

# The Swiss Treaty and the Washington Hebrew Congregation

By Jerry Klinger

*Grandpa, why do you always talk about history? Rabbi Shem-Tov says, the Jews have it good in America. He says that is the way it was, that is the way it is and that is the way it will be. Then he tells me to be quiet and go back and study.*

*David, the Rabbi is a good man, sometimes his vision is not so clear. We learn from the past what was, so we can understand what is, and shape what will be. By the way, that head on your shoulders and the eyes that go along with it – it is also God's will that you use them.*

William Rabinowitz – Boynton Beach, Florida

**Gold, Gold** .... John Sutter's 1846 words rang hard as the cold, clear mountain waters of the American River, rushed down towards California's coast carrying the news. California was the other side of the continent and people flooded there with hope and dreams. June 4, 1852 Alexander Myer, Joseph Levison, and Charles Friedman, Officers of the Association of the Children of Israel (B'nai Israel), purchased the Methodist Episcopal Church, in Sacramento. The church was to serve as the first synagogue on the Pacific Coast. They joyously dedicated the building on September 3, 1852.

Just sixty-two years earlier, Moses Seixas, on behalf of the Hebrew Congregation of Newport, Rhode Island, wrote to President George Washington in 1790. "*Deprived as we heretofore have 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.*"

President Washington responded: "*It is now no more that toleration is spoken of as if it was 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.*"

Federal City, as Washington himself called the District of Columbia, was created in a great political compromise in 1790. The first recorded Jewish resident of the city was Isaac Pollock. He arrived in 1795. Pollock, a grandson of a founder of the Newport, Rhode Island synagogue, was a small time real estate developer. He built a number of fine homes along present day Pennsylvania Ave. An early renter of one of Pollock's houses and his neighbor was James Madison, a later President.

Washington City (Federal City) was considered a very undesirable place to live. It was slow to develop. Congress would meet for business and adjourn long before the malarial summers

commenced, end early spring and return in the fall. They adjourned well before the mud choked freezing winters.

Jews were a small percentage of the American population by the turn of the 19<sup>th</sup> century. Rabid, anti-Semitic oppression in the German states created the first mass immigration of Jews to America, starting in the 1820's. A small community of Jews living in sleepy Washington City grew until they could organize themselves into Washington Hebrew Congregation, April 25, 1852. They desired, much like their fellow Christian citizens, to have a house of worship. A permanent Jewish house of worship is a statement that the Jews of Washington are a permanent part of Washington. It is a statement that they are equal, free citizens of the United States with a house of worship in the nations Capital.

Washington was a Federal city. It did not have a "State" government. It was under the direct control of Congress for even the simplest of things; schools, streets, courts and land use by private individuals and corporations. Accordingly, Congress dutifully passed on the last day of the first session of the 28<sup>th</sup> Congress, June 17, 1844, "*A Bill, concerning conveyances or devices of places of public worship in the District of Columbia.*" The bill did not specifically identify any single religious group or denomination. It did provide that the District Court system would have the ability to appoint or replace trustees overseeing the property or governance of any religious institution.<sup>1</sup>

Sixty-two years after the Newport address, in Washington, D.C., the Capital of the United States of America and consistent with the tenor of the times, Christians were welcome to own or purchase a building for a house of worship; Jews were not. A permanent Jewish house of worship stood in California, two and a half thousand miles to the West. There was no permanent synagogue in Washington. Anti-Semitism was real and understood by the Jewish citizens of the city.

Until the Civil War, the issue of State Rights vs. the Federal Government generally was settled on the side of States Rights. States retained their sovereign ability to shape internal laws and privileges. However, the right to negotiate foreign treaties was a right reserved by the American Constitution to the Federal Government. The ratification and or modification to any negotiated treaty is done by the U.S. Senate.

A minor trade treaty, between the United States and Switzerland, was negotiated by A. Dudley Mann, in 1850. A provision of the treaty accepted the Swiss restriction to refuse entry and commercial privileges to American Jews. Switzerland's constitution guaranteed the right of religious freedom only to Christians. The treaty that was presented to the United States Senate specifically discriminated against American Jewish citizens.

American Jewry was largely fragmented in the 19th century. They did not speak with a single voice looking after their own interests. Yet, by 1850, Jewish voices were being raised in protest through a nescient Jewish press. Sigismund Waterman had been born in Bavaria in 1819. He immigrated to the States in 1841, eventually becoming the first Jew to graduate Yale Medical School in 1848. To him the Swiss treaty was a betrayal of the trust and belief Waterman had placed in the America.

