

"RE-THINKING THE JEWISH POSITION ON RELIGION-STATE PROBLEMS"  
A Descending View

1. In 1789 the Congress passed ten amendments to the constitution, known as the Bill of Rights. The first of these reads as follows:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; the right of the people peaceably to assemble and to petition the government for a redress of grievances."

What this states, in effect, is that Congress can have nothing to do with either the advancement or retardation of religion on the part of American citizens. The word "establishment" means something very special - the word refers to an official religion as the Establishment in England.

The fact that religion-state problems are so important in American life makes it all the more surprising that the first amendment was never discussed by the Supreme Court for 158 years, until the famous Everson case in Illinois in which the Supreme Court permitted the use of public school buses for parochial schools.

In this past year, the Supreme Court session 1961-62, a whole group of cases were decided by the courts. Seven were decided, three more are yet to come in the near future.



2. In very many of these litigations, Jews, or those of Jewish names; usually Ethical Culture enthusiasts who are racially Jews), and Jewish organizations were active on the side of the so-called "liberal" interpretation, outlying any expression of religion in public life. Usually too, Jews and Jewish organizations were either the initiators of the litigation, or "friends of the court."

A majority of Jews no doubt follows the American Jewish Congress in this "liberal" position. So do all or almost all rabbinic organizations, including the R.C.A. to which I belong.

I am one of the small minority who dissent. My function here this evening is to urge you to rethink your whole position and perhaps in that way foster a new outlook, for there is no virtue in the unanimity of what appears to be a monolithic approach by all American Jews.

### 3. The Regents Case.

In 1951, the Board of Regents of the State of New York composed a twenty-two word devotion reading as follows:

Almighty G-d, we acknowledge our dependence upon Thee, and beg Thy blessing upon us, our parents, our teachers and our country. This was made a daily school requirement with the provision that conscientious objectors might remain silent or leave the classroom. Nine parents, most of them Jews, challenged the Regents maintaining



this this state action violated the establishment clause of the First Amendment.

The New York Court of Appeals turned down the parents' claims five to two in 1961.

On appeal to the United States Supreme Court, the court reversed the New York decision six to one (Frankfurter was ill, White was too new; the lone dissenter was Justice Stewart). Justice Black who wrote the major majority opinion, maintained the Regents action was "a practice wholly inconsistent with the establishment clause.) And, "in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as part of <sup>a</sup> ~~their~~ religious program carried <sup>on</sup> ~~out~~ by government."

Two interpretations, on either extreme, were given to this Supreme Court decision, and both seem to be wrong. Some maintained that the decision means no more than that the State may not ~~leave~~ itself write or compose a prayer for Public Schools. But this view is narrow. Justice Black wrote, "the government... should stay out of the business of writing or sanctioning official prayers." This probably means that prayers ~~themselves~~ as such will no longer be said in public schools. The other view is too broad. That interpretation believes that the decision outlawed all preferences to a Supreme Being in our public life. This overlooks the famous footnote by Black, where he states that this decision is not inconsistent with a reciting of the declaration of independence, which contains references to G-d,



or parts of the National Anthem which include a profession of faith in a Supreme Being. Black stated that such ceremonial or patriotic occasions are in no way similar to the unquestioned religious exercise that the State of New York sponsors in the Regent prayer. (what Justice Black will do with the oath on the Bible administered in all courts including his own, he does not say; this is undoubtedly a religious exercise and not merely ceremonial.) The only one whose opinions can justify such a broad interpretation is Justice Douglas who challenges a wide range of public recognitions of G-d.

#### 41 The Reactions to the Decision.

The reactions came in two distinct waves. The first wave was, with very few exceptions (especially that of Rabbinic organizations and the American Jewish Congress), violently negative. The extreme right most certainly damned the Supreme Court, <sup>In</sup> /Congress, a total of no less than fifty-five proposals for amendment<sup>s</sup> <sup>of</sup> ~~to~~ the constitution, to ~~circumvent~~ <sup>aies</sup> circumvent the court decision were made. But not only reaction<sup>ers</sup> <sup>aies</sup> - liberals too condemned the court decision.

Thus: Bishop Tike and Rheinold Neihbur. The reasoning or moti~~va~~tions of this opposition was twofold: a. That it banned all prayer; b. That the majority in <sup>this</sup> country was being forced to reduce its hates and desires to conform to a virulent and overly vocal minority (this contained the germs of anti-semitism).



