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Uteshuvot) of the Twentieth Century"

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GAS AND ELECTRICITY ON SHABBAT AND YOM TOV:
Modern Technical Developments as Reflected
in Responsa (Sheelot Uteshuvot) of the
Twentieth Century

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The literature of the halacha marks the steps of Jews from Mount Sinai to the present day and sets direction for the future. Its basic contention is that every step in human life, from the smallest to the largest, can be a scene of crucial decision. By stressing the importance of human choice and by insisting that the way that something is done makes a difference, halacha asserts the primacy of value in the human experience.

Responsa literature has been an important section of halachic literature since the Geonic period. It is a section whose characteristic method is well-suited for the voluntaristic societies of the modern West. This kind of halachic writing concerns real-life problems raised by real-life people. The natural responsiveness of the question-answer format weights it for change. Mastery must here be demonstrated in the arenas that the evolving process of life itself dictates.

Treated herein are responsa of twentieth-century halachists from Germany, Switzerland, and Israel. All discuss problems occasioned by the advancement and diffusion of technology in recent lifetimes. In each individual case, the problematic technological development is related to the systems of analysis and categorization developed mainly by the rabbis in the Talmudic period and refined in the ensuing centuries. The ability of the systems, considered together as the halacha, to relate simultaneously back to

the experience at Sinai and forward to the latest life-situation, is the measure of their success.

These translations of responsa show by illustration the nature of the halachic valuing process. Evident throughout is the care to base things in the very ground of existence through the Torah, which was seen by the founders as the blueprint for existence. Through this care, one may glimpse a transcending of time, as values derived and preserved through millenia are brought meaningfully to bear on the real problems of contemporary Jews.

With a view to this time-transcending aspiration, our translations deal with problems of festival and Sabbath law, the sanctified spaces of the time cycle. Regulation of the creative use of energy is central to these laws. Herein presented are actual applications of the regulating process to the modern energy sources of gas and electricity. Through these examples, the competence of the halachic system on its own terms is presented.

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1

Three teshuvot of David Tsevi Hoffmann, posek
acharon of Germany, concerning:

- 1 - The incandescent electric light
- 2- The electric light lit automatically
by an opening door
- 3- Extinguishing gas flames

Source: Melamed Leho'il, Frankfurt -Am- Main, 1926.

- 1 - Chapter 49, page 62
- 2 - Chapter 50, pages 63-64
- 3 - Chapter 60, pages 81-84

Question: Does the turning-on of an incandescent electric light or its extinguishing constitute profanation of the Shabbat?

Response: That great man of the Torah, our teacher Rabbi Yosef Halevi, has already spoken with wisdom and knowledge in his monthly periodical of 1892, page 2, against one sage who wished to say that the turning-on of an incandescent electric light is not the burning (prohibited by Torah. This one sage had maintained that) this is because that which in fact burns is a wick made of coal which is enclosed in a glass bulb emptied of its air, and all possible artifices are employed so that the wick should not burn, and so last long. And the Rav, our teacher Rabbi Halevi, thrust these words aside with both hands, and with good reason: the burning (prohibited by Torah) is any (i.e., the least bit of) burning at all; it is impossible that there should be a place completely emptied of air, and some air always remains within the glass; and this being so, something of the wick burns. As one sage testified, the best of these wicks do not burn more than 15 or 20 thousand hours. Sages also testified that even if air is removed from a tube by a vacuum pump, a little is inevitably left behind. Aside from this, a charred wick is a substance that burns even in a place emptied

of air. Moreover, it is possible that the Torah forbids burning in any form, even in a place completely devoid of air, for the burning forbidden by the Torah is the making of fire (kindling) rather than its continued burning. It is certain that to sustain the flame there is a need for air, that is the oxygen which is in the air, but not for the making of the fire. This being so, the prohibition on burning ("ye shall not burn") is a prohibition to start any fire whatsoever. That which is done by heating, where one heats something to the point the brightness of fire appears is called fire, even if there is no flame, only coals or something white-hot. This being so, there is no doubt that the incandescent electric light is deemed fire; and if one kindles the wick to the point of incandescence, it is possible that this may be also in the category of (forbidden) cooking. See Shabbat 74b, Rambam, Hilchot Shabbat, chapter 9, halacha 6 and chapter 12, halacha 1. Likewise on festivals it is forbidden to turn on this light because of the prohibition on creating new flame, as is explained in M. Baitsa IV 7.

In the extinguishing of this light, however, it appears that there is no Toraitic prohibition;

because the extinguishing of glowing metal is only prohibited rabbinically. In any case, however, it is impossible that sparks should not be produced when the light is extinguished, and even though there be no intention to produce the sparks, this must be considered as an action with an ineluctable forbidden consequence (pesik reshei). The 'Aruch's opinion only would understand this forbidden consequence as being unwanted, and therefore according to all opinions, there is here only a rabbinical prohibition. The action may therefore be done by a Gentile when a loss would otherwise be sustained.

Afterwards, I saw written in Responsa Bet Yitzchak, section "Yoreh De'ah", chapter 120, that an extinguishing of this sort is forbidden by the Torah and is not similar to the case of glowing metal. This requires further consideration, for in any case one does not intend to make charcoal (by the extinguishing), and the act is therefore in the category of creating something for which one has no personal need (a category to which more leniency applies).

Comment: The Torah prohibits kindling or extinguishing a flame on Shabbat. Our question is, how does the electric light fit into these two legal categories?

The basic thrust of this responsum is to clearly define what is meant by "flame", kindling, and extinguishing in Jewish law. There are indeed important distinctions between what Dr. Hoffmann defines as the halachic view and that definition which would be proposed by one more familiar with terminologies of the physical sciences than of Jewish jurisprudence. Thus, "kindling", the essentially forbidden act pertaining to fire, may occur even without oxygen, a spark or a glow, anything producing "the brightness of flame," coming under the scope of the Toraitic prohibition.

Regarding extinguishing, the prohibition of the halacha is considerably less sweeping, full stringency being confined only to an extinguishing which produces a usable product, viz, charcoal. Thus, this prohibition is seen not to pertain essentially to fire, being forbidden rather out of a broader principle which covers the production of new substances. Room is thus found here for leniency, as the special qualities of the electric light, while subject to the full stringency of the first-mentioned prohibition, remove it from the severe prohibition to which the extinguishing of what is more widely understood as flame is subject.

Question: There are closets that have bulbs so set in them that if one opens the closet, an electric light is kindled within the bulb. Is there some permissible way to open such a closet on Shabbat?

Response: It has already been explained above, chapter 49, that there is no permission to turn on electric lights on Shabbat. This case needs careful consideration. If one were to cover the light before the Sabbath's onset in such a way that it would not be seen at all, so eliminating intent to start a flame - even though this forbidden consequence would be inevitable - in any case, since one would derive no benefit at all from the light, even, to the contrary, sustaining loss in the light's burning to no purpose, this would be a case of an inevitable forbidden consequence which is unwanted (or: detrimental) (pesik reshei dela nicha lei) and therefore permissible according to the 'Aruch; see chapter 320. It is possible that this would also be a case of forbidden work for which one has no need (melacha she'eino tsarich legufah); since one does not need it, and one does not benefit from the light at all, it follows that in an urgent situation it may be possible to permit the deed when the light is so covered, since there is general consent that the prohibition is only rabbinic. At all event, one should do it in an unusual manner, for instance, using one's elbow to open the

closet after using the key to unlock it. One may permit (requesting) a Gentile to perform the act, since he would not intend to kindle flame, and pesik reshei (an act with a forbidden inevitable consequence) is permissible through a Gentile. On this , see Magen Avraham, chapter 278. And, as it appears, one can find support for permission of this from what R. Shelomo ben Adret wrote, as cited in Magen Avraham, chapter 316, note indicator 11: "...that it is permissible to close a door in order to safeguard the house even though a deer is so entrapped within." This Rabbeinu Nisim questioned as pesik reshei, but the Shiltei Giborim, at the end of the chapter "Ha'oreg," cited in Mechatsit Hashekel, counters that if one does simultaneously another act and this act is intentional, it is not forbidden as pesik reshei. This being so in our case, as one is also performing another action, it is likewise permissible. This is regardless that we do not accept the opinion of R. Shelomo ben Adret, in accordance with the written view of the Magen Avraham and all the later decisors that one should not (here) be lenient; at any event, this may be an additional reason to permit here where the forbidden consequent

is detrimental to the doer, combining with the opinion of the 'Aruch. However, the opinion of the Shiltei Giborim, is questionable in light of a clear Gemara passage, Shabbat 120b, which in the Shulchan 'Aruch, chapter 277, is decided as forbidding opening a door if the opening would cause a fire to spread or to be extinguished, even if this were unintentional, since this would be a case of pesik reshei. There is an objection to the Shiltei Giborim: what about (the less strict consideration for) doing another (permitted) action (simultaneously) ('oseh ma'aseh acher)? However, it is certain that the opinion of Shiltei Giborim is not accepted. See Eliya Rabba who also raised several objections to the Shiltei Giborim, and see also Responso Sho'el Umeshiv, part 3, chapter 3, note indicator 3. Also, the opinion of R. Shelomo ben Adret regarding locking a door when a deer is in the house may be explained satisfactorily in another way. That is: one does not perform a deed recognizable (as forbidden), nor - does one make a mark at all on the deer. Rather, in closing the door, the deer is automatically unable to escape and is trapped. Since there is here no forbidden labor as such recognizable, all depends on the doer's intention. If one does not so intend, this is not in the category of the forbidden labor of hunting.

However, in the case of making a fire, where the kindling of the light is so recognizable, and where the deed makes an impression, even if one does not so intend, one has done a forbidden labor. It is only that it is permissible when one does not intend the consequence, and therefore when that consequence is inevitable (pesik reshei), it is forbidden; this is clear to the intelligent. Here, the Turei Zahav at chapter 216, note indicator 3, gives a new interpretation: such a case where there is doubt as to whether a forbidden labor would be performed would not be pesik reshei. Accordingly, one may permit entering a doorway at night even though there are many doorways in new homes which if one opens the door, an electric light is automatically lit: in any case, since one is in doubt as to whether this thing is there, it is permissible to open the door.

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Comment: Having in the previous responsum categorized the electric light in the system of Jewish law, Dr. Hoffmann proceeds to a straightforward analysis, containing nothing novel in the way of its treatment of the technological factors. The very seamlessness with which the definition of the electric light's status has been incorporated into the process of halachic thought is instructive. This problem, which in its technological

detail did not exist even a half-century before is subsumed comfortably under principles and categories of tremendously greater antiquity.

Question: A certain person has a stove fired by vapors called 'gas' in which he places his food to be kept warm during the Sabbath. Is it permissible to request a Gentile to extinguish this flame Sabbath afternoon?

Response: In this matter, the Rav, our teacher and master R. Sinai Schiffer of the holy congregation of Karlsruhe, who is of the students of our seminary, wrote correctly in his periodical, Yagdil Torah, reasons to permit it. I followed him and supplemented his words; I will bring here what is needed to clarify the matter. Consider what has already been written in Responsa Besamim Rosh in the name of ד"ר אג, section 194: "that you had asked me about a spark that fell on the tablecloth and had not yet caught it at all, and there being a great wind and room to fear that through this it might come to a great fire; would it be permissible to extinguish, etc., an answer, etc...."

However, it seems that despite this, one might permit (to extinguish it) for another reason. I will first tell you what happened to my teacher once in a gathering of sages one Friday night. A spark fell onto the table, and one of the attendants, forgetting, put his finger on it. They shouted: "Shabbos, Shabbos !", and

grieved about it. But one of the sages said: "So what, sparks have no substance." They laughed at him, because this was said. The prohibition was only about removing an instrument from what it had been prepared for, with regard to nullifying a vessel from its use, as the vessel does not become its basis (i.e., container). However here he extinguishes (the fire which is prohibited). But this sage also retracted his words. After my teacher of blessed memory walked to his home, he reflected and said that "that sage had spoken well, for whether according to R. Yehudah or according to R. Yehudah or according to R. Shimon, the prohibition (of extinguishing fire) is only because of the making of charcoal; these sparks, after their extinguishing, leave behind nothing at all. And even though there is no minimum to extinguishing, (i.e., extinguishing the least bit of fire is prohibited) nonetheless something fitting for charcoal we do require, and this being so, we are unable to say that the sages forbade here (to extinguish the sparks) with the possibility of a great conflagration and loss. And do not rebut me from the text of the Talmud from the mishna at the end of "Kira" : ' and they may not place within it water etc...' " There he expounded at length a new explanation to the sugya at the end of "Kira." You see with

your own eyes that according to ה"א it is not fit for charcoal. For R. Yehuda definitely disagreed with R. Shimon only in a place where one has no need for charcoal but the charcoal is made anyway. However, in a place where there is no making of charcoal at all, even according to R. Yehuda there is here no Toraitic prohibition. But in any case, it appears to me that a rabbinic prohibition certainly exists, even in a case where it is not fitting for charcoal's (production) at all, inasmuch as it is not permissible to extinguish glowing metal save where there is danger to many. In any case, it is simple to conclude that the case of gas flame is not more stringent than that of glowing metal, and if so, in a dangerous situation it is permissible to extinguish it. And in the matter of requesting a Gentile, one may certainly be lenient in a situation where loss may result. Moreover, it appears that if one kindles gas light in honor of the Sabbath or if one places food to be kept warm in a gas oven, there is also here a mitzva, for if one did not permit extinguish- through a Gentile, one would refrain, and not kindle these lights on the Sabbath, nor store the food warm. And there would be neglect of oneg Shabbat, if one were to dwell on weekdays with beautiful lights but on the Sabbath with dim ones, and so too if one were

not to eat hot meals on the Sabbath.

