

## CRITICISM OF THE STATE IN ANCIENT JEWISH TRADITION

*Down to modern times no State had a constitution in which the interests of the people are so largely taken into account, in which the duties so much more than the privileges of rulers are insisted upon, as that drawn up for Israel in Deuteronomy and Leviticus.<sup>1</sup>*

### I. INTRODUCTION

Modern Jews can look back upon over 5000 years of written Jewish law, beginning with the ancient Books of Moses and culminating with the modern codification of the nation Israel. This law is perhaps unique among all the legal writings on earth in that it is ultimately tied to the unifying idea that there is one God, the Lord,<sup>2</sup> who is the only legitimizing element. No ordinance, no punishment, indeed no government is self-perpetuating or self-justifying without the sanction of the Lord. The vast body of law is, however, rather discouraging to the student who wishes to examine a particular aspect of it for there is so much to examine. In fact, a scholar who masters one book is to be revered, according to traditional belief.

Defeated at the beginning in an attempt to exhaustively treat the subject of criticism of the state in ancient Jewish law, the student must force himself to be satisfied with a surface examination of a few sources or go mad in the attempt to read everything. What follows, then, is really just a beginning, and this introduction is truly an introduction to an introduction.

### II. PARAMETERS

It is difficult to speak of the "State" or "government" in general terms

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<sup>1</sup> T. H. HERTZ, ed., *THE PENTATEUCH AND HAFTORAHS* 926 (1956).

An explanation of the various "Bibles" which will be referred to herein is in order. Two basic sources are used: the HERTZ edition, *supra*, and JEWISH PUBLICATION SOCIETY, *THE TORAH* (1967) [hereinafter cited as *TORAH*]. Both are translations of the basic Five Books of Moses which made up the backbone of Jewish law. Hertz is a classical translation, and very similar to the King James Version, while the other is a "new English" translation which purports to more accurately reflect the original Hebrew and Aramaic. (Some poetic passages appear in Aramaic rather than Hebrew.) The HERTZ volume is extremely valuable because of the extensive annotation and the inclusion of the weekly synagogue readings from the prophetic books (the *Haftorahs*).

<sup>2</sup> The god of the Jews has a name represented in Hebrew by four letters, transliterated as Y H V H. The proper pronunciation of the Name is lost in antiquity. The vowels in Hebrew are represented by dots and dashes placed under and alongside the consonants, and these vowels never appear in sacred writings. When encountering Y H V H in written Hebrew, the orthodox Jew pronounces *Adonoy*, which is literally translated as "my master." Y H V H is usually rendered "the Lord" in English. A medieval monk combined the vowels of *Adonoy* with Y H V H to come up with *Jehovah*—a word unknown to Moses. Historians feel the accurate pronunciation was similar to *Yahweh* or *Yahway*. SEE, M. I. DIMONT, *JEWES, GOD AND HISTORY* 29 (1962).

when discussing the ancient history of the Jews. There were, in fact, many periods which were characterized by as many forms of governmental authority.<sup>3</sup> The "Patriarchal Period," commencing with Noah and ending in Egypt (primarily the subject matter of *Genesis*) was characterized by a nomadic, tribal existence and the corresponding lack of any real centralized "government." The first community-wide authority existed under the leadership of Moses in Egypt and in the desert. In their own nation the Jews were ruled by a series of monarchical figures known variously as Judges and Kings. Next came the imposed rule by colonial governors of Assyria, Babylonia, Greece and Rome. From shortly after the birth and death of Jesus until 1948, the Jews had no nation and no government of their own; rather they were dispersed among the various nations of the world and became the subjects of these gentile governments. Today, while the majority of Jews still "sojourn" in other lands, they once again have their own state, with a parliamentary government based primarily on the English system.<sup>4</sup>

A problem in writing this article is placing a definition on the word "ancient." Arbitrarily then, ancient shall be deemed to cease at the time of the conquest of the Jews by Babylonia about 500 B.C.<sup>5</sup> This date has been chosen so that the relation of Jews to their *own* government can be examined. Of necessity the law under which the Jews dealt with any government after that date was a law imposed from without, rather than a truly Jewish law.

