

"Whose Art Thou... & Whose are These?"
a comment on the Mass. Law of Religious Preference in Adoption Cases

I. The Hildy Ennis Case (briefly).

II. Prominence of this case has given rise to great Debate in the Justice of the Law of this Commonwealth - of giving preference to people of same religion where ever practicable. Some who deplore Law's attack it, others defend it.

III. The present complexion of Debate something in this pattern:

- a) Protestants against it.
- b) Catholics for it
- c) Jewish organizations - many uncommitted, but A.M.S. Congress strongly against it.

IV. Incidental - before discussing virtues this case - exhort:
Don't automatically side with Protestants vs. Catholics, is a bad habit of ours.

a) Don't misunderstand me, I am no great champion of Catholic belief or stout defender of the church. But:

b) Religiously; I am equidistant from both. If anything, we should appreciate & admire Catholics' pride in their religion & fact that they take seriously, often profoundly.

c) Socially; Not true that Catholics always more reactionary & less liberal than Protestants. The reactionary KKK is mostly Protestant in its constituency, & the highly liberal, intellectual and journal "Commonweal" is a Catholic publication. Another example: Protestant churches as such have not, to my knowledge, done as much as the Catholics down South to battle discrimination vs. Negro.

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- d) from purely selfish view of self-interest: never good to identify yourself consistently with one segment population vs. other
- e) it is not be guided in this particular case by what other religious bodies think & it is not be pre-disposed to accept opinion of one over other.

I - Case itself. Arguments of those who oppose law.

- a) Ennis case reveals ~~it~~ as cruelty - separate child from my parents it's known.
- b) Democracy does not recognize child as necessarily of same religious affiliation as parent
- c) wrong - democratically - to have religion enter picture at all.
- d) it suggest that decision be left to Judge or state official w/o instruction as to religious character new parents.

VI - What do we say? what should be view Torah-Jew?

Unequivocally FOR the law & AGAINST anti-S. Congress.

VII - Hildy Ennis case ~~only~~ proves reverse - that child should have been placed w. Catholic parents in first ~~place~~ place. of course, situation as is now is radically different - and would be inhumane, cruel, barbaric to separate etc.

VIII - Reason No. one: Democratic argument. what say is true - but within limits. a man is free to choose any religion or none, as he sees fit. Constitutional Right. But now we concerned with Religious "rights" of an infant. Is it more democratic to give this right of Rel. determination to some paid official - judge? Does Democracy mean that if a ~~man~~ mother must give up a child because she is poor or widowed or unmarried, that the religious

education of her child must be forcibly taken from her + given to a stranger?

No - is undemocratic! Is undemocratic to give State powers + privileges that belong to Natural Parent. gives State autocratic rights... and, what guarantee that officials will not be favorably disposed to fellow communists of his own race?

IX. Reason No. 2: (closely allied w. No. one): Humane reasons.

Forget questions of institutions & theories of law + gov't. we are dealing not with concepts & records, but w. Mothers & w. children - w. human beings. In most cases, mother in distress - poverty, loneliness, social outcast, rejected. Has normal maternal feeling for child, motherly love. Yet she must be separated from her child forever. In a moment of desperation such as that, what seems to a parent not Relegim? Is it not a piece of treacherous inhumanity to deny the poor, wretched mother even that one legacy she wishes to leave to that child of her loins?

X. Reason No. 3: Religious Reasons.

- Historically, we have sacrificed our fortunes for ^{ע"ל ע"ל} ^{ע"ל ע"ל} where Jew-child or adult - threatened w. apostasy - & have given our lives ^{ע"ל ע"ל} for.
- vilest word in our vocabulary is ^{שני} ^{שני}
- Don conceive of Jew as a People of G-d, as well as individual children of G-d, bound by ^{ע"ל ע"ל} ^{ע"ל ע"ל}. Hence, child automatically Jewish.
- even in regard to non-Jewish children - ^{ע"ל ע"ל} ^{ע"ל ע"ל} who ^{ע"ל ע"ל} ^{ע"ל ע"ל} had ^{ע"ל ע"ל} ^{ע"ל ע"ל} by Jewish foster parents has option of revoking on reaching majority.
- ∴ Jewishness of a Jew is something so sacred that it is worth laying our lives down for. ~~for~~

1) Is it not a disgrace, for a Jewish organization to agitate against this principle, & to seek to revise a law so that SNL should be facilitated?

XI. Perhaps our fellow-Jews who have so glibly joined the campaign against this law ought to take long look this week's portion.

- a) Jacob about to meet Esau etc.
- b) sends family & servants, bearing gifts to Esau to appease him
- c) Jacob instructs them - *אני בא אליו ... ואלו אנכי ... ואלו אנכי*
then answers him *2 פרקים ... אל ...*

d) i.e. 2 answers to 2 questions:
whose are these (thrup. material possessions)? - Esau's
whose are those (human lives, Jewish souls)? - Jacob's

e) *אשר אנחנו ...* - told all generations ...
i.e. maintain your dubious liberalism w. regard to all else, to "whose are these?" - give them to Esau.
But NEVER surrender a Jewish life to Esau!!
Never take the J. child of an unfortunate, destitute J. mother & hand it over to conversion because of your mistreading & misunderstanding of democracy!

XII. Include: FOR law on three grounds

- a) Democratic - recognizes Natural rights of Natural Parents & does not give autocratic power of religious determination to the state.
- b) Humanitarian - recognizes the wishes of the mother as an unfortunate human being in trouble & spares her the agony of being an accomplice to apostasy
- c) Religious grounds: Religion gives character to the human soul, & that is man's most precious & sacred possession.

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