Even though the Magen Avraham wrote at chapter 334, note indicator 26 that even in the instance of a conflagration it is forbidden to request a Gentile to extinguish, according, even to those that hold that this is a rabbinic (prohibition), (see that reference), his view is made objectionable from chapter 336, paragraph 9 which permits to crush with one's feet the weeds that clog the pipe. He resolves the difficulty stating that extinguishing differs in that one may come to a Toraitic infringement through needing charcoal, and not all are experts in this (see there). This being so, in the case of a gas light where it is impossible to come to a Toraitic infringement since there is here no charcoal, one may permit (to extinguish it) through a Gentile. For this there is proof from Rabbenu Nisim, at the beginning of the chapter "Hasho'el." He wrote that even with a mirror of metal, the first Tanna forbids, even if it is set in a wall, since the rabbis do not differentiate; at all event, other mirrors, not made of metal, are permissible, since it is impossible to pluck hairs with this. So here too, with a gas flame for which it is impossible to produce charcoal, one does not prohibit. See Tosefot Nida 3a,

catchword "Margeshet." They wrote that regarding an insane woman and one using an absorbant internally it would not follow to say that the rabbis did not differentiate, for they are set apart from all other women. So is a gas flame set apart from all other flames.

Against my support from the book Besamim Rosh great and distinguished scholars formed a battle, saying that the gaon Chaim Yosef David Azulai already wrote in his book Shem Hagedolim that objections had been raised against him over the book Besamim Rosh, and also the wise of the critical scholars arose against him. They are our teacher R. Tsevi Chayot, and the critic Zunz (see the book Kirya Ne'emana, p. 295, and the periodical Halevanon, tenth year, third issue pp. 4, 5.) But in truth the gaon Chaim Yosef David Azulai retracted his protest in his book Va'ad Lech-achamim II, 1, quoted there: "And after a time I saw in print the words of that great and renowned gaon, rosh yeshiva and Av Bet Din of the holy congregation of Berlin, may G-d guard it, our teacher, the rav R. Tsevi Hirsh, may the Merciful One guard and redeem him. He said he heard of those defaming the aforementioned book and he vigorously rejected all (these) words

words that came to him. The testimony of the rav is that pure things are written in it. It was ten years in my house before it was printed. We enjoy the worth of his testimony in great awe in the matters of our Torah of truth..."

Now, I know very well that many geonim, among them the gaon, our teacher Mordecai Benet, Av Bet Din of the holy congregation of Nikolsburg and the country, and the gaon Chatam Sofer, the memory of the righteous for a blessing, were not pleased with the book Besanim Rosh. For this reason, I too cite the former statement of the gaon Chaim Yosef David Azulai; "One who reads this book should not depend upon it ... until investigating and clarifying the matters, and those which are true are recognizable." So I have done in our matter. I investigated for a long time, until the matters were clear to me and those of truth were recognizable.

What was cited in the book Besanim Rosh in the name of Rav Aharon Halevi, even if the Rav Aharon Halevi never said them, were things fitting to be said. For certainly according to R. Shimon, if there is here no charcoal, there is no extinguishing prohibited by the Torah; this a clear Talmudic passage, Shabbat 34b. The new interpretation of R. Aharon Halevi, namely, that if it is not

fit for (the production of) charcoal, even according to R. Yehudah it is permitted by the Torah, (to be extinguished) is also absolutely true. If you wish, I will support this with logic, or if you wish, with a tradition. The logic: on this matter, R. Yehuda and R. Shimon did not disagree, save that R. Shimon requires that it be needed for charcoal (to prohibit it while R. Yehuda does not. Even though one does not need the charcoal, that is, that which makes the (extinguishing) forbidden labor, one is nonetheless culpable. At any rate, we require that there be there charcoal through the extinguishing; if not, there is nothing that makes this forbidden labor at all, and even according to R. Yehuda it is only prohibited rabbinically. This is the logical argument. If you wish, take a tradition, as stated Shabbat 134a:

"One may not sweeten mustard by (dipping into it) a live coal... and it is taught in a baraita that one may sweeten it. This is not problematic, for here it refers to glowing metal and there to glowing wood."

Rashi commented: "With glowing wood it is forbidden as the prohibition on extinguishing applies since one makes charcoal; to glowing metal, extinguishing does not apply, since it is not made into charcoal."

You see here that the reason that the extinguishing of glowing metal is permitted by the Torah is that it is not made into charcoal. We saw in Shabbat 42a that Shmu'el said that even according to R. Yehuda one may extinguish glowing metal in a public place, and Rashi commented that since it is not forbidden by the Torah, therefore, in a place where it is not made into charcoal, that is, that it is not at all fit for charcoal, even according to R. Yehuda it is only a prohibition of the rabbis. And see the precision of Rashi's golden language! as he states "since it is not made into charcoal," whereas of wood-coal he says "since one makes charcoal." This is because he wished to say that , that from wood is forbidden even according to R. Shimon, in that one intends to make the charcoal and one needs the charcoal; and that that from metal is permissible even according to R. Yehuda, the reason being that it is not made into charcoal, that is to say that it is not fit for charcoal.

This being so, it is the rule for a gas flame, which is also not suitable for charcoal; there is here no Toraitic prohibition, even according to R. Yehuda.

- This is the matter that I verified from the words of the book Besamim Rosh. You see that he did not author absurdities, but words of truth in which there is no doubt.-

And since even according to R. Yehuda, and the Rambam, who decides with him, it is impossible here to come into a Toraitic transgression: if so, it is certainly in a less stringent category than a forbidden labor for which one has no need, and that which the rabbis have twice-removed from a Toraitic infringement is permissible.

Afterwards, I found in the responsa of our teacher and master Maharam Schick, section Orach Chayim, chapter 173, that he brought a similar opinion in the name of the Ramban in his Chidushim to Shabbat 39.

Now we have already found in another place that they have been lenient regarding the asking of a Gentile (to do work on the Sabbath). At chapter 325, practice of permitting requesting a Gentile to bring drinks by way of a karmelit (unenclosed, generally non-public areas on the Sabbath). The Kol Bo, (from which R. Moshe Isserles took this law, see Magen Avraham) wrote on page 31d of the Venice edition: "And now that it is customary to ask a Gentile or a

child to carry or bring something into the public domain, since the doors of the streets and the cities are locked at night and even to those that are not locked the law of a public domain does not apply, not having the requisite width of sixteen cubits, and the law of karmelit applies: even though there are those who prohibit shevut dishevut (that which the rabbis have twice-removed from a Toraitic offense) unless there is there some slight illness or an opportunity for a mitzva: in any case, since there is no prohibition of the Torah in this, they were lenient with them."

Now apparently the end of the Kol Bo's statement is not intelligible: "In any case, since there is no prohibition of the Torah in this, they were lenient with them," for in every case of shevut dishevut there is no Toraitic prohibition. Even so, there are those who prohibit unless there is some slight illness or an opportunity for a mitzva; so how could he resolve his difficulty with this?

Rather, of need this must be the explanation: "Since there is no prohibition of the Torah in this", meaning that he is unable to commit in any way a Toraitic transgression. For the towns in his day had no public domain, and for that reason they were lenient

with them. Those who were stringent regarding shevut dishevut were so because it was possible to come to commit a Toraitic transgression.

This being so, from the words of the Kol Bo there is support for what we have mentioned above (Ref.: Turei Zahav, chapter 325, paragraph 1), particularly in our case where also a bit of a mitzva is involved, as aforementioned.

And I was tremendously surprised by another scholar who criticized my using for support the words of the R. Aharon Halevi in the name of his teacher, the Ramban, inasmuch as the Ramban forbids the requesting of a Gentile when there is opportunity for a mitzva. This is incredible, for I have brought evidence that my reasoning was valid in my finding that even the Ramban holds this opinion. Just because of this must I decide according to the Ramban in the matter of shevut dishevut where a mitzva is at stake while a majority of the decisors and the Shulchan Aruch disagree with him? I am astonished! I have shown that my reasoning is necessary, also according to Rashi, and that no reasonable person is able to dissent from it.

I also saw others questioning our permission of requesting a Gentile in a case of shevut when a loss

may result on the grounds that on the Sabbath, only that is called "loss" which comes suddenly, as is written in chapter 33⁴, paragraph 26. Regarding this matter, I have two replies. Firstly, at that citation, the Bet Yosef has already written: "It appears that the use of the phraseology 'loss which comes suddenly' is not meant in the narrow sense. He only mentions the usual case (i.e., the broader meaning is intended); if one senses the danger before nightfall, it is customary to remedy the situation before the onset of Shabbat..." Moreover, even if you were to say that "loss which comes suddenly" must be taken in its narrow sense, prohibition would apply only to a case where it were possible to commit a Toraitic infringement, and not to our present case. We have already seen that there is support for this distinction.

The objection of one rav I did not understand at all, namely, how could one in principle kindle the gas with the knowledge that one would permit afterwards to extinguish it by reason of shevut dishevut? Is the Shulchan 'Aruch' dictum hidden from the rav's eyes? It states at chapter 248 (see Eliya Raba there) that it is permissible to embark on a ship or on a caravan three days before the Sabbath, or in the case of a mitzva, even Friday, even if one knows with certainty that one will have to profane the Sabbath because of danger to life. This despite that according to the majority of decisors the profanation

of the Sabbath because of danger to life is not because of canceling the Sabbath, but because of "pushing it aside" (i.e., the Sabbath is not lifted, only an exceptional transgression is allowed).

This being so, it is certainly permissible to bring one's self in principle to perform a shevut dishevut; the permission is in a situation where the light - kindler would suffer a loss having done a mitzva. All the more is this true here where it is not certain that one will have to request the Gentile to extinguish, since many times the maid extinguishes by herself without a request.

Now one scholar wrote that they have practiced and that they still practice extinguishing through a Gentile all manner of lights because of the fear of danger during the night. But as for the oven's gas light, since as is known there is no suspicion of danger, there is "no law and there is no judge" (i.e., there is no way) to permit requesting a Gentile. And he wrote moreover that they may successfully avert loss if they store their hot dishes in coals as was the custom in earlier years; to this point, his words. Now, regarding what he wrote, i.e., that they are able to store their hot dishes

in coals, it is a known matter that many times the foods are spoiled through storing in coals. This is not the case with a gas oven. Also, there are many weak people who are unable to eat foods stored in coals and the like. Certainly then this may be considered a need of the Sabbath. But if the above-mentioned scholar permits requesting a Gentile to extinguish the gas of the (house-) lights, the case may be compared to that of the Magen Avraham, who wrote chapter 276, note indicator 15: "Since one hires the Gentile to heat all through the winter, if (he) heats also when the cold is not so bad it would be as if he had done so on his own." This being so, here too he may request the maid at the time of hiring to extinguish the gas on the Sabbath, and if she should also extinguish where there is no danger, it would be as if she had done it on her own. And one who is uncomfortable with this authorization to extinguish the gas oven may say after the Sabbath, "hy didn't you turn off the oven last Sabbath?" This is obviously permissible, as is explained at chapter 307, paragraph 2; all this I have said as this would be the best. But as for the law, it seems advisable to me to permit requesting a Gentile

(to do some work on the Sabbath) in case of a shevut in place of a loss when it is impossible to come to a Toraitic infraction so doing, and the one who is stringent should keep it to himself. One who objects to this lenient decision is nothing but one who causes amazement. See Responsa Bet Yitzchak, "Yoreh De'ah," second part, sign 31, note 6, who is stringent. As for me, I will hold my ground, even though I am not worthy.

