

A DOUBLE BOND

The Constitutional Documents of American Jewry

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1992

UNIVERSITY
PRESS OF
AMERICA



Landham • New York • London

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WHAT IS AMERICAN ABOUT THE CONSTITUTIONAL DOCUMENTS OF AMERICAN JEWRY?

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"The average American," U.S. Solicitor General James M. Beck observed back in 1924, "takes scant interest in the nature of the Constitution."¹ The same is true today of American Jews and their constitutions. Although leaders of synagogues, federations, and other Jewish organizations prepare constitutions and keep them up-to-date, the documents themselves are rarely examined. Even historians have generally ignored them.

This is unfortunate, for American Jewish constitutions are often carefully prepared and highly revealing documents that, properly interpreted, can shed light on significant aspects of American Jewish life. Since many constitutions were periodically revised, the documents also offer an unusual window on change over time.

In this book we can only make a preliminary foray into this uncharted territory. This chapter is, therefore, confined to four subjects: Section one sketches the early history of American Jewish constitutionalism, with particular attention to the impact of the Constitution of the United States, signed in 1787 and ratified one year later. Section two examines several constitutions in greater detail to shed light on how they mix American and Jewish elements. Section three looks at how selected American Jewish constitutions have both exposed and responded to communal concerns and problems. Finally, section four offers several generalizations regarding long-term patterns of change in American Jewish constitutions, and what they may mean.

I

The earliest extant American Jewish constitution,² dating back to 1728, is found in the minute books of Congregation Shearith Israel in New York. It begins as follows:

In the Name of the Blessed God Amen

Whereas on or about the Year 5466 [1706] certain wholesome Rules and Restrictions have been made By the then Elders of our Holy Congregation, to Preserve Peace, tranquility and good Government amongst ym [them] and those after them, and as they have Been neglected to be put in due force for some time past, wee now meet with common consent and Resolve to Revive the same with some amendments and additions....³

Five features of this preamble are particularly noteworthy. First, it opens on a timeless religious note, making God a partner to this document which, we are subsequently told, was reached by "common consent" of the signatories. It thus conforms to the pattern of Jewish covenantal and constitutional documents reaching all the way back to the Bible.⁴ Second, it assumes that power is vested with "the Elders," the synagogue elite that formed the adjunct or governing council. The congregation lay no claim to democracy.⁵ Third, it sets forth an unabashedly political aim: "to preserve peace, tranquility and good government" among the *yechidim* (members) and their descendants. Shearith Israel thus saw itself as heir to the traditional European *kehillah* (organized Jewish community), and functioned as a "synagogue-community." Fourth, it admits that a previous constitution, promulgated less than a generation before, had been honored mostly in the breach. There was, in short, a sizeable chasm between law and practice. Finally, it speaks of "amendments and additions," a tacit admission that even the most "wholesome rules and restrictions" were subject to the vicissitudes of time, and required periodic updating.⁶

Nothing in this preamble, or for that matter in the document as a whole, was particularly new. While substantially shorter and different in some administrative details from the synagogue *haskamot* (agreed upon laws or constitution; sometimes called "*ascamot*") promulgated in seventeenth century Amsterdam, London, and Recife, Brazil, the basic patterns of the document and of Shearith Israel's broader communal structure were centuries old, rooted in pre-expulsion Portugal and medieval patterns of Jewish self-government.⁷ Indeed, the document testifies to the continuity of Jewish tradition across time and space. By subscribing to these regulations — including an article declaring that "the *Parnaz* shall be oblidged twice a year to cause these articles to be read in the Sinagog both in Portugues & English" — New York

Jews consciously linked themselves back to their ancestors, who had lived under similar regulations in other diaspora settings.⁸

The era of the American Revolution marked a turning point in the history of American Jewish constitutionalism.⁹ In the wake of the 1787 federal constitution as well as all the new state constitutions, synagogues wrote new constitutions as well. Indeed, they used the term "constitution" for the first time; formerly, as we have seen, such documents were known by the more traditionally Jewish term "*hascamot*." These documents broke from the old Sephardic model, incorporated large dollops of republican rhetoric, and provided for a great deal more popular democracy — at least on paper.

At New York's Congregation Shearith Israel, in 1790, a particularly interesting constitution was promulgated, the first that we know of to contain a formal "bill of rights." The new set of laws began with a ringing affirmation of popular sovereignty reminiscent of the United States Constitution: "We the members of K.K. Shearith Israel." Another paragraph explicitly linked Shearith Israel with the "state happily constituted upon the principles of equal liberty, civil and religious." Still a third paragraph, the introduction to the new "bill of rights" (which may have been written at a different time), justified synagogue laws in terms that Americans would immediately have understood:

Whereas in free states all power originates and is derived from the people, who always retain every right necessary for their well being individually, and, for the better ascertaining those rights with more precision and explicitly, from [form?] a declaration or bill of those rights. In a like manner the individuals of every society in such state are entitled to and retain their several rights, which ought to be preserved inviolate.

