

## BITTER HERBS IN HASIDIC GALICIA\*

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### 1. The Bitter Herb Obligation

Each year at the Passover *seder*, participants partake of festive foods and wine in commemoration of various aspects of the Exodus from Egypt. According to Jewish law, a minimum measure of these foods must be consumed in order to discharge the incumbent religious obligation of the ritual. The measure most often cited with regard to Passover seder rituals is the volume of an olive, known in Hebrew parlance as a *kezayit* (literally “like an olive”). The actual size of the *kezayit* is a matter of debate, with the volume ranging from 17.3 cubic centimetres to 50 cubic centimetres.<sup>1</sup> This debate is removed from

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archaeobotanical evidence, since the term kezayit has come to denote a legal category, rather than any particular strain of olive we might identify.<sup>2</sup>

One of the requirements at the Passover seder is to consume *maror*, bitter herbs, in commemoration of the embitterment of slavery.<sup>3</sup> Codifiers of Jewish law state that a kezayit of bitter herbs is to be eaten.<sup>4</sup> This paper will track the practice of eating less than a kezayit of bitter herbs, within a particular cultural environment and within a defined geographic area: the Galician hasidic milieu.

Before beginning this account of legal history, a historical note is imperative. Common practice in northern and eastern Europe was to consume horseradish for the bitter herb obligation, rather than lettuce or leafy vegetables, which were difficult to obtain in colder climates in

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Translations presented herein are my own, with additions in brackets. I have excised honorifics and encomia to make the text less cumbersome. Almost all the authorities I will discuss – both hasidic masters and jurists – served in Galician towns or had strong ties to Galicia.

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<sup>1</sup> Hayim P. Benish, *Middot ve-Shi'urei Torah* (2<sup>nd</sup> ed., Benei Brak, 1987), 17:4-5; Moshe Yaakov Weingarten, *Ha-seder he-'Arukh* (Jerusalem, 1990-1993), I:267, 458-59, 492-93; Hadar Yehuda Margolin, *Kuntras Shi'ur Kezayit* (Jerusalem, 2006).

<sup>2</sup> Cf. Mordechai Kislev, “*Kezayit: Peri ha-Zayit ke-Middat Nefah*,” *Tehumin* 10 (1989), 427-38; Yonatan Adler, “*Pesika Hilkhatait 'al semakh Mimtsa'im Arkhi'ologiyim*,” *Tehumin* 24 (2004), 495-504.

<sup>3</sup> Ex 1:14; mPes 10.5. Cf. Ibn Ezra, Ex 12:8 citing a Spanish rabbi who suggested that bitter herbs were originally a standard Egyptian condiment. Zohary followed this line when he suggested that the bitter herbs were “used primarily to flavor the tasteless unleavened bread.” Gaster noted the folk use of cathartics as a purifier or an apotropaic, suggesting that bitter herbs played a similar role. K. van der Toorn suggested that consuming bitter herbs was originally a form of ordeal, akin to the bitter water administered to the suspected wife. See Arnold B. Ehrlich, *Mikrâ ki-Pheshutô: The Bible According to its Literal Meaning* (New York, 1969), I:157; Michael Zohary, *Plants of the Bible* (Cambridge, 1982), 95; Theodor H. Gaster, *Passover: Its History and Traditions* (New York, 1949), 18-19; K. van der Toorn, “Ordeal Procedures in the Psalms and the Passover Meal,” *Vetus Testamentum* 38 (1988), 443-44.

<sup>4</sup> Maimonides, *Mishneh Torah*, Laws of Leavened and Unleavened Bread 7:13; *Shulhan 'Arukh, Oraḥ Ḥayim* 473:5, 475:1.

time for Passover.<sup>5</sup> The sharpness of horseradish made its consumption difficult.<sup>6</sup> It is likely that the practice of eating less than a kezayit of bitter herbs developed from these circumstances. Some authorities acknowledged this connection when describing the reality

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<sup>5</sup> Jews in southern and western Europe and in Mediterranean countries did not use horseradish for bitter herbs. *Hazeret* – the first vegetable listed in mPes 2.6 as valid for the bitter herb obligation – has been identified as romaine lettuce, though the term is often mistakenly used for horseradish. The identification of *tamkha*, the third vegetable listed in the Mishna, is uncertain. Translating *tamkha* as horseradish, however, is not accurate because it is unlikely that horseradish existed in the Middle East during mishnaic or talmudic times, and because horseradish is sharp rather than bitter. Horseradish is mentioned in rabbinic literature in the twelfth century as an ingredient of *haroset* (the bitter herb condiment). Identifying horseradish as *tamkha* first appeared in the late thirteenth century. Some authorities opined that the Mishna's list is not exhaustive; others noted that vegetables valid for bitter herbs must nevertheless be recognised by tradition. Some authorities lamented the widespread use of horseradish, particularly where leafy vegetables were available. Despite the issues with horseradish, its popularity did not wane – first in deference to time-honoured tradition, and because of a new issue: in 1822, Rabbi Moshe Sofer (*Hatam Sofer*, 1760-1839) ruled that lettuce was problematic because it was difficult to fully rid the vegetable of bugs (Sofer, himself, reportedly consumed lettuce for bitter herbs after having it repeatedly checked with a magnifying glass by numerous students; see Shlomo Sofer, *Hut ha-Meshulash* (Paks, 1887), 31a). This position was taken up by Rabbi Yisrael Meir Kagan (*Hafets Hayim*, 1838-1933), lending the position contemporary standing (*Mishna Berura* 473:42). Other writers pointed to the numerous types of lettuce, making the identification of the Mishna's lettuce nigh impossible; horseradish at least had the weight of tradition. See Arthur Schaffer, "The History of Horseradish as the Bitter Herb of Passover," *Gesher* 8 (1981), 217-37; Shlomo Wahrman, *Oroth Hapesach* (New York, 1992), 211-16; Avraham Korman, "Maror: *Hasa o Khrain*," *Ha-Ma'ayan* 34.3 (Nisan 5754): 43-51; Yosef Shores, "Al Akhilat Khrain b-Leil ha-Seder," *Ha-Ma'ayan* 34.4 (Tammuz 5754), 64-65; Matis Blum, *Torah Lada'at* (New York, 1984-2001), VI:187-90; Ari Z. Zivotofsky, "What's the Truth about ... Using Horseradish for Maror," *Jewish Action* (Spring 5766/2006), 74-77; David Golinkin, "Romaine Lettuce or Horseradish: Will the Real Maror Please Stand Up?" [www.schechter.edu/responsa.aspx?ID=65](http://www.schechter.edu/responsa.aspx?ID=65), accessed April 24, 2012.

<sup>6</sup> Minimising the prescribed volume of horseradish was one way to deal with its sharpness. Another stratagem was to grate the vegetable rather than eat it whole. A third strategy was to cook the horseradish. See Yehiel Mikhel Gold, *Darkhei Hayim ve-Shalom* (Munkács, 1940), note to section 590; Zivotofsky, "Using Horseradish," 76 n.19; Korman, "Maror," 47.

of eating less than a kezayit of horseradish,<sup>7</sup> and contemporary writers have considered the availability of various vegetables in their discussions.<sup>8</sup>

Whatever the context of the development of the practice, many Galician hasidic masters saw this as a normative custom, and jurists addressing its legality did not attempt to explain the practice by reference to the historical and/or geographic reality. Thus the availability of vegetables, so important for an analysis of the origins of the practice, is not central to this account of legal history.

I begin this account in late eighteenth-century Galicia in the Austro-Hungarian Empire, where less than the required amount of bitter herbs was consumed as a matter of course. Among those who consumed less than the required amount were leaders associated with Hasidism – the eastern European Jewish religious revival that began to take form in the late eighteenth century and became popular in Galicia and in Congress Poland during the nineteenth century. Anecdotal evidence of the practice abounds, indicating that this was an accepted practice.

I briefly pause to examine evidence from the Russian Empire, where the claim that this should be identified as a Galician practice is challenged, but ultimately confirmed.

Returning to Galicia, I present evidence from the second half of the nineteenth century and the first half of the twentieth century, when jurists of the hasidic ilk responded to the apparently delinquent practice. Some jurists harmonised the practice with Jewish law, others grappled with it, and some barely justified it. The common theme in the writings of these jurists is a dual motive: fidelity to hasidic lore while taking stock of the normative realm of Jewish law.

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<sup>7</sup> Tsevi Ashkenazi, [*Hakham Tsevi*] (Amsterdam, 1712), section 119; Tsevi Elimelekh Shapira, *Derekh Pikudekha* (Lemberg, 1851), positive commandment 10, *helek ha-ma'aseh*, section 12.

<sup>8</sup> Schaffer, “History of Horseradish”; Korman, “*Maror*”; Shores, “‘*Al Akhilat Khrain*’”; Zivotofsky, “Using Horseradish”; Golinkin, “Romaine Lettuce or Horseradish.” Contemporary scholars have advocated returning to the now widely-available lettuce. Schaffer saw poetic symbolism in the use of horseradish: “The *maror* symbolizes not only the bitter bondage of Egypt, but also serves as a reminder of the bitter exile and the wanderings of the past and present. How fitting it is then, that the symbol of this bitterness, horseradish, is in itself a product of these selfsame wanderings. Even the celebration of the *seder* has been so affected by the Diaspora that commemorative symbols have become evidence and testimony” (Schaffer, “History of Horseradish,” 237).

I then move beyond the borders of Galicia, where in the late twentieth century the historicity of the practice was denied by some of the descendants of those who had reportedly advocated eating less than a kezayit of bitter herbs as a matter of course.

The kezayit is a relatively small measure, and it may be tempting to dismiss this matter with the principle *de minimis non curat lex* (the law does not concern itself with trifles). Indeed, focusing on the kezayit in a single ritual within a particular milieu – a *historeme*<sup>9</sup> of sorts – might be perceived as mere anecdotalism. To avoid that pitfall, I conclude by spotlighting insights into major themes of the evolution of Jewish practice and the interplay between Jewish law and hasidic lore. In this sense, this essay draws on the methodology of New Historicism, and more specifically New Historicist Legal History. My exploration of the interaction of text and context – how texts are shaped by context, and how context deals with text – also fits this methodology of intellectual history. So too, the upshot of this study depicts the broader hasidic community as being heterogeneous, permeable, and processual.<sup>10</sup>

## 2. Bitter Herbs in Galicia

In 1886, Rabbi Yehoshua Horowitz (1848-1912), rabbi in Dzików and scion to a family of Galician hasidic masters, printed the third volume of *Imrei No'am* – the hasidic teachings of his father and predecessor, Rabbi Meir Horowitz of Dzików (1819-1877). At the back of the volume Yehoshua appended six responsa – four that were written by his father and two from his own pen. In the third responsum, Meir addressed the matter of a person who is unable to consume a full kezayit of bitter herbs: should this person nevertheless partake in the ritual? Furthermore, if the law dictates that the person should consume less than the required amount, should the prescribed blessing over the ritual be recited? Meir answered both questions in the affirmative: yes, the person should consume less than a kezayit, and yes, the blessing should be pronounced. I will return to this responsum in detail; for

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<sup>9</sup> “The smallest minimal unit of the historiographic fact”: see Joel Fineman, “The History of the Anecdote: Fiction and Fiction,” in *The New Historicism*, ed. H. Aram Veeseer (New York & London, 1989), 57.

<sup>10</sup> William W. Fisher III, “Texts and Contexts: The Application to American Legal History of the Methodologies of Intellectual History,” *Stanford Law Review* 49 (1997), 1070-72, 1084-86.

now it is sufficient to note that Meir concluded his exposition with the following testimony:

And thus was the custom of my grandfather, the rabbi the *tsadik* of Ropczyce – that he would consume less than a kezayit and recite the blessing over it, and his wisdom remained with him.<sup>11</sup>

Meir was the son of Rabbi Eliezer Horowitz of Dzików (1790-1860), also known by the diminutive Eliezerel. Eliezer was the third son of the famous hasidic master Rabbi Naftali Tsevi Horowitz of Ropczyce (1760-1827). Meir reported that his grandfather Naftali consumed less than the prescribed amount of bitter herbs, with no adverse effects. From Meir's language it would appear that this was a regular practice, rather than a one-time occurrence. Moreover, the practice was divorced from the circumstances of the question: there is no evidence to suggest that Naftali was infirm when he consumed less than a kezayit of bitter herbs, nor was the practice connected to the particular vegetable used for the ritual. The reader is told that there were no legal consequences, no communal censure, nor any adverse spiritual effects that resulted from Naftali's conduct.