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Comment: In classical times, the wood fires that were commonly used left a useful by-product - charcoal - if they were extinguished before being fully burnt. The gas flame used so commonly today leaves behind no by-product whatsoever upon being extinguished; for this reason, it fits in a category to which only a rabbinical prohibition applies, according to the analysis of Dr. Hoffmann.

After this categorization, the majority of the responsum's reasoning deals with the permissibility of requesting a Gentile to perform this prohibition on behalf of the Jew. Reasoning is brought both in support of this from the legal sources, and for an alternative method of enlisting a Gentile's help which would avoid even the appearances of circumvention of the law.

Responsum of Mordechai Ya'akov Breisch of Zurich,
concerning extinguishing by means of an electric
clock.

Source: Chelkat Ya'akov . Benei Berak ,
1969. Chapter 49, pages 103-106

If it is permissible to set an electric clock from before Shabbat which will extinguish (the light etc.) during Shabbat.

(after greetings) to Rabbi Moshe Frenkel

1. In the matter of your question regarding the contemporary practice with electricity: To prepare for one's self a clock before Shabbat in such a way that the electricity is cut automatically when it arrives to a certain time by means of an alarm which rings and turns itself off. It is clarified in chapter 265 that it is forbidden to place water in an (oil) light before Shabbat in order that the light should be extinguished when it reaches the water. How is it that there (in the case of the electric clock) may be a permission?

Here too in Western Europe permission for the "Shabbos clock" has spread. It is (fastened) on the wall by a workman, and it is set every Friday for a certain hour, and at that certain hour, the light is extinguished. This resembles (the subject of the alarm clock), your question save that there is no ringing alarm; but the essence of the action is quite the same as in your question.

In the Tosafists' commentary to (the chapter of Tractate Shabbat named) Kira the question is raised as to why with respect to soaking of the "Simanim" (certain parts of the animal) or other kinds of

forbidden labor it is permissible (if begun) before Shabbat, but here with respect to extinguishing we forbid lest one do it on Shabbat. Rav Porat answers that: "there, there is no cause to fear lest one do it on Shabbat since they are chief forbidden labors. (But here one may fear that such a great prohibition is not comparable to one placing a vessel (filled with water) beneath the sparks,) and one may fear lest one come to extinguish (the light) and would begin putting in the water before the sparks fell....(and come to) extinguish with one's hands(i.e., directly, not indirectly) or that one would lift up the vessel with the water towards the sparks. And even though this would only produce something for which one had no need, they were stringent because of the act of extinguishing which obligates (the transgressor) to a sin offering. And even though this is (only) a rabbinic prohibition on top of another rabbinic prohibition, it is clearly evident to the rabbis that it is appropriate in this case so to prohibit, etc."

On the face of it, there is a difficulty, for there in Shabbat 18 they (the two great Pharasaic houses) are alike in (permitting) loading the olive press beam from before Shabbat, even Bet Shammai. As it is explained there in the Gemara (Shabbat) 19, since if it were done on Shabbat, one would not be obligated to bring a sin offering, the rabbis did not prohibit it,

even Bet Shammai. And in this case we forbid, even according to Bet Hillel, even though it is labor which would not produce something for which one had need and is therefore only a rabbinic prohibition. However we may say that a labor which would not produce something for which one had need, even though it is rabbinical, is a more severe prohibition and is somewhat like a Toraitic prohibition as is clarified in the Tosafists commentary to Shabbat 135a, catchword 'mipnei hasakana' : " A labor which will not produce something for which one has need is a more severe prohibition than that of handling objects (whose normal use is forbidden on Shabbat - a rabbinic injunction). " Even though the prohibition of handling Mukseh objects (destined for weekday use and forbidden for the Sabbath) is explained in the older Tosafists' commentary to Baitsa 3b as being Toraitically derived, of labor which does not produce something for which one has use, it is yet more severe. And so the Rosh has it at Baitsa 32b regarding clearing away ashes. And this being so, for Bet Hillel, contrary to the rest of the labors which are chief forbidden labors, punishable by karet; in this matter we are more stringent.

At the beginning of Baitsa: with Shabbat , in that it is stringent, its prohibitions (enforced by) karet one will not come to treat it lightly; with yom tov, in that it is lenient, there being no karet, one tends to treat it lightly. So it is in Sota 7a: Nida, in that its karet penalty is severe, we believe her; sota, which is not so strict a prohibition, we do not believe her. And in Ketubot 4b, nida, which is stringent.... mourning, which is lenient.... But regarding the beam of the olive press, which is genuinely a rabbinic prohibition according to all, we did not prohibit on Friday on account of Shabbat. See Rashi at Yevamot 119a, who explicitly comments that, to the contrary, in the case of a karet prohibition we distance ourselves further than from that of a simple negative (prohibition whose penalty is not defined in the Torah). And in the first series of Noda' Bihuda, Orach Chayim, section 21. in the excursus that he brings in the name of the Mishneh Lemelech on that stated in Yevamot 82a: there is no difference in the matter of distancing (oneself from a transgression) between a karet and a simple prohibition. And in the Tosafot to Sota 7a, catchword 'amar': there are times when it is more important distancing oneself from a not-so-stringent prohibition than from a stringent one, and there are times when the opposite is true. And the intention of the Tosafot at

the end of the Kira' must of needs be the main point of the difference as they inferred, in their language: "Putting a vessel beneath sparks does not seem so much like a prohibited thing." The intention is that this does not seem to people to be a prohibition in a real sense even though in fact one may fear genuine extinguishing, as they conclude - "investigate this well." But this much is certain: if the whole of the prohibition were only of rabbinical origin, it is certain that we would not prohibit on Friday on account of Shabbat, as in the case of the beam of the olive press. And as the Gemara explicitly understands there: "I will grant that R. Yosi forbade on Shabbat; but on Friday, did he say (that he forbade)?" And the intention is as also explained in Shabbat 120b, and for this reason, the Gemara poses the question well: "did he say on Friday?" The Gemara answers, "since it hastens the extinguishing" and tends towards outright extinguishing, as explained by the Tosafot.

And the second and the third answer of the Tosafot, when there is no interruption between the water and the sparks, is regarded as genuine extinguishing, since eventually the sparks will come. This is like the case of spreading nets concerning which we hear in Tosafot Shabbat 17b, catchword 'ain porsin',

that in a place where undomesticated animals are common, one incurs Shabbat guilt (through net spreading) since (trapping- prohibited on Shabbat) follows automatically - Peri Megadim, Eshel Abraham, section 316, note indicator 9. For this reason , it is forbidden even on Friday, for if not so we would not have forbidden it on Friday as in the case of the beam of the olive press, as has been clarified above - see Maharam Schick, Orach Chayim, section 157 and Machazeh Avraham, section 42. They clarify explicitly that both the second and the third of the Tosafists' propositions have that water with no interruption is a prohibition of the Torah, comparable to hunting as in the above- mentioned Tosafot.

2. In truth, the language of the Tosafot does not indicate that there should be in this a Toraitic prohibition. And moreover, the language of Rabbenu Nisim there at the end of 'Kira' and to Shabbat 120b: "and this is more than a (mere) causing factor of extinguishing," means only that it is more (serious) than a causing factor of extinguishing. A causing factor of extinguishing according to the rabbis who oppose R. Yosi is permissible but this is more than that, (i.e., worse) and is forbidden even according to the rabbis who oppose R. Yosi; but it is not superior (i.e., more stringent than) a cause of extinguishing in

that even for R. Yosi it is only a rabbinic prohibition. And also to remove the disagreement so much that according to the first answer of the Tosafot and also according to the (Talmud) Yerushalmi cited in the Tosafot there, it should be permitted even a priori; and according to the second and third answers it is a Toraitic prohibition. See Shabbat 138b, where the Gemara asks how one can reconcile that the rabbis obligate (the doer) to a sin-offering, whereas R. Eliezer permits the matter in principle. And also, regarding the third proposition, why it is permissible (to pour water on the still-unlit side of) a garment that has caught fire even a priori since it is only done so that the flame should not spread. As explained by the Maharsha there, "The bringing close of barriers of water is not perceptible by fire." and if a barrier of water were forbidden by the Torah, it would be difficult to understand the distinction: why should in the case of barriers of water it (i.e. extinguishing) be forbidden by the Torah and in the case of the garment, it should be permitted even a priori ?

And the evidence that he brought from the case of trapping, that one is guilty since it comes automatically should be rejected according to that

which is explained a Baba Kama 60a, in the case of one who blew and the wind set it ablaze, who is exempt (from punishment); why should this not be like the case of one who winnows and the wind aids him? Rav Ashi said regarding Shabbat that designed, purposeful work the Torah forbade, but here (i.e., in context, a case of damages) it is an indirect cause of a general nature. The Tosafot and our teacher Rabbi Meir there say that this is (the nature) of the labor of winnowing, i.e., that one winnows by means of the wind. But for a matter of damages, in which one would be called a setter of flame: one is only called a setter of flame when one alone sets the flame. Here too the labor of trapping is alike in that one only spreads the net, and when it is in a place where animals are common, by that the work of the trapping is completed. But the work of extinguishing is in fact extinguishing the fire (directly) but when one only places water and in the end the flame is to come: this is not really extinguishing. It is just something more than an indirect cause, as according to Rabbenu Nisim above, and it is prohibited even by the rabbis who oppose R. Yosi's (tradition), which permitted an indirect cause provided there was no Toraitic transgression involved. And this that

we forbade it even on Friday must of needs be as explained in Mechatsit Hashekel, end of chapter 265: since the causing of extinguishing is a small thing (not much of a sin) in peoples' eyes, one may fear lest they should do the same on Shabbat. And it is already known that one may not draw parallels between rabbinic ordinances; see Tosafot Nida 33b, catchword "Vreminho." And see section 514 in the Turei Zahav, at the end of note indicator 7, who permits even in yom tov itself to place the light in the midst of water for some small need, and so too in the Mishna Berura at the same citation in the name of later decisors. If this were in fact extinguishing, it certainly would have been forbidden; go over this carefully.

3. In our case at point, we need first to ascertain whether there is a Toraitic prohibition or merely a cause of a rabbinic prohibition. I saw in Even Yekara, the third series, chapter 85 in his question there (on whether) to set the clock on Friday in order to turn on (the lights) on Shabbat (that he ruled) to permit on the basis of Sanhedrin 77b and Chulin 16a: "Here where one ties up a person and causes water to flow over him so that he dies, (the first) is culpable."because his arrows killed him", i.e., for the reason that this is the consequence

of his (action). This applies to a primary (cause) force, but (if death resulted) from a secondary force, it is (in the category of) a common indirect cause. "Rashi commented: " 'Secondary force' is after the water has travelled through once or twice."

Here we see that even though the power of the man was essential to the first passing through of the water, after the water has passed through a few times the force of the man is already nullified, and it is considered only a common indirect cause. And this being so, a clock like this which only turns on the light after the moving works have made, after their setting, several revolutions by the power of the spring: this being so, this would be only a secondary force, merely an indirect cause, permissible even to Bet Shammai (to do) on Friday since even if done on Shabbat, it would only be an indirect cause seen there.

But you have not yet fulfilled the obligation of a (satisfactory) explanation, for this is not comparable to water. Water's nature is to flow on its own. It is only (here) that it has been restrained by a plank; one removed the plank and caused to flow a stream of water: (here) one is not only just removing the impediment. For this reason, in the case of

a secondary force, it is not called the force of (the original human agent), for the water comes automatically. This is like Chatam Sofer, Yoreh De'ah section 214 concerning a ritualarium: when one removes the bung, it is not deemed an action by human agency (regard here Machazeh Avraham chapter 42 at length.) This is not the case in our present subject. For the force of the clock is the spring, made from metal (steel) whose nature is not to want to be contracted and wound up. The setting of the clock consists in a person contracting and winding the spring; being its nature not to be contracted and wound up, it unwinds, very slowly, and this is the force that moves the whole clock. This being so, from whence came this force to the above mentioned spring if not from that very man who contracted and wound up the spring against its nature? Through this it springs back and unwinds, and without this, it would have no moving force. This being so it genuinely resembles the potter's wheel (lit.: block) which is a wheel turned by human power as is clarified explicitly in Tevuat Shor, chapter 7: even if it turns several times and he removed his hand from it and the slaughtering was done by the final revolution, all came from his own force, and the

slaughtering is kasher. He brings evidence from the Gemara there that since it makes no difference whether with the potter's block, with a primary causing force, or with a secondary force, one may infer that with the block, even a secondary force is considered his (i.e., the human agent's) force. And, we have seen that even for leniency, in order to declare a slaughter kasher, it is deemed his force. This being so, here too, all the force of the spring comes only by means of the person's setting in which one gives it the power to move, and it is similar to the potter's block (case) which is deemed (lit. "called") "his force" even after one has removed one's hand from the wheel (regard on this Maharam Schick, Orach Chayim, section 257, where this opinion too is explained in brief). However one may say on the basis of what is explained in Makot 8a: 'Rav Papa said: "One who throws a lump into a palm-tree severs some dates, and the dates fall and kill a person, we have a controversy that parallels that of Rabbi and the rabbis.'" We decide according to the rabbis (i.e., that the force is considered only directly the thrower's); see Rambam. This being so, even if we consider the force of the spring to be genuinely the force of the person even after he has removed his hand, the above-mentioned

implies that since the spring itself does not turn off or on, by its force only turning wheels and by them is effected the extinguishing or the turning-on, this truly resembles the case in Makot of the lump thrown into the palm which sheared off dates, and is only an indirect (causing) force (koach kocho). And particularly in the subject of your inquiry, the alarm clock, which has as is known two springs, one for the ringing alarm and the other for the movement of the clock: when one sets the clock, two springs are compacted and wound up. The one for the alarm remains thus wound up by means of a small piece of metal which impedes it from unwinding and springing back. The second spring springs back and unwinds slowly until it comes to the appointed place, and there it removes the piece of metal which prevents the spring for the alarm from unwinding. By means of this, the alarm spring springs back and unwinds, and the extinguishing is made by means of this. It is genuinely similar to the case of Makot 8a, only a secondary force (koach kocho) and merely an indirect cause.

