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In view of the fundamental issues involved in the question of New York State's controversial Blaine Amendment, we present the following excerpts from the Keynote Address delivered at a session on the "Church-State Issue as it Relates to Public Support of Private Education" at the Annual Convention of the Rabbinical Council of America. Dr. Hartstein, a distinguished educator and psychologist, is President of Kingsborough Community College of the City University of New York, and Professor of Education, the City University of New York. He has served as the presiding officer of the National Advisory Committee on Supplementary Education Centers and Services.

## THE CHURCH-STATE ISSUE AND PUBLIC SUPPORT FOR PRIVATE EDUCATION

### I

. . . The following observations are made with an eye, on the one hand, on the right of parents to send their children to the schools of their choice, and the importance of private education under both non-sectarian and religious auspices for our American democracy; and, on the other hand, on the importance of a strong public education system as the very life-blood of our American democracy . . .

It is my position that the public, private, and parochial schools are important and necessary facets of the rich American culture, and that these facets complement each other and that each contributes in its own way to the indigenous American character. Moreover, that these several facets can and must be preserved if the integrity of this indigenous character is to be maintained and strengthened, as it must be if it is to continue to flourish.

### *II — The Problem of the Present*

As we confront the Church-State issue in relation to private education in contemporary America, we must take cognizance

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of history and tradition. We must also study the effects of and experience with innovations and practices in public support for private education in recent years, and in particular the problems that face education in its broadest terms in general, and the private schools in particular, as America is called upon to give more education of better quality and greater variety to increasing numbers of students at all levels, and to maintain and strengthen the nation's moral and spiritual fibre in a new world that is changing rapidly and unpredictably.

Every intelligent and interested American who is in search of sound understanding of the issue should familiarize himself with the history and times, and the background and climate in which the first Amendment to the Constitution of the United States had its roots, why and how this Amendment came into being and what it was designed to accomplish. He should study, also, the history since the adoption of that Amendment — the struggle for and the development of the public school system as we like to think of it today, free and non-sectarian education for all of America's children, and the history and background of the nineteenth century and the times and movements that produced a Blaine Amendment\*; and the history, and development, problems, and changing conceptions, of the 20th century, including the background and ramifications of the substantive Supreme Court decisions concerning religion and the public schools desegregation, and Civil Rights and the Civil Rights movement. Each law, decision, and event, moreover, should be studied in its proper frame of reference, the setting in which it occurred, what called it into being and what purpose it was designed to serve. In the words of Von Ranke, the father of modern historical method, *wie es eigentlich gewesen war*.

Each of us who takes a position in these matters should also search his own motivation and purposes, preferences and proclivities, and determine whether the position he espouses is truly in the interest of the general welfare or one that seeks to advance personal bias and prejudice and the special interest of

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\* The statute prohibiting the use of state funds for parochial school education in the state of New York—Ed.

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his own group. Above all, we should ascertain whether the actions we propose will solve cogent existing problems or whether they reflect wishful thinking, and represent attempts to safeguard the future by preventing problems, which we are afraid of but in reality may never develop.

Let me raise a few questions to illustrate some of those points.

1. What was the primary purpose of the First Amendment? Does it apply in principle to the problems before us or are we resorting to its use to impose on America a new spirit that has grown and become more pervasive since the adoption of this Amendment?
2. Do we oppose the Blaine Amendment because we consider the preservation of our religious forms more important than the strengthening of our pluralistic society or are we for the Blaine Amendment because we assign a higher priority to the advancement of secular humanism than to the preservation of our own religious tradition?
3. Do there exist in New York State unique conditions that make it necessary for the State to maintain the Blaine Amendment or does the wall of separation between Church and State set up by the First Amendment to the Constitution of the United States offer adequate protection also to the residents of New York State?
4. Can it be proven that financial benefits extended by the State (at the local, state or federal level) necessarily weaken the public institutions and undermine civil rights and that this is unavoidable?
5. Is it legal and proper for the State, and do we want the State, to use its tax power to weaken education under private and independent auspices?
6. Indeed, do we want a State monopoly of education or is it necessary to our pluralistic culture and to the quality and character of education itself that strong and sufficient private and independent schools survive?
7. If the state has a responsibility for the quality and character of the education available to all of its citizens does it not also have an obligation to facilitate the attainment of the

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minimum standards essential to assure that quality and character?

