

**Mai Beinayhu? Driving Electric Cars on Shabbat**

**Rabbis David J Fine, Barry J Leff, Marcus Mordecai Schwartz and Chaim Weiner**

The Sabbath is surely the foundation and centerpiece of a religious Jew's life. It is easy to get disconnected from God and community during the hustle and bustle of the workweek. Shabbat carves 25 hours out of the week, giving us the space to connect with both our Creator and our co-religionists. The philosopher Ahad Ha'am famously said, "More than the Jews have kept the Sabbath, the Sabbath has kept the Jews." The time Jews spend together in community on Shabbat surely builds social solidarity and group cohesion more than any other single thing we can do.

And yet Shabbat observance is falling by the wayside in many of our communities. Synagogues with 500-1000 member families may find themselves with only 50 or 60 people in the synagogue on Shabbat, with perhaps a like number "tuning" in online. Unlike earlier generations, the "missing multitudes" mostly are not absent from the synagogue because of the need to make a living. They are mostly absent because they can be found on the golf course, on the ski slopes, on the beach, or in the shopping center.

This is hardly a new problem. Back in 1950, Rabbis Morris Adler, Jacob Agus, and Theodore Friedman wrote their groundbreaking work, "A Responsum on the Sabbath," which was approved by a majority of the Law Committee. The rabbis were responding to a request from a colleague, who wrote:

I therefore turn to you to ask for guidance in instructing my people as to our view as a movement on the Sabbath disciplines, our best thought as to its proper observance and a practical program by which its meaning may be better understood, its spirit more widely shared, its sanctities more greatly respected by the congregations that look to us, as Conservative rabbis, for guidance and instruction.

As Kohelet taught, "there is nothing new under the sun." Seventy-three years later we are still grappling with that same issue: how can we restore Shabbat to its rightful place in the life of the modern Jew?

This is reflected in the very titles of the two papers before us, "A New Responsum on the Sabbath" by Rabbis Marcus Mordecai Schwartz and Chaim Weiner and "A Renewed Responsum on the Sabbath" by Rabbis David J. Fine and Barry J. Leff. While both are nominally about driving electric cars on Shabbat, in truth they are both addressing the fundamental question that was raised over 70 years ago, the question of what can we do to bring Jews back to traditional Shabbat observance, a practice that has served the Jewish people well for millennia.

It is the hope of the authors that both of these papers can be used in a pedagogical fashion to launch discussions of Shabbat observance that go far beyond the technicalities of whether it is or is not permitted to drive to enhance one's Shabbat experience.

At the heart of both papers is the concept of "shvut," rabbinic prohibitions on certain activities because they are (or were) seen as not in keeping with the spirit of Shabbat. And that is

truly the heart of the discussions we must have: what is the spirit of Shabbat? How do we, both communally and individually, deepen our Shabbat experience?

The papers can also be used as vehicles (no pun intended) for discussions on related topics including the understanding of *malakha*, work, on the Sabbath, carrying, Shabbat boundaries, and more.

Some of us feel that the communal Shabbat experience would be strengthened by not driving to the synagogue or anywhere else on the Sabbath, and instead crafting a Shabbat experience that limits the use of cars (and other technology). We should encourage people to walk to the synagogue and each other.

Some of us feel that may be an ideal, but it is unrealistic in today's world, especially in North America, and instead we encourage putting enhancing "oneg Shabbat," the joy of the Sabbath, the spirit of the Sabbath, at the center of decisions on whether or not to ride on Shabbat, while keeping within biblical boundaries.

But we all agree – and we are certain all of our rabbinical colleagues agree – that restoring Shabbat to a position of centrality in the lives of our congregants is an urgent need, rendered all the more urgent in the 21st century with our incessant connection to devices.

#### Differences in Conclusions

Rabbis Fine and Leff permit the use of an electric car for activities that are within the spirit of Shabbat. Rabbis Schwartz and Weiner maintain that such uses are prohibited because they understand habitual driving on Shabbat, even to synagogue, as forbidden. Rabbis Schwartz and Weiner disagree with conclusion of the 1950 "Responsum on the Sabbath" by Rabbis Morris Adler, Jacob Agus and Theodore Friedman, that allowed driving on Shabbat, siding instead with Rabbi Ben-Zion Bokser's 1951 paper that retained the prohibition. Rabbis Fine and Leff affirm, renew, and seek to expand the Agus, Adler, and Friedman decision.