Meir's report raises two questions. First, did the famed Naftali of Ropczyce really eat less than the required amount of bitter herbs? Naftali served as the rabbi of Ropczyce, and following his father's death in 1803 he also served as the rabbi of Lisko. Did this rabbi – the professional charged with upholding Jewish law – truly eat less than the prescribed amount of bitter herbs? Second, was Naftali's course a widespread practice? Meir's testimony appears to be a firsthand account of his grandfather's practice. Moreover, Meir's report should be believed if we consider the "criterion of embarrassment" – a jurist would hardly boast of his grandfather, a saintly and respected predecessor, acting against Jewish law.<sup>12</sup> Indeed hasidic lore

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<sup>11</sup> Meir Horowitz, *Imrei No'am: 'Al Mo'adim ve-Ḥodeshey ha-Shana*, II (Kraków, 1886), 88-89; final three words paraphrased from Eccl 2:9.

<sup>12</sup> Employing this criterion lends credibility to any report – and there are several, as I will detail – of a hasidic master consuming less than the required amount. The "criterion of embarrassment" has been used by New Testament scholars in the study of the historical Jesus; Satlow applied this methodology to Leviticus Rabba; Dynner suggested applying it when mining hasidic tales for historical data. See John P. Meier, *A Marginal Jew: Rethinking the Historical Jesus* (New York, 1991), I:167-71; Craig A. Evans, *Jesus and his*

corroborates Meir's report, and furthermore records that the practice was commonplace amongst hasidic masters from Galicia. No indication is given that this was considered an antinomian act.<sup>13</sup> I will begin with evidence from Naftali's family before proceeding to other Galician hasidic masters.

In addition to Meir Horowitz of Dzików, Eliezer had a daughter called Baila who married Rabbi Meir Natan Halberstam (1827-1855), the third son of Rabbi Hayim Halberstam of Nowy Sącz (*Divrei Hayim*, 1797-1876). When Meir Natan died at a young age, he left behind his wife and their young son. The young boy was sent to Eliezer, his maternal grandfather, by whom he was raised. The young boy later became known as Rabbi Shlomo Halberstam of Bobowa (the First, 1847-1905), establishing his own hasidic court and dynasty. Shlomo was succeeded by his son, Rabbi Ben-Zion Halberstam of Bobowa (*Kedushat Tsiyon*, 1874-1941), who was murdered during the Holocaust. Ben-Zion's son was born two years after Shlomo passed away and was named after his deceased grandfather. Rabbi Shlomo Halberstam of Bobowa (the Second, 1907-2000), survived the war and resurrected the dynasty in America.

Rabbi Shmuel Meir Ha-kohen Hollender (1889-1964), a Galician rabbi, reported a conversation he had with Shlomo II, regarding a tradition the latter had received about his grandfather, Shlomo I:

Rabbi Shlomo of Bobowa [the First] would not eat a kezayit of bitter herbs, because his grandfather Rabbi Eliezerel of Dzików ... asked his grandson ... not to eat a kezayit of bitter herbs,

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*Contemporaries* (Leiden, 1995), 18-19; Stanley E. Porter, *The Criteria for Authenticity in Historical-Jesus Research: Previous Discussions and New Proposals* (New York, 2000), 106-10; Michael L. Satlow, "'Fruit and the Fruit of Fruit': Charity and Piety among Jews in Late Antique Palestine," *JQR* 100 (2010), 255-56 n.32; Glenn Dynner, "The Hasidic Tale as a Historical Source: Historiography and Methodology," *Religion Compass* 3.4 (2009), 660-61. As Dynner commented: "When it comes to ... negative disclosures, which would not have been fabricated by a community of believers, the burden of proof is on the skeptics" (*ibid.*, 667).

<sup>13</sup> "Antinomianism" may sound harsh for such a trifling matter as kezayit. However, in a culture in which law is sacred, the slightest deviation may be viewed as antinomian, even when it is not an attempt to undermine the foundations of the legal system. Magid termed this "soft antinomianism" (Shaul Magid, *Hasidism on the Margin: Reconciliation, Antinomianism, and Messianism in Izbica and Radzin Hasidism* (Madison: University of Wisconsin Press, 2003), 215-16).

[and Shlomo, the First] promised [Eliezer] that he would do his bidding, therefore he did not eat a kezayit of bitter herbs.<sup>14</sup>

This report indicates that the practice attributed to Naftali was continued by his son Eliezer, who specifically asked his grandson Shlomo I to adopt what we can identify as a family custom. Shlomo I apparently acquiesced to the request.<sup>15</sup> We should also note that the informants – Shlomo II and Hollender – were not vociferously critical of the practice.

The existence of the family custom is further indicated in a captivating vignette from the Passover seder in Meir's home. In 1875, Meir's daughter, Hinda, married Rabbi Yisrael Hager of Wiznitz (*Ahavat Yisra'el*, 1860-1936), a scion of the Kosów-Wiznitz hasidic dynasty. The young couple lived in Dzików, until Meir's death two years later. Wiznitz hasidic lore reports the following episode from that period:

It happened on the seder night, that our master [Yisrael of Wiznitz] hid horseradish underneath the hollow leg of the goblet, so that he would have it for a kezayit of bitter herbs, since in Dzików they were not particular about taking a full kezayit. But our master refused to change the custom of his forefathers.<sup>16</sup>

The account acknowledges the Dzików custom to eat less than kezayit of bitter herbs, and indicates that Meir's report regarding his grandfather's practice can be read as testimony to his own custom too. Yisrael was apparently untroubled by the delinquency of the practice;

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<sup>14</sup> Shmuel Meir Ha-kohen Hollender, *She'elot u-Tshuvot Shem ha-Kohen* (Jerusalem, 1952), 37, section 4. Hollender arrived in Israel in 1948 and served as rabbi of the Neveh Tsedek neighbourhood in Tel-Aviv. Regarding Hollender, see Meir Wunder, *Me'orei Galitsya* (Jerusalem, 1978-2005), II:96-99.

<sup>15</sup> Shlomo I was troubled by the practice, as indicated by his correspondence on the matter with contemporary jurists. His own exposition has not survived, though a number of responsa written to him have. From those letters it appears that he argued against the Dzików position, stating that one who consumes less than a kezayit should not recite the blessing. See Yitshak Schmelkes, *She'elot u-Tshuvot Beit Yitshak, Yoreh De'ah I* (Przemyśl, 1888), responsum from 1886 printed at the back of the volume.

<sup>16</sup> Natan Eliya Roth, *Kedosh Yisra'el* (2<sup>nd</sup> ed., Benei Brak, 1985), 28; idem, *Me'ir ha-Hayim* (Benei Brak, 1990-2001), II:193.

his choice not to follow the practice was based on a desire to uphold his own family custom.

While young Yisrael furtively stowed bitter herbs at his father-in-law's seder, years later, when he headed his own hasidic court, he may have recalled the custom of his wife's family:

However with the passage of time, when he sat on the throne of his own kingdom, it once happened that at the seder there were insufficient bitter herbs that had been prepared for the participants, and none were left for R. Moshe Teitsher. The holy grandfather [Yisrael] gave him some bitter herbs from his plate. R. Moshe pointed and said: "Nu, kezayit." Our master responded to this: "Ay, Ay," meaning – there is no need.<sup>17</sup>

Another Wiznitz vignette is also relevant:

In another case, when bitter herbs for the participants were missing from the table, one of the Hasidim called out to R. Meshulam and sent him to bring bitter herbs for the guests. Our master [Yisrael] commented on this: "The Jews do not need more bitter herbs; they already have had enough bitter herbs."

While the two tales do not explicitly make the connection between the unfortunate lack of bitter herbs in Wiznitz and the custom in Ropczyce and in Dzików, Wiznitz lore records the tales after recalling how young Yisrael had secretly prepared enough bitter herbs for himself when he was a newlywed in Dzików. To be sure, the Wiznitz custom remained in line with normative law, but when there were not enough bitter herbs the Ropczyce-Dzików custom was invoked. Footprints of the Ropczyce-Dzików family custom can thus be traced to the beginning of the twentieth century.

But it was not just Naftali's descendants who consumed less than a kezayit of bitter herbs. In his compendium of customs, Avraham Yitshak Sperling (1851-1921) recorded the Ropczyce-Dzików tradition and added: "And I heard from the hasidic master of Olesko, of blessed memory, that the holy rabbi of Strzeliska Nowe, of blessed memory, also ate a small amount of bitter herbs."<sup>18</sup> This testimony

<sup>17</sup> Roth, *Me'ir ha-Hayim*, 196-97.

<sup>18</sup> Avraham Yitshak Sperling, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (3<sup>rd</sup> ed., Lemberg, 1906-1907), I:64, note to section 519.

first appeared in the 1906-1907 edition of Sperling's work, so it would appear that Sperling was referring to Rabbi Yitshak Mayer of Olesko (1829-1904), who had written an approbation for the first edition of Sperling's work. Yitshak Mayer reported that Rabbi Uri of Strzeliska Nowe (1757-1826) – a Galician contemporary of Naftali – had also consumed less than a kezayit of bitter herbs. We should note that Yitshak Mayer was the son of Rabbi Hanokh Heinekh Dov Mayer of Olesko (*Lev Samei'ah*, 1800-1884), who was a disciple of Naftali and of Uri.<sup>19</sup>

Rabbi Aryeh Tsevi Fromer (1884-1943), a respected rabbinic leader and legal authority during the interwar period, also related to the practice of consuming less than a kezayit of bitter herbs. In his volume of responsa printed in Lublin on the eve of the Second World War, Fromer reported the following hearsay:

I heard in the name of Rabbi Shalom of Belz that he instructed to eat less than a kezayit of bitter herbs and recite the blessing “concerning eating bitter herbs” over it. And similarly, Rabbi Naftali of Ropczyce and the holy rabbi of Sieniawa instructed. And the matter is well known throughout the province of Galicia.<sup>20</sup>

In addition to Naftali, Fromer added to the list of Galician hasidic masters who consumed less than a kezayit: Rabbi Shalom Rokeah of Belz (1783-1855) and Rabbi Yehezkel Sheraga Halberstam of Sieniawa (*Divrei Yehezkel*, 1813-1898). Adding these two Galician hasidic masters is not surprising given their familial ties and intellectual milieu: Shalom was one of the prime students of the aforementioned Uri of Strzeliska Nowe; his daughter Freida married Hanokh Heinekh Dov Mayer of Olesko and thus he was the grandfather of Yitshak Mayer; another daughter Eidele married the grandson of Naftali.<sup>21</sup> Yehezkel Sheraga was raised in the Galician hasidic milieu and he considered Shalom of Belz to be his prime teacher. In addition, Yehezkel Sheraga recalled that in his youth he

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<sup>19</sup> Yitshak Alfasi, *Entsiklopedya la-Hasidut: Ishim* (Jerusalem, 1986-2005), I:636-37.

<sup>20</sup> Aryeh Tsevi Fromer, *She'elot u-Tshuvot Erets Tsevi* (Lublin, 1938), section 85; idem, *She'elot u-Tshuvot Erets Tsevi* (Benei Brak, 1990), I:304, section 85; D. A. Mandelboim (compiler), *Haggadah Erets Tsevi* (Benei Brak, 2009), 272.

