



Izzy Einstein examining his latest find

(Courtesy of Hannah Sprecher)

“Let *Them* Drink and Forget *Our* Poverty”: Orthodox Rabbis React to Prohibition

Hannah Sprecher

The Eighteenth Amendment to the United States Constitution, which forbade “the manufacture, sale or transportation of intoxicating liquors,” went into effect on January 16, 1920. Its enforcement was provided by the National Prohibition Act, popularly known as the Volstead Act, whose thirty-nine sections created the mechanisms for translating the amendment into functioning law. Among other things, it set up an enforcement unit, subsidiary to the Bureau of Internal Revenue, for the purpose of apprehending the law’s transgressors as well as regulating the allowed use of alcohol in industry, medicine, and the sacrament.

The allowances for the sacramental use of alcohol were the result of a compromise the prohibitionists were compelled to make to ensure passage of the Volstead Act. Since both Christians and Jews required the use of alcoholic beverages (specifically wine) in their age-old rituals and customs, the drafters of the act had been forced to recognize that the First Amendment right of freedom of religion was in some measure in conflict with Prohibition. In order to prevent opposition from religionists, the drafters of the Volstead Act permitted the use of wine for “sacramental purposes,” specifying in Section 6 that:

Nothing in this title shall be held to apply to the manufacture, sale, transportation, importation, possession, or distribution of wine for sacramental purposes, or like religious rites, except Section 6 (save as the same requires a permit to purchase) and Section 10 hereof, and the provisions of this act prescribing penalties for the violation of said sections. No person to whom a permit may be issued to manufacture, transport, import, or sell wines for sacramental purposes or like religious rites shall sell, barter, exchange, or furnish any such to any person not a rabbi, minister of the gospel, priest, or an officer duly authorized for the purpose by any church or congregation, nor to any such except upon an application duly subscribed by him, which application, authenticated as regulations may prescribe, shall be filed and preserved by the seller. The head of any conference or diocese or other ecclesiastical jurisdiction may designate any rabbi, minister, or priest to supervise the manufacture of wine to be

used for the purposes and rites in this section mentioned, and the person so designated may, in the discretion of the Commissioner, be granted a permit to supervise such manufacture.

Prohibition and the Jews

Despite the allowances made for their religious needs, Jewish leaders were unnerved by the passage of the Eighteenth Amendment. They were well aware of its emotional and ideological background, the soil from which it grew. According to the historian John Higham, Prohibition was only one manifestation of a legal and ideological struggle mounted by America's white Protestants to restore the nation's religious heritage and racial purity.

A people whose roots were in the towns and farms of the early republic saw great cities coming more and more under the control of strangers whose speech and values were not their own. A people who unconsciously identified Protestantism with Americanism saw Catholic voters and urban bosses gaining control of the industrialized states. A people whose religion was already badly damaged by modern ideas saw the compensating rigors of their life-style flouted in the saloons and cabarets of a more expressive, hedonistic society. In reaction, the older America mounted a cultural counteroffensive through the prohibition movement, immigration restriction, and a sharpened racism.¹

Jews became a special target of these reactionary forces. They were seen as "part-banker controlling the world economy, part-Bolshevist subverting the nation, and a racial pariah destroying Anglo-Saxon America."² Ideas of this kind gained widespread acceptance through the dissemination of *The Protocols of the Elders of Zion* and Henry Ford's anti-Semitic propaganda in his newspaper, the *Dearborn Independent*. It was in this climate of uncertainty and fear for Jews that America entered the Prohibition era.

Of course, once Prohibition became law it was the obligation of all Jews to comply, first because of their obligation as citizens of the United States to obey its laws, and second, under the religious obligation of *dina demalkhuta dina*, "the law of the land is the law." This is a third-century talmudic ruling which mandated that Jewish communities in exile accommodate to the legal systems of their host states whenever compliance does not involve violating Jewish religious principles.³

At the same time, the very idea of entirely prohibiting alcoholic beverages in order to guarantee temperance struck Jewish leaders as

unnecessary. After all, Jews had a two-thousand-year documented history of widespread use of alcoholic beverages, yet alcoholism was virtually unheard of in the Jewish community.⁴ Judaism frowned upon the notion of total self-denial: God's gifts to man were meant to be enjoyed—in moderation—and among those gifts was wine. Religious teaching discouraged asceticism as unnatural, as a deliberate refusal to accept God's bountiful goodness.⁵

More important in Jewish life was the need for wine in the performance of religious ritual. The onset and end of Sabbaths and holy days were marked by a blessing recited over a cup of wine. Jewish rites of passage, such as circumcisions, marriages, and in the talmudic period, mourning rites, were sanctified with special benedictions pronounced over wine.⁶

Thus Jewish leaders faced a serious dilemma. On the one hand, the supply of wine for religious purposes had to be maintained. On the other, they had to ensure that neither they nor their community were seen to be undermining the Volstead Act, for widespread evasion of the law would only confirm the nativist perception of the Jew as an indigestible foreign element in American life. The degree to which Orthodox religious leaders were successful in meeting these challenges has never been adequately examined.⁷ The behavior of America's Orthodox rabbis during Prohibition and their response to Section 6 of the Volstead Act will be the major objective of this study.

Conflicts over the Sacramental Wine Privilege

To provide the wine necessary for religious rituals, rabbis had to operate in accordance with the rules set up by Section 6. The first requirement, then, was to determine who would be considered a rabbi in the view of the Prohibition authorities. Thus it became necessary for rabbis in the three denominations of Judaism (Orthodox, Conservative, and Reform) to obtain recognition by the Prohibition enforcement agency as legitimate rabbis for the purposes of distributing sacramental wine.

In February 1920, Rabbi Max Drob, chairman of the Committee on Religious Observance of Conservative Judaism's United Synagogue, described his committee's three-month effort to ensure that the rights of rabbis belonging to the Conservative movement would be pre-



Rabbi Moses Z. Margolies

(Courtesy of Hannah Sprecher)



Rabbi S.A. Joffe

(Courtesy of Hannah Sprecher)

served under the Volstead Act. "We are pleased to report," he announced, "that thanks to the good efforts of Louis Marshall [president of the American Jewish Committee] our demands have been placed before the authorities in Washington and assurances have been made that our colleagues in the Conservative Jewish Rabbinate will be able to obtain wine for sacramental purposes."⁸ Similarly, Rabbi Leo Franklin reported to the 1920 gathering of Reform rabbis, "Under a ruling of the Bureau of Internal Revenue the President of the Central Conference of American Rabbis was authorized to attest the rights of rabbis to sign applications for wines for sacramental purposes."⁹

What had prompted these statements? A letter written by Louis Marshall in 1923 explains the need for these exertions on the part of Conservative and Reform leaders.¹⁰ Marshall related that in early 1920, Rabbi Sholom Joffe and Rabbi Moses Z. Margolies (commonly referred to by the acronym RaMaZ) had gone to Washington to arrange that only rabbis belonging to the Union of Orthodox Rabbis (the organization they headed) would be empowered to dispense sacramental wine permits.

This was an obvious attempt by a group of Orthodox rabbis to exclude their Conservative and Reform counterparts from the category of religious leaders covered by Section 6, and thereby bring about an Orthodox monopoly on the sacramental wine privilege. Louis Marshall used his government contacts to thwart this move and obtain for Conservative and Reform rabbis the same privileges that the Orthodox had won for themselves. Despite Marshall's success, the president of the Union of Orthodox Rabbis, New York City (Rabbi Moses Z. Margolies), was still ranked first in Section 52 (b), Regulation 60 of the Treasury Department's Bureau of Internal Revenue ordinances, which listed the rabbinical leaders whose endorsement was necessary to enable a candidate to receive sacramental wine.¹¹

Potential for Abuse

Although the Prohibition authorities had granted Conservative and Reform rabbis the right to dispense sacramental wine, the leaders of the two movements presciently recognized that Section 6 of the Volstead Act had potential for significant abuse in its application to Jewish practice. This arose from a major difference between the Jewish

and Christian uses of sacramental wine. It was relatively easy for Protestant and Catholic congregations to remain within the confines of Section 6, because the ritual requiring the use of wine (the celebration of the Mass) was performed publicly in the church. Moreover, priests and ministers always belonged to structured and recognized orders, and their activities were carefully supervised and monitored by their superiors.

The Jewish ceremonial use of wine, on the other hand, was primarily centered on home use,¹² with no clergyman present to ascertain that wine designated for sacramental purposes was actually being used for that end, or even that it was used by the persons it was intended for. Furthermore, the Jewish clergy was far from well-organized or supervised. Although the three Jewish denominations had established rabbinical seminaries in America, these institutions were relatively new.¹³ The great majority of Orthodox rabbis had been ordained by mastering the Codes of Jewish Law through self-study or under the guidance of a teacher, and then submitting to an examination by an established rabbi. Thus, the credentials of many rabbis were difficult to authenticate, consisting of a brief statement from a rabbi (himself possibly unrecognized) that the bearer of the letter had passed an examination. Compounding the problem was the fact that most Orthodox rabbis were recent immigrants from Eastern Europe, making it nearly impossible to check the authenticity of their rabbinic credentials.

To complicate matters further, the original Treasury Department regulations prevented direct sales by either the rabbi or the wine dealer to the consumer, and required instead that the rabbi act as intermediary. Rabbis in possession of a Treasury Department sacramental wine permit were allowed to purchase wine from the few remaining wine dealers authorized for this purpose but were not permitted to sell the wine to their congregants. Instead, they would distribute it to them without receiving any direct compensation, and the congregants were to make a contribution to the synagogue or to the rabbi for the general purposes of the congregation and not as payment for the wine sale.¹⁴

These regulations were designed to eliminate profiteering from the sacramental wine trade, but they put rabbis in an awkward and difficult position. Rabbis authorized to distribute wine not only had to make sure that their congregants used the wine for its legal purpose, a

task that fell within their ministerial duties, but were directly involved in handling a product that had just been banned from manufacture, sale, and use throughout the country. Moreover, the entire manner of handling money was "degrading and undignified."¹⁵

Proposals for Joint Action

Sensitive to the dangers facing their members, the Reform rabbinate, during the first few months after Prohibition went into effect, officially recommended that, whenever possible, unfermented wine be substituted for fermented wine. To counter the difficulties in verifying rabbinic credentials, the Central Conference of American Rabbis (CCAR) proposed the establishment of a "joint committee of the Central Conference of American Rabbis and the Union of Orthodox Rabbis [that would] submit to the Government the names of responsible persons in each locality to certify proper persons to be authorized to sign applications for wine under the law." It also proposed that "a registration record be maintained of those who are authorized to validate applications for sacramental wine, and that applications shall have the signature of a local rabbi and congregational president and secretary designated by the General Committee of the Central Conference of American Rabbis and the Union of Orthodox Rabbis."¹⁶

The Union of Orthodox Rabbis did not respond to this overture from the Reform rabbinate. Nor did its president, Rabbi Moses Z. Margolies, respond to an appeal from Louis Marshall of the American Jewish Committee. In this letter, dated March 20, 1920, Marshall outlined the problems he foresaw in the Jewish use of the sacramental wine privilege, stemming mainly from the language of the Volstead Act, which he claimed reflected the drafters' lack of "full understanding" of its implications for Jews. He wrote of his fear that the exemption "would result in serious criticisms of the rabbinate by the public generally and by the Prohibition Party in particular." He predicted "unpleasant insinuations against the Jews by the newspapers" and the placement of rabbis (and by extension all Jews) in a "false light." Marshall concluded that until legislation amended the Volstead Act, the only recourse left open to Jews was to refuse "exceptional treatment" and use only unfermented wine for ritual purposes.¹⁷

The Menorah Wine Scandal*Rabbi A.A. Yudelovich*

(Courtesy of Hannah Sprecher)

*Rabbi G.W. Margolis*

(Courtesy of Hannah Sprecher)

A little over a year after Marshall's anxious and prophetic letter, stories began appearing in major newspapers detailing arrests and confiscations related to sacramental wine abuses. A notorious example was the front-page story that appeared in the March 30, 1921 edition of the *New York Times*, highlighting the seizure of \$250,000 worth of wine at the Menorah Wine Company on Manhattan's Lower East Side.

