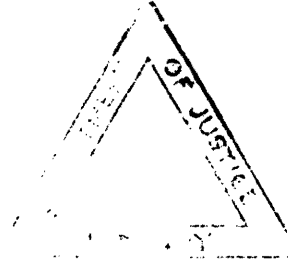


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AMERICA, ISRAEL AND THE LAW

ADDRESS

BY

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It seems to me that we will look back on this evening with a sense of having participated in the actual making of history. This is the week of the Sixth Anniversary of the establishment of Israel as an independent state, a year when the Israelis are engaged in making that independence more solid by strengthening their institutions. Such a year of consolidation is important in the life of a man as in the life of a nation. It is a process that produces maturity.

The event in which we are taking part is a symptom of that process. It is a sign that the efforts in desert and mountain, in village and city, of all the men and women who have struggled and strived in Israel, have won not only respect in this country, five thousand miles distant, but positive approbation. That this Society should have been formed also is a symptom that the United States of America still is advancing. One sign of a maturing country is concern with the habits and customs and ways of life of others.

The purposes of the America-Israel Society seem to me to be well summed up in one line of its charter: "In general, to explain the diversities and similarities of the ways of life of the two people to each other." That, of course, is what we mean when we speak of the interchange of cultural information, for those diversities and similarities are the fruits of culture, the results of educational interest and training, conditioned by the character of the people and the quality of the places where they live.

Men express their education and training in art, in science, in music, in the forms of the theater, in government, and in law.

Now I am a lawyer and it is with the law, as an aspect of culture, that I wish to deal tonight. It has been said, in the first announcements of this milestone event, that the immediate purpose for which we gather tonight is to honor the creative spirit of Israel. It is almost presumptuous to say that the Land of Israel and the people of Israel have placed their imprint upon the great art, the great science, the great manifestations of culture of the world. It is even unnecessary to list any examples. They are known wherever men see or listen or read.

Possibly, in this country, there is less appreciation of the Hebrew contribution to law, as a part - a vital part - of world culture than of almost any other.

Now I have no pretensions to scholarship. Certainly, I am not a Talmudic student. What has been given to the law in the centuries of learning embodied in that great book cannot even be touched upon.

However, there is not a lawyer in America who in his appearances in court does not find on his lips forms of words that come from the Hebrew. Why, even our mode of address - may it please the court - has its origin in the Hebrew form. A contract for sale containing the consideration of \$1.00, or other valuable thing, some scholars tell us comes directly from the ancient Hebrew practice.

But the impact of Hebrew legal philosophy upon our law is much more substantial than forms and phrases. The seven Commandments for the Descendants of Noah contained in the Talmud were set forth as a

minimum requirement for all men, not merely for the children of Israel. Their observance, according to the elders, insured to the righteous of all people admission to the gates of the future life. These were regarded as the fundamental laws of God, the God of Nature.

Legal scholars are agreed that here arose the concept of natural law. From that concept, many concede, came precepts of justice, of equality before the law, of the necessity of protecting the individual against the State, of the relation of religious and of moral obligation under the law.

The concept of natural law expressed a faith that the human mind could discern the reflection of absolute verity. It went hand in hand with the idea of the existence of justice. It led to the eternal search of Talmudic scholars to find out and apply the good. In that search the harsh phraseology of earlier times was touched with mercy. It is from Hebrew law, along with others, that we derive our statutes against cruelty to animals and to children, the laws concerned with the protection of the weak, the defenseless infant, the widow, and the unfortunate.

We also find many of the fundamental principles of an enlightened and democratic society looking to fair trial and proper qualifications of judges. For example, lynch killings of a murderer are forbidden, the rule being that he must be brought to trial to the court; cross examination of witnesses is provided for; condemnation of a man for murder on circumstantial evidence alone is forbidden; a witness who testifies or who is personally interested in a trial cannot be a judge; one

friendly to one party to a cause or hostile to the other, or in debt to either party is disqualified as a judge; a judge must possess these qualifications: wisdom, modesty, uprightness, contempt for money, love of truth, popularity and a good reputation; the judge cannot even accept a flattering remark from either party.

We must be mindful that the contributions of Talmudic law to our own came continuously over the centuries. During all the time that the Jews formed communities in one country after another, often only to be expelled, the elaboration of the Talmud continued in Palestine, in Babylon, in North Africa, in Spain, in almost every civilized center. This was, and is, a manifestation of the creative spirit of Israel which we honor tonight.

