

A REJOINDER

To those aware of the constant pressures of certain elements within the Catholic Church against the liberal interpretation of the first amendment, the “friendly warning” in *America* comes as no surprise. If there is anything surprising about this *cause celebre*, it is the fact that some Orthodox Jews are willing to forego for a “mess of pottage” the guarantees of that first amendment which have made this country into a home and haven.

The entire gamut of church-state relationships should be reviewed. The position as expressed by *America* reminds us of the statement by Governor Nelson D. Rockefeller that he can not carry out his promise for a fair Sabbath Law because the Catholic Church is unalterably opposed and is better organized than Jews and Protestants. (*Rabbinical Council Record*, June, 1962.) What the 2,000 Jews in Vermont have is denied the three million Jews in New York.

In examining the problem, we might ask why non-Catholics must resort to subterfuge and endless expense to obtain divorces where Catholics are a high percentage of the population. It is similarly important to understand how the Church has attempted to impose its dogmas on so personal a relationship as between a doctor and a patient (both non-Catholics) in public hospitals.

One did not have to wait for *America* to understand the Church's attitude and the implications thereof. The *Brooklyn Tablet*, organ of the largest diocese, wrote, “There have been many fearful predictions of what steps the U. S. Supreme Court will take next, after its preposterous decision. Bans on Bible reading, on recognition of Christmas, on baccalaureate services have been urged.” Some diocese papers such as the *Boston Pilot* questioned whether, “minority rights means that their ways must as a result be *enforced* on the majority.” Even the liberal

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Commonweal wrote, "A genuine pluralism must, however, recognize the importance of the majority, too."

It is apparent that more is at stake here than a meaningless prayer. One wonders whether the Catholic spokesmen speak for a majority of Americans or even a majority of Catholics, and why they assume majority rights are being infringed upon. It is more probable that when the smoke is cleared, a large majority of Americans will favor the traditional American position of church-state separation. And Orthodox Jews, in overwhelming numbers, will stand with them because in the long run, our way of life in America depends on it.

It is difficult to understand how the occasional Orthodox Jew can line up against the Supreme Court with such critics of the Court as Congressman George Andrews of Alabama who cried, "They've put the Negroes in the schools and now they've driven God out." The Engel-Vitale decision is an extension of the Court's protection of individual civil rights and should be viewed in this context before one hastens to condemn it. The least that an Orthodox Jew owes to himself is to read the decision before casting verbal missiles at it.

Even a cursory reading of Justice Black's masterful decision indicates an awareness of the Almighty far surpassing most of his critics. "Religion is too personal, too sacred, too holy to permit its unhallowed perversion by a civil magistrate . . . It had been argued that to apply the constitution in such a way as to prohibit state laws respecting an establishment of religious services in public schools is to indicate a hostility towards religion or towards prayer. Nothing, of course, could be more wrong. The history of man is inseparable from the history of religion and, perhaps, it is not too much to say that since the beginning of that history many people have devoutly believed that 'more things are wrought by prayer than this world dreams of.' "

What the majority of the Court felt was that the founding fathers feared a state church or religion and they wished to avoid even the first step in that direction. Justice Black continues, "It is neither sacrilegious or anti-religious to say that each separate government in this country should stay out of the business

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of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look for religious guidance." What the decision does is to encourage recognized religious institutions to disseminate the word of God through proper channels. Footnote 21 of the decision makes it abundantly clear that the purpose of the decision is not to bar patriotic songs or recitation of the Declaration of Independence containing "professions of faith in a Supreme Being"; nor the "many manifestations in our public life of belief in God."

As non-denominational as the prayer may be, even the New York Court of Appeals which upheld its constitutionality considered that it was not in conformance with the beliefs of all religious faiths, including Jews. But the key to the entire question is Justice Black's quotation from James Madison, the author of the first amendment.

