

## THE PROMISE AND THE STRUGGLE

A STUDY FOR THE SHABBAT OF JULY 4<sup>TH</sup> WEEKEND / PARSHAT CHUKAT

### Types of Mitzvot

- משפט** The rabbis explain that the mishpatim are laws that any reasonable and moral person or society could arrive at even without the Torah. Commandments against robbery, murder and incest are examples of mishpatim. (Artson)
- חוק** Chukkim are commandments that demand observance even where no reason or rationale is provided or can be ascertained. These are observed as a consequence of faith in God rather than the perceived benefit or sense of the commandment itself. (Artson)

**In 1781, 13 states ratified the Articles of Confederation. This agreement was not adequate for many. Those who wanted a stronger federal government began to meet in Philadelphia in February 1787 to frame a new constitution for the young nation. As it took shape, many wondered how it would treat a whole range of controversial issues. Many wanted it to safeguard the right of religious liberty. Here Jonas Phillips (1736-1803) of Philadelphia urges the framers to maintain respect for freedom of conscience and to confer “equal footing” under the law to all. Article VI would forbid a religious test as requirement for holding office, but still others pressed harder which would lead to the Bill of Rights.**

JONAS PHILIPS, ASKING THE CONSTITUTIONAL CONVENTION TO EMANCIPATE PENNSYLVANIA’S JEWS

SEPTEMBER 7, 1787

Sires:

With leave and submission, I address myself to those in whom there is wisdom, understanding, and knowledge; they are the honourable personages appointed and made overseers of a part of the terrestrial globe of the earth, namely the 13 United States of America in convention assembled, the Lord preserve them, amen.

I, the subscriber, being one of the people called Jews, of the city of Philadelphia, a people scattered and dispersed among all nations do behold with concern that among the laws in the constitution of Pennsylvania, there is a clause, sect. 10 to viz., “I do believe in one God the creatur [sic] and governor of the universe and rewarder of the good and the punisher of the wicked and I do acknowledge the Scriptures of the Old and New Testament [sic] to be given by divine inspiration.” To swear and believe that the New Testament was given by divine inspiration is absolutely against the religious principle of a Jew, and is against his conscience to make any such oath. By the above law a Jew is deprived of holding

any public office or place of government which is a contradictory to the Pennsylvania Bill of Rights, sect. 2 viz:

That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience and understanding, and that no man ought or of right can be compelled to attend any religious worship or [accept a] creed, or [erect or] support any place of worship, or maintain any minister, contrary to, or against his own free will and consent. Nor can any man who acknowledges the being of a God be justly deprived or abridged of any civil right as a citizen on account of his religious sentiments or peculiar mode of religious worship. And that no authority can or ought to be vested in or assumed by any power whatever that shall in any case interfere, or in any manner control the right of conscience in the free exercise of religious worship...

It is well known among all citizens of the 13 United States that the Jews have been true and faithful Whigs[supporters of the revolution against England], and during the late contest with England they have been foremost in aiding and assisting the states with their lifes and fortunes. They have supported the cause, have bravely fought and bled for liberty which they can not enjoy.

Therefore if the honourable convention shall in their wisdom think fit and alter the said oath and leave out the words...then the Israelites will think themselves happy to live under a government where all religious societys are on an equal footing. I solicit this favour for myself, my children, and posterity, and for the benefit of all the Israelites through the 13 United States of America.

My prayer is unto the Lord. May the people of these states rise up as a great young lion; may they prevail against their enemies; may the degrees of honour and of his Excellency, the president of the convention, George Washington, be exalted and rise up. May everyone speak of is glorious exploits.

May God prolong his days among us in the land of liberty. May he lead the armies against his enemys as he has done hereuntofore. May God extend peace unto the United States. May they get up to the highest prosperitys. May God extend peace to them and their seed after them so long as the sun and moon endureth; and may the almighty God of our father Abraham, Isaac, and Jacob indue [sic] this noble assembly with wisdom, judgment and unanimity in their counsells; and may they have the satisfaction to see that their present toil and labour for the wellfair of the United States may be approved of through all the world and particular by the United States of America, is the ardent prayer of sires.

