

Mr. CORMAN. Since you are a proponent of the resolution what would you like us to direct it to?

Mr. HOSMER. I may be the proponent of it and I may be a lawyer, but I think in the final drafting of these things that the excellent staff which you have here and the skilled members of the committee could provide better language than I could. My point is that it ought to be made clear that this applies to such things as coinage, the State slogans, and the seals, and anything else like that, and the prayers at the opening sessions of their legislatures and so on, and does not constitute an added condition on receiving a license privilege that the State grants.

Mr. CORMAN. You would not want to overturn the *Torcaso* case where Maryland was prohibited from demanding acknowledgment of God as a condition for holding public office?

Mr. HOSMER. That is right.

Mr. CORMAN. Thank you.

The CHAIRMAN. Thank you very much, Mr. Hosmer.

Mr. HOSMER. Thank you, Mr. Chairman. I appreciated the opportunity to testify.

The CHAIRMAN. The Chair announces that we will hear Representative Becker on Tuesday at 2:30. Mr. Becker requests that we place in the record the statement of Rabbi Menachem M. Schneerson, the Lubavitcher Rabbi, Brooklyn, N.Y.

(The document referred to follows:)

SECRETARIAT OF RABBI MENACHEM M. SCHNEERSON,
Brooklyn, N.Y., April 21, 1964.

HON. EMANUEL CELLER,
*Chairman, House Judiciary Committee,
U.S. House of Representatives,
Washington, D.C.*

DEAR CONGRESSMAN CELLER: In connection with the House Judiciary Committee hearings on the issue of prayer in the public schools, scheduled to begin on April 22, we are sending you herewith a copy of a letter by the Lubavitcher Rebbe, Rabbi Menachem M. Schneerson, head of the Chabad-Lubavitch movement.

The Lubavitcher Rebbe's stand on this issue is, of course, representative of that followed by the numerous Chabad-Lubavitch congregations and followers in this country.

Very truly yours,

Dr. NISSAN MINDEL, *Secretary.*

TEXT OF THE LUBAVITCHER RABBI'S LETTER ON THE QUESTION OF PRAYER IN THE PUBLIC SCHOOLS

Greeting and blessing, * * * In reply to your inquiry as to whether or not there has been a change in my views on the question of prayer in the public schools, inasmuch as this issue has again become a topic of the day in connection with congressional efforts to introduce a constitutional amendment to permit certain religious exercises in the public schools, let me assure you at once that my views, as outlined in my letter of the 24th of Cheshvan, 5723, have not changed.

As I stated then, my views are firmly anchored in the Torah, Torah Chayim. Their validity could therefore not have been affected by the passing of time. On the contrary, if there could have been any change at all, it was to reinforce my conviction of the vital need that the children in the public schools should be allowed to begin their day at school with the recitation of a nondenominational prayer, acknowledging the existence of a Creator and Master of the Universe, and our dependence upon Him. In my opinion, this acknowledgment is absolutely necessary in order to impress upon the minds of our growing-up generation that the world in which they live is not a jungle, where brute force, cunning, and unbridled passion rule supreme, but that it has a Master who is not an abstraction, but a personal God; that this Supreme Being takes a "personal interest" in

affairs of each and every individual, and to Him everyone is accountable for one's daily conduct.

Juvenile delinquency, the tragic symptom of the disillusionment, insecurity, and confusion of the young generation, has not abated; rather the reverse is the case. Obviously, it is hard to believe that the police and law-enforcing agencies will succeed in deterring delinquency and crime, not to mention completely eliminating them at the root, even if there were enough police officers to keep an eye on every recalcitrant child. Besides, this would not be the right way to remedy the situation. The remedy lies in removing the cause, not in merely treating the symptoms. It will not suffice to tell the juvenile delinquent that crime does not pay, and that he will eventually land in jail (if he is not smart enough). Nor will he be particularly impressed if he is admonished that lawbreaking is an offense against society. It is necessary to engrave upon the child's mind the idea that any wrongdoing is an offense against the Divine Authority and order.

At first glance this seems to be the essential function of a house of prayer and of the spiritual leaders. However, anyone who does not wish to delude himself about the facts of house of prayer attendance, both in regard to the number of worshippers and the frequency of their visits, etc., must admit that shifting the responsibility to the house of prayer will not correct the situation. Nor can we afford to wait until the house of prayer will attain its fitting place in our society, and in the life of our youth in particular, for the young generation will not wait with its growing-up process.

