



Volume 3. From Vormärz to Prussian Dominance, 1815-1866

Excerpts from the Pamphlet by Gabriel Riesser proposing the Emancipation of the Jews (1831)

In his published response to Paulus, *Defense of the Civil Equality of the Jews with Respect to the Proposals of Mr. H.E.G. Paulus* (1831), Gabriel Riesser (1806-1863), a Hamburg lawyer and Vice President of the Frankfurt National Assembly, challenged the basis of Paulus' ideas with regard to the emancipation of the Jews. Christian convictions, Riesser argued, were not a precondition for citizenship rights.

The civil employment of the Jews.

A third point that Dr. P. advances against the Jews from the standpoint of the public interest is the civil employment of many of them, commerce, and the way they engage in it. This subject – viewed from a purely legal standpoint, from simple principles of national economy that look toward general utility – leads to the simplest of legislative results, yet unfortunately it often gets confused because of interference from foreign religious (or, as Dr. P. would like to call it, national) connections, to which is frequently attached a tendency that advances the interests of the few who hope for advantage from excluding the Jews from competition* – at the cost of consumers as a whole who stand to gain from that competition, since they are absolutely authorized to choose freely – and which [tendency] attempts to disguise this intention under all manner of pretenses.

[. . .]

But it is laughable, [. . .] as if commerce were something special and especially damaging for those Jews who engage in [the kind of] commerce legally permitted to everyone – since there are penal laws for the illegal kind, which are applicable to Jews and Christians alike. Here Dr. P. is talking about things that he once heard discussed from afar, without connecting this to a clear conception. He obviously has no idea what he is talking about when he, e.g. on p. 40, portrays the conclusion of business deals between purchasers and sellers, the brokerage business, as something corrupt, [and] quite peculiar to the Jews. Anyone who has observed the course of business deals in commercial cities even for a few moments could have told him that all

* A depiction of this tendency – so shrill that I, at least as far as the honorable profession of university teacher is concerned, would reluctantly want to subscribe to it – may be found in the little publication that Dr. P. takes as his point of departure: A word on the emancipation of the confessors of the Mosaic belief in Baden by a Christian Badenser. 1831, p. 26. (All footnotes are original.)

commercial deals are concluded by brokers, and that e.g. in Paris the profession of the commodity and exchange brokers (*courtier de commerce, agents de change*) is highly esteemed.

Dr. P. also talks a lot about "hagglers," and he defines them on p. 47 as "middlemen making an indeterminate usurious profit by dealing in every easily grabbed product." I leave it up to practical statesmen to decide whether this concept has the requisite definiteness to serve as the foundation for a law. But here, above all, there is a need to ask the simple question that can alone lead to a result, and concerning which Dr. P. nowhere provides any proper information, which brings the matter into a confusing chiaroscuro: is the kind of commerce described here permitted or forbidden to Jews and Christians? For it has to be assumed that no civilized* state's legislation would any longer allow the former to do something that it would forbid the latter to do: and should anything like this exist anywhere, it would be the duty of legislation to immediately tear out this weed at the roots. – Now if it is permitted, and if those who engage in it stay within the limits of what is legal, then it is nonsense to object to the fact that they are practicing a profession that is legal and open to them. But if it is forbidden, as usury is everywhere, and as peddling is in some countries, for Jews and Christians, then those who do it make themselves guilty of transgressing the law, and so they should be punished for this with the same penalty, but do not let those pay for their offense who have nothing in common [with them]. Tepidness about applying existing laws, negligence by judges and civil servants with the result that the real transgressors go unpunished – are [these] not [things] that a legal system with a sense of honor would aspire to advance as grounds for legislation? And where such tepidness and negligence is shown toward certain violations, is it not at least equally exhibited toward Christians and Jews? Is it not so that when a Jewish usurer goes unpunished, the same is the case with the Christian one?

[. . .]

From the other side, the opponents of civil equality for the Jews, especially in those countries where the question at hand is still freedom of occupation, make it no secret that they view the exclusionary laws as a means of inhibiting competition!** It is a sad phenomenon, native only to Germany, that where the most noble freedom, the highest moral interests of humanity are concerned, such pitiful considerations are capable of exercising influence. Never has a Briton, never has a Frenchman dared to advance such arguments: and, truly, never would a German have dared if there were laws for all of Germany! Only in the narrow circles of the tiniest of states have such considerations ever been capable of acquiring preponderance even for a moment.

* A state in which this sort of thing occurs would have to be stricken at once from the ranks of the civilized.

** I mentioned earlier the Württemberg pharmacist who is especially keen to prevent the Jews from becoming pharmacists. The character of that opposition has really been described with triumphant force by the Minister of Interior to the Württemberg Chamber. Compare the above mentioned minutes, p. 45-46.

