



VOUCHERS FOR SCHOOL CHOICE

Challenge or Opportunity?

An American Jewish Reappraisal

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The Jewish Experience in American
— Public and Private Education —
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THE JEWISH EXPERIENCE IN AMERICAN PUBLIC AND PRIVATE EDUCATION

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I am grateful to the conference organizers for the very modest task they have assigned to me. I have 343 years to cover in about 20 minutes. That leaves me about 3.5 seconds a year, so I may leave one or two things out. Permit me, then, at the outset (and without all the attendant footnotes) to make three points about the history of Jews and American education that I think are relevant to our deliberations here.

First, it is critically important to recognize that the history of American-Jewish attitudes concerning the role of religion in the schools (and indeed, concerning religion-state issues generally) is both more complex and more variegated than generally recognized. There is no monolithic Jewish view on this subject, and the community's attitudes have changed markedly over time, as historical conditions have changed.

Second, we can point to at least two principles that the Jewish community has broadly accepted over the centuries. The first is the principle of "equal footing"—the idea that all faiths, large and small, should be treated equally. There should be no special privileges for being a Protestant or a Catholic. And the second principle is that the public schools should be non-sectarian. At the very least, they should not be engaged in covert missionizing. I think that on those two points there was, and remains, a very broad Jewish communal consensus.

The third point is that a fundamental change has taken place since the 1960s in American-Jewish attitudes toward public schooling, reflected in the astounding and continuing growth of Jewish day-schools. This new situation—the fact that today about 28 percent of Jewish children who receive any form of Jewish religious education receive it in the day-schools—sets the stage for the kinds of policy changes that we will be considering here.

(Let me explain why Jews use the word "day-school." For all intents and purposes these are parochial schools, but the term "parochial" comes from a

word meaning "diocese" or "parish," and implies that the school was established and maintained by a religious body. Since the Jewish schools are generally independent or congregationally-sponsored entities, the term "day-school" has become normative.)

So much for conclusions and definitions. Now, let me turn to some history. Early 19th century Americans, Jews and Christians alike, assumed that religion and education were closely intertwined. Congress gave legal expression to that idea in the Northwest Ordinance of 1787, declaring in its second article that "religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." In New York City, where some 400 Jews resided in the early nineteenth century, almost all schools were religious in character. There was plenty of school choice back then. There were the "common pay" (or private) schools, which generally assumed the religious identity of the headmaster. The "charity" or "free schools" were supported by the city's churches and could draw upon the state's School Fund. And the Jewish community was part of this. In 1803, New York's only Jewish congregation, Shearith Israel (which is known today as the Spanish and Portuguese Synagogue), established a charity school under its own auspices named *Polonies Talmud Torah*. The school enjoyed equal footing with the Protestant and the Catholic schools in the city, and received state aid.

In 1813, in response to a challenge from the nondenominational New York Free School (the forerunner of the Public School Society), which wanted all state money to flow to its schools, Shearith Israel, in concert with Presbyterian, Baptist, Methodist and Catholic churches, sent a petition to the New York legislature, defending state aid to religious schools. That petition reflects what Shearith Israel's Jews thought was best for their children, their community, and their country as a whole, and it is fascinating for us now because it expresses views that are diametrically opposite to those that we generally associate with American Jews, views that would only emerge a few decades later. So, for example, the congregation's leaders condemned the New York Free School in this petition for raising children "unacquainted with the principles of any religion." We "conceive religion the greatest foundation of social happiness—the best pledge of republican institutions—and the greatest security of property, of liberty and of life," they wrote. They charged that the effort to restrict state funds to the free school alone was "at variance with the liberal spirit of our Constitution, which recognizes no distinction in public worship." It was a very persuasive petition and it was successful. Religiously sponsored charity schools, including Shearith Israel's, continued to receive state assistance until 1825.

Ultimately, of course, the idea of the free, nondenominational public school triumphed in New York and throughout the country. Initially, however, Jews who could afford to do so actually avoided these kinds of schools because they were really culturally Protestant. Their curriculum and textbooks were rife with material that Jews (as well, by the way, as Catholics) found profoundly offensive. As a result, Jews, when they could, sent their children to Jewish schools, which flourished not only in New York, but in every major city where Jews lived.

Public schools, however, had a great advantage, especially to new immigrants, because they were free, and often were superior in quality. As they became more religiously sensitive (that is, de-Protestantized), Jews flocked to them. This engendered considerable debate during the middle of the 19th century. In 1855, for example, a St. Louis man named Isadore Busch wrote a ringing endorsement of the public school, which he described as a "grand institution." He declared himself "utterly opposed to all sectional or sectarian schools"—meaning Jewish day schools—on pragmatic, economic and ideological grounds: pragmatic, in that most Jewish children would not attend them; economic, in that most Jews could not afford them; and ideological, in that public schools are an important instrument of Americanization. Jews should be grateful, he argued, that there was such an institution as public schools, and should support them. In a sense, he reversed the Shearith Israel argument, maintaining that the public schools were better for children, better for the Jewish community, and better for the nation at large. He advocated that the Jewish community use supplementary schools for religious instruction. In other words, public schools for secular education, and afternoon and Sunday schools for religious education.

