

**Rabbi Daniel Nevins & Rabbi Micah Peltz**  
**CJLS**  
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### **Stop & Go: A Combined Concurrence and Dissent on Shabbat Travel**

*This paper was submitted, in June 2023, as a concurrence and a dissent to "[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. Dissenting and concurring papers are not official positions of the CJLS.*

We find ourselves in the unusual position of explaining why we each voted against the responsum of Rabbis Schwartz and Weiner despite agreeing with some of its reasoning, and differently with one of us in favor and the other opposed to the responsum of Rabbis Fine and Leff despite sharing similar reactions to its arguments. This situation is not entirely surprising because both papers address a paradox that was apparent already in the Rabbinical Assembly's 1950 "driving teshuvah." From an halakhic perspective, traveling is forbidden on Shabbat—some forms more so than others. The ideal form of observing Shabbat (and Yom Tov) is therefore to walk, and not to drive. And yet most people who attend American synagogues, including many Orthodox synagogues, drive there, and in many cases, have no plausible alternative. We rabbis welcome all people to come to synagogue and other Shabbat activities, and indeed encourage them to do so, even if some of us model a stricter level of observance.

Simply put, we want it both ways. We advocate traditional Shabbat observance—walking to shul—while welcoming all who wish to come, however they arrive, without judgment. This balance has been achieved by some Jewish communities without written explanation, but our denomination felt the need to write it down. We would have preferred that we also leave this nuanced matter to oral instruction, but here we are, the papers have been written, the votes cast, and so explanation is required.

We both voted against the paper written by Rabbis Mordy Schwartz and Chaim Weiner, even though it is scholarly, sensitive, balanced and respectful of our work. We share their view that more should be done to raise the ideal of walking on Shabbat, and that there have been costs to allowing this ideal to lapse in many affiliated communities. Still, we have two essential concerns, one strict (*l'humrah*), and the other lenient (*l'kulah*):

- They have argued that driving a gas-powered internal combustion vehicle should not be considered forbidden as burning (*mavir*), despite the fact that this is precisely its mechanism; instead they have reduced the activity to a lower-level "rest" (*shvut*) violation, just like vehicles that don't burn fuel. All motors are equally banned under their understanding of *shvut*. We are not convinced. As I (DN) argued in my 2012 paper, burning fuel is always forbidden as a *melakhah* regardless of purpose as *pesik reisha*. Other activities which do not burn fuel but have the same purpose, such as cooking with radiant heat produced by electrical resistance, are a derivative form (*toledah*) of the

*melakhah* (*bishul*) and equally forbidden. But using electricity to produce light or motion is not a *melakhah*—it involves neither the mechanism nor the purpose of *mavir*, and therefore electric vehicles must be considered under a different rubric, such as *shvut*. As such, it is clearly less problematic to use an electric vehicle than a gasoline vehicle (even a hybrid) on Shabbat. The sooner we make this transition, the better, for both environmental and ritual reasons.

- Once we have determined that some forms of travel belong in the category of *shvut*, for example a bicycle or an electric vehicle used within the Sabbath boundaries, then we must consider situations in which this rabbinic level ban may be lifted. In my (DN) 2012 paper I argued that for people living with disabilities or frailty, their human dignity needs supersede the rabbinic rules of *shvut*. Rabbis Schwartz and Weiner refrain from offering such accommodation. They send a message that regardless of their physical condition, all Jews should know that they are not allowed to drive on Shabbat, except to save a life. They allude to possible exceptions, but prefer not to spell them out. This leaves people who are physically incapable of walking to synagogue to feel like they are asking for halakhic favors, even when using the least problematic mode of transportation. We feel that this message is contrary to the welcoming one that the authors themselves declare to be our shared purpose.

For these reasons, we both voted against Rabbi Schwartz and Rabbi Weiner's responsum. We would have needed them to say that electrical vehicles are permitted for people with physical disabilities or frailties, or those otherwise endangered by the walk, but that other Shabbat observers should avoid using vehicles on Shabbat.

We both agree with Rabbis Fine and Leff in viewing electric vehicles as less problematic than gasoline vehicles on Shabbat for both ritual and environmental reasons. Their paper deals thoughtfully with related subjects such as the *tehum* (remaining within the Shabbat boundary) and *tiltul* (the avoidance of carrying). Those who follow this paper will minimize violations by not driving gasoline vehicles, by limiting travel even in EVs, by leaving wallets and other items behind in the vehicle, and by restricting their travels to Shabbat-appropriate activities such as synagogue, Shabbat meals, and visits to the park. We would add that drivers should avoid commercial transactions such as the payment of tolls and parking fees and charging fees for their battery on Shabbat.

We both feel that Rabbis Fine and Leff are too circumspect about the 1950 permission based on its claim that operating an internal combustion engine is not necessarily forbidden work (*melekheth mavir*). They avoid taking a position on that claim, noting that some accept while others deny it. Given this controversy, they say it is preferable to use only EVs. We agree with that conclusion, but feel that the original *heter* was mistaken. Again, we would prefer to have avoided this conversation altogether until EV's had become more prevalent, since we have no desire to censure those who have always driven gasoline powered vehicles to synagogue based on the 1950 paper. We accept that paper as an established option for our movement, even though we disagree with this premise.

In addition, we both feel that Rabbis Fine and Leff ought to have made a stronger case for avoiding all transportation on Shabbat, and for limiting travel to truly necessary activities. They should have availed themselves of the rabbinic binary of *l'khatchila/b'diavad*, “from the outset” and “after the fact.” The CJLS has come to understand these terms to refer to ideal vs. challenging circumstances. Ideally, a Sabbath observer ought to live within walking distance of synagogue. When that is not possible, and when they require assistance with mobility, they are permitted to use electric motors to participate in Jewish communal life on Shabbat and Yom Tov.

Now, our paths diverge, since we voted differently for the paper by Rabbis Leff and Fine:

**Daniel Nevins:** Because I agreed with Rabbis Fine and Leff in substance, if not always in detail, I voted for their paper. In summary, I appreciate that both papers educate their readers about the laws of Shabbat, that both encourage its traditional observance, and that both express welcome to all Jews to participate in Jewish communal life on Shabbat, even if their circumstances do not allow for the pedestrian ideal.

**Micah Peltz:** Though there are many things I appreciate about Rabbis Fine and Leff's *teshuvah*, I could not vote in favor of it. In addition to the reasons stated above, I disagree with their first *psak* that “use of an electric car per se is not a violation of Shabbat as long as the driving is not for non-Shabbat purposes.” As they write in *psak* three, driving an electric car to synagogue on Shabbat is certainly preferable to driving a gasoline powered vehicle. But it is still a violation of Shabbat. People will make the choices they make, and we are happy to see them in shul on Shabbat however they get there. Additionally, those who need to ride to shul due to physical limitations certainly should do so. Still, welcoming people to shul does not require that we compromise on our halakhic ideals. We can grow in our religious lives by embracing and acknowledging that we are striving towards a more ideal observance, even if we can't get there just yet.