

JUDGE BIGGS: Yes.

MR. SAWYER: If Your Honor please, I have also to put on very brief testimony from the two younger Schempp children.

JUDGE BIGGS: Very well.

MR. SAWYER: But I have in the courtroom an expert witness and I think he would be able to finish conveniently this afternoon and, therefore, I would like to put him in even though it may be in a sense out of order because I want to come back to the Schempp family before I finish.

JUDGE BIGGS: You will defer the examination of the two Schempp children then until this witness is concluded?

MR. SAWYER: Yes, sir, I should like to.

Dr. Grayzel.

DR. SOLOMON GRAYZEL, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SAWYER:

Q Dr. Grayzel, would you give us your educational background, please, sir?

A Well, I --

JUDGE BIGGS: Doctor, would you please keep your voice up; forget that you have a loud speaker before you. As a matter of fact, this is on a Sound Scriber device which is being tested. The court reporter here is also making a record. Speak back so that Mr. Rhoads and the gentlemen at counsel table can hear you. Keep your voice up. We can hear you but I am not sure they can.

THE WITNESS: I will try.

JUDGE BIGGS: Yes.

THE WITNESS: I was graduated from the City College of New York and Columbia University. I went to a Rabbinic school in New York, the Jewish Theological Seminary. I was ordained there, then I received a doctorate of philosophy from the Dropsie College in this city.

BY MR. SAWYER:

Q And have you specialized in any particular studies in connection with your doctorate, sir?

A My specialty has been medieval history, specifically medieval Jewish history.

Q And what writings are they?

JUDGE BIGGS: Just a moment.

BY JUDGE BIGGS:

Q What dates would you call covered by medieval Jewish

history?

A Why, anything from I should say 300 to the French Revolution, to 1800, thereabouts.

BY JUDGE KRAFT:

Q You are speaking now of what calendar?

A Of the general calendar, the Christian Era.

BY MR. SAWYER:

Q And would you tell us what publications, if any, you are the author?

A I have written a book on The Church and The Jews in the 13th Century, and another one on The History of the Jew.

Q And what is your present --

MR. RHOADS: History of the Jew?

THE WITNESS: That's right.

BY MR. SAWYER:

Q And what is your present employment?

A I am the Editor of the Jewish Publication Society.

Q And you are also -- are you an ordained rabbi, sir?

A Yes, yes.

Q And are you here at this trial representing any particular organization?

A Well, I should like to make that perfectly clear, if you don't mind. I am here only, speaking only for myself. Neither the Publication Society of which I am the editor

nor any part of the Jewish community here or anywhere in the United States asked me to come here. I speak only and solely for myself.

Q And in your work as Editor of the Jewish Publication Society are you engaged in any work in connection with the Bible?

A Well, the Jewish Publication Society published its, or the Jewish -- let me put it this way: It published a translation of the Bible, that is the Jewish Bible, the so-called Old Testament, into English some forty years ago, a copy of which I have here, and we are currently engaged in a re-translation of the Bible into English, utilizing modern, the modern English, I say contemporary English.

Q Is the Bible that you refer to the one that is already, the older one, not the one that is now in progress, is that known as the Masoretic Text?

A Yes, it is called the Holy Scriptures. According to the Masoretic Text --

BY JUDGE BIGGS:

Q How do you spell that, please?

A M-a-s-o-r-e-t-i-c. Now, that is a very simple word. It is an Anglicized Hebrew word. It simply means traditional, the text as it was, as it has been handed down from ancient times, literally, without changing a single letter or a vowel.

BY MR. SAWYER:

Q Is it an element of importance within the Jewish religion that the precise wording of the Holy Scriptures be exactly unvaried?

A Yes, it is very important that the Masorah, the Masoretic Text, be adhered to very strictly.

BY JUDGE BIGGS:

Q How do you spell Masorah, please?

A M-a-s-o-r-a-h. But that applies, of course, only to the Hebrew, you understand that. It has nothing to do with the English translation.

Q No, I don't follow you. What do you mean? You mean that it's very important that the Hebrew text be exactly the same?

A That's right.

Q But it is not important whether or not the English translation of the Hebrew text is the same?

A Yes, the translation may vary as one person understands the Hebrew text or another understands it. If you compare the King James version, which is also in large measure based upon the original Hebrew text, with our translation, you will find a great many variations because they understood the Hebrew text in one fashion and we understood it in another.

BY MR. SAWYER:

Q Would you comment on the differences in what is included, not speaking now of textural or doctrinal differences but differences in what is included in the King James version -- strike that, please.

First of all, are you familiar with the King James version of the Bible?

A Fairly familiar.

Q Now, will you tell us then the differences in content between the Jewish Bible and the King James version?

JUDGE BIGGS: Just a moment, please.

BY JUDGE BIGGS:

Q First of all, what is an ordained rabbi? Isn't there some other word of art used when a rabbi is instituted in office, rather than "ordained"?

A I can't think of any.

Q In other words, an ordained rabbi, the word "ordained" is as appropriate there as an ordained minister in the Episcopal Church?

A That's right.

Q It's ordained?

A That's right.

Q Not instituted or inducted or anything like that?

A No, just ordained.

JUDGE BIGGS: Have you finished your endeavor to qualify this witness as an expert?

MR. SAWYER: Yes. I offer him as an expert, sir.

MR. RHOADS: I object to it, sir. I don't think that this witness has in any way qualified himself as an expert, certainly for an answer to the question which has just been presented to him in which he has been asked to point out the differences between certain texts in the King James version and other texts, be they Jewish or otherwise. And I object for the further reason, sir, that it seems to me that there is, that it's no part of this case to have a contrast textually between a Jewish version, a Catholic version and a King James version as such.

The question is a simple one: Whether the reading of the King James version, whatever that is, is contrary to certain specific clauses of the federal and state Constitutions which have been outlined by my friend. We are dealing here with a practice and we can get into, it seems to me, the most abstruse differentiations and classical problems that would bring this record into undue length I think in view of the very simple issue that is involved. I object on the ground that he is not qualified, and for the further reason that the question as asked is not pertinent.

JUDGE BIGGS: This raises a major issue in the case, gentlemen. It was discussed at pretrial at some length. I don't think any conclusion was reached in respect to it. My recollection is that I stated that this issue would have to be deferred until the other two judges who would sit with me were present. And I think we will retire to Judge Kirkpatrick's or Judge Kraft's chambers, or my chambers, and consider this matter.

MR. SAWYER: Does Your Honor mean with --

JUDGE BIGGS: And we would like to have counsel. Suppose, if you be good enough, to come down to my chambers. Will you do that, please, and the Court will stand in recess for at least fifteen minutes, at least until 3:30.

Will counsel come to my chambers, please, and everyone else, we will call back everyone else when we have concluded.

MR. RHOADS: Does Your Honor object if I bring my associates with me?

JUDGE BIGGS: Of course not. All counsel are invited to come down to my chambers.

(Recessed at 3:13 p. m. and reconvened at 3:40 p.m.)

MR. SAWYER: Dr. Grayzel, will you take the stand again, please.

JUDGE BIGGS: Now, we understand that Mr.

Rhoads made an objection to the qualification of this witness.

We sustain the objection and give you leave to further qualify the witness.

MR. SAWYER: Thank you.

DR. SOLOMON GRAYZEL, resumed.