Therefore we, the profession [professors] of the Divine Laws, members of this holy congregation of Shearith Israel, in the city of New York, conceive it our duty to make this declaration of our rights and privileges.¹⁰

The new bill of rights explicitly ended many of the colonial-era distinctions between members and non-members, declaring that "every free person professing the Jewish religion, and who lives according to its holy precepts, is entitled to...be treated in all respect as a brother, and as such a subject of every fraternal duty." This was partly lip service: within the synagogue, paying members obtained certain privileges that the unaffiliated were

denied.¹¹ The new system also made it easier for members of the congregation to attain synagogue office. Leadership no longer rested, as it had for much of the colonial period, with a self-perpetuating elite. Symbolic of this change — and of the larger influence that the Constitution had on the congregation — was the new name given to the synagogue's presiding officer. Where from the congregation's beginning he had borne the traditional title "*parnas*," now he was officially renamed "president." Appropriately, the congregation's second-in-command was named "vice president."¹²

An even more democratic constitution was produced in 1789 by the fledgling Jewish community of Richmond, Virginia. The document began with a democratic flourish: "We, the subscribers of the Israelite religion resident in this place, desirous of promoting the divine worship...." It continued in awkward, seemingly immigrant English to justify synagogue laws in "modern" terms:

It is necessary that in all societies that certain rules and regulations be made for the government for the same as tend well to the proper decorum in a place dedicated to the worship of Almighty God, peace and friendship among the same.

It then offered membership and voting privileges to "every free man residing in this city for the term of three months of the age of 21 years...who congregates with us," tried to ensure "an equal and an independent representation" to everyone involved in synagogue government, and allowed even a single dissenting member to bring about a "meeting of all the members in toto" to pass on proposed rules and regulations.¹³

II

The nineteenth century witnessed enormous changes in American Jewish life that Jewish organizational constitutions reflected. America's Jewish population grew exponentially during this period, from fewer than 2,500 Jews in 1800 to about one million a century later, and a whole range of organizations developed to serve them. Practically all of these — synagogues, fraternal organizations, social and cultural agencies, charities and more — produced constitutions early on in their existence, and then modified them as conditions changed.

What interests us here is how these constitutions combined

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Jewish and American elements into a single unified whole. Again, we begin with Shearith Israel which in 1805 rewrote its constitution to conform to an 1801 New York State act "to provide for the incorporation of religious societies."¹⁴ The new text abandoned the flowery language and "bill of rights" of fifteen years before in favor of a more conventional format: eleven general articles plus twelve articles (31 paragraphs) of by-laws. In accordance with "the manner and form prescribed by the act of the Legislature," the constitution, in Article II, provided for six "trustees" and empowered them to act as the new state law specified. Other articles modified the congregation's election rules, introduced the English term "elector" in place of the traditional "*yachid*" (member), and provided that "no poll or income tax shall ever be assessed on the members" — a clear break with Sephardic tradition.¹⁵ But these innovations were carefully offset by a parallel effort to protect other Sephardic traditions. Hebrew terms — *parnas*, *khazan*, *shamash*, *shokhet* etc. — pepper the document and are in all cases spelled out in Hebrew letters. Article III, as if in answer to the previous article, declares that "The fixed prayers the *Torah Ve-ha-haftoreth* [sic] shall forever be read in the Hebrew language, according to the *Minhag Sepharadim*" (the article goes on to permit the Board of Trustees on special occasions to secure "an address, sermon or moral lecture in English"). The by-laws underscore this traditionalism, carrying forward numerous practices rooted in the congregation's past.

A quite different compromise between tradition and change may be seen in the Constitution of the Hebrew Congregation of Kaal Kodosh Beth-Elohim or House of God, Charleston, S.C., adopted in 1820 — the second American synagogue constitution (Shearith Israel's was the first) to be published and distributed as a separate brochure.¹⁶ Jews had first come to Charleston in the last decade of the seventeenth century, attracted by the city's economic prospects and possibly too by its comparatively liberal constitution. By the 1740s the city was the fourth largest in the colonies and its Jewish community was substantial enough to warrant formation of a congregation, founded in 1749. For several decades beginning in the 1790s, Charleston's Jewish community was the largest, wealthiest, and most cultured in the United States. By 1820, when this constitution was issued, the city itself had begun to decline, but Jews still numbered close to 700, fully five percent of the city's white population.¹⁷

What is striking about the Beth Elohim constitution is the

seeming *lack* of American influence that it displays — at least at first glance. The constitution's "Rule 1" declares, "That this congregation be known and continued...according to the *Minhag* Sephardim, as heretofore practised in this city." Under subsequent rules, democracy was curtailed and the congregation's representatives (the "General Adjunta") were given "sole management of all the functions formerly exercised by the people at large." Beth Elohim's new policy-making body was self-perpetuating and literally consisted of the synagogue elders (the average age of identifiable members was 62).¹⁸ Once every four years these elders met to elect their successors, of whom 72 percent (18 of 25) could be previous officeholders. All of this suggests that at least one of the latent purposes of this constitution was to preserve the status quo at Beth Elohim in the face of challenges posed by younger congregants.¹⁹

Yet for all of its evident traditionalism, the Beth Elohim constitution still reflects the impact of surrounding non-Jewish society. The very term used to designate the congregation's ruling body — the "General Adjunta" — borrowed from the state legislature, known in South Carolina as the General Assembly. The document's lack of concern for democracy likewise reflects the surrounding culture. In 1820, according to Charles Sydnor, "local government was thoroughly undemocratic in most of the counties of the South" and "the power to govern reposed far up in the economic pyramid."²⁰ Other features of this document that bespeak the influence of surrounding culture on Charleston Jews include the constitution's formal prologue, the regulation requiring that "all notices in the Synagogue shall be proclaimed in English (Rule XIX)," and the sections concerning intermarriage and conversion.