Your most devoted obed. Servant,

Jonas Phillips

Philadelphia, 24<sup>th</sup> Ellul, 5547, or Sep'r 7<sup>th</sup> 1787

**In 1695 the colony of New York passed an act against the profanation of the “Lord’s Day,” but it was abrogated during the Revolution, when the colony severed its allegiance to Great Britain. After an unsuccessful attempt to re-enact the Sunday law in 1781, a new bill, was introduced in 1788. It was based on the 1695 statute which originally stated it sought to stop the profanation of the worship of God, “to the great scandal of the holy Christian faith.” The 1788 law called for no “traveling, servile labour, working, shooting, fishing, sporting, playing, horse-racing, hunting, or any unlawful exercises or pastimes, by any person or persons within this state [NY], on the first day of the week, commonly called Sunday...and that no person shall...expose to sale any wares, merchandise, fruit, herbs, goods, or chattels, upon the first day of the week, commonly called Sunday...”**

ABSTRACT OF THE SPEECHES BY SOME NY ASSEMBLYMEN 2.12.1788

Mr. Benson moved that the 38<sup>th</sup> article of the constitution should be read.

And Whereas, we are required, by the benevolent principles of rational liberty, not only to expel civil tyranny, but also to guard against that spiritual oppression and intolerance wherewith the bigotry and ambition of weak and wicked priests and princes have scourged mankind, this convention doth further, in the same and by the authority of the good people of this state, ordain, determine, and declare, that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever hereafter be allowed, within this state, to all mankind: Provided, That the liberty of conscience, hereby granted, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

Which being done, he [Mr. Benson] moved that the said clause be rejected. (Mr. Dongan seconded the motion). Mr. Benson’s reasons for this motion were that he thought the legislature had no power to pass the bill, as it was repugnant to the constitution, and that it was in itself manifestly improper, as the same principle that would establish any particular day for the worship of the Deity might also describe the mode, and this would lead to intolerance and persecution. If there were any of our citizens who neglected that part of their duty, he thought that government ought not to interfere in it, as they were responsible only to the Deity.

He observed that the first law for establishing a particular day of the week as a day of worship had originated in the days of James I, that this law had been adopted by the colony, which, if it had not been virtually repealed by the constitution, would now be in force. By the constitution, not only all religion was tolerated, but every religious sect placed in perfect equality. The consequence, therefore, of passing the clause would not only be a violation of the rights of others, but of the constitution.

To illustrate this proposition, he said, a Jew, to be consistent with himself, is obliged to keep holy the 7<sup>th</sup> day of the week, which is Saturday, and to prohibit him from working on a Sunday would be taxing him one sixth part of his time. This was not equal liberty, one of the boasted blessings of our government. He stated...if any men from religious motives were advocates for this bill, they mistook themselves; the Great Author of our religion required no human laws to support it [religion].

Mr. Sylvester said the bill appeared to him to be as important as any that has ever been before the house. He did not think the arguments of Mr. Benson were by any means conclusive. He believed it would be difficult for him, by the most forced implication, to show that the clause in question was contradictory to the constitution; and with respect to people of different religion denominations, they were not compelled to worship on that day.

As this was a subject on which he had great anxiety, he would attempt to show that it would be an exceeding proper bill, and that the house would do well to pass it...He then spoke of the constitution. He said it was only intended to give liberty of conscience to all religious denominations, but if by legal or equitable interpretation it would bear a construction so as to repeal the old Sunday law, he thought it would be one good reason for a new constitution...

He asked why the legislature of this state and of his country, as well as all courts of justice, omitted doing business on that day, and why it was called the Lord's day, and not a law day. Why should we, said he, pretend to be so much wiser than our ancestors, by abolishing this good custom, this reasonable service to the Deity? Sabbath-breaking is an offence against God and religion, hitherto punished by the municipal laws of this as well as other countries, in opposition to the notorious indecency and scandal of permitting any secular business to be publicly transacted on that day, in a country professing Christianity, and the corruption of morals that usually follows its profanation.

The keeping one day in seven holy, as a time of relaxation and refreshment, as well as for public worship, is of admirable service to a state, considered merely as a civil institution...It imprints on the minds of the people that sense of their duty to God so necessary to make them good citizens, but which would be worn out and defaced by an unremitted continuance of labour, without any stated times of recalling them to the worship of their Maker.

