

CALIFORNIA LAWYER:

Aaron Sapiro and the Progressive-Era Vision of Law as Public Service

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Much scholarly attention has been paid to the lawyers who established the profession in California during the nineteenth century. By following the migration of Midwesterners and former Confederate officers to the West after the 1860s, historians have reconstructed the lives and work of the legal and judicial professions in California after statehood. During the Progressive Era, California's lawyers took up the concerns of Progressives nationwide, sanding the sharp corners of industrialism and the economic inequalities that resulted from it. The rights of workers, small-scale entrepreneurs, children, women laborers, and women's right to vote all became central focus points of California politics after 1900. The stories of many lawyers who played a part in transitioning California to this new era of public policy and the new areas of law practice that came with it have gone largely untold. With the founding of the state's first law schools, a generation of home-grown and — trained

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lawyers were positioned to become the foundation of Progressive Era California.¹

One such lawyer was Aaron Sapiro, who typified several salient characteristics of this new generation of lawyers. Sapiro is best known as the man who sued Henry Ford for libel in 1927. The case ended in mistrial and an out-of-court settlement; as a result, few people understand not only what the trial was about but what Sapiro had done in his legal career to draw Ford's ire in the first place. For more than a dozen years, Sapiro organized farmers' marketing cooperatives that were designed to provide farmers with the same economic advantages as those enjoyed by labor unions and corporations. Sapiro saw law as a tool to reshape society and to make economic institutions behave rationally. His determination to use law to achieve social change stemmed from an awareness of his own talent as well as an undeniable ability to seize the moment. As he told an interviewer in 1923, "[T]he gift of leadership is not so much a matter of brains as of *intensity*. If you are so completely saturated with anything that you think it and dream it and live it, to the exclusion of all distracting influences, nothing on earth can stop you from being a leader in that particular movement." For Sapiro, what mattered was to have a vision of the world as it ought to be; persuading others was merely a matter of insisting on his vision as against "all distracting influences."² This article, in telling Sapiro's life story, reconnects him to his intellectual roots in California's tradition of legal progressivism.

Sapiro's career followed an unlikely route. He was born in San Francisco to Polish immigrants who raised him and seven siblings in desperate

¹ A good example of work on this topic is Molly Selvin, "The Loeb Firm and the Origins of Entertainment Law Practice in Los Angeles, 1908–1940" (unpublished paper on file with author). On nineteenth-century developments in California legal history and the establishment of the legal profession, see, e.g., Gordon Bakken, *Practicing Law in Frontier California* (Lincoln: University of Nebraska Press, 1991); Bakken, *The Development of Law in Frontier California: Civil Law and Society, 1850–1890* (Westport, Conn.: Greenwood Press, 1985); Christian G. Fritz, *Federal Justice in California: The Court of Ogden Hoffman, 1851–1891* (Lincoln: University of Nebraska Press, 1991); Lucy E. Salyer, *Laws Harsh as Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law* (Chapel Hill: University of North Carolina Press, 1995).

² Merle Crowell, "Nothing Could Keep This Boy Down," *American Magazine* (Apr. 1923), 16–17, 136–46, 146.

poverty. His father died in a train accident when Aaron was nine, forcing his mother to send him and most of the Sapiro children to a San Francisco orphanage. After six wretched years, Aaron escaped to Hebrew Union College in Cincinnati, where he attended college and studied for the rabbinate. His orphanage experience seared into him a thorough distrust for authority. Spending time in seminary hardened in him the conviction that organized religion was useless if he were going to change the world. And so with one year left before ordination, he returned to California to enroll at Hastings College of the Law.³

During his seminary years, Sapiro encountered new friends who influenced his life in lasting ways. On his summer breaks, he returned to Northern California to visit his mother and teach in synagogues. One assignment placed him in a children's bible class in Stockton, up the Sacramento River Delta from Oakland. Sapiro's teaching position brought him in contact with one of Stockton's most prominent Jewish families, Michael and Rose Arndt. The Arndts had two children: Stanley, a studious boy, and Janet, a girl who was barely ten in 1905 when her parents enrolled her in Aaron's scripture class.⁴ Rose Arndt took more than a passing interest in the serious seminarian. She introduced him to Stockton society, broadening his circle beyond the families he met at the synagogue. Soon she invited him to accompany the family on day trips around Northern California. Before long an understanding emerged: Aaron and Janet were betrothed. In 1913, the couple married and settled in San Francisco.⁵

³ Victoria Saker Woeste, "Sapiro, Aaron," *American National Biography Online*, April 2004 update, accessed 8 Nov. 2013, <http://www.anb.org/articles/11/11-01215.html>.