As the nineteenth century progressed, American Jewish constitutions took on more and more forms borrowed directly from American legal documents. In at least one case, these forms were even translated into Yiddish. The 1889 Yiddish *takanot* of Congregation Ohav Shalom in Cincinnati were carefully (but incorrectly!) divided into "articles" and "paragraphs" — both words spelled out in Yiddish letters — and in practically the inverse of what we saw in the 1805 Shearith Israel constitution, this document dropped many traditionally Jewish terms in favor of their American equivalents transliterated into Yiddish ("membership," "officers," "president," "vice-president," "secretary," "treasurer," "trustees" and so forth).²¹ This was unusual; more commonly,

constitutions carefully altered traditional Jewish practices regarding elections and meetings so as to conform to state laws and local customs, and they abandoned obvious class distinctions in Jewish life, bowing to American egalitarianism.²²

The innovation that makes nineteenth century American Jewish constitutions most distinctive were the rules — some of them embarrassingly long — concerning decorum and etiquette. Such rules were rooted in the medieval synagogue-community where records testify to innumerable efforts to prevent talking in the sanctuary. The frequency of such regulations, one scholar points out, demonstrates that violations must have been commonplace.²³ In the modern period, both Sephardic and German Jews sought to promote synagogue decorum, hoping thereby to improve the image of Jews in the eyes of their neighbors. German Jews were particularly thorough, producing detailed *Synagogenordnungen* filled with elaborate regulations governing all aspects of synagogue order and decorum.²⁴

In America, rules "to promote solemnity and order" were already found in the by-laws of the Shearith Israel Constitution of 1805 (Article VIII). In the 1840s — with the immigration of German Jews, synagogues expanded their rules, producing in some cases full-scale "rules of order." It soon became clear, Leon Jick observes, "that the chaotic, self-governing congregation was to be a training school in propriety."

As early as 1840 [Jick writes] a long-established congregation like Rodeph Shalom of Philadelphia had instituted a schedule of fines for members "who will not behave orderly." As the decade progressed, the demand for decorum became a universal and recurrent theme. By 1848 Bnai Jeshurun of Cincinnati...had passed an extensive proposal "to prevent disorder" in the service. Among the abuses prohibited was "the loud kissing of *tzitzit*." It was also decreed that only the president might call for order, and he was constrained to do so "in a quiet fashion"....Knesseth Israel of Philadelphia...was even more rigorous. In 1852 it passed a series of regulations requiring "orderly dress." No one was to be admitted who was not wearing a "hat"....In addition, members were to enter the synagogue "with decency and without noise" and to proceed without delay to their seats. Other behavior subject to fines included "walking around," standing together, conversation with neighbors, jokes, or "making fun."²⁵

Paradoxically, just as synagogues were engaged in establishing order, their actual authority over members was slipping away. Indeed, some of the most far-reaching innovations found in nineteenth-century constitutions concern rules that disappeared, particularly regulations that had once sought to enforce communal discipline through fines, loss of synagogue honors, and excommunication. To see how radical a change this represents, one need only look back at the *haskamot* of Recife's Congregation Zur Israel (1648) and London's Spanish and Portuguese Synagogue (1663). In both cases, punishments of various sorts were mentioned in over 35 percent of all regulations.²⁶ Shearith Israel's colonial constitutions were less severe, but the congregation still asserted its authority by threatening penalties of various sorts. Even after the Revolution, in Charleston, the Beth Elohim Constitution of 1820 listed penalties for eight different rules violations. But times were changing. The 1824 Constitution of Mikveh Israel in Philadelphia (a congregation that by then faced competition from the new Ashkenazic congregation, Rodeph Shalom) lists no punishments at all in its general articles, and only three in its by-laws: a twenty-five cent fine for missing a meeting, a fine for misbehavior, and a fine for disturbing "the tranquility of the congregation" during worship. In place of traditional excommunication, the constitution provides, in the case of more serious infractions, for "impeachment," complete with a trial before the full congregation.²⁷ This innovation did not spread, and by mid-century fines are the only type of penalty mentioned in most constitutions. They often appear grouped together in a separate article of the by-laws, and usually are imposed for one of three reasons: an unexcused absence (from a meeting, funeral, or some other compulsory event), an unwillingness to accept a proffered synagogue honor or office, or a gross breach of discipline.²⁸ Since the fines could not be enforced, and were subject to challenge by those who spurned the synagogue's authority, it was not long before they too fell into disuse; most were remitted and, in time, repealed.

With church-state separation, the growth of religious voluntarism, the spread of religious liberalism, the decline of the synagogue-community, and the development of competing congregations in all major American Jewish communities, synagogues found their authority severely weakened: they now needed members more than members needed them. This, over time, led to a drastic change in the relationship of synagogues to congregants, for rather than threatening to throw existing

members out, synagogues suddenly had to learn how to attract new members in. Such was the American pattern, and it affected churches, synagogues, and all other "voluntary associations" (the term itself is significant) across the land. By the twentieth century, most American Jewish constitutions depended on members to police themselves, and had discarded all mention of penalties and sanctions except one: that members who failed to pay their dues would be dropped.

