world undertook to pray precisely in Hebrew, in order to fulfill in the best possible manner the Ezra's enactment in the best possible manner. In this they disregarded clearly stated *Mishnah* from *Sotah* that says, "prayer can be said in any language."¹² And no one has ever disputed this. On the contrary, in the earlier generations of the *Rishonim* women did not understand or speak Hebrew at all and nonetheless prayed in Hebrew. And this was the case for many generations.

It was accepted for many generations that both men and women knew a little bit about the language and studied it from their childhood. Certainly they found this arrangement to be good in order to fulfill the commandments properly.

Indeed they tried very hard to explain how the women of that generation fulfilled their obligation for the *Amida* which they were obligated to do just as the men, as Rabbi Yonah writes at the beginning of the Chapter *Hayah Koreh*. He explains that, "whoever cannot speak in the Hebrew language can fulfill his requirement for prayer in other languages." He derives that only one who is unable to speak [Hebrew] is permitted, since there is no choice. But whoever can speak and pray in Hebrew, can only fulfill his obligation in Hebrew. Consequently, there is no proof from the *Mishnah* in *Sotah*, since in those days most of the people did not understand [Hebrew]. And for that reason, Rav Ashi composed the Talmud in the Babylonian language. All this comes to tell us that

according to he Torah prayer is a commandment. According to Maimonides biblically one is required to pray at least once a day. And to those who dispute this it is only from the received tradition [that we are to pray]. But now everyone agrees that we are to pray three times daily, as we find with King David, "Night and day and afternoon I will moan and complain,"⁴³ also in Daniel; **THREE TIMES A DAY HE PRAYED . . .**".⁴⁴ **HE RISKED HIS LIFE FOR THAT**, as is found in Scripture. So also the version of prayer that was set by Ezra and his court was set down in Hebrew as noted above. We might think, that [Ezra's Hebrew version] may present a hindrance of the fulfillment of the commandment as with some other commandment. This comes to tell is that it does not. For certainly Ezra did not intend to diminish prayer but to strengthen it. For certainly, Hebrew is the preferred way to fulfill the commandment.

Fortunately, in our generation, as it has been for hundreds of years, both men and women equally know how to read Hebrew. Particularly the prayers themselves which they study in German along with the Hebrew. This has been going on for a long time, with every teacher of children here in our city and its environs. And so certainly they placed upon us the obligation [to pray in Hebrew], particularly because the law states that one who knows another language fulfills his obligation when he [just] hears the prayer in Aramaic. Which is not the case for other languages as is explained by the *Posekim*. Needless to say, of course, one fulfills the obligation when you do understand it. Therefore, **IT IS FORBIDDEN TO CHANGE EITHER THE SUBJECT OR THE**

ACTUAL VERSION OF THE PRAYERS and whosoever transgresses this, TRANSGRESSES THE VIOLATION OF "DO NOT ABANDON."⁴⁵ He is also in the category OF ONE WHO SEPARATES HIMSELF FROM THE COMMUNITY, whose punishment is known. All the more so is the case with one who transgresses the community practice for there is no greater deviation from the religion of Israel than this. If one builds an altar for himself, whether in private and all the more so in public he goes against the general practice in matters of the set prayers which are the essence of our worship in place of the sacrifices. There is no greater appearance of two kinds of Torahs and two types of faiths than this. Is it not said "THERE WILL BE ONE TORAH FOR YOU" "THERE WILL BE ONE LAW FOR YOU".⁴⁶ I could go on and on bringing many more proofs but I wish to be brief.

As for your question, whether it is permitted to play [music] on the Sabbath on instruction to a non-Jew before the Sabbath. You cannot be unaware of what is said in Orah Hayyim, chapters 338 and 339. And when, Rabbi Moses Isserles [the Rama] says, regarding clapping and dancing he gives two reasons [why it is permitted]. First, it is better if they are done unintentionally than intentionally. And it is understood from *Yam Shel Shlomo*⁴⁷ in tractate *Bezah* that this is the principal reason and therefore we certainly cannot permit it outright and permanently, and even as he says in Chapter 47, in the evening before the Sabbath, unless it is for a celebration of a Mitzvah. However, the Rama gives another reason because now we are not expert.⁴⁸ And these are the words of

our Rabbis, the Tosephists in *Bezah*. And even with this reason he did not rule conclusively, but left it open as a possibility.