⁴ Jeannette Arndt Anderson, interview by author, tape recording, Palo Alto, Cal., 31 Mar. 2005, p. 14 (transcript on file); Janet Sapiro, Certificate of Death, County of Los Angeles, State of California, Department of Public Health, 4 June 1936, no. 7502. Stanley Arndt became a lawyer who wrote an article on agricultural cooperation and practiced law for a time with his brother-in-law. Anderson interview, 7; Stanley Arndt, "The Law of California Co-operative Marketing Associations," *California Law Review* 8 (1920): 281-94.

⁵ Anderson interview, 13-14; Linda Sapiro Moon, interview by author, tape recording, Huntington Beach, Cal., 23 Sept. 2002, pp. 4-5 (transcript on file). On the practice of Jewish families betrothing their young daughters through the late nineteenth century, see Sydney Stahl Weinberg, *The World of Our Mothers: The Lives of Jewish Immigrant Women* (Chapel Hill: University of North Carolina Press, 1988), 23-24.

Law proved to be Sapiro's *métier*. As the top graduate in his class at Hastings, he was selected to address the commencement exercises. His speech, entitled "Law as a Training for Citizenship," conveyed his conviction that lawyers played a special role in building the American civic community. More particularly, he wanted to express a sense of vocation. Such a profession marked out, he said, a "prominent and important place . . . in the upbuilding of [the] state," according to the Berkeley *Daily Gazette*. In his "eloquent and forceful speech," Sapiro argued that the standards for professional attainment had shifted: "A lawyer who wins big cases is no longer considered successful unless he takes an important part in the issues of the day and works for the advancement of the community." Law — or, more precisely, the life of a lawyer — gave his inchoate sense of mission concrete meaning. As a lawyer, he planned to work for social change.⁶

As it so happened, California Governor Hiram Johnson attended the Hastings law school graduation and heard Sapiro's inspiring speech. A barnstorming Progressive reformer, he was seeking out lawyers to help wage what a contemporary journalist called a "political revolution" in California state government. Just a few months after completing law school, Sapiro was offered the position of secretary and legal counsel to the state's new Industrial Accident Board. At a time when victims of dangerous working conditions could expect little help from their employers, the innovation of workers' compensation programs provided real relief. Providing help in such cases was a favorite cause of Progressive reformers; California was not far behind states such as New York in passing these laws.⁷

The Board's first task was to set up a voluntary workers' compensation program that included the administrative forms and processes for handling workers' cases under the new law. Dealing with these cases showed

⁶ *Berkeley Daily Gazette*, 17 May 1911, p. 1.

⁷ Robert Cherny, "Johnson, Hiram Warren," *American National Biography Online*, Feb. 2000, accessed 8 Nov. 2013, <http://anb.org/articles/06/06-00315.html>; Trial Transcript, 1148. On the legal history of workers' compensation, see, e.g., Lawrence Friedman and Jack Ladinsky, "Social Change and the Law of Industrial Accidents," *Columbia Law Review* 67 (1967): 50–82; Arthur F. McEvoy, "Freedom of Contract, Labor, and the Administrative State," in Harry N. Scheiber, ed., *The State and Freedom of Contract* (Palo Alto, Cal.: Stanford University Press, 1998), 198–235; and John Fabian Witt, *The Accidental Republic: Crippled Workingmen, Destitute Widows, and the Remaking of American Law* (Cambridge, Mass.: Harvard University Press, 2004).

the Board and its counsel that a voluntary program was inadequate to meet the scope of workers' injuries and damages. Sapiro then was assigned to redraft the statute to require employer participation, guide the bill through the state legislature, and then defend the act in the state courts. The compulsory participation act that Sapiro drafted remains the foundation of California's workers' compensation system. Sapiro stayed with the Industrial Accident Board for nearly two years, while practicing law on the side with a small firm in San Francisco.⁸

Sapiro had his mind fixed on other goals. During these years, Sapiro began to capitalize on the personal and professional connections he had been building for years in the Sacramento Delta area. Through his future father-in-law, he met the person who would provide direction for his legal career after he left state employment. In mid-1908, he was introduced to Harris Weinstock, a wealthy Sacramento merchant who had begun a second career in public service around the turn of the century.⁹

