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Religion and Politics in Israel, 1984.

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Religion and Politics in Israel Daniel Jeremy Silver November 25, 1984

Both the United States and Israel are democracies, but there are some fundamental differences in the way they are organized. In this country we elect the President directly. In Israel the Prime Minister is elected by the Kenesset from among its members. We elect our legislature regionally: The Senate by state; the House of Representatives by Congressional district. In Israel the entire membership of the Kenesset is elected at large. We choose between individual candidates. In Israel people vote for a party list.

These differences are well-known. Less well-known, but perhaps of greater importance, is the fact that our life is governed by a written constitution and Israel has no written constitution. This was not the original intent of Israel's founding fathers. In November of 1947, after the Partition Resolution was accepted by the United Nations, the Jerusalem Section of the Jewish Agency asked a noted specialist in constitutional law, Dr. Leo Cohen, to draft a proposed constitution for the new state. Dr. Cohen's document of a preamble and ene nime chapters was submitted to the Provisional Council where it floundered interviewed within the Zionist movement from its inception. of definition when The Zionist movement drew together and those who were convinced of the need for ON A NALLINAL LOAVE BUT a national home for the Jewish people. There was no agreementthe shape of that national home. HLate in his career Theodore Herzl had published a utopian novel, The Old New Land, in which he envisioned the several decades after its establishment. He pictured a land settled by Jews but otherwise indistinguishable from other industrial democracies. Judaism

touches his land lightly. The community has a day off on the Sabbath rather than on Sunday. Rosh Hashanah was an official holiday, but beyond this there was little Jewishness to the Jewish state. Ziorist groups which drew their membership primarily from the traditional community had another vision. The Mizrahi, an acronym for Merkaz Ruhani, a spiritual center, looked forward to a nation where life would be governed by the halacha. Their Jewish state would be substantively different from Sweden or Denmark because it would be organized following the principles of rabbinic Judaism rather than Western law and practice.

In his preamble Dr. Cohen had thanked God for having brought Israel out of exile and reestablished the people in the Holy Land. The Sabbath and the Holy Days were to be legal holidays. Those religious courts which functioned during the Mandate would continue to have authority in matters of personal status, but the state would have its own court system headed by a Supreme Court which would have the power of judicial review. The law of the land would continue the pattern of English law which had operated during the Mandate period, but it was also suggested that new legislation should be framed in line with traditional Jewish norms. The state was to guarantee freedom of conscience and religious assembly, but, at the same time, the state was to be the state of the Jewish people. Dr. Cohen, clearly, envisaged a major role for the for the formed for our religious civilization with tradition with tradition of our re-

The document was set of the set of the more numerous followers of various socialist ideologies argued that the rabbinic courts should not be constitutionally established. They did not want to see the set courts established permanently. Others wanted to include the constitution contained provisions safeguarding the rights of those who did not want to submit themselves to the authority of the religious courts. They specifically sought to have the right of civil marriage authorized.

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Across the aisle the traditionalists were concerned that the constitution enshring values which ran counter to the rabbinic tradition. Dr. Cohen's draft contained an absolute prohibition of capital punishment and an absolute requirement of legal equality for and women. Rabbinic law narrowly circumscribes capital punishment, but the Torah specifically permits it and the traditionalists, though not necessarily in favor of the death penalty, felt that the constitution of a Jewish state should not flaunt a stipulation of the Torah. The gender issue was a more complicated one. Jewish law assumes a privileged position for men in public matters. A woman's testimony in not accepted in traditional courts. Maimonides capsuled this position in his <u>Mishnah Torah</u> when he wrote "kinship is not to be allowed to women, which means that women are not to occupy public office." Here again, the provisions of the new constitution ran counter to the tradition.