### III. THE EARLY LAW

Beginning with the 20th chapter of *Exodus* and continuing through the 34th chapter are a list of several hundred commandments to be followed by the people of Israel. While the first ten of these are the best known, one of the other basic commandments is relevant to this discussion: "Thou shalt not revile God, nor curse a ruler of thy people."<sup>6</sup> One is struck by the apparent finality of the statement; no doubt can possibly be left in the mind of the reader that Jewish law *forbids* the speaking of ill concerning the ruler. It would almost seem that this statement of law, direct from the Highest Source would end our inquiry before it has begun.

The rule, however, is not as final as it appears at first glance. The Rabbis in Israel, reading the entire verse, interpreted the two clauses together and came to the conclusion that a subject owed complete homage only to

<sup>3</sup> See generally, DIMONT, *supra* note 2, particularly chap. I.

<sup>4</sup> *Id.* at 409.

<sup>5</sup> A. HERTZBERG, JUDAISM 154 (1961).

<sup>6</sup> HERTZ, *supra* note 1, 315. References to Biblical quotations in the first five books, will be given, rather than relying solely on the traditional book, chapter and verse. This is done for two reasons: (1) the HERTZ edition is rich in supplementary notes and (2) the translation in the Jewish Bible often varies from that appearing in the King James or Revised Standard versions.

the ruler who did the bidding of the Lord.<sup>7</sup> This proposition is the central theme and thesis of this paper—ancient Hebrew law permitted, indeed demanded, criticism of any government that failed to adhere to the law.

In the desert there was no doubt of Moses' absolute mandate to rule which was derived directly from his day to day discussions with the Lord. Moses would tolerate *no* rebellion, although he was faced with it with regularity. Immediately after the escape from the Egyptian armies at the Red Sea, "the people grumbled against Moses"<sup>8</sup> because of the lack of fresh drinking water. After changing a poisonous stream into fresh water, Moses relayed a warning to the people:

If you will heed the Lord your God [represented by Moses] . . . then I will not bring upon you any of the diseases that I brought upon the Egyptians . . . .<sup>9</sup>

Moses wasted no time in establishing what the penalty for rebellion would be.

But the problem of true organized sedition was faced by Moses despite his stern warning. The story is recounted in *Numbers*, chapter 16.<sup>10</sup> The rebellion was led by the Chief of the tribe of Levi, a firebrand named Korah. Gathering some 259 men about him, Korah preached that Moses was a false leader and was taking the assembly to its doom in a barren wilderness. The only solution was to overthrow the leadership of Moses and his brother Aaron and return to Egypt. Korah appealed to the masses, telling them that they were as holy as Moses and could choose their own leader.

Moses invited Korah and his followers to bring their incense burners together at one place so that God might choose them if they were the rightful leaders of Israel. When Korah and his rebellious followers were together in one place, the Lord demonstrated his rather severe punishment for purveyors of seditious libel in Biblical times: "The ground under them burst asunder, and the earth opened up and swallowed them up. . . ."<sup>11</sup> And those that happened to escape were burned by a terrible fire. Moses then had the incense burners of the rebels hammered into plates and placed on the altar to serve as reminders to others of the penalty for rebellion.<sup>12</sup>

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<sup>7</sup> *Id.* The development of Jewish law is not unlike that in America today. The Torah serves as the basic code, and upon it is built an extensive common law, embodied primarily in the Talmud. Almost daily the most learned of Israel's scholars would meet and discuss, almost verse by verse, the Books of Moses, interpreting the law to meet the daily problems of the people and settling disputes. Their students wrote down the discourse in dialogue form and this commentary came to constitute the Talmud, the most respected, non-Biblical source of Jewish law.

<sup>8</sup> TORAH, *supra* note 1, at 126.

<sup>9</sup> *Id.* at 127.

<sup>10</sup> *Id.* at 277-81.

<sup>11</sup> *Id.* at 279.

<sup>12</sup> Rabbinic legend adds a curious epilogue to this story which serves to reaffirm the ultimate conquest of the true law: When an ancient sage was travelling in the Sinai, an Arab showed

Of all the leaders of Israel down through the ages, Moses derived his authority most directly from God. Therefore, no challenges to his government or authority were to be tolerated. While the circumstances as related in the Bible may appear too miraculous for the modern reader, the message is clear. The basic foundation of the Hebrew law of criticism of the state rested upon the concept that, in a theocratic society, when the leader stood next to God, one dared not speak ill of his leadership.