Weinstock and his half-brother David Lubin dedicated their lives to public service and agricultural reform. Both believed in the Jeffersonian vision of agrarian freeholding. The idea was that democratic values went hand-in-hand with individual landownership and that agriculture supplied the bedrock of American civic virtue. In the mid-1880s, the brothers purchased a 300-acre fruit orchard near Sacramento and two wheat farms in a neighboring county. Then they took the lead in forming the California Fruit Union, an early growers' cooperative that was one of the first organizations to market fruit east of the Rockies. To help realize his twin goals of

⁸ Roseberry Act of 1911 (Stats. 1911, ch. 399, p. 796; participation voluntary for employers); Boynton Act of 1913 (Stats. 1913, ch. 176, p. 279; compulsory participation); Testimony, *Aaron Sapiro v. Henry Ford and the Dearborn Publishing Company*, Case No. 7522, U.S. District Court, Eastern Division of Michigan, Southern Division, Transcript of Proceedings, 28 Mar. 1927, pp. 1148–50 (hereafter Trial Transcript), file 4, box 43, accession 48, Benson Ford Research Center, Dearborn, Michigan; Glenn Merrill Shor, "The Evolution of Workers' Compensation Policy in California, 1911–1990" (Ph.D. diss., University of California, Berkeley, 1990); Sam Bubrick, interview by author, tape recording, 23 Sept. 2002 (transcript on file); Leland Sapiro, telephone interview by author, June 1998.

⁹ Grace H. Larsen and Henry E. Erdman, "Aaron Sapiro: Genius of Farm Co-operative Promotion," *Mississippi Valley Historical Review* 49:2 (1962), 242–68. Larsen and Erdman say the two met in 1905 ("Genius of Co-operative Promotion," 244), but this claim contradicts Sapiro's Ford trial testimony.

rural prosperity and world peace, Lubin founded the International Institute of Agriculture in Rome in 1905. The organization eventually worked on projects with the League of Nations in the 1930s and became a part of the Food and Agricultural Organization of the United Nations in 1946. For his part, Weinstock stayed closer to home, working in California state government. When Harris Weinstock met Aaron Sapiro, he found a ready-made acolyte.¹⁰

Weinstock introduced Sapiro to the study of agricultural cooperation and the problems bedeviling California producers. Weinstock gave Sapiro access to his enormous library of books on farming, agricultural cooperation, and law, some in German and French. Sapiro proved an adept and quick student, devouring every volume Weinstock “had . . . on the subject of world credits and farm marketing, and also [everything] that I could get in the library at the University of California.” By the time Sapiro began law school, he had drawn a handmade chart of all state laws dealing with agricultural credits and marketing. On visits to Stockton, Aaron often traveled the countryside with Weinstock, visiting fruit orchards and dairy farms while Weinstock “point[ed] out to me a great many things.” Sapiro was eager to “[sit] at the feet” of Lubin and Weinstock and “absorb some of their views and vision and some of their sense of service.”¹¹

The relationship blossomed. Weinstock was already a member of Governor Johnson’s administration by the time Sapiro delivered his law school graduation address. That proximity enabled Weinstock to buttress the governor’s inclination to hire the young lawyer with a strong recommendation of his own: “There are two classes of men. One you have to drive. On one you have to keep a bridle to hold them back. Aaron Sapiro is one of the latter.”¹² Sapiro was already fully committed to Weinstock and

¹⁰ Olivia Rossetti Agresti, *David Lubin: A Study in Practical Idealism* (Boston: Little, Brown and Co., 1922), 267–79; Michael Magliari, “Lubin, David,” *American National Biography Online*, Feb. 2000, accessed 8 Nov. 2013, <http://www.anb.org/articles/15/15-00979.html>. Jefferson expressed these ideas most fully in his *Notes on the State of Virginia*. See his *Writings*, ed. Merrill D. Peterson (New York: Viking Press, 1984).

¹¹ Larsen and Erdman, “Genius of Farm Co-operative Promotion,” 245; Trial Transcript, 1153–54; Aaron Sapiro, “An Experience with American Justice,” *Free Synagogue Pulpit* 8, no. 5 (1927–28): 5.

¹² Quoted in Larsen and Erdman, “Genius of Farm Co-operative Promotion,” 244.

Lubin's platform of economic reform and government service by the time he finished law school. Lubin and Weinstock's belief that world peace and national prosperity could only be secured through agricultural prosperity gave Sapiro's social justice convictions a concrete underpinning. Soon he would have another opportunity to put those convictions into practice, this time working directly with his mentor, Weinstock.

