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# 1

## Intermarriage in the Early Modern Period

*Judith Bleich*

### **INTERMARRIAGE IN THE EARLY MODERN PERIOD**

From late antiquity through the Middle Ages and until the early modern period, most Jews lived a segregated, isolated, life – “Lo, it is a people that shall dwell alone, and shall not be reckoned among the nations” (Numbers 23:9) – and marital liaisons between Jews and members of other faiths were limited. With the Industrial Revolution, settlement of the Western Hemisphere and the significant socio-economic and religious transformations that followed in the wake of the Enlightenment and the French Revolution, the incidence of intermarriage rose inexorably until, by the mid-nineteenth century, intermarriage became an endemic phenomenon of Jewish life in Western Europe. Today, in the early twenty-first century, the rate of intermarriage has risen to an all-time high in virtually every country with the exception of the State of Israel. In the United States, well over 50 percent of Jewish marriages involve a non-Jewish partner.

In the European areas of the FSU taken in totality, the rate is 65 percent; in the Russian Republic it is above 75 percent.<sup>1</sup> Manifold factors, including political emancipation, international migration, urbanization, and the increasing secularization of society have affected this process. The beginnings of this trend and the various initial responses to it within the organized Jewish religious community warrant detailed examination.

### **I. Socio-Political Change, Civil Marriage, and Patterns of Intermarriage**

Throughout the medieval period, regulation of marriage was exclusively within the jurisdiction of ecclesiastic authorities. In France, marriages were brought under the auspices of the state in 1792; in the Habsburg empire this occurred almost a decade earlier. As civil governments became increasingly involved in the regulation of matrimony, concerns were raised with regard to conflicts that might emerge between civil statutes and the religious practices of the various denominations.

On January 16, 1783, Joseph II issued an *Ehepatent* decreeing that henceforth with regard to marriage and divorce civil law would govern all his subjects and would govern the actions of religious authorities. In the wake of this decree the renowned Rabbi Ezekiel Landau of Prague, known as *Noda bi-Yehudah*, whose preeminence was widely acknowledged, was called upon to draft a statement of Jewish matrimonial law in order to identify disparities between the Jewish and civil codes governing such matters. In 1785, Rabbi Landau penned a brief tract in German outlining the fundamental prescriptions and proscriptions of Jewish family law and included a detailed comparison of the Habsburg civil code and Jewish law.<sup>2</sup> That work is succinct and comprehensive but little-known even among rabbinic scholars. Rabbi Landau's request that Jews be permitted to abide by their own religious laws and practices was granted.<sup>3</sup> Although the document, couched in reverential and laudatory terms, repeatedly thanks the emperor for his graciousness and praises the sagacity of his laws, Rabbi Landau does not hesitate to draw attention to instances in which requirements of Jewish law

would necessitate adherence to overriding religious prescriptions. For example, although Jewish authorities could in good conscience conform to civil regulations regarding authorization to marry, in the event that a couple marry in contravention of those rules – an occurrence that he assures will be unlikely – they might be subject to a civil penalty but, from the standpoint of Jewish law, since the marriage is valid, the parties would require a Jewish religious divorce, or *get*, to dissolve the union. Similarly, were a married man to take a second wife, the marriage, although prohibited by Jewish law as well as by civil law, would nevertheless be valid and hence would require a *get* for its dissolution.

Rabbi Landau enumerated the consanguineous marriages permitted by Jewish law but prohibited by the state and commented that it would not be appropriate for Jewish authorities to forbid such unions. Rabbi Landau emphasized that Jewish law permits agency in connection with marriage and divorce but has explicit and strict rules concerning persons who may be designated as agents as well as provisions governing the mode of designation. For that reason, he asserted, employment of agency must be approved by rabbinic authorities who are expert in the law.<sup>4</sup> With regard to mixed marriages, Rabbi Landau faced no serious problem. The civil code of Joseph II declared a marriage between a Christian and an individual of another faith to be invalid. Rabbi Landau did, however, add a caveat: “This law conforms to Jewish law provided that the man or woman are by birth of another religion *as explained in section four*” (emphasis added).<sup>5</sup> In the referenced section Rabbi Landau carefully noted that if the husband or wife were of Jewish birth and later converted, the original marriage would require a Jewish religious divorce for its dissolution. With respect to a mixed marriage, the inference is that if a man, born Jewish but converted to Christianity, were to marry a Jewish woman subsequent to his apostasy, that marriage would *not* be invalid in the eyes of Jewish law and would require a *get*.<sup>6</sup>

Since the Austrian regime avowedly professed Christianity and, as noted, its civil code did not countenance mixed marriage, rabbinic authorities were generally sanguine in complying with its provisions.

The situation in France was different and the need to respond to an inquiry regarding intermarriage presented the Jewish community with a serious challenge. In convening the Assembly of Notables in 1806 and the Grand Sanhedrin in 1807, Napoleon sought to delineate the respective spheres of religion and state and to pressure rabbinic authorities to subordinate Jewish religious law to the French civil code.<sup>7</sup> The Jewish delegates were in a quandary. They knew full well that they must answer craftily in order to assure the regime of their unwavering loyalty and must exercise caution lest they reveal any semblance of distinctiveness in their religious law.

Of the twelve questions placed before the Assembly of Notables, the first three dealt with matters of marriage and divorce.<sup>8</sup> In responding to the first two questions, namely, whether it is lawful for a Jew to take a second wife and whether divorce is valid even when not decreed by the courts of justice, the rabbis were able to answer with ease. Polygamy is unlawful by virtue of an eleventh-century rabbinic enactment and Jewish law permits divorce. Noting that a civil divorce was required by Jewish authorities prior to execution of a religious divorce, the Notables felt constrained to add – for diplomatic reasons, but incorrectly in terms of Jewish law – that the divorce would not be valid if not previously pronounced by the French code. In their answer to the second question, the Notables further stated unequivocally “the law of the State is the supreme law.”<sup>9</sup>

The real difficulty was posed by the third question: May a Jewess marry a Christian or a Christian woman a Jew? Or does religious law allow Jews to marry only among themselves? The attempt to answer this question without compromising Halakhah while yet appeasing the authorities split the delegates to the Assembly. In their evasive answer the Notables equivocated. They declared that the biblical prohibition was limited to heathen peoples and did not extend to Christians who are monotheists.<sup>10</sup> However, in practice, rabbis would not solemnize such unions and hence, from the standpoint of Judaism, such intermarriage was not possible. The Notables were careful to observe that in this respect rabbinic law paralleled church law.<sup>11</sup> Nevertheless, the Notables did concede that such unions were

valid civilly and might be dissolved civilly without need for a religious divorce.

Significantly, the answer to the third question as formulated by the Sanhedrin was substantially different from that of the Notables. No reference whatsoever was made to the problematic assertion regarding the biblical prohibition. The statement read as follows:

The great Sanhedrin declares that marriage between Israelites and Christians, contracted according to the laws of the 'Code Civil,' are, from a civil standpoint, binding and valid, and, although such marriages can not be invested with the religious forms, they shall not entail any disciplinary punishment (anathema).<sup>12</sup>

The Sanhedrin was careful not to state that intermarriage was valid even *post factum*, but merely that, if contracted, it was civilly binding.<sup>13</sup>

Despite Napoleon's clear agenda regarding the active promotion of intermarriage, the possibility of contracting a civil marriage was not, in and of itself, a motivation for intermarriage, but the institution of civil marriage definitely did make such unions less difficult for the parties involved. In countries where there was no civil marriage as, for example, in Prussia prior to 1846, in order to marry a Christian the prospective spouse had to convert. Technically, such marriages were not intermarriages since both partners were Christians at the time of marriage but, since the conversions were usually only *pro forma*, those marriages are generally regarded as intermarriages. The early nineteenth century witnessed an ever-increasing number of Jews marrying out of the faith with or without a conversion ceremony. To illustrate the extent of this phenomenon and to humanize the dry statistics it is instructive to examine particular examples as well as patterns of mixed marriage in Germany, Britain, Austria, the United States and Australia during this early period.

In the course of the year 1786 Berlin high society witnessed a curious and prolonged legal drama involving the contested will of

the wealthy Jewish entrepreneur Moses Isaac, who had stipulated at the time of his death ten years earlier that if any of the five children who were beneficiaries of the will were to convert, he or she would forfeit any share in his estate. A charitable trust was also established for impecunious relatives. Two sons had successfully appealed to King Frederick the Great to uphold the terms of the will and exclude their two sisters who had converted and then married Christian noblemen. The sisters sued in civil court to invalidate the will. The court ruled in their favor but a higher court reversed the decision and then, the same year, a third court reversed the decision of the second court. In a further reversal, the new ruler, Frederick William II, confirmed the terms of the will and the sisters were disinherited. Reacting to public outrage, the brothers arrived at a private settlement with their sisters involving the transfer of a considerable sum of money to them. The ironic denouement of the saga unfolded later when one of those brothers converted and his children were excluded from the estate. Finally, by the mid-nineteenth century, only one of the Isaac children remained Jewish and even his children became apostates, with the result that the ultimate beneficiaries of the will and the charitable endowment were predominantly Moses Isaac's Christian descendants.<sup>14</sup>

Reflected in this case is the milieu of acculturated wealthy Jewish families and their generational struggles in *fin-de-siècle* eighteenth-century Berlin at a time when the incidence of intermarriage subsequent to conversion to Christianity was increasing markedly. As evident in this case, parents fought the trend with every means at their disposal. Frequently, their weapons were financial. Emotional bonds played a role as well as can be seen, for example, in the decision of the salonière Henrietta Herz who postponed conversion until the death of her mother and of Moses Mendelssohn's daughter Dorothea who did not convert during her father's lifetime.<sup>15</sup>

As was the case with regard to the Isaac family in Berlin, during this period the conversion of women was more common than that of men and, when it occurred, was usually a prelude to intermarriage. The higher incidence of female over male converts in the late 1700s was reversed by the 1830s.<sup>16</sup> While accurate statistics are

unavailable, it is estimated that converts to Christianity in Berlin in the early nineteenth century numbered about one-eighth of the Jewish population. What is distinctive about these converts and their intermarriages is not the number of individuals involved but their characteristics. Defections from Judaism had always occurred, but usually on the part of marginal figures. This wave of conversions emanated from the elite strata of the community drawn from the wealthy and the intelligentsia.<sup>17</sup> Of these, the particular circumstances of the salon women were exceptional and for that reason their motivations will be examined subsequently.

The picture in England at this time was similar in some respects, but the general attitude to conversion and exogamy was more nuanced and conservative. One of the earliest Jews to gain prominence after the resettlement, Samson Gideon, did not convert but married out of the faith and reared his children as Christians; nevertheless, he did not achieve his lifelong ambition of being raised to the nobility. Social interaction and intermarriage were to be found among the wealthiest and the most impoverished strata of Jews; the masses, however, retained a strong group identity.<sup>18</sup>

The early generations of the British branch of the Rothschild clan loyally strove to resist the lure of intermarriage. Hannah, daughter of Nathan Mayer, was the first to convert and marry a Christian in a church, but as was often the case with her Berlin coreligionists, did not do so until 1839 after her father's demise.<sup>19</sup> Approximately forty years later, another Hannah Rothschild, daughter of Baron Mayer Amschel and a fabulously wealthy heiress, married Lord Rosebery in church subsequent to a civil ceremony but did not convert. Unsurprisingly, the ceremony was deemed a "great scandal" in the eyes of Christians. As noted in the London *Jewish Chronicle*, news of this alliance shook the Jewish community:

If the flame seized on the cedars, how will fare the hyssop on the wall? If the leviathan is brought up with a hook, how will the minnows escape? ... A sad example has been set ... should we suppress the cry of pain heaved forth from the soul?<sup>20</sup>



Hannah, although happily married to a Christian, continued to attend services in London's Western Synagogue, fasted and prayed on the Day of Atonement, and lit Sabbath candles. Her funeral was arranged by the *Hevra Kaddisha*, and she was buried in the Rothschild family vault in Willesden Cemetery. Her husband wrote candidly that this added to his grief:

There is, however, one incident to this tragedy only less painful than the actual loss; which is that at the moment of death the difference in creed makes itself felt and another religion steps in to claim the corpse. It was inevitable and I do not complain: and my wife's family have been more than kind. But none the less it is exquisitely painful.<sup>21</sup>

To Emma Goldsmid Montefiore, wife of Nathaniel Montefiore, intermarriage was anathema. She became reconciled to her daughter Charlotte's marriage in 1884 to a Christian, Lewis McIver, only after a rabbi in Germany was found who was willing to solemnize a marriage between a Jew and a Christian. In deference to his mother, her son Claude postponed marriage to his second wife, Florence Ward, for several years until after his mother's death. Florence then underwent a nominal conversion – “she was willing to adopt my label.”<sup>22</sup> Claude pointed out that his mother's attitude toward intermarriage might appear to be inconsistent since in her home she had surrounded her children with non-Jewish men and women and had encouraged extensive social contact with their Christian peers. Emma claimed later that she did not hesitate to do so because she had looked upon marriage between non-Jews and her own children “as an utter impossibility.”<sup>23</sup>

Efforts of parents to discourage intermarriage by imposing financial disincentives continued into the early twentieth century. Samuel Montagu, Lord Swaythling, himself a devout Jew, father of six daughters and four sons, died a wealthy man saddened by his children's abandonment of traditional Judaism. He sought to curtail his daughters' association with “‘Liberal Judaism’ the objects of which I strongly disapprove”<sup>24</sup> by withholding three-fourths of their

share in his estate if they persisted in that movement. Persist they did, with his daughter Lilian becoming one of its foremost leaders.