[. . .]

4. The problem, therefore, with whose solution on paper Dr. P., if it pleases him, may well continue to occupy himself, has long since been solved in life,* and the question at hand is not whether legislation will do well to acknowledge the Jews as belonging to the nation of the state (following Dr. P's expression), but whether it has already done well in acknowledging them as such, and whether it should allow the simple consequences necessarily resulting from this acknowledgment to become operative. This question has to be discussed now. What Dr. P. adduces is tantamount to having the Jews live according to their own laws. To be clear, nothing more is required than to separate those laws that touch on civic matters from those that, according to the people who observe them, emanate solely from religion. Jews following their own laws about marriages,** divorces, inheritances, contracts, and similar relations certainly do not exist in even one twentieth – and, for some courts deciding on these laws, not even in one fiftieth – of Germany any longer.*** Where this kind of court still exists, its miserable existence is allowed only by the unforgivable inertia of its legislation, which needs to shy away from stirring up the old mess, so as not to be reminded of the claims of the law and of political prudence with respect to the Jews altogether. But everywhere, Jews as a whole will gladly give up everything relating to that if, in exchange, they would be granted only limited civil rights, not to mention full legal equality. But in the states where the Jews are citizens, such peculiarities may not, in any event, be tolerated in any fashion, since they thoroughly contradict the status of the citizen; but general experience also shows that the Jews will never and nowhere put down obstacles in the way of their abolition.

5. But there are regulations of a different kind that go by the name of laws – especially those concerning circumcision, the Sabbath, and dietary prohibitions – similar to Catholic regulations about fasting, known as fasting laws. These regulations, as a whole, are viewed by the Jews as emanating from religion, and even those who depart from them, whose number everywhere is quite considerable, and who hold that their religion, at a higher level of development, could do without these formalities, are not of the view that, from the beginning, these regulations have borne relationship to their religion. Now Dr. P. regards this as a fundamental error and is of the opinion that these laws, as early as Moses, were something purely political, a product of purely national legislation that was quite alien to religion. We would like to concede this point: on what, then, is our error based? Most certainly on the fact that we regard as religious duties obligations which are nothing of the kind, [and] not that we practice them after we have acknowledged them as alien to religion, and belonging to political legislation. Dr. P. commits a peculiar error by

* The states in which the Jews are really not yet political citizens are precisely the above-mentioned ones, in which they also lack freedom of occupation. Since the state of affairs in these [countries] is quite different from what Dr. P. represents, since there is still a lack here of that which he himself wants to have conceded, and which he believes to have been conceded, his line of reasoning does not apply to any single state.

** It goes without saying that, to the extent that marriage is a purely religious action according to the laws of the state, it must be performed according to the regulations of the religion of the contracting parties.

*** Incidentally, these courts, where they existed, were to be viewed from the standpoint of compromise courts, rather like the *audientia episcoporum* for civil matters and Justinian law.

foisting upon us without notice his "more correct" view, while he so very much regrets our sorry conceptual confusion. That we* observe these laws because we regard them, contrary to Dr. P.'s opinion, as religious,** – and not, as Dr. P. twists the matter, "because we believe we are required by our religion to remain a special nation" – is something that emerges most clearly from the way that we, in all the relationships that we regard as belonging to civil law, regard ourselves as obligated to obey unconditionally the laws of the land, while none of us believes himself obligated to deviate from those other laws in general and for the sake of the state.

[. . .]

9. This observation leads me to the actual turning point in the whole theory of Dr. P., without which it, together with all of its parts, has to be thrown overboard, namely that he turns conversion to Christianity into a (and, in fact, basically the only) guarantee of German nationality; in other words, he turns a religious act into a political one. It is incomprehensible that a man who has advocated the separation of worldly and religious matters throughout his whole life could go astray like this, that he could so completely forget the meaningful byword: "Render therefore unto Caesar the things that are Caesar's, and unto God the things that are God's." How? Should conversion to Christianity mean not the acknowledgment of its teachings, its holiness, its divine origins, but instead the desire to have equal rights with other citizens? I believe it was correct when I earlier characterized such twists and turns under the name "Jesuitism of Enlightenment." Only a profound contempt for religion can want to degrade it to something alien to what it is. Only a high degree of disdain toward the state can guarantee that belonging to it requires not the fulfillment of duties, not the obedience toward its laws owed to it by the citizen, but rather an act that belongs and must belong to a completely different sphere. Religion has its belief, the state has its laws; professing belief leads to religion; obedience towards the laws makes a citizen of the state; but confusing the two leads to misjudging both, to foolishness and lies.*** What would Dr. P. say if a Catholic state were to exclude Protestants with the justification that they should be required, by converting to Catholicism, to join the "nation of the state" consisting of Catholics? Would he not raise a mighty cry about intolerance, about mixing up the authority of the state and the church?+ But if he regards his church as

* I say we here – without considering, as mentioned earlier, that many of us, according to our religious conviction, believe that we are absolved from these laws – because this diversity belongs completely to the area of religious opinion, and it has never occurred to the latter that they would come so much as a hair closer to the state by not observing those laws.