The 1900s and 1910s were a time of real innovation for California's agricultural marketing cooperatives and their members. By that time, California's Central and San Joaquin valleys were chockablock with small fruit and nut farms. Raisins, apricots, plums, cherries, almonds, and many other tree crops were growing by the tidy acre. Armenians, Turks, Greeks, Japanese, Italians, Scandinavians, Hindus, and northern Europeans all combined in a great agricultural melting pot as California's arid lands turned green under the artificial rain of constructed irrigation works. As fruits and nuts became profitable to produce, growers sought to expand their markets eastward and reach consumers year-round. Even before the turn of the century, growers banded together in cooperatives to sell their crops collectively. Still, they encountered difficulties.¹³

The traditional form of cooperative was a loose affiliation of individuals, held together by good will and the bonds of neighborliness. True cooperatives returned all proceeds to members in proportion to the amount of business each conducted through the organization; they were "non-profit" in the fullest sense. In the nineteenth century, such local non-profit societies proved no match for the corporate brawn of industrial distributors. California fruit growers quickly learned they had to overcome more than geography in order to get their crops onto the dinner tables of Eastern consumers. Packing companies charged an arm and a leg to prepare the fruit for shipping, railroads added their share for transportation, and then the distribution system larded on surcharges, all before the fruit got to retailers. Informal associations tended to implode when confronted with the competitive forces of the industrial marketplace.¹⁴

¹³ Victoria Saker Woeste, *The Farmer's Benevolent Trust: Law and Agricultural Cooperation in Industrial America, 1865-1945* (Chapel Hill: University of North Carolina Press, 1998), 17-24.

¹⁴ *Ibid.*, 24-36.

After repeated failures and long, vituperative struggles, growers took a page from their opponents' book. They pooled their crops and then marketed them collectively for the highest price obtainable. The new cooperatives that formed during the Progressive Era used monopoly and price-fixing to control the marketing of the state's largest horticultural industries. By 1915, Sunkist oranges, Sun-Maid raisins, Blue Diamond almonds, and Diamond walnuts became multi-million dollar brand names. These cooperatives looked less like the traditional small-scale organizations of the previous century and more like U.S. Steel.¹⁵ This new model had already drastically reconfigured the relationship of growers to markets by the time Weinstock and Sapiro became advocates of the cooperative movement.

Johnson and Weinstock saw these developments as essential to agricultural progress. They had witnessed the destruction and misery that accompanied the boom and bust cycles of the previous generation. At the same time, the governor and state legislature wanted to quell public outrage over the high food prices that consumers attributed to these powerful growers' organizations. But the different branches of California's government had different ways of going about this task. In June 1915, the Legislature created the California State Commission Market and the position of State Market Director, who was to "act as a head commission merchant" for all staple goods such as milk, eggs, and flour sold in the state. The Legislature's intent was to instill a nominal level of supervision over the markets for essential foodstuffs. Johnson appointed Weinstock as State Market Director, ostensibly to run the Commission Market under its enabling legislation. Weinstock had other ideas, and he intended for his protégé, Sapiro, to help execute them.¹⁶

With Johnson's support, Weinstock proceeded to turn the Commission Market into a vehicle for organizing marketing cooperatives for California's farmers and, by extension, for making the California model of cooperation the official model for the state's agricultural economy. Johnson and

¹⁵ Crowell, "Nothing Could Keep This Boy Down," 136.

¹⁶ Steven Stoll, *The Fruits of Natural Advantage: Making the Industrial Countryside in California* (Berkeley: University of California Press, 1998), 212n61; Woeste, *Farmer's Benevolent Trust*, 197; Arthur F. McEvoy, *The Fisherman's Problem: Ecology and Law in the California Fisheries, 1850-1980* (New York: Cambridge University Press, 1986), 169; Larsen and Erdman, "Genius of Farm Co-operative Promotion," 245.