4. And moreover, and this is essential for me, this is not similar to the case in Tevuat Shor of the potter's block. For there, the wheel turns only by the force of the person; in its nature, there is

no force to turn itself and for this reason, even after several revolutions, and even if one removed one's hand, it is deemed "his force." For if it were not for the force of the person which came before, it would not have turned; but in our case at hand, after the person has compacted and wound the spring, it springs back because it is the nature of the metal of this spring not to be compacted, and it springs back and unwinds. The person only made a cause and an action so that it should have this nature, (i.e., that its nature should have its way) but the springing back comes on its own afterwards because of the nature of the metal. This is not so for the potter's block. There it moves only from the force of the person that preceded even after the removal of his hand; consider this well.

5. And if these matters are correct, in that the setting of the clock is only an indirect cause, it is quite permissible to set it on Friday. For the first answer of the Tosafot, in which we fear lest one extinguish ~~the~~ (directly) by means of lifting up the (water-filled) vessel when the sparks were falling, is not applicable. For there, one intends to extinguish the sparks whenever they may fall,

and there is a fear lest one extinguish directly, (i.e., intentionally) by means of raising up the vessel when the sparks fall, and it (the extinguishing) would be intentional. But in our case, one's intention is only that it should extinguish itself after a certain time, and if it should occur that by means of one's setting it should go out as sometimes happens and as is known, this is something which one does not intend which is permissible, as is understood, (see above p.33). The second and third explanations (of the Tosafot) involve possible Toraitic (infractions), as explained above in the name of Maharam Schick that (bringing) barriers of water without interruption (between them and a flame) is forbidden by the Torah. This is when one brings the water by hand i.e., directly; but in our case, since it is only a secondary cause, and only an indirect cause that even on Shabbat is only forbidden rabbinically in the instance that there is no loss involved: this being so, it is permissible to do it on Friday. This is just like the loading of the olive press beam which is permissible even according to Bet Shammai since it would only be (a transgression) of the rabbis (if worse came to worse). And even though according to how we proved that it appears that barriers of water are forbidden only rabbinically

and that even so we forbid (to do this) also on Friday, necessarily following the reasoning of the Mechatsit Hashekel that it is a small thing in the public's eye to extinguish indirectly, one even so should permit it. For according to the first answer of the Tosafot, it is certainly permissible, as shown above, and according to the second answer and likewise as explained in the novellae of R. Shelomo ben Adret that here it is forbidden only because the sparks openly fall into the water. But water at the side of the fire is permissible; and it is explained in Magid Mishneh, chapter 12 of Hilchot Shabbat, halacha 6 that this is the basic (correct) answer. This being so, in our case the cause of the extinguishing also comes "from the side." This leaves us only the third proposition of the Tosafot, in which it is forbidden even from the side. And in this, we are able to rely on the words of our sages regarding the two above mentioned propositions of the Tosafot. Moreover, it is possible that since the thing which extinguishes is still not before us, it resembles one who makes a barrier out of pottery vessels, (as a protection against that) which (to do) on Friday is permissible according to everyone; and again I saw that the Chazon Ish also, at chapter 38, letter b wrote that setting of an electric clock resembles a

barrier of pottery vessels. And particularly after the testimony of the Magid Mishneh that the second proposition is the correct one. (Accordingly I hesitate in this, for it is possible that this cause of extinguishing which comes from an interruption of the electric wires, as is known, resembles the falling of sparks openly into water).

6. Maharam Schick had already been asked in Orach Chaim, section 157 if it was permissible to set a clock to turn on the light on Shabbat; he went deeply into the (various) opinions and concluded that it is permissible. He cites similarly from the Sho'el Umeshiv to permit it. His basis is from the case of the snake in Sanhedrin 78a that the rabbis declare exempt (from capital punishment) one who causes a snake to bite another person; since the poison is not present (yet in the snake's tooth), he is only an indirect cause. Here too, since the fire is not present in the clock, it is only an indirect cause. He also added (this reason) to permit (this action): since everyone observes a prohibition on an alarm on the Shabbat, one does not have to fear lest one do so on Shabbat. So too in our case of the "Shabbos clock," since it is set aside just for turning on the light, people will stay clear of it on Shabbat.

The matter is explained clearly in the Kol Bo in the laws of Shabbat; this is his language. And there are those who raised an objection concerning the law that it is forbidden to place a vessel filled with water in order to receive sparks even if done Friday: if so, how could one put water in a glass lamp on Friday? This, however, poses no valid objection, for we have already said that it is only forbidden from Friday so that one should not place it on Shabbat, and this decree is not applicable to the thing within which lit (the flame), for everyone knows that it is forbidden to touch it with the onset of darkness. And we do not worry about the cause of extinguishing, for that which causes is done before the coming of Shabbat. We only decree against a vessel with water in it, for the one who sees this on Shabbat will think that it was put there on Shabbat; since a vessel without water is permissible to be placed even on Shabbat, he will think that one placed the water also there on Shabbat.

7. Also, in Or Zarua', Hilchot "Erev Shabbat," chapter 28, it is explained that "an indirect cause of extinguishing (done) on Friday is permissible even according to R. Yosi. It is only hastening of extinguishing which is forbidden, even by the rabbis, even on Friday; this is to put water underneath the

light since it hastens its extinguishing. And one who places water on a garment: this is not hastening its extinction. It is only an indirect cause of extinguishing the fire since it is possible that it might go out before it reaches the soaked place, and even when it reaches the place, it might not go out. For the flame is heat, and the heat makes the water evaporate and the soaked part burns too, for even something soaked in water may eventually burn..." His holy lips spoke clearly that an indirect cause of extinguishing (effected) on Friday is obviously permissible, even according to R. Yosi. And also in a way where there is a possibility that it will not go out for some reason, it is deemed only an indirect causing agent. This being so, in our case of setting the clock on Friday where several possibilities may arise so that it, (the light) may not go out, as is known that sometimes the clock does not function for some reason, or that the light might go off by itself because of a short-circuit or the like: in any case, there is a doubt that there might ever be an extinguishing, and when the matter is not clear, it is only called an indirect cause and permitted on Friday even according to R. Yose, and, as said the dicta of the Kol Bo and the Or Zarua are a strong basis to permit in our case.

(A matter for further consideration: it is difficult to say (i.e., to understand) that in putting water under the light in order to receive the sparks it is any more clear (likely) that it will extinguish them, for who says that sparks will more certainly fall than setting the clock (will extinguish the light). However, Or Zarua' loc. cit., clarified this further where they prohibited hastening extinguishing even on Friday; were not all labors permissible to begin on Friday which completed themselves automatically on Shabbat, as according to the objection of the Tosafot? And he wrote there in the name of R. Yosef to resolve the difficulty, that in hastening the extinction it is appropriate to be stringent since it stands by the side of the person, near to him, and the one who sees him says that on Shabbat he places it, and also extinguishing of it on Shabbat is like doing it on Friday. His intention is to say since the vessel with the water placed under the light stands there all the time on the table, and the man is busy there and stands by it, they will say that he placed the vessel with the water beneath the light on Shabbat, and this would be hastening extinction on Shabbat itself which is forbidden according to all opinions. And because of a decree on account of onlookers, they forbade this even on Friday. This being so, in our

case of setting the clock, the decree on account of onlookers is not at all applicable, since after one has set it on Friday, there is no longer any activity in its proximity, and it is like opening a water gate to a garden, which was not forbidden on account of Shabbat.)

8. And in our case, when one sets the clock before the lighting of the lamp, there also applies the above permission of the Or Zarua', cited also in the Magen Avraham, end of chapter 265 who differs (and says) also that in the case of hastening extinction, (this holds true) for this very reason it is permissible to place water in a lamp underneath the oil, for before the lighting, (the prohibition of) extinction does not apply. And in Even Yekara, part 3, chapter 119, he cites support for this opinion from Tosafot to Chulin 16a, catchword "aval": "For the binding he is not culpable.... and even if he bound him in another place and brought him there, the water was not going to wind up there. (and drown the bound man)" See that in the case of a murderer , one who confines (the victim) is culpable, if at the time that he confined him the damage did not seem as if it would come, regardless that afterwards he would have done the damaging (i.e., the murderous) act himself; he is exempt. If this is so, how is it

applicable to say that he will be extinguishing in a situation where at the time he places water to extinguish the light, no fire at all has yet been lit? And even though afterwards he himself lights the fire, if it were done on Shabbat, he would only be culpable for causing burning and not because of extinguishing. This being so, on Friday it is certainly permissible.

And these words of the Tosafot are explicit in a Gemara passage, Sanhedrin 77b: "One shot an arrow and a shield was in the hand of (the victim) and another came and removed it, and even if he (the shooter) came first (after shooting the arrow but before it arrived; Rashi) and removed it, he is exempt, for in the moment of his shooting at him, his arrow was (effectively blocked)." And this being so, here too before the lighting, extinguishing does not apply. And regarding the objection which the Magen Avraham raised to this opinion, based on the fact that the rest of the decisors wrote other (rationales) for the law of the Sefer Mitzvot Gadol that it is permissible to put water under the oil, implying that even before the kindling it is forbidden, even on Friday, in my humble opinion, this constitutes no refutation.

To the contrary: the (understanding) of the decisors is that the Smag (Sefer Mitzvot Gadol) speaks also

about after the kindling, i.e., that even after it is lit it is certainly permissible, since extinguishing is not applicable before it is lit. Of this (last) fact the Smag had no need to tell us, and for that reason, they struggled each according to his reason to explain his words (his leniency) as also (referring to the case when the water was placed there) after it was lit. See also Magen Avraham, beginning of section 313, note indicator 1, in the name of R. Yitschak Halevi, that repairing is not applicable until the breaking has occurred and is not forbidden as repairing, and before a person dies, it is permissible to seal the window, but afterwards, it is forbidden as "repairing": see there. And here too, before the burning, extinguishing does not apply; see section 514, paragraph 3 that for the matter of yom tov, before it is lit, extinguishing does not apply.

9.8. Now the Maharam Schick in his above-mentioned response of the year 5631 (1870-71), in which he permitted setting the clock even to kindle, taught concerning real fire; how much the more in our case for the matter of extinguishing, which is only something for which one has no need (namely, the making of charcoal, the by-product of extinguishing which is the cause of it being prohibited as a Shabbat labor)

which according to the majority of decisors is only a rabbinical prohibition. And this holds also for the matter of extinguishing an electric light, which is a bit less severe (a case) than real fire, for our teacher, the ray R. Shim'on Sofer doubts whether the prohibition of kindling and extinguishing applies to the electric light (as to its status as fire) since it was not (used) in the Tabernacle. And in Yoreh De'ah, part 4, section 31, he makes a fine distinction to say that turning off electricity is not a Toraitic prohibition for it resembles a glowing metal on Shabbat since charcoal is not produced, extinguishing is not applicable. There are also several rabbis who are hesitant, saying that all "burning" and "extinguishing" of electricity is only a causing factor (gorem), and in one responsum, I expounded at length on this in the matter of the electric "burning" on yom tov, and also for the matter of Shabbat if it is a genuine Toraitic prohibition in all technical and halachic details. Heaven forbid being lenient in this, helping the public to fail in this; however there is an aspect of halachic relevance (in the matter).

