

RAV CHESED

essays in honor of

Rabbi Dr. Haskel Lookstein

VOLUME II

EDITED BY
RAFAEL MEDOFF

The Halakha According to B'nai B'rith

Jonathan D. Sarna



KTAV Publishing House, Inc.
Jersey City, New Jersey

2009

The *Halakha* According to B'nai B'rith

Jonathan D. Sarna

According to an oft-repeated tale, the Jewish fraternal organization B'nai B'rith, founded in New York City on October 13, 1843, was established by recent German immigrants in response to antisemitism.¹ Hasia Diner's account reflects this dominant view:

Twelve young Jewish men, all from Germany, got together informally on a regular basis on Sundays at Sinsheimer's saloon on New York's Essex Street. These young merchants with a few artisans among them had all been in the United States less than a decade and at Sinsheimer's found a place to relax and interact with their fellows. Four of them belonged either to the Masons or the Odd Fellows. In the 1840s, when those organizations began to systematically reject Jewish applicants for membership, these young Jews decided to create a Jewish equivalent.²

Thanks to Cornelia Wilhelm's careful research, we now know that this is a complete myth. First of all, the founders were *not* all immigrants; Isaac Dittenhoefer, for example, was born in America. Second, they were not just starting off in life; instead, they were "already successful, middle class self-employed men with

a bourgeois consciousness and standing.”³ Finally, and most important, antisemitism had almost nothing to do with the organization’s founding. Most of the founders, in fact, were members in good standing of Masonic or Odd Fellows lodges, and those lodges did not change their policies toward Jews in the 1840s. Instead, individual Jews were turned down on other grounds, such as lack of personal morality and a dearth of genuine religious motivation. Some of them blamed religious prejudice for their misfortune, but those charges, at the time, were considered baseless.⁴

The complaints of the rejected fraternity members served, nevertheless, as the catalyst for establishing what was originally conceived to be “a society for the purpose of supporting its members in the event of illness and other untoward events.”⁵ Even Jewish members of the Masons and Odd Fellows sought the company of their fellow Jews during times of severe illness or when a death occurred. Those rejected by non-Jewish fraternities required Jewish companionship at such times all the more. Two decades earlier their needs would have been met by what was then New York’s only synagogue, Shearith Israel, which assumed responsibility for the entire New York Jewish community. In the interim, however, the “synagogue-community” of early America had collapsed into a community of eight competing synagogues.⁶ While many of the founders of B’nai B’rith belonged to Congregation Anshe Chesed, growing numbers of New York Jews were “indifferent”; they belonged to no synagogue whatsoever.⁷ Already in 1841 a group of New York Jews who were unconnected with synagogues formed what they called the “New Israelite Sick-Benefit and Burial Society,” supposedly the first “overtly secular Jewish philanthropy in the United States.”⁸ The new society, one suspects, looked to follow in its footsteps, forging links among Jews that reached beyond the synagogue’s now delimited sphere.

Within weeks, however, the plan had broadened from the creation of a “society” – the equivalent, perhaps, of a traditional “*hevra*” with provisions for branches in other cities – into a full-fledged fraternal order. That idea had actually been percolating

for several years, influenced by the example of the Masons and Odd Fellows, and in response to the growing fragmentation and factionalism in American Jewish life. Since synagogue disputes and an array of other religious differences now divided Jews from one another, the new goal, according to B'nai B'rith's longtime president and first historian, was to create a fresh basis for unity based on the fraternal and covenantal ties among Jews:

A society which, based on the teachings of Judaism, should banish from its deliberations all doctrinal and dogmatic discussions and by the practice of moral and benevolent precepts bring about union and harmony, where before had existed strife and dissension. Such a society, eliminating geographical lines and bringing together upon a common platform German and Pole, Hungarian and Hollander, Englishman and Alsatian; extirpating the narrow prejudices and superstitions of sections and provinces; inculcating lessons of discipline and toleration; of mutual forbearance and respect, of brotherly love and harmony, could not fail, it was thought, of producing a complete and radical change in the manners, habits, thoughts and actions of its adherents.⁹

The new organization bore the German name Bundes Brüder and the euphonious Hebrew name B'nē B'rith (as it was originally spelled). The German name stressed fraternity ("league of brothers") without a Jewish component, while the Hebrew name denoted connection to the covenant (*brith*) that linked Jews across time and space. Revealingly, it was the Jewish name that quickly became the dominant one. By 1851, when B'nai B'rith published a revised constitution, its German name had been discarded.¹⁰