The will further stipulated that all bequests were subject to the provision that the children “shall respectively at my death be professing the Jewish religion and not be married to a person not professing the Jewish faith.”<sup>25</sup> The problematic halakhic outcome of such a policy is reflected in the unfolding of events in the life of Samuel Montagu’s son Edwin. Edwin Montagu, a distinguished parliamentarian and one-time Secretary of State for India, had long abandoned the Orthodoxy of his childhood. Although he claimed, “I will always be a good ‘Jew’ according to my lights,” he also declared, “I firmly believe that to look for a wife from one set of people is wrong as it would be to say you should look for a wife among blue-eyed women.”<sup>26</sup> When he later proposed to Venetia Stanley, although both were agnostics, he suggested that she convert. She was forthright:

Were I to be washed a thousand times in the waters of the Jordan and to go through any rite and teaching that the strictest Jewish creed involves, I, should not feel I had changed my race or nationality. I go through the formula required both because you want it for your mother’s sake and also (I am going to be quite honest) because I think one is happier rich than poor. . . .

Is it race or religion you care about, or merely the label? If race, then you are debasing it by marrying me, whatever I do. Religion, you know I care nothing about and shan’t attempt to bring up my children in.<sup>27</sup>

The token conversion that preceded their marriage was clearly a charade.

The situation with regard to mixed marriage in Austria during the nineteenth century differed because of one essential legal provision. Although civil marriage existed in Austria, marriage between Jews and Christians remained forbidden by law. For a Jew and Christian to be united in marriage, one of the parties had to renounce his or her religion and be classified as belonging to the neutral category

of *konfessionslos* (without religious affiliation) or convert to the religion of the other. Intermarriage statistics are not a reliable index of the rate of endogamy since they are confined to those who married *konfessionslos* individuals and do not include those who converted to Christianity prior to marriage and thus elude statistical discovery. Thus, the intermarriage rate in nineteenth century Vienna appears lower than in other western European locales, but the conversion rate to Christianity is higher.<sup>28</sup> Anti-Semitism was endemic in Vienna and many professions were closed to non-Christians. Clearly, many Jewish men converted in order to advance their careers or for purposes of enhanced social integration. Most Jewish converts to Christianity were young and single and more than half of the men chose to affiliate with Protestant denominations although Vienna was predominantly Roman Catholic. Many of the women who converted were drawn from the poorer segments of the population and probably converted to marry men they met at their places of employment.<sup>29</sup> Factors inhibiting increase in the rate of intermarriage were, on the one hand, the hostile anti-Semitic environment that reduced social contact and, on the other hand, the vital Jewish cultural life and steady stream of immigrants from Galicia who rarely intermarried. Surprisingly, in the late nineteenth century there was a significant number of reversions to Judaism on the part of former converts to Christianity, perhaps because conversion had not been effective in advancing their acceptance in society or as a point of honor in the face of rising anti-Semitism.<sup>30</sup>

How were these patterns reflected on the other side of the ocean? The celebrated political writer and satirist Ludwig Börne, who himself underwent baptism in 1818 in order to improve his material prospects, predicted that Judaism would disappear altogether if only mistreatment and persecution were to cease. He pointed to a children's fable in which the sun and the wind vie as to who is mightier. In the narrative, a hurricane wind cannot succeed in forcing a traveler to remove his coat, but the sun in its warmth and brightness prevails and he casts it aside. The Jewish wanderer wrapped in the cloak of Orthodoxy, wrote Börne, will not yield to hurricane or onslaught, but "the sun will now radiate in

America<sup>31</sup> and there Jewish separateness will end.<sup>31</sup> Although countless numbers of Jews who settled in America left their Orthodox roots, Judaism remained a vital faith in America despite the daunting challenges.<sup>32</sup> In surveying intermarriage in the United States, this stubborn tenacity remains evident until the mid-twentieth century.

In the colonial period intermarriage by settlers was often prompted by the scarcity of available Jewish marriage partners. The first known Jew to marry a Christian was Solomon Pietersen in the year 1656. He may or may not have converted, but his daughter was baptized.<sup>33</sup> While many more intermarried in the following decades and their connection to Judaism was severed, there were individuals who did retain ties to their community. Some remained active in synagogues in their places of residence, others even traveled long distances in order to join coreligionists for the High Holy Day services. It was not uncommon for intermarried men to arrange for the ritual circumcision of their non-Jewish sons. Although there is no precise data, by the mid-eighteenth century the incidence of intermarriage was relatively high – varying probably from 10 to 15 percent of the population – but the marriages usually took place without either side converting.<sup>34</sup>

In the post-revolutionary era, intermarriage rates rose; estimates of intermarriage are as high as 28.7 percent of all marriages during the years between 1776–1840, double the rate of the colonial period. The situation was exacerbated by the fact that the influence of synagogue officials was weak and the openness of American society made enforcement of strict religious rules virtually impossible.<sup>35</sup> In the decades immediately following, matters were further complicated by the growth of the American Reform movement and the development of diverse streams of religious practice. However, subsequently, other factors resulted in a decrease of intermarriage rates. In the last decades of the nineteenth and the beginning of the twentieth centuries, wave upon wave of immigrants flocked to the United States. The mass immigration of the time consisted of more tightly-knit families of Eastern Europeans who arrived and settled in contiguous areas and, as a result, intermarriage rates plummeted. That situation changed drastically in the twentieth century

as native-born Americans replaced the immigrant generation and America became a predominantly secular society.<sup>36</sup>

The situation in colonial America was not unique. Almost invariably, in countries in which the Jewish population was sparse intermarriage rates were high. Thus, for example, intermarriage was rampant in the pioneering Australian community in which men outnumbered women, but many of the Christian women converted and raised their children as Jews. Among the first Jewish convicts who came to Australia there were approximately nine men to every woman. Rabbi Aaron Levy of the London *bet din* traveled to Sydney to supervise the execution of a divorce and appears to have performed Australia's first conversion to Judaism, that of a woman who had previously married a Jewish convict, John Moses, in a Christian ceremony in 1826. The couple was subsequently married under a *huppah* in 1831 and have present-day Jewish descendants.<sup>37</sup> Later, in the mid-nineteenth century, young Jewish men journeyed to Australia in pursuit of gold but young Jewish women did not follow in their footsteps and the rate of intermarriage increased.<sup>38</sup> In Scandinavian countries the small Jewish communities never developed a strong religious infrastructure and intermarriage rates soared even prior to the twentieth century.<sup>39</sup>

## II. The Berlin Intelligentsia and Salon Society

The phenomenon of intermarriage among members of the Berlin intelligentsia, as well as among the salon women of the day, merits particular attention because, due to their prestige and high visibility, those marriages engendered disproportionate psychological feelings of defeatism in the Jewish community.<sup>40</sup>

In the absence of precise statistical evidence, historians have differed widely in their assessment of the extent of the incidence of conversion and intermarriage in late eighteenth-century Germany as well as to whether or not the number of conversions declined after the Prussian edict of emancipation in 1812. In her detailed discussion of this topic, Deborah Hertz<sup>41</sup> analyzes valuable newly-available data. Ironically, a degree of statistical corroboration is provided from data compiled with German efficiency by the *Amt für Sippenforschung*,

the Nazi Party's office for genealogical records. Accurate information was required for zealous implementation of the "Aryan Clause" adopted by Nazi party agencies. In addition to parish records of Jewish conversions for the years 1645–1933 (*Judenkartei*), a second card index was compiled for marriages between converted Jews and Christians from 1800 to 1846, the years in which there was no civil marriage in Prussia. Statistics derived from an analysis of the *Judenkartei* corroborates the fact that there was a steep rise in the number of conversions in the last decades of the eighteenth century (between 1770–1779 the number of converts was 18 percent higher than between 1760–1769; the number in the 1780s was 93 percent higher than in the 1770s; and the number in the 1790s was 56 percent higher than in the previous decade), and during the first third of the nineteenth century the instance of intermarriages continued to increase despite sporadic declines.<sup>42</sup> Female conversions in the late eighteenth century were more numerous than male conversions. In particular, adult conversions of individuals in their twenties were predominantly female.<sup>43</sup> Comparison of the conversion records and intermarriage records is instructive and, while not conclusive, definite patterns emerge. More women than men converted and married Christians. The women also tended to marry men of a higher social class. By all measures of outmarriage in comparison with endogamous marriage, the Berlin rate for 1700–1809 was especially high, twice as high as the intermarriage rate in the United States before 1840 and twice as high as the rate in Germany a century later.<sup>44</sup>

The obvious question that confronts us is what caused the sudden surge in the number of conversions and intermarriages in the early 1800s and why it occurred in that particular segment of the community. In salon society, Jews and Christians were brought together in a social setting in a manner that was unprecedented. In those drawing rooms, intellectuals, officials, nobles, writers and artists met in an atmosphere of ease and cordiality and forged close relationships with their Jewish hostesses.<sup>45</sup> To what extent were the salons a factor in the abandonment of Judaism? According to one study of twenty women closely associated with Berlin salons, at least seventeen converted and ten intermarried.<sup>46</sup> The salons were

certainly the place where introductions of Jewish women to gentile men took place and where romantic intimacies were encouraged. Much has been written regarding the bohemian lifestyle of the intellectuals, often celebrated in print, the atmosphere of sexual freedom in those circles, and the loose morals common among the nobility.<sup>47</sup> There were, however, other far more complex factors that brought about a seismic change in values that gave rise not only to the conduct of the salonières but also to the assimilatory trend that began to affect an ever-widening sector of the Jewish population. As the eighteenth century drew to a close and the nineteenth century unfolded, society became radically transformed. In terms of the intermarriage issue attention should be focused on changes in (1) the socio-economic conditions, (2) the intellectual climate, (3) educational patterns and (4) the institutions of courtship and marriage.

(1) SOCIO-ECONOMIC CONDITIONS. In the era of the American Revolution, the French Revolution and the ensuing Napoleonic regime, the possibility of political emancipation for Jews was entertained even in countries where similar political upheavals had not yet occurred. However, true political equality was elusive and social integration was not achieved. For many, as Jacob Katz pointedly remarks, "The expectation of future equality could in no way substitute for the shortcomings of the present."<sup>48</sup> The frustrations wrought by prejudice against Jews, on the one hand, and the allure of glamorous social opportunities and the prospect of professional advancement, on the other, were the factors that motivated individuals such as Eduard Gans and Ludwig Börne to convert. As Heinrich Heine, another famous apostate, phrased it, the baptismal certificate was "the ticket of admission to European culture."<sup>49</sup>

In instances of conversion and marriage among the salon Jewesses a striking pattern is discernible. The converted women were often from wealthy families; the Christian men enjoyed the higher estate of nobility but hailed from families that were experiencing a shortage of capital as a result of economic reversals that occurred in the last decades of the century. Thus, the unions often reflected an exchange of wealth for status.<sup>50</sup>

(2) THE INTELLECTUAL CLIMATE. Among intellectuals in salon society rationalism and deism were fashionable. The notion that, at their core, Judaism and Christianity did not fundamentally differ was gaining currency to such an extent that David Friedlander, one of the most prominent personalities in Berlin Jewish society, could suggest that the “creed of the Church corresponds to the principles of our faith in spirit, if not in wording.” Accordingly, in an anonymously published pamphlet addressed to Provost Teller, Friedlander proposed in the name of several members of the Jewish community that Jews would convert to Protestantism if they would not be required to accept certain Christian dogmas.<sup>51</sup> In the prevailing climate of opinion transfer of loyalty from one faith to another was made to seem less than momentous and the sense of betrayal had lost its sting.