Yet even as their authority was ebbing away, voluntary organizations struggled to maintain key aspects of their tradition intact. The constitution of Congregation Brith Sholom, Covenant of Peace in Easton (1842), for example, declared that "The Name of this Congregation shall forever be Brith Sholom Covenant of Peace," and sought to freeze the form of worship "as the form now practised and performed by the congregations of the German Israelites; excepting only that the Psalm *Mizmor ledavid* and the hymn *En kelohenu* shall be sung and not read."²⁹ In its revised constitution of 1871, Charleston's Beth Elohim decreed that "the present *Minhag* Sephardim, Portuguese *Minhag*, shall be continued, and the prayer book now in use still be our prayer book."³⁰ Cincinnati's congregation Ohav Shalom prescribed in its constitution (1888-89) that the congregation "must always pray according to the Sephardic rite, according to the Ari rite." The constitution of the same city's Talmud Thora Society (1890) sought to guarantee that the society "shall be conducted on strictly Orthodox Jewish principles, and in accordance with the Talmud."³¹

To underscore the importance of preserving these principles, constitutions sometimes made amendments almost impossible to introduce. In early nineteenth century Charleston, it required a petition of two-thirds of the subscribing members (exclusive of the members of the adjuncta) just to convene a special adjuncta meeting to consider an amendment, and the amendment could only then become law if two-thirds of the ruling adjuncta voted for it.³² In late nineteenth century Cincinnati, the Talmud Thora Society was even more careful. Aware that even the most stringent constitutional provisions had not proved sufficient to prevent Orthodox institutions in Cincinnati from turning Reform, it devised a procedure that it hoped would be foolproof:

A motion, proposition or resolution to alter, change, abrogate, amend or revise this Article of the Constitution or any section thereof, must be voted upon at three successive regular meetings, but not less than twenty-eight days shall elapse between

any two such meetings, and at least fourteen days prior to each and every of such meetings there shall be served on each member, by leaving with him personally, or with some person of suitable age and discretion in charge of the residence of such member, a notice in writing, signed by the Secretary, stating the motion, proposition or resolution to be proposed and the time and place where the same is to be proposed; the said motion, proposition or resolution shall then only be deemed to prevail, if there shall not be at any one of such three successive regular meetings three votes opposed thereto; but if at any one of the three successive regular meetings there are three or more votes cast in opposition thereto, then the said motion, proposition or resolution shall be deemed lost.³³

What we have then are two parallel and opposing forces — one promoting Americanization; the other, tradition. The tension between them is basic to the whole American Jewish experience. American Jewish constitutions embody this tension, and seek to work out in law what American Jews were simultaneously seeking to work out in life — a guide for living in two worlds at once. Naturally, different constitutions, written at different times, achieved different compromises: some promoted tradition, some acculturation, and most, like the early nineteenth century constitutions of Shearith Israel and Beth Elohim, promoted both. Were American Jewish constitutions lined up together side by side, they would thus traverse a full spectrum, illustrating in yet another way the infinite shadings of American Jewish life.

III

Moving beyond this "grand theme" of American Jewish history, we find that constitutions also shed light on the vexing local and short-lived problems that Jewish communities grappled with. Some of these may appear at first glance to have been altogether trivial, but many turn out to have had deeper significance. An unusual rule found in the code of laws of Congregation Mickva Israel of Savannah (1791), for example, states that "no person shall be called to [the] *seipher* [Torah] in boots." Jacob Marcus reminds us that "a number of the members spent much time on their plantations or in the countryside, inevitably collecting mud on their boots," and the regulation sought to ensure that the synagogue would be treated with respect.³⁴ No less idiosyncratic is Rule XIII

of the 1820 Beth Elohim Constitution, barring anyone called up to the Torah from making "any ridiculous or unusual offering." Given the synagogue's well-known history of contentiousness, one suspects that this rule came in response to some now forgotten form of congregant protest, which the authorities, working within the law, attempted to squelch.³⁵

Constitutions also reveal much about Jewish family and religious life in various communities. The constitutions of both Beth Elohim in Charleston and Shanarai Chasset in New Orleans, for example, include provisions concerning prostitutes. In New Orleans they were buried apart;³⁶ in Charleston (Rule XXIV) they and their marriage partners could be rehabilitated, "after having lived some years, a moral and decent life." Rules concerning intermarriage appear in numerous constitutions, evidence that the problem affected Jewish communities throughout the country. Then as later, however, Jews differed over how best to respond. Beth Elohim took a hardline stance, seeking to prevent intermarriages before they happened. "Any person or persons being married contrary to the Mosaic Law," the 1820 constitution declared (Rule XXIV), "shall themselves and their issue, never be recognized members of this Congregation; and should such person or persons die, they shall not be buried within the walls of the Beth Haim [Jewish cemetery]...." Shearith Israel in New York was generally more lenient, denying intermarrieds full benefits of membership, but allowing them (although not their Christian spouses) to rent seats and in some cases to become electors.³⁷ Shanarai Chasset of New Orleans, where the problem of intermarriage was particularly severe, decided that it was best to be lenient with intermarrieds in an effort to save at least some of them for Judaism. It therefore allowed non-Jewish spouses to be buried within the Jewish cemetery, and specifically stated in its 1828 constitution, "that, no Israelite child shall be excluded from the schools, from the temple or from the burial ground, on account of the religion of the mother."³⁸

As time went on, other issues came to the fore. At many synagogues, attendance became a problem, for congregants had to work on Sabbath and holidays. The constitution of Congregation Ohav Shalom in Cincinnati (1889) thus included among the duties of the president that "most of all, he has to be in shul every Shabbos and Yontiff."³⁹ The growing obsession with death and burial, evidenced both among immigrant and native Jews late in the nineteenth century,⁴⁰ was likewise reflected in constitutional