The Mizrahi, who later became the National Religious Party, were willing to go along with the idea of a written constitution provided it was not framed in a way which disparaged the Torah. But they were out-orthodoxed by the Agudah Yisroel which represented those who had opposed the Zionist movement on the ground that the rebuilding of the state was to be God's work and not man's. When the messiah came then Jews would have their own state. The Agudah Yisroel were determined that Israel should not have a constitution. Why? The Jewish people already had a constitution. The Torah was Israel's constitution. Within the traditional community the strictest groups are almost always able to pressure the more moderate wheel the technic and the Agudah kept up an unrelenting attack.

After two years of discussion the idea of enabling a written constitution was abandoned. In June of 1950 the Kenesset passed a resolution which was hailed as a compromise: no constitution now, but from time to time the Kenesset would pass laws which they would stipulate as "basic laws." These would be of constitutional power and in time add up to a constitution.

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The governing Labor Party of Ben Gurion accepted this compromise because it was a face-saving device which allowed them to get on to other pressing business. The nation was under attack from the Arab states. The economy was in shambles. Tens of thousands still languished in the Ma'abarot. Ben Gurion, however, tried to limit the reach of the religious parties by announcing a doctrine which stipulated the contin ance of the religious status quo. The religious courts - Muslim, Christian and Jewish - which had controlled the laws of personal status before 1948, would retain that authority. Restrictions in place before 1948 would remain in place. It was a strange compromise for it meant no busses on the Sabbath in areas where they had not been permitted during the Mandate period; but in Haifa where the busses had rolled on the Sabbath they could continue to run. This compromise was not destined to last for long.

Since 1950 several basic laws have been passed. Most of them deal with administrative matters, none touching on the crucial synagogue-state issue and, as always, the delay facing a problem has only aggravated the situation.

Israel has had eleven national elections. In each the religious parties have received from 11 to 12 percent of the vote. No party has ever received a majority. As a result, Israel has always been governed by one coalition emanate Since the major parties differ extensively on foreign and economic policy and the religious group is a single-issue group, they are ideal bedfellows in any coalition and will enter any coalition if the price is right. When the Labor Party was in power they did not have to abandon their support for socialist economics to bring the religious parties into the Cabinet. When the Likud came to power, they did not have to abandon their views on Judea and Samaria or the economy to bring the religious bloc, into the Because of their pivotal importance to any coalition, the religious parties have been able, by hard negotiation, to gain each election a number of new advantages, each of which cut away at Ben Gurion's plan to maintain the status quo. In 1952 10 the NRP gained from the Labor government's agreement a law prohibiting

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marriage. In the 60's the religious parties gained what has become permanent

control of two ministerial portfolios: that of Religious Affairs and of the

Interior. Each set of negotiations has involved promises that increased sums would be apportioned to the workingt and holatin.

When Mr. Begin came into power for the first time, the enabling document

ran to 85 provisions of which some 50 odd dealt with the interest of the re-

ligious bloc. The Begin government agreed to revise the autopsy law so as to give any member of the deceased's family a veto over this procedure. The abortion law was to be amended to nearly limit the ability of doctors to certify the need of such an operation. Traditional Jews were to be given special consideration upon entry in terms of settlement. Places were to be found for them near areas where there was already a traditional population and special monies were to be set aside for their housing. Increased amounts were to be given to the various orthodox religious institutions and the government agreed not to exercise control over the user of these monies. Another item stipulated that orthodox Jewish girls, when they were called up for military service could gain exemption simply by stipulating that they could not serve because of religious scruples. Another paragraph guaranteed that the government would submit to the Kenesset a law revising the Law of Return so that its terms would no longer cover those in who had been converted by Reform or Conservative rabbis.

From the beginning the constitutional issue lay between those who believed that states' laws should reflect the values most modern societies believe to be fair and equitable and those who accepted only the ultimate authority of God's law. Since the halacha had successfully controlled Jewish communal life for several thousand years, it dealt with most aspects of communal organization and the traditionally oriented could argue that it could be used successfully as the basis of a modern sovereign society.