Children have to be "trained" from their earliest youth to be constantly aware of "the eye that seeth and the ear that heareth." We cannot leave it to the law-enforcing agencies to be the keepers of the ethics and morals of our young generation. The boy or girl who has embarked upon a course of truancy will not be intimidated by the policeman, teacher, or parent, whom he or she thinks fair game to "outsmart." Furthermore, the crux of the problem lies in the success or failure of bringing up the children to an awareness of a Supreme Authority, who is not only to be feared, but also loved. Under existing conditions in this country, a daily prayer in the public schools is for a vast number of boys and girls the only opportunity of cultivating such an awareness.

On the other hand, as I have emphasized on more than one occasion, only a strictly nondenominational prayer, and no other, should be introduced into the public schools. Any denominational prayer or religious exercise in the public schools must be resolutely opposed on various grounds, including also the fact that these would create divisiveness and ill feeling. Likewise must Bible reading in the public schools be resolutely opposed for various reasons, including the obvious reason that the reading of Koran and the New Testament will arouse dissension and strife. Moreover, the essential objective is a religious expression that would cultivate reverence and love for God, and this can best be accomplished by prayer, while Bible reading is not so important in this instance.

During the time that has elapsed since my previous letter on this subject was published, my attention was called to several objections which have been voiced by opponents to my views. I will take this opportunity to explain here, within the limitations of a letter, why these objections have not convinced me to change my position on this vital issue.

1. It has been argued that the child attending public school is in the category of a "captive," since his refusal to participate in a prayer would "stigmatize" him. His participation would therefore be involuntary and an encroachment on his freedom.

In my opinion, the notion of "captivity" as applied in this case should lead to a conclusion which is quite the reverse, for the following reasons:

The child attending public school knows that his attendance is compulsory, because his parents and the government consider his education of the utmost importance. Together with this comes the recognition that what is really important and essential to his education is taken care of in the school. The child's instinctive feeling and inference from this is that anything that is not included in the school curriculum is of secondary importance if, indeed, of any importance at all. Hence, if religion (prayer) is excluded from the school, the child would inevitably regard it in the same category as an extra foreign language, or dancing, or music lessons, which are not required by the school but are left to the parents' free choice, and which the child, not illogically, considers a burden or even a nuisance. In other words, the present system of the public school education is such that it impresses upon the pupil the belief that everything connected with religion, such as knowledge of God's existence, etc., is of little consequence, or of no importance whatever.

It will neither interest nor impress the child if he were told that the exclusion of prayer from the school is due to the principle of the separation of state and church, or to a constitutional technicality. These reasons or explanations, even if they be actually conveyed to the child from time to time, will not nearly impress him as much as the plain fact itself, which reasserts itself each and every day, that nothing can be very important to his education if it is not included in the school program. Such a situation can only reinforce the child's attitude of indifference, or even disdain, to any religious beliefs.

The above would be true even in the case of a child who comes from a religious home and background. How much more so in the case of children whose parents and homes are not permeated with the religious spirit, or where religion is something which is practiced once a week, on the day of rest, or only on holidays and special occasions. This, after all, is the kind of home from which the vast majority of the public school children come, inasmuch as the truly religious parents make every sacrifice in order to provide their children with the religious education and environment of a parochial school.

2. To oppose nondenominational prayer "on constitutional grounds" is, in my opinion, altogether a misunderstanding or misrepresentation of the problem.

The issue is: Whether a nondenominational prayer wherewith to inaugurate the schoolday is, or is not, in the best interests of the children. If the answer is "yes," then obviously it should be made constitutional, for there can be no difference of opinion as to the fact that the Constitution has been created to serve the people, not vice versa.

It may be pertinent to add here that the approach that the Constitution of the United States must not be touched or amended under any circumstances, is in itself a flagrant violation of the letter and spirit of the Constitution, which has its own built-in machinery for future amendments that may be required in the public interest; machinery which has been used in the past to incorporate into the Constitution a number of amendments.

3. It is argued that the principle of separation of church and state is the only safeguard for freedom of religion, equal rights for minorities, etc.