The second wave was far more moderate in its opposition to the decision, and contained some approval of the court - including such Catholic journals as Commonweal, and even fundamentalist Protestant journals such as "Christianity Today."

5. <sup>The</sup>Jewish Reactions.

It has already been stated that the American Jewish Congress, reformed groups, and even some Orthodox groups supported the Supreme Court.

But American Jews should know that there was also a strong dissend that was making itself heard more and more. This covers the entire spectrum from the extreme right - the Rabbi of Lubazitch, Agudath Israel, Young Israel; in the Center - the Intermountain Jewish News of Denver; the National Conference of Chritian Jews; the Jewish Spectator, the Reconstructionist, the Press, and such people as Jacob Petuchowski, a teacher at the Reform Seminary.

I will now present the dissend on several grounds.

6. American Constitutional Problem.

In general, we are mistaken if we think that the present literal, purist interpretation given to the "absolute" wall of separation was ever taken completely seriously.

Thus, Thomas Jefferson, the author of the "Absolute Wall of Separation",



did not apply his principles in practice at all times. When he was Rector of the State University of Virginia, a public institution, he ~~instituted~~ compulsory Protestant Chapel!

Franklin Hamlin Littell (in a recent book) maintains that the "'wall' does not banish G-d from public premises" - it only objects to the enthronement of a denominational G-d.

Prof. Wilbur Katz of the University of Chicago, has potently argued that the basic principles of American life is for religious neutrality which will allow religious liberty, not that of absolute separation. It abjures support of preferred religions - and this should not be confused with the lack of support of religion as such.

Certainly this should be obvious in all of early American life. The Declaration of Independence maintains that this country <sup>ne</sup> ~~ne~~ <sup>re</sup> ~~re~~ <sup>ly</sup> ~~ly~~ affirms the rights of man, it does not grant them; the granting of human rights, the basis of democracy and this republic, is done by G-d. Thus too, the words "in G-d we trust" on our money (this has frequently been interpreted as notice by whoever has money that he trusts only G-d, not any potential), the support of Chaplains in the Armed Services and Congress, oaths, etc.

Story: Regarding the expression of faith in public life: the story is told of a Russian who came here many years ago and established himself well. Then,



recently, his cousin ~~because of~~ who is an engineer who came as part of an official soviet delegation to visit this country. When the Russian met his American cousin, He asked, "how is your family?" The Americanized Russian answered, "Thank G-d." "How is your job?" - "Thank God." "How do you like the country?" - "Thank God..." The Russian was perplexed: "Why do you say 'thank G-d' all the time?" The American: "Well, what then do you say?" The Russian: I say "Thank <sup>h</sup>Krushchev." The American: "Well, that's quite alright, but after all <sup>h</sup>Krushchev is mortal; what will happen when he dies?" The Russian: "then I shall say 'inner quote'..."

Also - history has shown that the Supreme Court is sensitive to public opinion in this country, and the court may very well reverse itself.

#### 7. Anti-Semitism.

I am against the American <sup>Jewish</sup> ~~Jewish~~ Congress making a professional for fighting for civil liberties. This is better left ~~for~~ to such organizations as the American Civil Liberties Union. American Jewish Congress does not represent anyone.

The entire enterprise of fighting for religious liberty, so called, and

thereby removing every vest

*public life invite anti semitism*  
There has been a "religious

revival" which has rightly been downgraded by theologians and socialists

*it depicts* as to - but the fact remains that it *expresses* stresses the self-image that the American projects,



it tells us what the American wants to believe about himself, and that is: that he is a religious individual - no matter how deep or shallow his commitments. Therefore, these attempts by Jews and Jewish organizations to limit the American-religious expression the majority in this country identify the Jew as an Atheist, Agnostic, Secularist, Pinko, Fellow Traveler and even Communist.

The "America" Editorial. It advised American Jews not to paint themselves into a corner, alienated ~~themselves~~ from the rest of American citizenry, by its over zealous pursuit of this point of view. It cautioned us that we are inviting anti-semitism. There is no question that this mentioning of anti-semitism by a Catholic publication, when catholicism is, in this respect, a sworded record of moral failure, was a monumental lapse of bad taste, a vulgarity of massive portions. Nevertheless, we must not rush to condemn the editors too quickly. "America" has a distinguished record as a liberal Jesuit magazine. And besides the question of their moral right to say what they did, the fact remains, in my opinion, that they were right. We must take them seriously.