Areas of stress appeared early on, particularly in the area of marriage. A judge of the Supreme Court of Israel by the name of Haim Cohen decided to marry.

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The problem was that he was a <u>Kohen</u> and his intended a divorcee and by Jewish law a <u>Kohen</u> may not marry a divorced woman. In the end a justice of the Supreme Court of Israel had to go to Cyprus to be married, hardly a becoming situation for a responsible citizen of a free society. By Jewish law the child of a prohibited marriage is called a mamzer and

Those in this status may not marry those who do not share this unwanted status

6 and the children of such a marriage retain their disadvantaged status.

This old pattern was bound to create problems and did. A certain Mrs. Langer had been married before World War II to a man who had converted to Judaism. During the Holocaust they were separated and lost sight of each other. She survived and came to Israel. Believing that her first husband was dead, she remarried and this marriage produced two children. Years pass. The children are grown. Unexpectedly, the first husband reappeared. By Jewish law the two children of the second marriage were now mamzerim. Both young people were new members of the appealed to the rabbinic courts for release from this arbitrary disqualification. The courts dithered. The Langers used protectia Moshe Dayan raised the issue in the Kenesset. The public was aroused and the Ashkenazic Chief Rabbi decided he had better do something about this issue before too many powerful people get exercised. Goren hastily convened a bet din which, after investigation, discovered that the original husband no longer had the document which proved that he had converted and hastily ruled that that conversion had not taken place and, therefore, under Jewish law there had not been a marriage. QED the second marriage was Mrs. Langer's first, her children were legitimate and everyone was relieved except for those who cared about the quality of life in the Jewish state and the respect which Judaism ought to command.

Recall that the first law passed by the Kenesset was the Law of Return . a stipulated that any Jew would be granted admission and citizenship. The Law of Return grew out of the brutal experiences of the 30's and 40's when the doors of most nations were closed to the Jewish people. Never again would the

Jewish people lack a safe haven. It's a simple law, but it raises a number of practical questions: Who qualifies under the law for admission? Who is a Jew? During the Holocaust many were cut adrift from their families and could no longer prove, as you must prove in Jewish law, that their mother was a Jew. There us Many children who had no knowledge of their parents. There were many families where the mother was not a Jew, but the father was, and the family had been

pursued and imprisoned as Jews. If the <u>halacha</u> was rigidly enforced therefore the therefore the therefore the the danger that many who had suffered as Jews and lived as Jews would be denied admission under the Law of Return.

When halachicly interpreted, the law created other problems. When the B'nai Israel of Cochin began to apply for aliyah, the rabbinate began to raise questions. The B'nai Israel had remained Jews for hundreds of years under difficult circumstances, but there were no rabbis among them for some generations and, thus, no one could certify that their marriages were all kosher. They came, but they were not made to feel wholly welcome.

The Brother Daniel case pointed up the contradictions in the halachic approach that you are a Jew if your mother is a Jew or if you had converted. Under the halacha you remained a Jew even if you convert to another religion. Why? There is a rabbinic principle to the effect that even if a Jew sins he remains a Jew. Brother Daniel was a Polish monk. His Jewish parents had him in a Carmelite monastery when the Nazis invaded their country. They had been killed. The child was spared and raised by the Carmelites. He appreciated their love and attention and became enamored of the Church to the point where he became a monk. Then, for reasons that Dr. Freud might understand, Daniel felt he could fulfill AND That he mant his mission only in the Holy Land, 🐲 applied for citizenship under the Law of Return. Israel did not seek to exclude him. You can become a citizen through a process of naturalization as you can in the United States. But Daniel'needed, for his own reasons, to come as a Jew under the Law of Return. The rabbinate ruled that he i this was too much for most Israelis and the case was a Jew,

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taken from the religious courts to the Supreme Court which ruled that an apostate

was no longer a Jew under the terms of the Law of Return. No one protested that

decision, but from that moment the religious parties began to move energetically

to insure that in matters of personal status the decisions of the religious courts

would not be subject to review by the Supreme Court. They have not gained their

ends - as yet - but they continue to press strongly for that conclusion.