In regard to any religious denominations who may have scruples of conscience respecting that day, as to himself, he had no objections to excuse them from the penalty of the law, provided they did not interrupt the public worship of others...

It is likewise evident that the day which the Christian Church has in all ages observed, and doth still observe, which is commonly reckoned the first day of the week, is the day which is the will of Christ we should observe as our Christian Sabbath...

Mr. Benson said he was not contending against the observance of the Lord's Day; what he wanted was equal liberty and an adherence to the constitution.

Mr. Sylvester said that rejecting the bill would be one of the most imprudent steps the legislature could be guilty of, as disregarding that solemn day would tend to no religion at all, except the religion of nature. The gentlemen, he said, had asked what right the legislature had to interfere in divine worship; he did not admit that it was an interference to prohibit them travelling by [past] churches and disturbing congregations. But with respect to Jews and others, he would have no objection to new model [alter] the clause so as not to prohibit them from work in their houses if they made conscience of it, and to do such things as should not interfere with the public worship of others...those Jews who were in the state had made no complaints. Why, therefore, said he, should every thing be set afloat, especially as no difficulties had yet occurred?...

Mr. Dongan thought that the gentlemen (Mr. Sylvester) had not come to the point in question at all. The constitution, he believed, was in direct opposition to the bill, and this assertion had not

been confuted. But he did not object to it on this ground alone; he feared that it would lead to oppression.

Mr. Jones begged the indulgence of the committee for a few moments. The bill under their consideration was, in general, a compilation of the old colony laws, which it become[s] the duty of the revisers of the laws to bring forward. The question to be decided was, whether the constitution had abrogated them...He would proceed to consider what was the import of that article of the constitution. If, said he, the bill had declared that a man should go to one church or to another, or that he should hear service in any particular language, then it would, in his opinion, be against the constitution. But there was not a thing in the bill about religious worship, unless drunkenness, horse-racing, etc., were deemed acts of religion. Every man was left to worship the Almighty in the way that pleased him, and he might keep what day he pleased; but if he does not choose to keep the Sabbath, do not let him disturb them that do...He was free to declare that the bill did not in any shape militate against the constitution, as it did not give any undue preference, or make any discrimination...

Mr. Benson said he did not consider the subject as trifling, and he trusted the honorable gentlemen last on the floor had also an idea of its importance, though he did not believe he considered it as solemnly as he did. The gentleman had said there was nothing in the bill contrary to the constitution. He [Benson] had declared that in his opinion the act was against the constitution, and from the reasoning of the last gentleman on the floor, he was convinced of the truth of his assertion. IF the constitution was taken up and refined upon, as it must be before the bill could pass, the whole might be refined away. The bill did not declare that a man should worship the Deity in the same mode as those who passed it, but it declared that he should do as they did, and it was an indirect way of making one man adopt another man's beliefs.

He referred again the situation of the Jews. This was one of his objections. The Jew may not labor on our Sabbath, but on his you permit every body to work. The gentleman who advocated this bill in the first instance had said, let the Jew work in his house. See, said he, what a refinement this is; and such, he said, must take place if the bill passed. The gentleman was mistake; the idea of fixing a day gave rise to all the persecutions of the age in which it originated. In the writings of the primitive fathers, the gentleman might also have found many errors that they established, and which proved fatal to numbers [many people]. Sir, said he, why is it that we will not do unto others as we would they should do unto us? Suppose a Jew should say, you offend me by working on the Saturday, and for which he will say he has a positive command. Why has he not as good a right to a law to prevent his sect being disturbed, as any other sects in the community? They, by the constitution, are to enjoy equal rights and privileges. It was a fact, he said, that unhappily for these people, to avoid the noise which is common on Saturday, they were obliged to have their houses of public worship in retired places...he repeated it again, that passing this bill would be a violation of the constitution...It was arrogance in any legislature to interfere and make laws to support religion...Suppose there was a majority of Jews in the state. Upon the same principles that this bill would be passed, they might declare that Saturday should be set apart as a day of public worship, under the same restrictions and penalties. Besides the inconvenience respecting the Jews, there was many others that it would affect. When does the Sabbath commence? In New England, people suppose it to begin on Saturday evening, as did many people in this state. And how was this to be defined? He did not wish to be understood that he was against the observance of the Sabbath. On the contrary, he supposed

it to be the duty of every man. If a man supposes he can consistently labor on that day, do not prohibit him... If, said he, this bill is passed, the constitution will be egregiously departed from. He would say no more on the subject...

