

The Pharaoh And Church-State

It is not inappropriate that the new federal rule on affirmative action for Jews coincides with Passover.

Last week, it was noted that a new regulation of the Office of Federal Contract Compliance required private employers to take positive action to remedy current and past discrimination against Jews in executive and middle management positions. One requirement of this new regulation is that "an employer must make reasonable accommodations to the religious observances and practices of an employee or prospective employee who regularly observes Friday evening and Saturday, or some other day of the week, as his Sabbath and who observes certain religious holidays during the year and who is conscientiously opposed to performing work or engaging in similar activity on such days."



Raab

But does this raise a "church-state question" of the kind we're particularly sensitive to in California these days? Is the government thereby sticking its nose into the business of religions? Out of a suit rising from the San Francisco area, a state court has ruled that government agencies cannot give religious holidays off with pay. Instead, we are trying, through a bill introduced by George Moscone in the Senate and by Leo McCarthy in the Assembly, to enact a law which will give government employees time off on any day they designate for personal reasons.

What we have is another problem to which there is no neat solution. On the one hand, in a mixed society, if government gets "entangled with religion," to use a Supreme Court word, then democratic life is endangered. As a matter of fact, religious life is endangered. What usually happens eventually with government entanglement is that the religious needs of *some* are met; the religious needs of others (guess who) are repressed. The Pharaoh's government was "entangled" with religion.

On the other hand, a government exists finally to serve man's major needs, one of which is the ability to engage in religious observances and practices without jeopardy. Somehow, government must accommodate to those needs, where necessary, with as little entanglement as possible.

The main trick is to distinguish between the horse and the cart. We don't say: government can get involved in religion, with certain exceptions. We say, instead: Government should keep away from religion, with certain exceptions. That still leaves the problem of stingily defining the exceptions: those situations in which there is absolutely no alternative to government's involvement, if religious needs are to be met.

For government to designate religious holidays is more than an accommodation: it is a series of specific religious decisions. For the government, however, to establish the principle that everyone can take some time off for undesignated purposes—out of a recognition of religious need—is a reasonable accommodation. And those who agree (or disagree, for that matter) should write to their Assemblymen and State Senators right now to support the passage of the Moscone and McCarthy bills.

Similarly, it would be much more than an accommodation if government were to designate religious holidays which private firms must honor. But it is only an accommodation for government to say to those firms that they should try to work out a reasonable way for their employees to take off on their particular religious holidays. And now that this regulation has been laid down so firmly, any Jewish employee who has trouble with its implementation should get in touch with the JCRC.

But, in general, it is not easy to strike the balance between church-state separation and accommodation to religious needs. One of the continually vexing community relations problems of American Jews is to find that balance. And, from a community relations point of view, the best balance is the one that will best serve the overall cause of religious freedom.

That is, of course, what Passover dramatically celebrates: religious freedom. Specifically, the freedom to engage in one's chosen religious observances and practices without jeopardy, in the language of the OFCC regulation. The negotiations with the Pharaoh, and the consequent departure from Egypt, may have represented the first episode in Jewish community relations activity. One way or another, we've been at it ever since.

SAN FRN

THE SECRETARY OF THE ARMY AND NAVY DEPARTMENT

1917