Power corrupts. Some religious institutions have been accused of misusing public funds. Some among the religious have succumbed to the arrogance of power and have become physically assertive. Recently, is traditional extremists entered a Jewish cemetery, exhumed the coffin of a woman whom they claimed was not a Jew and left her body rotting on the surface. In their eyes it was a desecration of a Jewish cemetery to have such a body in that place. To most of us the desecration was of their doing. The papers have reported a number of incidents where extremists among the <u>haredim</u> have gone into the business or apartments of non-<u>haredim</u> who live nearby the areas where they tend to be a more and vandalized these places.

A few days ago the Jerusalem Post reported that Jerusalem's mayor, Teddy Kollack, had found it necessary to complain to the chief Ashkenazic rabbi of the city about certain leaflets which he had signed that been distributed **EREV** on Rosh Hashanah and in the French Will area and called on the local people to avoid Conservative or Reform synagogues as places of desecration and alien growth. Why did the mayor find it necessary to call the chief rabbi of Jerusalem to task? Pamphlets have a short life, but there has been a significant rise in violence by traditionalist extremists and Kollack whether the rabbi was exacerbating the issue.

Traditionalists' demands are various and many. Recently, the <u>haredim</u> have become concerned that the Jewish dead not be disturbed. To insure this end they now demand complete control over the activities of Israel's archeologists. Archeologists dig and occasionally come across bones and graveyards. The haredim

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demanded that their rabbis determine where archeologists may dig - which bones are Jewish. Nor is the issue one simply of civilized debate. The entry Extremists went to the Mount of Olives and chalked graffiti all over the grave of Eliezer Sukenik, Israel's foremost archeologist of the last generation. There is an assertive ugliness abroad in that community. Not all orthodox share this mood. A number of voices, particularly centered on Bar Ilan University, have sloker of at some first work of the semphasis on formalism and theocracy, but the pressure continues. The most publicized facet of this drive has been the effort to limit the Law of Return so that it will define as a Jew those born to a Jewish mother or those converted according to the norms of the halacha, which means in a way acceptable to orthodox rabbis.

Interestingly, though favored by Israel's orthodox, this change has not been one of their principal demands. The push for this change has been largely from America and largely from the Hasidim who follow the Lubovitch Rebbe who sees this change as part of his campaign to deligitamize all non-orthodox forms of Judaism. If our converts are not acceptable under the Law of Return, Israel, the state, will in effect be saying that our ways are not Jewishly acceptable.

As of today, traditional groups have gained uncontested control over the laws of personal status. They have gotten the government to agree that though someone converted by a Reform or Conservative rabbi may qualify for citizenship under the Law of Return, once such a person comes under the country's legal system, this fact will have no bearing before the religious courts which may, indeed will, declare such a conversion meaningless and any children of a marriage involving such a convert mamzerim.

Those who oppose these moves are not, for the most part, trying to recreate in Israel America's sweeping approach to the separation doctrine. Most Israelis accept the idea that there ought to be some uniquely Jewish elements in the laws of the Jewish state. On the other hand, they do not want to see the Jewish state become a theocracy. So far they have not been very successful. Though only 12 percent vote for the religious parties, there is the reality of

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coalition politics. It was announced just this week that the new Government of National Unity has agreed to table a bill in the Kenesset that would ask that the Law of Return be revised so that it stipulates that conversion must be according to the <u>halacha</u>. Israel has its civil libertarians, but these are people who have many

the obscurantists as reiseners.

issues and Israel's politicians ultimately want office and find reasons to give in to the single issue demands of the religious parties. As This is sad for Israel and will increasingly be a problem for the diaspora. It is not just a question of the averts and teeling: if a few hundred question of the averts are the increasing talk here and these that non-orthode relations with Israel. There is increasing talk here and these that non-orthode monies ought not to go to sources which find the institutions of the orthodex. Some believe that those non-fraditional Jews who live outside of Israel ought to have a separate fund-raising mechanism so that they do not support those institutions whose leaders seek to undermine status. I would not like to some a separation movement grow into significance, but the feeling is clearly the first order which neither Israel nor the Diaspora can afford.