The prominence of this story may have reflected the good copy provided by the flamboyant exploits of Izzy Einstein, the Prohibition agent responsible for the raid. Still, the article had a drawing power all its own: The wine had been confiscated because Menorah's branch stores were found to be selling wine to all customers who entered, whether or not they presented a signed permit from an authorized rabbi. In addition, Federal Prohibition Supervisor Ernest S. Langley was quoted as stating that Menorah had further violated the law by extensively honoring "fake" rabbinical wine permits signed by eighteen- and twenty-year-old boys.

The allegations recounted by the *Times* were serious ones. Yet, the same article reported the puzzling news that the chief Prohibition enforcement official, Commissioner John F. Kramer, had intervened on Menorah Wine's behalf, issuing long-distance telephone orders to his subordinates in New York to halt the seizure. Moreover, Kramer himself was coming from Washington to "inquire into the circumstances of the seizure."

Eight months later, on December 23, 1921, Menorah Wine Company again appeared on page 1 of the *New York Times*. The focus of this article was the efforts of Louis Marshall and the American Jewish Committee to halt the continuing abuses in sacramental wine distribution. The *Times* printed an excerpt of Marshall's letter to D. H. Blair, commissioner of the Internal Revenue Service, in which he outlined proposals for stricter regulation of sacramental wine. To underscore the necessity of the proposed new rules, the *Times* reporter cited several examples of abuse, among them the recent seizure of two truckloads of Menorah's wine. The article also mentioned that in the earlier confiscation of \$250,000 worth of Menorah product (March 1921), "through influence brought to bear in Washington, the wine was returned to the owners."

In the month of January 1922, the *New York Times* devoted two news stories to the Menorah Wine Company. The second (dated January 22) was of less importance than the first. It described another imaginative feat of the by now familiar Izzy Einstein. This time he had effected the seizure of two truckloads of Menorah's product by riding alongside the deliveryman on his run and discovering that the first consignee on the list of recipients of Jewish sacramental wine was actually a Scotch Presbyterian.

Enter "G. Wolf Margolis"

The *Times* story of January 4, 1922, had more lasting significance, for it contained a full expose of the Menorah Wine Company. The story had actually been uncovered by a reporter from the *Providence Journal*, where it was featured on page 1 the same day.

According to the *Journal* article, Menorah had been founded by a Jewish olive oil merchant, Nathan Musher, owner of the Continental Distributing Company. In the fall of 1920, Musher apparently "sensed a rare business opportunity" and arranged to purchase and import from Spain 750,000 gallons of Malaga wine. What was special about this wine was its high alcohol content—about 24 percent, or double that of ordinary wine, making it much more potent than ordinary sacramental wine.

Musher arranged for Aaron Silverstone, a young man of about twenty and the son of the foremost Orthodox rabbi in Washington, D.C., to travel to Malaga and retroactively certify the wine as a kosher product suitable for use as sacramental wine.¹⁸ Then he approached Rabbi Moses Z. Margolies, the president of the Union of Orthodox Rabbis, and asked him to issue the necessary sacramental wine permit.

When Rabbi Margolies balked, Musher obtained the aid of "one G. Wolf Margolis," who was, according to the article, "a Hebrew teacher, lately come to New York from Boston, who claims to be a rabbi, and the head of the Assembly of Hebrew Orthodox Rabbis of America." The reporter from the *Providence Journal* found the address of the Assembly listed on its letterhead as 203 East Broadway, New York, and went to visit these "headquarters." There he in fact found G. Wolf Margolis in his organization's office: the rear room of a tenement house. The reporter obtained from him an acknowledgment that he

knew of the Menorah Wine Company, the Continental Distributing Company, and Nathan Musher's connection to them. But he would admit to nothing further.

The article repeated the accounts reported in March and December 1921: that Prohibition agents Izzy Einstein and Moe W. Smith (Einstein's partner, who had been omitted in the earlier stories) had obtained warrants to search Menorah's warehouse and branch stores. Discovering evidence of fraudulent permits, they had the wine seized and removed to government storage. But a direct order from Federal Prohibition Commissioner John F. Kramer had halted the seizure. The following day, after an investigation by Attorney General Daugherty, the wine was returned. Soon after these events, concluded the *New York Times* account, Musher's company was granted a special permit to sell sacramental wine, "as the Passover holidays were at hand."¹⁹

Rabbinic Rivalries

One important added detail in the story of January 4, confirmed ten years later in Izzy Einstein's memoirs,²⁰ was the role played by Rabbi Moses Z. Margolies in the investigation of Menorah. According to these accounts, it was he who alerted both the *Providence Journal* reporter and Izzy Einstein to the company's criminal activities.²¹ Rabbi Margolies charged that the wine involved was actually not kosher, and furthermore that even if it were, Menorah was not authorized by any legitimate rabbi to distribute wine for sacramental purposes. According to Izzy Einstein, Margolies added that Menorah Wine's primary purpose in selecting G. Wolf Margolis to fraudulently authorize its sacramental wine was the similarity in their names. This was meant to mislead both consumers and the Prohibition authorities into believing that the famous Rabbi Moses Z. Margolies was endorsing and authorizing Menorah Wine. The like-sounding names of "Union of Orthodox Rabbis" and "Assembly of Orthodox Rabbis," he said, had the same motive.²²

Both Einstein and the *Providence Journal* (quoted in the *New York Times*) described G. Wolf Margolis as "a Hebrew teacher," a disparaging term, since teaching Hebrew school was an occupation usually reserved for sorry ne'er-do-wells who had failed at every other job.²³ The Assembly of Orthodox Rabbis was dismissed as a nonexistent

organization, an assertion proved by its address: the “headquarters” of an organization claiming to represent a large group of respected scholars would not be found in a rear room of a Lower East Side tenement slum.²⁴

It is ironic that in allowing this description of G. Wolf Margolis and his organization in the January 4 article, the editors of the *New York Times* failed to consult their own newspaper of a fortnight earlier. On December 25, 1921, the third consecutive day of coverage given to Louis Marshall’s letter to IRS Commissioner Blair, the *Times* recorded a statement from New York State Prohibition Director Ralph A. Day, offering his own solution to the sacramental wine problem. Day had recommended to Washington “the appointment of a board of four Jewish chief rabbis to assist him in approving withdrawal permits for sacramental wines, especially those presented by rabbis of congregations not belonging to any recognized order of the Orthodox Church [*sic*].” If Washington approved his recommendation, this board would be composed of “Rabbis S. A. Joffe, G. W. Margolis, A. A. Yudelovich, and B. L. Leventhal.”²⁵

The Four “Chief Rabbis”

It was apparent, at least to Director Day, that G. W. Margolis was hardly a “Hebrew teacher.” He was a man of standing, one of four “Jewish chief rabbis.” His status could not have taken so dramatic a plunge in only two weeks. There is one further and deeper irony: Three of the four “chief rabbis” of Director Day’s plan were involved in the Menorah Wine scandal. While their names do not appear in the *New York Times*, a survey of the contemporary Yiddish press provides interesting insight into the scandal and its principal players.

On February 27, 1921 (a month before Izzy Einstein’s first Menorah raid and thirteen months before the *New York Times* and *Providence Journal* broke the story), *Der Tog*, a New York City Yiddish daily, printed an announcement by Rabbi Moses Z. Margolies in which he declared that he did not endorse the kosher status of the Menorah Wine Company.²⁶ Implicit in this announcement, of course, was the intimation that the wine’s kosher status was suspect.

The following day and again on March 1, 2, and 3, *Der Tog* and two other Yiddish newspapers, the *Togblat* and the *Morgen Journal*,



Rabbi Aaron Silverstone

(Courtesy of Hannah Sprecher)



Rabbi Gedaliah Silverstone

(Courtesy of Hannah Sprecher)

gave extensive space to rebuttals of Rabbi Margolies's declaration. The rebuttals appeared in the form of interviews by "P. Sofer" with three of the "greatest rabbis of New York," none other than Rabbis S. A. Joffee, A. A. Yudelovich, and G. W. Margolis, accompanied by pen-and-ink portraits of the illustrious faces of Rabbi Yudelovich and Rabbi Margolis.

Although appearing in the form of news articles, these interviews were more likely advertisements or company press releases, since they were reproduced identically in three separate Yiddish dailies. In any event, these columns gave the rabbis a forum to defend their association with Menorah Wine. At the conclusion of each interview, the reporter (P. Sofer) made his own editorial comments, lavishly praising the rabbis and offering his own endorsement of Menorah Wine.²⁷

The connection between G. W. Margolis and the Menorah Wine Company has already been established. The other two rabbis, it turned out, were also not disinterested parties. They had been engaged to certify Menorah's wines as being "the most kosher wine available anywhere." Yes, they admitted, they were aware that the supervisor in Spain was the very young Aaron Silverstone, but he was "one of the most pious young men in the entire country." Young Silverstone's father had personally guaranteed his son's piety and devotion to ritual observance. They also claimed that the winery in Malaga was owned and operated by Orthodox Jews, a dubious claim, since there were only three Jewish communities in Spain at that time, in Madrid, Barcelona, and Seville,²⁸ and the closest to Malaga, Seville, was over 100 miles away. According to Rabbi Moses Z. Margolies, there were only two Jews in Malaga, both of them bankers, and neither of them Jewishly affiliated.

Rabbi Joffee charged in his interview that Rabbi Margolies had been pressured into issuing his declaration by kosher wine dealers who feared competition, particularly from a company offering a superior product. He also contended that Rabbi Margolies's declaration had a hidden agenda: his organization, the Union of Orthodox Rabbis, wanted to monopolize both the supervision of kosher wine and the issuance of sacramental wine permits. Apparently not desiring to engage in self-promotion, Rabbi Joffee left it for the reporter conducting the interview to stress that all three rabbis associated with Menorah Wine had been fully authorized to issue sacramental wine permits by

the Prohibition regulators.

In his interview, Rabbi G. W. Margolis added that he had no doubts about the *kashruth* of Menorah's wine since he knew Nathan Musher personally and "we can rely on him." Rabbi Margolis explained that the key to establishing a product as kosher was determining who the proprietor was. As long as he was Orthodox, the product was certainly kosher, and the services of a *mashgiach* (rabbinic supervisor) were not needed. In fact, hiring a *mashgiach* was almost tantamount to admitting a problem about the product. Furthermore, said Rabbi Margolis, Musher was a well-known and outstanding philanthropist.

"A Tempest in a Wineglass"

Another column, entitled "A Tempest in a Wineglass," appeared in the same issue of the *Morgen Journal*. It too was dedicated to furthering the cause of Menorah Wine and the rabbis connected with it. The writer began his paean by claiming that he himself was a very pious Jew, a strict Sabbath observer, who had succeeded, despite residing in America for twenty-five years, in raising his children as strictly Orthodox, God-fearing Jews.

Having established his credentials, the writer testified that on the certification of the three esteemed rabbis, Joffee, Yudelovich, and Margolis, he had purchased some of Menorah's wine and found it to be the most exquisite wine he had ever had the good fortune to taste. As for Rabbi Moses Z. Margolies's statement, he knew its hidden motivations were business and Prohibition related.

The writer, however, was unconcerned with possible violations of the Prohibition law. Why should Washington matter more than Sinai? After all, the Torah antedated Prohibition by many thousands of years and therefore had primacy. Furthermore, the Prohibition authorities had granted Reform rabbis the right to issue sacramental wine permits, and they were not even authentic rabbis, because they did not observe the laws of the Torah. In sharp contrast stood the three great Torah scholars who had certified the wines sold by Menorah; their religious credentials were above reproach. Thus it was quite irrelevant whether or not these learned men were formally sanctioned by the Prohibition authorities. (For more fastidious individuals, however, the reporter conducting the interview with Rabbi Joffee had pointed out

that the three rabbis had indeed received that sanction.) The United States government might have granted Reform rabbis the authority to issue sacramental wine permits, but the writer, as an Orthodox Jew, answered to a higher power and knew which set of rabbis was worthier of the privilege.

Who Was Rabbi Gabriel Wolf Margolis?