Weinstock did not want intermediaries and speculators or, worse, financial interests beholden to east coast investors and interests to determine agricultural profitability; yet they knew those interests would fight every move the Commission made to organize cooperatives. The Commission would need expert help from a well-informed lawyer who shared the governor's commitment to economic and political reform, but the Legislature had not provided funds for legal staff. By inviting Sapiro to serve as the Commission's staff attorney and paying his retainer personally, Weinstock neatly evaded the Legislature's fiscal handcuffs. The position enabled Sapiro to build a substantial private law practice from the referrals he received from the Commission.¹⁷

Sapiro eagerly greeted the parades of growers who traveled the dusty Central Valley roads to his San Francisco office. They came from "all classes of growers," Sapiro later remembered, including "Japanese onion growers and Japanese potato growers and Hindu potato diggers, and then the owners of the Delta lands. We would have conferences with other large growers and quite small growers, with owners and tenants — all different types and growers with different kinds of commodities." After these conferences, growers went back to their farms and their neighbors with what soon became known as the "Sapiro plan" for organizing a cooperative. This plan was hardly original; rather, Sapiro distilled what worked and carefully culled what did not from the various elements of cooperative marketing he had studied. In short order this plan made Sapiro famous among California's growers. It also made the Commission Market controversial for the activist way in which it reorganized the marketing of fruits and vegetables throughout the state.¹⁸

The Sapiro plan combined elements from many of the successful California cooperatives then in existence, particularly those in raisins, oranges, walnuts, and almonds. The most important principle these growers had discovered was to organize by commodity: thus, Sun-Maid sold only raisins and Sun-Kist only citrus. This kind of specialization enabled

¹⁷ Sapiro was already on retainer as Weinstock's personal attorney; see Larsen and Erdman, "Genius of Farm Co-operative Promotion," 245; on Sapiro's not receiving an official state salary, see Trial Transcript, 1154.

¹⁸ Trial Transcript, 1155; Woeste, *Farmer's Benevolent Trust*, 197; McEvoy, *Fisherman's Problem*, 170.

cooperatives to invest in all of the operations involved in harvesting, processing, packing, and marketing — including retail branding — for just their own crops and nothing else. The raisin growers found an innovative device to keep their organization together from one year to the next. To solve the perennial problem of losing members to commercial packers, who easily tempted growers with temporarily higher prices, the California Associated Raisin Company came up with a long-term membership contract that “ran with the land,” rather than ending when the farm changed owners. Cooperatives conducted membership campaigns to get growers to sign contracts, and they ran these campaigns with all the fanfare of county fairs and community picnics. Cooperative officials knew that their only hope of maintaining a fair price lay in maintaining the loyalty of a majority of the growers.¹⁹

Sapiro treated growers as pupils who needed instruction, good care, and expert leadership. Once they were organized into cooperatives run by leaders with business acumen and armed with the proper corporate authority, he felt, growers could live the lives they deserved. Their wives would be able to keep lovely homes, and their children would stay in school, exactly the idyllic life he had been denied. As a lawyer, he believed that quality of life was what social and economic reform could bring about. But only the authority of law could make that gain secure.²⁰

The growers who “crowded into the market director’s office for help” were largely oblivious to the sense of social mission that inspired Sapiro’s work. They asked him to form marketing cooperatives whose grower contracts would hold up in court. Sapiro organized his first cooperative for the poultry producers in 1916; the next year, he formed the prune and apricot growers association. The Central California Berry Growers Association also formed that year; two-thirds of its members were Japanese tenants barred by state law from owning land. In 1919, the pear, tomato, olive, milk, and bean industries used Sapiro’s plan to incorporate their own associations. Barely five years into his career as a cooperative lawyer, Sapiro was

¹⁹ Woeste, *Farmer’s Benevolent Trust*, 117–31; Catherine Merlo, *Heritage of Gold: The First 100 Years of Sunkist Growers, Inc., 1893–1993* (Los Angeles: Sunkist Growers, Inc., 1993), 1–58.

²⁰ Crowell, “Nothing Can Keep This Boy Down,” 146.

earning as much as \$80,000 annually practicing an area of law he was essentially inventing as he went.²¹

By 1917, the nation was at war. The war disrupted and transformed American political and economic institutions. Conscription created an instant army, as young men of every race and ethnicity flowed into the armed forces. The administrative power of the modern American state expanded to regulate the nation's mobilization. In an act that would never have been tolerated in peacetime, the federal government set up an agency to freeze food prices for the duration of hostilities.²² Instead of lending his expertise to the government, Sapiro sought to join the military. Rejected by the Officers Training Corps for color blindness (though he suspected antisemitic bias), Sapiro enlisted in the field artillery and was awaiting his assignment when the Armistice was declared in November 1918. His dream of defending his country in uniform was permanently deferred.²³