Nevertheless, the secular universalism that underlay the original German name remained influential within some lodges of B'nai B'rith. Emanu-El Lodge in Baltimore, for example, defiantly admitted a non-Jew to membership in 1850, warning against "exclusivity." The Grand Lodge, however, firmly rejected

the Baltimore lodge's decision. Acknowledging the universalistic hope that someday the "mission of Israel" would be fulfilled and all the nations of the earth would worship one God, the Grand Lodge ruled that, for now, "we must...abide [*sic*] our time." B'nai B'rith, it decreed, was open only to Jews. Emanu-El lodge, dissatisfied with that decision, disbanded just as B'nai B'rith's new constitution came into effect.¹¹

By the time its 1851 constitution appeared, B'nai B'rith was benefiting from surging Jewish emigration, principally from Central Europe. The size of the American Jewish community had more than tripled over the previous decade, ballooning, according to some estimates, from 15,000 in 1840 to 50,000 in 1850. The Jewish population of New York City, at the same time, grew from about 7,000 to over 16,000. These numbers would increase at the same rate during the 1850s.¹²

"Many land on this shore, ignorant of the vernacular, without direction how to proceed, without home to settle down," the new constitution observed. "Thus they wander about, longing for the brotherhood, which is willing to help, to render assistance, and to counsel them how to make a living."¹³ This was essentially the mission that B'nai B'rith took upon itself at that time. Its goal was not so much to create a "secular synagogue," as Deborah Dash Moore argued,¹⁴ as to establish a secular *kehilla*, an organized lay-led Jewish community that would bind together religiously divided and geographically dispersed Jews into a single covenanted community:

Therefore this new covenant of peace; that its children should not only extend to each other the friendly brotherhand in all changes of life, where aid and assistance becomes necessary, when misfortune here and sufferings there make their appearance but where their strength may unite also to higher and usefull [*sic*] objects, to call into existence benevolent institutions, to found associations for instruction, art and knowledge, but more especially to cultivate and guard

faithfully the common inheritance of Israel, the precepts of its covenant and to insure to it that public dignity and respect, which its possessors cherish for it....¹⁵

Communities operate under laws. This was true of the early synagogue communities in the United States, which all produced constitutions with extensive laws and bylaws as well as stipulated punishments for those who violated them.¹⁶ It was even more true of the organized *kehillot* or *gemeinde* of the lands from which most nineteenth-century B'nai B'rith members emigrated. The American Freemasons, of course, also had an internal judicial system of their own.¹⁷ So it comes as no surprise that B'nai Brith's constitution likewise set forth rules for "fines and trials." Indeed, this topic formed the longest single article in the whole entire constitution – 21 paragraphs long (see Appendix). According to the constitution, those who violated the order's rules, insulted fellow members, or engaged in "unbrotherly and immoral conduct" were liable to punishment and "entitled to a proper trial." Those found guilty at the local level could appeal to the District Grand Lodge and beyond that to the Constitution Grand Lodge, B'nai B'rith's highest tribunal.

Nobody, to my knowledge, has analyzed the cases brought before B'nai B'rith's tribunal. Thanks to a weighty tome entitled *Jurisprudence of the Independent Order of B'nai B'rith: A Compilation of Appeals and Questions Officially Submitted To, And Decided Upon, By The Constitution Grand Lodge, Court of Appeals, and the Respective District Grand Lodges of the Independent Order of B'nai B'rith Since the Institution of the Order. With Digest of Decisions and Manual...* (1879), edited by M[ayer] Ulman,¹⁸ the secretary of B'nai B'rith's Seventh District Grand Lodge and a trained jurist, such analysis is possible – at least for the first two decades of cases that confronted the organization. Several of these cases, as we shall see, cast interesting light not just on issues internal to B'nai B'rith, but on the organization's attitude toward Jewish law, Jewish tradition, and questions of Jewish identity. They reveal that

traditional *halakha* and the *halakha* according to B'nai B'rith did not easily mesh.

