

## Concurring Opinion with Rabbi Daniel Nevins' Responsum

### On Electricity on Shabbat

Elliot N. Dorff – June 4, 2012

*This paper was submitted, in June 2012, as a concurrence to "The Use of Electrical and Electronic Devices on Shabbat" by Daniel Nevins. Dissenting and concurring papers are not official positions of the CJLS.*

We are all in very great debt to Rabbi Daniel Nevins for his wonderfully clear, comprehensive, and rational treatment of the issue of the use of electricity, deeply rooted in Jewish sources and values as well as the realities of modern life at one and the same time. Because he has laid the groundwork for all uses of electricity, rabbis and lay Jews in years to come can apply the legal principles that he has delineated to new uses of electricity. Therefore his responsum will stand as a major legal and educational resource for all Conservative/Masorti Jews for decades to come.

It is within that context of deep appreciation for the work that Rabbi Nevins has done – and my happily voting for his responsum – that I offer this one quibble about microwave ovens. Just to make sure that the fundamental principles are clear, let me quote Rabbi Isaac Klein's summary of them (in his book, *A Guide to Jewish Religious Practice*, p. 88), together with the sources he cites:

1. Solids may be warmed under all circumstances ([Shulhan Arukh], *O.H. [Orah Hayyim]* 318:15).
2. Liquids which are not entirely cold may be warmed (Rama, *ibid.*).
3. Liquids which are entirely cold may be warmed over a low fire which will not make the liquid too hot or bring it once again to a boil (*ibid.*; see also *Sha'arei Teshuvah*, sec. 35).
4. In all these cases the fire itself must be covered to serve as a reminder lest we tamper with it (*Hayyei Adam, Klal* 20, sec. 12; *O.H.* 253:3 in *M.A. [Magen Avraham]*, sec. 31). One should, therefore, cover the fire with a tin plate (*blech*) to prevent any tampering with the fire and to keep the flame low enough to prevent boiling. Modern appliances that regulate the heat so that it can be kept at a low temperature at all times are a great help in this respect.

Rabbi Nevins is worried that those using microwave ovens will much too easily use them to cook food rather than just to warm already cooked food. He therefore prohibits their use and advises Jews to use warming trays instead. My own judgment is that anyone who has bought a microwave oven and used it for a few days knows full well how fast it heats food. Moreover,

there is a reasonable presumption involved that should reassure us that people will be careful to warm and not to recook their foods – namely, they do not want their meat or fish or kugel to dry out. In any case, as Rabbi Klein notes in his point (1), for solid foods there is no *bishul ahar bishul* (cooking after once being cooked) in Jewish law, and so even if someone did use the microwave too long on solid foods, he or she has not engaged in the forbidden act of cooking on Shabbat.

Rabbi Nevins is also worried that the distinction between solid foods and liquids is too hard to judge. It seems to me that here, as in many areas of life, there is a spectrum, where the ends are clear and the middle section is not so. Certainly a piece of meat, fish, or kugel – to use my examples from above – qualify as solids and were intended as such by our ancestors. On the other end of the spectrum, water for tea or most soups are clearly liquids. There are indeed some foods in the middle of the spectrum – chilli, for example, or thick soups – where it is not clear whether they qualify as solids or are instead subject to the more stringent requirements applied to liquids. Jewish law, though, allows even liquids to be warmed up on Shabbat. Even though I personally love soups of all kinds, I have never used that leniency on Shabbat lunch or dinner (although now crock pots have come to the rescue!), but that is my own stringency, and it is not fair to require it of others.

Thus it seems to me that someone who has just bought a microwave oven several days before Shabbat might do well to refrain from using it on the first Shabbat that it is in his/her possession, for it takes a few days to know how quickly it heats solid foods and liquids. From then on, however, people can be presumed to know how to use their microwave ovens to warm, rather than actually cook, food. Therefore microwaves may be used on Shabbat, certainly for warming solid foods and, I must admit, Jewish law would even allow warming liquids, as Rabbi Klein delineates above. In fact, it seems to me that the use of microwave ovens makes it easier to calibrate the difference between cooking and warming than the *blech* did for our ancestors. Certainly one may use a warming tray on Shabbat as Rabbi Nevins suggests, but, in my judgment, one may also use a microwave for warming food that is at least edible (*ma'akhal ben d'rosayi*) by sunset on Friday.