DIRECT EXAMINATION (CONTINUED)

BY MR. SAWYER:

Q Dr. Grayzel, you testified that you were a graduate of the Jewish Theological Seminary of America. What kinds of studies are pursued and did you pursue at that institute?

A Well, the studies involved every phase of Jewish literary and religious life. Speaking in terms of studies, there are, of course, theological studies and there is Hebrew literature, Bible, Talmud, medieval literature -- it is practically interminable.

Q Is it a theological institute?

A Yes.

Q Is it an institute which deals with an specializes in the study of one particular aspect and branch of the general scope of theology?

A Of Jewish theology, yes.

Q Jewish theology?

A Yes.

Q And what is meant when you also refer to it as a Rabbinic institute?

A Well, it would take me some hours to describe the duties, the history of the development of the rabbinate as an institution.

Q What is it, what is that institution, sir?

A It is, originally, basically the rabbi is an expert in Jewish lore, in theology, in Bible, and in the literature that developed out of the Bible. He is basically a teacher and a guide of the legal aspects and the theological aspects of Jewish life.

Q And --

BY JUDGE KIRKPATRICK:

Q Well, you have read and studied the Jewish Holy --

A -- Scriptures.

Q -- Scriptures in the original Hebrew?

A Yes.

Q You are familiar with the Hebrew language and you can speak it, I have no doubt.

A Yes.

Q And you read and studied the whole of the scriptures in the Hebrew language?

A Yes. The Hebrew Scriptures in the Hebrew language,

yes.

BY MR. SAWYER:

Q And you said that you got your Ph.D. at Dropsie College?

A That's right.

Q And what kind of an institution is Dropsie College?

A Dropsie College is a graduate institution for the further study of research, or rather research in Jewish studies and studies allied with it. For example, at Dropsie College there is studied not only the Hebrew language more profoundly and the Bible more, in more detail but also Arabic, Assyriology, history, anything pertaining to Jewish life and Jewish sources.

Q And you also testified with regard to a translation, a new translation of the Jewish Holy Scriptures. What have you to do with that and the translation is from what language to what language?

A Well, as the Editor of the Jewish Publication Society I am part of the Translators Committee. We have a committee of the foremost Jewish scholars in, Bible scholars and very learned rabbis representing the various viewpoints in Judaism, and we translate practically word for word from the Hebrew, naturally, with the aid of all sorts of commentaries in every kind of language and all the versions that preceded ours, but it is primarily on the basis of the Hebrew language.

Q And in the course of your studies have you had occasion to read the Bibles of other faiths other than the Jewish faith?

A Certainly.

Q What would some of those Bibles have been which you had occasion to read and study?

A Well, the King James version is, of course, basic for the simple reason that it's a remarkably well done translation for the 16th century, for the Jacobean times. And then, of course, there is the American translation and the most recent revised standard version, which is a reputable piece of work.

Q Are there Catholic versions which you have also read?

A Oh, yes, we consult the Catholic versions. But you realize -- I don't know whether you would know about it, but from the point of view of the Catholic the important thing is church doctrine, whereas to us the important thing is what the Hebrew of the Bible actually says, regardless of whether we agree with it at the present time doctrinally or not.

MR. SAWYER: Your Honor, I renew my submission to the Court that Dr. Grayzel is competent to testify as an expert.

JUDGE BIGGS: Any objection?

MR. RHOADS: I would like to reserve my objec-

tion, sir, but I am sure that Your Honors will hear this witness and give me the privilege of objecting at the proper time if we find that there may be substantive objections as his testimony develops.

JUDGE BIGGS: It is so ordered. Will you proceed.

BY MR. SAWYER:

Q Now, Dr. Grayzel, are there any books -- first of all, is there any general section of the King James version of the Bible which is not to be found in the Jewish Holy Scripture?

A Our sacred books consist of the three divisions which -- we divide the Bible into three parts, the Torah, which is the five books of Moses, the prophetic portion from, I mean the historical books and the Prophets from Joshua down to the end of the prophetic tradition Malachi, and then the sacred writings, including everything else, the Psalms, the Proverbs and all the others down through Chronicles, which this differs considerably from the Christian tradition in the order of the books and in the contents of the Bible.

Q In the view of the Jewish church do all of the books have equal importance and weight from the standpoint of their religious value?

A There is a distinction which every Jew makes. The

highest sanctity is ascribed to the five books of Moses.

BY MR. RHOADS:

Q That is the Torah?

A The Torah. Lesser, somewhat lesser sanctity is ascribed to the historical and the prophetic books, and least sanctity, though sacred too, naturally, is ascribed to the so-called sacred writings, Psalms and the rest.

May I add this: That in the King James version, of course, the order of the books is completely different, I mean from a Christian viewpoint understanding, and, besides, there is added the New Testament, which the Jewish Bible naturally does not have at all.

BY MR. SAWYER:

Q Now, the Jewish Bible, in other words, does not contain the New Testament?

A No.

Q Now, what is the position of the Jewish religion regarding the New Testament?

MR. RHOADS: Now, if Your Honors please, may I here register a little different objection. I do not think that a description of the Jewish tradition has any part in the case which is presently before us.

JUDGE BIGGS: I think the answer to the question would generally be admissible. We will overrule

the objection subject to a motion to strike.

JUDGE KIRKPATRICK: May I ask one question before you leave the Old Testament.

BY JUDGE KIRKPATRICK:

Q Does the King James Old Testament contain any books that are not in the Hebrew Scriptures?

A The Old Testament, no. The same books are contained in both but in different order.

JUDGE KIRKPATRICK: That is all that I wanted to know. All right, now go ahead with your other question.

THE WITNESS: What is the question, sir?

BY MR. SAWYER:

Q The question was this: What is the position, the doctrine of the Jewish religion with regard to the New Testament, specifically with regard to the figure known as Jesus Christ?

A The Jews have, naturally, not believing in the divinity of Jesus, have no place at all for the New Testament or any part of it. They consider it, the writing, I mean the books themselves, each individual book was practically in every case written by a Jew or a former Jew but it is not part of the Jewish tradition and sometimes certain portions of it are distinctly offensive to Jewish tradition.

MR. RHOADS: Would it be improper, sir, to

possibly ask the question whether Dr. Grayzel could define for us what he means by "tradition"?

Is that the same thing that we might call faith, a Christian faith, a Jewish faith, a Catholic faith?

JUDGE BIGGS: I think we are getting into rather deep issue here and I think it would be better to reserve that for cross-examination.

MR. RHOADS: Thank you, sir.

THE WITNESS: I don't mind answering it.

JUDGE BIGGS: I think it is a little bit out of place until you come to cross-examination.

MR. RHOADS: I beg Your Honors' pardon.

BY MR. SAWYER:

Q Dr. Grayzel, I will ask you. You said at the end of your last answer that it would be regarded as offensive. How would you describe it, the word "offensive" having connotations both of a religious and non-religious nature, how would you describe it, what would be the words that you describe it from the religious standpoint? What would it be called, the concept of the divinity of Christ?

A I don't want to step on anybody's toes but the idea of God having a son is, from the viewpoint of Jewish faith, practically blasphemous.

Q And was that concept, in the view of the Jewish faith,

the assertion by Christ of divinity in that sense of the word, the crime of Christ in the view of the Jewish church at the time?

A If that incident happened, I mean Jesus --

Q If the incident happened would it have been such assertion?

A It would have been offensive, yes.

BY JUDGE BIGGS:

Q Would it have been blasphemous?

A Blasphemous, yes.