<sup>21</sup> Alfasi, *Entsiklopedya la-Hasidut*, I:206, 636-37, II:344, III:674-75.

had heard from his father an explanation in the name of Naftali, and in his writings he attributed ideas to Naftali on two occasions.<sup>22</sup>

Fromer understood that the custom had been sanctioned without reservation by Galician hasidic masters. Perhaps most significantly, Fromer told his readers that he was not the sole bearer of the tradition, for “the matter is well-known throughout the province of Galicia.” Regarding the prevalence of the practice, Fromer claimed that this was the custom of “most of Israel” or at least “most of the masses and women”<sup>23</sup> – indicating that the practice was not confined to hasidic masters, and perhaps not even to hasidic circles.<sup>24</sup>

Another reference to the Galician hasidic practice can be found in a responsum of Rabbi Hayim Elazar Shapira of Munkács (*Minḥat El’azar*, 1871-1937). Hayim Elazar served as hasidic master and rabbi of Munkács – at the time part of Hungary and later part of the newly formed Czechoslovakia – but Hayim Elazar himself was of Galician hasidic stock.<sup>25</sup> Hayim Elazar was asked whether a blessing could be recited on less than a kezayit of bitter herbs. In the middle of the discussion, Hayim Elazar added a parenthetical remark: “However, we should offer a support for the custom of the *tsadikim* (our ancestors and teachers of blessed memory who were cited in *Imrei No’am*).”<sup>26</sup> Hayim Elazar did not appear to have first-hand knowledge of the custom and, according to the testimony of his student, he himself did

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<sup>22</sup> Yehezkel Sheraga Halberstam, *Divrei Yehezkel’el* (Podgórze, 1901), *Shemini ‘Atseret; Ki Tisa; Re’eh*; Yisrael Berger, *Eser Tsaḥtsaḥot* (Piotrków, 1909), 6:59, 82; Alfasi, *Entsiklopedya la-Ḥasidut*, II:183.

<sup>23</sup> Fromer, *She’elot u-Tshuvot Erets Tsevi*, section 85 and errata to fol. 100.

<sup>24</sup> See, for now, Wahrman, *Orot Hapesach*, 213. In this paper, I have not dealt with the practice in the non-hasidic Galician milieu.

<sup>25</sup> Hayim Elazar Shapira was born in Strzyżów, Galicia. Though he moved to Hungary in 1882 when his grandfather was appointed rabbi of Munkács, he soon returned to his native Galicia, travelling extensively to hasidic courts in Galicia and Congress Poland. In 1887 he married Ḥaya Ḥasha, daughter of Rabbi Sheraga Yair Rabinowicz (1839-1912) and spent the following years in his father-in-law’s home in Białobrzegi, Congress Poland. Hayim Elazar’s non-Hungarian identity was so strong that in his writings he identified himself as Galician or Polish: see Hayim Elazar Shapira, *She’elot u-Tshuvot Minḥat El’azar* (Munkács & Bratislava, 1902-1930), I:16; idem, *Nimukei Oraḥ Ḥayim* (Turnov, 1930), section 5:1.

<sup>26</sup> Shapira, *Minḥat El’azar*, II:58:2. Hayim Elazar excised identifying markers when printing his responsa. He published his first volume of responsa in 1902 and his second in 1907, so the responsum may have been written in the interim.

not consume less than a kezayit of bitter herbs.<sup>27</sup> Nevertheless, Hayim Elazar accepted Meir of Dzików's testimony to the extent that he thought it important to offer a succinct legal defence of the practice.

Hayim Elazar referred to "our ancestors and teachers of blessed memory who were cited in *Imrei No'am*"; as we recall, Meir only referred to his grandfather Naftali of Ropczyce, so to whom was Hayim Elazar referring? Hayim Elazar himself was a descendant of Naftali, but he seems to be referring to more than one person.<sup>28</sup> Perhaps he was referring to his mother's grandfather, Eliezer of Dzików, who had encouraged his grandson Shlomo to adopt the practice. Perhaps Hayim Elazar was referring to his teacher, the aforementioned Yehezkel Sheraga of Sieniawa, who reportedly consumed less than a kezayit. Whatever Hayim Elazar's intent, he accepted Meir's testimony, acknowledged that the custom was prevalent and deemed the practice worthy of a legal defence (even though he himself did not adopt the practice). Given Hayim Elazar's strident temperament and willingness to enter into the fray, this is significant, for there can be little doubt that had he objected to the veracity of the report he would have lambasted it in no uncertain terms.<sup>29</sup>

Did all Galician hasidic masters consume less than a kezayit of bitter herbs? While the practice may have been widespread, it was not universal. For example, Naftali's younger contemporary, Rabbi Tsevi Elimelekh Shapira of Dynów (1784-1841), wrote the following:

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<sup>27</sup> Gold, *Darkhei Hayim ve-Shalom*, section 590.

<sup>28</sup> Hayim Elazar's mother, Esther (d. 1929) was a great-granddaughter of Naftali from two sides: two of Naftali's sons – Rabbi Yaakov of Mielec and Kolbuszowa (d. 1839) and the aforementioned Eliezer of Dzików (1790-1860) – were Esther's grandfathers. Hayim Elazar had other familial ties to Ropczyce-Dzików: Meir's son, Rabbi Tuvia of Majdan (d. 1918) married the daughter of Rabbi David Shapira of Dynów (1804-1874); David was the older brother of Rabbi Elazar Shapira of Łańcut (1808-1865); Elazar was the paternal great-grandfather of Hayim Elazar.

<sup>29</sup> Regarding the custom not to recite a blessing before reading the portion of Torah that contains the rebuke, Hayim Elazar disagreed with the Dzików position and did not offer a defence for the practice (Shapira, *Minhat El'azar*, I:66 and *Shi'urei Minha*; idem, *Nimukei Oraḥ Hayim*, 428:1); regarding exporting oil and wine grown in the Land of Israel – a question with ideological overtones – Hayim Elazar vociferously argued against the Dzików position (Shapira, *Minhat El'azar*, II:70).

Many of the vegetables that can be used to discharge the obligation of bitter herbs are not to be found among us, and most people in these lands eat [horseradish]<sup>30</sup>, and behold it is sharp and extremely strong, and they are unable to eat a kezayit. And even one who eats a kezayit, does not eat it at once. Therefore, one should be careful about this; that is, one who estimates that he will not eat a kezayit at once, should not recite the blessing because it is a blessing in vain.<sup>31</sup>

Tsevi Elimelekh was a Galician native and spent most of his life in the Galician hasidic milieu; hence he was well placed to observe the practice. He did not, however, see a sanctioned custom; rather, he saw non-normative conduct. As such, he warned his readers and offered advice as to the best legal course for eating horseradish in order to fulfil the bitter herb obligation.

Was Tsevi Elimelekh unaware of Naftali's practice? I cannot definitively answer this question. It is possible that Tsevi Elimelekh did not know that his older contemporary consumed less than a kezayit of bitter herbs as a matter of course. Alternatively, he may have known about the practice, but chose not to explicitly censure it.<sup>32</sup> Either way, Tsevi Elimelekh's admonition indicates that the practice was not adopted by all Galician hasidic masters.<sup>33</sup>

### 3. Bitter Herbs in the Russian Empire

I will presently return to Meir of Dzików, Hayim Elazar of Munkács, Fromer, and Sperling in order to examine the legal context of their

<sup>30</sup> א"א חריין בל"א אוכלין חזרת הוא הנ"ק חריין בל"א [they eat *hazeret*, which in Yiddish is called *hrain*]. *Hrain* or *khrain* is the term for horseradish; *hazeret* has mistakenly been used for horseradish (above, note 5).

<sup>31</sup> Shapira, *Derekh Pikudekha*, positive commandment 10, *helek ha-ma'aseh*, section 12.

<sup>32</sup> Tsevi Elimelekh lived his whole life in Galicia, apart from a four year sojourn in Munkács, Hungary where he served in the rabbinate (1824-1828). Salmon suggested that his appointment to the rabbinate on the other side of the Carpathian Mountains was connected to tension between him and Naftali. See Yosef Salmon, "R. Naftali Tsevi mi-Ropshits – Kavim Biyografim," in *Tsadikim ve-'Anshei Ma'aseh*, eds. I. Bartal, R. Elior & C. Shmeruk (Jerusalem, 1994), 100 n.61; cf. Yisrael Berger, *Eser Kedushot* (Warsaw & Piotrkow, 1906), 2:35.

<sup>33</sup> Other Galician writers who were not in favour of the practice: Rabbi Hayim Halberstam of Nowy Sącz (below, notes 74, 77, 87) and *Rahamei ha-'Av* (below, note 71).

reports. I pause here to introduce a piece of evidence which calls into question the Galician and hasidic nature of the custom. This is a letter written by Rabbi Naftali Tsevi Yehuda Berlin (*Netsiv*, 1816-1893) – a leader unaffiliated with Hasidism and most famous for serving at the helm of the Volozhin Yeshiva.<sup>34</sup> The letter, written in the respectful third person, was sent shortly before Passover 1882 to Netsiv's son, Rabbi Hayim Berlin (1832-1913), who was serving as rabbi in Moscow:

I have paid attention and heard regarding our son, how he is stringent regarding a kezayit of bitter herbs, namely horseradish. And I was surprised by this, what has he – my son – seen for this. Indeed, it is true, in my opinion, that all olive [volume] requirements are only in order to discharge an obligation, but any time he increases [the volume consumed] it has religious value [*mitsvah*]<sup>35</sup>. ... Nevertheless, the commandment of bitter herbs is not included [in this]. For one, [bitter herbs] is only a rabbinic [requirement]. Second ... the [biblical] commandment is only [to consume] a miniscule amount, to taste the taste of bitter herbs. ... And this is clear, that the kezayit measure [for bitter herbs] ..., is an exceedingly small measure; why then should we be stringent.<sup>36</sup>

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<sup>34</sup> Netsiv was born in Mir and spent most of his life in Włozyn – both in the Russian Empire.

<sup>35</sup> The term “*mitsvah*” is used here in the sense of a religious ideal or value. See also below, near note 71.

<sup>36</sup> Naftali Tsevi Yehuda Berlin, *Meromei Sadeh* (Jerusalem, 1954-1959), Pes 39a. The letter is dated Tuesday, 8<sup>th</sup> Nisan [5]642 (March 28, 1882). *Meromei Sadeh* was published posthumously and contains Netsiv's talmudic novellae. This letter was reprinted with an opening and a parting paragraph in Hayim Berlin, *She'elot u-Tshuvot Nishmat Hayim* (Jerusalem, 2008), I:141. Hayim served as rabbi in Moscow from 1865 until the Jews were expelled from the city by the 1882 May Laws of Tsar Alexander III.

According to Korman, Netsiv first discussed the matter with his son. When Netsiv did not manage to convince Hayim, he wrote to him in a further attempt to persuade his son (Korman, “*Maror*,” 50 n.10). Korman did not share the source for his knowledge of this prior conversation. In a responsum written fifteen years later in 1897, Hayim discussed using lettuce first for *karpas* and then later for bitter herbs. Korman, who was shown the original letter by the addressee's grandson, understood that Hayim heeded his father's exhortations and gave up the practice of using horseradish for bitter herbs (Korman, “*Maror*,” 43, 50 n.10). This is not apparent from the available material. See

At first glance it appears that Netsiv could be grouped with the Galician hasidic masters who did not insist on a kezayit of bitter herbs. This, however, is not the thrust of the letter. Netsiv was urging his son to avoid excessive horseradish consumption by advocating a kezayit according to its minimal definition. At no time did Netsiv suggest that *less* than a kezayit could be consumed. The continuation of the letter, where Netsiv promoted horseradish substitutes, buttresses this contention:

And also that which he – my son – is particular to eat horseradish, I do not understand why he does not accept upon himself the practice of [eating] lettuce, in accordance with the opinion of most of the later authorities ... ? And why should we be stringent to eat something that is like swords to the body? And is it not written “Her ways are ways of pleasantness” (Prv 3:17). And even more so, on the night of Passover, following the Fast [of the Firstborns] and drinking wine. According to my humble opinion, my son should change his practice in this matter.

Netsiv’s letter to his son should not be categorised with the practice of the Galician hasidic masters. Rather, Netsiv belongs to the class of authorities who expressed concern regarding the health dangers of horseradish consumption.<sup>37</sup>

Before returning to Galicia a summary of findings thus far is in order. The practice of eating less than a kezayit of bitter herbs was visibly present and reportedly prevalent at the end of the eighteenth century and the beginning of the nineteenth century. Available evidence points to hasidic masters in Galicia who adopted the practice: Rabbi Naftali Tsevi Horowitz of Ropczyce (1760-1827), Rabbi Uri of Strzeliska Nowe (1757-1826), Rabbi Shalom Rokeah of Bełz (1783-1855), and Rabbi Yehezkel Sheraga Halberstam of

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*Pesah be-Mahshevet Hakhmei Yerushalayim* (Jerusalem, 1996), 103-4; Hayim Berlin, *She’elot u-Tshuvot Nishmat Hayim* (Benei Brak, 2002), section 51; idem, *She’elot u-Tshuvot Nishmat Hayim* (Jerusalem, 2008), I, sections 143-144.