In 1871, for example, Joseph Lodge No. 73, in St. Louis, asked "whether a member who is a *Cohen* is compelled to sit up with the corpse of a deceased brother, or if he is exempt from such duty as a *Cohen*." The Grand Secretary replied that "If his Lodge requires him to sit up with a deceased brother, and he has conscientious scruples which makes it objectionable to him, he must in such case provide an acceptable substitute." Ulman's legal note on the case makes clear that Jewish laws governing descendants of priests (*kohanim*) – the biblical ban on their coming into contact with the dead – had no impact on the fraternity: "Laws are indiscriminate on all members; and no one can claim exemption upon the claim of religious scruples or usages."¹⁹

The same approach decided a more tragic case in 1875. According to B'nai B'rith's endowment law, a man without a living wife or child needed to make a sworn statement to his lodge concerning who should receive his \$1,000 death benefit following his demise; otherwise, the money was retained by the lodge itself. In this case, the wife and sole heir of P.L. Bachman of New York City died childless. Bachman "being of an orthodox tendency... did not, while holding his week of mourning, consider it right to go to the Lodge room to make a formal declaration [of his new intended heir], but intended to do so immediately thereafter, but died while in the week of mourning, without having made such a declaration." The majority of the lodge members sought to pay the benefit to his heirs anyway, on the grounds that his failure to comply with the Endowment Law was an unavoidable consequence of *shiva*: "[B]eing an orthodox Israelite he observed the week of mourning with punctiliousness in all its forms, did no work or writing of any description, and by a singular coincident his week of mourning and his life expired at the same moment." But the Court of Appeals by a vote of 4–1 disagreed, insisting that the rules of the Order must be carried out to the letter. "Laws cannot discriminate between orthodox

and reformed," Ulman explained in his note on the case. "One law must be for all."²⁰

In at least one case, however, a lodge that attempted to apply this principle in a manner favorable to Jewish tradition found itself reversed. District Grand Lodge #3 passed a regulation compelling all of its members to cover their heads during one portion of the lodge's ceremony. A visitor from another B'nai B'rith lodge refused to comply. Rather than insisting on "one law for all," the court permitted the visitor, acting presumably on the basis of his Reform Jewish principles, to keep his head bare. "A Lodge," it ruled, "cannot compel a brother to cover his head during any portion of the ceremonies." At the same time, it discouraged such separatist behavior. "A visiting brother," it warned, "exhibits a great want of courtesy and respect to the others by refusing to comply with a rule of the Lodge in which all the members unite."²¹

Where the "one law must be for all" principle was strictly enforced by B'nai B'rith, the "one law" generally meant the law of the land; it was loathe to impose any Jewish law on its members. In 1873, for example, Haggai Lodge dealt with the case of a member who had been divorced through a rabbinical *get* [bill of religious divorce] but had not gone to court to obtain a civil divorce. This was a not an infrequent occurrence among immigrant Jews of that time, since the countries from which they emigrated generally did not require civil divorce and they failed to understand why any was needed. When the member remarried and wanted to declare his new wife and children his heirs, however, the lodge demurred. "Can the Lodge accept this declaration and not come in controversy," it wondered, "since the brother is not divorced legally from his former wife?" The District Grand Lodge's decision left no room for compromise: "The Lodge has to recognize that wife who can prove herself the *legal wife*." The complexities of the case – the fact that Jewish law and American law recognized different "legal wives" – went unmentioned.²²

The most wrenching cases that confronted B'nai B'rith during its first decades of existence entailed boundary controversies:

vexing questions concerning who could and could not be a member of the order, and what kinds of actions warranted a member's expulsion. Not surprisingly, moral turpitude always resulted in separation from the order. Such cases also remind us that the nineteenth-century Jewish family was hardly as strong and as wholesome as hagiographers would have us believe.²³ Jacob Solomon, for example, was charged in 1875 with "living in adultery," "immoral conduct," and "desertion of his family." The lodge suspended him indefinitely, and his appeal was turned down. "Adultery and desertion of family, if proven, is just cause for punishment," Ulman piously opined in his remarks on the case.²⁴

For "ill-treating and whipping his brother's wife," Moritz Wolf was expelled from the order altogether. On appeal in 1869, he was granted a new trial, based on a flaw in the original proceedings, but the punishment was not questioned.²⁵ Nor did the order find itself sympathetic to A.S. Honnett of Pine Bluff, Arkansas, who was tried in 1876 for "seducing a maiden of our race," "employing medical skill to procure abortion," and after "being compelled to undergo marriage ceremony," deserting his new wife during her pregnancy, "leaving her destitute, and reviling and slandering her." Indeed, so shocked were some when the lodge declared Honnett "not guilty," despite overwhelming evidence to the contrary, that the "Grand Saar" (President) of B'nai B'rith "was instructed to prepare articles of impeachment" against the whole lodge.²⁶

In one case, even nonpayment of a debt to a synagogue provided grounds for a member's expulsion:

Myers, a member of Congregation Anshe Ameth, resigned without paying his dues. The resignation was accepted on condition that he was clear in the books. He refused to pay up and was sued. Meyers participated in all the deliberations of the Congregation, attended meetings, and paid up his dues whenever called, except [sic] in the last instance, when he resigned *and* refused to pay.