BY MR. SAWYER:

Q Now, are the portions of the Old Testament which in the view of the Jewish religion are imbued with a Christological significance in the King James version.

MR. RHOADS: What?

THE WITNESS: Christological.

MR. SAWYER: Christological, yes. Intending to indicate, if I may say -- maybe I better ask the doctor what it means.

JUDGE BIGGS: Suppose you ask the doctor.

THE WITNESS: Well, Christological means anything pertaining to Christ, anything pertaining to Jesus. And there are any number of passages in the Jewish Bible, in the Old Testament, which the church interpreted as referring to Jesus. I mean it's quite naturally under-

standable. For example, when you speak of -- I think of a simple instance -- when you speak of "a Scepter shall not depart from Judah," that in the King James version, I am practically certain, the word "scepter" would be capitalized because it refers to Jesus, in the Christian tradition or the Christian faith. In our translation I am equally sure it would be written small. Or take, it occurs to me, if I may offer another example of it, at the very beginning of the Bible you have the description of the Creation, "And the Spirit of God hovered -- or floated, whatever the word is -- on the face of the waters." Now, in every Christian translation the word "spirit" would be capitalized because the assumption there is that it's a reference to the Holy Ghost.

Now, the Jews understand it, assuming that it does mean "spirit," it means the actual presence, the essence of God and it would not be capitalized. You will find in our translation that it is with a small "s".

Now, these physical differences sometimes manifest themselves also in differences of translation. Any number of passages in the King James version will have a superscription -- better define that -- in the Christian Bible especially you have the various passages, the various Psalms described, summarized by a brief state-

ment which is not essentially in, of the Bible but is a description of the translator or the editor of what the next passage contains. Now, that we call a superscription.

JUDGE BIGGS: In legal parlance a head note, gentlemen.

THE WITNESS: That's new to me.

Now, that superscription very frequently will say that this refers to Jesus; it describes Jesus' life.

I could -- if you will give me a moment I can give you any number of Psalms where that superscription is, definitely says that refers to Jesus.

JUDGE KIRKPATRICK: Well, the Act doesn't require the superscription to be read in the school, does it?

MR. SAWYER: No, sir, but we have testimony that the children in the lower grades read the Bible themselves and, therefore, they have the King James version in front of them and it is presumed they see the superscription.

MR. RHOADS: The question is what is read and there is no evidence whatsoever at any time, by children or teachers, that superscriptions have been read.

JUDGE BIGGS: I think that's correct. I

think the answer should be stricken out unless you can tie it in to some prior testimony or something which may be offered hereafter.

MR. SAWYER: Well, I submit, Your Honor, that if you place into the hands of a child a copy of the King James version, and if all copies of the King James version have the superscriptions, that it is inevitable that the child will see and perhaps read the superscription, but at least he will read it mentally, whether he reads it out loud or not. Now, we have an instance that the children themselves read the Bible in the lower grades, although it's done over the loud-speaker system definitely.

JUDGE BIGGS: I think in all probability I ruled in error. I think it should be admitted.

MR. RHOADS: Will Your Honor grant me an exception so to at least register my objection.

JUDGE BIGGS: Yes. I think in view of the explanation given by counsel it is pertinent. If we find it to be not pertinent, we will strike it out.

MR. RHOADS: Will Your Honors hear me just a moment in order that the record may be clear as to my objection to this. There is not the slightest suggestion in this case, nor has there ever been, that any superscriptions, marginal notes, head notes, or otherwise, are being

read at any time by anybody in the Abington Public School System. The issue here is whether the reading of ten verses, without comment, of the Holy Bible at devotional services, in the morning so-called, is unconstitutional.

Now, for my friend to blithely make the suggestion that because somebody may have before him, a child or otherwise, a head note, a syllabus, a marginal note, particularly when in the act of authorization of the King James version in 1604 King James himself decreed and ordained that marginal notes, as I recall it, sir, were not to be included. Now, the marginal notes are no part of the Holy Bible from the point of view of the issue that is before us here. They may be to scholars part of the Holy Bible but they are not parts of the Holy Bible that are involved in the suggested interdiction of its reading by virtue of the proceeding which is before Your Honors.

JUDGE BIGGS: I think we grasp the point.

MR. RHOADS: Thank you, sir. I simply wanted to make my point a little more clearer.

MR. SAWYER: Your Honor, in view of our agreement in chambers that we wouldn't overdo the number of instances, I would like to invite the doctor's attention to one or two verses by name.

I assume that you won't consider that leading

but it will save time.

MR. RHOADS: Not at all.

JUDGE BIGGS: Very well.

JUDGE KIRKPATRICK: Before you leave the New Testament may I ask just one more question and then I will subside.

BY JUDGE KIRKPATRICK:

Q Does the Jewish church accept the historical fact, for example, that an individual named Jesus was actually executed by the Romans, as a historical fact, regardless of who he was or anything else?

A That would have nothing to do with the religion.

Q Yes, that is what I mean. As history, do they accept --

A Historically, in history there have been some voices raised in disagreement but generally speaking the historical fact is accepted.

JUDGE KIRKPATRICK: That is all that I wanted to know. All right.

BY MR. SAWYER:

Q Could I invite your attention, Doctor, and ask you to comment on any differences that you find in Isaiah 7:14?

JUDGE BIGGS: Isaiah 7:14?

MR. SAWYER: Yes.

JUDGE BIGGS: 7th Chapter, 14th Verse.

THE WITNESS: Yes. The 7th Chapter of Isaiah

speaks of a situation in which the prophet pointed to or expressed himself, "Behold, a virgin shall conceive, and bear a son, and call his name Immanuel."

Q Now, what version are you reading from there, sir?

A This is the King James version.

Q How does that language appear in the Jewish --

A In the, in our version it reads, "Behold, the young woman shall conceive and bear a son and shall call his name Immanuel." It is "the" and "young woman."

Now, the translation "young woman" was in this instance accepted by the revised standard version. Not all Christian sects have approved, but in this instance the old Jewish translation was accepted, but they still say, "a young woman," which is admissible from the point of view of the Hebrew text. But there we come up against a distinct difference in religious faith. The Jewish attitude was that the prophet was speaking about a situation which existed right in front of him. The king had a young wife and she was pregnant and the prophet turned to the king and said, "Now, this young woman who has conceived," or if she wasn't pregnant, "will conceive and she will bear a child and his name should be," as we interpret it poetically speaking, "Immanuel," which is the Hebrew for "God is with us."

Now, the Christian church subsequently took this, as it did any number of other passages, as a prophecy, a prediction of things that were to happen many centuries later and took the words "young woman," which could be from the Hebrew viewpoint, could be either a married young woman or ~~an~~ an unmarried young woman, took it to be a virgin. And so you have here an example, one of the basic examples of deviations between the two, the differences between the two faiths.

Q Now, Doctor, as a rabbi, could you comment on the religious aspect from the standpoint of Jewish faith of necessarily reading the Bible without comment.

A Again, here is a difference in attitude. I don't know to what extent it is prevalent among Christians at the present time. In Judaism the Bible is not read, it is studied. There is no special virtue attached to a mere reading of the Bible; there is a great deal of virtue attached to a study of the Bible. And it, therefore, always strikes me, speaking for myself, as rather peculiar that anything such as reading the Bible should be an important matter. I can understand, and let me, to make my position clear I want to state it quite firmly, that I think it is most important for Christian children or Christian adults to read and to study the Bible, to study it. But as soon as you begin studying the Bible in

the school, of course, there you have a distinct violation of a basic principal of Americanism.