Without going into the question whether there actually exists a strict separation between state and church in this country (for there are undeniable facts to the contrary; e.g., the institution of chaplaincy in the Armed Forces: the opening of Congress with a prayer; the motto "In God We Trust" on American currency, the emphasis on divine providence in the Declaration of Independence; etc., etc.), I submit that the validity of the argument is contingent upon the question who is behind this principle, and how is it to be interpreted and applied? Suffice it to cite an illustration from two representative states now in existence, in one of which the said principle is in full operational force, while in the other it is not. In the first, as the daily press reports, there is a calculated war on religion and religious practices, with the suppression of all religious freedom, etc. Incidentally (and perhaps it is quite relevant to our discussion), it all started there with a ban on religious instruction to young children. In other countries, for example England, there is no separation of church and state, there is religious instruction in the public schools, yet you find there complete religious freedom for all religious denominations.

4. Some argue further that the principle of separation of state and church must be maintained at all costs, in order to prevent a resurgence of religious persecution so prevalent in the Middle Ages, when an established state-religion denied equal, or any, rights to other religions, etc.

The fallacy of this argument should be quite obvious. By way of illustration: Suppose a person was ill at one time and doctors prescribed certain medication and treatment. Suppose that years later the same person became ill again, but with an entirely different, in fact quite contrary, malady. Would it be reasonable to recommend the same medication and treatment as formerly?

In medieval times the world suffered from an excess of religious zeal and intolerance. In our day the world is suffering from an excessive indifference to religion, or even from a growing materialism and atheism. Even where religion is practiced, it often lacks depth and inspiration. (The subject is too painful to discuss in detail.) Thus, if separation of church and state was necessary, it is not at all the answer to the problems of our contemporary youth. Besides, the preservation of the principle is not at stake here, and the introduction of a nondenominational prayer in the public school will not endanger it in the least. Moreover a special clause to this effect can be included in the amendment.

5. It has also been argued that if a nondenominational prayer were permitted and left to the discretion of every school board in the country, this practice could lead to abuse.

I do not consider this a valid argument. Firstly, we are talking here about a strictly nondenominational prayer, and agreement should not be difficult on this point. Nor could there be room for any undercover abuse, since the prayer would be recited openly in the school. Besides, a proviso could be made which would require the unanimous approval by the representatives of religious denominations before the particular nondenominational prayer is introduced into the school. Moreover, there is no need to compose new nondenominational prayers, as there are already such.

6. The argument that a short nondenominational prayer would have no effect on the child reciting it, could not be considered as a serious argument by anyone who has knowledge or experience in child education. On the contrary, the fact that prayer will be recited in the school and classroom, and day after day, will inevitably become an integral part of the child's thinking and is bound to be a factor which could be further cultivated to the child's advantage in terms of spiritual and psychological development.

Summarizing the above said, my standpoint indicates the following course:
(a) All efforts, petitions, etc., should be brought to bear toward the introduction of a constitutional amendment which would permit the recitation of a strictly nondenominational prayer in all public schools.

(b) At the same time it should be clearly emphasized that any other kind of prayer or religious exercise, including Bible reading, is not desirable in the public schools because of the friction and divisiveness which such a practice would inevitably entail. It would surely be detrimental to introduce an amendment which would do just that.

(c) I am gratified to see that there are representatives in Congress who expressed their support for an amendment that would permit a nondenominational prayer in the public schools, while opposing sectarian prayer and Bible reading.

(d) The whole controversy as to the constitutionality of such a nondenominational prayer is of little, if any, consequence to the problem itself. The crucial problem is how to build the ethical and moral fiber of the young generation which is educated in the public school system: Is the American child to grow up under an educational system which excludes all mention of the divine name, so that he (or she) will inevitably regard the world around him (or her) as a godless jungle; or is he (or she) to be encouraged to think that there is a Supreme Being, the creator and master of the world, who ordains justice and liberty for all, and who is the source of true blessing.

Certainly a nondenominational prayer in the public schools will not, in itself, provide an adequate basis for the right and complete world outlook, but it is an indispensable first step in this direction, considering the state of our society as it is at present, and as it is likely to remain for quite a long time, insofar as it can be judged from the prevailing conditions and factors.

With blessing.