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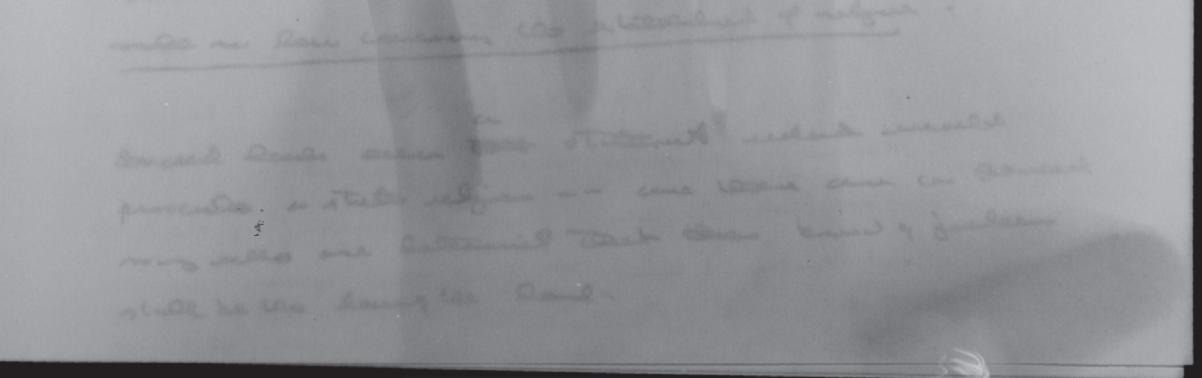
Cne must hope that enough traditional leaders in Israel will have the courage to stand up and say to their own communities: 'this is not the way. We must be one and not two. There must be cooperation, not division. We can live our traditional life without imposing our ways on others who believe themselves equally committed to God and to the Torah tradition as we are.' Unfortunately, most of the <u>yeshivot</u> in Israel and most of their schools and papers routinely crank out propaganda which mocks Reform and Conservative Judaism as bastardized or Christianized Judaism and damn Reform and Conservative rabbis as deceivers who are deliberately misleading their congregations.

Paradoxically, this political push for tradition has not only created division among the people of Israel but stunted the ability of the traditional

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community to develop truly meaningful expansions of the halacha. The halacha is a rich legal system which included mechanisms, not unlike the judicial review which occurs in our own political system, which permittwithin limits accommodation to changing times and circumstances, I'm recent years the rabbis have not been willing to make full use of these possibilities for fear of being damned by the obscurantists as reformers. A final word. In the United States most of us are committed to the separation of the church and state because it is in our interest to be so. Whenever a church-state issue comes to the fore the Jewish agencies rally to make sure that this doctrine is respected. Unfortunately, the handling of religion and the state issues in Israel has given religion power even Jerry Falwell has not demanded. The next we mount our soap box let us speak our piece, but do so in a way which humbly acknowledges that we have not set a shining example.