The Congregation sued him, and on the trial before the circuit court of the county he pleaded that he was not a *member*, never having signed the Constitution. To this he made oath, and there is the evidence of three parties to the fact. On this technicality the judge ruled that although morally bound to pay the same, he was not so legally, not having signed the Constitution.

We hold that a man who is guilty of such a conduct in the manner charged before the Lodge, and proved by disinterested witnesses, is not a proper person to be a member of the Order and a Lodge. The Lodge on these facts suspended him indefinitely, and we therefore recommend that the action of the Lodge be sustained.²⁷

The District Grand Lodge approved the lodge's actions. Its argument, Ulman explained, was that "fraudulent means employed to forego the payment of an honest debt makes a person unfit to be a member of a Lodge in the Order."²⁸ What makes the case particularly significant is that B'nai B'rith, in this instance, held to a higher standard than the American court. Even though under U.S. law the congregation proved unable to collect its debt, B'nai B'rith, perhaps influenced by ethical proscriptions requiring Jews to conduct business fairly and amicably with their fellow Jews, suspended the member indefinitely.

If Jewish religious laws and traditional values lurked in the background of that case, they failed to do so in the case of intermarriage. Here the rulings of the grand lodge were unambiguous: "The fact of an Israelite being married to a Gentile is no disqualification."²⁹ In one case, in 1872, Dan Lodge, having elected an individual to membership, did subsequently conclude that he was "unworthy of being a member or receiving the degrees of the Lodge, he having married a non-Jewess." Upon appeal, though, that decision was unanimously reversed. The District Grand Lodge insisted that "the fact of having married a non-Jewess

does not disqualify an applicant in the Order of B'nai B'rith, and certainly does not constitute a man *unworthy* in a legal sense."³⁰ When four years later another lodge sought clarification of B'nai B'rith's policy, observing that in the past it had "refused admittance on this ground," it was informed that "the Court of Appeals...has decided that such a law [proscribing the intermarried] would be unconstitutional."³¹

Intermarriage between Jews and Christians became more common in the 1870s. By then, immigrants' American-born children had grown up, liberal Jews and Christians looked hopefully toward a "new era" of universal brotherhood, and ardent prof- fers of love were proving more powerful, in a romantic age, than the pious proscriptions of religion. Rabbinic leaders, including most Reform rabbis, decried the rising tide of intermarriages, but B'nai B'rith came to terms with them. It insisted that whom a man took for his wife was a private affair and not the business of the order.³²

One might have imagined that the same policy would gov- ern the Order's policy concerning circumcision, but that proved not to be the case. While intermarriage did not disqualify a man from being Jewish, lack of circumcision, in the view of many B'nai B'rith members, did. In their eyes, male circumcision marked the very covenant that the Order pledged to uphold. District Grand Lodge No. 3, as a result, announced a firm policy against admit- ting the uncircumcised. The language it employed in setting forth this standard makes clear that it understood its position to be un- popular in more universalistic B'nai B'rith circles:

A person who is not circumcised cannot become a member of the Order in this District. Our name implies that a mem- ber must be "a son of the Covenant" of Abraham. Our Order is still a Jewish Order, for the benefit of the Jewish people, and for the advancement of Jewish interests.³³

Indeed, the decision aroused substantial debate. B'nai B'rith leader

Simon Wolf insisted that "any one declaring himself to be a Jew in faith, a believer in one God and all the accessories incident to Jewish religion, whether circumcised or not, is a fit and proper Candidate, and no lodge for that reason solely can exclude him." He also pointed to the awkwardness "of a personal physical examination" of potential members. Rabbi Bernhard Felsenthal, likewise a B'nai B'rith leader, noted that some influential rabbis were prepared to accept proselytes without circumcision and that, in any case, it was "not the province of B'nai B'rith as such to decide theological questions." In the end, though, the Order's Court of Appeals reached no decision on the matter and the District Grand Lodge's original action stood.³⁴