JUDGE BIGGS: Let me ask this question --

MR. SAWYER: I didn't mean for the doctor to go on and make that comment. I think that may be stricken. I will agree to that.

MR. RHOADS: I would like to ask that all of the doctor's last answer to Mr. Sawyer's question be stricken because it seems to me --

JUDGE BIGGS: I am not sure where the answer should be divided. I think it might be well that the whole answer be stricken and then you ask the question again and you may omit the characterization.

THE WITNESS: I am awfully sorry about it.

JUDGE BIGGS: That is quite all right, Doctor. This is a difficult subject, Doctor.

BY MR. SAWYER:

Q Let me put my question this way: As a rabbi are you familiar with instances in which confusion has arisen in the minds of children with whom you have come in contact as a rabbi as a result of the mere reading of the Bible without explanatory comment or interpretation by somebody authorized and qualified to do so in the Jewish faith, and if so could you give us such an example?

MR. RHOADS: If Your Honors please, may I

object to that question in its present form and in substance?

JUDGE BIGGS: We think the question is admissible. We will overrule the objection.

THE WITNESS: If I may answer that question, I would like to cite, with all due respect to Mr. Schempp who testified just a little while ago, the statement that he made, and indicate how the Bible is misunderstood when it is taken without explanation. I mean this reference to a passage in the Bible in Leviticus, which certainly is rarely read, but if an animal is found dead, killed or died naturally, that a Jew may not eat it but a non-Jew may.

Now, if you study the passage it becomes perfectly clear that it was not an act of contempt for the non-Jew but an act of further sanctification for the Jew. He was to abide by certain rules. But since the non-Jew in those days, and presumably now, wouldn't hesitate to eat that kind of animal, you are not to deprive him of it. But as a Jew you are not supposed to eat it. Now, that does not come out from a mere reading of the Bible but it does come out from a study of the Bible, and there are any number of such instances.

JUDGE KIRKPATRICK: You were asked about

the particular cases of children that you were familiar with who were confused.

THE WITNESS: Yes. Now, there are children who have come to me, I mean Jewish children, naturally, who have come to me and on some occasions -- I used to be a teacher, too. That I didn't say before -- and told me that or asked for explanations of certain readings which were made to them and which led to discussions afterwards with their fellow students, much to their dismay because their answers just came out second best.

For example, such a simple story as the sale of the birthright by Esau to Jacob. Now, if you read the passage as it is written, without paying too much attention to it, it is possible, as happened, for a child, for a non-Jewish child to come to a Jewish friend and say, "I see now your ancestor was a cheat. He took advantage of his brother who came in tired and hungry and made him give up something valuable for a mess of pottage."

But the point of the story, which I had to -- I remember having to explain to the complaining child -- was the last phrase in it. The point was, "Thus, Esau despised his birthright."

It wasn't the question of whether Jacob took advantage of him or not; the point of the story is that Esau had so little regard for his birthright that he was

ready to sell it or give it away for a petty thing.

JUDGE BIGGS: How does that go to the issue of sacrilege or blasphemy?

THE WITNESS: No, that's --

MR. SAWYER: That doesn't Your Honor. That goes to a different issue, which is the possible confusion which we say is very likely, if not inevitable, when the Bible is read without comment, as under this statute it must be, and he is giving an example, and he gave another one from Mr. Schempp's own testimony; he said, now, here is Mr. Schempp who interprets this, about the meat not being eaten by Jews but can be given to strangers as being a very harsh rule, and he says that if you explain that, if that comes to you in the aegis of the church, if that book were read to you under the aegis of a church or even a family, there is someone there who can explain what that means according to their likes, and without that explanation the child may get an impression -- we can't say whether it is a true or false one because what is true or false is relative in this particular case now -- it may get an impression contrary to what its religion believes to be true.

JUDGE BIGGS: Well, I can see how it can have sociological significance but how does confusion have religious significance?

MR. SAWYER: But isn't it to the interest of

the church, and didn't we have testimony so far as to the Jewish church that the text is important, that is if the religion believes that the particular text that they follow and the particular book that they use is indeed the work of God, either in the sense of it having been God who moved the hand of those who wrote, or at least those who wrote wrote with Divine inspiration, then to a person so religiously oriented it becomes an extremely important matter whether or not the person, the child hearing it might come away with a false impression as to what that religion says God meant by the particular passage involved.

BY MR. SAWYER:

Q Now, to move on again, Doctor, by specifically calling your attention to a passage, would you refer in the King James version to portions of Matthew 23, which, to refresh all of our recollections, I would ask you first to read and then to comment upon from the standpoint of the Jewish faith and, secondly, from the standpoint of the reaction of a Jewish child, if it's been within your experience, to that passage.

A Well, in Matthew 23 we have an address of Jesus about his contemporary Jews, and in several portions of that chapter he says -- I am reading Verse 13 from the King James version -- "But woe unto you, Scribes and Pharisees,

hypocrites! For ye shut up the Kingdom of Heaven against men," and so on, and then that's repeated later on on the various, where he makes various points. And it seems perfectly clear that a Jewish child subjected to this kind of reading, and finding that his, the traditional leaders of his religion are being called hypocrites by the most important personality of the religion of the other children, are not going to be very happy about it.

Q And how about Matthew 26, sir?

A Is it 26? No. It is -- I think you refer to Chapter 27.

Q I am sorry.

A Which discusses --

Q The scene of the conviction.

A -- the crucifixion and the conviction. And the scene is, if you recall, where he appears, where Pilate, Pontius Pilate comes out on the balcony of his palace and asks the crowd down below whether they would choose that he release Jesus -- may I read -- which is called Christ and, or Barabbas, who was a thief. And Verse 22: "Pilate saith unto them, What shall I do then with Jesus which is called Christ? They all say unto him, Let him be crucified.

"And the governor said, Why, what evil hath

he done? But they cried out the more, saying, Let him be crucified."

And then when Pilate saw that he couldn't prevail, he washed his hands and said that he is clear of this sin.

"Then answered all the people, and said, His blood be on us, and on our children."

And I submit to you that this verse, this exclamation has been the cause of more anti-Jewish riots throughout the ages than anything else in history. And if you subject a Jewish child to listening to this sort of reading, which is not at all unlikely before Christmas or before Easter -- rather, before Easter, I think he is being subjected to little short of torture.

MR. SAWYER: Well, all right, if there is no objection to that I will leave it go at that.

(Counsel confer at counsel table.)

MR. RHOADS: I assume, sir, that this type of testimony is subject to my objection; that is the reason I did not rise to object to the conclusion which our learned friend made when he said this is a little short

of torture. I think that that is completely beyond the scope of this trial.

JUDGE BIGGS: I think so.

MR. RHOADS: But I think that I can raise the question at subsequent proceedings and that it's unnecessary to do it now.

JUDGE BIGGS: The Court so views, so understands your position.

MR. RHOADS: Thank you, sir.

MR. SAWYER: Cross-examine.

JUDGE BIGGS: I think we should go on, gentlemen, until five o'clock, and I think it would be well to state at this point that we will sit starting at ten o'clock tomorrow, take a brief recess, go through Wednesday, but we will have to conclude due to engagements of the judges by twelve noon on Thursday.