There was considerable opposition to Busch's argument at the time. Isaac Leeser, the editor of the journal, *The Occident*, where Busch's letter appeared, and actually a founder of the Sunday school system in Philadelphia, nevertheless disagreed with Busch. "Mr. Busch," he wrote, "overrates the advantages of a public school education and underrates the difficulties of evening religious schools." Although an organizer of a Sunday school system, Leeser continued to support Jewish day schools as the ideal.

That debate is revealing, but I suppose it's even more revealing that ultimately the Busch position won the day. By the middle of the 1870s, most of the Jewish day-schools had closed, replaced by Sabbath, Sunday, and afternoon supplementary schools. "It is our settled opinion here," Rabbi Isaac Mayer Wise, the great Cincinnati Reform Jewish leader, reported to the U.S. Commissioner of Education in 1870, "that the education of the young is the business of the state, and that religious instruction . . . is the duty of religious bodies. Neither ought to interfere with the other."

majority will receive general sanction." But there were other rabbis who viewed this idea very positively, particularly the version known as "dismissed time," where the school day would end early to allow students to attend religious schools. "We have a unique and therefore very delicate problem," explained New York's Rabbi Samuel Schulman, a leading Reform rabbi. "We, of course, want to keep religion, Bible reading, hymn singing, out of the public schools. At the same time, we know that there is not enough efficient moral and religious education in the country." He called upon American Jews to "constructively and helpfully meet all efforts made for the improvement of ethical and religious education in the nation." The Jewish community was so divided on this issue that in one memorable case early in the 1940s, the Northern California Board of Rabbis opposed a released time bill, while the Southern California Board of Rabbis supported it.

Once the Supreme Court outlawed many forms of released time in the *McCollum* case (1948), these divisions healed. It was at this point in time, after World War II and with the move from state to national consideration of school issues (thanks to the 1940 Supreme Court decision in the *Cantwell* case), that we see a much broader separationist consensus emerge within the American Jewish community, symbolized by the establishment of the "Joint Committee on Religion and the Public Schools" (later known as "the Joint Committee on Religion and State"). The committee represented the full spectrum of Jewish religious and communal life, from anti-religious to Orthodox, including Conservative and Reform, all of them supporting a high wall of separation between church and state. In the wake of the school prayer and Bible reading cases of the early 1960s (*Engel v. Vitale*, *Abington v. Schempp*, etc.), this Jewish consensus seemed totally in harmony with the position of the U.S. Supreme Court. As a result, only a small number of voices in the community sounded notes of discord. (The most famous dissenter, as my friend Professor David Dalin has shown, was Will Herberg.) Most Americans rejoiced that religion was now out of the schools completely.

It was at this point that attention largely shifted away from the issue of religion in the public schools—Jews thought that was more or less settled—and toward the question of state aid to parochial schools. Unlike school prayer, the issue here did not involve the question of Jewish equality, or "equal footing." The aid was offered to Christian and Jewish schools alike. Instead, it revolved around the "wall of separation" axiom upon which Jews constructed so much of their twentieth century church-state philosophy. The debate, which began in earnest in the 1960s, pitted advocates of principle, who felt that any breach in the wall of separation would affect America and its Jews adversely, against proponents of pragmatism, who argued for an accommodationist policy benefiting Jewish day schools, interfaith relations, and American education as a

whole. The voucher issue that we are discussing today is in many respects a continuation of this debate from the 1960s.

As we have already seen, historically, before the modern public school system existed, Jews readily supported state aid to parochial schools, and in fact Shearith Israel received such aid. But subsequently, the issue scarcely ever arose in Jewish circles, partly because Jews held public schooling in such high esteem, and partly because Jews and Protestants did not, by and large, view Catholic parochial schooling with any esteem at all. They looked upon it, indeed, with a great deal of suspicion. As late as 1927, there were no more than twelve Jewish parochial schools in the whole United States. What changed all of this was, first, the growth of Jewish day-schools in the post-war period, and especially from the late 1950s, first Orthodox, then non-Orthodox; second, the increasing concern over public education, particularly in the wake of the Cold War, and Russia's success in launching the Sputnik satellite, and later the effects of court-mandated changes in public education (such as the end of school prayer, racial bussing, and curricular changes); and third, heightened Catholic pressure to alleviate what they understandably perceived as an unfair burden upon them of essentially paying twice for their children's education. These and other factors led to a reexamination of the consensus Jewish view on state aid to parochial schools, particularly (although not exclusively) on the part of the Orthodox community, who not coincidentally were also the strongest proponents of Jewish day schools. In 1962, the *American Jewish Yearbook* noticed for the first time what it described as "unexpectedly strong support for the Catholic position," favoring state aid to parochial schools, that had "appeared within the Jewish community, especially among the Orthodox." In 1965, when Congress debated the Elementary and Secondary Education Act that included "child benefit" money earmarked for special educational services to parochial and private schools, intra-Jewish divisions came out into the open, and Jewish spokesmen testified before Congress on both sides of the issue, something that had not happened on a church-state question since World War II.

Since then, and quite literally to this very day here in Washington, the Jewish community has consistently spoken with two voices whenever proposals like the voucher system are put forward. Each side musters support from the past. Each side, as we have now seen, can legitimate its position historically. But in the final analysis the central question is not basically an historical one. It is really a pragmatic one. Quite simply, what do we think is best for our children, for our community, and for our country? That was the question that underlay the petition of Shearith Israel's Jews back in 1813. It was the question that Isadore Busch answered, quite differently, in 1855. And it remains the central question that we need to address here today.