#### IV. ESTABLISHING A NATION

Sometime around the 12th Century B.C. the Hebrews conquered and settled in the Promised Land of Canaan. They established there a unique form of government, perhaps without parallel in history. The rulers were the Judges, selected by the elders of each tribe. The Judges

. . . were thought of as divinely inspired men [or women—Deborah was one of the leading Judges], accountable to God by God. They established the first democracy in the world, four hundred years before the Greeks. Roughly speaking, the era of the Judges corresponds to the Jeffersonian period in American history—a weak central government with “tribes’ rights” instead of “States’ rights.”<sup>13</sup>

The period of the reign of the Judges was a period of constant warfare as the Hebrews sought to establish their authority over the various semitic tribes that inhabited the “promised” land. The Judges were charged with two major responsibilities: maintaining internal order within each tribe, and leading their tribes in battle against hostile, indigenous peoples.<sup>14</sup>

##### A. Governmental Structure

Governmental authority in the period of the Judges became much more dispersed than it had been during the absolute period of Moses and Joshua. The “multitude” of the desert became the twelve distinct tribes of the land of Canaan. Basically, government within each tribe was structured the same as that within the other tribes. The Elders within each tribe were responsible for dispensing justice. As implied by the name, the Elders were the oldest members of the tribe and their wisdom was relied upon to maintain the Law as given to previous generations.<sup>15</sup>

A bicameral legislature of sorts could be summoned by each tribe’s

him the place where Korah and his companions had been engulfed. There was at the spot a crack in the ground, and on putting his ear to the crack the sage heard voices cry, “Moses and his Torah are true, and we are liars.” HERTZ, *supra* note 1, at 638.

<sup>13</sup> DIMONT, *supra* note 2, at 47. Dimont’s book, while an excellent treatment of history and Judaism, tends to become slightly over-involved with comparisons between Hebrew history and American history. While some of Dimont’s parallels bear some merit, others are somewhat fanciful.

<sup>14</sup> A. L. SACHAR, *A HISTORY OF THE JEWS* 25 (5th ed. 1964).

<sup>15</sup> DIMONT, *supra* note 2, at 47.

Judge to consider legislative problems which he proposed to it. The "upper house" was the *Sanhedrin* and membership was limited to the most learned men of the tribe, men who centuries later would be called Rabbis.<sup>16</sup> The other "house" was the Popular Assembly, which was composed of all the members of the tribe, or, more likely, elected representatives of each extended family within the tribe.<sup>17</sup> But, with his authority derived directly from God, the Judge had absolute power to disregard any advice given him by any other member of the tribe.<sup>18</sup>

### B. *Sedition Under the Judges*

As mentioned above, the Judges ruled during a period of turmoil marked by war and conquest. Most instances of rebellion related in the Book of Judges relate to disagreements between the members of the various tribes and their Judge pertaining to his policy of war. While the authority of the Judges was clearly derived directly from God, this did not insure them of a peaceful reign. There was a new generation in Canaan; the wanderers of the desert were all dead.

And there arose another generation after them, that knew not the Lord, nor yet the work which He had wrought for Israel.<sup>19</sup>

As they forgot the Lord, the "new generation" turned to the pagan gods of the indigenous Canaanite tribes, primarily Baal and Astarte. The worship of these gods "was carried on with sensual practices . . . in practice degenerating into crude, barbarous lasciviousness."<sup>20</sup> No doubt the early Hebrews found these practices somewhat more entertaining than the simple animal sacrifices and prayer demanded by the Lord.

The problem facing the Judges was to arouse these people to do battle with the surrounding tribes, in the name of the Lord, in order to secure the land as a Jewish nation. One of these Judges was Gideon of the tribe of Ephraim. The people of his tribe had gone so far as to build an altar to Baal and Astarte, and were living in peaceful coexistence with the Midianites, a Canaanite tribe. Gideon, acting under orders revealed to him in a vision, destroyed the pagan altars. The people of the city went to Gideon's father and demanded that the son be turned over to them to be put to death for his actions.

Gideon put down the rebellion against his authority without having to

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 48.

<sup>18</sup> The Hebrew word, which is translated as "Judge," is *shofet*. A better translation is probably "administrator." The word *shafat*, from which *shofet* is derived, is the verb "to administer." G. HOROWITZ, *THE SPIRIT OF THE JEWISH LAW* 70 (1963).