MR. SAWYER: Oh, well, Your Honor, of course, I have no idea how long Mr. Rhoads' cross-examination of Dr. Grayzel will be, but for my own part, sir, I have the two younger Schempp children to put on, whose testimony will be necessarily more brief than those who preceded them, both by reason of being somewhat cumulative and because they are much younger, and that is the end of our case except for submission of some documents. And since

it is my understanding that Mr. Rhoads' case will be deferred --

JUDGE BIGGS: It has been agreed to November.

MR. SAWYER: -- be deferred to some other time, I can't conceive that we will run beyond noon tomorrow, unless your cross-examination --

JUDGE BIGGS: Better strike out the word "November." Whatever date Mr. Rhoads and --

MR. RHOADS: Yes, and Your Honors agree.

JUDGE BIGGS: Yes, it will be convenient.

MR. RHOADS: May I suggest, sir, I'm in entire accord with what Mr. Sawyer just said about the question of time.

JUDGE BIGGS: Then you want to conclude now?

MR. RHOADS: I would suggest it to Your Honor that it might help in the orderly development of the cross-examination of a witness of this distinction if I might have the evening to consider his testimony and either limit or in some way circumscribe the amount of my cross-examination.

BY JUDGE BIGGS:

Q Doctor, you live in the environs here?

A Yes, yes.

Q Would tomorrow morning be all right with you?

A Yes, perfectly all right.

[MR. RHOADS: If that would be convenient to the doctor -- of course, I could go on now if Your Honor wishes me to do so.

JUDGE BIGGS: No. I have only one question which I would like to clear up.

BY JUDGE BIGGS:

Q Doctor, I have attended a number of Bar Mitzvah ceremonies of my friends who were rather of your religion. On those occasions the Torah was always read.

A That's right.

Q Isn't that a reading of the Five Books of Moses?

A That's right. That is a public reading which is supposed to be preceded by a private reading. Now, they don't do it nowadays, I grant you that, but it is a public reading for religious purposes, but the actual reading of the books for the individual is supposed to have come before.

Q Are there not comments made by the rabbis present at a Bar Mitzvah ceremony, and also by the candidate -- I think it is a manhood ceremony, is it not?

A That's right.

Q And by his father or his uncles, or something of that sort, which really interprets the Torah?

A It's not necessarily an interpretation. The rabbi's

address is probably an interpretation, the others are, in modern times, more in the nature of religious exhortations which have little to do with the reading, with the text read.

JUDGE BIGGS: Thank you, Doctor.

MR. RHOADS: Would you have any objection, sir, if we then adjourned until tomorrow?

JUDGE BIGGS: No, I am agreeable.

Mr. Rhoads, do you see anything in the case thus far, in respect to your cross-examination, which would continue the case much beyond tomorrow noon?

MR. RHOADS: I couldn't conceive of it, sir. Frankly, I think my cross-examination would extend not beyond a half to three-quarters of an hour, as I can see it, at the outside.

JUDGE KIRKPATRICK: Well, that is all right then.

MR. RHOADS: And I have, as you know, no testimony, sir, because of the understanding which you have been good enough to make with counsel.

JUDGE BIGGS: Very well, then, I think it would be appropriate if Court adjourned this case -- maybe we better say "adjourned this case," because I believe the Court will be sitting in other matters very

MR. SAWYER: Your Honor, when we reached the end of yesterday Dr. Grayzel was on the stand. He had given an answer which, if I am not mistaken, I acceded to being stricken, or at least a portion of it. I would now like to withdraw that remark on my part and attempt to ask one or two more questions of Dr. Grayzel which would, in my judgment, justify that statement remaining in the record.

The statement in question, Your Honor, was about the feeling of torture to the child.

JUDGE BIGGS: Yes.

MR. SAWYER: And thereupon, with leave of Court, I would like to ask Dr. Grayzel two or three more questions before I --

JUDGE BIGGS: All right. Now, what is your motion in respect to the statement which has been made? I am not sure --

MR. SAWYER: That my statement saying that I agreed that that latter portion of the statement might be stricken be withdrawn and I have an opportunity --

JUDGE BIGGS: You wish to withdraw that statement that you made?

MR. SAWYER: Yes, sir.

JUDGE BIGGS: Any objection, Mr. Rhoads?

MR. RHOADS: Of course I have no objection,

sir.

JUDGE BIGGS: I understand your objection goes generally.

MR. RHOADS: Oh, yes, the objection goes generally to the line of testimony, and obviously I wouldn't want to hold Mr. Sawyer to a statement made yesterday which he wishes to retract.

JUDGE BIGGS: Very well. Then let the record show that the Court allows Mr. Sawyer to withdraw that statement. And let Dr. Grayzel testify further in respect to that.

SOLOMON GRAYZEL, resumed.

DIRECT EXAMINATION
(CONTINUED)

BY MR. SAWYER:

Q Dr. Grayzel, have you been a teacher of Jewish children in religious subjects?

A Yes, I was a teacher for a period of some twenty years or more.

Q A little louder, please, sir.

A I taught for some eighteen years right here in Philadelphia at the Gratz College. That is on Broad and York Streets. It's a college for the training of teachers in

Jewish religious schools. Most of the pupils in the college itself ranged from I should say fifteen to about, to over twenty.

Q Have you ever taught -- at any other time have you ever taught younger children?

A Yes, in my student days in New York I taught children, oh, about ten to thirteen or fourteen.

Q And either there or in Gratz College did you have an opportunity to observe the effect and the response of children to religious teaching generally?

A Naturally, it can't be helped. After all, all these children are pupils of the public school.

Q I hadn't -- well, first of all, are you familiar with the general reaction and response to a child to religious teaching that you gave? Are you familiar with that?

A To my own religious teaching?

Q Yes, that's right, to your own religious teaching.

A Yes. If I understand you correctly, all I can say is that some of them were very much interested and some were less interested.

Q And --

MR. RHOADS: Meaning all children.

THE WITNESS: Yes, sir.

BY MR. SAWYER:

Q Did you also have occasion to have it come to your attention as to the effect upon these children of religious matter having to do with the story of Christ and his crucifixion?

A Oh, well, there is a very interesting psychological situation in the case of Jewish children. They are brought up in the midst of a Christian environment. The story of Christianity obviously plays some part in their contacts both in the outside world with their friends and certainly within the school, within the environs of the school. It is inevitable and certainly part of their education -- I don't think it is possible to expect anything else -- that something of the story of the origin of Christianity should be taught or should be discussed.

Very much depends -- I am talking now from the viewpoint of the Jewish child and its attitudes and its adjustment to the outside world; its happiness, in whatever term you want to apply to it, is very important how this story is told, how it is taught, and how the child's friends react to it. Given an intelligent teacher -- Jewish, Protestant, Catholic, it doesn't matter -- given an intelligent teacher that story can be taught in such a way as to leave no scars on the consciousness of the child. I don't know

how many such teachers there are.

The story itself lends itself to being told in such fashion as to act as a divisive force within the children's -- within the society, within the social milieu of the school. And I have had any number of instances where a pupil of mine, let us say here at Gratz College, a high school pupil, would come very much disturbed at the way the story was presented to him.

I am not talking about Bible reading, I mean the way the story is presented, whether in connection with the Bible or not, I don't know. And this passage, for example, to which I referred yesterday, from Matthew 27, is one of the crucial passages.

Q Now, Doctor, if the passage alone were read in the absence of the kind of instruction and the kind of explanation which you say is possible, what then in your experience would be the reaction of the Jewish child?

MR. RHOADS: If Your Honor please, may my objection go to all of this testimony.