At the turn of the nineteenth century there was a shift in the *Zeitgeist* as the Romantic movement began to hold sway and intellectuals rejected the rationalism of the previous generation. The Romantics, in turn, developed a nationalistic and, at times, markedly anti-Semitic mindset. Paradoxically, there were those among them who became enamored of the dark-haired, foreign, exotic Jewish women; attraction and seduction led to intermarriage.<sup>52</sup>

(3) EDUCATIONAL PATTERNS. The daughters of the wealthy Jewish merchants and bankers were quite acculturated and a number of the salon women, in particular, boasted impressive educational attainments. Often more educated than their husbands,<sup>53</sup> they perfected their German, spoke French, learned to play the harpsichord and piano and were *au courant* with the literature and drama of the day. They studied with tutors, read widely, and the conversation of the intellectuals they entertained at the salons broadened their cultural horizons. As opposed to those educational achievements, their Jewish education was rudimentary at best.<sup>54</sup>

The discrepancy between the secular knowledge and Jewish learning of the women was striking.<sup>55</sup> Commendably, from its inception, leaders of the Reform movement were attentive to the religious aspirations of women but they did not foresee a curriculum of study of Hebrew language and literature as a realistic option for the fairer



sex. Indeed, an early Reform sympathizer, Aaron Chorin, wrote that such an endeavor would be nothing less than absurd since the Hebrew language “could have no appeal whatsoever to their [the women’s] spirit.”<sup>56</sup>

Alone among the assimilated (and, in his case, converted) intelligentsia of the time, Heinrich Heine, in a hauntingly beautiful poem, “Jehuda ben Halevy,” pointed to the crux of the tragedy of the acculturated Jewish woman’s alienation from her rich heritage and to the solution to the problem. In his typically incisive and witty style he described such a woman:

<p>“Strange!” she adds in further comment, “That I never heard the name of This great poet that you speak of, This Jehuda ben Halevy.”</p> <p>And I answered her as follows: Dearest child, your lack of knowledge Is quite sweet, but shows the defects Of the French-type education</p> <p>That the boarding schools of Paris Give to girls, those future mothers Of a freedom-loving people, Who are thoroughly instructed</p> <p>On old mummies, or the pharaohs Who were stuffed in ancient Egypt...</p>	<p>Or the pigtailed lords of China...</p> <p>All of this crammed into them, Clever girls! But, oh ye heavens –</p> <p>If you ask them for great figures In the golden age of glory Of the Arabic-Hispanic Jewish school of poetry –</p> <p>If you ask about the trio Of Jehuda ben Halevy And of Solomon Gabirol And of Moses Ibn Ezra –</p> <p>If you ask about such figures, Then the children stare back at you With their goggling eyes wide open – Like cows along a hillside.</p> <p>I’d advise you, my beloved, To make up what you’ve neglected,</p>
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And to learn the Hebrew language; Drop the theatre and concerts,	And of course Halevy also – The triumvirate of song who Once evoked the sweetest music
Go devote some years of study To this subject – you’ll be able To read all of them in Hebrew, Ibn Ezra and Gabirol	From the harp that David cherished. <sup>57</sup>

Far more puzzling to this writer is the lacuna in the religious experience of these women. Aside from formal training or textual study, an observant lifestyle affords religious knowledge and experience in myriad ways. Experiences of Sabbath, Holy Days and, indeed, of daily life suffused the lives of traditional women no less than of men even if book learning was not part of their upbringing.

Describing the vision in his mind’s eye of his mother blessing the Sabbath candles long after her death, the Anglo-Russian Jewish poet Philip Max Raskin, wrote:

And yet ev’ry Friday when twilight arrives  
The face of my mother within me revives;  
A prayer on her lips, “O Almighty, be blessed,  
For sending us Sabbath, the angel of rest.”  
And some hidden feeling I cannot control  
A Sabbath light kindles deep, deep in my soul.<sup>58</sup>

It is apparent that Moses Mendelssohn’s daughter Dorothea, despite having grown up in the Mendelssohn household, came away with no such memories nor does one find expressions of nostalgia in the memoirs of her friends. Their Judaism is depicted as lifeless and filled only with burdensome restrictions. One can only wonder, was their home life so devoid of religious flavor and fervor or was antipathy to their childhood so intense that they repressed even its noblest aspects and excised them from their consciousness?

Perhaps it was the void in their education and experience coupled with awe and admiration for the celebrated writers they met

that led them to an exaggerated over-idealization of German culture and to accept as their own those writers' assessment of Judaism. If Friedrich Schleiermacher, the eminent preacher and theologian, declaimed the virtues of Christianity as the religion of the heart and portrayed Judaism as a petrified mummy,<sup>59</sup> who were they to disagree? Thus, one finds Henrietta Herz, his close friend,<sup>60</sup> echoing his sentiments and speaking of the Jewish religion as a prosaic practice of mechanical observances,<sup>61</sup> Dorothea Schlegel expressing her disdain for ancient Judaism "which I very much abhor"<sup>62</sup> and Rahel Varnhagen asserting that, "The human soul is by nature a Christian."<sup>63</sup> All three of them not only converted but declared that they had turned to Christianity for emotional fulfillment and spiritual solace.<sup>64</sup>

Remarkably, it was a non-Jewish author and frequenter of the salons, Bettina (Brentano) von Arnim, who wrote with respect and enthusiasm about the Jew who became transformed on the Sabbath and, entering his home as a priest, invoked God's blessing upon his family and his people<sup>65</sup>

(4) COURTSHIP AND MARRIAGE. Quite obviously, any discussion of intermarriage must recognize the pivotal role of romantic love and sexual attraction. Myriad rabbinic laws governing social intercourse between men and women evidence the Sages' realistic understanding of the overwhelming power of the human sexual drive and the compelling nature of man's emotional makeup. Rabbinic restrictions on food and wine cooked by non-Jews reflect an appreciation of the strength of those drives and feelings and of a consequent effort to minimize opportunities for undesirable social interaction. The various *halakhot* betray a fear that social intimacy may lead to physical intimacy and, in the case of Jews and non-Jews, to intermarriage and abandonment of Judaism, the dreaded consequence spelled out in the scriptural admonition "for he will turn thy son from following Me" (Deuteronomy 7:3).

One of the novel trends in society at the close of the eighteenth century was an enhanced emphasis on romantic love and the erotic experience in the founding of a family. Marriage based on free choice and romantic love was the new ideal. In a more traditional

society, marriages of children were arranged by parents who focused primarily on rational, economic and social considerations.<sup>66</sup> Of course, there had always been marriages that came about as a result of mutual romantic attraction. But in the modern era this was projected as the ideal.

In their own choices and decisions the salon women were influenced by the attitudes of the Romantic school. However, they were the exception rather than the rule. For the overwhelming majority of German Jewish families, the traditional pattern persisted and for the next one hundred years arranged marriages remained commonplace. As was the case with their gentile counterparts, economic and social interests predominated and marriages were viewed as contracts between families rather than as the free choice of individuals.<sup>67</sup> Arranged marriages promoted endogamy and intermarriage rates were relatively low. Apparently, the richest and poorest intermarried more than others: The richest paid for the privilege of entering gentile high society; the poorest women sought non-Jewish husbands because they could not afford the dowries demanded by Jewish men.<sup>68</sup> During the twentieth century, particularly after World War I, the romantic view of marriage gradually became the norm. As social contacts between Jews and non-Jews became more common and religious ties concurrently became weaker, it was the romantic impetus that emerged as the major factor in intermarriage.

With the decline of the salons in the second decade of the nineteenth century some of these factors receded in significance. However, the educational/experiential factor and the romantic element remained the essential factors affecting the escalating rate of intermarriage. As the sociologist Marshall Sklare noted about American Jews and as doubtless applies to most contemporary mixed marriages, "The Jew who intermarries, then, generally does so because he wishes to *marry* rather than because he wishes to intermarry."<sup>69</sup> Those concerned with the corrosive effect of intermarriage could disdainfully dismiss as opportunists or crass materialists coreligionists whose actions were motivated by pragmatic considerations. When, however, the intermarriage was motivated by considerations of love and personal fulfillment, a clash of ideals

came into play. Free choice, personal happiness and romantic love constituted worthy ideals enshrined in the modern mindset. Love triumphed over adversity, persecution, and even incarceration. As Richard Lovelace expressed it:

Stone walls do not a prison make,  
Nor iron bars a cage;  
If I have freedom in my love  
And in my soul am free,  
Angels alone, that soar above,  
Enjoy such liberty.<sup>70</sup>

Opposition to an intermarriage when the couple had deeply-rooted feelings for one another came to be viewed as an act of insensitivity bordering on cruelty.

Rabbis – even Reform clergy – could preach about duty and the need for “loyalty to an ancestral faith” that called for denying even a “great love,”<sup>71</sup> but when that loyalty was not ironclad the battle was usually lost. Such loyalty flourished only where the soil was watered with knowledge and emotion. Only those who had grown to experience “*Ashreinu, mah tov helkeinu u-mah yafah yerushateinu* – Fortunate are we, how goodly is our portion, and how beautiful is our heritage” could be expected to make sacrifices for that heritage.

### III. The Response of the Religious Establishment

Orthodox spokesmen were unanimous in their adamant opposition to intermarriage.<sup>72</sup> Consistent with a clear halakhic stance rejecting conversion for the purpose of marriage,<sup>73</sup> in the early stages of the modern period, the overwhelming majority refused, at least nominally, to countenance conversion for the sake of marriage. With the passage of time, the halakhic controversy centered upon permissibility of conversion for the purpose of marriage, the sincerity and commitment of prospective converts motivated by the desire to marry a Jewish partner, as well as upon the prohibition against marrying a woman with whom there is a suspicion of a sexual liaison prior to conversion and whether the conversion of a spouse after a

civil marriage has taken place or subsequent to the birth of children is encompassed within that prohibition. Questions of seriousness of intent, sincerity of commitment to religious practice and mental reservations that might invalidate the conversion dominate the halakhic debate.