Whatever the facts of the Menorah Wine case, there is no doubt that the testimonials in favor of the three rabbis were essentially correct. They were acknowledged and respected scholars, and were known to Rabbi Moses Z. Margolies as such. Rabbi Joffe, in fact, had served as both acting and honorary president of the Union of Orthodox Rabbis and had been one of its founders in 1902. Moreover, as recently as 1920 Rabbi Margolies and Rabbi Joffe had gone to Washington together to attempt to obtain an Orthodox monopoly on the sacramental wine privilege.²⁹ Rabbi Yudelovich also headed an organization of "preaching rabbis." Both Rabbi Joffe and Rabbi Yudelovich had authored important rabbinic works.³⁰

The fame of Gabriel Wolf (Ze'ev) Margolis in particular was widespread. Known affectionately in New York's Orthodox neighborhoods as "Reb Velvele" (his Yiddish middle name), he had been the spiritual leader of one of the city's major communal and charitable organizations for ten years and before this had been a prominent rabbi in Boston for four years (1907-1911). As the author of many well-received rabbinic books and an acknowledged colleague of the great European rabbis of the era, he was considered the "senior scholar" of Orthodox Judaism in America, and rabbis throughout the country sought his guidance on questions of religious law. His *New York Times* obituary on September 9, 1935 recorded that Rabbi G. W. Margolis was eulogized as "the greatest rabbinical scholar, bar none, ever to have settled in America."³¹

Yet Rabbi Moses Z. Margolies had led both Izzy Einstein and the *Providence Journal* reporter to believe that G. W. Margolis was a "Hebrew teacher lately arrived from Boston," and that his organization was a "fake," set up with the sole purpose of advancing the criminal activities of the Menorah Wine Company. What could have been his motive, and what was the true relationship between the two men?

Rabbi Margolies's reaction to Rabbi Margolis reflected more than personal animosity. Rabbi Margolies was the president of the Union of Orthodox Rabbis, which had come into being in 1902 and was America's first organized Orthodox rabbinic body. Rabbi G. Wolf Margolis arrived in the United States in 1907, at the age of sixty, after having been the chief rabbi of several important Russian Jewish communities. He had been forced to leave because of threats against his life by Jewish Bolsheviks whose revolutionary activities he had fiercely condemned. Fully expecting to be accorded in America the status and respect he had earned in Europe, he refused to join the Union of Orthodox Rabbis, seeing its members as below his high standards, and for the next thirteen years he waged a lonely war against that organization.³²

In January 1920 Gabriel Wolf Margolis finally received the recognition that had eluded him when, together with 135 other rabbis,³³ he formed the Assembly of Hebrew Orthodox Rabbis of America. The correspondence between the date of its establishment and the onset of Prohibition was no coincidence, however. For thirteen years, Rabbi Margolis had been unable to found an organization of his own, but Prohibition provided his group with a *raison d'être*.³⁴

Under Section 6 of the Volstead Act, the Bureau of Internal Revenue initially authorized only three Jewish organizations (one for each of the three denominations) to dispense sacramental wine permits, the CCAR, the Rabbinical Assembly, and the Union of Orthodox Rabbis. In consequence, the only Orthodox rabbis to be issued permits were members of the latter group, and legitimate Orthodox rabbis who were not affiliated with it were excluded. Rabbi G. W. Margolis received letters from some of them complaining about the Union's "refusal to share the privilege." They accused its members of "dealing in kosher wine [as a means with which] they support their impure activities" and using the permits as "weapons in their hands to attack the rabbis not within their Union."³⁵

The unaffiliated rabbis had a legitimate grievance. They and their congregations were excluded from receiving what was legally theirs—the means of obtaining wine for ritual use. In this climate of dissatisfaction, Rabbi Margolis formed his organization. On November 8,

1920 the Office of the Federal Prohibition Commissioner amended Section 52 (b) of Regulations 60 to authorize a fourth organization, the Assembly of Hebrew Orthodox Rabbis of America, to issue permits for the distribution of sacramental wine.³⁶

In addition to his involvement in the Menorah Wine scandal, there is ample evidence that both Rabbi Margolis and his Assembly of Hebrew Orthodox Rabbis of America were otherwise occupied with the business of wine distribution. Shortly after the Assembly received approval from the Treasury Department, notices were posted on the Lower East Side of Manhattan announcing to "all rabbis and wine dealers who make wine for religious purposes that Washington has recognized the Assembly on the same basis as the other three rabbinic organizations." The Assembly invited anyone who wanted a permit to "apply in person to our president, Rabbi G. W. Margolis at 203 East Broadway from the hours of 9 a.m. to 10 p.m. daily."³⁷

The Assembly's involvement in the wine trade extended beyond the issuance of sacramental wine permits. This is well illustrated by Rabbi Margolis's private correspondence.

In a letter dated December 1920, Rabbi Simon Glazer of Kansas City, an influential member of the Assembly, wrote to him offering to do anything he could do "regarding wine matters with the authorities." He further inquired, "How will the wine business do this year? There is still time for me, and I am ready to go even today to San Francisco to supervise the wine. There are many wine dealers who are requesting kosher supervision."³⁸

On August 8, 1921, Rabbi Margolis wrote to Rabbi Joseph Levin of Cincinnati, another important member of the Assembly, informing him that, "I have available an excellent wine from the Holy Land, many gallons of which have already been sold at \$8 a gallon. However, some of it has sold at \$7 a gallon, and yesterday I heard from my son that he sold some for \$6 a gallon."³⁹

Still, there were a few dissenting voices among the Assembly's members. One noted rabbinic scholar, Rabbi Zvi Hirsch Grodzinski, chief rabbi of Omaha, expressed his concern as early as December 1920, barely a month after the Assembly of Orthodox Rabbis was authorized to dispense sacramental wine permits. In a letter to Rabbi Margolis, Rabbi Grodzinski urged him to halt the issuance of permits to anyone in Omaha. "Local wine dealers," he wrote, "[were] conduct-

ing a free-for-all and selling their sacramental wine to Jews and Gentiles alike." Several Jews had been arrested for these abuses, and the local press was having a "field day claiming that the Jewish requirement for sacramental wine was only a ruse to engage in an illegal wine trade." Grodzinski said that "for these reasons [he] had personally desisted from issuing any permits" and begged Margolis not to honor any permit requests coming from Omaha.⁴⁰

Rabbinic Violations of the Volstead Act

It is evident that the Assembly's activities in the distribution of sacramental wine did not always follow the strict letter of the law. Yet it was not unique in that respect. Rabbi Moses Z. Margolies, who had attacked the Assembly, both within and outside the community, for various abuses of the sacramental wine privilege, was himself involved in the "business" of wine distribution.

A copy of a contract drawn up between Rabbi Margolies and a wine-manufacturing concern is still extant. Its provisions stipulate that Rabbi Moses Z. Margolies would supervise the kosher processing of the firm's wine and would be paid a fee equal to 25 percent of the price per gallon for every gallon he certified.⁴¹ Obviously, greater sales would directly benefit him financially, not a situation envisioned by the drafters of Section 6 of the Volstead Act. Also damning is his refusal to issue permits to legitimate rabbis whose credentials and veracity were known to him but who were not members of the Union of Orthodox Rabbis. Here again it seems that Rabbi Margolies was more concerned about his own financial interests, and those of his members, than with facilitating the attainment of sacramental wine by the Orthodox community at large. Moreover, as recounted above, Rabbi Margolies ignored the proposals of Louis Marshall and the Reform rabbinate to renounce or, at the very least, modify the role of rabbis in sacramental wine distribution.

From the start, the guidelines and regulations of Section 6 were easily bypassed. For legitimate rabbis, the temptation to profit from wine transactions was great. Rabbis or their authorized representatives could easily inflate the number of their congregants. Fictitious congregations, whose names were culled from such disparate sources as telephone books, Indian Reservation records, and even headstones,

abounded. Rabbis would share lists of congregants, and members of congregations would sell their memberships, often to non-Jews. A good example of this practice was recorded by Jacob Sonderling, a German liberal rabbi who had emigrated to America in 1923 and was hired by an Orthodox congregation in Chicago:⁴²

A member of my congregation's board brought me the newest list of our membership and asked me to sign it.

"What do you need my signature for?"

In all innocence he explained: "Every synagogue member, according to American law, is entitled to five gallons of sacramental wine. The congregation is buying that wine from the Government at a cheap price, selling it afterwards at a very high price to all the people, and doing great business."

Of course I refused to do that, and my congregation was upset, believing that its rabbi was queer. My friend [the Zionist leader Shmaryahu] Levin . . . said once that Orthodox rabbis, doing big business in those days in sacramental wine, had changed the *Tilim* (Psalms); Psalm 121 says, "From whence (*me-ayin*) does my help come?" Levin suggested: "Instead of *me-ayin* (from whence'), read *miyayin* ('from wine')!"⁴³

The wine traded through these illegal transactions found its way to bootleggers who marketed kosher wine nationwide. These abuses grew into a "near national scandal."⁴⁴ The growing perception of the Prohibition-era rabbi was eloquently drawn by James E. Jones, the assistant Prohibition commissioner, who said:

The Rabbi who abuses the privilege which permits him to distribute sacramental wines to his congregation is worse than the ordinary bootlegger. . . . Such a man is violating the law in the name of religion and he is abusing an honorable trust. The bootlegger admits he is a crook and makes no bones about it. He is not cloaking himself with a mantle of authority intended by the law for devout members of a religious faith, and when we prosecute him we don't run up against protests that we are persecuting an honorable old Rabbi who is doing only what the law authorizes and what his religious beliefs demand.

I have no quarrel with the Rabbis who conscientiously believe that sacramental wines are necessary in Jewish homes and who do not violate the trust conferred upon them; but my quarrel is with the men who withdraw wine in the name of the Jewish faith and then proceed to sell it to Gentiles, negroes or anybody else who pays the price, including Jews who drink it wholly for beverage purposes.⁴⁵

The Grape Juice Controversy

The leaders of the Reform and Conservative movements were dismayed by the growing scandal. The privilege they had fought so hard for

had now become a source of shame and outrage. Both movements felt that the mounting problem could only be solved by voluntarily surrendering the sacramental wine privilege and using unfermented wine, or grape juice, in ritual observance, assuming that justification for this could be found in Jewish law.

In late 1920, the Central Conference of American Rabbis submitted the question to its Committee on Responsa. The committee's reply stated that according to its analysis of Jewish legal sources, grape juice was an entirely acceptable alternative to wine for all religious needs.⁴⁶ However, because of Reform's weak commitment to classical Jewish law and its abrogation or modification of many other Jewish practices, the impact of this ruling on the non-Reform Jewish community was negligible.

The Conservative movement, known for its relative adherence to traditional Jewish law and for the high quality of its legal scholars, also submitted this question to its authorities. The ruling was first brought to public attention on January 24, 1922 at a press conference called to announce the publication of a 71-page Hebrew responsum on the issue, authored by the great talmudic scholar Rabbi Louis Ginzberg.⁴⁷ In an exhaustive study that ranged over the entire body of Jewish legal science, Rabbi Ginzberg concluded that for ritual purposes grape juice was entirely equivalent to the use of wine.⁴⁸

The Ginzberg Responsum

Rabbi Ginzberg took on a twofold task in preparing his responsum. First, he had to determine whether grape juice was *acceptable* for ritual purposes; and second, even if grape juice was found acceptable, he had to determine whether fermented wine was nevertheless *preferable* for ritual purposes.

Jewish legal sources from the Talmud on are essentially in agreement that grape juice (or to be precise, "new wine," as it is denoted in the premodern legal texts) is *acceptable* for ritual purposes. Proving the first point, then, required only the marshaling of the numerous sources confirming this opinion.

The second point, however, was a greater challenge, since one prominent authority, Rabbi Abraham Gombiner, a seventeenth-century legal expert known as the *Magen Avraham* from the name of his

most important halakhic work, had explicitly ruled that fermented wine was preferable to “new wine” for ritual use. Ginzberg proceeded to nullify the *Magen Avraham*’s statement by demonstrating that it was based on a misinterpretation of earlier authorities. Because rulings in Jewish law tend to be hierarchical—generally the earlier the source the more authoritative it is—this part of Ginzberg’s responsum was somewhat daring. We will return to this when the Orthodox critique of his decision is discussed further on.