8. What are the rights of parents and of our religious institutions in the education of our children and youth?
9. Do the new problems we face, such as the explosion of knowledge, the greater importance of science and technology, the increasing cost of education, the changing character of the family and of the public and private morality, the need for more education for increasing numbers of people, etc., mandate new approaches and new arrangements, in the use of time and facilities as well as in fiscal support?
10. Is our concern with the church and state issue as it relates to education sidetracking us, and resulting in our concentrating our energies on the pursuit of our side of the controversy at the risk of not continuing to do all that needs to be done to continue to strengthen and develop the institutions under religious auspices and to maintain the support essential to their success?

### *III — Fundamentals to be Remembered*

As we consider these questions we should bear certain fundamentals in mind.

1. Foremost among these is the wording of the First Amendment to the Constitution of the United States, which is as follows:

“Congress shall make no law respecting an establishment of religion; or prohibiting the free exercise thereof.”

and that this amendment, according to the testimony of such reliable and responsible leaders in the Constitutional Convention as Thomas Jefferson and James Madison, was agreed on in order to firm up support for the Constitution and to assure total religious freedom and the disestablishment of any officially approved or favored churches, and to prevent the establishment of any national religion.

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2. The second fundamental is that we are committed to safeguard, as Americans and as Jews, the complete separation of Church and State.
3. Thirdly, free universal education of high quality is indispensable to the healthy survival and the continuing growth and development of the American democracy.
4. Fourthly, a public school system, in which all teachers and children are recognized as Americans of equal worth and status — without reference to religion, color, economic status or national origin — performs a unique and indigenous function, which no private school, either under non-sectarian or religious auspices, can or tries to perform.
5. Our public school system, with all its shortcomings and indicated improvements, is the lifeblood of America and must be preserved and strengthened at all costs.
6. Parents have a right, and should have the opportunity, to decide whether their children should attend public or private schools.
7. Private schools, both under religious and non-sectarian auspices, should not only be free to flourish in a democracy but also serve the democracy well by the unique contribution that they can, and do, make to the American culture.
8. Such schools, and the youth who attend them, should enjoy all the rights, privileges, and opportunities in the areas of health, transportation, supplementary centers and programs, and instructional media and resources that are made available to the children who attend the public schools.
9. In return for these benefits, schools under private and religious auspices should be expected to maintain standards of instruction at least equal to those of the public schools.
10. Schools under private and religious auspices should support and control curriculum, teachers and teaching, the conduct of their schools, and their facilities.
11. The competition for qualified teachers under improving standards will continue to demand increasing outlays for education at all levels and under all forms of control.
12. Increasing costs, together with the demand for ever better education and educational facilities and the development of

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the newer educational devices and arrangements, will continue to tax the resources available for education both in the public and in the private sector, and call for constantly growing expenditures.

13. If America is to meet the growing demand for education, it will have to make the fullest possible use of all of the country's educational resources, under all auspices.
14. The leaders of all denominations who deem it essential that children receive their total education in a school conducted under religious auspices should recognize that the schools under religious auspices, even if only for reasons of cost, can, at best, be expected to meet the needs of only a portion of the interested population, and that what is needed are imaginative and resourceful plans for comprehensive religious education complementing the public school program, to be offered outside of the public schools, under religious auspices.
15. The private sector of education is deluding itself, and would be making a terrible mistake, if it relied on government to relieve it completely of its pressing financial burdens now or in the future.

It should be recognized (1) that it took almost 30 years for Congress to agree on the passage of the elementary and secondary education act, and (2) that while the total amount of monies being expended under this act is large, the actual dollars helping children in non-public schools is relatively insignificant when compared with the total expenditures of and for such schools.

Government aid benefits now available to those attending schools under religious auspices should be viewed primarily as an opportunity to improve and enrich programs, to raise quality and to enrich creative activity; not as the "bread and butter" of educational support or financing.

Indeed, federal aid programs should not be regarded as a panacea and a form of relief for local responsibility. No schools, private or public, dare slacken their own efforts in behalf of their programs. The supporters of private and religious schools and local communities should be aware that theirs continues to be

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the main burden. They should look upon the federal acts primarily as a significant resource, and, as stated earlier, a source of enrichment of programs, and as an additional challenge to the schools to broaden their horizons. The task of carrying forward a good school program remains that of the school and the community themselves.

Finally, it is incumbent upon the Jewish schools to recognize that their special purpose and character, involving different calendars, school hours, and other differences, limits further their making full use of many of these opportunities that may become available under state-aided programs.