In the eyes of most ideologues within Reform circles opposition to intermarriage remained a “red line” not to be breached. However, conversion for the sake of marriage was not only welcomed but encouraged. In contrast, among the Orthodox, the halakhic discussion was limited to recognition of extenuating circumstances in accepting a candidate for conversion motivated by convenience rather than conviction and the *post factum* validity of conversions for ulterior motive when there is no intent of abiding by the precepts of Judaism.<sup>74</sup>

Decisors such as R. Jacob Ettlinger, *Binyan Zion*, no. 149, and R. Isaac Schmelkes, *Teshuvot Bet Yizhak*, *Yoreh De'ah*, II, no. 100 remained adamant in rejecting prospective converts motivated by the desire to marry a Jewish partner. A twentieth-century permissive view was espoused by Rabbi Ben-Zion Uziel, *Mishpeti Uziel*, *Even ha-Ezer*, no. 18, but was strongly opposed by Rabbi Abraham I. Kook, *Da'at Kohen*, no. 154 and *Ezrat Kohen*, no. 14. Some authorities were prepared to grant leeway in determining sincerity of purpose and sanctioned conversions when confronted by a couple who had undergone a civil marriage or when there was a threat of apostasy if the marriage were not to be condoned.<sup>75</sup> Also debated was the question of a *bet din* accepting converts with questionable motivation in order to forestall their acceptance by Reform clergy and the consequent halakhic problems that would arise if the children of such a female convert then wished to marry other Jews.<sup>76</sup>

A complex problem with regard to the validity of even Orthodox conversions, once performed, if entered into for reasons other than religious conviction, centers upon the question of mental reservations with regard to acceptance of observance of commandments. The Talmudic rule is that even insincere conversions, once performed, are valid. *Ritva* and *Nemukei Yosef*, in their respective commentaries on *Yevamot* 24b, explain that even conversions

prompted by ulterior motivation are assumed to engender a decision to accept the obligations of Judaism. From their comments it may be inferred that if, however, mental reservations do remain present, they do indeed invalidate the conversion.<sup>77</sup>

In the years following 1848, mixed marriages were formally legalized in Denmark with the condition that offspring be reared in the Lutheran faith. Intermarriage became permissible in many parts of Germany and was permitted in Hamburg. In many such areas the civil authorities requested an advance declaration by the prospective parents regarding the choice of religion for their offspring but permitted a subsequent change of mind.<sup>78</sup>

Problems with regard to the progeny of mixed marriages proliferated. At the Brunswick conference, Reform leaders pronounced mixed marriages to be permitted provided parents were allowed to raise their children in the Jewish faith. No elaboration regarding the status of such children was included in that resolution. In response, Orthodox authorities found it necessary to clarify the halakhic position. A definitive statement in the German language was issued by Rabbi Jacob Ettlinger and published in *Der treue Zionswächter* of June 28, 1850.<sup>79</sup> Rabbi Ettlinger emphasized that, according to Jewish law, children of a Jewish mother are Jewish even if the father is a non-Jew and children of a non-Jewish mother are non-Jews even if the father is Jewish and that those halakhic provisions are not subject to change by parental stipulation. Male children of a Jewish father and a non-Jewish mother who have undergone circumcision are not recognized as Jews unless they have also undergone formal conversion. Conversion of a non-Jewish mother following the birth of a child does not alter the non-Jewish status of previously born progeny. Moreover, although Judaism recognizes no distinction between children born in or out of wedlock insofar as mutual rights and obligations of parents and children are concerned, nevertheless, children of mixed marriages regardless of sex are recognized only as children of the mother, not of the father, even if the father converts to Judaism subsequent to their birth. This statement merely presented elementary halakhic facts synopsizing rulings recorded in the Talmud and Codes and reflected no innovative interpretations.<sup>80</sup>

Similar statements were publicized by other rabbinic authorities.<sup>81</sup> Formulation of those statements and dissemination of the rulings in the vernacular is simply a reflection of the escalating religious problem.<sup>82</sup>

As noted earlier, Jewish men married to non-Jewish women often insisted on the ritual circumcision of their male children even without opting for their conversion.<sup>83</sup> Personal and communal tensions were exacerbated in the unfortunate cases in which rabbinic authorities were constrained to refuse burial in a Jewish cemetery to a child born to a non-Jewish woman married to a Jewish man who simply declared the child to be Jewish without formal conversion – even if the child had been circumcised.<sup>84</sup> Indeed, halakhic proscriptions related to burial and cemetery privileges were frequent sources of contention subsequent to an intermarriage. The non-Jewish partner of a Jew was routinely denied burial in a Jewish cemetery in accordance with the provisions of *Shulhan Arukh, Yoreh De'ah* 362:5. The resultant emotional anguish experienced by the marriage partners gave rise to acrimonious disputes and, at times, to attempts – usually futile – to bring pressure to bear upon communal officials to permit exceptions to existing rules.<sup>85</sup>

The stance with regard to burial of the Jewish partners to an intermarriage was more complex. Apostates are excluded from burial in a Jewish cemetery.<sup>86</sup> Other transgressors are accorded burial but in the case of notorious sinners interment is permitted only at some distance from other graves. Nevertheless, the community, or the *Hevra Kaddisha* (burial society), has the authority to deny burial in the communal cemetery to an egregious transgressor. Local authorities are empowered to enact extra-statutory measures *le-migdar milta*, i.e., to apply sanctions in order to prompt transgressors to return to observance and/or to avoid continued erosion of religious practice among others in the community.<sup>87</sup> However, there seem to have been few instances of a formal edict barring Jews who had married non-Jews from burial in a Jewish cemetery.<sup>88</sup>

At the other end of the spectrum, in addressing the issue of intermarriage, Reform thinkers were confronted by a profound dilemma. Basic to their *Weltanschauung* was a firm belief in a



universalist ethos and the need, above all, to demonstrate to their compatriots an assurance of absolute loyalty to the laws of the state as well as a commitment to the brotherhood of mankind and the equality before God of all humanity. Passages in the prayerbook implying distinctions between Israel and the nations, such as in the Morning Blessings, the first paragraph of the *Aleinu* prayer and the phrase “*ve-lo netato le-goyei ha-arazot*” in the Sabbath service were the first to have been excised from their prayerbook. The blurring of differences and the crumbling of barriers was their aim. Intermarriage presented a crucial test. Were they prepared to endorse the ultimate fusion of Jews and non-Jews?

Their earliest public tackling of this thorny question took place at the first Reform rabbinical conference in Brunswick in 1844. In their formal resolution, Reform spokesmen went beyond the Paris Sanhedrin in candidly accepting intermarriage but with one proviso:

that the intermarriage of Jews and Christians and, in general, the intermarriage of Jews with adherents of any of the monotheistic religions is not forbidden provided that the parents are permitted by the State to bring up the offspring of such marriage in the Jewish faith.<sup>89</sup>

Nevertheless, paradoxically, the vast majority of Reform leaders retreated from this initial position and returned to a clear and, at times, vehement anti-intermarriage policy. Even Ludwig Philippson, who had crafted the Brunswick resolution, modified his views considerably<sup>90</sup> and, as we shall see, others were outspoken in their refusal to sanction a mixed marriage with the result that later conferences and synods in Breslau, Augsburg and the United States could not agree on a unanimous resolution addressing the question.<sup>91</sup>

The response of Reform ideologues to this issue underscores a fundamental misconception regarding early Reform. It is a fallacy to view the partisans of Orthodoxy and Reform as standing at polar opposites of the spectrum of opinion with the traditionalist rabbis at one end and their Reform antagonists on the other. The situation

at that time was entirely different. On one end stood staunch guardians of tradition; at the other stood advocates of total assimilation – individuals such as Orly Terquem, the Salon Jewesses, Eduard Gans and David Friedlander who envisioned a grand union of deists of all faiths and the ultimate disappearance of Judaism as a religion separate and apart from others. Friedlander speculated what the requirements might be should “we decide to choose the great Protestant Christian community as a place of refuge.”<sup>92</sup> Gans envisioned a utopian age in which Jews would live among the nations without distinctive identity “as the river lives on in the ocean.”<sup>93</sup>

In stark contrast to this liberal ideology, early Reform rabbis took a middle-of-the-road position endeavoring to eliminate what in their eyes were the unseemly and inappropriate elements of rabbinic Judaism in order to attain respect and acceptance of their fellow citizens while simultaneously seeking to assure and defend the continuity of the Jewish faith. No wonder that a woman such as Rahel Varnhagen who had abandoned Judaism viewed Reform efforts with disfavor. Writing of the father of the Reform movement, Israel Jacobson, she remarked, “People like us cannot be Jews. I only hope that Jacobson with all his money does not bring about a Jewish reform here. I am afraid the vain fool will.”<sup>94</sup>

In point of fact, among the majority of classical Reform thinkers, even among those who espoused radical reforms in other areas, opposition to intermarriage remained firm and the actual performance of a mixed marriage ceremony by a rabbi was censured. In an address before the Leipzig Synod in 1869, Abraham Geiger presented the formal report of the committee on intermarriage. While reiterating the Reform position that such marriages were valid, the committee recommended that intermarriage not be encouraged; rather, entrance into the Jewish religion of the prospective non-Jewish partner “be less difficult . . . than otherwise.”<sup>95</sup> Similarly, Joseph Aub, speaking in the same venue, described mixed marriages as “far removed from the ideal of marriage” and did not hesitate to add that to ask for solemnization of such unions by a Jewish clergyman smacked of insincerity.<sup>96</sup>

Sentiments similar to these were more forcefully expressed

in America by Isaac M. Wise. Wise was not known for ideological consistency but he was vociferously proud of his Judaism in its Americanized version and repeatedly expressed his conviction that the majority of intelligent people would eventually turn to Judaism which was destined to become the universally accepted religion.<sup>97</sup> In public lectures on intermarriage, later published in the *American Israelite*, he asserted that no religious law forbade marriage between a Jew and any monotheist. Nonetheless, he warned that at the then current juncture of history “no Jewish minister has a right to sanction the marriage of a Hebrew man or woman to a person outside of the Jewish faith.” For a rabbi to perform such a marriage would be “a mere mockery” and “to act the part of an ordinary actor – to go through a performance and pronounce formulas and benedictions to parties who believe in neither” and would be “to make a comedian of himself.”<sup>98</sup> Recognizing that establishing a uniform policy was desirable, Wise urged that the matter be brought before a Reform synod.

Even stronger were the remarks of David Einhorn in response to a controversy regarding mixed marriage. Einhorn explicitly rejected belief in the sanctity of the Jewish bloodline, but faith in the prophetic mission of Israel prompted his adamant opposition to intermarriage. Accordingly, he declared that mixed marriages are “to be strictly prohibited even from the standpoint of Reformed Judaism” and was emphatic in pronouncing: “To lend a hand to the sanctification of mixed marriage is, according to my firm conviction, to hammer a nail into the coffin of the tiny Jewish race with its high calling.”<sup>99</sup>

The son-in-law and successor of David Einhorn and the architect of the Pittsburgh platform, Kaufmann Kohler played a formative role in the American Reform movement and delineated his theological views in elaborate detail. In his assessment of what he deemed to be the providential mission of Christianity and Islam, he was bold in pointing to their shortcomings and in predicting an eschatological era in which Israel would ultimately prevail as a “world-uniting faith.” Universalist motives, he stated, necessitated “Israel’s particularism.” Therefore, on the question of intermarriage, Kohler stood firm:

Yet just because of this universalistic Messianic hope of Judaism, it is still imperative, as it has been throughout the past, that the Jewish people must continue its separateness as a “Kingdom of priests and a holy nation,” and for the sake of its world mission avoid intermarrying with members of other sects unless they espouse the Jewish faith.<sup>100</sup>

In the mid-nineteenth century, the striking exception to this position was that of Samuel Holdheim,<sup>101</sup> one of the most outspoken German Reform rabbis, a prolific author and fierce polemicist, articulate, learned and unsparingly honest. In the annals of the Reform movement the name of Holdheim stands second in significance only to that of Abraham Geiger. Of the two, Holdheim was the more consistent, and hence more radical, reformer. His personality is particularly interesting in that his intellectual trajectory parallels the movement for practical Reform. From Orthodoxy as a youth he moved gradually to a modified Talmudism, then to a renunciation of the Talmud, culminating in a rejection of the eternally binding authority of the Bible itself. In the wake of publication of his opinions on the raging controversies of the day – the Geiger-Tiktin dispute, and the furor over the Hamburg Prayerbook – Holdheim, then chief rabbi of the Grand Duchy of Mecklenburg-Schwerin, published his initial writings on marriage in his most significant work, *Über die Autonomie der Rabbinen und das Prinzip der jüdischen Ehe: Ein Beitrag zur Verständigung über einige das Judenthum betreffende Zeitfragen* (Schwerin, 1843). Holdheim’s incentive for presenting this work was the political situation in Mecklenburg-Schwerin. The Prussian government was contemplating promulgation of an Act of Incorporation for its Jewish subjects under which they were to be incorporated into separate communities of their own. Holdheim had pleaded against such actions, deeming such legislation a step backward. The Jews, he maintained, did not desire special statutes; they wished to be governed by the same laws as the native citizenry.