The fundamental reason for forbidding the playing of the instrument is the majority opinion of the *Ahronim*⁴⁹ that it is forbidden unless it is for a mitzvah [such as a celebration] so writes the *Levush*⁵⁰ in *Orah Hayyim* not as it would seem from the *Magen Avraham*. Clapping and dancing are not the only activities permitted. Also the opinion of Rabbi David Ben Zimmri that we can clearly deduce from the language of the Ribaz himself who writes that in our land this is no rejoicing unaccompanied by song or praise. This implies that [playing musical instruments] should not be permitted at all. Even on the evening before the Sabbath through instruction [to a non-Jew].

But the *Kenesset Hagedolah*, indeed permits this, he writes; nonetheless where there is suspicion of deceit it may not be permitted. If so it clearly appears that all these positions are only an attempt to find a reason for not protesting [against playing]. We can not find anyone who explicitly permits it except for the *Magen Avraham* in accordance with the *Kenesset Hagedolah*. According to the Rama the decision to permit music is only in the case of a celebration of a Mitzvah. And is it possible that the Rama takes this position only through the combination of the two positions, because of 'Better etc'. The Rama comes to offer a reason for not protesting at all and pay no attention to it even apparently where the practice has been accepted. As the Rosh writes in tractate *Bezah*, as a result of which he gives the second reason. And therefore we pay no attention and

not explicitly forbid it. But Heaven forbid we cannot publicly permit something, which is forbidden everywhere and certainly not to permit it permanently.

Moreover I say, the main reason for permitting it is not relevant for our generation. For it is commonly known that there are many who have mastered the science of music. They are expert in the nomenclature and the mechanics of many instruments, including instruments that are being developed daily. And it is easy to imagine that they would incur a violation (of the Sabbath) by trying to fix an instrument when a string breaks and making permanent knots. It has not been permitted except for a great mitzvah like the celebration of a wedding as the Magen Avraham himself writes. It is not like the prohibition of drinking from an uncovered glass of water where we are no longer worried about the existence of snakes [which was reason for the prohibition from an open glass.] This is not so in our case where the prohibition is confirmed and the matter it is not to be permitted at all where there is no Mitzvah of a special occasion. And who says that it is considered a mitzvah to play with an instrument? On the contrary, we can prove this by the fact that this was never the custom. And if it were a mitzvah, there is no way that we would not have heard of at least one community emphasizing this the commandment for the honor of God. Moreover, they should have enacted this [playing of music] from the outset on a permanent basis. And certainly with every day matters it is not relevant [to argue] "that we have not seen it is no proof,"⁵¹ in particular, where it would be considered a mitzvah. Rather not only is it not considered

a mitzvah but also it is forbidden. Both because of the prohibition of the Sabbath, where they did not wish to rely on this tenuous principle and to establish something that could have the slightest possibility of a violation before God, may His name be blessed.

Furthermore, on many occasion we can discern in Halakhic practice from many sages and teachers that would protest, punish and fine citizens who at times would breach the fence in this matter. All the more so is it important not to make it a permanent ruling for the masses [meaning to permit it]³².

Here is another proof: There are nine synagogues in the holy community of Prague, a great Jewish community. In the very largest synagogue they were accustomed to sing and welcomed the Sabbath with musical instruments, but only up until *Boi L'shalom* and no further. It never occurred to anyone to do so on the Sabbath and on Festivals. This took place only in one synagogue and no other. Why did they not do this in all the synagogues? We must conclude that it was forbidden, or as a result of a complaint. As the author of the *Kenesset Haggedolah* writes, particularly because it would be a repetitive thing whether because of its very prohibition they did not rely on this to permit it at all except for the celebration of a mitzvah. And this is not considered a celebration of Mitzvah. This is the reason that we have written that in our day the essential prohibition stands. There may also be a hint of prohibition "how can we sing"³³. It is enough to permit it [i.e., the singing] with voice and not with an instrument.