<sup>37</sup> Ashkenazi, [*Hakham tsevi*], section 119; Ovadya Yosef, *She’elot u-Tshuvot Hazon ‘Ovadya* (2<sup>nd</sup> ed., Jerusalem, 1991), section 35; idem, *Hazon ‘Ovadya: Helek II* (4<sup>th</sup> ed., Jerusalem, 2001), 5-6; Korman, “*Maror*,” 47.

Sieniawa (1813-1898). During the nineteenth century, Naftali's descendants continued the practice: his son Rabbi Eliezer Horowitz of Dzików (1790-1860), his grandson Rabbi Meir Horowitz of Dzików (1819-1877), and his great-grandson Rabbi Shlomo Halberstam of Bobowa (the First, 1847-1905). To this list we can add hasidic masters who reported the practice with no substantive objection: Rabbi Yitshak Mayer of Olesko (1829-1904), Rabbi Yisrael Hager of Wiznitz (1860-1936), and Rabbi Shlomo Halberstam of Bobowa (the Second, 1907-2000).

Though the practice appears to be a breach of Jewish law, early practitioners did not express concern for the delinquent nature of the custom. Some of the jurists who reported the custom, such as Rabbi Shmuel Meir Ha-kohen Hollender (1889-1964), did not express reservations. Others, such as Rabbi Hayim Elazar Shapira of Munkács (1871-1937) and Rabbi Aryeh Tsevi Fromer (1884-1943), also reported the custom, albeit with reservations. As we will now see, these jurists addressed the legality of the practice and offered an explanation for its legal underpinnings, despite their misgivings.

#### **4. Jurists Harmonise, Justify, and Grapple**

I now turn to Galician hasidic jurists who were active from the middle of the nineteenth century through the beginning of the twentieth century – the period in which legal writing increased appreciably in the hasidic milieu. Two of these jurists – Meir of Dzików and Hayim Elazar of Munkács – served as hasidic masters, while the hasidic affiliation of the third – Aryeh Tsevi Frommer – can hardly be questioned. These three writers were situated at the crossroads between normative Jewish law and sanctified hasidic custom. Given their position at this intersection, their legal analysis of an apparently antinomian practice of hasidic masters is of particular interest, since they were stretched between loyalty to hasidic tradition and fidelity to Jewish law. Despite their hasidic loyalty, they did not necessarily advocate the custom. On the contrary, some of them censured the practice, urging their readers to eat the required kezayit. Nevertheless, their loyalty to their hasidic heritage – or rather their dual loyalty to hasidic lore and to Jewish law – led them to offer legal grounds for the practice.

#### 4.1 Harmonising

I begin with the aforementioned responsum of Rabbi Meir of Dzików (1819-1877), the grandson of Rabbi Naftali of Ropczyce and the only Galician hasidic jurist to express no reservations about the custom.<sup>38</sup> Meir addressed two questions:

- (1) If a person is unable to consume the requisite kezayit of bitter herbs, should that person nevertheless partake of the bitter herbs?
- (2) Assuming we rule that such a person should consume less than a kezayit of bitter herbs, may that person still recite the prescribed blessing?

The first question was based on the assumption that the obligation to *eat* bitter herbs was akin to other obligations to *eat* in Jewish law, with *eating* defined as consuming a kezayit.<sup>39</sup> Meir responded by citing medieval jurists to the effect that the bitter herb obligation is an exception to this rule, since the biblical verse does not use the Hebrew verb for eating when describing the bitter herb requirement.<sup>40</sup>

The requirement to eat bitter herbs is derived from the verse, “And they shall eat the flesh in that night, roast with fire, and unleavened bread; with bitter herbs they shall eat it” (Ex 12:8). The pronoun “it” (in the verse “they shall eat *it*”), refers to the Passover lamb, not to the bitter herbs. The only reason that a kezayit of bitter herbs must be eaten is because of the language of the benediction: “Blessed are You, Lord our God, King of the universe, who has sanctified us with Your commandments, and commanded us concerning *eating* bitter herbs.” The language of the benediction was canonised by the sages, thus the kezayit requirement is a product of rabbinic legislation. The original biblical obligation, however, was to consume any amount of bitter herbs, since the Bible did not specify a statutory eating requirement.

Meir still had another hurdle to overcome. In Temple times, the bitter herb obligation was two-tiered: an original biblical obligation to consume any amount of bitter herbs, and an additional rabbinic requirement to consume a kezayit. After the destruction of the Temple and the cessation of the Passover sacrifice, the obligation to eat bitter

<sup>38</sup> Horowitz, *Imrei No'am*, 88-89.

<sup>39</sup> Eliezer of Metz, *Yir'em* (Venice, 1566), section 109. For alternative reasons, see *Mishna Berura*, *Sha'ar ha-Tsiyun* 475:12.

<sup>40</sup> *Rosh*, Pes 10:25. Rosh's son noted that *ve-'akhalta* (and you will eat) and *zehu bi-kezayit* (this is by the measure of an olive) both have the gematria 457 (Yaakov ben Asher, *Ba'al ha-Turim*, Dt 8:10).

herbs became entirely rabbinic.<sup>41</sup> Meir considered that in this reality, eating less than a kezayit might be of no value, for there was no chance to fulfil the original biblical precept; perhaps all that remained was the rabbinic requirement to eat a kezayit?

Meir explained that the rabbinic legislation mirrored the original biblical structure of the obligation.<sup>42</sup> A weak person in Temple times would have been enjoined to eat any amount (even if it was less than a kezayit) in order to at least fulfil the biblical requirement; so too a weak person in post-Temple times is enjoined to eat any amount, even though the person does not fulfil any biblical commandment. Meir could now definitively respond to the first question: the infirm person should consume any amount of bitter herbs, even if that amount was less than the required kezayit.<sup>43</sup>

From here, Meir moved to the second question. Should a blessing be recited over consumption of less than a kezayit of bitter herbs? Meir answered in the affirmative. In Temple times a person who consumed less than a kezayit would most definitely have recited a blessing, because that person was fulfilling the biblical commandment. Mirroring the Temple Period law, nowadays a person who eats less than the required amount should also recite the blessing.<sup>44</sup>

It should be noted that Meir's conclusion was not the only possibility; other jurists addressing the same issue took different stances. For the sake of comparison, I will briefly mention alternative positions. Some authorities opined that if one is unable to eat a kezayit, no bitter herbs need to be consumed at all for there is no concept of a "half measure" (*hatsi shi'ur*) when it comes to fulfilling

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<sup>41</sup> bPes 120a.

<sup>42</sup> On this principle, see Joel Roth, *The Halakhic Process: A Systemic Analysis* (New York, 1986), 34-40.

<sup>43</sup> For a similar conclusion to this first question, see Avraham Bornsztein, *She'elot u-Tshuvot Avnei Neizer* (Piotrkow & Warsaw, 1912-1934), *OH* 383:8.

<sup>44</sup> Meir briefly entertained the possibility of using an alternative wording for the blessing if one is about to knowingly consume less than a kezayit. In such cases, perhaps the blessing should end with the phrase "concerning *the commandment* of bitter herbs" instead of "concerning *eating* bitter herbs." Meir rejected this proposal because such a benediction is never mentioned in legal literature, and because the sages did not alter the wording of blessings for exceptional cases. Korman claimed that this was the Bobowa custom (below, note 87). For an alternative explanation for why the blessing may be recited even though less than the required amount is consumed, see Bornsztein, *She'elot u-Tshuvot Avnei Neizer*, *OH* 383:9.

positive commandments.<sup>45</sup> Other authorities argued that less than a kezayit should be eaten, but no blessing should be recited.<sup>46</sup> A further opinion suggested that if it is likely that less than a kezayit will be consumed, the blessing should be recited by another person who will eat the required amount.<sup>47</sup> Alternatively, the person should read Maimonides' laws of the Passover seder that include the text of the blessing.<sup>48</sup> Meir of Dzików did not opt for these solutions; he ruled that the sick person could consume less than a kezayit and that the blessing should be recited.

At this point, Meir could have concluded his responsum; he had answered the two questions, giving clear directives to the infirm seder participant. Meir, however, continued his exposition by citing another authority on what appears at first blush to be a tangential matter:

And certainly according to Taz ... who had written regarding drinking brandy<sup>49</sup> that there is no need for a *revi'it* of a *log*. Since it is not usual for an average person to drink a *revi'it* [of brandy], therefore we can certainly say about he [who drinks less than a *revi'it* of brandy, that he fulfils the biblical parameter of] “and you will be satisfied” (Dt 8:10).<sup>50</sup>

Meir cited Rabbi David Ha-levi Segal (*Taz*, 1586-1667), who was discussing what liquid volume necessitates the recitation of the benediction after drinking. The accepted liquid volume is one quarter (*revi'it*) of a *log*. Segal, however, believed that this measure was not relevant when it came to drinking liquor. The obligation to recite a blessing after eating is derived from the biblical verse, “And you will eat, and you will be satisfied, and you will bless the Lord your God, for the good land which He has given you” (Dt 8:10). Since people are

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<sup>45</sup> Hayim Halberstam, *She'elot u-Tshuvot Divrei Hayim* (Lemberg, 1875), I, *OH* 25.

<sup>46</sup> *Mishna berura* 473:43; Yosef, *She'elot u-Tshuvot Hazon 'Ovadya*, section 38; idem, *Hazon 'Ovadya*, 89-90.

<sup>47</sup> [Yaakov Ketina], *Rahamei ha-'Av* (7<sup>th</sup> ed., Lemberg, 1884), section 7.

<sup>48</sup> Bornsztain, *She'elot u-Tshuvot Avnei Neizer*, *OH* 383:10. For more opinions, see Avraham Hayim Frenkel, *Haggadat Beit Ropshits* (2<sup>nd</sup> ed., Jerusalem, 1990), 127.

<sup>49</sup> In the original ש"י – an acronym for יין שרף or יין שכר, meaning brandy or generically any liquor.

<sup>50</sup> Horowitz, *Imrei No'am*, 88-89. See also Wahrman, *Oroth Hapesach*, 214.

“satisfied” with a shot of spirits, the benediction should be said after drinking even such a minimal amount.

After citing Segal’s position, Meir extrapolated: “Similarly, with something bitter and pungent, like bitter herbs, even less than a kezayit can be called by the term ‘eating’.” Liquor and bitter herbs are similar in that both are pungent and both are not regularly consumed in large quantities, and Meir drew a parallel between the two. Just as an after-blessing should be recited after a shot of alcohol, so too a person can discharge the bitter herb obligation with a small amount: in both cases, less than the prescribed amount has been consumed. Meir continued, explaining the advantage of applying Segal’s opinion to the bitter herbs: “And this is not [a case of] ‘He who speaks falsehood’ (Ps 101:7), even when he says [the benediction] with the wording ‘concerning *eating* bitter herbs.’” Since eating a minimal amount of bitter herbs can be considered statutory eating, the language of the blessing no longer presents a problem.

Citing Segal, however, is a strange move. First, Segal’s position was not accepted by all.<sup>51</sup> Admittedly, it appears that Meir’s predecessors, and specifically his grandfather Naftali, did accept Segal’s opinion as normative.<sup>52</sup> Nevertheless, even if Segal’s understanding is accepted, the rule regarding liquor does not necessarily apply to bitter herbs, for the sharpness of liquor is what grants it importance, while the sharpness of bitter herbs merely prevents its consumption in significant quantities. Given that Meir had already answered the two questions he set forth at the beginning of the responsum, what did he add by citing Segal?

It would appear that at this point in the responsum, the focus of the discussion has shifted. By enlisting Segal, Meir changed the direction of his exposition since Segal was not referring to the weak or the unwell. No longer was Meir addressing the infirm who are unable to consume a kezayit of bitter herbs; now he was talking about the

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<sup>51</sup> *Mishna Berura* 190:14; Yehoshua Yeshaya Neuwirth, *Shemirat Shabbat ke-Hilkhata* (Jerusalem, 1989), 53:19; and the authorities they cite.