In 1879 the question came up again in what was described as the most widely-discussed case ever to be decided by the Order's highest court. Genero Henrickson of Lincoln, Illinois, the uncircumcised son of a non-Jewish mother and a Jewish father who was a member of B'nai B'rith, applied to be initiated into the Order. The young man, according to the documents presented to the court, had "not been raised up in any faith, and until now has not made any profession to religion of any sort." Could he be admitted into an Order that defined its mission as "uniting Israelites in the work of promoting their highest interests and those of humanity"?³⁵

Some sought to ban Henrickson unilaterally, since he had neither a Jewish mother nor evidence of conversion and circumcision. Others insisted that his application to join the order was itself "equivalent to a confession" of commitment to the Jewish people. The District Grand Lodge proposed a compromise, a two-step profession of faith:

[I]f a candidate applies for membership in a Lodge, of whom it is doubtful or disputed whether he is a Jew or not, such candidate shall declare in writing:

1. That he confesses his belief in Judaism.

2. That he does not belong to any non-Jewish church or other non-Jewish religious organization.³⁶

The resulting controversy, anticipating twentieth-century controversies concerning "who is a Jew" and patrilineal descent, divided leaders of B'nai B'rith, pitting conservatives against liberals, those who insisted that Judaism was a "race" against those who considered it a system of beliefs, and reopening questions concerning the order's attitude toward non-Jews. Documents in the case eventually occupied 72 closely printed pages of text. In addition to arguments based on B'nai B'rith's own precedents, the District Grand Lodge at one point solicited opinions from five different Reform rabbis connected with B'nai B'rith: Isaac M. Wise, Samuel Hirsch, Max Lilienthal, Bernhard Felsenthal, and Solomon Sonneschein. Revealingly, no Orthodox rabbis, such as Sabato Morais or Henry Pereira Mendes, were queried. Even so, the two questions – (1) "Is a candidate applying for admission into a lodge, whose one parent is an Israelite and whose other parent a Gentile, to be considered an Israelite?" and (2) "If not, should such a candidate undergo some initiatory rites, and which, in order to become an Israelite?"³⁷ – elicited a wide range of opinions. Then, as later, Reform rabbis varied in regard to their definition of who is a Jew (Isaac Mayer Wise asserted that, in his view, "any man declaring to be a Jew by conviction and faith is a Jew"³⁸) and in regard to what rituals of conversion they deemed essential.³⁹

B'nai B'rith leaders who weighed in on the question disagreed even more emphatically. Some feared too "exclusive" a definition of membership in the Order while others, more sympathetic to tradition, insisted that "either the Order is a Jewish organization or none at all."⁴⁰ Many warned the Order to avoid trespassing into theological territory. A few, hoping that the whole issue might just go away, argued that the Court of Appeals lacked jurisdiction in the case.

In the end, the Court threw out the District Grand Lodge's compromise and held unequivocally that "The Independent Order of B'nai B'rith is exclusively a Jewish Order and only Jews are

eligible as members." While it granted lodges the right "to determine that an applicant is an Israelite," it warned them of their "duty to see that no stranger enters into our covenant." Implicitly, it found "belief in Judaism" – the standard proposed in Henrickson's case – to be insufficient. B'nai B'rith members, it ruled, had fully to be Jews: "[N]either this Court nor any existing body in the Order can declare that those are Jews who are doubted so to be."⁴¹

This decision carried far-reaching consequences for B'nai B'rith, preserving its Jewish character. The case demonstrated that any Jewish community, even one that was determined to be secular and all-embracing, needed to establish boundaries. However dismissive B'nai B'rith may have been of *halakhic* practices concerning *kohanim*, *shiva*, head coverings, *gittin*, and even intermarriage, when it came to membership in the Jewish people it took a much firmer line, identifying the order as a "Jewish Order" and limiting its membership to "Jews."⁴² As a result, B'nai B'rith retained its Jewish character. Even as a "secular *kehilla*," it remained a covenanted community defined by mutual obligations, ethnic ties, and its own distinctive "*halakha*."

§8 APPENDIX

Rules Concerning Fines and Trials⁴³

Article VIII

Fines and Trials

§1. Any member acting contrary to the Constitution, Bylaws and Regulations of a Lodge, violates the usages of the order, or uses improper or insulting language against the officers of the Lodge, District, or Constitution Grand Lodge, or towards any member of the order, or is guilty of unbrotherly and immoral conduct, shall be fined, reprimanded, suspended or expelled, according to the established laws and usages of the order or as the Lodge may decide.