Furthermore, it appears to me that we can apply here the fence of holiness, as we know from the potential consequences of the use of musical instruments. As the sages have said, an old woman of sixty ran to hear the sound of the timbrel and my eyes saw this and not a stranger.⁵⁴ (And perhaps according to the recollection of the students of my teacher, Rav Gedalia, may his light shine). It was the custom in rare occasions in former times in our community that at the wedding of the children of wealthy people to welcome the Sabbath in the old synagogue before or after the betrothal with musical instrument until *Boi B'shalom*. This led to a mixing of men and women, and at times immoral people would sing with the musical instruments, until it became necessary to admonish them. This unseemly custom was nullified more than twenty-five years ago. It is well known how cautious we are to protect against such things, by having men and women pray separately throughout the communities of Israel, And as it is found in Tractate *Sukkah* in the chapter *Hehalil* with regarding the celebration of the water drawing festival. They introduced an important enactment; men below and women above so that they should not gaze upon the other and thereby are drawn into lewdness and licentiousness, which can lead to sin. And perhaps because of this separation of the sexes no one thought to explicitly forbid it it was not even considered. But then, finding a breach, they built a fence around it.

As a result of this, even to those who would tend toward leniency, in our sinful generation with its wide spread immorality violation of propriety, with MANY

VIOLATING THE SABBATH ITSELF IN PUBLIC, THERE IS NO WAY FOR US TO PERMIT SOMETHING LIKE THIS PUBLICLY, as our sages have said in *Masehket Sanhedrin*, CONCERNING ONE WHO RODE A HOUSE ON THE SABBATH AND WAS STONED, because of an ad hoc enactment. Now there is no greater reason for a fence [such as this]: THERE IS NO WAY TO PERMIT IT.

AND NOW-and with this we rest and finish [by saying] THAT NOT ONE THESE THREE IS TO BE PERMITTED. And whoever wants to show the power of permissibility in these matters WILL ONE-DAY HAVE TO ACCOUNT FOR HIS DECISION. For not only may one not permit this but any court in the city that has the opportunity to protest this but fails to do so, the collar is hung around their necks⁵⁵, for as it is written, "I will appoint them as your heads."⁵⁶ This is particularly the case, because the great stumbling blocks which would flow where we say one thing today and another tomorrow. Enough said. May there be peace for all the judges of Israel from the Master of the World. From me who loves and respects you forever wishing you good always Mayance, the sixth day of Kislev 5579, 1819.

The humble Hertz Scheurer

A THIRD LETTER

From the renowned scholar worthy of praise, our Rabbi and Teacher Moses Sofer, may his light shine, President of the Righteous Court of Pressburg..

Greetings...etc to the Righteous Court of the Holy Community of Hamburg. I have received your most welcomed letter. I am extremely shocked. It bitterly informs me with the news of men who contemn our faith, breaching covenants, scheming against religion. They come from within with new ideas. One of these new ideas is for their house of prayer is to be closed during the week, and open on the Sabbath. Would that its doors be closed then too, for they have changed the order of the prayers that we have received from THE MEN OF THE GREAT ASSEMBLY, from the sages of the Talmud and from our holy forfathers. They added and they subtracted in the order of prayer as their spirit moved them; they put aside the morning blessings, which are explained in chapter HaRoeh in Berakhot; they also deleted the texts "THE FLOURISHING OF THE HOUSE OF DAVID OUR MESSIAH,"⁵⁷ and the rebuilding of Jerusalem, the holy city; a non-Jew stands and plays musical instruments before them on THE HOLY SABBATH, which is forbidden to us. And most of their prayers are in German.

This is a summary of the words of your worthies in your letter that I received this evening. You have asked me to be associated with the lions, the Geonim of

our time, who repair the breaches of our generation. And also to give my opinion whether or not you are correct in your views.

How shall I reply? Is it not well known that Daniel, the prince of a man in the Babylonian exile, "kneeled upon his knee three times a day, and prayed and gave thanks to God as he did aforetime."⁵⁸ AFORETIME, this means, before the Chaldeans⁵⁹ had enacted their decree, he would pray three times a day, every day, not only on the Sabbath. The sages in Berakhot say that AFORETIME means "even when the Temple was in existence, it was only in exile"⁶⁰