<sup>52</sup> Shalom Mordekhai Shwadron, *She’elot u-Tshuvot Maharsham* (Warsaw, 1902), I:175. According to the testimony Schwadron (1845-1911) received, Naftali instructed his students to recite *kiddush* on Sabbath morning over a small glass of liquor, even though there was wine available on the table. This was done in honour of the Sabbath and to demonstrate the law; namely, that Segal’s position was normative. For other hasidic personalities who relied on Segal, see Sperling, *Ta’amei ha-Minhagim u-Mekorei ha-Dinim*<sup>3</sup>, 168 note to section 365.

healthy who ate a minimal amount as a matter of course. No longer was this an allowance for the sick; now we have a permit for all.<sup>53</sup>

Meir signed off his discussion by adding the following line – a line we heard above, but that we now hear in context: “And thus was the custom of my grandfather, the rabbi the *tsadik* of Ropczyce – that he would consume less than a kezayit and recite the blessing over it, and his wisdom remained with him.” Naftali, a respected hasidic master, had the custom of eating less than a kezayit of bitter herbs, apparently *mens sana in corpore sano*, a sound mind in a healthy body. Though Naftali had served in the rabbinate, it was his grandson Meir who would harmonise the custom with Jewish law by enlisting Segal.

#### 4.2 Justifying

Rabbi Hayim Elazar of Munkács (1871-1937) also referred to the custom of eating less than a kezayit of bitter herbs. Hayim Elazar was responding to a questioner who had posed three Passover-related questions, one of which addressed Meir of Dzików’s second issue, that is, whether a person eating less than a kezayit of bitter herbs was permitted to recite the blessing. Hayim Elazar ruled that the blessing should not be recited. He rejected the notion of a two-tier structure: an original biblical obligation to eat any amount of bitter herbs that was augmented by a rabbinic directive requiring a kezayit. Hayim Elazar

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<sup>53</sup> Some readers of Meir’s responsum did not notice this nuance; they understood the licence as referring to the case discussed at the beginning of the responsum, namely a sick person who is unable to consume a kezayit: see Shlomo Zalman Ehrenreich, *She’elot u-Tshuvot Lehem Sheleima* (Şimleu Silvaniei, 1924), 155; Hollender, *She’elot u-Tshuvot Shem ha-Kohen*, 37; anonymous, *Kovets Kerem Shelomo* (Jerusalem, 1983), 7; Frenkel, *Haggadat Beit Ropshits*<sup>2</sup>, 131 n.13. I do not believe that this is the correct reading of Meir’s responsum, nor is it in consonance with hasidic lore or Ropczyce tradition.

Ben-Menahem’s distinction between *Law*, *law-to-be-applied*, and *concrete judicial rulings*, might be useful in understanding the possible readings of Meir’s responsum. If Meir was referring to the infirm only, he was offering a concrete judicial ruling for a specific circumstance. If we take the responsum in its general context, namely, the Galician hasidic milieu, where leafy vegetables were scarce and horseradish was traditionally consumed, then this is law-to-be-applied. If, as I am arguing, the end of Meir’s responsum aims to set forth a rule devoid of context (specific or general), then Meir is presenting Law. See Hanina Ben-Menahem, “The Second Canonization of the Talmud,” *Cardozo Law Review* 28.1 (2006), 37-51.

explained that a biblical obligation to eat perforce translates into a kezayit volume requirement.<sup>54</sup>

Towards the end of the discussion he parenthetically paid homage to those who did recite the blessing upon less than a kezayit of bitter herbs: as I demonstrated above – his own predecessors. Hayim Elazar’s justification took the form of a bibliographic note sending the reader to a contemporary responsum that had cited a medieval legal treatise.<sup>55</sup> He then provided a succinct summary of these sources: “[T]hat upon [eating] half [the volume of] an olive one should also recite Grace After Meals, therefore we can say [the blessing] also on [less than a kezayit of] bitter herbs.”<sup>56</sup> Hayim Elazar offered a justification for reciting the blessing over less than a kezayit of bitter herbs, but he did not advocate that course.

We can even suggest why Hayim Elazar did not invest greater effort in explaining the practice of his predecessors. In addition to being at the crossroads between the Ropczyce-Dzików custom and normative Jewish law, Hayim Elazar was also subject to another influence: his great-great-grandfather, Rabbi Tsevi Elimelekh Shapira of Dynów (1784-1841). As we recall, Tsevi Elimelekh had admonished people who ate less than a kezayit of horseradish, urging those who knew in advance that they would be unable to eat the required amount not to recite the blessing. Hayim Elazar’s Ropczyce-Dzików roots could not compete with his Dynów loyalty, for in Hayim Elazar’s consciousness he was primarily a scion of Tsevi Elimelekh.<sup>57</sup> Hayim Elazar’s Dynów fidelity, however, did not prevent him from offering a concise legal justification for the widespread Galician hasidic practice.

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<sup>54</sup> Hayim Elazar was unsure as to the source of this volume requirement. Was it truly indicated in the biblical verse? Was it part of the oral tradition that was given together with the Written Law at Sinai?

<sup>55</sup> Schmelkes, *She’elot u-Tshuvot Beit Yitshak, Yoreh De’ah I*, responsum printed at the back of the volume, citing Eliezer of Metz, *Yir’em*, section 109.

<sup>56</sup> Shapira, *Minhat El’azar*, II:58:2; “half” meaning less than the prescribed amount.

<sup>57</sup> Hayim Elazar was the son of Rabbi Tsevi Hersh of Munkács (1850-1913), son of Rabbi Shlomo of Munkács (1831-1893), son of Rabbi Elazar of Łańcut (1808-1865), son of Tsevi Elimelekh. Hayim Elazar’s work on the festivals – *Sha’ar Yissaskhar* (Mukačevo, 1938-1940) – was styled and named after Tsevi Elimelekh’s famous work *Benei Yissaskhar* (Zolkiew, 1850). It is strange that Hayim Elazar did not actually cite his great-great-grandfather’s position, though it can be said in general that he did not regularly cite from *Derekh Pikudekha*.

### 4.3 Grappling

Rabbi Aryeh Tsevi Fromer (1884-1943) was keenly aware of the practice to consume less than a kezayit of bitter herbs. In an undated passage, Fromer initiated an analysis of the issue by referring to the prevalence of the custom and noting its problematic nature from the standpoint of normative Jewish law. By analysing a talmudic exchange, Fromer sought to explain why Naftali of Ropczyce, Shalom of Belz and Yehezkel Sheraga of Sieniawa had eaten less than a kezayit of bitter herbs.<sup>58</sup> Fromer also opined that regarding something like horseradish which can barely be eaten, even a small amount constitutes statutory eating – a claim reminiscent of Meir of Dzików’s reliance on Segal. Fromer also emphasised that the bitter herb obligation in a post-Temple reality, with inedible horseradish the only available vegetable – was of low legal standing. Fromer ended his presentation with the following words:

Thus it appears in my humble opinion, in order to explain the words of the *tsadikim*, of blessed memory ... and to explain the custom of most of Israel who eat less than a kezayit of horseradish for the bitter herb [obligation], and they recite the blessing “concerning eating bitter herbs” over it.<sup>59</sup>

Fromer was concerned lest a reader think that he was advocating (as opposed to merely justifying) the practice. Consequently, before the book was bound, Fromer added a note in the errata at the back of the volume: “At the end of the section it should say: I wrote all this, just as a means of finding merit, because the majority of the masses and women act thus. But from the outset one should not rule this way.”<sup>60</sup>

Three unique copies of Fromer’s volume with the author’s handwritten notes survived the War. One copy reached the hands of

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<sup>58</sup> In short: when discussing the issue of whether the fulfilment of commandments requires specific intent (*mitsvot tserikhot kavanna*), the Talmud states that if specific intent is not required then one could discharge the two dipping obligations at the seder – *karpas* and bitter herbs – with the one dip (bPes 114b). Most authorities require less than a kezayit of *karpas* to be consumed (for reasons unrelated to the present discussion), hence Fromer pointed out that the talmudic passage is based on the premise that one can discharge the bitter herb obligation with less than a kezayit.

<sup>59</sup> Fromer, *She’elot u-Tshuvot Erets Tsevi*, section 85.

<sup>60</sup> *Ibid.*, errata to fol. 100.

Fromer's nephew, Dov Frommer (d. 1989), who in 1976 published a photocopy of this volume. In the margin of this passage, Fromer directed the reader to the errata and once again added: "For this is just a means of finding merit, but in practice one must be meticulous to take a kezayit."<sup>61</sup> Fromer was clearly vexed by the issue. On one hand, he sought to explain the practice of the saintly hasidic masters; on the other, he was pulled by the dictates of Jewish law. The matter even disturbed his sleep, as evinced in his recording of the following dream:

I dreamt, that they told me in the name of the holy Rabbi Pinche [Rotenberg] of Pilica [1820-1903], that even for someone who deserves suffering – God save us – a miniscule amount of suffering is sufficient, for it is no different to bitter herbs that do not require a kezayit. And according to biblical law any amount suffices ... similarly with [suffering] any amount suffices.<sup>62</sup>

In a talk delivered on Passover 1926, Fromer offered a variation of the comparison between eating bitter herbs and suffering, but he did not mention Pinche or the dream.<sup>63</sup>

As a rule, Fromer did not take his dreams lightly. One of Fromer's students reported that his teacher would perform the "improving a dream" (*hatavat halom*) ritual each day. If Fromer had a nap during the day, he would perform the ritual upon waking.<sup>64</sup> When Fromer awoke after hearing Pinche's words, he pondered the matter further, and in his notes he once again discussed the legal implications of consuming less than a kezayit of bitter herbs. His conclusion, however, did not change: "Behold we have a rule that bitter herbs must be a kezayit (at least according to our sages)."<sup>65</sup>

I have no way to determine the relationship between the dream, the 1926 public talk, and the discussion published in his volume of

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<sup>61</sup> Aryeh Tsevi Fromer, *She'elot u-Tshuvot Erets Tsevi* (Benei Brak, 1976), section 85, author's handwritten note in the margin. The other unique copies do not have handwritten additions to this section.

<sup>62</sup> Aryeh Tsevi Fromer, *Erets Tsevi* (Benei Brak, 1988), 401. Pinche was strongly affiliated with Hasidism; see Alfasi, *Entsiklopedya la-Hasidut*, III:548-49.

<sup>63</sup> Aryeh Tsevi Fromer, *Erets Tsevi: Mo'adim* (Tel-Aviv, 1985), 58.

<sup>64</sup> Fromer, *Erets Tsevi*, 414, section 8.

<sup>65</sup> *Ibid.*, 402.

responsa. It is clear, however, that Fromer grappled with the Galician hasidic tradition. He knew that this was a custom of great hasidic masters and that it was practiced throughout Galicia. Yet Fromer was torn between his fidelity to the saintly hasidic masters of old and the dictates of normative Jewish law. The practice literally disturbed his slumber. In the final analysis, Fromer offered a legal justification for the custom, but he was not in favour of the practice. Fromer himself ate lettuce – not horseradish – at the Passover seder.<sup>66</sup>

#### 4.4 The Voice of a Compiler

I mentioned the report of Avraham Yitshak Sperling (1851-1921), which he received from Yitshak Mayer of Olesko, who attributed the practice to Naftali's contemporary, Uri of Strzeliska Nowe.<sup>67</sup> Although Sperling was not a jurist (he was a ritual slaughterer), I nonetheless return to him because of his extensive work in the field of custom that yielded a popular volume: *Sefer Ta'amei ha-Minhagim u-Mekorei ha-Dinim (The Book of Reasons for Customs and the Sources of Laws)*.<sup>68</sup> Sperling's volume was first published in 1894, and during his lifetime went through six editions and was translated into Yiddish. Tracking the changes from one edition to the next, indicates how Sperling dealt with the Galician hasidic tradition.

In Sperling's original 1894 volume, he discussed the reason for bitter herbs and the preferred vegetable for the ritual. There is no reference to the required amount.<sup>69</sup> Perusing this first edition, one wonders whether this native and resident of the city of Lemberg – the capital of the Kingdom of Galicia and Lodomeria – knew about the hasidic practice so prevalent in the Galician countryside.