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documents. The New Constitution and By-Laws of Congregation Aaron, Trinidad, Colorado (1889), devoted no fewer than 24 paragraphs of its by-laws to these concerns, more than were devoted to any other single subject.⁴¹ The Talmud Thora Society of Cincinnati, in its constitution (1890), actually set dollar amounts on how much different forms of memory were worth. For fifty dollars, a member could have five Psalms recited in his memory for a year; for two hundred dollars, the *kaddish* prayer would be said in his memory for a year; for three hundred dollars, *kaddish* would be said for a year as well as "on the ten following anniversaries of his death"; and for five hundred dollars, *kaddish* would be said for a member "both during the first year and on all the following anniversaries of his death, as long as the Talmud Thora Society shall exist."⁴²

In all of these cases, American Jewish constitutions preserve a sense of what was critically important to Jews at different times and in different local settings. The themes tackled in these constitutions, the problems that they sought to resolve and the pitfalls that they attempted to avoid, testify to their timeliness; the laws were in touch with life. For this very reason, nobody expected institutional constitutions to last forever. Many were revised again and again.

IV

A sampling of revisions introduced into American Jewish constitutions over time yields several readily distinguishable (if sometimes overlapping) patterns of change. What follows is not necessarily an exhaustive list, but does classify many of these changes. Broadly speaking, they tend to fall into one of the following four categories:

1) *Changes designed to take advantage of federal and state law.* We have already seen that as far back as 1805, Congregation Shearith Israel in New York reorganized itself into a "body corporate," and rewrote its constitution to conform to "the act of the Legislature, providing for the incorporation of religious societies." These laws offered significant benefits to the congregation, making it possible, for example, for it to receive and convey property and to accept donations as a corporate body. It thus proved well worthwhile for the congregation to change its governing structure as the law demanded.⁴³

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Over the years, Jewish organizations have been governed in a variety of ways — as religious corporations, membership corporations, charitable trusts, or not-for-profit corporations — depending upon their own needs and activities and the vagaries of corporate laws in each of the states. Laws governing tax exempt status have also affected Jewish organizational activities.⁴⁴ The costs and benefits of these laws are reflected in American Jewish constitutional documents, and account for many of the more formalistic changes introduced into them through the years. The American Jewish Committee, for example, had to amend its charter three times in a single decade to take account of changing provisions in the Membership Corporations Law of the State of New York.⁴⁵ But problems aside, the corporate model offered numerous legal advantages to Jewish organizations, and subtly reinforced leadership calls for these organizations to operate in a more "business-like" fashion. By the late twentieth century, this model had become predominant in Jewish federations and major Jewish organizations across the land, and was widely emulated by synagogues and smaller organizations as well.

2) *Changes designed to promote conformity with American culture.* In a multitude of ways, American Jewish constitutions have reflected Jewish accommodations to the shifting sands of American life. Synagogue constitutions of the late eighteenth century, described above, are a prime example. Their language and some of their specific provisions exhibit obvious host culture influence — for all that they also reflect the continuing impact of tradition. The same may be said of Mayer Sulzberger's proposed constitution for the Board of Delegates of American Israelites (1875), with its plan for a bicameral legislature and proportional representation.⁴⁶ Similarly, we have seen how in the nineteenth century the traditional all-embracing synagogue-community gave way to American-style religious pluralism and voluntarism, with attendant constitutional changes. Threats of excommunication and bans against those who sought to start up new congregations disappeared completely.

Americanization, however, was an ongoing process. Every immigrant organization had to experience it anew, while older organizations found that their constitutions had periodically to be updated. Thus the Yiddish constitution of Cincinnati's Congregation Ohav Shalom (1888-89) decreed (Article XV) that "all of the synagogue's books as well as its *pinkas* should be written in the Yiddish language and in Hebrew script." Later, a different hand

added in Yiddish the phrase "and also in the local language"; English had become acceptable. New Hope congregation in Cincinnati, founded by German refugees in 1939, aimed initially "to promote religious life among the Jewish immigrants from Germany." By its second constitution, in 1955, that seemed too parochial for the now more Americanized members. Its mission was therefore reworded and broadened, "to promote traditional religious life and Jewish culture." By the third constitution (1968) there were already provisions for introducing ritual changes, "should changes in this regard be necessary."⁴⁷

That same year, a suburban Conservative congregation in Cincinnati, Northern Hills Synagogue, introduced a quite different provision into its constitution, one that would in one form or another be seen in an increasing number of late twentieth century constitutional documents, Jewish and non-Jewish alike. The new article was entitled "gender" and it declared that "the masculine personal pronoun, whenever used in these By-Laws, shall be construed as including the feminine."⁴⁸ Once again, American culture had changed and American Jews were changing with it. Constitutional documents hastened to conform.

3) *Changes designed to promote and strengthen American Judaism.* What the 1790 Constitution of Shearith Israel called Jews' "duty to themselves and posterity" has been a prime motive behind constitutional and ritual changes throughout American Jewish history.⁴⁹ Indeed, the desire to preserve American Judaism and pass it on to the next generation became over time something of a religious duty. Much as American Jews differed over *how* to preserve and pass on their faith, survival itself became a common goal, a central feature of what would later be called "Civil Judaism."⁵⁰