Holdheim’s major thesis in the *Autonomie* is that Jewish religious, ethical and humanistic institutions must be kept rigidly apart

from the national and political elements of Judaism; he classified the laws of marriage and divorce as belonging to the latter category. With the destruction of the independent Jewish commonwealth, he argued, Jewish nationality ceased to exist and since then Jews constitute a religious community with no political aims of their own. In all political questions they are identical to all other citizens of the state in which they dwell. Consequently, the autonomy of the rabbi in judicial matters must be terminated; the rabbi's autonomy must be confined to the religious sphere.<sup>102</sup> Religious and civil questions must be distinguished, and the religious regulations concerning marriage, a civil act, must be supplanted by the civil law. Religion adds sanctity to marriage, he conceded, but does not provide its legal basis.<sup>103</sup> In the *Autonomie*, Holdheim was following the precedent set by the Paris Sanhedrin and its downplaying of the ethnic character of Judaism. His teachings reflect classical Reform ideology; namely, that the mission of Judaism is purely religious and has no national or political overtones. Holdheim contended that the purely religious laws were eternal whereas those of a political or national character were but temporary. Following this line of interpretation, he argued that many laws which applied during the time of Jewish statehood are no longer binding upon Jews in the Diaspora. He went further than most of his colleagues in classifying almost all laws of ritual, prayer, diet, ceremony, and holidays as nationalistic.<sup>104</sup>

Curiously, although in this work Holdheim clearly rejected the authority of Talmudic law and described its approach to marriage and divorce as primitive and unacceptable – “*es ist für uns unbrauchbar geworden* (for us it has become useless)”<sup>105</sup> – he sought to ground his argument on Talmudic reasoning and precedent. No wonder that the book, the literary sensation of the year, provoked vociferous debate. As was to be expected, moderate conservative figures such as Graetz, Zunz and Frankel<sup>106</sup> were joined in their condemnations by Orthodox partisans who challenged Holdheim's strained and haphazard appeal to rabbinic sources whose authority he himself rejected.<sup>107</sup> In time, Holdheim no longer tried to bolster his arguments regarding marriage with Talmudic dialectic, and his Reform position became more logically tenable.

For the last sixteen years of his life Holdheim was the spiritual leader of the separatist Berlin Reform Congregation, the most radical Reform community in Germany. In that capacity he introduced extensive ritual innovations discarding everything he deemed to be particularistic and anachronistic in traditional Judaism in favor of an enlightened universalism and, in 1849, acquiesced to moving congregational worship services from the Sabbath to Sunday. It was during that period that he publicized his views on intermarriage,<sup>108</sup> proceeded himself to perform wedding ceremonies for intermarrying couples and published his address to one such couple.<sup>109</sup> Having placed marriage squarely in the sphere of the state, Holdheim yet had to account for its religious character. When he did, he was moved to formulate a new theological approach and adopted a humanistic interdenominational perspective. Holdheim now advocated the need to substitute “the holy God and Father of humanity for the holy God of Israel, the holy human race for the holy people, the covenant between God and humankind for the covenant between God and Israel.”<sup>110</sup>

For Holdheim, the crux of the problem of intermarriage was the question of liberty of conscience. He considered that principle to be essential and fundamental to true religion and therefore, if people freely chose to marry one another regardless of their religion of birth, a rabbi should not refuse to officiate at such a union.<sup>111</sup>

Holdheim’s willingness to sanction intermarriage did not become a mainstream position in the Reform movement of his time. In the nineteenth-century in Germany the only notable figures who adopted that policy were Mendel Hess and Bernhard Wechsler. Among Reform rabbis in the United States who officiated at mixed marriages in the following decades were Samuel Hirsch, Emil G. Hirsch, Solomon Sonnenschein, Isaac S. Moses, Max Landsberg and Jacob Voorsanger.<sup>112</sup> In 1909, after extensive debate, the Reform rabbinate again affirmed the position that mixed marriage was to be discouraged. On behalf of a committee appointed to study the matter, Samuel Schulman, in a lengthy address, dwelled on the reasons for refusing to sanction mixed marriage and, in particular, on the tension between love and duty. Expressing compassion and

consideration for the heartrending conflict “between a great love and a loyalty to an ancestral faith,” he nevertheless was unequivocal in stating that “we can not conceive the possibility . . . of a Rabbi, the representative of the synagogue, consecrating such a marriage.”<sup>113</sup> The wording of the resolution proposed by Schulman’s committee, viz., “that a rabbi ought not officiate at marriage between a Jew or Jewess and a person professing a religion other than Judaism, inasmuch as such mixed marriage is prohibited by the Jewish religion and would tend to disintegrate the religion of Israel,”<sup>114</sup> was modified by Hyman Enelow and the resolution passed by the CCAR was much milder. The resolution adopted stated that “mixed marriages are contrary to the tradition of the Jewish religion and should therefore be discouraged by the American rabbinate” but did not call for sanctions against a rabbi who performed an intermarriage.<sup>115</sup> During the next one hundred years, the issue of intermarriage was again and again at the forefront of Reform deliberations. In practice, if not in theory, the Reform rabbinate reversed its previous stance and, in ever-increasing numbers, began to participate in interfaith ceremonies.<sup>116</sup> But that is a topic for another paper.

#### IV. An Afterword

Reality must be faced forthrightly; but reality dare not be permitted to trump an ideal. A social historian would certainly assert that exogamy is a hallmark of an open society and hence virtually inevitable in our age. The prospect of widespread intermarriage is presciently described by Rashi in his commentary on Song of Songs. The *Zohar*, *Terumah* 144a, states, “That which was, that which is and that which is destined to be . . . all are [to be found] in Song of Songs.” Rashi, in his interpretation of the allegory, charts a historical progression in the verses of Song of Songs. In the eighth and final chapter he finds allusions to the protracted period of exile and incisively focuses upon the specter of intermarriage. Commenting on verses 8:8–10, he portrays two alternative stances available to Jews in the Diaspora: They may resolve to make themselves into an impermeable wall refusing any incursions of intermarriage or they may succumb to the enticement of alien knocks on the door and behave as “a door

which revolves upon its hinge” (“[im delet hi] ha-sovevet al tzirah u-be-hakish aleha hi niftahat”). In a concluding remark, Rashi depicts Israel responding with the resounding declaration, “Ani homah – I am a wall!” (8:10), giving voice to a vow and assurance that there will always be faithful Jews committed “in the strength of love” to the integrity of *klal Yisra’el* as a people.<sup>117</sup>

### NOTES

1. Sergio DellaPergola, “Jewish Out-Marriage: A Global Perspective,” *Jewish Intermarriage Around the World*, Shulamit Reinharz and Sergio DellaPergola, eds. (New Brunswick, U.S. and London, U.K., 2009), pp. 14–15 and 26–27. Arthur Ruppin, *The Jewish Fate and Future*, trans. E.W. Dickes (London, 1940), p. 105, contends that despite religious proscriptions mixed marriages between Jews and Christians were frequent in the first thousand years of the Christian era but ceased after the Crusades.
2. The German manuscript titled *Das mosaisch-talmudische Eherecht* was published with an introduction and notes by Alexander Kisch (Leipzig, 1900). A Hebrew translation by a grandson of Rabbi Landau, Zéev Wolf Sheinblum, bearing the title *Hukei ha-Ishut al pi Dat Mosheh ve-ha-Talmud*, was published in Munkacs in 1901 and later appended to Yekutiel Aryeh Kamelhar’s biography of Rabbi Landau, *Mofet ha-Dor*, 1st ed. (Munkacs, 1903) and 2nd ed. (Pietrkow, 1934). The treatise is also reprinted in Aryeh Leib Gelman, *Ha-Noda bi-Yehudah u-Mishnatto*, 3rd ed. (Jerusalem, 1970), pp. 109–126.
3. In introductory comments to Rabbi Landau’s monograph, *Eherecht*, pp. 4–5, Kisch notes that initially, in response to Rabbi Landau’s request, a government commission of December 4, 1785, sought to modify some aspects of matrimonial law relating to Jews but later government decrees of March 4, 1786, and August 12, 1788, failed to incorporate those amendments. Not until 1791 under Leopold II were adjustments made to the law in the spirit of Rabbi Landau’s recommendations and then confirmed in the legal code promulgated in 1811 as exceptions for Jews (“*Ausnahmen für die Judenschaft*”).  
 For Rabbi Landau’s positive relationship with the rulers Maria Theresa and Joseph II, see Sharon Flatto, *The Kabbalistic Culture of Eighteenth-Century Prague: Ezekiel Landau (the ‘Noda Biyehudah’) and his Contemporaries* (Oxford and Portland, Oregon 2010), pp. 50–52. Charles W. Ingrao, *The Habsburg Monarchy 1618–1815* (Cambridge, 1994), p. 119, notes that Joseph II’s benign treatment of Jews as evidenced in his 1782 edict of Tolerance and his waiving of the *Leibmaut*, a tax levied only on Jews and cattle, did not garner popularity and that he was derided by Christians of all persuasions as “Emperor of the Jews.”
4. See Gelman, p. 119.
5. *Ibid.*, p. 118.
6. *Ibid.*, p. 113.



7. See Jay R. Berkowitz, "The Napoleonic Sanhedrin: Halachic Foundations and Rabbinical Legacy," *CCAR Journal*, 54 (Winter, 2007): 12–14. Berkowitz notes that it was precisely in the arena of marriage that conflicts between religion and state first came to the foreground. Following promulgation of the 1792 French law, protocols for non-Catholic unions had not yet been established and Jews continued to conduct only religious ceremonies. Napoleon now instructed rabbis not to perform a marriage ceremony unless there was proof of a prior civil ceremony before a government official.
8. For the text of the questions to the Notables and their answers see M. Diogene Tama, *Transactions of the Paris Sanhedrim* [sic], trans. F.D. Kirwan (London, 1807), pp. 149–156, 179–195 and 201–207.
9. It is instructive to compare this formulation with the measured and fearless comments of Rabbi Landau in his *Hukei ha-Ishut*, responses to sections 1–9 of the Habsburg code. See *supra*, notes 3–5 and accompanying text. In all fairness, one should recognize the more delicate situation faced by the French delegates in the period following the disruptions of the Revolution and the Reign of Terror and confronted by the awe-inspiring presence of Napoleon and his advisors. Simon Schwarzfuchs, *Napoleon, the Jews and the Sanhedrin* (London, 1979), p. 82, notes that Napoleon had stated clearly that he wished the Sanhedrin not only to rule that the religious marriage ceremony could take place only subsequent to a civil ceremony but that the Sanhedrin should encourage mixed marriage as well. See also Robert Anchel, *Napoléon et les Juifs* (Paris, 1928), p. 211.
 

Unlike the French civil marriage law, the Habsburg *Ehepatent* did not provide for civil ceremonies; rather, it allowed marriage to remain under the aegis of the clergy of the respective denominations. However, with regard to both the Habsburg code and the French code, despite all efforts to gloss over discrepancies, halakhic problems arose because of contradictions between civil law and Halakhah. Schwarzfuchs, p. 191, reports increasing neglect with regard to Jewish religious divorce in France. For a discussion of rabbinic efforts to resolve some of the issues see Zevi Jonathan Kaplan, "The Thorny Area of Marriage: Rabbinic Efforts to Harmonize Jewish and French Law in Nineteenth Century France," *Jewish Social Studies: History, Culture, and Society*, n.s., no. 3 (Spring/Summer 2007): 59–72.
10. Whether intermarriage with all non-Jews or only with members of the Seven Nations is biblically proscribed is a matter of disagreement among early-day authorities. Rambam, *Hilkhot Issurei Bi'ah* 12: 1–2, rules that the biblical prohibition applies to all non-Jews; R. Jacob ben Asher, *Tur, Ezen ha-Ezer* 16:1, limits the biblical prohibition to the seven nations. Such unions are rabbinically prohibited according to all codifiers. See *Avodah Zarah* 36b and *Sanhedrin* 82a.
11. See Schwarzfuchs, pp. 70–71.
12. For the French original see A.E. Halphen, *Recueil des lois, décrets, ordonnances... concernant les Israélites depuis la Révolution de 1789* (Paris, 1851), p. 25
13. This important point is correctly emphasized by Berkowitz, p. 15, in his assessment of the impact of the French Sanhedrin. Schwarzfuchs, p. 95, cites the speech of

Rabbi David Sintzheim delivered at the closing meeting of the Sanhedrin and his outspoken words: "You have recognized the validity of certain civil acts, but you have admitted their religious incoherence."