§2. The Lodge shall suspend all members who owe their dues over twelve months, and who refuse or neglect to pay the same.

§3. Every member is entitled to a proper trial, in all cases where the charge is of such a nature, as to be unprovided for by the By-laws, and which involve a fine, suspension or expulsion (those for non payment of dues excepted).

§4. The charge must contain a detailed account, submitted to the Lodge in writing, and such being accepted without debate, shall be entered on the minutes by the Secr[etary] and a copy thereof handed to the accused.

§5. A trial can be instituted only on the merits of the specifications contained in the complaint.

§6. The P. then has to select an investigating committee consisting of five members, having as many degrees as the accused; to the latter however the right shall be reserved to object to the one or [t]he other, yet he must select five out of ten brothers thus appointed.

§7. When the accused is not present, the names of the committee shall be sent to him in writing and he has the same right to object, until the next following meeting, to all those he is dissatisfied with.

§8. The accused has the right to select a brother of his own, or of a sister Lodge, as his counsel.

§9. The committee shall proceed to examine into the merits of the complaint, and make all proper efforts in order to arrive at a clear view of the case. For this purpose the plaintiff and the defendant shall appear with their resp[ective] witnesses before the committee for examination, written notice as to the definite time and place shall be served upon them.

§10. The committee has to keep correct minutes of the evidence elicited and to transmit the same to the lodge, accompanying it with a report, in which it has to transmit also the result of its own carefull examinations, as to the guilt or innocence of the accused.

§11. The committee report shall then be read to the Lodge and an opportunity given first to the plaintiff and then to the defen-

or to his counsel to speak on the case once, whereupon the
 user and the accused and his counsel have to leave the room.

§12. The Lodge shall then proceed to take the case into con-
 sideration and decide in the same meeting as to the guilt or in-
 cense of the accused.

§13. The decision is effected by written tickets, of which ev-
 ery member receives two, one written with *guilty*, the other with
not guilty; Of these two, each member may deposit one in the
 ballot box. The votes are then counted by a committee of three,
 appointed for this purpose by the P. and if he found guilty by a
 majority of votes, the accused shall be subject to such punishment
 as the By-laws provide or the Lodge imposes.

§14. If the defendant is dissatisfied with the decision of the
 Lodge, he has a right to appeal to the District Grand Lodge.

§15. When the accused neglects to appear to trial after having
 been duly notified, a new trial shall be ordered and definite notice
 given to him to that effect. If he should then again refuse to appear,
 and should neglect to give sufficient excuse for it, he shall be found
 guilty, and dealt with as prescribed in § 13 of this article.

§16. After a member is suspended or expelled, all Lodges of
 the district shall forthwith be informed thereof, and no expelled
 member shall be reinstated again in the order, without the express
 consent of the District Grand Lodge.

§17. When a member wishes to forward charges against
 a brother of a sister Lodge, such complaint must be presented
 through his Lodge to the Lodge to which the brother belongs,
 which shall then proceed to the provisions made in this article;
 and when the committee submits its report in agreement with
 the §10 of this article, the plaintiff shall have the privilege to speak
 once in the case before the Lodge.

§18. In order to secure brotherly love against all infringe-
 ments, it shall be the duty of every Lodge to elect a committee
 of reference, whose duty it shall be, to seek in all instances, to
 bring about a peaceable adjustment of all controversies between

brethren; and it is therefore recommended to all brothers, not to resort to a public tribunal, before submitting their controversies to this committee, and until all efforts to bring about a friendly settlement have failed.

§19. No member shall be allowed to fill an office whilst a charge is pending against him.

§20. Whenever charges are preferred against a member of a Lodge, who is at the same time a member of the District Grand Lodge, notice of said charge shall be send forthwith to the District Grand Lodge.

§21. Members found guilty of any criminal offence before any public tribunal shall be expelled without delay from the Lodge.

✎ NOTES

This essay is dedicated with admiration and deep gratitude to my former principal and longtime Sarna family friend, Rabbi Haskel Lookstein, on the fiftieth anniversary of his pulpit at Kehilath Jeshurun in New York.