The law effective in Israel at present is a complex structure consisting of the law of the old Ottoman Empire, the British Mandatory law, and the laws enacted by the New State. In addition, each religious community applies its own laws to all matters affecting personal status, such as marriage and divorce, guardianship and alimony. This hodge-podge of laws is cumbersome, difficult, and often inappropriate. The people in the government of Israel long have recognized the necessity of developing a new legal system for Israel. They are approaching this momentous task in a manner which can properly be called novel - again a manifestation not only of the creative spirit of Israel but of the flexibility that must accompany all successful creative activity.

About two years ago the Ministry of Justice of Israel joined with Harvard Law School in the establishment of the Harvard Law School - Israel Cooperative Research project, supported by voluntary funds.

Harvard University, on its part, has made available the resources of its outstanding Library of Comparative Law and the scholarly advice of its staff. But it has done more. It has enlisted the active participation of scholars from many other leading American law schools and is seeking to expand their participation. On its part, Israel has provided representatives of the Ministry of Justice and experts in Hebrew and in jurisprudence. In no sense, of course, are laws for Israel being drafted at the Harvard Law School - Israel Cooperative Research for Israel's Legal Development. What is being done, however, is the collection and organization of the infinite variety of information necessary to enable the Knesseth, Israel's legislative body, to draft the new code in the light of complete knowledge.

This approach to a problem of such fundamental importance in the area of human relations is important. There have been instances of cooperative efforts in science, particularly in the development of means of destruction. It is hopeful that there can also be scholarly cooperation in creating means to enable men and women to live together in peace and confidence.

From this present effort, I have no doubt, new concepts may arise. They will take their place along with the many gifts which the legal minds of Israel have bestowed upon the philosophy of the law. I expect that the work at Harvard, when it is utilized by the Knesseth, will carry in it the conviction that ultimate good and justice can be achieved through peaceful cooperation with neighboring nations.

The Jewish attitude toward the law was that the law of the Bible was delivered by direct revelation from God. This belief has

had its influence upon our own attitude toward the law. When the Congress meets in daily session, the first order of business is always an invocation of Divine blessing and an appeal for Divine guidance. Of great importance, too, has been the influence of the Hebrew idea of the observance of the law of the land. The Talmud, itself, demands as a religious duty the observance of the civil law. Thus it teaches that the observance of law is a virtue and the flouting of law at least a moral violation.

This is the thing we mean when we praise a man as law-abiding. He observes the law, not because of fear of retribution, but because he considers it a moral obligation. I know that many of our greatest legal minds have taken what some are pleased to call a scientific view of the law. If a man violates a given statute, he then can expect to be fined so many dollars or imprisoned for so many months, or even executed. Yet, if he pays his penalty, the books of Society are balanced, and that is that. I believe that such a mechanistic view of the law is not enough. There is more in life than the account book of dollars and cents or crimes and punishments. There is the higher value of the best development of the individual - a chief objective of our legal system.

Fortunately, in America, this attitude has prevailed among the great majority. The stress and strain of a complex society and the shadow of the thermo-nuclear bomb must not be allowed to weaken the moral principle of righteousness for its own sake. Our emphasis upon the physical sciences and the analogies we draw from them must not obscure the idea of duty and of moral obligation resting upon the individual.

There have been suggestions that the resort to scientific method has not so far succeeded in developing better relations of man to man. I, too, believe we are at a point in the development of man and of nations when if anything we should lay greater stress upon the idea of personal obligation - the obligation of the individual in his own actions and in his observance of the law to honor personal responsibility for its own sake.

In a very real sense, you who are participating in the first activities of the America-Israel Society are seeking to build a bridge between our own country and Israel so that the traffic in learning can go in both directions. The adventure in democracy that is Israel is one which humanists all over the world are watching with sympathy and hope. It draws upon a great tradition, a tradition in which we, as Americans, have a heritage. There is no doubt that the creative spirit, which already has given so much to the world, will continue to produce new and important gifts. Those travelers who visit Israel will bring back with them treasure in the form of inspiration, ideas, discoveries. The same circumstances which have enabled us in America to develop something new and something good are at work in that small territory.

Brought together in Israel are men and women who bore the traditions, customs, methods, wisdom of many lands. They arrived speaking many tongues. They came from all conditions of society just as our settlers in America.

They put a plow to the desert as we put a plow to the plains. They plant trees for the future as we draw from the forests the wealth of ages. They face dangers akin to the dangers which we ourselves faced.



Like us, they are dependent, as we were for the first century and a half of our existence, upon capital from beyond their shores.

