

August 11, 2022

Dear Shearith Israel family and Touro Synagogue Affiliates,

Tisha B'Ab 5782. Covid-19 numbers are no better this week than last. Because of our announced and implemented safety precautions, however, close to 200 congregants and friends comfortably attended Saturday evening Tisha B'Ab services. It was the largest number of congregants and friends we have hosted for Tisha B'Ab in some years. The happiness of our saddest day continued after evening services, when 100 stayed for the Rabbi's late talk. Close to 40 came and stayed for the nearly five hours of communal mourning Sunday morning. Because of the health exigencies still with us, we made a livestream of our services available to our congregants in need.

My writing skills are not up to the task of describing how our services on Tisha B'Ab actually transport those who participate. The Sanctuary and all its appurtenances are in black. That is exceptionally moving in itself. But the true portkeys are our chanting of Lamentations and our *kinot*, or the dirges we sing together. The melodies of the *kinot* are, as Beth puts it, both haunting and beautiful. They are mournful, soulful, yet with a dash of hope. The one *kinah* on page 170 of our dedicated prayer book for Fast Days, containing the refrain, "the sword devoured the remnant of Israel", or *shearith yisrael*, is not the most melodic but, you will understand, is of great poignancy to those of us sitting in the Remnant of Israel chanting it.

David Sable, uncharacteristically sermonic, hoped that we would mix mourning with personal kindness. We *do* greet people in the afternoon of Tisha B'Ab, when the black coverings are no longer draping the ark, *Teba*, *rimonim*, and candlesticks and are replaced with resplendence and light. We were one community on Tisha B'Ab. It was wonderful. As a community, we did, as it were, really

Well over the fast

(Reverend Edinger and Estelle Freilich both told me that the phrase, apparently new to me, has been said in our congregation *forever*.)

Napoleon, too? Jack Schenker retells the story that Napoleon, entering a darkened synagogue on Tisha B'Ab, and hearing that the Jews were still mourning the destruction of their Temple and loss of sovereignty some eighteen centuries earlier, said,

A people that cries these past [centuries] for their land and temple will surely be rewarded.

As Jack knows, the story is apocryphal. I'm prepared to give three inflation-adjusted points for one primary or even a reliable secondary source supporting the quote. I quoted a similar statement attributed to the Dalai Lama that actually may have some factual support (see [email of Aug. 19, 2021](#)). Even if both or neither of these great leaders made the comment, the point is still right. Our Congregation did its part in continuing the lasting observance.

When We Did Stop at Something. Lew Bateman, minyan mainstay and happily back with us from his other abode in North Carolina for a while, mentioned something about a prior Talmudic discussion that prompts the following in his honor. You likely have not missed my mentions of our collective Daf Yomi march through the Talmud as much as I have. We've been busy with other topics.

We began Tractate Ketubot about five weeks ago. Named for its extended discussions of the meets and bounds of a *ketubah*, or Jewish marriage document, the Tractate is a fun and challenging potpourri of what are called "Shas Topics" ("Shas" being a shorthand for the entire Talmud).

In the past couple weeks, as we ended Chapter Two and began Chapter Three of the Tractate, the pages have involved issues of witness testimony. It's a topic dear to my heart – at least dear to my day job. Comparisons between the presumptions, assumptions, and burdens of persuasion and proof between Talmudic and Common Law would be fascinating, and I'm willing to give two points for a great book/article reference on the subject. Now, I want to address an undersized point with an oversized message appearing on page 27b.

There, the Talmud treats a case whether to believe witnesses who, fearful of the strength and power of one of the litigants "A" (he is called "violent"), refuse to show up to testify for the other litigant "B". Assume that in the case it is B who bears the burden of proof – meaning that, in the absence of any evidence, or if the evidence is in equipoise, B loses. Without the witnesses, who are afraid to come, B can't win. The Talmud's fix, according to Rav Hisda: Reverse the normal burden of proof and place of burden of proof instead on the allegedly powerful litigant A. A objects to shifting the burden of proof to him. His objection is overruled, falling on deaf ears; after all, he may be a thug, intimidating witnesses. Because the burden is now on A, then A, in order to win, will have to call the same witnesses to testify to the issues in the case.