JUDGE KIRKPATRICK: It is a matter of pure argument anyhow.

MR. RHOADS: Exactly, sir. I didn't want to interrupt the doctor in his --

JUDGE BIGGS: It is obviously a matter of ar-

gument, but, on the other hand, this is a rather shall I say a subject in which the presiding Judge is not particularly skilled. I would like to hear this for the time being anyway.

Let's not pursue this too far along the line embarked.

MR. SAWYER: This is my last question.

THE WITNESS: I beg your pardon, I have forgotten the question.

MR. SAWYER: Will the stenographer read that question, please.

(The last question was repeated by the reporter, as follows:

"Q Now, Doctor, if the passage alone were read in the absence of the kind of instruction and the kind of explanation which you say is possible, what then in your experience would be the reaction of the Jewish child?")

A I think that without explanation this is a very, very serious matter. I think it can be explained. I think it should be explained. If a teacher reads it in class or wants to tell the story with this passage as part of it, you cannot, I mean, erase it from the Bible, from the New Testament. But given an explanation it can be put in its place and can

leave less harmful effect. But without explanation I think it is a direct accusation and a threat which is very disturbing.

MR. SANYER: Thank you, sir.

Cross-examine.

CROSS-EXAMINATION

BY MR. RHOADS:

Q Doctor, do I understand that the substance of your last questions, the answers to which you have just given, is based upon other than Bible reading without comment in the public schools?

A Well, I cannot connect it with Bible reading. In my memory I don't recall that any discussion took place. It may have but I don't recall it. Don't forget I taught for some twenty years. But I cannot recall that it was directly connected with Bible reading.

Q So the --

JUDGE KIRKPATRICK: May I ask just one question, please?

MR. RHOADS: I beg your pardon.

JUDGE KIRKPATRICK: May I ask just one question?

THE WITNESS: Yes.

JUDGE KIRKPATRICK: It is in line with what you asked.

MR. RHOADS: Pardon me, sir.

BY JUDGE KIRKPATRICK:

Q Bible reading is one thing, the Lord's Prayer is another thing. Now, does the Lord's Prayer contain anything which the Jew would find objectionable or offensive from his religious standpoint, the Lord's Prayer itself?

A The wording of the Lord's Prayer is so completely derived from Jewish sources, from Jewish literary source material, sentence for sentence, almost phrase for phrase, it goes back to rabbinic material or to Biblical material, that to the contents of the prayer there can be no objection. The only objection is to the name, strangely enough. When a Christian calls that the Lord's Prayer he means Jesus. If they would say God's Prayer, I -- we say those phrases constantly in the Jewish service.

Q That explains what I wanted.

A It is the title of it.

JUDGE KIRKPATRICK: Go ahead, sir.

BY MR. RHOADS:

Q Now, Doctor, in all, therefore, of your teaching experience you can cite no instance, I understand, in which a Jewish child came to you and complained to you about the reading without comment of ten verses from the Holy Bible in the public schools, is that right?

A If you recall, sir, yesterday I pointed out that there was this one instance, the only one that for the moment I can recall, of the story of Jacob and Esau and the sale of the birthright.

Q But except for that --

A Except for that, at the moment I cannot recall anything else.

Q And you have known, of course, Doctor, that you were going to testify in this case, I suppose, for some time?

A Some weeks, yes.

Q Now, Doctor, I understand from your testimony that your criticism about the reading of the Bible is the fact that it is being read and not explained. Is that the layman's judgment of what you said?

A I think that is correct.

Q Now, if while the Bible was being read the person who read the Bible gave his or her own version of what was then being read, that would be interpretive reading of the Bible, is that correct?

A That's right; that's right.

Q And to the -- withdraw that.

Now, Doctor, you have mentioned the fact that you, in so far as you can speak for the Jewish faith or for yourself as representing the Jewish faith, you answered

Judge Kirkpatrick by indicating that you had no objection generally to the Lord's Prayer except for the use of the word "Lord." And you gave the reasons for it.

A That's right.

Q Now, that, the Lord's Prayer, stems from an historic fact, does it not, sir?

A As the New Testament tells it, yes.

Q Yes. And the Jews as a faith recognize the historic fact that Jesus the man said what is said in the Lord's Prayer at a given moment in his ministry life, is that correct?

A Now, Mr. Rhoads, you are -- if I answer your question very simply you are going to hurt my scientific conscience.

Q Well, now, Doctor, I am sure that your scientific conscience is so far greater than mine that I wouldn't want to hurt it, and you answer it in your own way, sir, and forgive my bungling approach to the question, if you will.

A Well, you see, historically, from the point of view of historical research, it is not at all certain that all the words attributed to Jesus were actually uttered by him. The only thing that I feel is absolutely certain is that such a personality existed, that he had followers, that he made certain claims, the nature of which is also in doubt, and that eventually the Romans executed him. All the rest, the vari-

ous speeches, teachings and what not, are open to doubt as to whether he said them at all, and certainly as to whether he said them in just these words. There were no stenographers in those days. Consequently, when you ask me whether I will admit that he said these words, I cannot in good conscience admit it.

Q I understand, Doctor, and I understand the scientific basis of your answer. That brings me to the next question. You have had broad experience in translation, have you not, of the Bible?

A Yes.

Q Doctor, long before the King James version there was a version of the Bible translated into Latin, was there not?

A That's right, the Vulgate.

Q The Vulgate edition. And about when was that translated?

A Oh, this was very early.

Q Very early?

A This was the third century, the fourth century.

Q And that was translated into the Latin because chiefly the language of religion in those days was the Latin tongue, is that correct?

A That's right.

Q Now, there came a time in the history of man when it

seemed rational to translate the Bible into something other than the language of religion, namely, the Latin language, is that right?

A That's right.

Q And that is what led to the English translations of the Bible stemming with the final translation of the King James version, is that correct?

A That's right.

Q Now, Doctor, whether Jesus said certain things or whether certain acts took place in ancient days, the translations which were made into English were made, were they not, from precisely the same source materials in the Greek and Hebrew as were the translations into the Vulgate and Latin?

A So far I go along with you.

Q Well, is the answer "yes"?

A If you will let me make certain reservations I will say yes.

Q Doctor, we are here to have whatever statement you wish to make, sir, because we value your opinion on this.

A You see, the reservation I want to make is that no translation of anything can be separated from the person who does the translating.

Q I understand.

A If you and I were to translate the same sentence from

any language into English we would -- our translations would differ and sometimes would differ as to -- because of the differences of our personalities.

Now, you take the translators into the Latin or into the English or into any language. Naturally their translations will differ in line with the differences in their viewpoints. Otherwise you wouldn't have a Catholic translation and a Protestant translation. The Catholics will not think of using the King James version. Their translation, the Douay translation, is completely -- not completely different, naturally, but it differs to the extent to which they differ in viewpoint.

Q Well, now, Doctor, the Douay version of the Bible is a translation which is substantively similar to the King James translation in those areas in which the Catholic faith includes the Books of the Bible; that's correct?

A No, in which the Catholic faith finds -- finds --

JUDGE BIGGS: What was your first word that you said, Doctor?

JUDGE KRAFT: "No."

JUDGE BIGGS: "No"?

THE WITNESS: "Yes."

JUDGE BIGGS: "No."