In line with this, Charleston's Reformed Society of Israelites (1825), in its constitution, justified innovations on the basis of the need "to perpetuate pure Judaism, and enlighten the rising generation on the subject of their Holy Religion."⁵¹ The preamble to the 1861 Constitution of Sinai Congregation in Chicago similarly spoke of "restituting the original spirit of simplicity, purity and sublimity in Judaism, and thus to perpetuate the same and secure its duration."⁵² Orthodox Jews changed the nuances somewhat — the constitution (1902) of the Union of Orthodox Rabbis (Agudath Ha-Rabbanim), for example, talked of "strengthening Judaism" and "improving the state of Jewish education" — but their ultimate aims were the same: to promote new policies that would "preserve"

and "revive" Judaism on American soil.⁵³ Of course, different wings of Judaism, as well as federations and communal organizations, sometimes disagreed over how best to carry out these aims. Debates over ritual changes, intermarriage, conversion, and (more recently) patrilineal descent reflect these disagreements, which often focused on proposed constitutional amendments.⁵⁴ But if constitutions could not bring about unity on these matters, the documents could at least remind contenders that their disagreements largely concerned strategic issues, questions of how best to *achieve* desired goals. The goals themselves were almost universally shared.

4) *Changes designed to preserve and strengthen individual Jewish institutions.* A great many changes introduced into American Jewish constitutions had nothing to do with American law, American culture or Jewish preservation. They focused instead on institutional problems, usually in response to challenges that had not previously been foreseen. An undated amendment to the Congregation Ohav Shalom constitution, for example, declared in Yiddish that "when an officer has been elected against the constitution, the president has the right to appoint a different officer in his place or through a committee without any arguments and you don't need another election."⁵⁵ The specific incident that spawned this amendment has not been preserved, but the wording itself speaks volumes. A problem of a different sort emerged at Congregation Beth Elohim in Charleston. The constitution of 1871 declared that "at all general meetings twenty-one members shall constitute a quorum." Yet two years later an amendment reduced this number to fifteen.⁵⁶ Once again, the reason for this change is not given, but it is not difficult to fathom.

A final and more complicated example of this process comes from the constitution and by-laws of the Savannah (Georgia) Jewish Council.⁵⁷ When first promulgated, about 1944, the constitution defined membership as follows:

The Council shall be composed of one representative of each organization of Jewish men, women, or both in the city of Savannah which has been in continuous existence for at least two years prior to the time of the selection of said representative, and in addition thereto, of twelve members at large elected by said representatives. No member of the Council may represent more than one organization.

In 1946, "continuous existence" was further defined to mean "either locally or nationally." The number of members-at-large was also expanded to "not less than twelve and not more than eighteen in number." A year later this number was expanded again to "not less than fifteen and not more than twenty-one" so that the Council could name three additional members-at-large from surrounding communities "which make contributions to the annual campaign of the Savannah United Jewish Appeal and Federation." At the same time, the rabbi of each synagogue in Savannah was made an ex-officio member of the Council. In 1951, the number of members from surrounding communities was raised to four, and instead of being appointed they were now elected "at the same time and in the same manner as the members-at-large from Savannah." To offset this, the number of members-at-large from within Savannah was raised to a "minimum of twenty." Late in 1952, a further amendment created a maximum number of members at large: "not less than twenty and not more than the number of representatives from organizations."

All of this may at first glance seem like a morass of trivial detail. Closer analysis, however, suggests that each amendment resulted from careful brokering among different power groups. Organizational representatives, donors, rabbis, and Jews from surrounding communities all demanded their share of representation, and over time each of their claims was (at least to some extent) satisfied, thereby neutralizing their potential opposition. The result was not only an appropriately representative Jewish council, but also a stronger and more viable one.

As the Savannah experience indicates, American Jewish constitutions, read over time, have a story to tell. Understanding the story is not always easy, and the effort to read between the lines, as attempted here, is fraught with evident risks. But even if this reading is wrong, it can scarcely be denied that constitutions, properly studied, are of more than "scant interest." Few documents reveal so much about American Jewish institutions and life.

Notes

1. Michael Kammen, *A Machine that Would Go of Itself: The Constitution in American Culture* (New York: Knopf, 1986), p. 4; cf. p. xvii.
2. We know that an earlier constitution had been prepared in 1706, and it is probably safe to assume, as Jacob R. Marcus does, that there had been even earlier ones. See J.R. Marcus, *Studies in American Jewish History* (Cincinnati: Hebrew Union College Press, 1969), p. 44.
3. *Publications of the American Jewish Historical Society* [=PAJHS] 21 (1913), p. 1.
4. See Daniel J. Elazar, "Covenant as the Basis of the Jewish Political Tradition," in Daniel J. Elazar, ed., *Kinship and Consent: The Jewish Political Tradition and its Contemporary Uses* (Ramat Gan: Turtledove, 1981), pp. 21-56.
5. Jacob R. Marcus, *The Colonial American Jew* (Detroit: Wayne State University Press, 1970), pp. 906-911, argues that "a large measure of democracy proved inevitable" in the colonies, constitutions notwithstanding, for congregations were small and members were largely of the same social class. Marcus admits that Shearith Israel, the largest of the North American synagogue-communities, was something of an exception in this regard. In any case, I would argue that the colonial synagogue, like colonial society as a whole, was governed more by deference than by democracy. On this point, see John B. Kirby, "Early American Politics — The Search for Ideology: An Historiographical Analysis and Critique of the Concept of Deference," *Journal of Politics* 32 (1970), pp. 808-838.
6. For the history of Shearith Israel's constitutions and regulations, see David and Tamar de Sola Pool, *An Old Faith in the New World: Portrait of Shearith Israel 1654-1954* (New York: Columbia University Press, 1954), pp. 258-301.
7. Arnold Wiznitzer, *The Records of the Earliest Jewish Community in the New World* (New York: American Jewish Historical Society, 1954), pp. 9-10; Lionel D. Barnett, *El Libro de los Acuerdos: Being the Records and Accompts of the Spanish and Portuguese Synagogue of London from 1663-1681* (Oxford: Oxford University Press, 1931).
8. See the discussion of "Constitutionalism in the Jewish Political Tradition," in Daniel J. Elazar and Stuart A. Cohen, *The Jewish Polity* (Bloomington: Indiana University Press, 1985), pp. 20-26; and Salo Baron's comments in his *The Jewish Community* (Philadelphia: Jewish Publication Society, 1942), II, pp. 30-31.