Once Ginzberg had disposed of the issue from the standpoint of Jewish law, he silenced potential critics who might argue for the use of wine because of long-established custom:

There can be no doubt that in the past most of the wine used for religious purposes was fermented, since the process of preventing the fermentation was unknown. But to base on such a fact the prohibition of the use of unfermented wine would be as unreasonable as to suppose that because only wax and tallow candles were used for lighting synagogues, the use of gas and electricity for that purpose is forbidden.

In his conclusion, Ginzberg addressed the controversy that had prompted his intervention:

I am certain that all Torah scholars will agree with my findings and warn the nation not to follow those who are “muddled by wine and dazed by liquor.” In this manner they will bring praise on the God of Israel and the name of Israel will be sanctified by removing the ugly stain from our midst. “For you are a holy people unto your God.”⁴⁹

Orthodox Reactions

These stirring words elicited no initial reaction from Ginzberg’s Orthodox rabbinic colleagues. This was very unusual. Conservative dissent from Orthodox practice invariably unleashed a torrent of Orthodox responses.⁵⁰ Yet for the first five years after its appearance, Ginzberg’s ruling was not contested by any Orthodox rabbi. A search of the contemporary Orthodox rabbinic journals as well as the responsa published by American Orthodox rabbis active during this period (up to 1926) failed to uncover even a single reference to Ginzberg’s responsum or any attempt to consider the issue at all.⁵¹

Eighteen months after the publication of Ginzberg’s responsum, Louis Marshall expressed his own puzzlement over this silence:

“There are, of course, those of the ultra-Orthodox wing who may not accept Prof. Ginzberg’s judgment. I have challenged them over and over again to produce a responsum which would indicate that their avowed belief that fermented wine is necessary is correct, but thus far they have failed to do so.”⁵²

Although traditional rabbinic responses to Ginzberg’s decision were lacking, some nontraditional reactions did appear. Eli Ginzberg, in his personal memoir of his father, wrote, “My father received threatening letters warning him to mind his own business. During these months, my mother did not want him to go out alone.”⁵³

Another unusual reaction was lay intervention in what was essentially a matter of Jewish law that needed rabbinic elucidation. This appeared in the guise of a sixteen-page pamphlet written by Emanuel Hertz to refute Ginzberg.⁵⁴ Whatever Hertz’s other qualifications,⁵⁵ “he had no competence whatsoever in matters of Jewish law.”⁵⁶ The accuracy of this harsh judgment is readily apparent from an examination of Hertz’s work. No attempt at any analysis of the halakhic sources is evident. In fact, Hertz was quite open about his lack of rabbinic credentials, stating at the outset: “It may seem extraordinary for a layman to make an effort to summarize the laws . . . but the straddling and inconclusive arguments of a number of rabbis . . . and the latest pronouncement by Professor Ginzberg, make it imperative for someone who has the good of the Jewish community at heart.”⁵⁷

Even more significant than Hertz’s meager halakhic expertise is the alarmist rhetoric he adopted.

If wine can in this manner be eliminated . . . why cannot the learned professor be prevailed upon . . . to take the top-heavy structure of the Sabbath and the holidays and the fast days, with all their ramifications, and “read” them out of the codes. . . . Why not give the coup de grace to the Sinai idea, so old and antiquated, and triumphantly return the Mosaic law to the Mount, where it was given to our ancient ancestors?⁵⁸

In addition to accusing Ginzberg of undermining the entire structure of Jewish law, Hertz depicted him as a coward: “We never ran away from the stake, from the rack, or from the sword—and now it is proposed to run away from the bootlegger!”⁵⁹

Hertz also made much of the fact that Ginzberg had not consulted any Orthodox rabbis.⁶⁰ But what prevented them from composing a responsum to counter Ginzberg? In fact, Hertz was unable to name a

single Orthodox rabbi who supported his contention that ritual wine must be fermented, although he cited a long list of experts—mainly European Christian biblical scholars—to prove his point.⁶¹

Rabbi Hurewitz Enters the Fray

About five years after Louis Ginzberg published his responsum, an Orthodox authority finally challenged it. Yet Rabbi Isaac Simha Hurewitz of Hartford, Connecticut, did not choose as his forum any of the rabbinic journals devoted to problems in Jewish law or even the popular press. Instead, his response appeared in the relative obscurity of a commentary he had written on a twelfth-century rabbinic text, Maimonides' *Sefer HaMitzvot*, published in Jerusalem in 1926.

In a section devoted to the sanctification of the Sabbath, Hurewitz responded to Ginzberg with almost as much invective as scholarship. Ginzberg's name is never mentioned; he is referred to instead by a variety of epithets: "leader of the heretics," "possessing an infant's mind," and other terms of abuse. So far as Hurewitz was concerned, the unacceptability of grape juice was obvious, and he held that it was no better for ritual purposes than lemonade or orange juice. The reasons for his decision were, however, subtle.

It was certainly no surprise that Rabbi Hurewitz would condemn Rabbi Ginzberg for rejecting the *Magen Avraham*. But Hurewitz went much further, arguing that new wine, which was explicitly permitted by the earlier authorities, was not the same thing as grape juice. He based this statement on the argument that new wine begins to ferment immediately upon pressing, whereas grape juice does not have the capacity to ferment, a position that may be novel but is also incorrect, since adding yeast cultures to grape juice will cause it to ferment.⁶²

Hurewitz's polemic had several other interesting aspects. He denied that there was any sacramental wine problem at all and claimed that the problem had been caused by "heretics" who were attempting to besmirch the Orthodox in the eyes of the righteous Gentile authorities; authorities who understood and tolerated freedom of worship.⁶³ Furthermore, he said, no one seriously committed to Jewish law would have even considered asking for Ginzberg's opinion, since New York was graced with so many outstanding scholars who had already made their views known by using wine themselves.⁶⁴

CCAR Overtures to the Orthodox

Despite the complete absence of any formal Orthodox response to the initiatives of Louis Marshall and Louis Ginzberg, the Reform rabbi-nate was still not persuaded that the cause was lost. In an effort to enlist Orthodox support and cooperation, the CCAR issued the following statement:

The Conference finds . . . violations of the prohibition law under the guise of religious needs is [*sic*] a reflection on the good name of the Jew, a veritable desecration of God's name. We are confident that other national rabbinical organizations, such as the Union of Orthodox Rabbis of America, are in hearty sympathy with us in this matter. We therefore recommend . . . taking steps toward the correction of this abuse.⁶⁵

This expression of confidence in the Union, however, was misplaced. Orthodox rabbis had no desire to change the existing practices, which placed them (or at least their permits) in high demand.

Still, the CCAR was nothing if not tenacious, particularly when the good name of Jews was at stake, and the following year it tried a different tack. If the Orthodox would not cooperate voluntarily, perhaps they could be forced. The CCAR would lobby Washington to repeal Section 6 and therefore eliminate all abuses.

After some deliberation, however, it became evident that this step would antagonize Christians whose denominations still required wine (rather than grape juice) for Mass. Christian hostility to this proposal had already surfaced in 1921 when Louis Marshall had tentatively proposed a similar solution.⁶⁶ The CCAR then voted to petition the Prohibition authorities to modify Section 6 so that it would apply only to Christians, since there were no rituals in Judaism that really required wine. Their aim was to have the exemption clause apply only to Christian clergy, excluding Jewish participation entirely.

Through these extreme measures, the Reform leadership hoped to put an end to the scandal that was plaguing the entire American Jewish populace. However, the Prohibition commissioner, Roy Haynes, responded tepidly to their suggestion, promising only to give it "due consideration," no doubt because he feared being enmeshed in the issue of curtailing religious expression.⁶⁷

If the Reform movement's lobbying efforts had proved successful, there would have been absolutely no wine available to any Jew for ritual use. Yet even at this critical stage no Orthodox rabbinic authority made a public statement to counter this threat to a "vital" part of Jewish religious observance. There was, though, a journalistic response—an unsigned editorial in an Orthodox lay periodical, the *Jewish Forum*. The editorial's position was based on the positions of Emanuel Hertz, whose contribution to the debate we have already discussed, and Dr. Moses Hyamson.

Dr. Hyamson was a pulpit rabbi and a member of the faculty of the Jewish Theological Seminary. On February 19, 1920, he had lectured to the New York Board of Jewish Ministers on "The Jewish Concept of Wine and Its Use." The lecture (which was subsequently printed as a pamphlet)⁶⁸ merely quoted, in a most rudimentary manner, the relevant biblical, talmudic, and post-talmudic rabbinic texts dealing with the ritual use of wine, and made no attempt to analyze any of them. Only one sentence was given to the question of grape juice: "But it [the wine used for the performance of the rituals covered in the lecture] need not be intoxicating."

From this lone statement it would appear that Rabbi Hyamson sanctioned the use of grape juice. In fact, this is precisely how Louis Marshall understood him, and one month after the lecture he wrote: "I believe that, if it is true, as claimed by various rabbis, among others, Dr. Hyamson, that unfermented wine may be used for ritual purposes, the Jews should act on such a ruling and abstain from placing themselves in the position of asking for exceptional treatment in respect to the use of wine."⁶⁹

Hyamson's view was, however, somewhat ambiguous, since the main focus of his lecture was on the classic texts that refer to "wine," and aside from the one sentence he seemed to be endorsing the need for wine. Thus the *Jewish Forum* contravened his decision by selective misreading.

The Authorities Take Action

The years 1921–1925 saw a significant rise in the amount of sacramental wine delivered. The 1924 figures amounted to almost 3 million

gallons nationwide, or approximately one gallon for each Jewish man, woman, and child in the United State.⁷⁰ In New York alone, the amount of wine distributed for sacramental purposes reached 1.8 million gallons in 1925, a threefold increase since 1922.⁷¹

Thanks to an internal Jewish census completed in 1918, precise figures were available for the number of Jews who were synagogue members and thus more likely to be ritually observant. For all of New York City, membership in Orthodox synagogues totaled only about 74,000.⁷² At the legal yearly limit of ten gallons of wine per family, it is evident that ritual observance (at least of one commandment) had tripled in the intervening years. As Izzy Einstein put it in his memoirs: Prohibition created "a remarkable increase in the thirst for religion."⁷³

Obviously, this was a situation the Prohibition authorities could not tolerate. After several stop-gap measures in 1925 failed to make an appreciable dent in the rate of sacramental wine withdrawals, General Lincoln C. Andrews, the new Prohibition czar, whose position had been upgraded to Assistant Secretary of the Treasury, declared war on sacramental wine abuse. In August 1926 he closed all wine stores (legally recognized adjuncts that had served as wine depots where synagogue members could obtain their bottles of wine without disturbing the sanctity of the synagogue) and voided all existing rabbinical wine permits. All rabbis applying for permits now had to appear in person before the local Prohibition administrator to outline the needs of their congregants. The Prohibition authorities would then arrange the delivery.⁷⁴

Faced with sudden financial catastrophe, the Orthodox rabbis of New York hired a lawyer. This attorney, whose name was Samuel Joseph, immediately called a press conference. In his statement, reported by the *New York Times* of August 29, 1926 (as well as by the local Yiddish dailies),⁷⁵ Joseph told the assembled reporters that General Andrews was making impossible demands and asserted that the new plan was "impracticable." Furthermore, the timing of the new regulations created great hardships, because they went into effect during the period immediately preceding the High Holy Days. "At this time of year," Joseph stated, "the rabbis cannot leave their synagogues and worshippers. They are engaged in praying, visits to the cemeteries [where they pray for ancestral intervention on their congregants' behalf], and attending to other religious duties," and thus could not

spare the time to go down to the Prohibition offices for “a possible third degree interview.”

Joseph pointed to other difficulties Orthodox rabbis would face: “A very large percent of them cannot speak enough English to find their way to the prohibition offices.” The language barrier would, in addition, make it difficult for them to establish their credibility with the authorities. If such impediments kept the rabbis from obtaining their requisite wine allotments, they would be “compelled to have their worshipers obtain bootleg wine.”

Next Joseph turned his attention to the charge made by the Prohibition authorities that the systematic withdrawals of allotments of sacramental wine during the summer months was positive proof of privilege abuse, since there were no Jewish holidays in the summer and therefore no justification for the withdrawals. The attorney’s response resorted to a blatant falsehood: “Under the Jewish laws, wines are used *every day* [emphasis added] for prayer services,” and therefore the withdrawals were entirely justifiable.