Mr Sylvester replied that he was confident there could not but be a majority in the house, notwithstanding what had been said...It was sufficient that a majority of the Christian world had adopted a day, and from which no inconvenience had arisen. As to the constitution being departed from, he could not agree that this bill could have such an operation.

[the Bill passed 34 to 5]

**The Constitution was signed by 39 of the 55 delegates on September 17, 1787. The delegates then needed to take it back to the States for approval. 9 or the 13 states needed to agree to sign onto it before it could formally come into existence. Delaware was the first state to ratify it on June 22, 1787. New Hampshire was the 9th state to ratify it on June 22, 1788. Rhode Island is a hold out. As a small state formed from dissenter religions from Protestantism they are not going to join until the Bill of Rights is attached. They finally sign onto the Constitution on May 29, 1790. By this time Washington is already made the first president by acclamation and receives letters from all sorts of groups sharing congratulations. The letter below comes from the Jewish congregation of Newport as Washington prepares to visit the final State to ratify the constitution.**

EXCHANGE OF LETTERS BETWEEN THE NEWPORT CONGREGATION TO THE PRESIDENT OF THE UNITED STATES OF AMERICA

AUGUST 17, 1790

Sir, Permit the Children of the Stock of Abraham to approach you with the most cordial affection and esteem for your person and merits— and to join with our fellow-citizen in welcoming you to New Port.

With pleasure we reflect on those days—those days of difficulty and danger, when the God of Israel, who delivered David from the peril of the sword—shielded your head in the day of battle:—and we rejoice to think that the same Spirit, who rested in the bosom of the greatly beloved Daniel, enabling him to preside over the Provinces of the Babylonish[sic] Empire, rests, and ever will rest upon you, enabling you to discharge the arduous duties of Chief Magistrate in these States.

Deprived as we have hitherto been of the invaluable rights of free citizens, we now, (with a deep sense of gratitude to the Almighty Disposer of all events) behold a Government (erected by the Majesty of the People) a Government which to bigotry gives no sanction, to persecution no assistance—but generously affording to All liberty of conscience, and immunities of citizenship—deeming every one, of whatever nation, tongue, or language equal parts of the great governmental machine. This so ample and extensive federal union whose basis is Philanthropy, mutual confidence, and public virtue, we cannot but acknowledge to be the work of the Great God, who ruleth in the armies of Heaven, and among the inhabitants of the Earth, doing whatsoever seemeth him good.

For all the blessings of civil and religious liberty which we enjoy under an equal and benign administration we desire to send up our thanks to the Antient of days, the great Preserver of Men—

beseeking him that the Angel who conducted our forefathers through the wilderness into the promised land, may graciously conduct you through all the dangers and difficulties of this mortal life—and when like Joshua full of days, and full of honor, you are gathered to your Fathers, may you be admitted into the heavenly Paradise to partake of the water of life and the tree of immortality.

Done and signed by order of the Hebrew Congregation in New Port, Rhode Island, August 17<sup>th</sup>, 1790.

Moses Sexias [sic] Warden.

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AUGUST 21, 1790

Gentlemen:

While I receive with much satisfaction your address replete with expressions of affection and esteem, I rejoice in the opportunity of assuring you that I shall always retain a grateful remembrance of the cordial welcome I experienced in my visit to New Port from all classes of Citizens.

The reflection on the days of difficulty and danger which are past is rendered the more sweet from a consciousness that they are succeeded by days of uncommon prosperity and security.

If we have wisdom to make the best use of the advantages with which we are now favored, we cannot fail, under the just administration of a good government to become a great and happy people.

The Citizens of the United States of America have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy; a policy worthy of imitation. All possess alike liberty of conscience and immunities of citizenship.

It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights. For happily the government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support.

It would be inconsistent with the frankness of my character not to avow that I am pleased with your favorable opinion of my administration, and fervent wishes for my felicity.

May the children of the Stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants, while every one shall sit in safety under his own vine and fig-tree and there shall be none to make him afraid.

May the Father of all mercies scatter light and not darkness in our paths, and make us all in our several vocations useful here, and in his own due time and way everlastingly happy.

G. Washington.