Two years later, in 1896, Sperling printed the second edition of his work and added a note to his discussion of bitter herbs. This note cited

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<sup>66</sup> Ibid., 414, section 4. Fromer was not a product of Galicia; he was born and raised in Russian-occupied Poland. This may have had an effect on his outlook. Regarding Fromer, see Y. Ehrlich, "Ha-rav mi-Koziglov," in Aryeh Tsevi Fromer, *Eretz Tsevi: Torah* (Tel-Aviv, 1979), 11-14; Aharon Sorasky, "Toldot Rabbeinu ha-Mehaber..." in Aryeh Tsevi Fromer, *Sifah ha-Sadeh* (2<sup>nd</sup> ed., Benei Brak, 1990), 312-34.

<sup>67</sup> Sperling, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (3<sup>rd</sup> ed.), I:64.

<sup>68</sup> Regarding Sperling, see Moshe Sperling, "Hakdama ve-Toldot ha-Mehaber," in Avraham Yitshak Sperling, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (Jerusalem, 1957), 5; Wunder, *Me'orei Galitsya*, V:597-99.

<sup>69</sup> Avraham Yitshak Sperling, *Ta'amei ha-Minhagim* (Lemberg, 1894), section 250.

*Raḥamei ha-'Av* (*Mercies of the Father*), a slender but popular work that offered the following warning:

It is a religious value [*mitsvah*] to publicise that on the night of the festival of Passover, women should not recite the blessing over the consumption of bitter herbs, because a minority of a minority of them consume the full kezayit, and not only do they not fulfil the commandment, but they also recite a blessing in vain. Therefore, the master of the house should recite the blessing and intend to discharge [the obligation of] all of them.<sup>70</sup>

It would appear that Sperling was still unaware of the sanctioned custom in hasidic circles, though he may have been aware of the prevalence of the practice of eating less than a kezayit. Sperling cited *Raḥamei ha-'Av* that sized this up as non-normative conduct.

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<sup>70</sup> *Raḥamei ha-'Av* (7<sup>th</sup> ed.), section 7; Avraham Yitshak Sperling, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (2<sup>nd</sup> ed., Lemberg, 1896), 36b note to section 352. *Raḥamei ha-'Av* was a slender work by Rabbi Yaakov Ketina (d. 1890), a hasidic rabbi with a Galician connection, who served as a member of the rabbinic court in the Hungarian town of Huszt. *Raḥamei ha-'Av* was first published anonymously in Czernowitz 1865, and achieved great popularity – the booklet went through seven editions during the author's lifetime. It is unknown where Ketina was born, though Cohen suggested that Ketina was born in Galicia and scholars note that Ketina's hasidic allegiance was to Hayim of Nowy Sącz (1797-1876) – which suggests that Ketina belonged to the Galician hasidic tradition that did not advocate eating less than a kezayit of bitter herbs. Regarding Ketina, see Yitzchok Yosef Cohen, *Hakhmei Hungarya ve-Hasafrut ha-Toranit Ba* (Jerusalem, 1997) 353-54; Alfasi, *Entsiklopedya la-hasidut*, II:247.

However, the particular passage under discussion should not necessarily be identified with Ketina, since it did not appear in the first editions of *Raḥamei ha-'Av*. The seventh edition was printed in Ketina's lifetime, but on the title page the publisher declared that he did not know who the author was. Since the work had been anonymously published (Czernowitz 1865, Lemberg 1868, Lemberg ca.1870, Warsaw 1873 twice, Lemberg 1878), it is likely that the publisher did not know the identity of the author. Sperling cited *Raḥamei ha-'Av* not Ketina, because the work was published anonymously until the eleventh edition (Mukačevo 1932). It is possible, therefore, that this particular addition did not come from Ketina's pen. Consequently, I refer to *Raḥamei ha-'Av* rather than to Ketina.

The third edition of Sperling's compilation was printed in 1906-1907, and included significant additions.<sup>71</sup> Following the advice from *Raḥamei ha-'Av*, Sperling cited a number of sources about the dangers of eating the full amount of horseradish, and the legal implications of eating less than the required amount, including the aforementioned treatment of Tsevi Elimelekh of Dynów.<sup>72</sup> Sperling then balanced the ledger by citing Meir of Dzików's testimony about Naftali's custom and added the personal testimony that he had heard from Yitshak Mayer of Olesko. Sperling immediately tempered any thought of a licence to eat less than a kezayit of bitter herbs by citing further testimony from another hasidic master:

I also heard from [God-]fearing and wholesome people, who heard from the holy mouth of ... Rabbi Y[ehoshua] of Belz [1823-1894], of blessed memory, that he said in the name of his father ... [Shalom of Belz], of blessed memory, that people who are naturally weak may consume a small amount of bitter herbs and recite the blessing over it.

As we have seen, Fromer recorded that Shalom of Belz had "instructed to eat less than a kezayit of bitter herbs and recite the blessing 'concerning eating bitter herbs' over it." The testimony offered by Sperling reframes Shalom's directive as a permit for the infirm only.

Sperling concluded his presentation by citing a further Galician hasidic legend that had been recorded sometime between 1876 and 1884, regarding the conduct of Rabbi Hayim Halberstam of Nowy Sącz (*Divrei Ḥayim*, 1793-1876), father of the aforementioned Yehezkel Sheraga of Sieniawa. In his old age and despite his ailing health, Hayim had been prepared to contravene doctor's orders and risk his life in order to consume a kezayit of horseradish. Only at the final moments, with bitter herbs in his hand and after he had recited half of the blessing, did he choose not to eat the horseradish. Instead of concluding the blessing over bitter herbs, Hayim concluded the blessing by saying: "And He commanded us 'For your own sake,

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<sup>71</sup> Sperling, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (3<sup>rd</sup> ed.), I:64 note to section 519.

<sup>72</sup> Sperling emended Tsevi Elimelekh's text: instead of transcribing *hazeret*, which is clearly not horseradish, Sperling wrote *tamkha* – also not horseradish, but considered to be a possible identification.

therefore, be most careful' (Dt 4:15)."<sup>73</sup> Sperling confirmed this tradition: "And thus I heard from reliable people, who heard thus from the mouth of a certain God-fearing person, who was with [Hayim] on Passover and saw with his own eyes that he acted thus." Sperling's final word in 1906-1907 was to recognise the custom, but to favour the position that it was a practice reserved for the weak.

That Sperling limited the practice to the infirm is clear from the Yiddish reworking that appeared in 1909. The Yiddish version targeted a broader audience and did not contain all that was included in the Hebrew; it was Sperling who decided what to distil from his original work for the popular Yiddish edition. Regarding bitter herbs, Sperling did not offer all that he had included in his 1906-1907 edition, choosing only to cite Tsevi Elimelekh's warning and to paraphrase the advice from *Rahamei ha-'Av* to women (Sperling added here children) not to recite the blessing themselves but to allow the master of the house to recite it on their behalf.<sup>74</sup> That Sperling

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<sup>73</sup> Sperling's source was a responsum written by Rabbi Moshe Teomim (1825-1887), rabbi of Horodenka. The responsum was addressed to Rabbi Barukh Hager of Wiznitz (1845-1892), father of Yisrael of Wiznitz who meticulously ate a kezayit of bitter herbs as per his family custom (above, near note 16). The letter opens with well wishes for Barukh's ailing father, the hasidic master Rabbi Menahem Mendil Hager of Wiznitz (1830-1884). Teomim, a distant relative of Hayim of Nowy Sącz (1793-1876), mentions Hayim with an appellation indicating he had already passed away. Thus the letter was written between 1876 and 1884. The doctors had instructed Menahem Mendil that he was not to fast on the Day of Atonement due to his weak state. Menahem Mendil, however, was intent on fasting, and it appears that his son, Barukh, turned to Teomim. Teomim was hesitant to tell the hasidic master what to do, but nevertheless ruled against fasting. Teomim concluded his responsum by recounting that he had heard "in the name of a great person" how Hayim had reluctantly not eaten bitter herbs as per the doctor's orders. See Moshe Teomim, *Ohel Moshe* (Lemberg, 1899), 13a, section 9. Regarding Teomim, see Wunder, *Me'orei Galitsya*, V:685-90. For alternative endings to this episode, see below, near notes 77 and 87. Hayim's beadle denied the historicity of the report (Raphael Ha-levi Tzimetboim, *Darkhei Hayim* (Satu-Mare, 1940), 100). Another writer suggested that the tales of Hayim's encounters with bitter herbs were entirely fabricated, since Hayim would eat lettuce for bitter herbs, not horseradish (Pinkas Horowitz, *Patha Zuta: Pesah* (Munkács, 1912), 16b, responding to Sperling). For a case in which Hayim specifically instructed a sick person to eat bitter herbs, and this ended up saving his life, see Raphael Ha-levi Tzimetboim, *Kol ha-Katuv le-Hayim* (Jerusalem, 1962), 143-44.

<sup>74</sup> Avraham Yitshak Sperling, *Ta'amei ha-Minhagim oyf 'Ivre Teitsch* (Lemberg, 1909), 50-51 note to section 189.

cited Tsevi Elimelekh suggests that he was working off his 1906-1907 edition, and that he had sources before him that advocated eating less than a kezayit – sources that he purposefully chose not to include. Thus the Yiddish reader was not even aware of the sanctioned hasidic custom.

Two years later, in 1911, the fourth Hebrew edition appeared. Sperling did not change his presentation of the material, but added an alternative legend about Hayim of Nowy Sącz that tempered the tale told in the 1906-1907 edition. According to Sperling's 1906-1907 edition, Hayim had not consumed the horseradish. The 1911 edition described the hasidic master's conduct on Passover before he died, when he announced: "It is known, that if they give me everything in the world<sup>75</sup> I would not be able to eat a kezayit of bitter herbs. Nevertheless, since it is a commandment – true, it is a rabbinic commandment – I am prepared to sacrifice myself and eat."<sup>76</sup> According to this report, Hayim recited the blessing, ate the bitter herbs, and promptly vomited. Here too, Sperling tended towards advocating consuming the full kezayit, even at the expense of getting sick. Sperling attempted to explain the conflicting reports by suggesting that they were referring to two episodes: earlier in his life, Hayim had reluctantly followed doctor's orders and not consumed bitter herbs; in his final year, however, he risked his life to fulfil the commandment. Thus Hayim's legacy also suggested not relaxing the kezayit requirement.

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<sup>75</sup> As per bSan 77a: "Rava said: At first I used to say – 'there is no truth in the world'; [then] one of the rabbis said to me ... that even if they would give him everything (*halalei*) in the world, he would not change [the truth] of his speech." Cf. *Rashi*, Shab 77b.

<sup>76</sup> Avraham Yitshak Sperling, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (4<sup>th</sup> ed., Lemberg, 1911), I:64 note to section 519, III:149. Sperling's source was a letter written by Rabbi Pinkas Horowitz of Kossów (1858-1938) who heard about the episode from Hasidim who had been in Nowy Sącz that very year (Sperling mistakenly wrote that Horowitz was from Karów: see Wunder, *Me'orei Galitsya*, II:325-31). The report is problematic for two reasons: first, Horowitz claimed elsewhere that Hayim ate lettuce not horseradish (Horowitz, *Patha zuta*, 16b); second, Hayim rejected the view that the bitter herb requirement is a rabbinic injunction (see Halberstam, *She'elot u-Tshuvot Divrei Hayim*, I, OH 25).

The 1914 and 1918 editions of Sperling's work, as well as posthumously published reprints, did not add sources relevant to our discussion.<sup>77</sup>

Sperling, as we recall, was a collector and compiler, not a jurist. As such, he had no need to adjudicate between different positions. Nonetheless, Sperling fits the early twentieth-century Galician hasidic narrative. While Sperling was partial towards the position that advocated consuming the full kezayit of bitter herbs, he still acknowledged that some Galician hasidic masters ate less than a kezayit.