No matter how little we like to hear, America is a Christian country. The majority, culture, and society is Christian and we have no right, as individuals of a minority, to bend the majority to accomodate us. We have every



right and duty to have rights as individuals human beings - but not to bend the cultural tone of public ~~life~~<sup>life</sup> away from that which the majority cherishes.

An Analogy: Jewishness in the State of Israel.

8. "The mood of religion is good for Jews."

We must discuss this problem also as a matter of Jewish self-interest. There is nothing wrong with considering self-interest in the context of American life. The democratic ~~process~~<sup>process</sup> is a meeting of many kinds of self-interest, until this merges from all of them the National interest.

It is good for Jews that America be a religious country. It is true, we have had very unhappy experiences for fifteen-hundred years under Christianity. But our faith under those who broke with the Western Christian tradition has been worse: Nazis and Communists. Certainly therefore the record of Christianity against Jews should not move us to seek security in secular humanism and atheism.

The supposed safety we find in an agnostic, secularistic society is only skin deep, because even then we are in the minority. Bostovsky, by no means a friend of Jews, once maintained that the expression "a Jewish Atheist" is a contradiction in terms. Even when a Jew shouts from the rooftops, "I don't believe in G-d," he himself represents to all others visual proof of the existence of G-d and a divine tradition...



The same story, so expressive of the inner religious orientation of the Jew, of Rabbi Schneour Zalman, the author of Tanya, who<sup>o</sup> was riding with a wagon<sup>n</sup> in Europe. In those days the highways were dotted with crucifixes and icons and Christians who pass by cross themselves when they saw them. The Rabbi in this case noted that the Wagner, a Christian, refused to make the gesture. When challenged by the Rabbi for a reason, he said he doesn't believe. Thereupon, ~~he left the~~ the Rabbi left the wagon, insisting that a Christian ought to be a good, religious Christian, and if he is not that then he refuses to be with him in the same wagon.

Also - we must recognize the changes in the Catholic Church. The difference between the present Pope and the last one, the strong new liberal sentiment among Catholic prelates.

#### 9. Federal Aid to Yeshivot.

I am against direct aid to the religious department but an injustice has been done to a large number of religious Catholics who must pay dual taxes.

The Rabbi of Lubavitch pointed out that precedents already exist for general federal aid to the secular departments: buses, milk surplus, etc.

The importance of Day School Education for Survival - and the value to be attached to survival as such,



Public schools are wonderful-but not a religious dogma.

Values of Religious education. Who are those who are most incensed at Orthodoxies contemplated Federal Aid - those who are powerful members of the various Federations who absolutely refuse to assist the Day School which are now struggling for their very survival.

10. Jewish Children in Public Schools. We are concerned not only with Day Schools, but ~~a~~ with a great majority in public schools.

A non-denominational prayer is the answer. It fulfills the requirements of prayer by the Torah. At the same time, it is non-sectarian.

The question of <sup>p</sup>ychological tensions of Jewish children in a Christian school. Admittedly there is a problem. But it is <sup>aggravated</sup> when the child has no Jewish intensive background. Since he lacks any real self-identity, any roots, he feels crushed by witnessing the positive manifestations of another faith. The answer - make them feel more Jewish, more proud, and therefore more serene in their own selves.

It is time we stopped being "Catholic Baiters."

11. Secularism. This is the main point. We must identify our real enemies.

French generals in World War II lost because they fought with the weapons of World War I. We have still been fighting the wars of the last century.



Our major enemy is not Christianity (I don't think it's a product that can be sold to our younger generation) but secularism...

Heschel - the problem is not separation of church and state, but the separation of church and G-d.

The masses of Jewish children never hear the word "G-d" mentioned.

Jews less religious than others.

The regent prayer is certainly not profound - but also not totally meaningless.

*i*  
Positive experience with the "Relief Hour".

The axes of religion is in effect anti-religion, secularism. Justice Burke in the New York State Court of Appeals decision - that banning the regent prayer - would force on our children a culture founded on secularist dogma.

Real education means in all aspects of life - and that includes religion.

Real religion, especially with Jewish interpretation, must effect every aspect of life, and can never be confined to a house of worship on a special holy day.

12. Conclusion. The first amendment is important; the first commandment is even more important.