1. Standard histories in English are Edward Grusd, *B'nai B'rith: The Story of a Covenant* (New York: 1966), and Deborah Dash Moore, *B'nai B'rith and the Challenge of Ethnic Leadership* (Albany, N.Y.: 1981), but by far the best researched and most accurate history has now appeared in German: Cornelia Wilhelm, *Deutsche Juden in Amerika: Bürgerliches Selbstbewusstsein und jüdische Identität in den Orden B'nai B'rith und Treue Schwestern, 1843–1914* (Stuttgart, 2007). Most histories rely on the account of the early years of B'nai B'rith published in English by Julius Bien in the *Menorah*, beginning in 1886. Wilhelm cites a wide range of other sources, many of them in German. These sources disagree concerning many details of the fraternity's founding. I rely on the date in Grusd, *B'nai B'rith* 18, since it is based on the original B'nai B'rith minute book and echoes Julius Bien's recollections in the *Menorah* 1 (1886), 121.
2. Hasia Diner, *A Time for Gathering: The Second Migration 1820–1880* (Baltimore, 1992), 109; cf. Hasia Diner, *The Jews of the United States* (Berkeley, 2004), 140.
3. Wilhelm, *Deutsche Juden in Amerika*, 60–61.
4. Ibid., 59–63; see Julius Bien, "History of the Independent Order B'ne B'rith," *The Menorah* 1 (1886), 65–68: "It has been asserted that the origin of this society was owing to the action of some Odd Fellow lodges, in rejecting, on account of their religion, Israelites who had applied for admission. This statement, however, seems hardly probable, considering that some of the founders of the new society were members and officers in high standing and position in that organization (p. 65)."
5. Quoted in Grusd, *B'nai B'rith* 18.
6. Hyman B. Grinstein, *The Rise of the Jewish Community of New York 1654–1860* (Philadelphia, 1945), 472–473. On the collapse of the "synagogue-community," see Jonathan D. Sarna, *American Judaism: A History* (New Haven, CT, 2004), 52–61.
7. Wilhelm, *Deutsche Juden in Amerika*, 60; on the rate of unaffiliated Jews at this time, see Sarna, *American Judaism*, 73.
8. Jacob R. Marcus, *United States Jewry 1776–1985* (Detroit, 1989), I, 335–336.
9. Bien, "History of the Independent Order B'ne B'rith," 64; William Renau, one of the founders, recalled that it was he who "proposed to establish a new Order with the principal aim of

- uniting and elevating the Sons of Abraham, who had come to this country, from all parts of Europe, with all their provincial prejudices towards each other" (p.67), but other founders made similar claims; see also Wilhelm, *Deutsche Juden in Amerika*, pp. 62-64.
10. See the bilingual German-English constitution published that year: *Constitution of the Independent Order of B'nai B'rith as Revised and Adopted in the General Meeting of the Constitution Grand Lodge in the Year 1851* (5611) (New York, 1851); Bien, "History of the Independent Order B'ne B'rith," pp. 121-122.
 11. Grusd, *B'nai B'rith*, pp. 30-31; Wilhelm, *Deutsche Juden in Amerika*, p. 80.
 12. Jacob R. Marcus, *To Count a People: American Jewish Population Data, 1585-1984* (Lanham, MD, 1990), pp. 149, 238-239.
 13. *Constitution of the Independent Order of B'nai B'rith*, p.3.
 14. Moore, *B'nai B'rith and the Challenge of Ethnic Leadership*, esp. ch. 1, "A Secular Synagogue," 1-34. Moore seems to me much closer to the mark when she explains that "B'nai B'rith...helped transform American Jews into an associational community, and, to the extent that American social realities corresponded with the American ethos, into a voluntary community" (p.33). While Moore stresses the American context, Wilhelm underscores the important German influences upon the order.
 15. *Constitution of the Independent Order of B'nai B'rith*, p.3.
 16. See Daniel J. Elazar, Jonathan D. Sarna, and Rela G. Monson, *A Double Bond: The Constitutional Documents of American Jewry* (Lanham, MD, 1992) for examples and analysis.
 17. See James E. Morrison, ed., *The Code, Index and Digest of the Laws of Freemasonry* (New York, 1877), pp. 46-90, for the "Masonic Code of Procedure."
 18. None of the usual biographical sources identify "M. Ulman," who is listed as the author of this book. His identity as secretary of the lodge is listed on the title page and his death was memorialized by the lodge in 1884; see Mendel Silber, *B'nai B'rith in the Southland: Seventy Years of Service* (New Orleans: 1943), p. 23. The same Memphis publisher (Rogers & Co.) who issued *Jurisprudence* also published a volume entitled *Co-operative Insurance: A Review of the System and Practice of Mutual Benefit Societies* (1882) by Mayer Ulman, and I am assuming that these are the same person. Whether this is a relation of the tavern keeper, Mayer Ulman of Philadelphia, I do not know; on the latter, see Henry S. Morais, *The Jews of Philadelphia* (Philadelphia: 1894), pp. 72, 447.
 19. M. Ulman, *Jurisprudence of the Independent Order of B'nai B'rith*... (Memphis: Rogers & Co, 1879), p. 273 (case 284). For the laws governing priests and dead bodies, see Leviticus 21:1-2; and Maurice Lamm, *The Jewish Way in Death and Mourning* (New York, 1969), pp. 211-215.
 20. Ulman, *Jurisprudence of the Independent Order of B'nai B'rith*, pp. 52-55 (case 34).
 21. *Ibid.*, p. 36 (case 21).
 22. *Ibid.*, p. 117 (case 109); for various cases involving the *get* in American law, see J. David Bleich, "Jewish Divorce: Judicial Misconceptions and Possible Means of Civil Enforcement," *Connecticut Law Review* 16 (Winter 1984), pp. 201-289. On the rabbinic principle that "the law of the land is the law" (*dina de-malkhuta dina*), see *Encyclopaedia Judaica* (2nd ed, Jerusalem, 2007), vol. 5, pp. 663-669 and bibliography cited therein.
 23. For parallel cases in Russia, see ChaeRan Y. Freeze, *Jewish Marriage and Divorce in Imperial Russia* (Waltham, MA, 2002).
 24. Ulman, *Jurisprudence of the Independent Order of B'nai B'rith*, 414 (case 426).
 25. *Ibid.*, pp. 241-242 (case 257).
 26. *Ibid.*, pp. 488-489 (case 489).
 27. *Ibid.*, p. 421 (case 435).
 28. *Ibid.*, p. 422.
 29. *Ibid.*, p. 612.
 30. *Ibid.*, pp. 356-357 (case 366).
 31. *Ibid.*, p. 155 (case 150); see also pp. 519 (#70), 555 (#437), 612 (#14).
 32. Sarna, *American Judaism*, pp. 124, 132; on Reform Judaism and intermarriage during this era, see William Rosenblatt, "The Jews: What Are They Coming To," *Galaxy* 13 (June 1872),