14. At the time of Moses Isaac's death in 1776 only six of his ten children were alive and one had been disinherited. For a fuller discussion see Warren I. Cohn, "The Moses Isaac Family Trust – Its History and Significance," *Leo Baeck Institute Year Book*, 18 (1973), pp. 267–280.
15. Upon her conversion Dorothea claimed to have seen a smiling apparition of her departed father looking down upon her baptism. See Carola Stern, "Ich möchte mir Flügel wünschen": *Das Leben der Dorothea Schlegel* (Hamburg, 2000), p. 195. Was this a delusional fantasy, wish-fulfilling and exculpatory in nature?
16. Deborah Hertz, *Jewish High Society in Old Regime Berlin* (New Haven and London, 1988), p. 238.
17. See Jacob Katz, *Out of the Ghetto: The Social Background of Jewish Emancipation, 1770–1870* (New York, 1978), pp. 105 and 121–122 and accompanying notes. Cf., Alfred D. Low, *Jews in the Eyes of the Germans: From the Enlightenment to Imperial Germany* (Philadelphia, 1979), pp. 179–181.
18. See Todd M. Endelman, *The Jews of Britain, 1656 to 2000* (Berkeley, Los Angeles and Sidney, 2002), pp. 66–67 and Chaim Bermant, *The Cousinhood* (New York, 1971), p. 11.
19. *Ibid.*, pp. 36 and 145.
20. *Jewish Chronicle*, July 10, 1877, cited in Bermant, p. 155. The highly sensational nature of the public reaction to this marriage is evidenced in its reverberations across the ocean in the United States. When Helen Wise, daughter of Isaac Mayer Wise, eloped with James Molony, a Christian, and was married by a Unitarian minister, the Cincinnati *Enquirer's* report (May 10, 1878), "Cupid Conquers," contrasted this furtive elopement to the splendid festivities in England when "the richest maiden in all Israel" married Lord Rosebery. See *The Enquirer*, May 10, 1879, unnumbered pages, small collections 13082 AJA, cited in Ann C. Rose, *Beloved Strangers: Interfaith Families in Nineteenth-Century America* (Cambridge, Mass. and London, England, 2001), pp. 77 and 234.
21. Cited in Bermant, p. 163. Cf., R.O.A. Crewe–Milnes, *Lord Rosebery* (London, 1931), I, 367–370.
22. Lucy Cohen, *Some Recollections of Claude Goldsmid Montefiore, 1858–1938* (London, 1940), pp. 35 and 72–73.
23. *Ibid.*, p. 31. The climate of opinion in intellectual circles, however, both among Jews and Christians, was changing radically. Informed of the marriage of Charlotte to Lewis McIver, Dr. Benjamin Jowett, the eminent Greek scholar and Master of Balliol, wrote to her brother Claude:

I am very glad to hear of your sister's marriage. . . .

I think it quite right that the wall of distinction between Jew and Christian should be broken down. Has it not lasted long enough? In idea it has already broken down, for all intelligent persons are agreed that in the sight of God there

is no distinction of race or caste... as a custom it will long continue... But it would also be wrong to do violence to natural affection for the sake of always insisting upon them [distinctive customs]. It seems to me that Jewish society in England is too narrow to allow of Jews only marrying within limits of their own community, and that they would be placed at great disadvantage if such a rule were enforced.

*Ibid.*, pp. 35–36. Some twenty years later similar sentiments were penned by Lord Arthur Balfour in a letter to a colleague:

The Jews are not only a most gifted race, but have proved themselves ready and anxious to take part in the national and civic life of the countries where they are settled. But, from my point of view, it is an undoubted disadvantage that they do not intermarry with the rest of the population; and I think so, not because I dislike the Jews, but because I admire them; and I think that their rigid separation in this respect from their fellow-countrymen is a misfortune for us. If they think it wrong, I do not, of course, complain of their obeying what they hold to be a binding law; but I must be permitted, from my own point of view, to regret their decision.

Cited in Ronald Sanders, *The High Walls of Jerusalem: A History of the Balfour Declaration and the Birth of the British Mandate for Palestine* (New York, 1984), pp. 118–119. Strikingly, Jowett favored intermarriage for the benefit of Jews, while Balfour wished intermarriage to be fostered for the benefit of Christians.

24. Bermant, p. 207.
25. *Ibid.*, p. 253.
26. *Ibid.*, pp. 250 and 254.
27. *Ibid.*, pp. 254–255. Cf., the account in S.D. Waley, *Edwin Montagu: A Memoir and an Account of his Visits to India* (Bombay, 1964), pp. 57–59 and 66–69.
28. Marsha L. Rozenblit, *The Jews of Vienna, 1867–1914: Assimilation and Identity* (Albany, 1983), pp. 128–135.
29. *Ibid.*, pp. 136 and 139–140.
30. *Ibid.*, pp. 129 and 146. It is noteworthy that in Prague where Jews were accepted as equals in Prague's German society there was a virtual absence of conversion to Christianity. See *ibid.*, p. 232, note 14.
31. Ludwig Börne, *Gesammelte Schriften* (Vienna, 1868), v1, 13.
32. See the incisive introductory comments of Jonathan D. Sarna, *American Judaism: A History* (New Haven and London, 2004), xiii–xv.
33. See Sarna, p. 8. Arthur Hertzberg, *The Jew in America* (New York, 1989), p. 28, states that Pietersen had converted to the Dutch Reformed Church and became a notary public, a position that required taking an oath “on the true faith of a Christian.”
34. See Sarna, pp. 24–28. Cf., Jacob R. Marcus, *Early American Jewry* (Philadelphia, 1953), 11, 504. In contrast, in the European countries in which civil marriage was not legally valid intermarriage rates were somewhat lower.
35. See Sarna, pp. 44–45. Sidney M. Fish, “The Problem of Intermarriage in Early

- America," *Gratz College Annual of Jewish Studies*, 4 (1975): 85–95, presents the intriguing text of a halakhic inquiry dated 1785 concerning problems of intermarriage encountered by Philadelphia congregants. The inquiry, composed in Hebrew and Judeo-German, was addressed to Rabbi Saul Lowenstamm of Amsterdam.
36. See Nathan Goldberg, "Intermarriage From A Sociological Perspective," *Intermarriage and the Future of the American Jew. Proceedings of a Conference Sponsored by the Commission on Synagogue Relations of the Federation of Jewish Philanthropies of New York* (New York, 1964), pp. 36–39.
  37. John S. Levi and G.F.J. Bergmann, *Australian Genesis: Jewish Convicts and Settlers, 1788–1850* (Adelaide, 1974), p. 218 and Hilary L. Rubinstein, *The Jews in Australia: A Thematic History* (Port Melbourne, 1991), I, 98, 237–8 and 299–300.
  38. *Ibid.*, p.98.
  39. David Vital, *A People Apart: A Political History of the Jews in Europe 1789–1939* (New York, 2001), p. 315 and Solomon Grayzel, *A History of the Jews* (Philadelphia, 1947), p. 707.
  40. Cf., The comments of A. Menes, "The Conversion Movement in Prussia During the First Half of the 19th Century," *YIVO Annual*, 6 (1951): 203.
  41. *Jewish High Society*, pp. 224–243. See also, the account in her later book *How Jews Became Germans: The History of Conversion and Assimilation in Berlin* (New Haven and London, 2007), pp. 2–10 and the graphs, pp. 224–226.
  42. Hertz, *Jewish High Society*, pp. 227–229.
  43. As noted, by the 1830s the predominance of female over male converts was reversed. See Hertz, *ibid.*, p. 238.
  44. Hertz, *Jewish High Society*, pp. 240–243. Hertz, *ibid.*, p. 243, note 56, records the theory of Jacob Jacobson, the archivist of German Jewry, that the state's limitation of the number of Jewish marriages was a major factor accounting for the high rate of conversion and intermarriage.
  45. See Jacob Katz, *Out of the Ghetto*, p. 56 and Michael A. Meyer, *The Origins of the Modern Jew: Jewish Identity and European Culture in Germany, 1749–1824* (Detroit, 1967), pp. 102–114.
  46. See Hertz, *Jewish High Society*, p. 244. See also the discussion, *ibid.*, pp. 209–210 of the questionable conversion of another of the women, Jente Stieglitz.
  47. See *ibid.*, pp. 208 and 217–220. See also Genevieve Bianquis, *Love in Germany*, trans. James Cleugh (London, 1964), pp. 10–12, 23–45, 110–111 and 182–183.
  48. *Out of the Ghetto*, p. 104.
  49. Cited in Max Brod, *Heinrich Heine: The Artist in Revolt*, trans. Joseph Witriol (New York, 1957), p. 232.
  50. See Hertz, *Jewish High Society*, pp. 214–215. Hertz, *ibid.*, pp. 244–255, further notes that data concerning the conversion of female domestic servants and their illegitimate progeny is sparse, but it appears that these women tended to convert in their twenties whereupon, after marriage, obstacles to their continued residence in Berlin were removed and their place in the social structure became more stable.
  51. *Sendschreiben an seine Hochwürden, Herrn Oberconsistorialrath und Probst Teller*

- zu Berlin, von einigen Hausvätern jüdischer Religion (Berlin, 1799). The quoted passage is on p. 61.
52. Hertz, *Jewish High Society*, p. 147.
53. See the interesting references in Katz, *Out of the Ghetto*, p. 236, note 11. Cf., Heidi Thomann Tewarsen, *Rahel Levin Varnhagen: The Life and Work of a German Jewish Intellectual* (Lincoln, 1998), pp. 23–26.
54. Henrietta Herz knew the Hebrew alphabet well enough to teach it to Alexander and William von Humboldt. See Low, pp. 189–190. Rahel Varnhagen wrote notes in Hebrew script to her brother Ludwig Robert (who also converted), probably when communicating private financial information. See Lothar Kahn, “Ludwig Robert: Rahel’s Brother,” *Leo Baeck Institute Year Book*, 18 (1973): 189. Henrietta studied the English, Italian, Spanish, Swedish, Greek and Latin languages and their literature. Although Meyer, *Origins*, p. 105, records that, in her youth, Henrietta’s Jewish knowledge extended to reading the Bible in Hebrew with commentaries, later in her life there appears to have been no further study of Judaism. Cf., the comments of Brod, pp. 101–102.
55. Hertz’ analysis of the significance of this discrepancy, *Jewish High Society*, pp. 187–191, is flawed. She may be correct in ascribing greater weight to social factors but simply fails to appreciate the significance of the void in Jewish education.
56. Aaron Chorin, *Ein Wort zu seiner Zeit: Über die Nächstenliebe und den Gottesdienst* (Vienna, 1820), p. 47.
57. Translated by Hal Dryen. Included in *The German Jewish Dialogue: An Anthology of Literary Texts 1749–1943*, ed. Ritchie Robertson (New York, 1999), pp. 102–103.
- It was decades later that serious attention was given to Heine’s simple expedient “Go devote some years of study.” Responding to an inquiry from Amsterdam on how to design an educational curriculum Samson Raphael Hirsch advocated that the program for girls be essentially identical to that of boys. Hirsch wrote:
- People forget that Channah and Devorah assuredly understood Channah’s prayer and Devorah’s song. [They forget that] the salvation of future generations of our men, of our homes and our children depends on our winning over the hearts of our future wives and mothers for the sancta of our people. However, the hearts of our daughters can be stirred for the sancta of Israel only if we teach them to slake their spiritual thirst from the original sources. Then, on the basis of their own appreciation, they will prefer Isaiah and Amos to Goethe and Shakespeare. And this, with God’s help, we have been able to do [in Frankfurt]. *If you wish to provide for your future, do not forget your daughters.* (emphasis added)
- See Mordecai Breuer, “Iggerot me’et ha-Rav S.R. Hirsch,” *Ha-Ma’ayan*, 29:1 (5749).
58. “Kindling the Sabbath Light,” *Songs of a Wanderer* (Philadelphia, 1917), p.92.
59. See Michael A. Meyer, “Reform Jewish Thinkers and their German Intellectual Context,” *The Jewish Response to German Culture*, ed. J. Reinharz and W. Schatzberg