"It is proper to take alarm at the first experiment on our liberties . . . Who does not see that the same authority which can establish Christianity in exclusion of all other religions, may establish with the same ease any particular sect of Christians, in exclusion of all other sects? That the same authority which can force a citizen to contribute three pence only of his property to support of any one establishment, may force him to conform to any other establishment in all cases whatsoever?"

James Madison's warning is as applicable today as in the days of the founding fathers. It is interesting to note that the Catholic position of today is a total reversal of its position one hundred years ago when it considered itself a minority and not the majority. Jews, particularly Orthodox Jews, are still in a minority and will continue to be so. We cannot, on the one hand, attack the very basis of our religious freedom by involving the government in religion by way of prayer production and on the other hand petition the courts to forbid governmental interference in questions of days of rest or ritual slaughter.

There is, of course, a practical aspect of the program. It will take a long time for the Court's decision to seep down to every local public school. Many pledged to educate our chil-

dren to uphold law and order have publicly stated that they will defy the law. But, for that matter, are the proponents of non-denominational prayer prepared to guarantee that no individual teacher would invoke the Trinity or other denominational reference in connection with the prayer? This is a frequent occurrence and many teachers are convinced that they are doing the correct thing. Non-denominational prayers recited in the neutral atmosphere of a schoolroom may tend to serve as a substitute for true prayer and may inadvertently conflict with some basic beliefs of Orthodox Jewry. For example, we cover the head and separate the sexes for prayer; both practices are impractical, if not impossible, in the public classroom and they conflict with the practices of other religions.

America is not a secular country nor is there any genuine fear that "we are forced to emulate Mr. Khrushchev," as Cardinal McIntyre asserted. Secular forces emerge and are re-enforced when religious values are imposed by government rather than voluntarily accepted by the people. The very decision re-asserts our spiritual heritage.

American Jewry has flourished in the United States. And Orthodox strongholds are appearing in increasing numbers throughout the United States. Orthodoxy has grown by its own vitality despite its divisions, contradictions, and inner conflicts. It will not be strengthened by a prayer in a public school. The greatest danger to religion in America today, and to Judaism in particular, is not secularism but rather a non-denominational religion imposed by the state. Empty phrases designed to suit every religious faith would be devoid of any deep conviction, a requisite of prayer in any faith.

One other area deserves brief comment. "The New York Post" had the editorial courage to comment that the Catholic assault on the Court on prayer issue was engendered by the fear that the Court might rule federal aid to education unconstitutional. I somehow suspect that this is the sentiment of the Orthodox voices calling for re-evaluation of the traditional Jewish position. Let us be candid. This call for re-examination is not based on ideological considerations. It is based on the desperate financial plight of many day schools and the tre-

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mendous burdens placed upon parents sending a child to a day school while paying public school taxes at the same time. It is a financial problem and should be treated at that level.

Proponents of federal aid accuse their opponents of being indifferent to *yeshivot*, but the truth is that the vast majority of Orthodox Jews opposed to federal aid work ardently for *yeshivot*. They are concerned lest federal aid actually undercut the existing financial structure.

So far, no proponent of federal aid has spelled out just how extensive that aid will be, nor the formula for its distribution. Orthodox Jews, in particular, should concern themselves with the effect of the lack of a central body in the Jewish community to supervise the allocation of funds which may lead to abuse. It is not inconceivable that this may cause those very institutions intended to benefit from the distribution to be relegated to the background.

But a more important question remains to be answered. Have we utilized and exhausted our own capacities before we turn to the federal government and espouse a position pregnant with hidden and obvious dangers for us? Have all communal resources been utilized? Are there no alternatives which would not violate either our consciences or the first amendment?

Above all, we must not lose sight of the fact that federal aid is but a tiny fraction of the entire church-state issue. In making our decision, too, we ought to give careful consideration before abandoning the real "majority" position in America, the liberal Protestant trend which has served as the friendly field in which one of the strongest and least oppressed Jewish communities in our history developed. Obviously our approach to the entire range of issues must be motivated by our own interest, but we dare not limit it to one small facet of the problem. We must not ignore the lessons of the past, nor disregard the implications for the future.