#### *Shevut*, Rabbinic Prohibitions Tied to the Spirit of Shabbat

We all agree that operating an electric vehicle on Shabbat for non-Shabbat purposes is a *shevut*, an infringement on the spirit of the day of rest, yet not an act involving outright forbidden labor (*melakhah*). The substantive difference between the two responsa is that Rabbis Schwartz and Weiner see the shevut nature of electricity as significant enough to claim that a prohibition exists on using electric cars on Shabbat, while Rabbis Fine and Leff see the shevut nature of electricity as opening up a *heter* (dispensation) for regular use of electric cars when performing activities in the spirit of Shabbat. They hold that a shevut prohibition may be overridden when conflicting with the positive observance of Shabbat. Rabbis Schwartz and Weiner agree that a shevut prohibition *may* be overridden in special circumstances. However, in their judgment, regular, mundane use of electric cars on Shabbat, even for Shabbat-oriented activities, does not override shevut.

In writing their paper, “A New Responsum on the Sabbath,” Rabbis Schwartz and Weiner argue that the more lenient of the two Conservative-movement precedents on driving to synagogue on Shabbat, embodied in the 1950 paper, “A Responsum on the Sabbath,” though learned, cogently argued, and well-intentioned, missed the mark. Rabbis Schwartz and Weiner argue that driving on Shabbat is prohibited, no matter what the power source, except for emergency circumstances such as preserving health, saving a life, or maintaining safety and security.

Rabbis Fine and Leff, in writing their paper subtitled “A Renewed Responsum on the Sabbath,” seek to renew and expand the 1950 paper. They do not dispute the arguments made there, arguing instead that driving an electric vehicle is easier to justify than an internal combustion engine, and should be seen as a *kal vahomer* (logical inference) from the 1950 decision. Rabbis Fine and Leff argue, as well, that even if one does not permit driving an internal combustion engine on Shabbat, one could permit the electric vehicle because it is an easier halakhic argument to justify, relying chiefly on the first leniency from the 1950 paper of overriding a shevut to perform an act in consonance with the spirit of Shabbat. They point out that there is no need to invoke the second leniency that permitted the ignition of the internal combustion engine.

#### Additional Halakhic Concerns Related to Driving Not Considered in 1950

Additionally, Rabbis Fine and Leff consider a number of halakhic concerns regarding driving on Shabbat that were not considered by the 1950 responsum. Their conclusions, specifically regarding observing the *tehum Shabbat* (Sabbath boundaries) and avoiding *hotza'ah* (carrying on Shabbat where there is no *eruv*), apply to all types of vehicles including conventional internal combustion engines.

#### Conclusion

Whether disagreeing with or renewing the teaching from 1950, we all agree that Shabbat observance should remain a hallmark of the teachings of Conservative Judaism. Accepting halakhic diversity is also a hallmark of Conservative Judaism and this joint comparison of the two papers is offered in the spirit of affirming our common goal of strengthening Shabbat observance while acknowledging our differing views on how that is best accomplished. As we learn in the Talmud, “Both these and those are the words of the living God” (B. Eruvin 13b). Rabbis Fine, Leff, Schwartz, and Weiner are colleagues who view each other with great mutual respect and admiration despite their disagreements.

Rabbis Schwartz and Weiner, by arguing that electric cars constitute a shevut violation, a failure to uphold the Torah's commandment to rest rather than outright forbidden labor, argue that the prohibition should be understood as an *issur lehakel*, a prohibition that can be understood leniently. In renewing the 1950 paper but outlying new halakhic concerns, Rabbis Fine and Leff argue *heter lehahmir*, for a permission that should be understood more stringently. Rabbis Schwartz and Weiner are sympathetic to this approach but disagree that driving can be regularly permitted on Shabbat even when framed more stringently.

A final word from us all: the practical differences between our two positions are significant. But in terms of halakhic perspectives, we are not that far apart. We all recognize that much work remains to be done to encourage Shabbat observance amongst our congregants and constituents, and we pray for the day when the entire house of Israel will be joyful observers of the Sabbath.