Despite Joseph’s efforts, the new regulations remained in effect, and sacramental wine distributions dropped to under 400,000 gallons within several years.⁷⁶

The Situation Since Repeal

With the repeal of Prohibition, the issue of using unfermented wine for sacramental purposes became a strictly internal Jewish affair.⁷⁷ Ironically, in current Orthodox practice, with wine freely and abundantly available, the ritual use of grape juice is commonplace even in the most stringently Orthodox homes. Many brands of grape juice, expressly intended to be used for ritual purposes, are marketed to the Orthodox community in America and abroad. Leading rabbinic authorities of the past thirty years have issued responsa permitting the substitution of grape juice for wine in all ceremonies.⁷⁸

While neither Rabbi Louis J. Ginzberg nor Rabbi Isaac Simha Hurewitz is cited by these later authorities (in Hurewitz’s case, most likely because of the great obscurity of his book; in Ginzberg’s, because of his Conservative affiliation), it is precisely Ginzberg’s ideas that appear in the discussions of this issue by Orthodox rabbis. Even his “radical” rejection of the *Magen Avraham*, which so vexed Hurewitz, is blithely echoed by a leading Hasidic authority.⁷⁹

Has Jewish legal science undertaken a quantum leap in one generation? Why is grape juice acceptable now, when a half-century ago only “heretics” sanctioned it? The answer must lie in the economic, rather than legal, sphere. Section 6 of the Volstead Act, and the means by which it was to be implemented, offered Orthodox rabbis an opportunity to benefit financially, and they took it.

Rabbinic Violations and Anti-Semitism

It is difficult to justify any circumvention of the law, especially when committed by the spiritual leaders of a community. Still harder to understand and justify is the total lack of any sense of responsibility for the damage done to the collective reputation of the American Jewish community and its leaders. Given the climate of the times and the underlying attitudes of the dry forces toward Jews, the deliberate evasion of the intent of Prohibition undermined the entire community.

Since Prohibition was America’s great obsession during the twenties,⁸⁰ Jewish violations were virtually guaranteed to receive significant press coverage, and, in fact, they did. The coverage in the *New York Times* and the *Providence Journal* coverage has already been described. Rabbi Grodzinski’s letter, cited above, told of the bad press given Jews by the midwestern papers. The president of the CCAR recorded the following: “Glaring headlines appeared in public newspapers saying that ‘Jewish Rabbis Reap Fabulous Sums by Flouting Dry Law,’ that ‘Big Illicit Pools Selling Sacramental Wine,’ and others of similar character.”⁸¹

With all this attention from the mainstream press, one could hardly expect Henry Ford’s openly anti-Semitic *Dearborn Independent* to refrain from publishing revelations about rabbis engaged in subverting Prohibition. For example:

Bootlegging is a 95 per cent controlled Jewish industry in which a certain class of rabbis have been active. . . . the bulk of liquor permits—a guess of 95 per cent would not be too high—are in the hands of Jews. . . . Newspaper offices have been kept “wet” in some cases by “rabbinical wine,” which accounts for the dribble of “wet” propaganda in the so-called humorous and other columns of the evening journals. . . . It happens that “rabbinical wine” is a euphemism for whiskey, gin, Scotch, champagne, vermouth, absinthe, or any other kind of hard liquor. . . . the illicit liquor business . . . has always been Jewish. . . . And it is not a cause for shame among the majority of the Jews, sad to say; it is rather a

cause for boast. The Yiddish newspapers are fruitful of jocular references to the fact, and they even carry large wine company advertisements week after week.⁸²

A decade after repeal, the dry forces still harbored a special grudge against Jews. Ernest Gordon, writing in 1943, claimed that 50 percent of the liquor trade was in Jewish hands, with most of the larger dealers having graduated from bootlegging.

There are, too, those who sell alcoholized sweets to children. . . . one would not dwell on these things if there were men and women in American Jewry reacting against them. It is said that the Rothschild fortune originated from financial operations connected with the shipment of Hessian troops to fight the American Colonists in the War of Independence. It would be unfair for men of our time to emphasize that fact. But it is not unfair to point out that the American people are engaged in another and equally great war of independence and our American Jews are not helping us as they should. . . . When Rabbi [Stephen S.] Wise tells us that the only hope in the world is that Israel and Christendom stand together, we ask, "Why then did you not stand with us?" Why did you not rise up and rebuke those who were destroying the 18th Amendment,—the Cellers, the Sabaths, the Siroviches, and Dicksteins; the Ochses and Lippmanns and Swopes? The big-wigs of Schenley's and National Distillers are but sellers of potato schnaps in the villages of Eastern Europe, immigrated to America and here established. . . . Our Jewish leaders should disassociate themselves and their community from them, for they are still Eastern European, with little understanding for American ideals of law and decency and freedom.⁸³

While Jewish involvement with sacramental wine abuses and other illegal activities connected with Prohibition was being scrutinized and condemned in the press, the Jewish community was being threatened by other manifestations of the "cultural counter-offensive" described by Higham.⁸⁴

In early 1921 Congress passed a restrictive immigration law in record time, and by an overwhelming bipartisan majority in the House, that was designed "to keep out the Jews."⁸⁵ Appended to the endorsement of the bill by the House Committee on Immigration was a State Department report that America faced an inundation of "abnormally twisted" and "unassimilable" Jews—"filthy, unAmerican, and often dangerous in their habits."⁸⁶ The immigration bill's progress through Congress and the question of whether President Wilson would ultimately sign it into law were topics that received maximum coverage in the Jewish press. This issue dominated the front pages of the New York City Yiddish papers while the merits of the Menorah Wine Com-

pany were being debated on its inner columns. Jewish leaders did what they could to block passage of the law. Even the Assembly of Orthodox Rabbis entered the fray, sending telegrams to Wilson, President-elect Harding, and various congressmen. As reprinted in the organization's *Sefer Knesset haRabbanim*,⁸⁷ they contained the following message:

Ministering as we do largely among erstwhile strangers in our land, we can testify that they are ready to embrace American ideals at the first opportunity. To create legislation which would leave undying pain in hearts of all American immigrants would certainly leave a poor background for us to do Americanization work.

Eight months later, after the appearance of the article about Menorah Wine in the *New York Times* and the *Providence Journal*, this rhetoric sounded a bit hollow. The following year, Louis Marshall's testimony before the House Immigration Committee on the importance of Jews to America was marred by contentions from committee members that Jews were among the foremost violators of the Volstead Act.⁸⁸

As for the heightened racism of the period, it too was intensified by the Jewish involvement in bootlegging. Suppression of foreigner-controlled lawlessness was one of the chief goals of the recently resurrected Ku Klux Klan. "In the Midwest the Klan delivered more real assaults on the bootleggers than on any other target."⁸⁹ "To the Klan the Jew stood for an international plot to control America and also for the whole spectrum of urban sin—for pollution of the Sabbath, bootlegging, gambling, and carnal indulgence."⁹⁰

Why Some Rabbis Violated the Law

Neither fear of Klan retribution nor congressional scrutiny of immigrant behavioral deficiencies was sufficient to deter sacramental wine abuses. Even after their activities had been brought to the attention of committees of both the House of Representatives and the Senate,⁹¹ Orthodox rabbis refused to voluntarily relinquish the sacramental wine privilege. Only the strict crackdown by General Andrews and the investigation of six hundred New York rabbis by the U.S. attorney for the Southern District succeeded in halting the widespread abuses.⁹²

Yet these men must be seen in the context of their time. The typical Orthodox rabbi of the twenties was foreign-born.⁹³ He had received his education and rabbinical training among the great scholars of Eastern Europe, and had been raised in a tradition where rabbis regulated not only the cultural and religious life of their communities but also the civil and commercial life. In much of Eastern Europe, Jewish religious courts, presided over by rabbis, had the power to adjudicate both religious and civil matters, and rabbis were supported in a respectable manner by communal arrangements.

In America conditions were vastly different. The immigrant rabbi was forced, by economic necessity, to become "a private entrepreneur of religious skills subject to the laws of the marketplace." While rabbis in Europe had essentially ruled over their communities, in America a rabbi "at best found employment with a congregation which gave him little security and meager wages." He had little authority, influence, or independence. He was often subjected to petty indignities "at the hands of the affluent, ignorant, and often impious pillars of the synagogue."⁹⁴

In 1913, Dr. Solomon Schechter, the head of the Conservative movement's Jewish Theological Seminary, lamented the prevailing conditions:

... the conditions of most of our strictly Orthodox synagogues, the poverty prevailing there, the starvation wages which they grant to their Rabbis, the constant strife within the congregation itself, the first victim of which is the Rabbi, the ungenerous treatment of the young men on the part of those who consider themselves the pillars of the congregation.⁹⁵

In sharp contrast to the Orthodox community, the Reform movement treated its rabbis with respect. Its congregations were wealthy enough to provide their religious leaders with decent and secure incomes. These rabbis, unfettered by poverty, could view the sacramental wine exemption more objectively.⁹⁶

It is ironic that both Izzy Einstein and the reporter from the *Providence Journal* saw the poverty of the "headquarters" of the Assembly of Orthodox Rabbis as conclusive evidence that both Rabbi G. W. Margolis and his organization were frauds.⁹⁷ Yet for authentic Orthodox rabbis such conditions were the norm.

This conclusion is not ours alone. The link between the poverty

experienced by Orthodox rabbis and the abuses of the sacramental wine privilege is plaintively evoked in "When Wine Enters, Secrets Are Revealed." This short essay, written by Rabbi Samuel Horowitz of the Bronx, appeared in 1926 in a rabbinic journal published in Budapest. In it, the author explained the "secret" of the title: A question had been puzzling the Jewish People. Why were American rabbis accorded no respect, unlike their colleagues in Europe? What was it about them that had demeaned them in the eyes of their fellow rabbis outside the United States. The secret is revealed in Horowitz's answer. American rabbis are held in low esteem because they had abased themselves in the sacramental wine trade. Yet, Horowitz offers one justification for their activities—Orthodox rabbis in America were suffering under crushing poverty, and the wine trade was vital to their survival.

A similar sentiment was expressed privately by Rabbi Samuel Gerstenfeld in a letter to Elias Cohen, the head of the New York Kehillah. Heartily endorsing the Kehillah's proposal to create a unified rabbinic board to control kashrut supervision in New York City, Gerstenfeld said he favored the plan because it would open opportunities for gainful employment for the city's many destitute Orthodox rabbis and would break the monopoly on kashrut supervision held by New York's two leading Orthodox rabbis, Moses Z. Margolies and Philip Hillel Klein.

One of the good consequences would be after your scheme reaches maturity and success (not to mention *Kashrus*) the Rabbis who generally live in dire poverty and some of them are tempted to do a little bootlegging which may cause someday the biggest scandal and *hilul HaShem* [desecration of God's name], your giving them employment and remuneration would brace them not to stumble. For their heart and mind is sound and aching.¹⁰⁰

Immigrant rabbis were also apparently not troubled by fears of generating anti-Semitism. Their experiences and indeed the history of the Jews in Europe had taught them to see hatred and bigotry as facts of life. To them, their neighbors' animosity was inherent in their being Christians and was in no way dependent on anything contemporary Jews did. What Jews had allegedly done two thousand years earlier determined the nature of the relationship. This paradigm was carried with them from Europe, where it may well have been an accurate model for understanding Gentile attitudes.¹⁰¹ The immigrant rabbis

also tended to adopt a certain "flexibility" toward government regulations, an attitude necessary for survival in countries where laws were often specifically designed to suppress Jewish economic advancement.

This posture was in sharp contrast to that of America's Conservative and Reform rabbis, who had for the most part been raised in this country and considered themselves thoroughly American. They regarded circumventing the law as intolerable and also had the most to lose if perceived as obstructing Prohibition. This attitude explains such facts as Rabbi Stephen Wise's membership on the board of the Alcohol Information Committee, a prominent dry organization, and Brandeis's pro-Prohibition decisions, which led his biographer, A. T. Mason, to label his chapter on this phase of the jurist's career "The Prophet Stumbles."¹⁰²

These justifications aside, the facts appear inescapable. Prohibition certainly was not the finest hour for America's Orthodox rabbis. Their failure, however, could have been predicted. The framers of Section 6 of the Volstead Act had placed them in that most unfortunate of positions for jurists to labor under. When objective legal analysis becomes impossible because self-interest and self-enrichment block the application of dispassionate reasoning, the result is imprudence, or as the Bible puts it, "a gift doth blind the eyes of the wise and pervert the words of the righteous."¹⁰³

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Notes

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1. John Higham, *Send These to Me: Immigrants in Urban America*, rev. ed. (Baltimore, 1984), p. 48.