10. The conclusion for us in our case is that extinguishing the electricity on Friday by means of a clock is permissible since it is only a causing factor, either because it is a secondary causing force as in Chulin 16,

or an indirect causing force as in Makot 8a, or because there are possibilities that it might not be extinguished for some reason, and the extinguishing not be definite, as according to the aforementioned opinion of Or Zarua'. A causing factor is certainly permissible on Friday, as shown above, and particularly in extinguishing for which one has no need. And even though the Tosafot wrote that they (the rabbis) were strict (with indirect) extinguishing because of (direct) extinguishing which involves a sin-offering, this is because of other kinds of extinguishing which pertain also to charcoal making. But in the case of electricity, the metal is never made into charcoal and with electricity, the concept of "need for the product" of the forbidden labor is not applicable. And it does not resemble a vessel of water underneath the sparks, since people stay away from this clock on Shabbat, as according to the opinion of the Kol Bo and Maharam Schick. And also, before the lighting, extinguishing does not apply as according to the Or Zarua'. Therefore, in truth also for the matter of lighting, for which several of the arguments for permission do not apply as they do for extinguishing, we have quite enough arguments for permission to permit setting the clock to turn on (the lights), according to the decision of Maharam Schick.

This even if we do not permit for the reason of loss of money so that one should not have the light (burn) all day Shabbat, in which case people might hold back and not light it at all on Shabbat and bring to nought the delight of Shabbat. It is certain that we should permit (lighting in this way) so that all of the children of Israel should have light in their dwellings on the Sabbath day.

Responsa of Ben Tzion Meir Chai Uziel, Rishon Letsion

(Sefardic Chief Rabbi of Israel)

concerning:

- 1- The electric circuit, and various electrical devices
- 2- The electric timer; the electric vehicle

Source: Mishpetei 'Uziel, edition 2, part 1.

Jerusalem, 1947.

- 1- Chapter 36, pages 95-98
- 2 - Chapter 32, pages 81-84

A . Kindling and Extinguishing Electricity Sabbath and Festivals

B. Starting an Electric Fan or an Elevator Sabbath and Festivals

C. If Someone Hard of Hearing may Use a Hearing-Aid Sabbath and Festivals

17 Tevet 5696 (Greeting etc. :) addressed to R. Shelomo Zalman Auerbach of Jerusalem.

In answer to your questions addressed to me, I herein reply. To begin with, your honor was gracious to clarify to us the nature of electricity's action, and from that to arrive at the conclusion that closing the switch to break the circuit eliminates the current's passage and it is cut. The thin thread which lights becomes cold and is immediately extinguished. This resembles the case of one who takes knife in hand and severs the candle's wick, etc.

I found nothing new in your words. For in the end, the man who closes the switch does not touch the wick itself nor the current within it save by the switch at its side. One does no forbidden action in this touching, and this being so, it does not resemble the case of one placing water beneath a flame, where the water stands beneath the sparks. Rather, this is similar to one who pours water onto a garment which has caught fire; it does

not extinguish. but rather inhibits spreading of the flame. Here too with the electric light, one is inhibiting the continuation of the light, and it goes out on its own.

What you said, that one is (as if) taking away oil from the wick by stopping the current, thus extinguishing it by means of diminishing its light or detracting from its magnitude, applies only to where some of the oil and the wick is set aside (removed) for burning. But with an electric light, and so with a range neither a wick nor the oil is removed as they are ready and available. For these 'wicks' are not made for a certain limited period of time, but rather last for an extended period before exhausting their usability. And so the electric current is produced for everyone at all times, being constantly present with constant potential strength. The range's fuel also is not delimited completely for his (the cooker's) usage(at one time.) And since one does not intend to extinguish that which is lit, rather to arrest the continuation and the spreading of the flame, it is accomplished by itself even more so than in the case of the garment which caught fire, in which it is permissible to put water on it and to cover one's self with it and if the fire goes out, no sin was committed. And so is the law of a candle's extinction in sand during yom-tov, and thus decided R. Shelomo Luria; and these are the very

same things which I wrote at the end of chapter one, paragraph one that the range's controls and the electric switch are not of the same body as the wick, being rather a device standing next to it. These things are themselves written at the end of paragraph 3, i.e. that the switch through which the current is opened or shut off is not considered as part of that which itself is burning; these matters are clear, and I do not know why they were difficult in their understanding for your excellency.

And I saw that the master added that this is similar to what is taught in the Mishna: one should not perforate an eggshell (filled with oil) and place it in an (oil) lamp), since it drips (and feeds the wick.) What R. Shelomo Luria wrote and what is brought in Korban Netan'el we acknowledge, namely, that the reason for this prohibition is lest one use all the oil within for one's other needs and so come to extinguish (the light)

You did not tell us anything new, for in paragraph 2 I had cited these words of R. Shelomo Luria, and I had proved from the Yerushalmi that the rationale for "one must not perforate an eggshell" even for those who maintain that the reason for it is that one fears extinguishing, is only with regards to that which was set aside for the purpose of lighting. We have already written that the electric current, as the range's fuel, is not delimited for burning or for cooking on yom tov.

Furthermore, his Torah excellency was astonished at what I wrote inclining to be permissive for the reason that one does not intend to extinguish that which was burning to arrest its continuation. He wrote: This opinion was only said with regard to a garment which had caught fire, wherein it is permissible to pour water on it so that the flame should not spread. This is not the case in the extinguishing of electricity, for one extinguishes that very place that was alight, and it resembles every extinguishing in that one does not extinguish that which has already burnt, but that one does not allow more to burn.

But you were not precise (logical), for if so the difficulty would have concerned yourself. What is the reason that they permitted in the case of the garment aflame? Are they not the same case? Rather, in the case of causing extinction, since the wick and the oil are considered one body, every action that is done to their body is extinguishing in every sense; but in causing extinction through an action that is not in the body of the flame, one does not intend the essence of extinguishing, only to arrest the spreading. As in the case of the garment which has caught fire on one side, one applies water to the other side, and if it goes out, it goes out. Or, one takes off the garment and (again) covers one's self with it; since one does not touch that which is burning and one does not intend to extinguish that which

is not only the object of the action, but also the

is lit, only to arrest the spread, it is permissible.

I also saw that his Torah eminence criticized my words on the basis of the law forbidding one to open a door in an extraordinary wind, which (he maintains) applies to turning off the electric switch or the Primus's (main switch) control. But this is no valid criticism, for from the law on opening a door across from a fire (of a fire place) is no proof which will refute (my view) because opening the door was only forbidden because of "burning". i.e. that one stirs up the blaze. Know what Rashi of blessed memory wrote regarding the law of a light behind a doorway: "Because the wind extinguishes it." Whereas in the case of a door across from a blaze, he wrote: That the wind blows and makes the flame burn. "Therefore, in opening a door across from a blaze where the opening does not cause extinction, it coming rather by itself, it is only forbidden by reason of "burning." And so wrote the Tur and our master: "It is forbidden to open the door across from a blaze which is somewhat close to the door even if there is only a normal breeze, but if the door was already open across, it is permissible to close it, and one is not an extinguisher. (Orach Chayim chapter 277, par.2) It is true that the Magen Avraham wrote: "And it appears to me that when the flame is burning within, even the Trumat Hadeshen acknowledges the prohibition to completely seal it as one causes extinguishment in that the flame is quickly

extinguished. This is not similar to chapter 277, inasmuch as there is much air in a house, not the case with an oven." (Magen Avraham, chapter 259, note indicator 11)

However, in my humble opinion this seems an excessive stringency, without any support. The essential rationale for the authorization for closing the door in front of the blaze to my knowledge is that causing arresting of the burning is not considered extinguishing when one does not touch the body of the thing which burns. It does not resemble one who turns a bowl over a lamp, where one performs the deed of extinguishing by placing the bowl over the lamp itself. But one who opens the door, in that he is doing the deed of spreading the flame: this is forbidden. And in truth, when they permitted one to shut the door in front of a blaze, this applies even to a small room, for they said, "it is permissible to shut it "without qualification. "Extinguishing" does not here apply.

However, for practical law, I have already written in my response that the opinion of our teacher (i.e., Karo) in the case of the lamp behind the door is that one is forbidden to open the door lest the wind extinguish it; and in case the lamp is affixed behind the door, it is forbidden to open and close the door normally, lest the door strike it and extinguish it (Orach Chayim 277par.1). The same is the law for the opening and closing of the switch of elec-

tricity and the device of the range: It is forbidden.

Regarding what I wrote to permit the extinguishing of the electric light and the Primus, His Torah eminence wrote that one could learn from my words to permit it even on the Sabbath. I declare that I did not intend this at all. It does not please me that this should be said in my name, since the author of the Halachot Gedolot and Rabbenu Tam think that even with glowing metal which one does not intend to refine they only permitted extinguishing in the public domain lest people be injured. We are obliged to give heed to their dicta; and on yom tov one could say that even according to their opinion it is permissible, just as they allowed mustard to be sweetened on yom tov with glowing metal.

Again, his Torah eminence wrote regarding the range that even though that which glows is metallic, it is considered as if one extinguishes in the real sense because of the fuel which is in it: these words are nonsense. For the fuel does not burn in a way that we extinguish it: the act of extinguishing only occurs in the place where the fire has caught, i.e. the metal wick at the top of the stove in which the flame catches. And in this, he was not original in view of the responsum of Rabbenu Avraham of blessed memory at the end of Responsa P'eir Hador.

Likewise, his evidence from the responsum of Besamim Rosh from the law of sparks is not a valid refutation (lit. refuting evidence). For the quenching of sparks, even though they are not made into charcoal, is deemed extinguishment, for there is no spark that does not have in it something that burns with it. But metal heats rather than burns: it is in the category of "cooling" rather than extinguishing, and on yom tov it is permissible according to the law of sweetening the mustard with glowing metal. (Orach Chayim chapter 500, par.3)

And so now I have seen in the book Yaskil 'Avdi of my friend, the rav and gaon, our honored teacher and rabbi Ovadya Hdaya, may his Rock and Redeemer guard him, In part 2 chapter 10 he was asked regarding this law and he decides to forbid. His reason is that there was no disagreement of our rabbis; when they prohibited extinguishing, they prohibited it whether wood or metal, even though the making of charcoal was not applicable. There is support for this in the words of the gaon of our generation, our teacher, the rav R. Rafa'el ben Shim'on of blessed memory in his book Mitsur Devash

And I have already written in my book Mishptei 'Uziel Chapter 19 section 2 that this opinion is stated in Markevot Hamishna, and I attacked his opinion on the basis of our sugya in the Gemara.

And now I add on more in opposition to this opinion from the unequivocally accepted law that it is permissible to sweeten mustard with glowing metal; this they even permitted on the Sabbath so that people should not be hurt (by eating unsweetened mustard); and from this you see explicitly that our rabbis did not prohibit the use of glowing metal on yom tov. We may not invent prohibitions based on our opinion, especially in this generation when all the cooking is done by means of these appliances; if we should come to forbid these by reason of cautionary decree, we will withhold from them the joy of yom tov, and this decree would enter the category of a decree by which a majority of the public would be not able to abide.

And, related indirectly to the same matter, his Torah eminence wrote that it seems appropriate to him to permit opening of the electric circuit of an elevator or a fan since kindling or extinguishing do not apply. To my opinion, it seems that here is no permissible aspect at all since both the elevator and the fan operate only by means of burning and extinguishing. For every electronic action is only caused by the conduction of an electrical force. All the time the elevator ascends or descends the electric button burns and in its resting, it goes out.

B. Starting the Fan on Shabbat And Yom Tov

His Torah eminence wrote regarding the law of starting the fan that the (forbidden) category of producing something new does not apply here since there is no real production of something new that feels and appears as such to the eyes. To me, this is not sufficient: the motion that is produced anew as a result of this force is felt and seen by the eyes well enough.

However, for another reason it appears to me that the category of molid (production of something new) does not apply. For the law of molid is observed only with respect to the generating of something suppressed and hidden in something else, e.g: a cup inverted over dregs, in that the odor trapped in the body of the cup brings out its smell by means of this; or one brings out fire from rocks and wood, etc.

The rule of this matter is that every thing which leaves its form and invests itself in another is included in the category of creating (something new); this is the plain meaning of molid. But an action which adds to the previous form, such as scraping or cutting fragrant woods, wherein one only adds fragrance, is not in the category of creating for there is in it no change to another form.

And from this I find (reason) to call attention to what Rashi wrote on the law of (crushing) snow or hail in order that its water should flow: this is forbidden since one is creating on Shabbat, and it resembles forbidden labor in that one creates this water. ²⁷ (Shabbat 51b, Bet Yosef, "Orach Chayim", chapter 220, Turei Zahav note indicator 7).