P.S.—Not being a politician, I did not wish to include in the body of the letter the remarks that follow hereunder, which have to do not with principles but with method and good policy. However, as a citizen who has taken a keen interest in the issue and its repercussions, I cannot refrain from making the following observations:

(a) The vehement opposition to any kind of prayer and to the mention of God's name in the public schools, which, in my opinion, is unjustified and ill-conceived, and which has placed the proponents of this view in league with the atheistic and antireligious elements in this country, has inevitably called forth a correspondingly strong counterreaction. As a result, we are now faced with a concerted effort to introduce a constitutional amendment which would permit sectarian prayers and Bible readings in the public schools. I am convinced that had there been taken a more practical position in the first place, it would have been possible to bring about a peaceful solution of the controversy on the basis of a nondenominational prayer which would have been acceptable to everybody (except a few fanatical antireligionists), since such a prayer would be voluntary, and any conscientious objector would be excused from participating in it.

Unfortunately, this was not to be in the past, when the controversy flared up, and much ill feeling has already been created. If this extreme attitude should be maintained, and now resumed with renewed vigor in connection with the efforts now in progress in Washington for a congressional amendment, the result will be not only more ill will and bitterness, but also self-defeating. In such a situation it is quite conceivable that the most powerful religious denomination, or lobby, might not only impose its influence on the public school system, but might even attain at least unofficial recognition as the established religion.

(b) A further possible development which would have far-reaching repercussions in the more immediate future, should also not be ignored. I refer to the present practice of Federal, State, and city institutions to have consultant bodies consisting of representatives of the leading religious denominations in this country. Such advisory bodies often have an important influence, sometimes even a decisive voice, in the said public institutions and in public affairs in general.

It would not be too farfetched to foresee a situation, created by a sustained propaganda against any kind of religious activity in public schools and institutions, where the services of these advisory bodies would no longer be required. This would be a great loss to all concerned, and especially to the public at large. Should this come to pass, the first to be affected would be those religious representatives and religious organizations which were in the forefront of the battle against the mention of God's name in the public schools. This would leave the field open to their opponents, and would accomplish the exact opposite of the intended objective. Under such foreseeable circumstances, no police supervision could adequately protect minority rights in those institutions, all the more so since the religious representatives of those minorities had by their stand excluded themselves from any active part in those public institutions.

The CHAIRMAN. We have our distinguished colleague from Florida, Representative Matthews. We are glad to have you.

TESTIMONY OF HON. D. R. MATTHEWS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. MATTHEWS. Mr. Chairman and gentlemen of the committee, with your permission I would like to file this statement for the record and talk, if I may, extemporaneously.

The CHAIRMAN. We will be glad to accept the statement.
(Mr. Matthews' prepared statement follows:)

STATEMENT BY CONGRESSMAN D. R. (BILLY) MATTHEWS, EIGHTH DISTRICT, FLORIDA

Mr. Chairman and members of the committee, I welcome this opportunity to join with you today in seeking a solution to the problem created by the unfortunate decisions of the Supreme Court in *Engel v. Vitale* (370 U.S. 421 (1962)) and *Abington School Dist. v. Schempp* (374 U.S. 203 (1963)). As we all know, the Court, in these two cases, held unconstitutional a simple and denominationally neutral prayer as well as Bible reading and/or recitation of the Lord's Prayer when used as part of opening exercises in the public schools of New York, Pennsylvania and Baltimore, Md., respectively. In the belief that these decisions have "misapplied a great constitutional principle" and run counter to our religious heritage, I have introduced a joint resolution (H.J Res. 707) proposing an amendment to the Constitution of the United States permitting (1) on a voluntary basis the offering of prayers and the reading of the Bible in our public schools, and (2) preserving the right of reference to God in governmental exercises, by denying an absolute divorce of religion from every aspect of American public life.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof * * *.

Mr. Chairman, these, the opening words of the first amendment to the Constitution of the United States sought to avoid, not to borrow trouble. For the greater portion of our constitutional existence, they have served most effectively to create an atmosphere of mutual respect and noninvolvement that has permitted both church and state to flourish and thrive. In stark contrast to this singularly wholesome experience, the Supreme Court, in recent years, has sought to give that amendment a construction never intended by the framers of the Constitution. The decisions in the prayer cases are based on the erroneous assumption that the first amendment was designed to effect an absolute divorce of religion from every aspect of American public life. As Dean Griswold, of the Harvard Law School, has so brilliantly pointed out, "Absolutes are likely to be phantoms eluding our grasp. Even if we have embraced them, they are likely to be misleading. If we start from absolute premises, we may find that we only oversimplify our problems and thus reach unsound results. It may well be that absolutes are the greatest hindrance to sound and useful thought—