The end of the war thus added a sense of urgency and missionary zeal to the work with cooperatives he had begun before the war. When Sapiro returned to California, he resumed his work organizing cooperatives, but he no longer needed an official affiliation with the State Marketing Director to draw referrals. Indeed, as Sapiro's private practice boomed, Weinstock and the commission became mired in controversy. The public markets Weinstock established in the fish industry, for example, drew accusations that the state was fixing prices and condoning monopolistic tactics. Complicating matters, Hiram Johnson was elected to the U.S. Senate in 1916; his successor as governor, William Stephens, was too distracted by radicalism, urban bombings, and labor unrest to defend Weinstock effectively. Exhausted and ill, Weinstock resigned under pressure in early 1920. A dispute over Sapiro's fees from a mutual business interest led to

²¹ Larsen and Erdman, "Genius of Farm Co-operative Promotion," 247; Trial Transcript, 1156–60, 1168; Arno G. Weinstein, "Aaron Sapiro v. Henry Ford: The Events Prior to, during and following the Confrontation" (M.A. thesis, Arizona State University, Tempe, 1986), 8.

²² Richard Slotkin, *Lost Battalions: The Great War and the Crisis of American Nationality* (New York: Henry Holt and Company, 2005), 1; Woeste, *Farmer's Benevolent Trust*, 139.

²³ Trial Transcript, 1162–66; *New York Times*, 17 Mar. 1927, p. 1; "Sapiro, Aaron," *Who's Who in America* 15 (1928-29), 1831; Orville Dwyer, "Sapiro Reveals Life," *Chicago Daily Tribune*, 29 Mar. 1927, p. 8.

the permanent end of their relationship, once described as close as “father and son.”²⁴

A larger stage was materializing for farmers’ cooperatives, and Sapiro was anxious to step onto it. In 1920, he burst onto the national scene with a two-hour speech at the meeting of the American Cotton Association in Birmingham, Alabama. His vision of cooperation as a system in which farmers, not detested middle merchants, controlled the prices they received for their crops, electrified the delegates. As one observer wrote, “The whole direction of the movement toward a new control of the cotton industry was changed by one man.” The depression into which agriculture sank after World War I led Congress to exempt farmers from federal antitrust liability, on the assumption that farmers could never create monopolies harmful to consumers. At the same time, Sapiro boldly claimed monopoly to be the farmers’ right: “Only the farmer can have a complete [and] unlimited monopoly and still be in any measure within the law.” Sapiro’s vision captivated because he did more than preach economic efficiency and free market competition; he uplifted “dirt farmers” with an inspiring modernization of the Jeffersonian ideal of the agrarian citizen. As he wrote in 1923, “The justification of cooperative marketing is that it [is] the means of a more progressive form of living and a superior type of citizenship, as well as an economic remedy.”²⁵

Sapiro’s fame and popularity among farmers made him the nation’s premier cooperative organizer during the 1920s. He became a consultant to such figures as former War Industries Board chair Bernard Baruch, Illinois Governor Frank Lowden, and top officials in the U.S. Department of Agriculture. He also became affiliated with the American Farm Bureau Federation, serving for a short time as legal counsel to the organization.

²⁴ Larsen and Erdman, “Genius of Farm Co-operative Promotion,” 250; Cherny, “Johnson, Hiram Warren,” Trial Transcript, 1169; Grace Larsen, “A Progressive in Agriculture: Harris Weinstock,” *Agricultural History* 32, no. 3 (July 1958): 187–93, 193; McEvoy, *Fisherman’s Problem*, 170.

²⁵ Woeste, *Farmer’s Benevolent Trust*, 198 (quoting Robert H. Montgomery, *The Cooperative Pattern in Cotton* [New York: Macmillan, 1929], 74, and William C. Brooker, *Cooperative Marketing Associations in Business* ([New York: Privately published, 1935], 69); Silas Bent, “Three City-Bred Jews that the Farmer Trusts,” *Outlook* 134 (8 Aug. 1923), 553–56, 555; Sapiro, “True Farmer Cooperation,” *World’s Work* 46 (1923), 85–96, 96. At the time, however, local newspapers entirely ignored his speech. See, e.g., *Birmingham Advertiser*, 1–20 Apr. 1920.

Having finally caught the attention of national agricultural leaders, Sapiro proceeded to bring the cooperative movement under his personal supervision and control. He oversaw the organization of dozens of cooperatives in major staple crops, coordinating thousands of farmers across many states under long-term contracts. Newspapers hailed him as the farmer's savior:

What John Wesley and John Knox did for religion, what Oliver Cromwell did for society, Aaron Sapiro is doing in an economic way for the farmers of this continent. He has liberated them, through the principles of cooperation, from the clutches of exploiters. . . . Sapiro went into the tobacco and cotton fields of the South, he went into the orchards of California, he went to the wheat fields of Canada. And by preaching the common sense of cooperation, he helped retrieve those areas from a condition of economic dry rot.