** In regard to circumcision it is curious that Dr. P. cannot help conceding (p. 14 and 26) that it originally had a purely religious significance when it originated with Abraham. But he has not adduced the smallest bit of proof for an alleged metamorphosis by dint of which this ceremony should now be viewed as a national insignia by the Jews.

*** It is a strange contradiction that Dr. P. bitterly accuses me of ascribing the conversion of so many to motives other than genuine religious conviction, and yet now he justifies and completely approves these other kinds of motives.

+ This is by no means a mere assumption. It is well known that, in France, for as long as one was looking for pretexts to persecute the Huguenots, their isolation, their separation from the mass of the nation, was [an argument] asserted against them, and just a few years ago I read an essay in the Munich [magazine]

having permission to do everything, because it seems to him to be the better one, then he should not forget that everyone else is entitled to the same opinion.

[. . .]

10. There is only one baptism that confers nationality: this is the baptism of blood in the common struggle for freedom and fatherland! "Your blood has mingled with ours on the battlefields," those were the commanding words with which the last faint impulses of intolerance and aversion were felled. German Jews, too, have acquired this valid claim to nationality with full legal force. Everywhere in Germany, the Jews are obliged to military service; they were everywhere [obliged to it] even before the Wars of Liberation. In both wars Jews fought, both as volunteers and conscripts, in proportionate numbers, among the ranks of the Germans; in the armies of the different states, not an inconsiderable number acquired positions of honor through personal distinction. It is a notorious fact that, e.g. in Prussia during the course of the war, several such cases arose, and that since the time of peace, on the other hand, no such advancements have been allowed to take place, but instead baptism was stipulated as an indispensable condition for every promotion:* irrefutable proof for the dual truth that Jews really distinguished themselves in the war for the German Fatherland, and that they are only capable of receiving promotion by real distinction. And the legal possibility of advancement is precisely the thing from which the laws of several German states, e.g. Baden, exclude the Jews, and this exclusion is precisely one of the points at whose abolition the effort on behalf of civil equality is most decisively aimed. There has never been any disdain for placing the names of Jews next to those of Christians on the monuments erected to honor the fallen soldiers in the Wars of Liberation,** and there would not be any in the future if the German Fatherland were to call its sons to arms once more! But the reward of honor for the bravery of its sons, if they are not of the Christian faith, is something that the Fatherland has not conferred in many places! The orphans of the fallen do not have the consolation that their father offered up his life for the Fatherland to which they belong, in the full sense of the word, as citizens with equal rights! The last sigh of the dying is not lightened by the thought that their orphans are children of the Fatherland that bereaved them of their father; he can only bequeath them a stepfatherland that might view them, where their rights are concerned, as foreigners! That is current law, those are the laws that one is making the effort to justify before your conscience, German legislators, by means of artificial phrases. Ask your conscience: it will answer you!

Eos in which it was supposed to be proven that the Protestants had been beaten to death during [the] St. Bartholomew's Night [Massacre] not as unbelievers, but as anti-nationals!

* I beg to hold this fact and similar ones in mind regarding the question that Dr. P. poses on p. 97 about "whether, for many years now, there has been any example of one of the sanctioned churches having attempted to make Jews into converts by offering advantages?"

** With horror a friend told me that he had seen names of Jews among the names of the fallen in Lübeck in the Marienkirche. After the Wars of Liberation, you see, this city had driven out the Jews who had moved into the city at the time of the French occupation; those unfortunate ones had therefore purchased the misfortune and shame of their co-religionists and family members with their blood.

Source: Gabriel Riesser, *Vertheidigung der bürgerlichen Gleichstellung der Juden gegen die Entwürfe des Herrn Dr. H. E. G. Paulus: den gesetzgebenden Versammlungen Deutschlands gewidmet* [*Defense of the Civic Equality of the Jews with Respect to the Proposals of Herr H. E. G. Paulus: Brought to the Attention of the Legislative Assemblies of Germany*]. Altona: Johann Friedrich Hammerich, 1831, pp. 25, 29-31, 33-4, 42-5, 53-4, 56-7.

Translation: Jeremiah Riemer