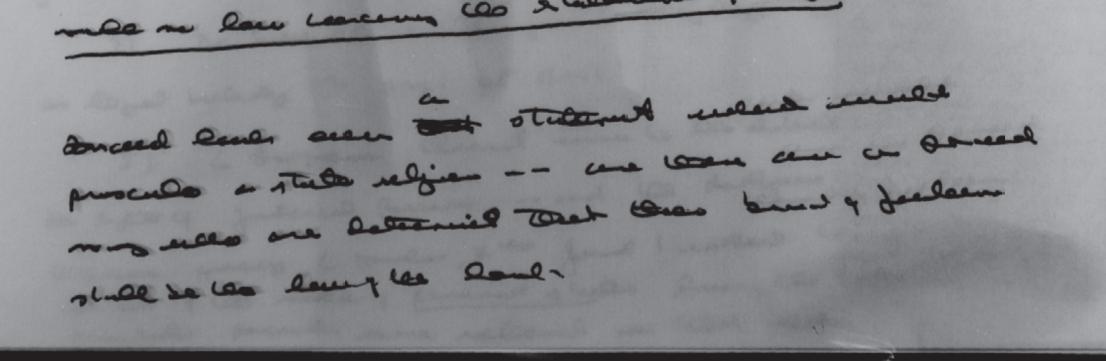
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By Tsipi Kuper

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Mayor Teddy Kollek last week criticized Jerusalem's chief rabbis, accusing them of contributing to religious tension instead of fighting extremism.

He was referring to pamphlets bearing their names and those of the chief rabbis of Israel, which were distributed in the French Hill area of Jerusalem on Rosh Hashana eve, The leaflet called on local people to avoid Conservative and Reform synagogues. It described the non-Orthodox congregation as an "alien growth" practising "strange customs."

In a meeting with Jerusalem Ashkenazi Chief Rabbi Yitzhak Kolitz, Kollek told him that "it is inconceivable that instead of working towards tolerance, the chief rabbis should cause a rift in the French Hill community."

. The rabbinate, instead of fighting extremism, sees fit to come out against the Conservative movement, said Kollek.

"Without going into the historical debate, I want to emphasize that the chief danger to Jewish values lies in extremist and non-tolerant attitudes.

"Even if there is a difference of opinion concerning the Conservatives, these are precious Jews who came to the country out of a desire to participate in the building of the nation, and out of a wish to save their children from assimilation," wrote Kollek.