January 1851 marked the beginning of a new year. Waterman wrote two highly critical articles about the Swiss treaty in the *Asmonean*. The *Asmonean* was a short lived but influential early American, German-Jewish weekly. It appeared from 1849 until 1858 helping create the framework of an emerging national American Jewish identity. Waterman described American Jews, as loyal, patriotic citizens of America. His article's legal arguments against the treaty were based upon the opinion of New York's former Chief Justice James Kent's ideas in his book, *the Law of Nations*.

Waterman argued, interpolating Kent's views, that American treaties should be used to overcome rather than foster bigotry. American citizens had entrusted their rights, among which was that of religious liberty, to a representative government. The compact thus formed forbade the government from disabling a portion of its citizens. It could not barter away the rights of Jews to religious liberty and equality for commercial or political advantage."<sup>2</sup>

The editors of the *Asmonean* protested to every prominent national politician or leader. A principal was a risk. If discrimination was tolerated against one group for the Holy dollar of trade and money, no group was safe. Henry Clay the famous Senate leader from Kentucky and Daniel Webster the U.S. Secretary of State responded positively.

Anti-Semitism, though never as virulent as in Europe, was a reality in America. The Jews understood full well that pursuing their own parochial interests would not garner enough support. Jewish interests were couched with the much larger interest of the American government. The government was deeply interested in securing the rights of Protestant Americans in Catholic European countries.

President Filmore transmitted the treaty to the Senate with a specific objection to the first part of the treaty that only Christians were guaranteed rights and privileges in the Swiss Cantons.

The Senate committee, that reviewed the Swiss treaty, strongly recommended that in future treaties the right of worship of all Americans should be safeguarded. Sen. Lewis Cass of Michigan, Secretary of War under President Andrew Jackson and the Democratic Presidential candidate in 1848, led the effort to change the treaty. He invited comment from the Jewish community of Washington on the treaty in 1854.

Cass pointed out to the Senate that Jews:

*"Exposed as the members of this persuasion yet are in portions of Europe and America, both Protestant and Catholic, to the most illiberal prejudices and to religious disabilities, the position of our citizens abroad who belong to this peculiar claims to the consideration and interposition of the government. Beside their legal right to equal protection there is no portion of our population whose peaceable and law-abiding conduct better proves than theirs does, that they are well entitled to all the privileges secured to every American by our system of government."*

Senator Cass was in active correspondence with Rabbis Isaac Leeser of Philadelphia, Pa., and Rabbi David Enihorn of Baltimore, Md.

The Jewish response to the Swiss treaty was led by a prominent Washingtonian, Captain Jonas P. Levy. Levy was a member of a remarkable Jewish family. Jonas and his older brother, Uriah, grandchildren of Jonas Levy who had fought in the Revolutionary War, were distinguished career naval officers. Uriah became the highest ranking officer in the U.S. Navy. During his controversial career, he abolished flogging in the Navy and fought anti-Semitism. He purchased Monticello, Thomas Jefferson's home, and restored it. His son Jefferson Levy, a U.S. Congressman, and accomplished businessman, sold Monticello to a non-profit foundation for the benefit of American posterity. Jonas P. Levy rose to the rank of Captain and distinguished himself during the Mexican- American war. Jonas Levy's contacts as well as those of his brother, Uriah, were crucial in making the necessary political contacts to advance the interests of American Jews in their struggle for equality in America.

The Swiss treaty was ratified in 1855 with the offending wording modified but still effectively in place. Two years later, 1857, A.H. Gootman, American Jewish merchant suffered the effect. Gootman was ordered out of Neuchatel because he was a Jew. An exception, or grace, was issued for Gootman but the injury was done. American Jews and Christians protested to Pres. Buchanan. As late as 1905 the treaty was still in force.

Permanent Jewish houses of worship existed from one end of the United States to the other when Washington Hebrew Congregation was organized in 1852. The controversy over the Swiss treaty was in full sway. Washington Jewry wanted to have a permanent house of worship as well. However, there existed a problem. Though not stated explicitly, but implicit, was the realization that in the District of Columbia the June 17, 1844 law passed by the 28<sup>th</sup> "*A Bill, Concerning conveyances or devices of places of public worship in the District of Columbia*", had a special restriction. The understanding and practice of the law was that only Christian Churches were to be recognized in the nation's capital. A Jewish house of worship was not welcome. Washington Hebrew Congregation understood this reality. The only remedy was through Congress; there was no local elected government.

Many important political contacts had been made during the Swiss treaty struggle. Many Congressional leaders became aware and sensitized to the concerns of American Jewry. The political contacts of Captain Jonas Levy, so crucial in the Swiss struggle, were tapped to gain permission for the Jews to have a synagogue in Washington, D.C.