<sup>19</sup> *Judges* 2: 9. As we move from the Mosaic period, and the Five Books of Moses, the Bible will be cited only to Chapter and Verse. The translation used is that of the Jewish Publication Society.

<sup>20</sup> SACHAR, *supra* note 14, at 27.

resort to earthquakes or fires—he merely reminded the people of the power of God: “He that will contend for him [Baal] shall be put to death before morning.”<sup>21</sup> The punishment for rebelling against God’s Judge was death; there would be no mercy.

But Gideon had one task left to perform—the destruction of the Midianites. Gideon was afraid, however, that, in the face of the enemy, his people would turn upon him and join the Midianites to destroy him. Only the most loyal could be trusted and a test had to be designed to ascertain who would remain by his side in battle. Gideon led the ten thousand warriors of his tribe to a lake to drink and then observed the manner in which they accomplished this maneuver. All but three hundred bowed down upon their knees by the water. This was the attitude taken by the pagans in worship of Baal and these men could not be trusted.<sup>22</sup>

This story makes it apparent that the Judges did not have firm control over their people and rebellion and disrespect for their teaching was widespread. The people had left the daily hazards of the desert and settled to a pastoral existence. The fragmentation was harmful however, for a strong external force, the Philistines, arose and threatened their continued existence. Individual tribes, proud of their independence, were driven from their lands.<sup>23</sup> The Philistines eventually captured the Ark containing the Law and carried it back to their own temples. This disaster had its sobering effect, and the Jews were ready once again to offer loyalty to a leader.

The blows that sent the disunited tribes reeling were ultimately to prove a national blessing. All the hammering did not break the Hebrews. It made them. The Philistines smote them on an anvil and forged them into a people.<sup>24</sup>

## V. MONARCHY

### A. *Origins*

The beginnings of the Hebrew monarchy are related in the two Books of Samuel. The monarchy was born of necessity, as the pressure exerted by the hostile neighbors of the fragmented Hebrews forced them to seek unity for self-defense purposes. Saul, first King of Israel, was a unique founder of a monarchy—he was not a conquering despot nor a hereditary potentate, but a King called forth and anointed into royalty by the people he was to rule.

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<sup>21</sup> *Judges* 6: 31.

<sup>22</sup> *Id.* 7: 6. Gideon went on to subdue the Midianites with his three hundred men. The Book of Judges is resplendent with heroic stories of the Judges and their feats of war. Deborah and Samson were typical of the hero-Judge who served as symbols to rally the Israelites in time of war and oppression. Most Judges, in reality, never rose above the level of tribal administrator to that of a hero of war.

<sup>23</sup> SACHAR, *supra* note 14, at 30-31.

<sup>24</sup> *Id.* at 31.

Samuel serves a dual role in Jewish history, for he was both the last of the hero-judges and the first of the prophets in the Holy Land. As the most revered sage of his time, Samuel was chosen by the elders to seek out a king. Samuel turned to God for advice and was told that he should find a king for Israel, but that he should forewarn the people of the evils of monarchy.<sup>25</sup> Samuel told the elders:

And ye shall cry out in that day because of your king whom ye shall have chosen you; and the Lord will not answer you in that day.<sup>26</sup>

Samuel chose a humble man of the tribe of Benjamin to rule the Jews. Saul fulfilled his function well, for, with him as a leader of the United tribes, the tide of battle began to turn and the Jews were able to secure their borders and become a nation.

### B. *The Prophetic Tradition*

The emergence of the monarchy marked a unique turning point in ancient Jewish history, for, at the time of the establishment of the strongest form of government the Jews had yet had, the Divine Sanction was withdrawn from the official state and delivered to the critics.<sup>27</sup> This unusual situation is attributable to the Jewish tradition of free and direct contact between man and God. The Jews never thought of their king as a god nor as a descendant of the Lord. "The Jewish king was as accountable to the law for his judicial, moral and religious conduct as any ordinary citizen."<sup>28</sup> If the king disregarded the Law he could not claim the protection of the Lord and had no authority to punish those who pointed out his transgressions.

The authority of the Lord passed to the prophets, men who took it upon themselves to face the ire of the rulers and the people.