A (Continuing) In large portions where there is no doc-

trinal difference they will be the same, but in other portions where there is a doctrinal difference they will not be the same. Certainly that is true of the Jewish translation into English and the -- and any translation of the Christian. As I pointed out yesterday, I can give you any number of other instances. The words are the -- the Hebrew words are the same but the translation differs in accordance with the personality.

BY MR. RHOADS:

Q And in accordance with the scholarship that is back of the personality?

A Sometimes it is a matter of scholarship.

Q Now, Doctor, will you agree that when the King James version was ordained to be translated in 1604 an attempt was made within the orbit of the then existing scholarship to make an accurate translation into the English tongue?

A That's right. As they saw it; as they interpreted accurately.

Q As they interpreted the original Hebrew and Greek, is that correct?

A That's right.

Q Now, there were, therefore, original documents in Hebrew and Greek from which, whatever the translation be, the translation was actually made, isn't that correct, Doctor?

A That's right, yes.

Q And these documents, if you will, historically are the backbone of the substance of the Bible as translated today, whether Jewish, Catholic or Protestant, is that correct?

A That's right.

Q Now, Doctor, will you agree with me -- I think you used the expression "literary merit" -- excuse me, "source."

A Yes.

Q Will you agree that in the King James version, as we know the King James version today, Old and New Testament, there are passages of great literary merit?

A Absolutely.

Q Will you admit that there are passages of great moral virtue and merit in both the New and the Old Testament?

A Yes.

Q Will you agree, Doctor, that the substance of those moral and literary values, or substances which appear in the King James version, actually appeared in the Greek and Hebrew manuscripts from which the translation was made?

A Yes, of course, but there is always a "but" involved.

Q Well, excuse me, Doctor. I think you can answer that question yes or no, can't you?

A Yes.

Q And the answer is --

A The answer is "yes."

Q -- in agreement with me. Thank you.

Now, Doctor, you spoke earlier in your testimony of the Sacred Books in connection with the Jewish faith and that they were divided into three categories, I believe.

A That's right.

Q Did I interpret your testimony correctly?

A Yes, I think so.

Q Now, who in the Jewish hierarchy determines what shall be the Sacred Books so set apart into these different categories?

A Oh, my, that is a matter of very long standing. The Jewish canon, if I may use a technical term, --

Q Yes.

A -- which I think we all understand, was set around the first or second century of the Christian era, and even then it was already a tradition of centuries, a tradition centuries old, that the five Books of Moses were to be given greater, higher status than the Prophetic Books, and that the other writings were of even less standing. So what happened in the second century was simply a ratification of what was already then an old tradition.

Q So that that Jewish tradition has carried through to the present day, has it not, Doctor?

A That's right.

Q And the question of what books shall be placed in a

higher order than other books is a matter determined by the hierarchy of the Jewish faith in accordance with this Jewish tradition?

A Again, if I may correct your statement and then I will answer "yes." I will just correct your statement.

There is no such thing as a Jewish hierarchy, you understand, now, nor was there for a long time, or if ever. This is a matter of history, of tradition. It was determined for us two thousand years ago or more and we don't make any changes in that situation. All I can say yes to, therefore, is the fact that there are these three categories of books.

Q Now, Doctor, coming back to the question of literary and moral values, would you say that there is substantial moral value in the story of the Good Samaritan?

A It is a good story.

Q Luke 10:30.

A Yes. It is a good story.

Q Well, will you say --

A It has -- now, let me --

Q I beg your pardon, sir.

A If you will permit me to go into some elaboration of this. It's a good story and it does have moral value. Yet it is the sort of story which, one, can be read and leave a

very harmful effect, destroying, at least for the Jewish child, all the good that the moral element can offer. Two, it is a story which on the face of it, on the face of it could not have -- was modified, did not happen originally or was not told originally as it is now told in the New Testament.

Now, let me start with the second one first. You have the story -- I think we are all familiar with it -- of this very sick, dead -- a dead person or a sick person lying on the road. There are three people who pass by, a priest, a Levite and a Samaritan. Now, notice the Jewish -- the Jews, and especially in those days -- the divisions still continue to this day, but they were much more strongly asserted in those days -- the three divisions were priests, descendants of Aaron who were priests officiating in the temple who had to be pure in order to enter the temple -- "pure," I mean ritually pure -- the Levites, whose purity was not expected to be so great but they were also descendants of Aaron, and Israelites, ordinary Israelites, who were not subject to the laws of purity quite as much.

Now, think of the story as it must have been told in those days. A priest passes by. He sees what he thinks is a dead body. The laws of purity apply to him. He wouldn't touch it because he would make himself impure and couldn't officiate in the temple. He passes it by. It is a

cruel act. He should have let, forgotten the laws of impurity and should have attended to the burial of the person, but he preferred -- being a stickler for the law he preferred to take care of his purity.

Then comes the Levite; the same thing.

Then, along comes an Israelite to whom the laws of impurity do not apply in the same thing and he attends to the person who is lying on the ground.

That story told in this way, as it must have been, has a moral effect and a good story. It is a good story. What happened? In the story as it came to be told the Israelite was obviously removed and the Samaritan put in. Why a Samaritan? Well, the Samaritans and the Israelites in those days, the Samaritans and the Jews were not on good terms. Very likely the Samaritan was deliberately put in as a slap at the Jews of that day who refused to join the Christian Church, because the story on the face of it must have been, must have included priest, Levite, Israelite. That was the division. There was no such division as priest, Levite, Samaritan.

Now, you tell this story in a school to a Jewish child or in the presence of a Jewish child and a Christian child and the Christian child has every right to say, "See, you come of a people that is cruel, that doesn't under-

stand the decencies of life." And even if the Jewish child is not told that, it is made to feel that, and I submit to you, sir, that that destroys all the moral value of the story. And I don't think that that kind of story ought to be read in a public school where there are -- in any public school -- because it makes for division rather than for union.

BY JUDGE BIGGS:

Q Who were the Samaritans, Doctor?

A The Samaritans were a group of inhabitants of Palestine. Their center was around Samaria, which is a city in Palestine, and they followed certain Jewish practices, and then not quite in line with the practices which the official Jewish religion of that day demanded.

Q Could they be described as unorthodox Jews?

A Hardly. The Jews looked upon them as pagans.

JUDGE BIGGS: Thank you.

BY MR. RHOADS:

Q Doctor, in all of your experience you have never had a Jewish child who has come from the public schools and complained to you that the story of the Good Samaritan was unmoral because of the reasons which you have just indicated in your lengthy answer?

MR. SAWYER: Your Honor, he has answered that question when he said he never had specific --

JUDGE BERGS: Well, this is cross-examination.

A I cannot honestly say that I have had any such instance.

BY MR. BEARDS:

Q Thank you, Doctor.

Now, coming again to literary values, will you agree that there is great and substantial literary value in the words of the Sermon on the Mount?

A Yes.

Q Is there any fundamentally improper fact in your mind that comes from the reading without comment of the statement:

"Blessed are the pure in heart; For they shall be called the Children of God."

A No, I have no objection to anything in the Sermon on the Mount, were it passage for passage. I can cite you parallels in Jewish literature.

Q Certainly.

May I go on, Doctor?

A Yes, please.

Q From the point of view of literary values is there any offense to you or to a Jewish person in the public schools from Matthew 7:

"Judge not, that ye be not judged."

A I don't recall what else there is in that context.

Q Well, assuming that my statement is correct.

A Well, assuming that it is just that thing, it is perfectly all right.

Q Right.

Is there anything other -- withdraw that.