## 5. Rewriting Galician Hasidic History

### 5.1 They were sick!

In 1924, Rabbi Shlomo Zalman Ehrenreich (1863-1944), rabbi in Șimleu Silvaniei, Romania, published the first volume of his responsa that included a letter to Rabbi Yoel Teitelbaum (1887-1979). At the time of the correspondence, Teitelbaum (who would become famous as the head of the Satmar Hasidim and a leading ideologue of anti-Zionism) was serving in his first rabbinic post in Orșova, Romania. The letter opens with a reference to a discussion between the two rabbis regarding the Ropczyce-Dzików custom to eat less than a kezayit of bitter herbs. Ehrenreich provided further proof of the existence of the practice among Naftali's descendants and among "those who live in their shadow" – a reference to disciples of Naftali's descendants.<sup>78</sup> Unlike the aforementioned jurists, however, Ehrenreich claimed that the practice was based on an error.

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<sup>77</sup> Avraham Yitshak Sperling, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (1914; reprint, Lemberg, 1928), I:64 note to section 519, III:149; idem, *Ta'amei ha-Minhagim oyf 'Ivre Teitsch* (Lemberg, 1928), 50-51 note to section 189; idem, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (1918; reprint, Budapest, 1942), I:82b-83a note to section 519, III:172; idem, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (1914; reprint, Brooklyn, 1944), I:64 note to section 519, III:149; idem, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (1914; reprint, [Germany, 1948]), I:64 note to section 519, III:149; idem, *Ta'amei ha-Minhagim oyf 'Ivre Teitsch* (New York, 1954), 50-51 note to section 189; idem, *Ta'amei ha-Minhagim u-Mekorei ha-Dinim* (Jerusalem, 1957), 266-67 notes to section 519; idem, *Ta'amei ha-Minhagim oyf 'Ivre Teitsch* (New York, [1969]), 50-51 note to section 189.

<sup>78</sup> Ehrenreich, *She'elot u-Tshuvot Lehem Sheleima, Maft'e'ah ha-Lehem*, 8a, para. 94. Regarding Teitelbaum's approach: in 1954, Teitelbaum reportedly instructed Rabbi Yaakov Yosef of Skver, who at the time was unwell, to rely

Ehrenreich's analysis led him to recognise the legitimacy of the opinion that there is no biblical requirement to eat a kezayit of bitter herbs. Ehrenreich understood this to be a minority opinion. But at this point Ehrenreich cited and qualified Naftali's ruling: "And therefore the holy rabbi of Ropczyce permitted a weak person to take only the smallest amount [of bitter herbs]." <sup>79</sup> Ehrenreich understood that Naftali had granted a special licence for a weak person; he had never advocated a general practice, and certainly not a normative custom. Ehrenreich was aware that Naftali's descendants and disciples were wont to eat less than a kezayit of bitter herbs, and of this he was critical: "But that which his family, following him, acts thus; all of them, and also the people of the aforementioned city; all of them, even those who are healthy – certainly this is not according to the law, and this is a very questionable matter."

How did Ehrenreich know that Naftali's ruling was limited to the weak? On what basis was the custom of Naftali's descendants discounted as erroneous? Ehrenreich did not cite a source for his understanding of Naftali's instruction, and it would appear that his conclusions were drawn from legal reasoning. Ehrenreich's argument was that the custom *cannot* be squared with normative Jewish law and therefore it *must not* have been practiced by Naftali. The tradition connecting Naftali and minimal measures of bitter herbs *could only* be referring to extenuating circumstances. Ehrenreich's assumptions are unsupported, and marshalling an analysis of the law to draw factual conclusions about historical events is unconvincing.

According to Ehrenreich, it was Naftali's descendants who had speciously adopted, sanctified, and disseminated the practice. Naftali himself never suggested the custom, and certainly did not eat less than a kezayit of bitter herbs. As we have seen, Galician hasidic lore would contend otherwise.

While Ehrenreich acknowledged the custom, he effectively discarded it as non-normative praxis. As we have seen, some of Ehrenreich's twentieth-century contemporaries were also

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on Naftali and to recite the blessing over less than a kezayit of bitter herbs (Naftali Tsevi Horowitz, *Haggadah Shel Pesah: Zer'a Kodesh* (Brooklyn, 1996), 276).

<sup>79</sup> Ehrenreich, *She'elot u-Tshuvot Lehem Sheleima*, 155, section 94. Regarding the date of the responsum: in 1911, Teitelbaum was appointed rabbi of Orsova. He served in that post until 1925 when he was elected rabbi of Carei, Romania. The relevant volume of *She'elot u-Tshuvot Lehem Sheleima* was printed in 1924, so this responsum was written between 1911 and 1924.

uncomfortable with the idea of eating less than a kezayit of bitter herbs, but they attempted to frame it in normative terms rather than discard it as erroneous.

Another jurist, the aforementioned Rabbi Shmuel Meir Ha-kohen Hollender, also understood the licence to be limited to the infirm. Hollender's responsum opens with a transcription of a letter written by Rabbi Yissakhar Dov Rokeah of Bełz (1851-1926) to Hollender's father, Rabbi Natan David Ha-kohen Hollender. Hollender the father served as rabbi in the Galician village of Mszana Dolna and had familial ties to Bełz and other Galician hasidic dynasties.<sup>80</sup> He had written to Yissakhar Dov explaining that due to illness he was unable to consume a kezayit of bitter herbs and apparently he asked for guidance. Yissakhar Dov – a grandson of Shalom of Bełz, and a respected Galician hasidic master and rabbi in his own right – responded:

I have a tradition from the mouth of my holy forebears, that if someone is sick and it is impossible for him to eat a kezayit of bitter herbs, then even if he eats one morsel of bitter herbs he has discharged [his obligation], and he should recite the blessing “concerning eating bitter herbs” over it.<sup>81</sup>

Yissakhar Dov did not offer a legal analysis; all he did was report his family tradition that a sick person could discharge the bitter herb obligation with even the smallest amount and in such a case, the standard blessing should be recited. Yissakhar Dov's terse reply makes it difficult to fully delineate his opinion. Hollender the son filled in the blanks.

The younger Hollender reported that he showed the letter to Yissakhar Dov's third son, Rabbi Mordekhai Rokeah of Biłgoraj (1901-1949).<sup>82</sup> Mordekhai was excited by the letter written by his saintly father, and he showed it to his older brother, Rabbi Aharon Rokeah (1880-1957), the reigning leader of the Bełz Hasidim. Aharon,

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<sup>80</sup> On the Hollender family hasidic connection, see Hollender, *She'elot u-Tshuvot Shem ha-Kohen, Megillat Yuhasin*, unnumbered pages after the introduction.

<sup>81</sup> Hollender, *She'elot u-Tshuvot Shem ha-Kohen*, 36, section 4. Hollender included numerous approbations in this volume, and the first approbation is from Yissakhar Dov's oldest son and successor, Aharon.

<sup>82</sup> Hollender does not say when he showed Mordekhai the letter his father had received, but most likely it was after Hollender's arrival in Israel in 1948.

too, was excited by the letter. Hollender reported what Aharon told him: “Once, his grandfather ... our master Rabbi Y[ehoshua] of Bełz ... stood up and said: ‘My father ... Shalom of Bełz ... was a jurist [*posek*], and he said that there is no need to eat a kezayit of bitter herbs on Passover.’” Thus we have confirmation for Fromer’s report that Shalom of Bełz had ruled that there was “no need to eat a kezayit.” While hasidic lore recalls Shalom’s miracle-working capabilities, the testimony emphasises Shalom’s role as legal decisor. Transmitters of the testimony wished to stress that this ruling was in line with Jewish law – even if they did not know, care, wish, or feel the need to explain how the practice could be squared with the law. Hollender, however, was prepared to explore the legal ramifications of the Bełz position, but his analysis led to an unexpected conclusion.

First, Hollender connected Shalom’s ruling with Meir of Dzików’s responsum. At this point, Hollender appeared to view the practice as a normative custom: one can discharge the bitter herb obligation with less than a kezayit, even when there are no extenuating circumstances.

Hollender then launched into a discussion of the relevant responsa literature (including a reference to Ehrenreich’s responsum). Hollender understood that the question was whether a sick person could eat less than a kezayit and recite the blessing. Thus Hollender concluded: “[T]he holy master of Bełz would rule like the holy master of Ropczyce and his sons ... that there is no need to eat a kezayit of bitter herbs, if he is ill, but a blessing should be recited over it.” Hollender understood that Aharon’s report of his grandfather’s position had referred to the infirm only. Hollender’s citation of Aharon’s words certainly does not indicate such a qualification (“there is no need to eat a kezayit of bitter herbs on Passover”). Nevertheless, Hollender must be trusted as a faithful source of Aharon’s Bełz tradition because he was the recipient and transmitter of Aharon’s report. Moreover, further in his responsum, Hollender did not avoid reporting the Bobowa tradition that called for less than kezayit of bitter herbs, indicating that he was not afraid to acknowledge that there were those who ate less than the prescribed amount.<sup>83</sup> Hollender’s understanding of the Bełz tradition fits Sperling’s account

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<sup>83</sup> There is an issue with Hollender’s responsum which I have yet to fathom: how did Hollender understand the Ropczyce-Dzików tradition? He cited Meir of Dzików’s responsum with no qualification and at the end of his own responsum he buttressed this with the Bobowa tradition. In the line just cited, however, he seemed to indicate that the Ropczyce-Dzików tradition referred to the infirm only (à la Ehrenreich).

of the Bełz tradition, and was accepted in later Bełz publications.<sup>84</sup> Fromer, as we noted, had reported that Shalom had allowed less than a kezayit of bitter herbs with no qualification to suggest that this ruling applied to the infirm alone. Perhaps Fromer had been mistaken; or perhaps with the passage of time, it was preferable to frame the Bełz practice of eating less than a kezayit as a licence for the infirm only, in order to minimise the clash with normative law.

### 5.2 They didn't do it!

Hollender, as we recall, had it on good authority that Shlomo of Bobowa (the First) had consumed less than a kezayit of bitter herbs in deference to his Ropczyce-Dzików roots. Reading Hollender's responsum, one is struck by the lack of an apparent agenda in his writing: on one hand, he frames the Bełz testimony as a permit for the infirm to consume less than a kezayit; on the other hand, he presents the Bobowa testimony as a normative custom. Hollender reads like an honest reporter, presenting the facts without casting his weight behind one position or another.

Alas, in a 1983 Bobowa pamphlet, Hollender's trustworthiness was cast aside. The twenty-page pamphlet included a collection of Shlomo I's legal rulings, culled from a variety of works. The anonymous editors of the pamphlet declared that Shlomo I was of the opinion that a sick person may eat less than a kezayit, but should not recite the blessing.<sup>85</sup> This may very well have been Shlomo I's theoretical position, but it says nothing about his actual practice. The editors then cited various jurists, noting that Meir of Dzików "wrote that a weak person should eat less than a kezayit and recite the blessing" – a true statement that does not tell the full story. When it came to Hollender, the editors were flippant: "The aforementioned rabbi [Hollender] was mistaken in what he heard, for we heard from our master [Shlomo II], may he live long, that for eating bitter herbs, our master Rabbi Shlomo [I], of blessed memory, took a kezayit of lettuce."<sup>86</sup> The Bobowa

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<sup>84</sup> Yisrael Klapholtz & Natan Urtner, *Haggadah Imrei Kodesh* (Benei Brak, 1965), 157. This work was republished with corrections in 1967 and 1974, but the passage relevant to this discussion was not altered.

<sup>85</sup> The editors do not cite a source for this opinion, though it may have been taken from *Beit Yitshak*, where Schmelkes opens his responsum to Shlomo I by recapitulating the addressee's position (above, note 15).

<sup>86</sup> *Kovets Kerem Shelomo*, 7-8. Both Hollender's volume and the Bobowa pamphlet were published during Shlomo II's lifetime. Hollender died in 1964, so he was unable to respond to the Bobowa allegation.

presentation not only summarily dismissed Hollender, but also omitted any acknowledgement of the Ropczyce-Dzików tradition. As we recall, Bobowa stems, *inter alia*, from the Ropczyce-Dzików house, hence we might minimally expect a mention of the practice. The 1983 Bobowa presentation effectively wrote the custom out of existence.