And to my mind this is not precise, for both snow and hail are water, and there is here no change of form. The correct explanation in my opinion is what R. Shlomo ben Adret wrote: "The reason for the prohibition is by way of a cautionary decree against the squeezing of fruits fit for beverages. (Magid Mishneh, Hilchot Shabbat, chapter 21, halacha 12 and Magen Avraham loc. cit. chapter 220), note indicator 13/

In any case, for the matter of a fan or an elevator, since there is here no change of form, only causing them motion, the prohibition of creation does not apply to them; there is no change of form in them and it resembles rolling a vessel or throwing it from place to place in the private domain.

His Torah Eminence also wrote that the prohibition of striking with a hammer does not pertain to the operating of the elevator or the fan through the force of the electric current. This is as if he had brought his animal, and it would raise or lower the elevator

... or turn the fan. It should be the same to me if his animal is what causes the motion or if it is something else: nothing here pertains to the making of an instrument. The instrument is complete before us; that which causes motion is not an improving of the body of the instrument: one only uses it. Just as he himself is allowed to move the elevator by his own strength, so it is permissible to do this by means of the electric current, etc. It is not inferior (in this respect) to the slack bed which is permissible to return (to storage position) on Shabbat or from the disassemblable cup, which is permissible to disassemble and reassemble on Shabbat (Orach Chayim, Chapter 313, paragraph 6): all to this point a summary of his words.

In my humble opinion, his words are wrong from the beginning to the end because of the law on setting a clock on Shabbat (chapter 331, paragraph 3). According to Rashi's opinion, it is forbidden by the Torah to do this because of "correcting a weight." (Magen Avraham there, note indicator 4). This clock is an instrument complete before us; in setting it one only turns the motion: just as it is permissible to move it by hand, so it should be permissible to set it.

And from this I learned in my humility that every

instrument made for a known purpose and is not serving in its purpose is not deemed complete; its setting is the completion of the instrument.

(Mishptei Uzi'el, section Orach Chaim, sign 13; addenda to Orach Chayim, sign2, paragraph 3).

And the same is the law for a fan and for an elevator: since they are made for the purpose of motion and revolution by means of the conduction of electric power, this is the completion of its making. This is not similar to a slack bed which is fit for use even when one does not make it taut. The disassemblable cup, too: even those who allow to disassemble it and to reassemble it do so only inasmuch as this is the manner of its use, similar to a folded garment which one spreads out in order to don it and which one folds up in order to put it away. (Orach Chayim chapter 302 paragraph 3).

I am grateful to his Torah eminence for enlightening me and (directing my attention to) the matter, i.e. to what the Peri Megadim wrote: one should forbid the setting of the clock on Shabbat because of the completion of the instrument; it does not resemble the disassemblable cup in that without this correction (i.e., setting) this is not a clock in the true sense.

But how his Torah eminence explained his words-- that a clock must be always set, never ceasing its motion save that this is without its power to do; and therefore it is considered as if every day or two it breaks down and needs fixing by means of setting; and therefore this fixing is well called completion of the instrument. This view is not "heard" by me (that is to say, it does not seem reasonable to me). There is no reason to say that because it needs setting now and again, it is called an instrument that is not complete. For from the beginning of its existence, it was made with this condition: it is a complete instrument. The distinction is rather as I have written according to the poverty of my knowledge: a clock is made only in order to point out the hours; all that it does not fulfill this function, it is not an instrument, being not suitable for its work; and its setting is its repair. (tikun, a category of prohibited labor)

The same is the law and the same is the rationale for the elevator and for the fan which from the beginning of their existence were connected with the electric wires and buttons that are within them, and they are made to move (the elevator) up and down or to spin (the fan) in its revolution;

they are not deemed instruments until they fulfill their specific function, and every action which causes fulfillment of that function is forbidden as repairing.

From all that has been written the outcome in my humble opinion is to forbid the starting of the fan on Shabbat because of 'working an instrument,' and the starting of the elevator to go up or down also because of 'working an instrument' and also because of burning and extinguishing.

However, these dicta are only said with respect to Shabbat; but for yom tov, they are both permissible since both of them pertain to bodily enjoyment, as I proved in my modest book Mishptei Uzi'el (Orach Chayim sign 19, paragraph 4).

C. Use of a Hearing-Aid Shabbat and Yom Tov

And for the subject of his question if one may permit those hard of hearing to use a device that captures the voice of the speaker and transmits it to the ear of the hearer by means of an electric "stone" within it similar to the "stones" within batteries; and on this there is a switch to open and to close so that the strength of this electric "stone" should not be exhausted: it seems in my humble opinion, that this would certainly be

permissible on yom tov. This is because of the possibility that to someone hard of hearing, hearing is a great bodily enjoyment, and permissible on yom tov. As it says regarding this: "But that which may be eaten by each may be made for you," (Ex. 12: 16), and we interpret this to be "for all your needs."

And it is possible that also on Shabbat it is permissible, in that opening and closing of the switch is not like repairing an instrument. Rather it is as if one opens the lid of a watch and closes it, or as if one stretches out the garment and folds it. However, since I have not yet seen this device, I do not know its technology, therefore I do not decide on this matter with respect to Shabbat. And I have written in my humble opinion what seemed right to me.

Comment: This responsum of Israel's late Sephardic chief rabbi, Ben Tzion 'Uziel, deals with various problems of Sabbath and festival usage of electricity and gas. The physics of these two energy sources are explored in elementary fashion in order to determine applicable halachic categories. For instance, is a gas flame essentially identical to a wood flame? Rabbi 'Uziel demonstrates how its connection to an unlimited fuel supply, practically speaking, and its lack of useful combustion by-product place it in a different category for crucial aspects. The mechanics of a stove come into consideration in deciding if the act of extinguishing applies to the gas alone or to the gas only as a part of the metal burner; and also in deciding if normal turning off of a burner can be considered merely as the halting of the flame's spreading rather than an extinguishing. The fact that the gas range is widely used for cooking is also explicitly a factor in the halachic deliberation.

Two electrically run devices are also dealt with, and the applicable halacha is decided according to a principle that embraces many technologies: "every instrument made for a known purpose and not serving its purpose is deemed incomplete." This is a classic example of a principle capable of relevance both in the Talmudic period and today.

This principle is not applied to the last case considered, but the significance of that is not pursued. The

rabbi's lack of knowledge of the relevant technology
motivates him not to apply his tentative conclusion.

(Pertaining to Orach Chayim ch. 252)

Setting the Electric Timer Friday to Turn on and off
the Electricity on Shabbat. Travel in an Electric
Train

(It pertains to responsa found in the volume
 of responsa by R. Meir ר' מרדכי of Tiberias. After an
 introduction:)

And for the Love of Holiness I Herein Remark on Sev-
eral of His Responsa

In section 8, he was asked regarding a clock con-
 nected Friday to the electric outlet that one sets
 for a certain hour; by means of the motion of the
 clock's gears the electric current is broken; and
 he ruled to permit this.

I discussed this question in my unimportant book: Mishptei Uziel, part 1, page 225, and I like him
 ruled to permit the matter, for the (same) reason as his
 Torah eminence. This refers only to the setting of
 this clock to extinguish the light on Shabbat night;
 but recently they have fixed clocks like these which
 both extinguish the light on Shabbat night and light
 it during Shabbat day in the evening. I inclined to
 forbid this based on the opinion of Nimukei Yosef :
 having established that (damage caused) by a man's

arson is like (damage caused) by his arrows (i.e., the culpability of a man is established by the starting action) (B.K. 226), how do we permit one to light the light at dark as the act of kindling continues into Shabbat? And so we maintain with the fire whose burning continues and is completed on Shabbat. For as we consider the matter well, we have no difficulty: his culpability is because of his arrows, like one who shoots an arrow, which at the time that it leaves his hand, the whole act (of damage) has been produced, and we do not consider (the damage) as a subsequent act, etc.. And so is the law regarding Shabbat: when it is begun, it is begun from Friday, and one is considered as if one had finished the act (with one's own hands) (actually) at that very time when there was no prohibition (Nimukei Yosef, Baba Kama, chapter 2, p. 24). From here we learned that if one begins the kindling on Shabbat day itself, even though one prepared it on Friday it is forbidden because in the moment that one kindles, one is beginning the action of his making fire which is like his arrows. There I explained that even with glowing metal this prohibition is present according to the Rambam, who holds that the burning of glowing metal is forbidden as 'cooking'. There-

fore, it is in the category of 'his fire (is prohibited) because his arrows' for one so is burning a flame for the purpose of light or heat just as one makes fire for cooking purposes. This is not in the category of causing (i.e., the forbidden action is not done initially but caused, caused by an initial action), for one wants the burning, and certainly one's intention is fulfilled through one's action which one had prepared before the Shabbat so that its action should begin on the day of Shabbat.

Secondary Cause (zeh vezeh gorem)

I have now seen in the valuable responsum of my friend, the rav saon, sage in judgment, our honored teacher, the rav R. Zerihan, may his Rock and Redeemer guard him, that he brought a new reason to permit the working of a clock such as this, based on the law of double causation. This (category) is permitted by the rabbis. In our case, the clock causes movement of the electric switch, the switch pushes the button further, and by this, the light is quenched; and a double causation is permitted in a rabbinic case. It results by this reasoning that a clock made to turn on light on Shabbat is likewise permissible from the law of double causation.

But according to my humble opinion, it seems that this reasoning is fallacious from the start. The law of double causation applies only to two bodies, each acting independently and the two of them together creating something. Instances are; non-sacred yeast and priest's - due (terumah) yeast that fell into a dough for which (neither yeast) is enough to leaven, (i.e., only both together are sufficient); the offspring of a woman who committed sodomy and became pregnant after she had been sentenced to death; the eggs of a terefah (a bird -here- so injured that death is expected within a year) after the initial set; and the offspring of a terefah that first was injured and afterwards conceived. (P esachim 27a; Sanhedrin 80b; ~~E~~ terumah 31a) In our case, this does not hold, in that here there are no two separate agents, each one acting and assisting. Rather, the two come from one force, which is the initial movement. This is therefore in the category of indirect action.

3. Indirect Action (koach kocho)

Our Gemara text reads: "Rav Ashi asked: 'Does Sumchus consider indirect action the same as direct action or not? And did he learn (in this case) a halacha (i.e., Lemoshe Misinai) and establish it (the

damage as a result of) indirect action or perhaps he did not learn a halacha at all?' The matter stands (unresolved)." (Baba Kama 19a) From the fact that we are puzzled as to Sumchus' opinion, we understand that the sages, who hold that direct action (i.e. causation) is like an act of the body itself, and that the halacha that we learned, the halacha with respect to half-damages which applies to damages caused by falling, is the law for indirect action: even though it is like an act of the body, one pays half damages as in the law of stones. As the anonymous mishna states: "It tread on a vessel and broke it: for the first one pays full restitution, and for the second, half restitution." (Mishnah Baba Kama II:1) The Rif deleted this problem, since we are concerned in it only with Sumchus's opinion. But for the sages, since they hold that direct causation is like an act of the body itself (Baba Kama 17b), the law is the same for indirect causation. The Rosh wrote: "The Rif omitted this problem, since what is problematical to us is only with regard to Sumchus, and the halacha is not in accordance with him. To me it appears that there is an important inference to be

made from this problem: from his problem it is evident that it is generally accepted that indirect and direct causation are alike in everybody's opinion." (Rosh, Baba Kama there, section 2)

In my humble opinion, it seems that even the Rif thinks thusly, and since he decides like the rabbis that direct causation is like the body itself, he omitted the problem of indirect causation since this existed only for Sumchus who did not have the halacha that (damage resulting from the unintentional scattering of) stones require half-restitution. We, who follow the halacha established according to the rabbis that stones require half-restitution, do not distinguish between indirect or direct causation, and in both instances pay half-restitution according to the law of stones. And so decided the Tur: "There is no difference between direct and indirect causation, so that if a fragment of the vessel broken by a projectile is thrown out onto another vessel and breaks it, he pays half-damages on that also." (Tur, "Choshen Mishpat," chapter 390.) And since he wrote this as definite halacha, it means that the Tur understood the words of the Rif as I had written, and that the Rif and the Rosh did not disagree on this halacha.

