

Jewish Roots of the American Constitution by Prof Paul Eidelberg, Nov 15, 2005 -
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A. Historical Background

1. No nation has been more profoundly influenced by the Old Testament than America. Many of America's early statesmen and educators were schooled in Hebraic civilization. The second president of the United States, John Adams, a

Harvard graduate, had this to say of the Jewish people:

The Jews have done more to civilize men than any other nation... They are the most glorious Nation that ever inhabited the earth. The Romans and their Empire were but a bauble in comparison to the Jews. They have given religion to three-quarters of the Globe and have influenced the affairs of Mankind more, and more happily than any other Nation, ancient or modern.

2. The curriculum at Harvard, like those of other early American colleges and universities, was designed by learned men of Old Testament persuasion. Harvard president Mather (1685-1701) was an ardent Hebraist (as were his predecessors). His writings contain numerous quotations from the Talmud as well as from the works of Saadia Gaon, Rashi, Maimonides and other classic Jewish commentators.

3. Yale University president Ezra Stiles discoursed with visiting rabbis on the Mishna and Talmud. At his first public commencement at Yale (1781), Stiles delivered an oration on Hebrew literature written in Hebrew. Hebrew and the study of Hebraic laws and institutions were an integral part of Yale's as well as of Harvard's curriculum.

4. Much the same may be said of King's College (later Columbia University), William and Mary, Rutgers, Princeton, Dartmouth, and Brown University. Hebrew learning was then deemed a basic element of liberal education. Samuel

Johnson, first president of King's College (1754-1763), expressed the intellectual attitude of his age when he referred to Hebrew as essential to a gentleman's education.

5. This attitude was not merely academic. A year before the American Revolution, Harvard president Samuel Langdon, declared: "The civil polity of Israel is doubtless an excellent general model [of government]."

6. The Higher Law doctrine of the Declaration of Independence is rooted in the Torah, which proclaims "The Laws of Nature and Nature's God," and appeals to the "Supreme Judge" and "Providence"-terms lacking in Israel's Declaration of Independence.

7. During the colonial and constitution-making period, the Americans, especially the Puritans, adopted and adapted various Hebraic laws for their own governance. The legislation of New Haven, for example, was based on the premise that the judicial laws of God, as they were delivered by Moses, and as they are not ceremonial, shall generally bind all offenders..." Thirty-eight of the seventy-nine statutes in the New Haven Code of 1665 derived their authority from the

Hebrew Bible. The laws of Massachusetts were based on the same foundation.

8. The fifteen Capital Laws of New England included the Seven Noahide Laws of the Torah, or what may be termed the seven universal laws of morality.

9. Now, without minimizing the influence of such philosophers as Locke and Montesquieu on the framers of the American Constitution, America may rightly be deemed the first and only nation that was explicitly founded on the Seven Noahide Laws of the Torah. It should also be noted that the constitutions of eleven of the original thirteen states made provision for religious education. Some even had religious qualifications for office.

B. The Institutions Prescribed by the American Constitution

1. The House of Representatives represents 435 districts of the United States, where the people of each district elect one person to represent their views and interests. The idea of district elections is implicit in the Torah. We read in Deut. 1:13: "Select for yourselves men who are wise, understanding, and known to your tribes and I will appoint them as your leaders."

a. Exodus 18:19 states: "seek out from among all the people men with leadership ability, God-fearing men--men of truth who hate injustice." Similar qualifications are prescribed in the original constitutions Maryland, Massachusetts, New Hampshire, and Rhode Island.

b. Each tribe was to select the best men to be their representatives. Rabbi Samson Raphael Hirsch comments that "each tribe (shevet) is to choose out of its own midst men whose character can only be known by their lives [hence whose character] is known only to those who have associated with them." This is the biblical source of residential requirements for Representatives and Senators in the United States. Also, what is here called a tribe was called a district (pelech) after the Second Temple.

c. Finally, it is a principle of Jewish law that "No legislation should be imposed on the public unless the majority can conform to it" (Avoda Zara 36a). This requires legislators to consider or consult the opinions of their constituents. Hence representative democracy can be assimilated to Judaism by adding that representatives must be "men who are wise and haters of bribes." This would make for an aristocratic democracy, or a universal aristocracy—a kingdom of priests, of noblemen.

2. The Senate. The Senate represents the 50 states of the Federal Union; it therefore represents the Federal principle. But the idea of federalism goes back to the Torah and the twelve tribes. Each tribe had its own distinct identity, its own governor and its own judicial system.

3. The Presidency. Unlike Israel, which has a Plural Executive or Cabinet consisting of a prime minister and other ministers representing different political parties in the Knesset, the United States has a Unitary Executive, namely, the President. Of course the President has a Cabinet, but its members cannot hold any other office and they are wholly responsible to the President, not to any political party.

a. Now it so happens that a Unitary Executive is a Torah principle! Thus, when Moses told Joshua to consult the elders when he was about to lead the Jews across the Jordan, God countermanded Moses: there can only be one leader in a generation. And if you look at tractate Sanhedrin 8a, you will see that Jewish law opposes collective leadership. Nor is this all.

b. Just as a President of the United States must be a native-born American and not a naturalized citizen, so a king of Israel must be born of a Jewish mother and not a ger or convert.

4. The Supreme Court. Just as the American Supreme Court is the final interpreter of the American Constitution, so the Great Sanhedrin is the final interpreter of the Jewish Constitution, the Torah.

So we see that the original American Constitution was very much rooted in Torah Judaism.

C. Brief Comparison with Israel's political and judicial institutions

1. The Knesset: MKs are not individually elected by the voters in constituency elections—hence there is no accountability. In fact, MKs can ignore public opinion with impunity, as 23 Likud MKs did when they voted for Disengagement, contrary to their pledge to the nation in the January 2003 election.

2. The Government: The cabinet is collection of rival party leaders competing for a larger slice of the national budget. This undermines national unity and national purpose. The average government last less than two years, which makes it impossible to pursue a consistent and long-range national strategy.

3. The Supreme Court: The Court is a self-appointed oligarchy. It refuses to enforce the Foundations of Law Act 1980 which would make Jewish law first among equals. Chief Justice Aaron Barak writes: "It should never be said that a particular legal system has the primary claim to interpretive inspiration." Imagine a US Supreme Court justice teaching Americans: "It should never be said that the American legal system has the primary claim to interpretive inspiration."

Israel's Supreme Court is the only court in the world that scorns the legal heritage of its own people. It has repeatedly handed down decisions that violate the basic beliefs and values of the Jewish people.

D. Conclusion: The political and judicial institutions of the so-called Jewish State are less Jewish than the political and judicial institutions now operating in the non-Jewish democratic world! -

[NOTE: Well... maybe it's better put: once WAS operating in the non-Jewish democratic world :-(]