How does that help the problem, you might ask? After all, won't the witnesses, when called to testify by powerful A, just toe the line and give the testimony that they think A will want the Tribunal to hear? The Talmud's answer is that it does indeed help – and it helps because, in that society, intimidated witnesses might well not show up (remember they refused to show up for B), but they won't affirmatively lie once they are on the stand testifying. The Talmud's solution is brilliant and surely rivals the best solutions that modern legal and game theory can come up with (the problem or variations come up a lot in game theory – for two points, who has a good example?).

As the Talmud itself points out, Rav Hisda's shifting of the burden of proof from B to A works only in a case where recalcitrant witnesses might not show up but will not affirmatively lie if they do show up. Do we live in such a world today? Do people in our world stop at something? Or do we live in a world where all too often people bent on power or winning will stop at

nothing. When you stop at nothing you are nothing, you have nothing, and you will be remembered for nothing. Stop at something.

Built Back Better. Sad and happy went for a walk. They met a new challenge:

Sad: Stolpersteines. Barbara Reiss and Dr. Susan Lobel each had beautiful things to say about these memorial medallions last week. Francine Alfandary adds this thought from her personal family history:

Paris was very resistant to stolpersteines. The first one was installed just a couple of months ago. The honoree is our cousin Victor Perahia, who was deported and held at Bergen Belsen with his mother. . . . Victor is alive and well and attended the ceremony.



Happy: Summer Tunes. Just in time for Shabbat Nahamu, the long-awaited, community-generated *Definitive Shearith Israel Summer Song List* follows at the end of this email and will be separately available on our website. If you made a (good) suggestion, and don't see it, don't shoot the piano player; just email me, and we will get it on the list. I've gotten exactly zero offers to help create a Spotify list of these fun and great songs. Anyone?

A New Challenge: Tithing the Tith. We have talked before about the brilliance of our religion's expectation that we each give to charity 10% of our earnings. The duty, I feel, does far more good to the giver than those who receive it; it also creates a community of caring. Today I want to announce a related challenge. The request, though, is for something infinitely more valuable than our earnings: I speak of our time.

We are asking all of us to devote some of our precious time to doing something for our community. Asking for 10% of our time would be unrealistic. All we are seeking is 10% of the 10%, or *tithing the tithe* (I have no link to a tithing the tithe song. If you want one to hum something, however, I have talked about Cole Porter's *Begin the Beguine* ([email of Jan. 7, 2021](#)), and here is an unforgettable rendition [by clarinetist Artie Shaw](#)).

The ask is simple to make, initially hard to carry out, but once in the swing will be of inestimable value to those doing the tasks and those benefiting from them. Take 1% of your waking time, about 60 minutes a week, and do something new to help our community. Come and help make minyan once or twice a week. We have congregants in mourning, and we need to be there for them to say Kaddish. Or donate a little time to helping us greet congregants and guests at services. Or open your home to guests a little more. If we all do just a little, we will accomplish quite a lot. By the way, if you want to take 60 minutes a week to help another community, tell us about that too; maybe it will inspire others to do the same thing here. Email in your undertakings or suggestions. I will tell others, or not, as you wish. Let's tithe the tithe.

We have seven weeks to Rosh Hashana, just over eight to Kippur. We are embarking upon a time when major personal reboot opportunities can succeed – just read the incredibly uplifting *haftarot* between now and Rosh Hashana. We can untwist twisted roots (last week I promised the link to Elton John/Bernie Taupin's incomparable [Grey Seal](#)). We can transform ourselves and our community a few minutes at a time.

The DSISL

[Here it is!](#) We are well over the fast (now a *triple* entendre!), so great R&R music needs to be back in our lives. Note: No regrets, people, and no emailing me telling me that one or another aren't great, or aren't summer songs at all. These all made the list fair and square(ish).

Enjoy – and thank you to the over 50 congregants and friends contributing entries. It's a communal effort rivaling Paved Paradise.

WAIT: Another contest: Now rank these! No points. Just joy in listening.

Note: As most of you probably read, Olivia Newton-John, one half of the singing duo of the 1978 smash hit *Grease*, passed away on Monday. In her memory, The Forward reprinted [this 2019 article](#) about her Jewish heritage and influences, including the story of her grandfather who fled Germany in 1933.

Thank you all. Bless us all. Shabbat shalom.

Louis Solomon, Parnas