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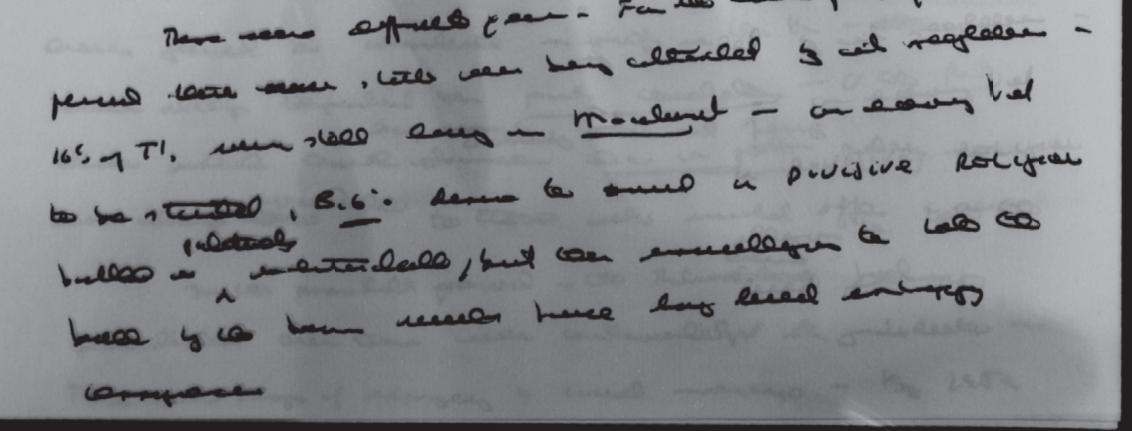
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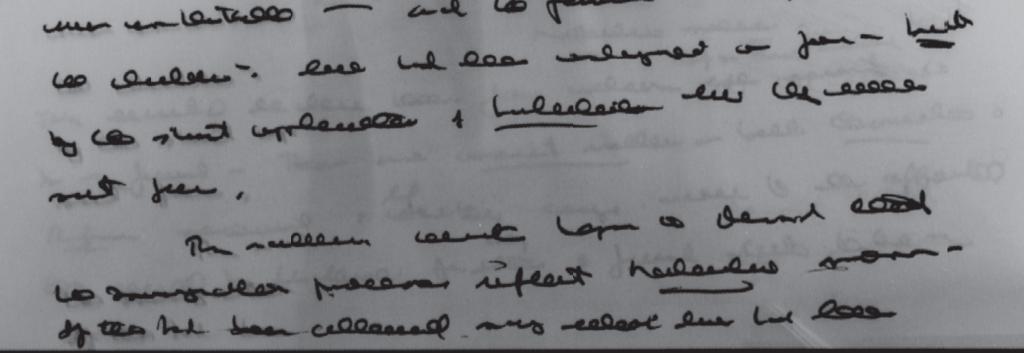
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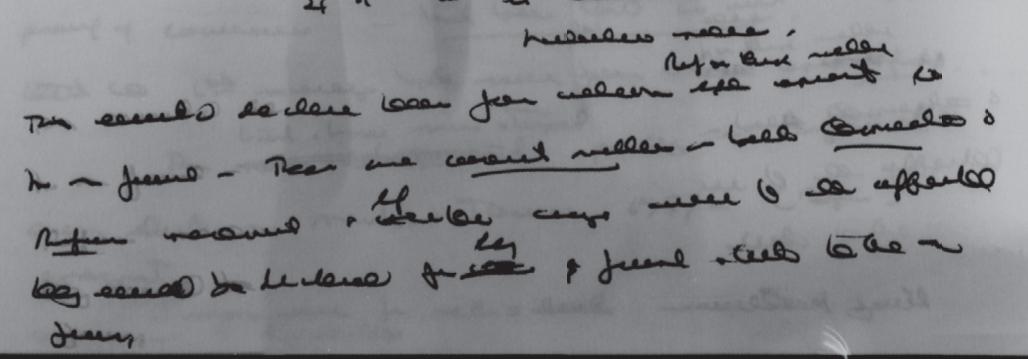
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Friday

(BRANCH) Sunday November 25, 1985

Those who passed away this week

SYLVESTER MARX

Yahrzeits

ROLINDA HAYS JOSEPH BIRDIE STONE LEVISON JOSEPH B. BLOOMFIELD HELEN LEVINE IRWIN H. KRAMER MARK L. SAMPLINER SOPHIE MITNICK MIRMAN HARRY M. MYERS ALLEN A. ISRAEL JOSEPH LYNN ANNETTE C. KOBLITZ MARK S. BERK HENRIETTA GREENBERGER PALEY WILLIAM MARKOWITZ NATHAN B. CHARNAS DOROTHY GIMP JACOBSON DR. DAVID V. ROSENBERG DAVID FRANKEL MYRNA JEAN OPPENHEIM MORRIS ELSNER ARTHUR FELBER

AHS

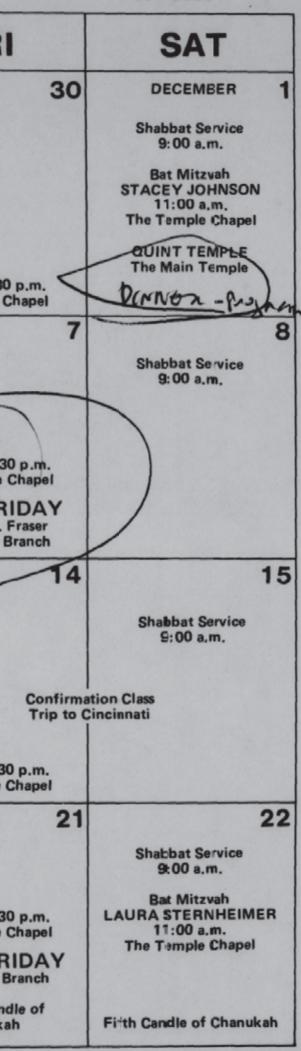
UNIVERSITY CIRCLE at SILVER PARK 791-7755