But at the very least we can learn from the verse in Daniel that even before he was in trouble he would pray every day. Because of this I did not bring proof from King David, may his memory be a blessing, who said, "Evening and morning I moan and I complain,"⁶¹ where one could rightfully argue that this was the case only for a time of trouble. But Daniel [about whom it was proclaimed], "THAT HE SHOULD RULE AS ONE OF THREE"⁶² and who [nevertheless] prayed three times every day, and risked his life for this, being thrown into a lions den, was answered by Heaven and was saved through a miracle. God would not perform a miracle for a lie.⁶³ Then, when the Second Temple was built and sacrifices were brought there, it is explained in *Maschet Tamid*, Yoma, chapter 5 of *Berakhot*, that even priests in their service prayed the "*Barchu*" "*Yotzer Or*", and "*Ahavah Rabba*", as we do. And furthermore, they also prayed for "the resurgence of the house of David our King,"⁶⁴ even though they had the Hasmonean

Kingdom and Herod, as appears in *Yomah* 53b, and did not witness the service of a ruler from the house of Judah. The Mishnah of our holy rabbi (Yehudah HaNasi) and the two Talmuds, which were composed after the destruction of the Temple are full of the laws for daily prayer, and the eighteen benedictions of the daily *Amida* in their setting c.f. the beginning of chapter 2 of *Megillah* and *Midrash Rabba Parashat Korah*. And this makes sense, since God commanded us to stand and serve Him in his Temple with daily set offerings. Therefore after the destruction, whoever acknowledges that prayer is an acceptable form of service between man and God, may His name be blessed, is THEREFORE OBLIGATED TO PRAY EVERYDAY. In place of the actual service (in the Temple) since it is His will that we worship him daily.

I was greatly astonished that these people prayed two *Amidot* on the holy Sabbath, the first one before the reading of the Torah and the second afterwards in a contrived version. I would ask them to tell me what is the reason for two *Amidot* in the same day? And if they will say, did they not bring two sacrifices on the Sabbath, one for the daily offering and one for the additional offering? So it is explained in the version of their prayer. If that is so, then why do they not pray every day in place of the daily offering? For there is no place for a *musaf* service on the Sabbath, if a daily sacrifice is not offered and they add another sacrifice on the Sabbath. THEREFORE, THEIR WORDS ARE VAIN AND EMPTY. For if there is not basic sacrifice, there can be no additional sacrifice.

It is known that in the days of the Second Temple, the Jews dwelled on their own land. They had leaders who ruled with power and glory for centuries. They had great scholars who were entirely occupied with Torah, they and their students in the thousands and ten thousands. And they had great and good houses of learning: equivalent to the houses of the universities, which are now established by the rulers of the land in the great cities under their control. And they had a Sanhedrin that set limits and enacted enactments upholding the law. After them came tens of thousands of students and their disciples until the holy Rabbi (Judah ha Nasi) who composed the Mishnah. Very few of these scholars are mentioned by name either in the Mishnah or in the Berita, as Maimonides explains it in his introduction to the order of *Zeraim*. And from the sayings of these scholars down through the centuries all that has been remembered are some few and brief statements. Without a doubt, if one were able to record the words of all of these scholars, each one would yield a giant volume, which would dwarf the Mishnah and all of the words of the Amoraim in the two Talmuds. The reason for the paucity of their statements is that their words are like the product of the farmer who sifts winnows and shakes in order to extract the best wheat. This accords with the statements of Rabbi Simon at the end of chapter *HaOmer* in Tractate *Gittin*; "[My sons] learn my rules for my rules are the heave offering of the rules of Rabbi." And after that they were set down in the Mishnah and the Talmud.

And now, [Consider the] words that have come from the mouths of the wise and learned, whose hearts are full of the disciplines of knowledge and thought, the breadth and depth of the sciences, which have been repeatedly sifted down through the ages by thousands of scholars and established by all Israel for almost two thousand years with out any objection. [Shall we permit] young foxes to rise up against them and tear them down, changing the organization and blessings and the words of those prayers as well as the time designated for such prayers.

REGARDING MATTERS SUBJECT TO THE COURT, is it not so that one court cannot overturn the judgment of another court unless it is greater in number and wisdom? Even if the reason for the original enactment is invalid, the enactment can not be overturned. [This is true] particularly for the worship service which has spread throughout all of Israel. Despite the fact that the texts vary in different places, nevertheless, it is still considered to have spread throughout all of Israel; since from the beginning, our version was only fixed for the Ashkenazim, AND ACCEPTED AMONG THEM WITHOUT DISPUTE, and there was another version for the Sephardim, ACCEPTED AMONG THEM WITHOUT DISPUTE, as is written by the *Magen Avraham* in the name of the Palestinian Talmud. This reason is also recorded in the *Tosephot* in Chapter *Hasholah* folio 36b, starting with "*Eleh*."