- (Hanover, NH, 1985), pp. 69–70. William von Humboldt who favored complete political equality for Jews nevertheless had a similarly negative view of the Jewish religion. Once Jews were fully emancipated and acculturated he believed that they would abandon the Jewish religion. See Low, pp. 135–137.
60. See Hertz, *Jewish High Society*, pp. 175–176 and 255.
  61. Meyer, *Origins*, pp. 105–106.
  62. In a letter to Schleiermacher, cited *ibid.*, p. 96.
  63. Cited in Solomon Liptzin, *Germany's Stepchildren* (Philadelphia, 1944), p. 14.
  64. Carola, Stern, pp. 231–236.
  65. Liptzin, p. 24; cf., Low, pp. 188–190.
  66. Jacob Katz, *Tradition and Crisis: Jewish Society at the End of the Middle Ages* (New York, 1971), pp. 268–269, notes that in the new social climate even marriages contracted on the basis of economic and social factors were made to appear as if based on romantic attraction. Katz theorizes that Moses Mendelssohn, who was introduced to his wife by mutual friends, sought to emphasize the element of personal attraction in everything pertaining to his match. His daughter Dorothea left her husband and children for the sake of love, taking the romantic ideal to its extreme. Hertz, *Jewish High Society*, p. 199, note 177, points out that, ironically, Katz's example of a non-arranged marriage is that of Moses Mendelssohn but Mendelssohn himself arranged the marriages of his own children.
  67. See Marion A. Kaplan, "For Love or Money: The Marriage Strategies of Jews in Imperial Germany," *Leo Baeck Institute Year Book 28* (1983): 263–300. Kaplan describes the manner in which lip service was paid to the role of sentiment and love, if only by covering up arranged marriages and camouflaging the negotiations to appear as if meetings had taken place by coincidence. Her description illustrates the view of Katz, *supra*, note 62, but applies the strategy to a much later period of time.
  68. Kaplan, *ibid.*, p. 237 and 275, note 58.
  69. Marshall Sklare, *America's Jews* (New York, 1971), p. 201.
  70. "To Althea From Prison," in *British Verse*, ed. Daniel V. Thompson (New York, 1916), p. 61.
  71. Samuel Schulman, *CCAR Yearbook*, 19 (1909): 322 and see *infra*, note 113 and accompanying text.
  72. The thought of joining a Jew in marriage with an unconverted non-Jew was not entertained by any Orthodox decisor, performance of an intermarriage ceremony was never countenanced and even presence at such a ceremony or celebration was censured. As Chacham Bernays phrased it, from the Jewish perspective, mixed marriages are "in the realm of the unthinkable." See his "Gutachten betr. Die Mischehe, erstattet im Jahre 1843," appended to Eduard Duckesz, "Zur Biographie des Chacham Isaak Bernays," *Jahrbuch der Jüdisch-Literarischen Gesellschaft*, 5 (1907): 322.
  73. See Rambam, *Hilkhot Issurei Bi'ah* 13:14 and *Shulhan Arukh Yoreh De'ah* 268:12.
  74. Even when the conversion is proper and valid there remains a question with regard to whether it is permissible for the convert to enter into a marriage with a Jew with whom the convert had cohabited prior to the marriage. For a discussion

- of conflicting positions regarding that question as well as of conversion following a civil ceremony, see J. David Bleich, *Contemporary Halakhic Problems*, 1 (New York, 1977), pp. 286–292.
75. See the responsa of Rabbi Shlomoh Kluger, *Tuv Ta'am va-Da'at*, 1, no. 130; R. Eliezer Deutsch, *Pri Ha-Sadeh*, 11, no. 3; and Rabbi Yechiel Ya'akov Weinberg, *Seridei Esh*, 111, no. 50. Cf., however, the conflicting view of R. Meir Arak, *Imrei Yosher*, 1, no. 176.
  76. One of the earliest such discussions is the negative view of R. Ezriel Hildesheimer, *Teshuvot Rabbi Ezri'el, Yoreh De'ah*, no. 234, countering the permissive stance of R. Mendel Kirshbaum, a Frankfurt *dayyan*, expressed in his *Menahem Meishev*, no. 42.
  77. Rabbi Schmelkes, *Bet Yizhak, Yoreh De'ah*, no. 100, argues that the conversions of individuals who, despite formal affirmations to the contrary, fail to abide by the provisions of the dietary code and laws of family purity are invalid. R. Dov Ber Kahana, *Dvar Avraham*, 111, no. 28, questions whether in contemporary society, where pressure for conformity in religious practice is absent, a determination to abide by religious strictures is reached. R. Chaim Ozer Grodzinski, *Ahi'ezer*, 111, no. 26, secs. 2-3 and no. 28, concludes that the status of converts with ulterior motives remains doubtful until their general comportment testifies to their acceptance of *mizvot*. Much later, Rabbi M. Feinstein, *Iggerot Mosheh, Yoreh De'ah*, 1, no. 160, advances considerations defending the validity of such conversions but in several other responsa writes that public desecration of Halakhah vitiates the oral acceptance and hence such conversions are invalid. See *Iggerot Moseh*, 1, *Yoreh De'ah*, no. 174 and *Even ha-Ezer*, 11, no. 4 and 111, no. 4.
  78. Salo W. Baron, "Aspects of the Jewish Communal Crisis in 1848," *Jewish Social Studies*, 14 (1952):116–117.
  79. "Gutachten des Herrn Oberrabbiner Ettlinger in Altona über die religiösgesetzliche Wirkung der Mischehe," *Der treue Zionswächter*, 6 (1850):207.
  80. See *Avodah Zarah* 36b; Rambam, *Mishneh Torah, Hilkhot Issurei Bi'ah* 12:1 and 12:7; *Shulhan Arukh, Even ha-Ezer* 16:1–2.
  81. Cf., Baron, p. 117. See also R. Zevi Hirsch Chajes, *Minhat Kena'ot* in *Kol Sifrei Maharatz Hayes* (Jerusalem, 1958), 11, 996–998, note and *Kuntres Aharon*, 1032–1035. Cf., the later statement signed by 133 Orthodox rabbis publicized in *Der Israelit*, 12 (1871):568–569.
  82. Cf., the unsigned comments in *Der Orient*, 11 (1850):171–172.  
 Rabbi Ettlinger was rabbi of Altona when that city was under Danish rule. Of interest is the citation of Rabbi Ettlinger's statement published in the *Zionswächter* in the course of an early twentieth-century controversy in Copenhagen where it had become customary for the progeny of mixed marriage to assert Jewish status solely on the basis of parental agreement at the time of their marriage. In defending his opposition to this practice, R. Tobias Lewenstein, the Orthodox Rabbi of Copenhagen, appended a Danish translation of Rabbi Ettlinger's statement, pointing out that the latter was an eminent authority who had served as the "Danish rabbi in Altona." See Moses Lewenstein and Salomon Ehrmann, "Rabbi Tobias Lewenstein," *Guardians of Our Heritage, 1724–1953*, ed. Leo Jung (New York, 1958), pp. 474–475.

83. For the response of American Orthodox rabbis in the 1840s to questions regarding the halakhic status of progeny of intermarriage and the circumcision of non-converted male children see I. Harold Sharfman, *The First Rabbi: Origins of Conflict Between Orthodox and Reform: Jewish Polemic Warfare in Pre-Civil War America: A Biographical History*. (Malibu, Calif., 1988), pp. 113–119.
- Rabbi Bernard Illowy, serving a congregation in New Orleans in the 1860s, ruled against the circumcision of unconverted children of Jewish fathers and non-Jewish mothers. Rabbi Marcus Lehmann, the editor of *Der Israelit*, published in Mainz, Germany, concurred with Rabbi Illowy's decision. See *Der Israelit*, v, no. 52 (Dec. 28, 1864), pp. 683–684. That position was forcefully endorsed by Rabbi Azriel Hildesheimer and publicized in *Der Israelit*, vi, no. 3 (Feb. 1, 1865), pp. 57–59. Addressing the same issue, Rabbi Zevi Hirsch Kalischer adopted an opposing view, very strongly favoring such circumcision. The correspondence of Rabbis Hildesheimer and Kalischer has been published in *She'elot u-Teshuvot Rabbi Ezriel, Yoreh De'ah*, nos. 229–230. See also *Sefer Milhamot Elokim: Being the Controversial Letters and the Casuistic Decisions of the Late Rabbi Bernard Illowy Ph.D.*, published by his son, Dr. Henry Illoway (Berlin, 1914), pp. 189–201, which includes media reports of the controversy in both English and German as well as Rabbi Illowy's halakhic discussion in Hebrew.
84. See the monograph authored by Baruch Schick, *Dat va-Din* (Temesvar, 1903) describing the heated controversy surrounding one such incident as well as the halakhic discussion of R. Chaim Eleazar Schapiro, *Teshuvot Minhat Elazar*, 111 (Bratislava, 1922), no. 8.
85. Of particular interest is the well-known responsum of Rabbi David Zevi Hoffmann, *Melammed le-Ho'il*, 111 (Frankfurt am-Main, 1932), no. 8, concerning the propriety of converting a non-Jewish woman in order to make it possible for her to be buried in the Jewish cemetery in which her child, who had been converted by his Jewish father, was buried. In that case it was claimed that were her application for conversion to be denied, the woman would become mentally deranged.
86. See R. Yechiel Michel Tucatzinsky, *Gesher ha-Hayyim* (Jerusalem, 1960), 111, 274–275. See also R. Moshe Sofer, *Teshuvot Hatam Sofer, Yoreh De'ah*, no. 341. Cf., however, R. Ben-Zion Meir Chai Uziel, *Mishpetei Uziel*, 1 (Jerusalem, 1947), no. 6, sec. 8.
87. *Gesher ha-Hayyim*, 111, 274–275.
88. In the twentieth century Rabbi Joseph B. Soloveitchik is quoted as having reported that his father, Rabbi Moshe Soloveitchik, declared that it was “established custom (*minhag Yisra'el*)” to bury someone who had intermarried outside the fence of the Jewish cemetery. See Rabbi Moshe Sternbuch, *Teshuvot ve-Hanhagot*, 11 (Jerusalem 1994), no. 516. The most stringent exclusionary response to an individual who has intermarried was adopted by the Syrian community of Brooklyn, New York. In 1935 that community enacted a ban against any conversion for purposes of marriage. The ban was reaffirmed in 1946, 1972, 1984 and 2006, and in 1984 and 2006 was adopted by other “Near Eastern Jewish communities” in various locales in the United States. According to the enactment of 1946 and subsequent affirmations, the intermarried individual was not to be accorded burial in the communal



cemetery. See S. Zevulun Lieberman, "A Sephardic Ban on Converts," *Tradition* 23, no. 2 (Winter 1988), pp. 22–25 and Sarina Roffé, "Brooklyn's Rabbinical *Takana* Prohibiting Syrian and Near Eastern Jews from Marrying Converts," (Master's Thesis, Touro College, 2006), pp. 41 and 43.

The by-laws of a number of Orthodox synagogues excluded intermarried individuals from membership. Many of those synagogues restricted burial in their cemetery to members only. Hence, for those communities, burial of a person who had intermarried was a moot issue. A prime example is K'hal Adath Jeshurun of Washington Heights, New York, where an uncircumcised or intermarried individual is excluded from membership and burial in the congregational cemetery, until recently, was limited to members. Officers of the *Hevra Kaddisha* report that, under current circumstances, burial of an uncircumcised or intermarried individual would not be countenanced in their cemetery.

Indeed, while exclusion of the intermarried individual from burial is rare, there are several recorded cases of the *Hevra Kaddisha* denying burial rights to persons who refused to be circumcised or to Jewish male children whose parents declined to have them circumcised. See R. Chaim Chizkiyahu Medini, *Sedei Hemed, ma'arekhet ha-mem*, sec. 88. Schick, *Dat va-Din*, p. 6, relates that when R. Samson Raphael Hirsch assumed his position in Frankfurt am Main he objected to the *Hevra Kaddisha's* acquiescence in the burial of uncircumcised individuals. The majority of latter-day-decisors follow the established rule that uncircumcised Jews should be buried in the Jewish cemetery, but at a distance from other graves. See the discussion of R. Yekutiel Yehudah Greenwald, *Kol Bo al Aveilut* (New York, 1956), pp. 194–195.