2. Ronald H. Bayor, "American Anti-Semitism." *American Jewish History* 75 (December 1986): 182.

3. This rule is mentioned four times in the Babylonian Talmud: *Nedarim* 28a, *Gittin* 10b, *Bava Kamma* 113a—b, *Bava Batra* 54b—55a.

4. E.g., see Charles R. Snyder, *Alcohol and the Jews: A Cultural Study of Drinking and Sobriety* (Glencoe, 1958), especially chap. 1. The claim that moderation was the norm in the Jewish community received support from a most unlikely source. In a 1927 letter apologizing for having turned the *Dearborn Independent* into a forum for virulent anti-Semitic rhetoric, Henry Ford wrote to Louis Marshall that he was "fully aware of the virtues of the Jewish people as a whole . . . their sobriety and diligence." For Ford, sobriety was indeed a key virtue. He was an avowed dry, and remained a staunch supporter of the Volstead Act until repeal. This letter appears in *American Jewish Yearbook, 1927-1928*, pp. 384 ff.

5. E.g., Babylonian Talmud, *Bava Kamma* 91b, where Rabbi Eleazar Hakkapar explains why a nazir (one who takes a vow of abstinence) must bring a sacrifice as a sin-offering at the conclusion of his vow—"because he unnecessarily deprived himself of wine." This attitude represents the mainstream, classical Jewish position, but there were occasional divergent views, such as the Essenes in the Second Temple period, and Abraham Maimonides and Abraham bar Hiyya in the medieval period. See *Encyclopaedia Judaica* (1972), s.v. "Asceticism," which despite such exceptions states that "asceticism never occupied an important place in the Jewish religion" (vol. 2, col. 677).

6. The Babylonian Talmud (*Ketubot* 8b) mandates that the deceased's family be consoled with ten cups of wine during the first meal after the funeral. This practice ceased during the geonic period (see the *Me'iri* to *Mo'ed Katan* 24b).

7. Of the general histories of Prohibition that I have consulted, only Herbert Asbury's *The Great Illusion: An Informal History of Prohibition* (New York, 1968), pp. 239-240, mentions that there was abuse of the sacramental wine privilege. He concludes that the problems were caused by bogus rabbis who duped innocent, unsuspecting legitimate rabbis into certifying them or allowing the use of their own permits. The situation was far more complex, however, as will be shown in this article.

An account of the activities of American rabbis during Prohibition can be found in Jenna Weissman Joselit's *Our Gang: Jewish Crime and the New York Jewish Community, 1900-1940* (Bloomington, 1983), pp. 85-105. Particularly good is her uncovering of contemporary news sources, but her study lacks material originating from within the Orthodox Jewish community. In addition, as will be addressed further on, there are several errors in her understanding of the sources.

There is also an important Hebrew article by Shlomith Yahalom, "Jewish Existence in the Shadow of American Legislation: A Study of Prohibition," *Tarbiz* 53 (October-December 1983): 117-137. Her sympathies lie with the Orthodox rabbis for vigorously asserting their First Amendment rights by refusing to join their Conservative and Reform colleagues in renouncing use of the sacramental wine privilege. The historical reality was far more complex and problematic, as will be shown in this study.

I would also like to acknowledge an intriguing comment in n. 129 of Dr. Jeffrey S. Gurock's "Resisters and Accommodators: Varieties of Orthodox Rabbis in America, 1886-1983," *American Jewish Archives* 35 (November 1983), that helped to provide the stimulus for this study:

Finally, membership in the Knesseth ha-Rabbanim may be related, interestingly enough, to the rise of Prohibition legislation in the United States. Under Internal Revenue Commission regulations, to be allowed to utilize wine for sacramental purposes, a rabbi had to show that he was a member of a recognized rabbinical body. Illegal kosher wine "peddling," of course, often became an abuse of this system. In any event, the Knesseth gave rabbis a home base for legal or possibly illegal wine handling. See *Sefer Knesseth*, pp. 74-76. Clearly Rabbi Gabriel Wolf Margolis in his multifarious activities is worthy of much more intensive study beyond the present effort.

8. *The United Synagogue of America, Eighth Annual Convention*, February 1920, cited by Yahalom, "Jewish-Existence in the Shadow of American Legislation," p. 125.
9. *CCAR Yearbook* 30 (1920): 18.
10. Louis Marshall to Elias A. Cohen, January 25, 1923 (Magnes Archives, P3 1541, located at the Central Archives for the History of the Jewish People, Jerusalem), cited by Yahalom, p. 125.
11. Reproduced in *Sefer Knesset haRabbanim* 1 (1922): 75.
12. In fact, government officials were initially uncertain whether Section 6 applied to home use. In July 1919, the Union of American Hebrew Congregation's Annual Reports (vol. 45, p. 8426-27) recorded the government's reply to an inquiry by one of its members regarding the home use of wine for the Passover Seder:

The Department of Justice feels, and properly so, that it cannot place itself on record with reference to the use of wine for religious purposes, except to say that the law as it now stands contemplates the use of wine in the Synagog, and the privilege is extended for such use in exactly the same manner as the law is waived for the communion service of the Roman Catholic and Protestant Church. The matter of the use of wine for the Passover in the household is a matter which the government's attorneys cannot pass upon, as that is something which would have to be construed by the courts in each state, and they can only suggest that individuals making use of wine for such purposes could do so only after consulting their own counsel.

13. Hebrew Union College (the Reform institution) was founded in 1875, the Jewish Theological Seminary (which evolved into the Conservative rabbinical seminary) was established in 1886, and Rabbi Isaac Elchanan Theological Seminary (Orthodox) was founded in 1897.
14. Louis Marshall to Rabbi Moses Z. Margolies, March 20, 1920 in Charles Reznikoff, ed., *Champion of Liberty* (Philadelphia, 1957), vol. 2, p. 933.
15. Louis Marshall, as quoted in the *New York Times*, December 25, 1921.
16. *CCAR Yearbook* 30 (1920): 22.
17. Louis Marshall to Rabbi Moses Z. Margolies, March 20, 1920, in Reznikoff, *Champion of Liberty*, p. 933.
18. Izzy Einstein provides us with more colorful detail. According to him, "they [Menorah Wine] got hold of a son of a rabbi in Washington—a young fellow not twenty years of age—and sent him over on the strength of the family name. Posing as Rabbi So-and-So of Washington, this lad 'passed upon' wine in Malaga and gave it his 'rabbinical O.K.' before it was shipped over here to find its way through bootlegging channels into select speakeasies and less select saloons." *Izzy Einstein, Prohibition Agent No. 1* (New York, 1932), pp. 145-146.

19. The commissioner's interference in this case is intriguing. Someone connected to Menorah Wine must have had influence in Washington. Izzy Einstein recounts being threatened by Nathan Musher, who phoned him from Washington warning that he'd "better be careful" or Musher "may see President Harding in the morning." Einstein recalled newspapers mentioning the rumor that Secretary of the Treasury Andrew William Mellon had been contacted regarding this matter (see *Prohibition Agent No. 1*, pp. 150-151). Musher's threats did not result in any hardship for Einstein personally, and there is no evidence linking him with Einstein's dismissal in 1925. Still, it cannot be denied that Musher, or someone connected with him, had enough influence to get the shipment released and also to obtain the special permit.

Nathan Musher's access to the halls of power was perhaps not so remarkable an achievement as might seem on first analysis. These were, after all, the Harding years. President Warren G. Harding's administration was riddled with corruption. His cronies used their government offices

for a variety of illegal purposes and actively flouted the Prohibition laws. Operating out of a "Little Green House on K Street," members of Harding's "Ohio Gang" would have their own supply of liquor delivered in Wells Fargo Express wagons by armed Internal Revenue agents. In addition, their influence proved invaluable to numerous individuals and groups in need of permits to sell and distribute liquor, ostensibly for legal purposes. Furnishing these permits was a very profitable sideline for the issuers, and most of the liquor obtained in this way ended up in the hands of bootleggers. Both Attorney General Harry M. Daugherty and Prohibition Commissioner Roy Haynes were implicated in transactions of this kind. See E. P. Trani and D. L. Wilson, eds., *The Presidency of Warren G. Harding* (Lawrence, Kansas, 1977), pp. 179-180; Francis Russell, *The Shadow of Blooming Grove* (New York, 1968), pp. 520-523.

20. Einstein's account, which closely parallels the newspaper reports of January 4, 1922, appears in Einstein, *Prohibition Agent No. 1*, pp. 143-149.
21. The *Providence Journal's* headline included the following: "Legitimate Rabbis, Refusing to Countenance Project, Expose Details of Plan to the Authorities."
22. Einstein, *Prohibition Agent No. 1*, p. 146. These assertions were uncritically accepted by Joselit, *Our Gang*, p. 97:

In one famous episode, a clergyman named S. [sic] Margolies traded on the similarity between his own name and that of the leading Orthodox rabbi, Moses Z. Margolies, by fabricating a religious organization which he named the Association [sic] of Hebrew Orthodox Rabbis of America, a title easily confused with the Union of Orthodox Rabbis (Agudath haRabbanim). Margolies' organization received wine for some seventy congregations simply on the strength of its letterhead until Einstein unmasked it as a fraud.

Einstein's version of this incident accurately names Gabriel Wolf Margolis (he calls him "G. Wolf" not "S.," but misspells his last name as "Margolies" instead of the correct "Margolis") and correctly calls the organization the Assembly of Orthodox Rabbis (unlike Joselit's "Association"). See Einstein, *Prohibition Agent No. 1*, pp. 145-147. Joselit accepts at face value Einstein's conclusions (which he had based on information supplied by Rabbi Margolies) that G. W. Margolis was a fraud, "a teacher of some sort," and that his organization was fraudulent as well. These assertions were simply untrue. Rabbi G. W. Margolis, as this study will show, was a rabbi of stature, renowned for his scholarship both in Europe and the Orthodox communities of the United States. Moreover, his organization was legitimate, authorized on November 8, 1920 by the Office of the Federal Prohibition Commissioner to issue permits for the distribution of sacramental wine. Einstein undoubtedly believed he was uncovering a fraud. His source was unimpeachable. But Rabbi Margolies certainly knew that both G. W. Margolis and his Assembly were genuine. His motives for discrediting the organization and its leader will be discussed below.

23. The odium of "Hebrew teacher" is confirmed by G. W. Margolis's letter of rebuttal to the *Providence Journal* (printed as a news story in the *New York Times* on January 15, 1922) in which he declared "that he was never, and is not now, a Hebrew teacher." He further stated that he was never associated in any way with the Menorah Wine Company.

24. *New York Times*, January 4, 1922; Einstein's account dismisses G. Wolf Margolis as a "teacher of some sort," dressed in the garb of religious authority (*Prohibition Agent No. 1*, p. 145).

25. *New York Times*, December 25, 1921.

26. The announcement contained a facsimile of Margolies's handwritten note, which was in Hebrew, as well as a Yiddish translation, and was introduced by the following preface: "Since RaMaZ has had many inquiries regarding Menorah Wine and finds it difficult to answer each

one individually, he reproduces the following letter." Margolies said in it that he had met the Menorah Wine shipment at the dock when it first arrived in America. When he asked who had supervised its production, he was told that two English rabbis had been the *mashgichim* (rabbinic supervisors). When he requested proof of this, he was told that the proper documents would arrive later. However, since the documents had never arrived, he had been unable to sanction the wine. Interestingly, Aaron Silverstone is not mentioned in this account. Perhaps Musher introduced him into the episode only after no trace of the two "English rabbis" could be produced.