He moved his practice to Chicago in 1923 and opened offices in New York and Dallas; in his absence, his younger brother Milton, also a lawyer, ran the firm's San Francisco branch. The national press began to take notice, finding his biography compelling: "He stands as another personal proof that none is too poor to succeed in this country."²⁶

Sapiro argued the case for commodity-based monopolistic cooperatives to two secretaries of agriculture. Henry C. Wallace remained skeptical, answering a distributor's demand for information about Sapiro with a noncommittal response that neither defended Sapiro nor endorsed his plan. The Farm Bureau split into two camps over the question of whether Sapiro should be retained as counsel. In 1923, when he insisted that he would not assist in any capacity unless he were placed on retainer, the factions engaged in an ugly civil war that ended Sapiro's association with the Farm Bureau and cost his partisans their jobs. After this highly publicized setback, Sapiro formed the National Council of Farmers' Cooperative Marketing Associations. Ineffective and poorly funded, it did little more than dilute agricultural influence in Congress.²⁷

²⁶ *Vancouver Sun*, 11 Aug. 1927, editorial page, File 5, Box 70, Lewis Lichtenstein Strauss Papers, American Jewish Historical Society, New York City; Bent, "Three City-Bred Jews," 554; *New York Times*, 30 Mar. 1927, p. 16.

²⁷ Henry C. Wallace to E.L. Mack, 8 Feb. 1924, Correspondence of the Secretary of Agriculture, Drawer 455 (1924 Marketing), RG 16, National Archives and Records Administration, College Park, Maryland; see also Sapiro to Edwin T. Meredith, 1 Sept.

By far Sapiro's most lasting accomplishment in cooperative marketing was to write a model statute that incorporated the salient features of the Sapiro plan. The statute legalized monopoly control for cooperatives, incorporated the iron-clad contract, and granted cooperatives the power to sue others for interfering with farmers' crop deliveries. Cooperatives, their members, and their officers were guaranteed immunity from anti-trust prosecution as long as they conformed to the goal of the statute. Since that goal was to serve the public interest by bringing rationality and order to the marketing of agricultural commodities, it was not an onerous condition. Between 1921 and 1926, thirty-eight states adopted versions of the law, which distributors and warehouses promptly attacked in the courts. Indeed, the most lucrative part of Sapiro's law practice after 1923 was the appellate advocacy he performed in defense of the marketing laws he had helped to enact. He was peerlessly effective. In 1923, the North Carolina Supreme Court awarded him a major victory by upholding the statute's broad public purpose in sweeping terms. Victories in a dozen other state high courts followed, topped off by a unanimous U.S. Supreme Court decision upholding Kentucky's version of the act in 1928. That case gave Sapiro his only opportunity to appear before the nation's highest court.²⁸

Stunning as these achievements were, they could not change the stark facts of the 1920s agricultural economy: overproduction and low prices led to continuing cycles of excess supply and lower profits for producers. When some of the crown jewels of Sapiro's cooperative movement collapsed under the pressure of the continued postwar recession, Sapiro came under attack. His unyielding insistence on adherence to his model in all its particulars, some traditionalists complained, caused the cooperative movement's spectacular failures. The difficulty, agricultural leaders and economists insisted, was that the Sapiro model was best suited to California. It was relatively easy to organize fruit growers, according to this

1920, Correspondence of the Secretary of Agriculture, Drawer 521 (1920 Marketing), *ibid.*; Meredith to Sapiro, 4 Sept. 1920, *ibid.*; Robert P. Howard, *James R. Howard and the Farm Bureau* (Ames: Iowa State University Press, 1983); James Shideler, *Farm Crisis: 1919–1923* (Berkeley: University of California Press, 1957).