They were the stern guardians of individual and national conduct, the living Hebrew conscience, the poets of statesmanship. And they were completely fearless in pursuing their self-appointed mission, bearing abuse with sublime patience, defying kings and priests and populace alike, eternal rebels.<sup>29</sup>

Even Saul, first King of the Jews, aroused the ire of the prophet who proclaimed him King. After winning a substantial victory, Saul permitted his armies to gather spoils from the camp of the enemy, rather than pursuing the fleeing Amalekites. Samuel rebuked him: "Thou hast rejected the

<sup>25</sup> 1 *Samuel* 8: 9.

<sup>26</sup> *Id.*, at 8: 19.

<sup>27</sup> Hebrew tradition reports that Moses received the law from God, transmitted it to Joshua and thence to the Elders and Judges. But then the custodianship passed to the Prophets, not the Kings. HOROWITZ, *supra* note 18, at 22.

<sup>28</sup> DIMONT, *supra* note 2, at 49.

<sup>29</sup> SACHAR, *supra* note 14, at 61.

word of the Lord, and the Lord hath rejected thee from being King over Israel."<sup>30</sup> Rather than support Saul as he begged for forgiveness, Samuel chose a new leader, David, for Israel and supported the psalmist's claim against the sons of Saul.

As David grew popular among the people and Saul sensed the growing power of the usurper, David fled to the Judean hills and gathered a band of supporters, and siezed control of the surrounding countryside.

For eight or ten years he steered a tortuous course with masterful diplomacy. He flattered his friends, he bribed his enemies, and dexterously used them all to further his ambitions. There were accidental murders and timely assassinations.<sup>31</sup>

The earth did not open to swallow this rebel, nor was he warned of a possible death for his treason. Although Saul was the titular head of the Jewish state, the rebel David had the authority of the Lord, transmitted through Samuel, and his treason was sanctioned. At the age of thirty, after Saul's death, David was proclaimed King of Israel.<sup>32</sup>

But the prophet Nathan would not permit David to forget the Law of Moses. Coveting Bathsheba, the wife of Uriah, the King arranged for Uriah to be sent into battle where he was killed and then took Bathsheba as his own wife. Nathan went before David and confronted him with his sins, and threatened to expose the King's evil before all the people. David, King of Israel, did not have the purveyor of sedition killed—rather the King repented his sin and accepted the death of Bathsheba's son by him with resignation.<sup>33</sup>

Solomon, second son of David and Bathsheba, was the third King of Israel. Solomon consolidated the victories of Saul and David and established the holy city of Jerusalem as his capital. But Solomon's sexual indiscretions with beautiful women of foreign nations and his rigid despotism caused the Lord to speak through the mouth of the prophet Ahijah: "Behold, I will rend the kingdom out of the hand of Solomon."<sup>34</sup> Ahijah counseled rebellion; he sought out Jeroboam, a former servant of the King, and told him that it was his duty to seize control of the ten tribes of the North and rebel against the House of Solomon. Jeroboam fled the wrath of Solomon and went into Egypt to plan his revolution.<sup>35</sup> The kingdom that Saul, David and Solomon had built was to be rent apart by civil war. The era of a united Jewish state was over, and the rebellion had been

<sup>30</sup> 1 *Samuel* 15: 26.

<sup>31</sup> SACHAR, *supra* note 14, at 35.

<sup>32</sup> 2 *Samuel* 5: 3-4. Compare this reward for rebellion with the story of Korah's rebellion related *supra*.

<sup>33</sup> 2 *Samuel* 12: 1-23.

<sup>34</sup> 1 *Kings* 11: 30.

<sup>35</sup> *Id.*, 11: 31-43.

instigated by a lowly man of God who dared to criticize the mighty Solomon.

Into the world of the twin kingdoms of Judah and Israel strode the towering figure of Elijah, the prophet.<sup>36</sup> Ahab was King in Israel and was in turn ruled by his wife, Jezebel. When a man named Naboth refused to sell a certain vineyard to Ahab, Jezebel suggested she be permitted to handle the problem. She promptly had Naboth wrongfully accused of blasphemy and stoned. At his death his land forfeited to King Ahab.<sup>37</sup>

Elijah, incensed at this final crime, warned Ahab that he must forsake his wife and her false god, Baal, and the rites of "sacred prostitution" which accompanied his worship.<sup>38</sup> "In the place where the dogs licked the blood of Naboth shall dogs lick thy blood, even thine."<sup>39</sup> Shortly thereafter Ahab was killed in battle and the prophecy fulfilled.