27. Rabbi Margolies responded to these interviews by repeating his declaration in the March 6 issue of *Der Tog*, this time using larger type and a larger portion of the page. Menorah countered with a half-page ad in the March 29 issue, which also included a facsimile of Rabbi Yudelovich's letter of approval. In it Yudelovich claimed that Aaron Silverstone's personal stamp appeared on each barrel and that he had supervised the wine from the time the grapes were pressed. The ad drew on the symbol of the menorah, claiming that "just as a menorah is holy, pure, and illuminating, so too, Menorah Wine is holy and pure; no better or more kosher wine exists."

28. See Haim Avni, *Spain, the Jews, and Franco* (Philadelphia: Jewish Publication Society, 1982), p. 43.

29. See Louis Marshall to Elias A. Cohen, January 25, 1923 (Magnes Archives, P3 1541), cited by Yahalom, p. 125.

30. See the entry on Rabbi Joffe on p. 303 of *Ohalei Shem* (Pinsk, 1912), a directory of contemporary rabbis compiled by S. N. Gottlieb. He is described as "the founder of the Union of Orthodox Rabbis of America," and is listed as the author of five works of rabbinic scholarship. Rabbi Yudelovich's entry is on p. 296 (where his name is transliterated Iudelewitz), and he is listed as the author of eleven rabbinical works. Each of these entries is longer than the one given to Rabbi Margolies (on pp. 304-305), and he is not listed as the author of any rabbinical work.

31. See Gurock, "Resisters and Accommodators," pp. 147-149, and Joshua Hoffman, "Rabbi Gavriel Zev Margolis," an unpublished biography of Margolis. Rabbi Hoffman is a graduate student in American Jewish history at the Bernard Revel Graduate School of Jewish Studies, Yeshiva University. I gratefully acknowledge his assistance. He allowed me to read his unpublished biography of Rabbi G. W. Margolis, pointed out valuable references in *Sefer Kneset haRabbanim*, and shared archival material that he had received from the American Jewish Archives as well as additional sources helpful to this study.

32. Gurock, "Resisters and Accommodators," pp. 147-148, describes this ongoing conflict as follows:

This senior scholar, the reputed [*sic*] author of several European-published rabbinic tracts, quickly elected chief rabbi of several New England area congregations, saw little personal value in affiliating with the relatively new rabbinic organization. If anything, he recognized the Agudat ha-Rabbanim as an organizational establishment which stood in the way of his economic and rabbinic-political advancement through the kashruth industry. . . . he undertook a decade-long campaign to undermine the reliability of Agudat ha-Rabbanim within New York Orthodox circles.

This harsh assessment of Rabbi Margolis's motives differs from the position taken by another respected historian. Arthur A. Goren, "Institutions Transplanted," in *The Jews of North America*, ed. Moses Rischin (Detroit, 1987), p. 73, describes the conflict as follows:

In 1911 Adath Israel appointed the eminent rabbi, scholar and preacher, Gabriel Ze'ev Margolis, as its spiritual leader. The Adath Israel leadership, with Margolis at its head and

with the support of the *Morgen Zhurnal*, the Orthodox Yiddish daily, entered the thicket of communal politics. For the next decade it attempted to federate all Orthodox institutions with the goal of communalizing the supervision of kosher meat and religious education. Although the effort proved abortive, it illustrates the communal thrust latent in the traditional hebra kadisha society.

33. This is the number given on p. 21 of vol. 1 of *Sefer Kneset haRabbanim*. However, in the book itself only forty-three names of members appear. Izzy Einstein quotes Rabbi G. W. Margolis as telling him that his organization "had about seventy members, located in various cities" (*Prohibition Agent No. 1*, p. 147).

34. This point was first raised by Gurock, "Resisters and Accommodators," p. 183. It is intriguing that Rabbi Margolies made exactly the same accusation sixty years ago!

35. Reprinted in *Sefer Kneset haRabbanim*, p. 11.

36. The amendment and the official correspondence that preceded it are reprinted in the journal of the Assembly of Orthodox Rabbis, *Sefer Kneset haRabbanim*, pp. 73-78.

37. *Ibid.*, pp. 3-4.

38. *Ibid.*, p. 13. Glazer was not making an empty boast, since he had met with many midwestern governors and congressmen, and ultimately with President Harding himself, in his quest to get government approval for a Jewish national home in Palestine. His efforts finally succeeded in September 1922 when Harding approved a joint congressional resolution passed earlier that spring. Glazer subsequently wrote a book entitled *The Palestine Resolution* which described these events (published by the Kansas City Jewish Federation, 1922).

39. This letter is extant in the collected papers of Rabbi Levin, housed at the American Jewish Archives, Cincinnati. It was shown to me by Rabbi Hoffman, for which I am most grateful.

40. Rabbi Grodzinski's letter was reprinted in *Sefer Kneset haRabbanim*, p. 14. In the interest of fairness to the other Orthodox rabbis of his time, it should be noted that Rabbi Grodzinski was, by comparison, financially secure. He had settled in Omaha to be close to the stockyards, slaughterhouses, and meat-packing plants of the Midwest to benefit from the need for supervisors at companies that distributed kosher meat nationwide. Had his economic situation been difficult, his attitude toward sacramental wine permits might have been more self- rather than community-centered. See Gurock, "Resisters and Accommodators," p. 127.

41. The copy of the contract was found among Rabbi Levin's papers and was provided supplied to me through the courtesy of Joshua Hoffman. He theorizes that Levin obtained a copy of the contract to serve as a model for his own business relationship with wine manufacturers.

42. Jonathan D. Sarna has pointed out the irony of an Orthodox congregation employing a Reform rabbi. Apparently, the congregation's desire to engage in the wine trade (which depended on having a rabbi to receive permits) overrode any reservations regarding doctrinal differences.

43. Jacob Sonderling, "Five Gates: Casual Notes for an Autobiography," *American Jewish Archives* 16 (April 1964): 112-113.

44. *American Hebrew*, March 20, 1925, p. 571.

45. *Ibid.*

46. *CCAR Yearbook*, 1920, pp. 108-114.

47. *New York Times*, January 24, 1922. This was surely the first time that a rabbinic response elicited enough interest in the secular world to merit a press conference and coverage in a major newspaper.

Before Rabbi Ginzberg's decision became known, leaders of the Conservative movement were understandably apprehensive about his conclusions. Cyrus Adler, the president of the Jewish Theological Seminary, expressed this clearly in a letter dated December 28, 1921, to Louis Finkelstein, one of the senior scholars of the institution:

I do not know what Professor [Louis] Ginzberg's opinion is but in any event I do not like the way in which the title of his paper is phrased. You have it "The *Need of Fermented Wines in Jewish Religious Ceremonies*." Does not this title prejudice the case? Should it not be "The *Question of Fermented Wines in Jewish Religious Ceremonies*"? I want to suggest that the wine question be discussed in executive session and not to be open to representatives of the press or to the public. My reason for this suggestion is that this is now a subject for active newspaper discussion and it might very well be that sensational reports would appear in the newspapers.

Ira Robinson, ed., *Cyrus Adler, Selected Letters*, vol. 2 (Philadelphia and New York, 1985), p.

45.

Once Adler knew that Ginzberg's ruling would advocate the use of unfermented wine, he was greatly relieved and approved its maximum public exposure by arranging a press conference.

48. The controversy surrounding grape juice, religious ritual, and temperance did not originate in 1922. The man who first made grape juice, Dr. Thomas B. Welch, was an ardent prohibitionist seeking a nonalcoholic beverage to replace the wine used in Communion. In 1869, using the new technique of pasteurization, he succeeded in preparing nonalcoholic wine, but his fellow Methodists resisted so strongly that by 1873 he abandoned the idea. His son, Charles E. Welch, revived the process several years later and ultimately built Welch's Grape Juice into a formidable corporation. See William Chazanof, *Welch's Grape Juice: From Corporation to Co-operative* (Syracuse, N.Y., 1979), pp. 7-9, 31.

After the Volstead Act was passed, most Protestant denominations switched to grape juice for Communion. The Catholic Church, however, steadfastly refused to abandon fermented wine.

Even prior to Dr. Welch's experiments with grape juice, Christian temperance leaders in the nineteenth century had promoted the use of a different nonfermented substance to replace wine at the Communion table—raisin wine. Professor Jonathan Sarna has explained how they extended the (unwittingly erroneous) information provided them by Mordecai M. Noah that Jews were to drink only unfermented raisin wine at the Passover Seder. Since the Communion ceremony was a reenactment of the Last Supper (which was a Seder), it was only proper that the beverage reflect what Jesus himself had used. This line of reasoning effectively countered any possible arguments from biblical practice against total abstinence from alcohol. See Jonathan D. Sarna, "Passover Raisin Wine, The American Temperance Movement, and Mordecai Noah," *Hebrew Union College Annual* 59 (1988): 269-288, for a brilliant elucidation of nineteenth-century Jewish and Christian interaction on the temperance issue.

Although Noah was mistaken about raisin wine, both Rabbi Ginzberg and Rabbi Mendlowitz (see below, n. 63) cited the sacramental use of raisin wine by Byelorussian Jewry as validating the permissibility of grape juice.

49. Louis Ginzberg, *Tshuva Bedvar Yeinot Haksherim Vehapsulim Lemitzvah* (New York, 1922), p. 77.

Because of its importance, this responsum was translated from the Hebrew into English and printed in the *American Jewish Year Book*, vol. 25 (1923-24), pp. 400-425. Although the title states that the responsum was "translated from the Hebrew original," in fact it is more an abridgement than a translation. This would be quite understandable if it were simply a matter of reducing and simplifying the intricate analysis of talmudic and post-talmudic halakhic sources, but the editors of the *American Jewish Year Book* apparently felt that Ginzberg's concluding sentences were too harsh and embarrassing to be translated into a language that Gentiles could understand. Therefore they were omitted altogether.

50. E.g., compare the reaction of the Union of Orthodox Rabbis to the Rabbinical Assembly's proposed modification of the *ketubah* (Jewish marriage contract) so that an *agunah* (a married

woman whose husband had disappeared or abandoned her) would be given the right to effect a Jewish divorce. This proposal was first raised by Rabbi Louis M. Epstein in a 1930 treatise, and was adopted by the annual convention of the Rabbinical Assembly in May 1935. The Orthodox response was described in a statement by the Rabbinical Assembly as follows: "The storm of protest which broke in May, and which has raged since then, contributed nothing to the elucidation of the problem. The Jewish reading public was merely treated to a demonstration of vituperation, calumny, and shameless, hysterical invective." The controversy generated two full-length books by Orthodox rabbis (*LeDor Acharon* and *HaPargod*, both published in New York in 1937).

51. Two treatments of Ginzberg's responsum appeared in 1926; they will both be discussed further on in our study.

52. Reznikoff, *Champion of Liberty*, p. 935.

53. Eli Ginzberg, *Keeper of the Law* (New York, 1966), p. 221.

54. Emanuel Hertz, *The Use of Wine by Jews for Religious Purposes* (New York[?], 1922), available at the American Jewish Historical Society under call number BM 710.H3. This reference was uncovered by Yahalom ("Jewish Existence in the Shadow of American Legislation," p. 135), but she calls Hertz a Conservative rabbi when, in fact, he was neither a rabbi nor Conservative. Although he studied at the Jewish Theological Seminary for three years, he was never ordained, and he became an attorney instead. (Studying at the Jewish Theological Seminary during its formative years was not indicative of a Conservative orientation. Emanuel Hertz's younger brother, Joseph H. Hertz, for instance, was ordained at JTS but nevertheless became a prominent Orthodox rabbi, serving as chief rabbi of England from 1913 until his death in 1946.) Emanuel Hertz was also active in local Republican politics and ran for Congress in 1926. He is best remembered for his books on Abraham Lincoln and for amassing a huge private collection of Lincolniana. See the entries on Hertz in the *Encyclopaedia Judaica* (1972) and *Who's Who in American Jewry*, 1928.

55. See the preceding note.

56. Ginzberg, *Keeper of the Law*, p. 221.

57. Hertz, *Use of Wine by Jews for Religious Purposes*, p. 1.

58. *Ibid.*, p. 8.

59. *Ibid.*, p. 6.

60. *Ibid.*, p. 4.

61. *Ibid.*, pp. 12-14.

