The problem to be dealt with here can be stated without much difficulty. The term da'at torah, i.e., “the view of the Torah,” occurs only once in the Babylonian Talmud, and is there contrasted with da'at nota, that is, a scholar’s personal view. It follows that da'at torah signifies any “documented halakhic decision.” In contemporary usage, however, the term has come to mean a “pronouncement of the halakhists ex cathedra,” made binding upon religious Jewry and with its authority based simply upon the general prestige conferred upon the halakhists. Scholars studying this shift in the term’s meaning have usually been asking such questions as how and when the change occurred and, given the fact that the new meaning so obviously deviates from the traditional role of the halakhist as a mere interpreter of the sources, how it was being justified. For their answers they have taken to surveying the relevant sources – with what results we shall see below.\(^1\)

My approach here will be a different one. My main question is: What purpose does this peculiar use of the term serve? Obviously it is meant to give legitimacy to those occurrences when halakhist function in capacities that lie outside the realm of halakhic procedure. If we grant that social or political changes often appear long before an adequate term to describe them has been found, our main interest becomes, not when the term da'at torah came to be accepted in its new meaning, but when the halakhists first began functioning in this novel capacity. I shall therefore present two small case studies that reflect such a situation. One is the history of the well-known Rabbinical Council of Agudat Israel. The other is lesser known, if at all, and concerns the role the rabbis played in the struggle of Hungarian Orthodox Jewry for its organizational independence. Since I recently published a monograph on the subject, I shall here suffice by giving only those details that are directly relevant to the topic at hand.\(^2\)
Hungarian Jewry was emancipated in 1867 by a special law that the newly established liberal government promulgated in the wake of the political compromise with the Austrian authorities. By then the nearly half a million Jews who had been exposed to the process of modernization were deeply divided about the consequences of emancipation in terms of Jewish accommodation to the new situation. The so-called Neologs, to demonstrate their willingness to integrate themselves into the state and surrounding society, even went so far as to alter their religious institutions in more or less visible fashion. These changes, although of only slight halakhic significance, antagonized the Orthodox, causing continuous tension and struggle in most communities. However, the Orthodox were themselves divided in their reaction to the situation. One trend, especially prominent in the northeastern part of the country, aimed at retaining all the external signs which set Jew apart as a recognizably religious-ethnic species. Accordingly, a group of rabbis led by Hillel Lichentenstein declared in 1865, i.e., two years before the emancipation, that any individual or community who introduced any change (for instance, preaching in any language other than Yiddish) would be regarded as a heretic. Hillel Lichtenstein had been a student of the Hatam Sofer in Pressburg, and saw himself as carrying on the legacy of his master in his new environment in the north of the country. But whatever the intention of the Hatam Sofer might have been, the fact is that the western part of the country and Pressburg itself developed in the opposite direction. Here even observant Jews went through a measure of acculturation. Yiddish was gradually supplanted by German or Hungarian, the heder replaced by modern schools. The Orthodox attitude to these changes was to differentiate between the essentials of tradition – that which is halakhically commanded – and the merely customary. A novel kind of Orthodoxy was fully and consciously developed in Germany, where the process of acculturation was universal and complete. Its main ideological proponent, as is well known, was Samson Raphael Hirsch. Its slogan became a new term, which he may have invented himself, gesetzestreue, that is, loyal to the law. The term gained currency in western Hungary as well, with Hirsch’s influence in that area well documented. The affinity between the developments in both places is further revealed by the fact that in 1851 the community of Eisenstadt decided to appoint as its rabbi Azriel Hildesheimer from Halberstadt, in Germany. Outspoken partisan of this new variety of Orthodoxy, Hildesheimer’s presence in one of the important communities in western Hungary for almost two decades could not but strengthen the trend he represented. These two Orthodox trends, the one connected with the name of Hillel Lichtenstein, the other with that of Hildesheimer, were obviously in deep conflict with each other. This conflict turned not only on the possibility of acculturation, but also on its religious legitimation; that is, the attitude towards rabbinic authority. Hillel Lichtenstein presented himself as a faithful defender of the entire tradition, whether evident in positive or negative requirements, and was prepared to do battle to support its obligatory nature. Well aware knowing that their