- pp. 47–60. Michael A. Meyer, *Response to Modernity: A History of the Reform Movement in Judaism* (New York: Oxford, 1988), pp. 257, 280, summarizes Reform attitudes.
33. Ulman, *Jurisprudence of the Independent Order of B'nai B'rith*, p. 345 (#36); see also p. 36 (case 21) and p. 613.
 34. The case of *D. Goldman and Others vs. District Grand Lodge No. 3* is briefly summarized in *Ibid.*, p. 36 (case 21). Extensive quotations from the arguments on different sides of the case may be found in I.O.B.B., *Appeal XLVI* (New York: 1880), pp. 30–31 (This item is listed as #2894 in Robert Singerman, *Judaica Americana* [New York, 1990], and I have used the copy found at HUC-JIR, Cincinnati.) In another case, *Emek Beracha Lodge No. 61 vs. D.G.L. No. 2*, a lodge passed a bylaw declaring that “Any brother who marries a non-Jewess or who does not circumcise his children [sic] according to Jewish Ritual shall be expelled from the Lodge.” The Court of Appeal declared the bylaw unconstitutional since “no individual Lodge could impose restrictions, such as the one in question, which affect the membership of the whole Order (Ulman, *Jurisprudence of the Independent Order of B'nai B'rith*, 33 [case 18]).” Ulman generalized that “an Israelite not having his male children circumcised is thereby not disqualified for admission (p. 612, #14). For the German background of the circumcision question, see Robin Judd, *Contested Rituals: Circumcision, Kosher Butchering and Jewish Political Life in Germany 1843–1933* (Ithaca, NY, 2007), pp. 21–57.
 35. I.O.B.B., *Appeal XLVI*, 5–8.
 36. *Ibid.*, p. 5.
 37. *Ibid.*, p. 21.
 38. *Ibid.*, p. 34.
 39. *Ibid.*, pp. 34–48.
 40. Ulman, *Jurisprudence of the Independent Order of B'nai B'rith*, p. 613.
 41. I.O.B.B., *Appeal XLVI*, pp. 63, 68.
 42. *Ibid.*, p. 68.
 43. *Constitution of the Independent Order of B'nai B'rith*...1851, pp. 52–58. Misspellings in the original have been retained.