Therefore no one is permitted to make any change unless he is greater as the Rishonim in numbers and in wisdom. But if he is greater in wisdom but not in number or

in number, but not in wisdom, he is not permitted to overturn the ruling of the court even if the reason for the original enactment is no longer applicable. But how could they possibly be greater in number? Was it not a Court of 71 that decided and accepted the matter? These are the words of Maimonides, Chapter two of *Hilckot Mamrim halakha 2*.

"A court that issues an enactment or makes a decree or establishes a custom which spreads throughout all of Israel and is followed by court which seeks to overturn the judgement of the first court and set up its enactment or its custom without its decree cannot do so unless the court is greater than the proceeding sages in numbers and wisdom. If is was greater in wisdom but not number, or greater in number but not wisdom it cannot overturn the previous court and even if the reason for the original enactment is no longer applicable, the later court may not overturn unless it be greater. And how could they be greater in number, especially since every original *Bet Din* was composed on seventy-one men. This is the number of the sages of the generation that are known as the great court and there was not opposition." And the Rabad adds to Rambam's words saying that where the reason is still applicable, even Elijah the prophet cannot overturn the enactment for whatever reason. But where the reason is no longer applicable Rabad differed by saying, that even courts smaller in number than the first can over turn it.

Now here we have both conditions, first the reason is still applicable, which means that **EVEN ELIJAH THE PROPHET CANNOT OVERTURN IT**. See *Yebamot*

folio 102b where the sages concur when they say that even if Elijah comes and says we can perform *Halizah* with a shoe we are not to listen to him when the people are accustomed to using a sandal. Second, even if the reason is no longer applicable, the law is according to Rabad's statement that a smaller court can to overturn it, that would only be when they decide by vote because you need an another vote to permit. Therefore let them rise and stand up to be counted with the wise men of this generation, may God be with them! THESE PEOPLE DO NOT HAVE THE RIGHT TO CHOOSE to separate themselves from the community. And if you will say "your guarantor needs a guarantor,"⁶⁵ who is it that make the very statement that a comparable number is needed to permit it? It is the sages of the Talmud. And they and their like do not accept this, and say as much. They have completely conformed to the words of Maimonides (at the beginning of chapter three of *Hilkhot Mamrim*): WHOSOEVER DOES NOT ACKNOWLEDGE THE ORAL LAW ETC... FALLS INTO THE CATEGORY OF HERETICS. Nothing more need be said.

If one would say there is no longer any reason to pray for the coming of the Messiah, son of David or for the restoration of the Temple's sacrificial service because we are living in peace and tranquility among the kings of the nations, may their glory be exulted, this is not so. I have already written above on this matter, that even in the days of the kings of the Second Temple there were prayers for the leadership of the House of Judah that we should all be fortunate in looking upon the pleasantness of God. And it is

not that we need to eat from the fruits of the Holy Land or be satisfied from its goodness as opposed to the statement of the instigator who says: Do we not find this in the lands of the nations, what need have we for the land of Israel! God forbid, its not for the illusory life that we pour out our prayers and wait endlessly. Rather [we pray] to dwell before God in the place set aside for His worship and for the observance of His Torah. But this does not detract from the king and princes who spread their protective wings over us. Nehemiah son of Hacaliah was second to the king in honor and in wealth, yet he was upset with the fact the city in which his ancestors were buried had been destroyed and her gates were consumed by fire.⁶⁶ It did not bother the king to say, "Do you not have great wealth and goodness? So why do you request this from me, if so every people will want to go and worship God?"