²⁸ *Tobacco Growers Cooperative Association v. Jones*, 185 N.C. 265 (1923); *Liberty Warehouse Co. v. Burley Tobacco Assn.*, 276 US 71 (1928); Woeste, *Farmer's Benevolent Trust*, 203–06.

critique, because they lived in proximity to one another. In contrast, the nation's major staple crops — cotton, wheat, corn, and tobacco, to name a few — grew across states and regions. Producers in these industries had less in common, shared less of a social identity, and felt less connected to a growers' cooperative than the California cooperatives, with their strong community ties.²⁹

Ultimately, Sapiro-style cooperation proved to be no panacea. Farmers continued to produce larger crops each year, and cooperatives could do nothing to stop it. Unable to break the continuing cycle of overproduction and depressed prices, many Sapiro cooperatives collapsed by mid-decade. Even after they gained the statutory authority to control their markets, cooperatives were undone by the fateful decisions of thousands of individual farmers and the structural workings of national and international economies. The movement was already dying when Henry Ford began accusing Sapiro of using cooperative marketing to enslave American farmers.³⁰ Sapiro's libel suit against Ford, as well as his subsequent legal career, have been discussed in detail.³¹ It is sufficient to note that one of Ford's lawyers, sitting U.S. Senator James A. Reed, wrote privately in the case file: "[Our aim is] to harass and impoverish the plaintiff." In the end, Sapiro settled for a sum of money that did not come close to making him whole. As he told the press, however, the money was not the point: "I wanted no damages whatsoever, and I state this definitely and openly. I wanted no money from Mr. Ford. I wanted the truth from Mr. Ford."³²

In 1928, he and his family relocated to Scarsdale, New York. There he aimed to start his career "with a clean slate," as he told Lewis Strauss in

²⁹ Larsen and Erdman, "Genius of Farm Co-operative Promotion," 260, 263–68; Grant McConnell, *The Decline of Agrarian Democracy* (Berkeley: University of California Press, 1953), 60–61; William E. Ellis, "Robert Worth Bingham and the Crisis of Cooperative Marketing in the Twenties," *Agricultural History* 56 (1982): 99–116.

³⁰ Robert Morgan, "Jewish Exploitation of Farmers' Organizations," *Dearborn Independent*, 19 Apr. 1924, p. 4. In one of the lionizing biographies he commissioned, Ford claimed he supported agricultural cooperation in principle but criticized Sapiro-style cooperation as unnecessary in a free market. Henry Ford with Samuel Crowther, *Today and Tomorrow* (Garden City, N.Y.: Garden City Publishing Co., 1926), 214–22, esp. 219.

³¹ See Woeste, *Henry Ford's War*.

³² Aaron Sapiro, "An Experience With American Justice," *Free Synagogue Pulpit*, 8 (1927–28), 3–40, 36.

July 1927, with nothing but his dignity and his good name as collateral.³³ His career as a promoter of farmers' cooperatives, which had been on the wane at the time he filed suit, came to a slow and unheralded end, at least in the U.S. He remained an active consultant to the movement in Canada, where a more radical offshoot attempted to enforce compulsory pooling in the wheat industry. After the stock market crashed in 1929, accusations of profiteering proliferated in such essential commodities as milk and bread, and Sapiro was called upon to advise state and federal officials and agencies struggling to reconcile longstanding deference to free markets with pressing public need.³⁴

Sapiro decided to return to California with his family in 1935. The Sapiros settled in Pasadena, just outside Los Angeles. Janet Sapiro fell ill in January 1936, and five months later she died of breast cancer at the age of forty-one. For the next two decades, Sapiro practiced law quietly, occasionally providing free legal services to distinguished friends such as John Barrymore and Igor Stravinsky. In his last years, Sapiro suffered badly from arthritis. When he died at 75 on November 23, 1959, he left his body to the UCLA medical center for arthritis research, disappointing competing schools.

Sapiro's indelible connection to Henry Ford should not obscure his contributions to the causes that Progressive politicians and lawyers held dear. The Sapiro model of cooperation, while not nearly as prevalent as it was in the 1920s, continues to offer farmers an economically viable mode of organization. Moreover, because of Sapiro's promotional, legislative, and advocacy work, agricultural cooperation is legally recognized across the country in state and federal statutes and remains immune from anti-trust prosecution. One scholar has argued that despite the brevity of Sapiro's stay with the California Industrial Accident Board, his work there is his greatest legal legacy.³⁵ There is no need to debate the point. We ought to view his contributions to labor and agriculture as two parts of a greater whole, as elements of a grand Progressive-Era vision.

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³³ Sapiro to Lewis Strauss, 18 July 1927, File 5, Box 70, Strauss Papers.

³⁴ *New York Times*, 6 Oct. 1929, p. E1; *ibid.*, 25 Aug. 1930, p.1.

³⁵ Shor, "The Evolution of Workers' Compensation Policy."