In 1996 a further nail was hammered into the coffin of the custom, this time by a descendant of Yehezkel Sheraga of Sieniawa. In a Haggadah compiled by Rabbi Hayim Yaakov Meir Rubin, a great-great grandson of Yehezkel Sheraga, the author related to the practice of his ancestor. In the text of the Haggadah, the instruction to eat a kezayit of bitter herbs is plainly stated. At the back of the volume, Rubin quoted and annotated legal discussions from his illustrious ancestors. When referring to Fromer's report that Yehezkel Sheraga had instructed to eat less than a kezayit of bitter herbs, Rubin wrote: "I heard from ... my father [Rabbi Shalom Yehezkel Sheraga Rubin of Cieszanów, 1913-1986] that it is incorrect, for he had a tradition that the holy master of Sieniawa was meticulous in eating a kezayit of bitter herbs."<sup>87</sup> Fromer is the only source to suggest that Yehezkel Sheraga ate less than a kezayit, so it is possible that Rubin's family tradition is more accurate than Fromer's report. It is just as likely,

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This was not the only hasidic legend to be denied in this pamphlet: regarding Hayim of Nowy Sącz's close encounter with potentially lethal bitter herbs, the editors noted that according to Bobowa tradition the tale was completely false, for Hayim would never have made up a blessing on his own. Moreover, Shlomo I was present at the time of the episode, and he recalled that his grandfather had declared: "I am confident that in the merit of fully fulfilling the commandment to eat bitter herbs as we are commanded in our holy Torah ... the eating will not harm me at all." Shlomo I continued that his grandfather recited the blessing and ate a kezayit (*ibid.*, 7-8 n.).

Korman offered another version of Bobowa practice: "Bobowa Hasidim were accustomed to reciting the blessing 'concerning the commandment of bitter herbs' instead of 'concerning eating bitter herbs,' and with this they released themselves from the obligation to eat a kezayit." Korman cited "hasidic elders" who attributed the solution to Hayim of Nowy Sącz (Korman, "*Maror*," 47-48 n.6).

<sup>87</sup> Chaim J. Rubin, *Seder Haggadah Shel Pesah: Divrei Hayim* (3<sup>rd</sup> ed., Jerusalem, 1996), 62, 206 n.27. The author is the son of Rabbi Shalom Yehezkel Sheraga Rubin of Cieszanów (1913-1986), son of Rabbi Aryeh Leib Rubin of Cieszanów (1881-1942), son-in-law of Rabbi Simha Yissakhar Ber Halberstam of Cieszanów (1870-1914), youngest son of Rabbi Yehezkel Sheraga Halberstam of Sieniawa (1813-1898).

however, that Fromer's report is accurate and in an attempt to protect the legacy of Yehezkel Sheraga, his descendants denied that their ancestor had ever consumed less than a kezayit of bitter herbs. Certainly if we consider the "criterion of embarrassment," Fromer's report would have more weight.

We should note that Rubin is also a descendant of Naftali, yet the Ropczyce tradition did not rate a mention.<sup>88</sup> Once again, the thought of an ancestor eating less than a kezayit of bitter herbs appears to be anathema to the late twentieth-century hasidic narrative.

These two proclamations – together with an *argumentum e silentio* from the plethora of contemporary hasidic publications that make no mention of the practice – are significant in the method they chose. They could have offered an historical explanation: hasidic masters ate less than a kezayit of bitter herbs because all they could obtain was horseradish, which cannot be consumed in large quantities; nowadays, when romaine lettuce is readily available, the full kezayit should be consumed. Such contextual consignment had already been stated by a respected jurist, Rabbi Tsevi Ashkenazi (*Hakham Tsevi*, 1658-1718) and by a hasidic master, Rabbi Tsevi Elimelekh of Dynów, and therefore it was not beyond legitimate legal discourse.<sup>89</sup> Rather than opting for this route, hasidic writers preferred to deny that the practice ever existed. These sources effectively sought to rewrite hasidic history in the image of contemporary legal norms. In a narrative delineated by *nomos* there is no room for less than a kezayit of bitter herbs, not even in the distant past. Hasidic collective memory could

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<sup>88</sup> Rubin's paternal grandfather Rabbi Aryeh Leib Rubin of Cieszanów (1881-1942) was the son of Rabbi Yitshak Tuvya Rubin of Nowy Sącz (1858-1927), son of Rabbi Meir Rubin of Głogów (1829-1897), son of Rabbi Menahem Mendel Rubin of Głogów (1806-1873), son of Rabbi Asher Yeshayahu Rubin of Ropczyce (1775-1845) and his wife Reiche, the daughter of Naftali of Ropczyce. Rubin's primary identity, however, is not as a scion of Ropczyce, or as a Sieniawa successor, but as a descendant of Hayim of Nowy Sącz. The title and focus of Rubin's Haggadah certainly indicates this. The original version of Rubin's Haggadah was published in Lublin 1933 by one of his ancestors. Besides being re-typeset, Rubin's edition includes a lengthy supplement entitled *Kuntras 'Ikvey Hayim* (pp. 131-228). In this supplement, Rubin cites primarily from Hayim's writings and adds his own annotations (two subsequent printings – Brooklyn 2000 and Brooklyn 2009 – are reprints with no extra material). Rubin is descended from Hayim through more than one line: as a descendant of Hayim's son Yehezkel Sheraga, and as a descendant of Hayim's daughter Nehama who married Yitshak Tuvya (mentioned above).

<sup>89</sup> Above, note 7.

hardly preserve the image of antinomian conduct of the venerable masters of the past.

### 5.3 Relics

The notable exception to the trend of denying that the custom ever existed comes from some of Naftali's descendants who sought to preserve Ropczyce tradition. Not every effort, however, bore fruit.

In 1989, Avraham Hayim Frenkel, a descendant of Naftali, published a Haggadah aimed at reflecting Ropczyce tradition. Alas, this publication contained no hint of the Ropczyce custom to eat less than a kezayit of bitter herbs; in fact, the stage of the seder where bitter herbs are consumed included an explicit instruction to eat a kezayit.<sup>90</sup>

A year later, the cat was let out of the bag when Frenkel reprinted his Haggadah with a lengthy supplement regarding the required volume of bitter herbs. The supplement included an introduction, a summary of ten legal justifications for the Ropczyce custom, and annotated excerpts from responsa on the issue. Frenkel's goal was to explain the Ropczyce position. Frenkel even claimed that there is a well-known term that comes from the custom – “*a Ropshitser kezayit*,” meaning the smallest amount for discharging the obligation. Despite Frenkel's effort, the results are dubious and the author's disquiet with the prospect of sanctioning the practice is evident. At the end of the introduction, Frenkel declared that he only sought to explicate his ancestor's ruling and he reminded readers that normative law requires the consumption of a kezayit of bitter herbs. Moreover, in a footnote to Meir of Dzików's responsum, Frenkel wrote: “From his words it sounds that he was lenient specifically for weak people and sick people,” and he then sent the reader to Ehrenreich's responsum. In line with this attitude, the passage regarding the bitter herbs is still presented in the Haggadah together with an instruction to eat a kezayit.<sup>91</sup>

A third Ropczyce Haggadah published in 1996 by a different descendant, Naftali Tsevi Horowitz, was more successful in preserving the memory. With regard to eating bitter herbs, this version did not include an instruction to consume a kezayit of bitter herbs; instead the following note appeared: “Our holy masters were lenient

<sup>90</sup> Avraham Hayim Frenkel, *Haggadat Beit Ropshits* (Jerusalem, 1989), 58.

<sup>91</sup> Frenkel, *Haggadat Beit Ropshits* (2<sup>nd</sup> ed.), 131 n.13, 58. I have yet to find other references to the term “*a Ropshitser kezayit*.”

with regard to a kezayit of bitter herbs, and they instructed that one may recite the blessing ‘concerning eating bitter herbs’ even on less than a kezayit.”<sup>92</sup> Various relevant responsa were appended to the Haggadah, including Meir’s responsum which was printed without qualification. More importantly, the volume contains a section on Ropczyce customs that includes the following clear statement:

Our holy masters were lenient on the matter of the kezayit of bitter herbs, and they ruled that people are allowed to recite the blessing “concerning eating bitter herbs” even on less than a kezayit. And thus acted our master the holy rabbi of Ropczyce, may his merit protect us.<sup>93</sup>

## 6. The Interpretive Community of Hasidic Jurists

The story of bitter herbs in hasidic Galicia is a case study in the evolving interface between hasidic lore and Jewish law. I have outlined three stages of this evolving relationship. At the first stage, Galician hasidic masters from the late eighteenth century and early nineteenth century consumed less than a kezayit of bitter herbs. This custom was widespread and generally accepted in the Galician hasidic milieu, and can be understood given the reality of using horseradish for bitter herbs. Though the practice did not follow Jewish law, there is no evidence of normative concern, no explicit censure, and no reports of any attempts to square the practice with the classic sources – not by the practitioners, nor by their colleagues.

At the second stage, hasidic jurists confronted the custom and the fact that it contravened codified Jewish law. Their fidelity to their esteemed hasidic predecessors precluded the possibility of a wholesale censure of the custom. Gallantly they stood at the intersection between the hasidic custom and Jewish law. In a variety of timbres, they offered legal justifications for what appeared to be a practice that ran counter to Jewish law. Most of them reminded their readers that while legal explanations could be mustered, this was not the preferred route.

At the third stage, descendants of the very masters who had consumed less than a kezayit of bitter herbs, sought to protect the

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<sup>92</sup> Horowitz, *Haggadah Shel Pesah: Zer‘a Kodesh*, 112. The author also noted that the Ropczyce custom was to eat green horseradish leaves together with a bit of ground horseradish, but not to eat lettuce.

<sup>93</sup> *Ibid.*, 276.

honour of their ancestors and denied the historicity of the early reports.

The quelling of mimetic tradition and the rise of fidelity to the written word has been described by scholars, and rewriting history is a known phenomenon.<sup>94</sup> In this case, the problematic practice was not merely mitigated; it was stricken from the record as though it never existed. This stage parallels the mainstreamisation of Jewish practice that can be connected first to urbanisation and improved communication, and second to emigration to centres in America and the Land of Israel. As Hasidim from Galician towns emigrated to larger centres and came in close contact with other Jews – both hasidic and non-hasidic, and later Sephardic – they naturally defined themselves in relation to their surroundings. Part of their identity was that they were a community committed to the strictures of Jewish law. This necessitated jettisoning legally questionable practices, and in this case even expunging them from the record.

This peregrination through Galicia adds a further aspect to the story of diverse practices that have been sacrificed for the sake of uniformity through servitude to the written word. On the journey towards the normatisation of hasidic lore, from the antinomian to the nomian, there was a way-station where hasidic lore and Jewish law lived together with a measure of harmony. Of course, the programme of offering legal justifications for regnant practices is not a phenomenon exclusive to hasidic jurists. Nonetheless, casting the spotlight on this development of Hasidism is an important addition to the narrative of the movement. Not only did hasidic masters serve as jurists, but this phenomenon did not entail a wholesale abandonment of non-normative hasidic practices. Rather, hasidic jurists grappled with seemingly non-normative hasidic practices, trying to harmonise them with the contours of Jewish law. This was a form of interpretation that operated from within the cultural assumptions of the hasidic milieu. The constructs of these hasidic jurists included fidelity to Jewish law, the sanctity of hasidic practice, and the assumption that hasidic masters of old did not flout Jewish law. The interpretive community of hasidic jurists was committed to upholding

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<sup>94</sup> Menachem Friedman, “The Lost Kiddush Cup: Changes in the Ashkenazic Haredi Culture – A Tradition in Crisis,” in *The Uses of Tradition: Jewish Continuity in the Modern Era*, ed. Jack Wertheimer (New York & Jerusalem, 1992), 175-86; Haym Soloveitchik, “Rupture and Reconstruction: The Transformation of Contemporary Orthodoxy,” *Tradition* 28.4 (1994), 64-130.

Jewish law *and* respecting hasidic tradition.<sup>95</sup> Their interpretive strategies and valiant efforts reflect this dual commitment.

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<sup>95</sup> Stanley Fish, *Is There a Text in This Class?* (Cambridge, MA & London, 1980), 167-73. The first and third stages described here may be attested by other hasidic practices, such as late prayer times. The middle stage that highlights the interpretive community of hasidic jurists is yet to be fully described.