But Elijah was not satisfied until all the evil of the ruling house of Ahab had been destroyed. He challenged the warriors of the state to come forward and face him. Then he called down "fires from heaven" which consumed them.<sup>40</sup> Finally he cursed Ahab's son, the last of his line, and the son perished that night.

The story of Ahab and Elijah brings the history of criticism of the state in ancient Israel a full circle. Korah was destroyed when he rebelled against Moses; Elijah the rebel destroys the state. Moses stood with God against those who rebelled, while God demanded the rebellion of Elijah. Shortly after Ahab the Babylonians and Assyrians ended an era of Jewish independence which was not begun again until 1948.

## VI. AN ESSAY IN CONCLUSION

In describing events that have occurred in a theocratic society, a religious historian has little difficulty accounting for the victory of one of two or more contending factions. In retrospect it is obvious to him that the god or gods were aligned with the victors. In writing his historical narrative he can therefore relate incidents that clearly show the divine intervention on behalf of the victorious party. There can be little doubt that this process was used when the authors of the *Pentateuch*, *Samuel* and *Kings* were preserving their descriptions of ancient Hebrew history on parchment.

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<sup>36</sup> Elijah is perhaps the most popular figure in Jewish history. A chair is set for him at every circumcision, and a cup of wine awaits his return at every Passover table. It is Elijah who will herald the coming of the Messiah: "Behold, I will send you Elijah the prophet before the coming of the Lord." *Malachi* 3: 23. (John the Baptist fulfilled this prophecy for the followers of Jesus.) Throughout the Talmud there are legends concerning the teachings of Elijah. HERTZBERG, *supra* note 5, at 217.

<sup>37</sup> 1 *Kings* 21: 1-16.

<sup>38</sup> DIMONT, *supra* note 2, at 54.

<sup>39</sup> 1 *Kings* 21: 19.

<sup>40</sup> 2 *Kings* 1: 10.

The civil war between Jeroboam and Solomon's successors is a historic fact, as is the establishment of the separate kingdom of Israel as a result of that war. To the nameless Jewish historian who related these events, they could have only one meaning: Solomon had lost the sanction of the Lord. A character named Ahijah is therefore created to relate God's message to the rebel Jeroboam and to mark the transfer of the Divine allegiance. At the time that the conflict was actually in process it is quite likely that both sides claimed they were on the side of God and attempted to invoke the law of Moses against their adversaries. If the people believed one side's claim to the sanction of the Lord, then that side was more likely to obtain public support in repressing others.

In modern America there is no official god which may be claimed as granting one faction a right to supremacy over others. There is no position that is inherently correct due to the support of a divine overseer. In such a non-theocratic society it is fitting and proper that all sides be equally heard in order that a choice may be made.

But, in the process of repressing dissent, despite the lack of governmental adoption of a supernatural justification, the possessors of power have behaved in a manner similar to that of the ancient Hebrew historian. Once they have established their position with the majority, they look back and state that it has now become obvious that they have been preaching the only true approach, and those that feel otherwise are, in some sense, heretics. Those with power cast themselves in the posture of Moses facing Korah in the desert.

Dissenters, on the other hand, have little difficulty placing upon themselves the mantle of some outside legitimacy. The power structure has become corrupt in their view, and has forsaken some fundamental precepts. The dissenters have become Ahijah pointing out the corruption of Solomon and calling for Jeroboam to restore Truth.

The question then remains whether any actual debate over issues can ever take place, but rather, as in ancient Israel, the only real debate is over legitimacy of one position versus another. Moses and Korah disagreed over the proper plan to be followed by the Israelites in the wilderness, yet the question to be resolved concerned which of the two was the true messenger of God. In the current debate over the Vietnam war, the facts are argued less than the morality of the various positions.

If free speech is a value because its exercise permits the decantation of truth through debate, then content must bear some relationship to that quest for truth. In ancient Israel truth was equated with God; in modern America, we should be enlightened enough to realize that truth exists independent of some supreme justification. Criticism of the state is justified when the critic has something of substance to say, but merely calling for the earth to open and engulf the adversary does nothing to further the

proper goals of free speech. And it is no answer to the critic for the state to assert that his position is "foreign to the basic principles that we all hold dear."

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