Judah P. Benjamin was the first openly Jewish U.S. Senator. He was elected from the State of Louisiana to Congress in 1853. Benjamin was indebted to Rabbi Leeser for assisting in his admission to Yale University and in all probability was a friend of Captain Jonas Levy. Judah Benjamin joined with his state in seceding from the Union during the American Civil War. He became the highest ranking Jew in the Confederacy, rising to Attorney General, Secretary of War and Secretary of State. In Congress, Benjamin was a close friend of the Senator from Mississippi, Jefferson B. Davis, the later president of the Confederate States of America. The other Senator from Mississippi in 1856, Sen. Albert Gallatin Brown, and Jefferson B. Davis's closest associate, was the chairman of the Senate Committee on the District of Columbia and a friend of Jeff Davis.

Washington Jewry approached Senator Lewis Cass of Michigan for help. Cass agreed and introduced a *Memorial (Petition) of the Washington Hebrew Congregation* to the first session of the 34<sup>th</sup> Congress, Feb. 5, 1856. The memorial read "*That the existing laws of the District of Columbia contains no provisions as they were advised under which they (the Jews) can be constituted a congregation...*"

The petition was signed by Joseph Friedenwald, President of Washington Hebrew Congregation. Strong Southern support emerged for the petition. No doubt an aspect of the Southern support came because Friedenwald was a partner in the Baltimore firm of Wiesenfeld, Stern and Co. whose predominant business was in the South.<sup>3</sup>

Senator Albert Gallatin Brown's committee on the District of Columbia reported out Senate Bill S.199, favorably.

## **In the Senate of the United States,**

March 27, 1856

### **A Bill**

For the benefit of the Hebrew congregation in the city of Washington.

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the rights, privileges, and immunities heretofore granted by law to the Christian churches in the city of Washington, be, and the same are hereby, extended to the Hebrew congregation of said city,* and that the third section of the act approved the seventeenth of June, eighteen hundred and forty-four, entitled "An act concerning conveyances or devises of places of public worship in the District of Columbia," shall be so construed as to allow the members of the Hebrew congregation from time to time, by a vote of two-thirds, to elect their own trustees, and the same, by a like vote, to displace at pleasure; which said trustees shall, during their continuance in office, have the same title in power over any lot or tract of land as if held by them under the act aforesaid for a Christian church, or as if they were appointed under said act trustees of any Christian church: *Provided, That any and all legal and equitable rights, demands, or liabilities of the said Hebrew congregation, acquired or assumed by or through said trustees, shall be limited to the trust property of said congregation held by said trustees"*.

The Bill was passed by the full Senate on April 11, 1856. A few days later, the Bill was presented in the House of Representative by Mr. Jones of Tennessee. The House passed the Bill on the third reading upon the motion of a young, 25 year old congressman from Indiana, William Cumback, May 28, 1856. Five days later, President Franklin Piece, signed the bill into law, June 2, 1856.

Washington Hebrew Congregation became, the first and only Jewish community in the history of the Republic, that needed permission to establish and maintain a synagogue by a Bill of Congress, signed by the President of the United States.

Captain Jonas P. Levy was elected president of Washington Hebrew, 1857, in appreciation for his dedication to the Jewish community. The congregation purchased the Methodist Episcopal Church at 8th and I Street. The church was consecrated as a synagogue in 1863, at the height of the American Civil War.

From the vantage point of 21<sup>st</sup> century life, the apparent fears of discrimination and denial of the right to pray openly in the nations capital seems over done. What is taken for granted and forgotten is that the Jew's struggle for equality and recognition as American citizens was and is a process. The efforts, the dream the struggles of the tiny Jewish community of Washington, D.C. helped establish the freedoms that modern American Jews take for normal. Anti-Semitism, bigotry and discrimination were realities that 19<sup>th</sup> century Jewry faced, not imagined. Their victory, and American Jewry's freedom today, can only be realized with the common affirmation and belief in America of Jews and Christians alike.

---

<sup>1</sup> HR (House of Representatives) 150, 28<sup>th</sup> Congress, 1<sup>st</sup> Session, March 23, 1844, Section 3

And be it further enacted, That when such conveyance or devise has been heretofore, or shall hereafter be made, whether by the intervention of trustees or not, the circuit court of the District of Columbia, sitting in the county where such property is or may be situated, shall, on application of the United States attorney for the District of Columbia, on behalf of the authorized authorities of any such religious congregation, have full power and authority to appoint trustees, originally, when there are none, or to substitute others, from time to time in cases of death, refusal, or neglect to act, removal from the county or other inability to execute the trust beneficially and conveniently; and the legal title shall thereupon become exclusively vested in the whole number of the trustees and their successors.

<sup>2</sup> Encounter with Emancipation, Naomi Cohen, JPS, 1984, pg. 103

<sup>3</sup> A History of the Washington Hebrew Congregation, 100 years of Reform Judaism in the District of Columbia, Bernard I. Nordlinger, 1956