9. Kammen, *A Machine that Would Go of Itself*, p. 69, argues that the influence of the Constitution on the governance of American organizations was far from uniform. While he notices the Shearith Israel constitution discussed below, he also cites counter-examples, like the Historical Society of Pennsylvania (1824), that did not have a constitution. This author's own sense is that the Constitution's influence was considerable but not long-lasting. As we shall see, by 1805, when Shearith Israel revised its constitution again, it felt free to abandon most of the constitutional conceits described here. Many synagogues, however, did retain the term "constitution" to describe their basic laws. Perhaps because they saw themselves as synagogue-communities, and not ordinary societies, they felt that by-laws alone would not suffice.
10. This section is adapted from Jonathan D. Sarna, "The Impact of the American Revolution on American Jews," *Modern Judaism* 1 (September 1981): 155-156; for the quotations, see Jacob R. Marcus, *American Jewry Documents: Eighteenth Century* (Cincinnati: Hebrew Union College Press, 1959), pp. 154-166.
11. Marcus, *American Jewry Documents*, p. 155.
12. Marcus, *American Jewry Documents*, p. 152; Pool, *An Old Faith in the New World*, p. 264, reveals that notwithstanding this constitution, the term "parnas" continued in regular use. The 1805 Shearith Israel constitution reverts to this latter term, spelled out in Hebrew. *Constitution of the Congregation of Shearith Israel* (New York, 1805), p. 5.
13. Marcus, *American Jewry Documents*, pp. 145-146.
14. *Constitution of the Congregation of Shearith Israel* (New York, 1805).
15. The synagogue income tax or "imposta" was how the Spanish and Portuguese Congregation (Bevis Marks) in London had traditionally collected funds; see Barnett, *El Libro de los Acuerdos*, pp. xvi-xviii and passim. In the eighteenth century, this was changed to an annual "finta" or assessment, which lasted into the twentieth century; see *Ascamot or Laws and Regulations of the Congregation of Spanish and Portuguese Jews...* (London, 1906), pp. x, 1-4.
16. Citations are from the reprint edition published by Barnett A. Elzas in 1904.
17. Marcus, *The Colonial American Jew*, I, pp. 343-348; Charles Reznikoff and Uriah Z. Engelman, *The Jews of Charleston* (Philadelphia: Jewish Publication Society, 1950), pp. 3-71; Solomon Breibart, "The Synagogues of Kahal Kadosh Beth Elohim, Charleston," *South Carolina Historical Magazine* 80 (July 1973): 215-223; Ira Rosenwaike, "The Jewish Population of the United States as Estimated from the Census of 1820," in Abraham J. Karp,

- The Jewish Experience in America* (New York: Ktav, 1969), II, pp. 1-19.
18. Robert Liberles, "Conflict over Reforms: The Case of Congregation Beth Elohim, Charleston, South Carolina," in Jack Wertheimer, ed., *The American Synagogue: A Sanctuary Transformed* (New York: Cambridge University Press, 1987), pp. 281-282.
 19. *Ibid.*, p. 282. For the parallel situation at New York's Shearith Israel in the early 1820s, see Pool, *Old Faith in the New World*, pp. 275-276. The author's understanding of this constitution diverges somewhat from that found in Reznikoff and Engelman, *The Jews of Charleston*, pp. 116-122.
 20. Charles S. Sydnor, *The Development of Southern Sectionalism 1819-1848* (Baton Rouge: Louisiana State University Press, 1948), pp. 38, 52.
 21. "Pinkas," Ohav Shalom Congregation, Cincinnati, OH (1888-89), in author's possession.
 22. See, for example, the comments of Moses Weinberger in Jonathan D. Sarna, ed., *People Walk on their Heads: Moses Weinberger's Jews and Judaism in New York* (New York: Holmes and Meier, 1981), p. 43.
 23. Samuel Krauss, *Korot Bate HaTfilah BeYisrael* (New York: Histradruth Ivrit, 1955), p. 326.
 24. Barnett, *El Libro de los Acuerdos*, p. 9; Jakob J. Petukchowski, *Prayerbook Reform in Europe* (New York: World Union for Progressive Judaism, 1968), pp. 105-127.
 25. Leon A. Jick, *The Americanization of the Synagogue, 1820-1870* (Hanover, N.H.: University Press of New England, 1976), pp. 115-116.
 26. Wiznitzer, *Records of the Earliest Jewish Community*, pp. 58-73; Barnett, *El Libro de los Acuerdos*, pp. 2-13.
 27. *Charter and Bye-Laws of Kaal Kadosh Mickve Israel, of the City of Philadelphia* (Philadelphia, 1824).
 28. See, for example, the 1842 Constitution of the Congregation Covenant of Peace in Easton, Pennsylvania, reprinted in Joshua Trachtenberg, *Consider the Years: The Story of the Jewish Community of Easton, 1752-1942* (Easton, 1944), p. 252; and the 1856 Constitution of Congregation Anshe Emeth in Milwaukee, reprinted in Louis J. Swichkow and Lloyd P. Gartner, *The History of the Jews of Milwaukee* (Philadelphia: Jewish Publication Society, 1963), p. 478.
 29. Reprinted in Trachtenberg, *Consider the Years*, p. 237.