62. In fact, since the late nineteenth century, most wines have been initially handled exactly the same way as grape juice; the freshly pressed wines are heated to kill the naturally growing yeast and then select yeast cultures are added to produce fermentation.

63. In denying that any problem existed, Hurewitz overlooked or chose to ignore what a young Orthodox scholar and educator had conceded. In "Das Neutige Operaziya" [The Necessary Operation], published in *Dos Yiddishe Licht* 1 (1923): 3-4, Rabbi Shraga Feivel Mendlowitz, the principal of Yeshiva Torah Vodaath, launched a bitter critique of Orthodox life in America by criticizing rabbinic involvement in the wine trade.

One need only consider the wine business which many rabbis are heavily engaged in. How much shame, how much degradation, how much desecration of the honor of the Torah lies therein! Rabbis who ought to be the ones to ensure that the laws of the land are upheld are instead the direct or indirect cause of their violation. . . . If truth be told, even if wine for ritual purpose were a biblical commandment, the current desecration of God's name would still not be justified, how much more so that it is only a rabbinic commandment, and it can be fulfilled by using raisin wine! . . . Therefore, I beseech you, my brethren, no

matter how great a Torah scholar a rabbi is, if he is a cause for the desecration of Heaven, he must be removed from the community.

Unfortunately, Rabbi Mendlowitz was unable to follow his own exhortation. In the next issue of *Dos Yiddishe Licht* he submitted "An Open Letter to the Readers" explaining that he had never intended to impugn the honor of Orthodox rabbis and had really meant to condemn the actions of "reverends" who gave their permits to irresponsible parties, resulting in sacramental wine being sold to non-Jews. *Dos Yiddishe Licht* 1, no. 7 (1923): 13.

It is evident that Rabbi Mendlowitz's true feelings were expressed in his first piece. No doubt he was subjected to enormous pressure which led to his retraction.

This source was uncovered by Professor Sid Z. Leiman, and I express my sincere gratitude for his sharing it with me.

64. Isaac Simha Hurewitz, *Sefer HaMitzvot im Sefer Yad Halevi* (Jerusalem, 1926), pp. 136-137.

65. CCAR *Yearbook* 31 (1921): 91.

66. CCAR *Yearbook* 32 (1922): 107-108.

67. *Ibid.*, pp. 108-109. Haynes is also quoted as stating: "When you get to interfering with the religious rights of a religious congregation, you are getting on delicate ground." *Joselit, Our Gang*, p. 99.

68. Rabbi Moses Hyamson, *The Jewish Concept of Wine and Its Use* (New York, 1920).

69. Reznikoff, *Champion of Liberty*, p. 934.

70. *American Hebrew*, March 20, 1925, p. 571.

71. *Joselit, Our Gang*, p. 99.

72. *Jewish Communal Register of New York City, 1917-1918* (New York: Kehillah of New York, 1918), "Table Showing the Distribution of Synagogues in the Various Kehillah Districts & the Salient Features of These Synagogues," pp. 123 ff. The published figures indicate that total synagogue membership amounted to 79,480 and that 93 percent of New York's synagogues were Orthodox.

73. Einstein, *Prohibition Agent No. 1*, p. 12. Einstein himself used wine for ritual purposes. He was not an Orthodox Jew, but, according to his son Albie, the family "had wine for the high holidays." John Knobler, *Ardent Spirits: The Rise and Fall of Prohibition* (New York, 1973), p. 299.

74. Herbert Asbury, *The Great Illusion: An Informal History of Prohibition* (New York, 1968), p. 240; Irving Fisher, *Prohibition at Its Worst* (New York, 1927), p. 93; *idem*, *The Noble Experiment* (New York, 1930), pp. 178-179.

75. In addition to the *New York Times*, the Samuel Joseph press conference was covered by the *Jewish Daily Forward*, the *Tog*, and the *Morgen Journal* of August 29, 1926.

76. *Joselit, Our Gang*, pp. 103-105, covers the last years of the sacramental wine issue in depth. The role of Congressman Fiorello La Guardia as a defender of the Jewish community is especially fascinating.

Between the end of 1927, when the new regulations eliminated most possibilities of abuse, and repeal in 1933, four additional references appeared in Orthodox publications.

The first was a responsum in the November 1929 issue of the American rabbinic monthly *HaPardes* (vol. 3, pp. 19-21), authored by a New York gastroenterologist, Dr. Henry Illoway, the son of a famous nineteenth-century American rabbi, Bernard Illoway. Dr. Illoway was asked the following by a fellow physician: "In these days in which it is so difficult to obtain wine, is it permissible to make Kiddush over grape juice, which is available in any store without threat of punishment or any significant expenditure?" Without mentioning Ginzberg's responsum at all,

Dr. Illoway replied that grape juice was not a halakhically satisfactory alternative to wine. He suggested either the use of raisin wine or applying to one's local rabbi to obtain wine from Palestine that had only recently been reallocated into the United States.

The second source, authored by Gershon Kiss, took the form of a parody on a talmudic tractate and was entitled *Massekhet Prohibition* (New York, 1929). A full page of this work (p. 17) was devoted to lampooning the sacramental wine scandal. Included is the claim that despite their hatred of Jews, Ku Klux Klan members happily avail themselves of kosher sacramental wine.

The third source appears in *Otzar Zichronotai* (New York, 1929), the memoirs of a prolific Orthodox writer named Judah David Eisenstein (New York, 1929). In his discussion of the Volstead Act and the sacramental wine exemption available to Jews, Eisenstein wrote: "Ginzberg forgot that grape juice was only permissible when there was no alternative. Since the government authorities specifically permitted wine for religious purposes, there is a legal alternative to grape juice. Therefore, it is not permitted to substitute grape juice for wine in performing any religious ritual. Furthermore, one need not be more stringent than the government itself, for why should we be more Catholic than the pope?" (p. 142). The tone and dismissive nature of these remarks speak for themselves.

The final source appeared in *Ohel Moshe* (Jerusalem, 1933), a collection of responsa by Rabbi Moshe Shohet, who had been the rabbi of Bangor and Portland, Maine, and of Quincy, Massachusetts. On pp. 74-78 he discussed the problem of whether a Jewish sheriff who had led Prohibition agents to a cache of wine and liquor hidden by another Jew was required, under the principles of the Jewish law of damages, to make restitution for the loss he had caused his fellow Jew. Rabbi Shohet's father, Rabbi H. N. Sochat, was a prominent member of the Knesset haRabbanim, serving on its Committee of Overseers and as a signatory of its telegrams to government officials. Rabbi Moshe Shohet himself was represented in vol. 1, p. 74, of the *Sefer Knesset haRabbanim* with a telegram expressing regret that he could not attend the convention. I hope to analyze his responsum in depth in a future article.

77. One possible vestige of Section 6 of the Volstead Act is the New York State regulation allowing religious functionaries in synagogues and churches to dispense wine to their congregants without having to register or remit the annual fee (of approximately \$600) to the State Liquor Authority. The sales tax need not be collected in these transfers. Kosher wine dealers are naturally perturbed by this unfair competition and periodically pressure legislators and kosher wine manufacturers to curtail or eliminate this loophole.

78. In fact, even many Hasidic authorities, who normally resist any innovation in religious practice, have sanctioned grape juice, conferring on it the same status as wine. For a recent comprehensive review of this issue, see Rabbi David Brand's "Kuntres Hamra Hatida," which appears in a collection of halakhic novellae entitled *Zikhron Mikhael* (Zichron Yaakov, 1989), pp. 275-293. As expected, Ginzberg's contribution to the topic is not acknowledged, much less discussed. Rabbi Brand's conclusion, however, is in agreement with Ginzberg's decision. Included in the article is testimony that a world-renowned halakhist, Rabbi Y. Karelitz (usually referred to as the *Hazon Ish* from the title of his most important work), who was a leading rabbi in Israel (then Palestine) from the 1930s to his death in the 1950s, personally used grape juice for all ritual purposes.

79. Rabbi Menashe Klein, *Mishne Halakhot*, vol. 10 (New York, 1984), p. 33.

80. "Prohibition enforcement remains the chief and in fact the only real political issue of the whole nation." Mabel Walker Willebrandt, *Inside of Prohibition* (Indianapolis, 1929), p. 15. This view was affirmed by the respected historian Scan Dennis Cashman in his *Prohibition: The Lie of the Land* (New York, 1981): "Prohibition was the most avidly discussed issue in American society during the twenties" (p. 251).

81. CCAR Yearbook 32 (1922): 107.

82. *Dearborn Independent*, December 31, 1921 (later reprinted in *The International Jew*, 4 vols. [Dearborn, 1922], 4:31-40). Responsible Jews reacted to these accusations with "a considerable amount of soul-searching," and Louis Marshall is said to have "admitted privately that the percentage of Jews engaged in illegitimate bootlegging, including quite a number of rabbis, was shamefully large, and reflected discredit on the Jews." See Morton Rosenstock, *Louis Marshall: Defender of Jewish Rights* (Detroit, 1965), p. 172.

83. Ernest Gordon, *The Wrecking of the Eighteenth Amendment* (Francestown, N.H., 1943), pp. 157-158.

84. Higham, *Send These To Me*, p. 48.

85. *Ibid.*, p. 310.

86. *Ibid.*, p. 309.

87. Pp. 77-80.

88. *Baltimore Jewish Times*, February 10, 1922, p. 10.

89. Higham, *Send These to Me*, p. 208.

90. *Ibid.*, p. 286.

91. U.S. Congress, Select Committee on the Investigation of the Bureau of Internal Revenue, *Hearings*, 68th Cong., 1st sess. (1925). In December 1926, the House Appropriations Committee heard testimony from Prohibition Commissioner Lincoln Andrews, who had requested additional funding for his enforcement needs (69th Cong., 1st sess.).

92. Joselit, *Otar Gang*, p. 103.

93. See Gurock, "Resisters and Accommodators," *passim*.

94. Arthur A. Goren, *New York Jews and the Quest for Community* (New York, 1970), p. 77.

95. *Report of the United Synagogue, 1913*, pp. 20-21, cited by Herbert Parzen, *Architects of Conservative Judaism* (New York, 1964), p. 67.

96. Professor Sid Z. Leiman pointed out (in comments made after reading a draft of this paper, for which I am most grateful) that this picture of a Volstead-abiding Reform community may have to be modified in light of the following testimony by Izzy Einstein: "Have you noticed that among Jewish people the members of Reformed congregations which dropped the use of wine from their ritual some time ago, are to-day mostly drawing their allotment, the same as the Orthodox?" (*Prohibition Agent No. 1*, p. 137). However, Einstein wrote these words with repeal imminent, for Congress passed the Twenty-first Amendment scarcely three months after Izzy Einstein's book appeared. By then Prohibition was a dead issue for all except the hardcore drys.

97. *New York Times*, January 4, 1922; Einstein, *Prohibition Agent No. 1*, p. 147.

98. This phrase is a well-known Jewish aphorism that first appears in the Talmud (*Sanhedrin* 38a). The meaning is, of course, that an excess of wine loosens the tongue. The Talmud finds support for this universal observation (cf. the Latin *in vino veritas*) in the fact that the numerological equivalents of the Hebrew words for "wine" and "secret" are the same. Until modern times, Hebrew letters were used to represent numbers, so that the coincidence of the equivalences appeared startling.

99. *Apiryon* 4 (1926): 206-209.

100. Central Archives for the History of the Jewish People, Jerusalem, file P3/1895. For this confirmation of my thesis, I once again acknowledge my debt of gratitude to Rabbi Joshua Hoffman, who discovered this letter in the Archives. I would also like to thank Hadassah Assouline, archivist at the Central Archives, for granting me permission to make use of it.

101. Evidence of this attitude can be adduced from the following statement by Jeffrey S. Gurock, "Members of organizations like the Agudat Ha-Rabbanim . . . certainly had no respect for the concept of non-sectarianism in Jewish life. Nor did they care how their views were

received in the gentile world." See his "Jewish Communal Divisiveness in Response to Christian Influences on the Lower East Side, 1900-1910," in *Jewish Apostasy in the Modern World*, ed. Todd M. Endelman (New York and London 1987), p. 265.

102. A. T. Mason, *Brandeis: A Free Man's Life* (New York, 1946), pp. 566-567.

103. Deuteronomy 16:19.