



When the Walls of Strict Separation Come Tumblin' Down

By Michael Gottsegen

In this past Sunday's New York Times Magazine, Jeffrey Rosen, legal affairs editor for The New Republic, reports on the social, political and legal changes that have eroded the wall of strict separation that the Courts had erected between Church and State. In the article, "Church and State: How the Wall Came Tumbling Down," Rosen argues that, over the last two decades, the tide has turned against the courts' treatment of religion as a strictly private affair, as something that must be kept from intruding upon the pure secularity of the public sphere.

The political impact of these jurisprudential, social and cultural shifts have made themselves felt in "Campaign 2000," as each candidate has tried to outdo the next in proving his Christian bona fides. The character question that has dominated the campaign so far also resonates with this ongoing struggle for the religious soul of America. So, too, do the focus upon school vouchers and the support of candidates from right and left for faith-based social service delivery. The wall of strict separation, it seems, is eroding fast.

Is the lowering of the wall between church and state to be mourned or praised? This can be treated in terms of further questions. Would the further lowering of this wall be good for America? Would it be good for the Jews? Would America be a better place if the wall were lower or higher? Would Jewish life be better if the wall were lower or higher?

First, we must consider the American question. Has the de-Christianization of the public square served the public good? Has it strengthened our national fabric and the quality of life in our communities? The answer, it seems, is far from simple. On the one hand, it has been for the good inasmuch as it has helped to diminish legal, social and economic discrimination against religious (and ethnic) minorities and has helped America to hew closer to the meritocratic liberal ideals of freedom and equality. Removing the religious symbols of the Christian majority from our schools and courthouses has also helped to create a more inclusive American identity. Furthermore, breaking the tie between church and state has diminished the danger that the state will be idealized and made an object of idolatrous worship and pseudo-sanctification.

At the same time, however, the erection of the high wall has undercut a vital mechanism of socialization. At its best, public religion was capable of engendering not only private virtue, but of transmuting private virtue into public virtue and into selfless commitment to the common welfare. But the banishment of religion from public life served to devalue religion and undermined its ability to perform this function effectively.

Jewish religious and communal life was similarly affected for good and ill. As individuals, Jews found a place for themselves within the broadened conception of American identity. But the general marginalization of religion in American life diminished the significance of Judaism in their lives. And to the degree that this marginalization opened the way generally to forms of individual and social pathology, the Jews were hardly spared.

In an economic and social sense, the neutral public square seemed like a godsend. The American Jewish Congress and the Anti-Defamation League were correct in their assessment that Jewish advancement would be accelerated if the public square -- and socio-economic life more generally--were emptied of religious content and symbols. In the meritocracy they sought to create, religious affiliation would be a strictly private matter and of no public or economic consequence. The continued support of most Jews for maintaining strict separation suggests the continued strength of this ideal. Jews fear that the inevitable re-Christianization of America could only work to their detriment, both individually and collectively. According to this view, parochial school vouchers will lead to school prayer, a recrudescence of anti-Semitism, and an end to Jewish socio-economic advancement.

It is also possible, however, that in the religiously pluralist, multi-ethnic and multi-cultural social reality of today's America, the lowering of the wall might serve the common good without discriminatory and otherwise pernicious consequences. It could be argued that while the strict wall of separation was necessary in the epoch that is now behind us, it is no longer so. After all, the Protestant Establishment is no more and the texture of religious and social life in America has changed irrevocably. In our multi-cultural present and future, more public support for the religious per se need not translate into support for one religion or one group at the expense of another. It need not threaten the real advances that have been made in creating a liberal and meritocratic society.

This is, moreover, the direction in which the political and cultural winds are blowing. The question is how to harness the power of these forces to a good end. The strategy I would recommend is one of indirect governmental support for religion that would seek to enable religion to do its important work within the private and social spheres while keeping the public square free of sectarian religious display. The state must be religiously neutral not in the sense of opposing all religion, but in the sense of providing support for all religions (and irreligion). It must also preserve its neutrality by refraining from identifying itself

with any one religion; doing otherwise would exclude those who belong to another religion, or have none at all, from equal citizenship.

Thus the state might support a school voucher program that in effect acknowledges the public utility of religious education, but favors no particular denomination and can be used equally by parents who want to send their children to non-religious private schools. The state might also direct funds to faith-based social service organizations in the hope that such organizations will do for social services what the parochial schools have done for inner city education. The latter have been so effective not only because their classes are smaller, but presumably because these schools are imbued with a particular faith-based world view and conception of human possibility that deeply informs the entire educational process. Imagine welfare agencies, homeless and battered women's shelters and job training programs that were imbued with an analogous spirit. For many clients this value rich and religiously inspired orientation might be just what they need to turn their lives around. Of course, nobody should be compelled to receive social services from faith-based providers - perhaps a voucher system might also make sense in this context - but those who want to avail themselves of such an option should be entitled to do so.

Since it is not the business of the state to support any particular religion, the strategy of indirect support that I am advocating would keep crèches and menorahs off of public property, and sectarian prayer and religious symbols out of the public school classroom. In this respect, the approach I am arguing for is more liberal than democratic, and would restrain the majority's right to public self-expression out of sensitivity for the feelings of those who could not possibly identify with such sectarian symbols.

The wall of strict separation has begun to topple. Fighting to maintain it in all its purity is a losing proposition and distinctly out of step with the times. More prudent by far would be a stance that selectively accommodates this reality and knows where to draw the line. In its heyday, the high wall was a good thing for America and for the Jews in America. But the pendulum swung too far. The public, social and individual goods that religion can create were undercut to our collective detriment. Now, however, the pendulum has begun to swing back towards the center. Our important task at this hour is to help define that center and to insure that the pendulum does not now swing too far in the opposite direction.