Indeed, we are like captives from the war of destruction. But due to God's abundant goodness and the righteousness of our dispersion, He enabled us to find favor in the eyes of the kings and the princes of the nations, whose well-being we are obligated to seek and to pray for, so as not to repay them, God forbid, with evil in exchange for their good, in the great kindnesses that they have bestowed upon us for two thousand years. There is no doubt that their reward from God will be great, for God repays goodness to those who do good. But with all this, it is not wrong if we wait longingly for our return to our ancestral heritage. And it will be that whatever good comes to us from God will also be good for the nations. In the words of Isaiah this is how we are to understand the

verse in psalms.⁶⁷ This is the interpretation of the verse.⁶⁸ Its interpretation comes via the verse.⁶⁹ Because he has heaped his kindness on us, the other nations will also praise him, for when things go well for us they go well for them. [It will be] a reward for all the good with which they favored us in our exile while under their control. And this [is the reason for the statement in the Psalm] that the gentiles will say (Hallel.) Then we will all be joyous together, as if, when it says we are all joyous it refers to future in the place of the past. As a result all the nations and all the kingdoms know that we pray and await the coming of the Messiah. May we soon merit the realization of the verse in Zechariah.⁷⁰

And the nations of the world never complained about this. But perhaps **THOSE PEOPLE ARE NOT WAITING THIS DAY**, or they do not believe at all in the words of our prophets with regard to the building of the Third Temple and the coming of the Messiah, or in all that is said about this matter by our sages of blessed memory. That being the case let us return to the words of Maimonides at the beginning of chapter three of *Mamrim* as it mentioned above.

Regarding whether it is permissible to play musical instruments in the synagogue:

From the fact that our ancestors who established the prayer service did not make a place for musical instruments in that service, even though, we created a music for the Divine service still our forbears rejected it, we can conclude that they were not comfortable with music for the reason that from the time the Temple was destroyed there can be no rejoicing before God.⁷¹

I have written in another place that in my humble opinion, since it is written, "How can we sing a song for God on a foreign land,"⁷² and it does not say "before a foreign people," we can conclude that its purpose is to negate even [singing] before God since it is on foreign soil. This though it is permitted to rejoice to a degree in certain situations, for example with bride and groom, who are sad because of the exile. At such a time it is permitted and is even a mitzvah to make them happy. But in God's house it is DEFINITELY FORBIDDEN. All the more so on the HOLY SABBATH when the playing of an instrument is a commandment forbidden by the rabbis as inconsistent with the spirit of the day. It is not in our power to control a Mitzvah, which our ancestors did not envision. And since prayer is a Mitzvah acceptable to God without musical instruments, how can we permit what is forbidden by the Rabbis. God forbid. Such should not be done in Israel.

In Tractate *Pesahim* folio 51a, "We may go out wearing loose fitting shoes on the Sabbath. But in Berei they do not go out wearing loose fitting shoes. And an incident involving Yehudah and Hillel the sons of Rabban Gamliel, wherein they went out wearing loose fitting shoes on the Sabbath. And the people of the city criticized them, saying, 'In all our days we never saw such [behavior.]' Whereupon they slipped off their shoes and gave them to their servants. And they did not wish to tell [the people of Berei] you are permitted to do so." If so how can they publicly permit in their house of prayer something our ancestors have been accustomed to forbid?

And as far as their not reading the *Haftarah* from the prophets, is there not a long Mishnah at the beginning of chapter *Hakorah* that says that one should stand and read from the *Haftarah* of the prophets. And there no court is permitted to override this, as we have said above. In sum, here, too, they fall in to the category of VIOLATING THE WORDS OF THE RABBIS, as we have said.

Regarding the fact that they pray in a language other than Hebrew, this is totally unacceptable. And though the *Mishnah*⁷³ enumerates those prayers that can be said in any language including the *Amida* and its states that a person fulfills his obligation for *Amida* in any language, nevertheless, that would only apply to a single person in an unforeseeable situation. But for this to be a daily occurrence and even the more so to assign a prayer leader to pray in a foreign language, this is certainly forbidden. If it were not so, then the Men of the Great Assembly would not have established the prayer service in a clear and pure Hebrew. Because in their day half of the people spoke *Ashdodite*⁷⁴, and it would have been better to set it down in the language of the *Chaleans*⁷⁵ for that was more familiar to them.