Will you agree that in First Corinthians 13 of Paul, which has to do with faith, hope and charity there is anything except fine literary value in that particular passage? I am speaking of --

A No, without recalling all that goes before it or after it, that part of it is perfectly all right, surely.

MR. SAWYER: Would you read that passage, Mr. Rhoads?

MR. RHOADS: While I am getting it, now, if Your Honors please, I will not emphasize on the basis of our discussion yesterday further illustrations. I simply wanted to get illustratively the record in line with our thinking of yesterday.

BY MR. RHOADS:

Q It is the passage, Doctor, which is Corinthians 1:13 --

A 1:13.

Q -- which commences -- and I am not going to read the whole thirteen verses --

A Yes.

Q -- unless you wish me to do so -- which commences:

"Though I speak with the tongues of men and of angels, and have not charity, I am become as sounding brass, or a tinkling symbol."

I am sure --

A Yes.

Q -- that you recall that passage without my reading all of it.

A Yes, yes, yes. That's right, yes.

Corinthians 1; it is 1 Corinthians --

Q It is 1 Corinthians, Chapter 13, and the second verse you remember it says:

"And though I have the gift of prophecy, and understand all mysteries, and all knowledge; and though I have all faith, so that I could remove mountains, and have not charity, I am nothing."

A That's right.

Q And then it goes on for eleven more verses.

A Yes.

MR. SAWYER: The thirteenth verse, I don't know what the doctor's comment would be. I would like to ask him his comment on the thirteenth verse.

JUDGE BIGGS: Has Mr. Rhoads concluded on this issue?

MR. RHOADS: Yes -- no, not on this particular --

MR. SAWYER: I didn't mean to interrupt.

JUDGE BIGGS: That is all right.

MR. SAWYER: I just suggested that before the doctor commented on the implications that this particular verse might be offensive.

THE COURT: All right.

BY MR. RHCADS:

Q Now, the thirteenth is:

"And now abideth faith, hope, charity, these three; but the greatest of these is charity."

A It is perfectly all right. I think it is beautiful.

Q Thank you.

Now, Doctor, you spoke at considerable length yesterday about the passages of Matthew 23:13 which had to do with Pilate on the balcony and Barabbas, and you remember the testimony you gave yesterday.

A Matthew -- I think you have the citation wrong. It is Matthew 27, if I am not mistaken.

Q Was it? I beg your pardon, 27. Well, whichever it was, Doctor.

Now, as a matter of historic fact, Doctor, was that a story of Pilate and what he did and said on the balcony?

A No, sir, I cannot accept that as history.

Q You cannot accept that as history?

A No, sir.

Q All right.

Now, may I ask you, then, Doctor, whether you can agree with me that whether you accept it as history, what is there said in -- what is it, 27?

A Yes.

MR. RIEDER: Matthew 27:25.

BY MR. RHOADS:

Q Matthew 27:25 is in fact a translation from original documents in Greek and Hebrew, whether you agree with the historic fact or not.

A If you agree to withdraw the "Hebrew," because it is not at all certain what language, what the original language of this book was.

Q Thank you. Well, then --

A But there was a Greek original.

Q May we say either Greek or Hebrew.

A Well, Greek. Let's leave it at Greek.

Q All right, Doctor, thank you.

Now, Doctor, if assuming that the passage from Matthew that we have spoken of did appear as you have indicated in the original Greek and we had before us the document itself and we had a class in public schools which understood

Greek and the story read from the original Greek in the public schools to the children concerning what was said in Matthew 27 which was just quoted from, would that be objectionable to you?

A Certainly.

Q Thank you.

Doctor, I have just a technical question that I would like to ask you, sir, that I don't believe was covered yesterday.

May I inquire where your residence is? I don't think we got that.

A I reside at the Garden Court Apartments, 47th and Pine Streets.

Q And you referred to the publication of certain writings, one of them "The Church and Jews in the Thirteenth Century," I believe.

A That's right.

Q Could you tell us the publisher of that book?

A That is officially published by the Dropsie College.

Q Dropsie College. And when, sir?

A In 1932 -- '33, if I am not -- I think it was 1933.

Q Thank you.

And then your other book, Doctor, was "The History of the Jews"?

A "A History of the Jews."

Q "A History of the Jews." Published by whom, sir?

A Published by the Jewish Publications Society.

Q May I ask when?

A In 1947.

Q Now, one other question which Mr. Sawyer didn't cover. You are with the Jewish Publications Society, editor-in-chief, sir?

A Well, there is unfortunately no associate editor so I am just the editor.

Q And how long have you been in that capacity?

A This is my twentieth year with them.

Q And --

A So I came --

Q During those twenty years you have been doing translation, translating work that you spoke of in your direct examination?

A Well, no, no, the translation comes into the -- it is part of the job, but if you are referring to translation of the Bible from --

Q I am, yes, sir.

A Well, that is something that we have undertaken only in the course of the past four or five years. I mean, that's --

Q And are you aware of the translation which has been

undertaken of the Revised Standard St. James Version?

A Oh, yes, that's right. One of our -- if I may add, the Chairman of our Translators Committee was a member of that, was the one Jewish member of the Committee of Translators for the Revised Standard Version.

Q And that was Dr. Orlinsky?

A That's right.

Q And was Dr. Finkelstein associated with that group?

A With the Revised Standard Version?

Q Yes.

A No.

Q Dr. Orlinsky, however, was representing the Jewish faith, one of the --

A Not the Jewish faith. He was representing Jewish scholarship.

Q Thank you, sir. Representing Jewish scholarship, is that correct?

A That's right.

Q And that group of -- how many men undertook that?

A Oh, there must have been thirty or forty of them.

Q Thirty or forty. That was a very gigantic undertaking of modern translation, was it not?

A That's right, that's right.

Q And the attempt by these translators, including Dr.

Orlinsky, has been to bring to the world the best and newest scholarship that could be applied to the Bible, is that correct?

A That's right.

Q And --

A May I modify that "yes" by adding this: --

Q Certainly.

A -- The best scholarship, the best Christian scholarship. Dr. Orlinsky was there as an official -- as a regular member but he was there more or less by courtesy. He was there to help with the understanding as in line with the Jewish scholarly tradition, Jewish commentators and what not, but when it came to a question of translating for purposes of religious worship, or for purposes of religious study, he didn't have a say and didn't want to have a say.

He told me, for example, of any number of --

Q You needn't tell us this, Doctor.

A I beg your pardon.

Q Thank you just the same.

I have no further questions, Doctor. Thank you very much for your assistance.

MR. SAWYER: Thank you.

JUDGE BIGGS: There is nothing on re-examination, is there? Do you have any questions, gentlemen?

(No response.)

JUDGE BIGGS: Thank you, Doctor.

MR. SAWYER: Roger Schempp.

ROGER WADE SCHEMP, having been duly sworn,
was examined and testified as follows:

JUDGE BIGGS: Suppose you move that microphone a little bit further in front of you, Roger. Yes, that's right. Now, take your time and speak up. We will give you all the time you want.

DIRECT EXAMINATION

BY MR. SAWYER:

Q Roger, where do you go to school?

A At Huntington Junior High School.

Q And are you the son of Mr. Edward Schempp, who testified yesterday?

A Yes, I am.

Q And is Ellory Schempp your brother?

A Yes.

JUDGE BIGGS: Will you speak just a little bit more loudly. It would be of some assistance.

BY MR. SAWYER:

Q How old are you, Roger?