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YOUR TEMPLE CALENDAR - Clip and Save

SUN MON TUES THURS WED FRI 27 25 26 28 29 SERVICE **TWA Activities** 10:30 a.m. 10:00 a.m. - Branch The Temple Branch Rabbi **Daniel Jeremy Silver** Fellowship & Study Group **Rabbi David Sandmel** will speak on **RELIGION AND** 10:30 a.m. - Branch POLITICS IN ISRAEL **No Religious School** Service - 5:30 p.m. The Temple Chapel 2 3 5 4 6 SERVICE **Special Tuesday** 10:30 a.m. **TWA Activities** The Temple Branch 10:00 a.m. - Branch Rabbi **Daniel Jeremy Silver** Fellowship & Study Group will speak on **Rabbi David Sandmel** A BIBLE STORY 10:30 a.m. - Branch Service - 5:30 p.m. Mavo Program The Temple Chapel **TYA Board Meeting** for Bar/Bat 8:00 p.m. FIRST FRIDAY Candidates 12:30 - 4:00 p.m. Douglas A. Fraser 8:15 p.m. - Branch Branch 9 10 11 12 13 SERIVCE **TWA Activities** 10:30 a.m. Seniors' Program 10:00 a.m. - Branch The Temple Branch 11:00 a.m. - 2:00 p.m. Rabbi **TWA Board Meeting** Branch Daniel Jeremy Silver will speak 10:00 a.m. - Branch Fellowship & Study Group Rabbi David Sandmel 10:30 a.m. - Branch **Temple Board Meeting** 8:00 p.m. - Branch Service - 5:30 p.m. The Temple Chapel 17 16 18 19 20 **TWA Activities** SERVICE 10:00 a.m. - Branch 10:30 a.m. The Temple Branch Fellowship & Study Group Rabbi Rabbi David Sandmel Service - 5:30 p.m. **Daniel Jeremy Silver** 10:30 a.m. The Temple Chapel will speak THIRD FRIDAY **TMC Board Meeting TYA Chaunkah Luncheon** 7:45 p.m. - Branch 8:00 p.m. - Branch 12:30 - Branch Second Candle of Fourth Candle of **First Candle of Chanukah** Chanukah Third Candle of Chanukah Chanukah





THE TEMPLE BRANCH. **ELLEN BONNIE** MANDEL AUDITORIUM.

Kiddush and

DOUGLAS A. FRASER Labor and Management: **Can They Cooperate?**

Douglas Fraser, a former president of

The United Auto Workers is a Vice-

president of the AFL-CIO and a noted

OUR 12 TH ANNIVERSARY YEAR

8:15 P.M.-

December 7, 1984

FIRST FRIDAY

Cleveland, Ohio Second Class Postage Paid at

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Published bi-weekly except during the summer vacation

SUNDAY MORNING SERVICES

The Temple Branch .m.e 05:01 December 2, 1984

YROTS 3J818 A

will speak on

DAVIEL JEREMY SILVED

Rabbi

The Temple Branch 10:30 a.m. November 25, 1984

DANIEL JEREMY SILVER Rabbi

will speak on

JAARSI WI RELIGION AND POLITICS

Sabbath Service - 9:00 a.m. - The Branch Friday Evening Service - 5:30 - 6:10 - The Temple Chapel

2114-90144 0140 University Circle at Silver Park, 1855 Ansel Road, Cleveland, POSTMASTER: Send address changes to The Temple Bulletin,

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Candle Lighting.

labor leader.



* As a member of various national and international trade commissions and corporate Eoards of directors, Douglas Fraser has broken new ground in union-management relations.

There will be time for questions. The evening will conclude with an Oneg Shabbat. Reservations may be made by calling The Temple Branch, 831-3233.