Look closely at Maimonides, chapter one from *Hilkhot Tefila*, *Halakhah* four, when it says in the book of Ezra, , "They read in the book of God's Torah, they read it so it would be clear and understandable." Thus, the sages say in chapter five of *Megilleh*, that the Ezra verse means that it was read in Aramaic translation. From this we may conclude that the people did not then understand Hebrew, so they needed to appoint a

translator to translate the Torah for them. If that is the case, why did they not then at the outset write the prayers in Aramaic so they could understand them? Why, indeed, did they record the prayers in Hebrew, which they did not then understand? But we must say that the Men of the Great Assembly who wrote and arranged the prayers, amongst whom were PROPHETS (as Maimonides also writes), they knew from God that the prayer service could not be in just any language that came to hand. [They knew] that one cannot make up for the lack of the Temple Service in just any way, otherwise why is there a Temple and its service altogether. We must say that then you cannot completely compensate for the loss of the Temple. But they did what they did to the best of their ability, using particular words with proper meanings, to fill the void as best as possible. They deliberated over every word and over every letter, so that it is altogether impossible to translate their intentions in another language. But if we seek the words as written by the Men of the Great Assembly, even though we do not know their full meaning, nevertheless, our prayers are acceptable, which is not the case if we were to pray in other language.

If it is because the common people do not understand Hebrew, then, it's better to make sure that each person learn the meaning of the prayers and then pray in Hebrew than having them pray in another language. Before a king of flesh and blood we do not do so, for one who speaks with him is expected to speak in the language of the king. It is not proper to speak to the king in the common language even if he understands it.

Nachmonides writes in the beginning of his commentary to *Ki Tisa*, the Hebrew language is the language that God uses when speaking to the prophets. And our sages say that the world was created in Hebrew, as it is written "this shall be called woman for she was created from Man." Man is called man because he was created from *Adama*.⁷⁶ Eve is called "Havah", because she was the mother of all living things.⁷⁷ Thus, it is the language of God in which He gave us His Torah. It is impossible, then, to speak before Him in our ordinary language, but only in the special language that is unique to His holy words. This appears to be the opinion Men of the Great Assembly who established the versions of the *Amida* and the prayers in the holy tongue. Whoever changes this does so improperly and whoever upholds the words of our sages and the customs of our ancestors does so properly. He performs the will of his creator and will be blessed by God.

Therefore when you declare in your holy synagogue that it is forbidden to pray from their vernacular prayer book but permitted only in the holy language and the ancient versions as they have always appeared in the prayer books, and that they may not play a musical instrument (the organ) in the holy synagogue, particularly on the holy Sabbath, YOU ARE ACTING IN ACCORDANCE WITH THE TORAH and may you will be supported in this and may God be with you. There is no doubt that all the scholars of our time will agree with this prohibition. They agree and I agree in FORBIDDING EVERY SOUL IN ISRAEL to change even one thing from all that has been said above. He will thus be saved from all evil and merit the rebuilding of the

Temple. Tuesday, second day of the New Moon of Tevet Hanukkah [5]579 - 1819

Yours Humbly, Moses Sofer.

Endnotes

- ¹ Mendes-Flohr 124
- ² Sachar 45
- ³ Mendes-Flohr 130
- ⁴ Plaut, page 5
- ⁵ Meyer, page 15
- ⁶ Hertz, page 182
- ⁷ Philipson, page 14
- ⁸ Mendes-Flor, Page 161
- ⁹ Philipson, page 21
- ¹⁰ Meyer, page 46
- ¹¹ Mendes-Flohr 143
- ¹² *Eleh divre ha-brit*, page 9
- ¹³ Meyer, page 54
- ¹⁴ Exodus 35:3 etc
- ¹⁵ *Mishnah Shabbat* 7:2
- ¹⁶ *Eleh divre ha-brit*, Page iv
- ¹⁷ *Eleh divre ha-brit*, page iii
- ¹⁸ *Eleh divre ha-brit*, Page iv
- ¹⁹ Meyer, page 57
- ²⁰ Mendes-Flohr, page 161