However, this matter needs careful and precise consideration. For the matters of death sentence or certification of kosher slaughtering, it is uncontroverted halacha that direct and indirect causation are not the same, as we read there; "The one who slaughters by means of a machine, his slaughter is kosher. But isn't it taught in a baraita that his slaughter is invalid?" -And this is answered- "One could say that in either case a water wheel is referred to, but there is no contradiction: one refers to a primary cause and the other to a secondary cause. And that Rav Papa said: 'That one who bound up his fellow and caused a freshet to flow over him and he died is culpable:' what is its rationale? It is his consequence that he benefits from; but a secondary cause is just a common indirect effect " (Chulin 16a). Rambam (Hilchot Rotzeach, chapter 3, halacha 13) and the Shulchan Aruch, Yoreh Deah (chapter 7) from here learned the same thing, viz., that indirect and direct causation are not alike, and that the same is the law for the matter of damages. Do not say that damages are a different case in that the halacha for the matter of stones and an indirect cause is derived for us from the inclusive category of stones; for the halacha of stones came only as a leniency in a case where the law

would have required full restitution to require only half-restitution, but not to require half-compensation from one whom the law exempts.

But after the careful consideration, it seems fitting to divide between indirect causation and secondary cause (Koach kocho and koach sheni).

Indirect causation is exemplified by one that tread on the vessel and broke it and caused it to fall onto another vessel and broke it; the falling of the fragments onto the other vessel is from the power of the treading on the first vessel; it is with respect to this that we said that an indirect causation (koach kocho) is like direct causation (kocho). But for the one who opens a water gate, the waters that come after the initial surge come not from the force of the initial opening, but rather from their natural force, in that they stream and flow; the first one only opened the gate. The second waters come on their own, and it is in examples like this one that the law rules that it is only an effect and one is exempt. Look well and you will find that the Gemara uses in this respect two concepts, indirect causation and secondary cause, to say that one is not just like the other. And still indirect causation is like direct causation in every matter to the opinion of the Rosh...and no one contradicts him; it is as we have said.

And now looking at indirect causation in Shabbat law, we found reason to permit a secondary cause on Shabbat on the basis of the baraita : "One may conduct water into a garden on Friday close to dusk, it filling and continuing all the day" (Shabbat 18a). From this we learned that a secondary cause, since it (i.e., the forbidden labor) is an indirect effect (gerama) is permissible to begin from before Shabbat. But one may not extrapolate from this to indirect action (koach kocho) because reason would forbid this. If even in a case of damages this was controversial, one being unable to award damages because of the doubt as to the resolution of the controversy, then in the matter of a "fence" prohibition of a Toraitic law, one follows the stricter opinion. (See Sifteí Kohen, chapter 110, rules for sefek-sefeka (cases of double doubt), paragraph 17; and in the book Ar'ah Derabbanan, number 454.) In truth, we found and we saw that for the law of Shabbat, indirect causation is like direct causation, for a mishna explicitly teaches us: "One threw it (an object) beyond four cubits and it rolled back within four cubits, one is obligated (to bring a sin offering)," and we establish this in the Gemara to refer to when it rested for a short time beyond the

four cubits (Shabbat 100a, b). This rolling after resting is a case of indirect causation, and even so one is obligated, since his intention, (although) realized 'within four cubits,' is included in the law of 'beyond four cubits.' This being so in the case of an indirect causation that was unintentional, how much the more is it so when one intended from the start for this, (viz.,) to utilize indirect causation, as in our case under consideration. Since responsibility for (starting) a fire comes because of (the law pertaining to shooting) an arrow, its causation is also called "his arrows" and makes him guilty of Shabbat offense.

I was required (to argue) thus, excuse me Master, as you hold that the clock regulating the electric current is a matter of indirect causation. But for my part, this is nothing but a genuine case of direct causation: for in the moment that it moves, it moves with it the electric switch, and he turns it on through it in that moment. This is nothing but an extended causation (force), not an indirect causation. Therefore I still stand with my opinion that it is incorrect to permit setting of a clock to turn on the electricity on Shabbat. However, since our teacher Rav Moshe Schick, and HaSho'el Umeshiv

permitted it and there is support for their view from the Tosefists, I do not decide to forbid it, nor do I prohibit it to those who permit this. But in my opinion, the person who guards his soul will stay away from this permission in the matter of burning, as I have written due to my limited understanding in my unimportant book Mishptei Uziel (part 1. page 224, catchword 'Umeha 'amur').

4. Travel by Steam or Electric Coach

In section 9, you were asked regarding travel in steam or electric coaches driven by a Gentile, and you decided to forbid it as weekday behavior (not appropriate for the holiness of Shabbat). I discussed this question in my unimportant book, Mishptei Uziel (part 1, page 27), and I cited there the opinion of those who forbid this for this reason. To my poor knowledge, since these coaches are provided as a public service, and everyone uses them to travel from place to place as one travels on foot, even if not for a business matter, it seems that those who say this is not (inappropriate) weekday behavior are correct.

Moreover, you developed a new rationale to forbid the matter inasmuch as many Jews are found to be driving and conducting the coaches on Shabbat.

To this too I reply that this is not enough to render a decision against the opinion of those who permit, since the great and deciding majority of drivers are Gentiles. As long as we do not know that the driver is a Jew, we follow the majority (i.e., we assume that it is a Gentile) and we are not obligated to check if this one is of the majority or not, even where it is possible to check (see Chulin 12, Rashi, catchword 'Pesach,' and the commentary of Rabbenu Chananel, "Categories where two doubts exist," category 2).

However, I agree with your honor that it is forbidden to bring from a private to public domain or to carry four cubits in the public domain the ticket for the journey, even if one does not use it for riding; this is something that goes without saying. And I likewise agree with his Torah excellency not to permit in a place where a prohibition is observed. This is not a matter (of dispute) between Ashkenazim and Sefardim, or two rabbinical courts in one city; rather, this is a matter of halachic controversy requiring all residents to observe the ruling of the (authoritative) teacher of that location. There also applies a prohibition of not splitting into groups. (Deut. 14:1)

And so I have responded to the rabbis who alerted me in their letters to this question.

(Salutations and blessings in conclusion)

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Comment: This teshuva was written in response to a rabbi's permission to use a clock to turn on an electric light on Shabbat. R. Uziel maintains that he finds so turning off the light permissible. but that turning it on is a different case, demanding greater stringency. This concurs with the way we have seen electricity treated in modern halachic literature; Dr. David Hoffmann's responsum on the incandescent light included above clearly has indicated that turning on an electric light is to be considered as genuine kindling according to the Torah, but turning the light off may be dealt with more leniently for several possible reasons. It is also to be noted incidentally that R. Uziel does not rely on Hoffmann's line of thought exclusively, finding support from Maimonides for Toraitic prohibition of turning on electricity even if the incandescent bulb fits only into the category of glowing metal, and not, as Dr. Hoffmann maintains, of true flame.

R. Uziel's structure of argument consists in

(1.) removing the present case from a lenient halachic category (zeh vezeh gorem); (2) clarifying the consequences were it to fit into the less lenient category of koach-kocho; (3.) classifying the case in the strictest category (kocho); and (4) rendering his decision. Step one is short and clear, accomplished in two paragraphs. Step two is much more complicated, the reasoning in comparison approaching opacity when discussing the application of the halachic equation of direct and indirect causation also to the laws of Shabbat. And interestingly enough, this whole procedure is logically obviated in step three, its retention in the text explained as being merely for the benefit of the respondent who differed from R. Uziel's step 3. categorization. Step 4.'s decision likewise does not directly follow from the logical structure established before, but derives from the authority of other rabbis who decided differently. In the final analysis the stringency indicated by R. Uziel's argument is limited only to a caution, with a bowing to the conclusion of the opposite viewpoint as valid within the authoritatively established law.

Four teshuvot of 'Ovadyah Yosef ,Rishon Letsion
(Present Sefardic Chief Rabbi of Israel)
as summarized in No'am XVI (Jerusalem,1973) ,
pages 77-79.

Harav 'Ovadya Yosef

" Keeping food warm on a plate on Shabbat "

Is it permissible on the eve of Shabbat to cover with clothes the entire pot which is set on the Shabbat-plate? After he brings opinions of decisors who differ regarding the keeping of warm food (wrapped) in clothes on a stove (whose fire has been) covered with (hot) ashes and which increases the steam (in the pot) he concludes that with the electric plate, where it is impossible to stir or raise its 'flame' it appears that according to all, one should be lenient.

(Or Torah,Av, 5730)- Sources; Shulchan 'Aruch,

"Orach Chayim," Chapter 257

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Comment: In paragraph 8 of the Shulchan 'Aruch chapter cited above, warm storage in clothes is forbidden "on account of the (stove's) hot ashes which are beneath them and increase the steam." It seems that Rav Yosef's permission is based on a distinction between the electric "flame" and a regular fire. This is supported in the concluding reasons given in our responsum.

" The electricity goes out and afterwards comes on; is it permissible to eat the food? "

A dish which has not been cooked, is placed on an electric hot plate, and on Shabbat night, the electricity goes out: after this comes back and goes on, is it permissible to eat the dish? He replied that the matter is clear inasmuch as the work for the return of the current at the electric power station was done by a Jew. It results that the food's cooking was completed by work to which pertains profanation of Shabbat, and its law is explained in Shulchan 'Aruch, chapter 318, paragraph 1.

Even if the dish were completely cooked before the onset of Shabbat, if the dish were to have cooled off in the meantime and after the electric current returned it were to have heated up a second time, one should prohibit (its eating) until the exit of Shabbat. If the dish were warm when it went on a second time, it would appear to me (proper) to be lenient, according to what the Shulchan 'Aruch wrote, chapter 257, paragraph 1 : that " if it were to stay warm, it is permissible (to eat)." In any event, since in our case the Jew does Toraitically- forbidden work, it is certain that one should forbid also after the fact, even when it remains warm.

And even though I saw- (the writing) of the gaon Rav T^{svi} Pesach Frank in Har Ts^{vi}, chapter 181, who was asked if it is permissible to use an electric refrigerator on Shabbat in a place where Jews work in the power station, and wrote in support of leniency in this, since the refrigerator was only made to keep the food so that it should not spoil, and the food is only kept within it and not made under prohibition, this not being called 'deriving benefit from a prohibited Shabbat deed'; and the evidence from the above-mentioned words of the Shulchan 'Aruch - according to what I have written above, there is no evidence at all to permit this, in particular in a place where there is a Toraitic profanation of Shabbat which is more serious a case than storing food warm in something which adds steam, and therefore it is essential to be strict in this.

(The author writes: One who examines the responsum of the gaon Rav T^{svi} Pesach Frank will see that he is asked if it is permissible to use an electric refrigerator on yom tov, specifically on yom tov which falls on the eve of Shabbat; that is most vital for him, actually (the mainpoint). And to this he replied that besides the fact that yom tov is more lenient (a situation halachically), and according to the opinion of the

Magen Avraham in chapter 502, note indicator¹, one may be lenient like the Magid Mishneh that if one produced flame on yom tov under prohibition, it is permissible to use it, he is worthy of being relied on in our case in which there are several doubtful things. To this he added that there is another reason to be lenient in (the case of) an electric refrigerator, for the food is not made by the forbidden labor only caused not to spoil.

(Or Torah, Elul 5730)

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Comment: Complications arising from interruptions in the Israeli electric power grid have also been dealt with in a responsum of R. Shammai Ginzburg, cited later in this paper. Dealing with the matter in closer detail, the responsum indicates that when the interruption has been of brief duration, then one may presume that an automatic mechanism corrected the problem, and no profanation of Shabbat was involved. An interruption of a longer duration was presumed to have been ended by human labor, with the ensuing halachic consequences as outlined in this responsum.

The nature of the Shabbat profanation here discussed comes under the category of building, which is Toraitically prohibited according to the Mishnaic analysis. The broken circuit is repaired through forbidden labor, and anything which is dependent on that labor for its production (e.g. the warmth of the

food) is forbidden for Shabbat consumption.

In the second paragraph, our halachist cites the Shulchan 'Aruch in support of a leniency which he does not use in his final decision. The basis of this disqualification has nothing to do with the innocence of the one who left his food on the plate, but because of the deliberateness of the Jewish engineer who would repair the power system. Because of the importance of avoiding what our decisor considers such a serious breach of the Shabbat, the inquirer is asked to forgo comfort in the interest of making a point.

" Extinguishing gas on yom tov "

In the matter of extinguishing gas on yom tov, he writes that one should not permit the extinguishing, and even to extinguish the gas by closing the outer valve is not to be permitted. Rather, one should do it indirectly, viz., one should fill a pot with water to the top in order to boil the water for drinking. When the water boils, it will overflow onto the surrounding area and put out the gas. After this, it is permissible to close the valve to halt the leakage of the gas. Even according to our Master (R. Yosef Karo), who forbids indirect extinction after kindling, there is agreement in our case, as there is here no wick, only

a flame, and there is nothing Toraitic (forbidding) this extinction at all, for it is as glowing metal, and indirectly, (its extinguishing) is certainly permitted. And the law is the same if it is possible to cause it by means of a clock or the like.