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30. *Constitution of the Congregation "K.K. Beth Elohim"* (Charleston, 1871), p. 12.
31. Ohav Shalom *Pinkas* (1888-89), xerox copy in author's possession; *Constitution of the Talmud Thora Society of Cincinnati, Ohio* (Cincinnati, 1890), p. 6.
32. This procedure, set forth in "Rule XIV" of the constitution, was invoked by the *Parnas* of Beth Elohim in rejecting as "unconstitutional" the 1824 petition of the Charleston Reformers. See the documents reprinted in L.C. Moise, *Biography of Isaac Harby* (n.p., 1933), pp. 60-61.
33. *Constitution of the Talmud Thora Society*, pp. 6-7.
34. Marcus, *American Jewry Documents*, pp. 176, 179.
35. See Mordecai Noah's description of the "confusion and riot" which took place in the synagogue in 1812, reprinted in Reznikoff and Engelman, *The Jews of Charleston*, p. 114.
36. Bertram W. Korn, *The Early Jews of New Orleans* (Waltham: American Jewish Historical Society, 1969), p. 196.
37. Hyman B. Grinstein, *The Rise of the Jewish Community of New York 1654-1860* (Philadelphia: Jewish Publication Society, 1945), p. 375.
38. The constitution is reprinted in Morris U. Schappes, *A Documentary History of the Jews in the United States 1654-1875* (New York: Schocken, 1971), pp. 179-181; cf. Korn, *Early Jews of New Orleans*, pp. 196-197.
39. Ohav Shalom *Pinkas*, xerox copy in author's possession.
40. This is an immensely important subject that cannot adequately be treated here. For contemporary references to "kaddish Judaism" in the late nineteenth century, see *Jewish Advance*, May 13, 1881, p. 4; the "Proceedings of the 1885 Pittsburgh Rabbinical Conference," reprinted in Walter Jacob, ed., *The Pittsburgh Platform in Retrospect* (Pittsburgh: Rodef Shalom Congregation, 1985), p. 111; and Zvi Hirsch Masliansky's comments in his memoirs (New York, 1929), p. 165 [translated in Gary P. Zola, "The People's Preacher: A Study of the Life and Writings of Zvi Hirsch Masliansky (1856-1943)," Ordination thesis, HUC-JIR, 1982, pp. 115-117].
41. *New Constitution and By-Laws of Congregation Aaron, Trinidad, Colorado* (Trinidad, 1889).
42. *Constitution of the Talmud Thora Society of Cincinnati, Ohio*, pp. 14-15.
43. *Constitution of the Congregation of Shearith Israel* (New York, 1805), p. 1; John Webb Pratt, *Religion, Politics and Diversity:*

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- The Church-State Theme in New York History* (Ithaca, N.Y.: Cornell University Press, 1967), pp. 100-101.
44. See Paul G. Kauper and Stephen C. Ellis, "Religious Corporations and the Law," *Michigan Law Review* 71 (August 1973): 1499-1574; and Sharon L. Worthing, "Corporate Free Exercise: The Constitutional Rights of Religious Associations," in James E. Wood, Jr., ed., *Religion and the State: Essays in Honor of Leo Pfeffer* (Waco, Tex.: Baylor University Press, 1985), pp. 167-181.
45. *Charter of the American Jewish Committee, as Amended August 1966*, in American Jewish Archives, Cincinnati, Ohio.
46. Reprinted in Moshe Davis, *The Emergence of Conservative Judaism* (Philadelphia: Jewish Publication Society, 1963), pp. 381-385.
47. Benny Kraut, *German-Jewish Orthodoxy in an Immigrant Synagogue* (New York: Markus Wiener, 1988), pp. 200-221.
48. *Constitution of Northern Hills Synagogue Congregation B'nai Avraham* (April 1968), copy in American Jewish Archives.
49. Marcus, *American Jewry Documents*, p. 150.
50. Jonathan S. Woocher, *Sacred Survival: The Civil Religion of American Jews* (Bloomington: Indiana University Press, 1986), esp. pp. 72-76.
51. Reprinted in Moise, *Biography of Isaac Harby*, p. 61.
52. *Constitution and By-Laws of the Sinai Congregation of Chicago* (Chicago, 1861), p. iv.
53. *Sefer Ha-Yovel Shel Agudat Ha-Rabbanim Ha-Ortodoksim...* (New York, 1928), pp. 24-29.
54. See, for example, the bitter disputes over the issue of mixed seating; Jonathan D. Sarna, "The Debate Over Mixed Seating in the American Synagogue," in Jack Wertheimer, ed., *The American Synagogue: A Sanctuary Transformed* (New York: Cambridge University Press, 1987), pp. 363-394.
55. Ohav Shalom *Pinkas*, Article 13.
56. See the printed copy of the Constitution of the Congregation *K.K. Beth Elohim* (Charleston, 1871), with handwritten amendments to 1894, in the Klau Library of Hebrew Union College-Jewish Institute of Religion, Cincinnati.
57. *Savannah Jewish Council Constitution and By-Laws* (n.d., c.1953), in American Jewish Archives.