The Israeli pioneers have created a common language based on the old Hebrew but in itself something new and practical and living. They are putting it to good use in the development of a renaissance of literature. They are not allowing it to become exclusive. I am told the great works of all countries are being rendered into the Hebrew idiom, including for example, our own Walt Whitman; and other languages are being taught in the schools. A growing law school has been established at the University of Jerusalem. Medicine flourishes in the rebuilt Hadassah Hospital. Two theaters draw crowds and stir controversy in Tel Aviv. A School of Education has excited the interest of Scholars throughout the world. Science rises in the Technion Institute and the Weizmann Institute. Already our agronomists and geologists are finding profit from this resurgence. The Palestine Symphony Orchestra preserves and advances the tradition of music. The vitality of the people is manifest in the industrial plants that are rising in the cities, notably Haifa, and already a merchant marine ventures farther than ever the Phoenicians dared dream. The creative spirit, too, shows itself in economic devices - the cooperation of masses of capital to make possible the transformation of idea into fact.

We in America long have prided ourselves on our creative capacity. Yet we have not been so self-centered that we could not look upon our pride in the softening light of humor. Mark Twain warned us against an overwhelming confidence in our ingenuity in his novel, "The Connecticut Yankee in King Arthur's Court." Perhaps we are wont to be a little offensive in our talk of our willingness to

export know-how to the rest of the world. We do not intend to be so but I think it would be better if from time to time we acknowledged that the know-how does not all belong to us and that other peoples and other nations have given much and still have much to give to us in return. This we acknowledge tonight in relation to the State of Israel, not forgetting, of course, the debt we owe to the peoples of many, many other states. Indeed, one of the secrets of America's greatness has been her capacity throughout her entire history to receive and put to good use the cultural treasure of many peoples.

What does America have to give to other peoples and to other nations: Is it merely the ability to devise the tricks of applied science? If this were all, I would say that we are offering no more than a kind of intellectual gadgetry in the market places of the world.

But we, too, have things of the spirit to offer, things developed over nearly two centuries of trial and error, of search and failure, of aspiration and attainment. The America we know did not spring into being, mature, in a night or a day.

There was a time when the idea of representative government was narrow and imperfect. The right to take part in self-government was limited to the relatively few. In fact, the institution of slavery persisted and spread over many years. Our system of education was hard won before it extended to its present width of spirit. The hours of our working day were shortened only after long effort and changes in attitude. For a long time we Americans were so busy striving to obtain a minimum standard of possession of the material things of life that we had little time for anything else. Only in comparatively recent years have we made a beginning in indigenous music, art, the

theater, philosophy - those things which express and at the same time enrich the human personality.

I see the continuing search for truth and for its better expression. The very tensions which we encounter daily may be evidence of the deep concern of our people with the preservation of values hard won.

What then has America to offer beyond its capacity for getting things done- important as that may be? First, and perhaps paramount, we offer an article of faith. It is the deep conviction that more important than any other value is the individual man. Upon his shoulders lies in truth the burden of the world; in his hands, the destiny of civilization. We hold that his opportunity to develop and to function as a human being is the highest hope for the discovery of solutions to problems far more pressing than any modern science can meet.

Our preservation of that faith, and its realization, however imperfect, is written in the history of our first two centuries. Our government has been stable so long because of the dynamism of our faith. I, for one, believe that America is stronger now than it has ever been in our history. It will be difficult ever to impair this strength so long as the rights and inherent worth of the individual are safeguarded and recognized.

This is what America has to offer over and beyond any special secrets of material accomplishment. For our faith encompasses and makes possible all else.

It is a faith that has sustained us through all adversity and, I believe, has sustained the people of Israel. It is an element that the people of America and the people of Israel can spread through a world of uncertainty.

We must not forget that the Jews made their contribution to the cultural, physical and economic development of early America, furnishing spiritual values, labor, skill and enterprise. The Tercentenary of their coming here is being commemorated this very year. At the outbreak of the American Revolution, some of these Jewish settlers had extensive interests in principal seaport towns such as Newport, Philadelphia, Charleston and Savannah. They were engaged in inter-colonial and English trade, and were large ship owners. They were in the forefront of all causes calling upon America to adhere to the highest ideals and traditions.

Although their business interests were on England's side, their abiding loyalties were on America's side. Risking ruin, almost every one of these Jews supported the colonies and volunteered men, money and other resources in the fight for freedom.

In this struggle and in others that followed on behalf of this country's freedom, the Jews continued to be true to the faith and teachings of their prophets - the faith of liberty, of humanity, of equality, and of justice.

This contribution which Jews in this country have made to its growth and development is one which they can look upon with pride. The world is watching for the people of Israel to make an increasing contribution to the free world as a model of democracy in action; to set an example of true tolerance and understanding in its relations with its neighbors; to serve as a leader among peace-loving nations; to be a standard bearer of justice and equality for all people.

The United States is proud of what it has done to strengthen the independence of Israel, just as the United States takes pride in its part in strengthening the independence of other nations. Peace in the Middle East is a major objective of United States foreign policy. That genuine peace will be obtained I have no doubt - to the benefit of Israel, her neighbors and the world.