Sources: She'elot Uteshuvot Yabia' Omer, part 3, chapter 30; She'elot Uteshuvot Maharam Brisk, part 2, chapter 90.

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Comment: Dr David Hoffmann, in a responsum treated in this work, has dealt with this question in a Shabbat context at length, and arrived at a similar conclusion. It seems generally accepted that extinguishing a gas flame is not a Toraitic prohibition, even to one who tends to stringency in dealing with gas flame (see Chelkat Ya'akov, part 1 chapter 60, particularly note indicator 9). Thus, an indirect extinction of a gas flame, doubly removed from Toraitic prohibition, is considered shevut dishevut and as such, in principle permitted.

" Freezing water on Shabbat "

On the matter of making ice cubes on Shabbat, he wrote that it is permissible to put water into the ice-cube tray of an electric - - - refrigerator and to place it within the refrigerator

on Shabbat until the water freezes and becomes ice.

(And see our words (article) in Shevilin 16-17, 18-19)

Sources: She'elot Uteshuvot Dovev Meishirim, part1,
Chelkat Ya'akov, part 2, chapter 98.

(Sivan, 5731) (this and the previous)

Three teshuvot of Yitschak Isaac Liebes, as summarized in
No'am XVII (Jerusalem, 1974), pages 208-210

60." A device for elevating a candle within it: to set it on yom tov"

Responding to the inquiry regarding the device in which one places the candle in a tube, and before one covers with the cock the mouth of the tube, one places in the middle a twisted metal wire, "spring" in foreign parlance. The cock presses the spring so that it always elevates the candle, that the wick always be near to the hole, that the flame should issue out and that the candle should not fall down: It is difficult to be lenient to set this on yom tov, since it is impossible in any circumstance for this to be slack on account of the spring in the middle which must always be taut. Sources: Tosafot Baitsa 22a, catchword "Uveit Hillel"; Shulchan 'Aruch "Orach Chayim," section 313. Comment: The Shulchan 'Aruch source referred to is among the laws of Shabbat. Of this section, paragraphs six and seven outline legal consequences of assembling something which is intended to be taken apart and reassembled as part of normal use. Slackness of the assembled item is ground for permitting said assembly, and tautness, symmetrically, for its prohibition. To make a clear statement for stringency in our present case, therefore, the decisor connects the relevance of the stringency appropriate in the Shabbat context to

that of yom tov through the reasoning of the Tosafot. At said citation, they outline the reason why Bet Hillel permitted a certain kind of assembly, despite known authoritative traditions prohibiting certain assemblies. Tosafot's hypothesis is that in Bet Hillel's case, both the comparative leniency of a yom tov context and also the fact that the permitted assembly did not involve an apparatus that had been completely separated to parts in the dismantling procedure, applied. Inasmuch as only the first reason is applicable to this case, the decisor found it "difficult to be lenient."

62. "To place, from before Shabbat a dish of food on
a cooler that automatically turns into a stove"

Question: Is it possible to place from before Shabbat food for the Shabbat day meal on an electric cooler that is able to convert into an electric range? (The food) will stay there all Friday night so that it should not spoil from the heat, and on Shabbat morning, the refrigerator will turn into an electric range automatically, and it will warm up for the day meal. One will set the timer before Shabbat.

Response: One may permit setting the timer on Friday for purposes of the mitzvah of 'oneg Shabbat (Shabbat delight) with hot food, only one should place a priori a plate on the grid of the electric "flame" and place the dishes there before Shabbat. And if one forgot to place them there before Shabbat, one may have a Gentile place the food (there) on Shabbat. And if inadvertently a Jew forgot and placed the pot on Shabbat (upon the stove) before it was heated, one may permit (enjoyment of this food) for the needs of the Shabbat meal. And one may open and close the door of the refrigerator even though the light burns on account of this, since (the prohibitions of) extinguishing and burning do not apply.

Comment: Among the sources listed are citations from a gloss and a commentary to Shulchan 'Aruch, "Orach Chayim," chapter 253. This chapter, concerning the placing of foods on or in heating devices before Shabbat for Shabbat consumption, grants permission to so keep food if it is guarded from the withering of the direct flame in such a manner that one does not fear that the flame will be tampered with in order to preserve the food. The commentary of the Magen Avraham qualifies a barrier such as a plate over the flame as suitable for such a purpose. In this respect, this article considers the electric 'flame' as analogous to fire. Principles implicit in the cited passages from B.T. Shabbat, Chulin, Sanhedrin, and Makot, all of which are cited in detail in the responsum from Chelkat Ya'akov above, similarly provide no basis for distinction between fire and electricity in the context of a stove; the two are treated therefore in this responsum's reasoning identically. The passages from the three last-named tractates are of relevance to the pre-set timer; in their lenient considerations of indirectly-caused actions, a basis is found for permitting the labor of kindling the electric "fire" through such a mechanism. No example is cited from the classical sources for a fire, which is kindled

automatically, but a source is cited from Shabbat 18, permitting use of a fire under a pot if the work is begun the day before. The timeless mitzva of Shabbat delight is cited as the valid end for these leniencies. Electricity fits effortlessly into this rubric, on Shabbat demanding no action of the person, and contributing considerably to his pleasure.

63. To use a battery-operated watch on Shabbat

Question: Is it permissible to carry or to use on Shabbat a watch operated by means of a battery which powers the movement of the watch without need to wind it every time?

Response: There are Toraitic prohibitions on powering a watch by means of a battery on Shabbat: (1) the wires inside the battery will redden as a result of the connection through the force of the energy (cell) to which applies the prohibition of burning; (source: Rambam, beginning part 12, Hilchot Shabbat) (2) in the operation of a device by means of a battery, one is culpable of the (forbidden act of) building, and in one's ceasing of the (forbidden act) of destroying (source: Chazon Ish, Hilchot Shabbat, chapter 3, note indicator 3); (3) it stands to reason that the sparks which come into being in the movement of the current to the motor from the battery are like genuine fire.

However, when the watch is powered from before Shabbat, none of the aforementioned fears apply. In any case, it is proper for a very pious man to be strict, for one may bring about a breach (i.e., transgression by using electrical devices on Shabbat, and burning is forbidden even by means of an indirect cause.

Comment: The electric current is envisioned here as "sparks," directly comparable to fire. At any event, this comparison is somewhat qualified by the preposition "like" (in Hebrew: the verb domeh; resembles). More importantly, this "common-sense observation is preceded by two arguments from the sources less subject to demurrer. (2) recognizes in sophisticated fashion that use of electricity implies completing an electrical circuit, and ceasing the use thereof, the breaking of a circuit.

Apparently analogously to fire, use of electricity is permissible if the use was begun before Shabbat and it will not be tampered with during the day. But caution is advised, lest the indiscriminate bring about a breach in observance based on a general qualitative difference between electricity and fire (which one may not carry around, since tampering would be unavoidable).

Teshuva of Shmuel Hivner, as summarized in No'am XVII,
pages 211-212.

68. " In the matter of the use of an automatic elevator on Shabbat "

There is no concern (valid reason) to forbid use of an automatic elevator on Shabbat, since the person does not do any work which would move the elevator. For the elevator automatically continuously is going up and the person (merely) stands within it. And in the increase in the current alone, one does not come into forbidden action, as explained in Yabia' Omer, part one, chapter 19, Orach Chayim 18. Also, it does not appear like a (specifically) weekday deed, since it does not entail (travel to) a far place nor does it appear as if one is travelling for one's business needs, and also, it is not so much in public. Source: Rashi Baitsa 25.

Post script: So it is written in Shemirat Shabbat Kehilchata, chapter 18, note indicator 49, and in a note there in the name of the gaon, Rav S. L. Auerbach, may he live long and well, who also wrote to permit this; examine there the reasons for the permission. However, in She'arim Metsuyanim, Bahalacha, chapter 74, note indicator 5, he wrote that it is more correct not to use them, since the mass of people do not know to differentiate, and will be liable to transgress (lit. stumble) a genuine

prohibition of profanation of Shabbat; and also that there is in this a cheapening of Shabbat. And already the question of the use of the automatic elevator on Shabbat has been recently discussed in several books of responsa and religious pamphlets, and the opinions of the compilers differ on this, some prohibiting, some permitting it. (D. Slonim)

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Comment: The Talmudic citation for the argument to permit use comes at a high level of abstraction to meet the needs of this case. As is outlined in the Baitsa text and Rashi's commentary there is permission to use on yom tov fish trapped in a body of water by the sealing of the entrance and exit thereto the day previous. What evokes agreement among the sages of the Talmud that this is so is that an act of setting the fish apart was effectively done before yom tov, required by the law if the live fish are to be used on the yom tov. In our case of the automatic elevator, no such decisive deed is actually performed by the person on Shabbat; therefore the author decides that the person may indeed merely go along for the ride.

Teshuvah of Shammai Ginzburg.Excerpt:conclusion.

Source: No'am X. Jerusalem, 1967.

Page 51.

Harav Shammai Ginzburg

A Clarification of the Question of the Use of Electricity
on Shabbat

... To our question as to what would happen (in Israel) were they to halt all operations of power stations on Shabbat, it was said that then there would be a need to put in a great amount of work on Shabbat in order to power the machines for Saturday night. Additionally, they have no possibility for halting the stations for Shabbat since there exist in a state various civil and security needs as in hospitals, etc.; it is necessary for the stations to supply electricity uninterruptedly for these needs. As was said above, even if all the private need should cease, they would always operate the machines.

In conclusion: The modern machines are designed to supply all the needs of the land. There is no purpose or benefit in the profanation of Shabbat done in the additional, old stations.

If according to the aforementioned it becomes clear that it is permissible to utilize electricity on Shabbat for our needs, there will be a need that a representative or a supervisor should come under the auspices of the chief rabbinate, going out every eve of Shabbat to the new stations in order to ascertain if they cleaned the burners before the entrance of the

Shabbat, arranged the supply of the tanks of hydrogen, and all of the operations mentioned above.

As we have emphasized, security needs and life-and-death emergencies in hospitals, etc., require the supply of electricity on Shabbat. There is no possibility of operating one power station for supplying a minimal usage of many thousand kilowatt hours, in accordance with each turbine; if we suppose that a situation arises in which all of the Yishuv halts use of electricity for Shabbat, they will not be able to operate the power station for the vital purposes of life-and-death emergencies in hospitals, etc. In order for a part of the Yishuv to be able to use electricity, a minimum is required for operation of the power station. If the electricity is already created for vital purposes, there is no longer any need for additional work in the operation for purposes of increasing the current, for as was said above, the working of the stations is done automatically.

Harav Shammai Ginzburg Mr. A. Karasik of Kfar Chabad

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Comment: In this responsum, the halachic matter is discussed in the large context of the Israeli society. The special problem which brings the case matter to question could only arise in all probability in the unique environment of the Jewish state, and consequently,

its mooting and its views towards solution are all imbued with consideration of that unique environment. This in itself makes this consideration unusual.

The stated justification for the operation of the power generation system of Israel on Shabbat is security (of the state as a whole) and the life-and-death situations, such as in hospitals, which are unknown in their particulars, yet inevitable as a macro-phenomenon of any sizable human society. The two justifications are actually one, for security is pikuach nefesh, a life-or-death emergency on the large scale. Thus understood, our novelty is not in the use of any new legal category, but in all cases here treated, understanding that situation on a larger scale.

The principle of pikuach nefesh is nearly all-embracing, providing exemption from all the constraints of the Jewish law save three: idol worship, unchastity and bloodshed. Abuse of such a broad principle could reduce the society to anarchy, and thus in the course of the society's existence in dispersion, the dominant tendency was to limit its application, trying thus to tangibly strengthen the presence of the Law in usually hostile, unsupportive environments. An example may

be seen from a responsum of R. Yechezk'el Landau of eighteenth-century Prague. In summarizing Landau's decision regarding exemption from the prohibition of desecrating a corpse for medical purposes by autopsy, pikuach nefesh implicit, R. Immanuel Jakobovits writes:

The respect due to the dead could be set aside only if there was a reasonable and immediate prospect of thereby saving human life. But as the patients to be cured through the experience gained from the post-mortem examination were not yet at hand, its object was too remote to warrant disgracing the dead.

In our present case, the remoteness mentioned is mitigated, firstly by the connection of the electric grid, which is indeed more palpable than medical knowledge, but not unimportantly by the considerations of the modern state which make planning for probable, though not specifically identifiable, situations a necessity. With the existence of ordered Jewish society palpable in the state, the Law is seen to express itself through leniency. This leniency is seen as no less necessary.

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