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- ²¹ Deuteronomy 28:69
- ²² Psalms 62:12
- ²³ Yigdal, reference from Morning benedictions.
- ²⁴ Language similar to the betrothal ceremony
- ²⁵ Isaiah 22:23, "to set a faithful marker."
- ²⁶ Avot 2:10
- ²⁷ Isaiah 57:19
- ²⁸ Traditionally it is believed that the Men of the Great Assembly introduced the prayer of the Eighteen Benedictions or the *Amidah*. The Men of the Great Assembly are first mentioned in Nehemiah chapter eight.
- ²⁹ Deuteronomy 30:4
- ³⁰ Berakhot Folio 24a
- ³¹ Proverbs 5:8
- ³² Numbers 8:7
- ³³ Job 33:30
- ³⁴ Zephaniah 3:9
- ³⁵ Psalms 114:4
- ³⁶ Isaiah 1:12
- ³⁷ Isaiah 59:20
- ³⁸ The *Rishomin* refer to the early halakhic authorities.
- ³⁹ Bezah folio 4b
- ⁴⁰ Psalms 1:8
- ⁴¹ Ecclesiastes 10:8
- ⁴² Mishnah Sotah 32a
- ⁴³ Psalms 55:18
- ⁴⁴ Daniel 6:11
- ⁴⁵ Proverbs 1:8
- ⁴⁶ Numbers 15:16
- ⁴⁷ Solomon Ben Jehiel Luria, (1510-1574), Talmudic commentator, known as Rashal or Maharshal. He was the head of the Yeshiva in Ostrog. His talmudic commentary is known as Yam Shel Shlomo on the Talmud.
- ⁴⁸ One could possibly carry the instrument to some one else to teach him how to play it.
- ⁴⁹ The *Ahronim* refer to the later halakhic authorities. Most scholars agree that the period of the *Aharonim* begins with the appearance of the Shulhan Arukh.
- ⁵⁰ Mordecai Ben Abraham Jaffe (1535-1612), known as the Levush, was a talmudist, kabbalist and leader of the Prague Yeshiva.
- ⁵¹ In extraordinary events one could say "the fact that you have not seen it does not mean it is not the case. However, for daily or common occurrences, never having seen it can

indicate proof that it doesn't exist. In this case, the playing with musical instruments as a mitzvah.

⁵² Music could be played until the 92nd psalm which began the Sabbath - at the point the music ended and Shabbat began.

⁵³ Psalms 137:4

⁵⁴ *Moed Katan* 9b

⁵⁵ They will be held responsible for leading people to sin.

⁵⁶ Deuteronomy 1:13

⁵⁷ Amidah

⁵⁸ Daniel 6:11

⁵⁹ Chaldea is the biblical name southern Mesopotamia, the area associated with Babylon. It is the land to where the Judaeans were sent whose language and culture they were taught.

⁶⁰ Berakhot 31a

⁶¹ Psalms 55:18

⁶² Daniel 5:29

⁶³ That is to say, if it were not incumbent upon him to pray.

⁶⁴ Psalms 132:17

⁶⁵ *Sukkah* 26a

⁶⁶ Nehemiah 2:5

⁶⁷ Isaiah 60:3

⁶⁸ Psalms 126:2

⁶⁹ Psalms 117:1

⁷⁰ Zacharia 12:8

⁷¹ *Avodah Zarah* 3b

⁷² Psalms 137:4

⁷³ Mishnah *Sotah* 32a

⁷⁴ Nehemiah 8:8

⁷⁵ *Megillah* 3a

⁷⁶ Genesis 2:7

⁷⁷ Genesis 2:23

Bibliography

Anchor Bible Dictionary. New York, NY, Doubleday 1992.

The Babylonian Talmud.

Ben-Sasson, H.H. ed. A History of the Jewish People. Cambridge, MA, Harvard University Press, 1976.

Eleh divre ha-brit. Altona, 1819.

Encyclopedia Judaica. New York, NY, Keter Publishing House, 1973..

The Hebrew Scriptures.

Hertz, Deborah, Jewish Women in Historical Perspective. Ed. Judith R. Baskin. Detroit, Wayne State University Press, 1991.

Mendes-Flor, Paul. The Jew in the Modern World: A documentary History. New York, NY, Oxford University Press, 1995.

Philipson, David. The Reform Movement in Judaism. New York, NY, Katav Publishing House, 1967.

Plaut, Gunther W. The Rise of Reform Judaism: A Sourcebook of Its European Origins. New York, NY, World Union for Progressive Judaism, 1963.

Meyer, Michael. Response to Modernity. Detroit, Wayne State University Press. 1995.

Sacher Howard M. The course of Modern Jewish History: New Revised Edition. New York, NY, Vintage Books, 1986.