89. *Protokolle der ersten Rabbiner-Versammlung abgehalten zu Braunschweig* (Brunswick, 1844), p. 73. Mendel Hess, chief rabbi of Saxe-Weimar, twice tried to add a provision permitting a rabbi to solemnize such marriages but the motion was not carried. See *ibid.*, pp. 70 and 73. Pointed rabbinic criticism of this specific resolution of the Brunswick conference is found in R. Moses Schick, *Teshuvot Maharam Shik, Yoreh De'ah*, no. 331 and R. Judah Aszod, *Teshuvot Yehudah Ya'aleh, Orach Hayyim*, no. 6. Rabbi Aszod goes so far as to caution that rabbis who passed such a resolution might soon permit incest.
90. Philippson later wrote, "Religion must pronounce against mixed marriages.... It must be conceded that they contribute as well toward the weakening of true religiousness and sincerity in matters of faith." See *Israelitische Religionslehre* (Leipzig, 1865), III, 250.
91. A motion to endorse the Brunswick resolution was tabled at the Augsburg Synod. See *Verhandlungen der Zweiten Israelitischen Synode zu Augsburg: vom 11. bis 17. Juli 1981* (Berlin, 1873), pp. 109–110.
92. *Sendschreiben*, p. 63.
93. Eduard Gans, "Halbjähriger Bericht im Verein für Cultur und Wissenschaft der Juden (April 22, 1822)" in S. Rubaschoff, "Erstlinge der Entjudung. Drei Reden von Eduard Gans im 'Kulturverein,'" *Der jüdische Wille*, 2(1919), 109–15. Cited from a translation by J. Hessing in *The Jew in the Modern World: A Documentary*

- History, Paul R. Mendes-Flohr and Jehuda Reinharz, eds. (New York and Oxford, 1980), p. 192.
94. Letter of Rahel, dated June 13, 1814, to Markus Theodor Robert, cited in Hannah Arendt, *Rahel Varnhagen: The Life of a Jewess*, ed. Liliane Weissberg, trans. Richard and Clara Winson (Baltimore and London, 1997), p. 180.
95. *Referate über die der ersten israelitische synode zu Leipzig überreichte Anträge* (Berlin, 1971), pp. 187–88. For translations of portions of the discussions see Moses Mieli-ziner, *The Jewish Law of Marriage and Divorce in Ancient and Modern Times and its Relation to the Law of the State* (Cincinnati, 1884), pp. 50–51.
96. *Referate*, p. 193.
97. James G. Heller, *Isaac M. Wise: His Life, Work and Thought* (New York, 1965), pp. 537–539.
98. *Ibid.*, pp. 570–571. See *American Israelite*, 25:37 (March 14, 1879): 4 and 30:25 (Dec., 14, 1883): 4 and 30:26 (Dec. 21, 1883): 21.
99. David Einhorn, “Die Beschlüsse der Rabbiner-versammlung,” *The Jewish Times*, 1:45 (1869–70):11. Einhorn’s views were expressed in principled disagreement with the opinions of Samuel Hirsch published earlier in the latter’s “Darf ein Reform-rabbiner Ehen zwischen Juden und Nichtjuden einsegnen?” *The Jewish Times*, 1:27 (1869–70): 9–10; 1:28:10–11; 1:30:9–10; 1:31:10; 1:32:10; 1:33:10; 1:34:10; 1:35:11; 1:36:13.
100. Kaufmann Kohler, *Jewish Theology, Systematically and Historically Considered* (New York, 1918), pp. 445–446.
101. For an incisive analysis of the distinctive philosophical interpretations of Jewish universalism espoused by Einhorn and Holdheim and their differing views on the question of mixed marriage see Christian Wiese, “Samuel Holdheim’s ‘Most Powerful Comrade in Conviction’: David Einhorn and the Debate Concerning Jewish Universalism in the Radical Reform Movement,” *Redefining Judaism in an Age of Emancipation: Comparative Perspectives on Samuel Holdheim (1806–1860)*, ed. by Christian Wiese (Leiden and Boston, 2007), pp. 364–370.
102. *Autonomie*, pp. vii and 14–16.
103. *Ibid.*, pp. 137–165. For the debate between Zacharias Frankel and Holdheim regarding the legal nature of Jewish marriage and an analysis of Holdheim’s misconceived attempt to base his theories of marriage as a purely civil act on Talmudic sources and reasoning see David Ellenson, *After Emancipation: Jewish Religious Responses to Modernity* (Cincinnati, 2004), pp. 139–153. Ellenson, p. 153, notes that Frankel cast aspersions on Holdheim’s motivations and argues that, in propounding his thesis, Holdheim was prompted by opportunistic considerations and the desire to advance the cause of political emancipation.
104. *Autonomie*, pp. 26–28.
105. *Ibid.*, p. 154, note 113 and cf., *ibid.*, pp. 258–261.
106. See Emanuel Schreiber, *Reformed Judaism and its Pioneers* (Spokane, 1892), pp. 199–201.
107. In a pamphlet entitled *Zweite Mittheilungen aus einem Briefwechsel über die neueste jüdische Literatur* (Altona, 1844), R. Samson Raphael Hirsch threw the gauntlet:

If you have recognized the Talmud as a falsehood be honorable men and as honorable men gather together the old folios to a great funeral pile on the

grand market of modern Europeanism and let the consuming flames of eternal truth engulf the words of falsehood and deception. If you have recognized the Talmud and rabbis as liars, then, as honorable men, have nothing more to do with them. (p. 9)

Cf., also *ibid.*, pp. 12, 26–27, 35 and 42, for R. Hirsch's critique of Holdheim's misinterpretations of rabbinic law and misleading citation of sources.

In an anonymously published satirical *ad hominem* attack, *Teshuvot be-Anshei Avon – Holdheim ve-Re'av be-Mikhtavim Sheloshah Asar* (Frankfurt am Main, 1845), Pinchas Menachem Heilprin noted that in Judaism marriage had always been under religious rather than civil jurisdiction and taunted Holdheim:

“According to the law of Moses and Israel” we have heard in connection with *kiddushin* [matrimony]. We have never heard “according to the law of the king and the usage of the nations.” (p. 71)

Recourse to arguments from the marriage ceremony in debate with Holdheim was ironic, to say the least, for it was precisely the traditional marriage ceremony that Holdheim disdained. In one of his tracts regarding marriage Holdheim observed, *en passant*, that the standard religious ceremony would soon no longer be necessary nor would one require the customary *huppah*, or bridal canopy. Holdheim's castigated the *huppah* as an unaesthetic, outmoded oriental custom and bitterly disparaged the traditional ceremony. See his *Vorschläge zu einer zeitgemässen Reform der jüdischen Ehegesetze* (Schwerin, 1845), p. 27.

108. *Gemischte Ehen zwischen Juden und Christen. Die Gutachten der Berliner Rabbinatsverwaltung und des Königsberger Konsistoriums beleuchtet* (Berlin, 1850).
109. *Einsegnung einer gemischten Ehe zwischen einem Juden und einer Christin in Leipzig* (Berlin, 1849).
110. *Gemischte Ehen*, pp. 64–65. Cf., the analysis of Andreas Gotzmann, “From Nationalism to Religion: Holdheim's Path to the Extreme Side of Religious Reform,” in *Redefining Judaism*, pp. 58–61.
111. See Immanuel H. Ritter, “Samuel Holdheim: The Jewish Reformer,” *Jewish Quarterly Review*, 1 (1889): 213. See also the discussion of Wiese, *Redefining Judaism*, pp. 336–337. It is interesting to compare this position of Holdheim to the emphasis on absolute freedom of conscience expressed 130 years later by Professor Alvin J. Reines of Hebrew Union College in his advocacy of polydoxy, “Polydox Judaism: A Statement,” *Journal of Reform Judaism*, 27 (Fall, 1980): 47–55.
112. See Schreiber, p. 240 and cf., Michael A. Meyer, *Response to Modernity: A History of the Reform Movement in Judaism* (New York and Oxford, 1990), p. 458, note 91.
113. *CCAR Yearbook*, 19 (1909): 322 and 325.
114. *Ibid.*, p. 174.
115. *Ibid.*, p. 170. For the debate on the issue see *ibid.*, pp. 174–184. This resolution was adopted in 1909 and reaffirmed in 1947.
116. For the heated debate in the 1970's, see “Mixed Marriage: A Mixture of Ideas,” *CCAR Journal*, 20:2 (Spring, 1973): 15–54. Cf., the discussion on changing attitudes in the

Reform rabbinate in Sarna, pp. 361–362 and accompanying notes; Hasia B. Diner, *The Jews of the United States, 1654 to 2000* (Berkeley and London, 2006), pp. 308–309; Dana Evan Kaplan, *American Reform Judaism: An Introduction* (New Brunswick, 2003), pp. 177–179; and Gerald Cromer, “The Quintessential Dilemma”: *American Jewish Responses to Intermarriage* (Ramat Gan, 2004), pp. 18–21.

Obviously, the intense debate in Reform circles reflects the vastly changed sociological reality. For an incisive comment on the extent to which nonplussed acceptance of intermarriage has become the new norm see Ted Merwin, “Fiddler For Millennials,” *Jewish Week*, June 27, 2014, p. 70.

117. David Eichhorn, author of one of the many contemporary books focusing on the problem of exogamy, cites a passage in *Pesikta de-Rav Kahana* that appears to identify the phenomenon that serves to guarantee the sustained Jewish identity of the faithful. He dedicates his book, *Jewish Intermarriages: Fact and Fiction* (Satellite Beach, Florida, 1974), frontispiece, to the wisdom of a Hellenist philosopher Oenomaus of Gadara, who lived in the early years of the common era, and recounts the following tale found in the *Pesikta*:

Oenomaus of Gadara was one of the smartest non-Jews who ever lived. Some of his acquaintances once came to him and asked, “What can we do to get the Jews to intermarry with us?” He said to them, “Keep their synagogues and schools under close observation. As long as you hear the melodious voices of happy children in their synagogues and schools, you are not going to be able to persuade the Jews to intermarry with you. But, if you ever discover that there are no longer any such happy children in the synagogues and schools, you will know that the time has come when you will be able to persuade all the Jews to intermarry.”

The substantive statement is undoubtedly accurate. The problem with the citation, however, is that, while the sentiment is correct, the textual translation, unfortunately, is not. The passage is found in *Pesikta de-Rav Kahana*, ed. S. Buber (Lyck, 1868), p. 121a and in *Pesikta de-Rav Kahana*, ed. Bernard Mandelbaum (New York, 1962), *Eikhah, Piska* 15, I, 254–55. The word *le-hizdaveg*, literally: “to mate,” in the Hebrew original is translated by Eichhorn as “to intermarry.” The word “*le-hizdaveg*” may, however, also mean “to join with evil intent” or “to combat.” Occurring as it does in the context of a description of the strife between Jacob and Esau, the word means “to make war against” or “to overcome.” See the comments of Mandelbaum, I, 254, note 13, on “*le-hizdaveg*”: “*la’amod keneged ba-milhamah* – to oppose in war.” See also the English translation of William G. Braude and Israel J. Kapstein, *Pesikta de-Rab Kahana* (Philadelphia, 1975), p. 279, “Can we take on this nation in battle?” See also, *Pesikta deRab Kahana: an Analytical Translation*, trans. Jacob Neusner (Atlanta, Georgia, 1987), II, 6: “Do you maintain that we can make war against this nation?”

Eichhorn’s text contains an understandable but evident mistranslation. Nevertheless, the lesson he sought to impart is quite valid and, even if that source is

inappropriately cited, the message conveyed is telling. See Rashi's commentary on the very next phrase of Song of Songs 8:10, "I am a wall and my breasts are as towers" in which (on the basis of *Pesachim* 87a) he interprets the allegory as referring to *batei kneset* and *batei midrash*, houses of prayer and houses of study. The clear implication is that the ability to respond resolutely "*Ani homah*" is drawn from "houses of prayer and houses of study that nurture Israel with words of Torah."