

paper delivered by **Walter P. Herz** at the February 11, 2008 meeting of the
Literary Club

EIGHTH AND PLUM

The October 15, 1869 issue of *ISRAELITE*, the weekly Reform Jewish newspaper, featured an editorial titled “Religious Liberty, Corner of Eighth and Plum Streets in Cincinnati”. It was written by its Editor/Publisher, Isaac M. Wise, Rabbi of Temple Bene Yeshurun located at this intersection. The recognized world leader of Reform Judaism, Wise stated the following premise in his customary vigorous style.

“If the reader’s imagination is sufficiently vivacious, expansive and soaring to have a correct vision of said corner Eighth and Plum Streets, he can form a correct and concrete idea of civil and religious liberty, for there is to be seen a picture to which the world at large can offer no parallel, no precedent, no comparison.”

Wise went on to describe each of the institutions at Eighth and Plum in quite some detail. Here they are in greatly condensed form. On the Northwest corner was City Hall--dedicated in 1852-- the seat of Cincinnati’s political and public school governance. It was dominated by evangelical Protestants, as it had been since the city was founded. On the Southwest corner was St. Peter in Chains Cathedral--dedicated in 1845--the seat of Archbishop John Baptist Purcell’s see of Southern Ohio. Purcell was generally regarded as the nation’s second most powerful Catholic prelate, surpassed only by New York’s Archbishop John Hughes. On the Southeast corner was Wise’s own Temple Bene Yeshurun. It was dedicated in 1866 and was the epicenter of Reform Judaism. On the Northeast corner was the new home of First Congregational Church (Unitarian) scheduled to be occupied a few months hence by its congregation, members of which had been notable participants in the city’s religious, educational, legal and commercial life since 1830. Next door to it was the First Reformed Presbyterian Church.

It was not a coincidence that Rabbi Wise published his editorial at the precise time the Cincinnati Bible War was building up to a climax. As an avid Cincinnati booster, he was doing his best to put a positive spin on the

potentially explosive conclusion to the struggle over Bible reading in the city's common schools. It had been bubbling just beneath the surface of the city's life since 1829, with occasional public eruptions. The institutions at the intersection of Eighth and Plum along with their leaders, as well as those of their sister sectarian institutions throughout the city, were deeply involved in either the pro or anti Bible reading camp. Indeed, the institutions and their leaders at Eighth and Plum were—in reality and symbolically—the 'war's most significant apologists. My purpose in this paper is to tell the story of the Bible War by narrating some of its significant, though perhaps lesser known, events, personalities and relationships that validate, Rabbi Wise's tribute to Cincinnati's unique intersection.

The Cincinnati Public schools were founded in 1829, due largely to the efforts of Nathan Guilford, a Yale graduate, lawyer, book store owner, text book author and newspaper publisher. He was also a founding member of First Congregational Church (Unitarian) at 4th and Race the following year. Guilford served as the first President of the Board of Trustees and Visitors of the school system, then with about 2,000 students. He remained actively involved in both his church and the schools in many capacities. Just four years later, the 33 year old John Baptist Purcell arrived from Maryland and was consecrated as Bishop of Cincinnati, a new diocese with just one church in the city and only twelve over all. He set to work on one of his highest priorities—the creation of a parochial school system.

The Cincinnati Public Schools and the Catholic Diocese were inaugurated at a critical time in the city's history. Its overwhelmingly Protestant population was responding enthusiastically to the evangelical message of the Second Great Awakening. At the same time there was a huge increase in the number of immigrants to Cincinnati--predominantly from Ireland and Germany. This influx substantially increased the percentage of Catholics in the city's population. Both of these trends continued throughout the *antebellum* period, provoking a nasty Nativist reaction among the evangelical Protestants and a sense of victim-hood among the Catholics.

When the common schools were launched, there was no written protocol calling for Bible reading and hymns in each classroom to open the day. The evangelical principals and teachers introduced the practice on their own as a matter of course. Inevitably, before long there was a written directive requiring that readings from the King James Bible and suitable singing mark the opening of the school day in each classroom. Catholics, led by Bishop

Purcell, objected strenuously, but found no sympathetic ears. In an effort to reach an accommodation that would make it more comfortable for Catholic children to attend the common schools, Purcell accepted invitations to attend the 1836 and 1837 Cincinnati meetings of the prestigious Western Literary Institute and College of Professional teachers. Leading Protestant clergy, educators and laymen—including Nathan Guilford-- participated. Despite receiving little if any support for his ideas in 1836, Purcell delivered a report to the 1837 meeting on the Introduction of the Bible into Common Schools. Here is his prescient recommendation...

“...that Protestant Bibles not be placed in the hands of the Catholic youth in our schools; that our common school teachers be strictly forbidden to give any sectarian bias to the minds of the pupils—and, to obviate all inconvenience, that one day or two days every week be selected, and that the students of different creeds be assembled together, to be instructed in the Bible and in their religious and moral duties generally, by their own pastors.”

Purcell’s recommendation was actually a system of released time religious instruction similar to that which was adopted in Cincinnati a century later. The audience of prominent Protestant ministers, educators and laymen would have done well to take his advice!

In 1842 Purcell approached the Board of Education complaining that Catholic students were required to read the King James Bible. The Board responded by passing a resolution “That no pupil of the Common Schools be required to read the Testament or Bible, if its parents or guardians request that it be excused from that exercise.” In 1847 Purcell charged that, in practice, this resolution was widely ignored. There was no response. The growth of the Know-Nothing Party in the early 1850’s raised the level of anti Catholic sentiment sharply. So when Purcell—who had been consecrated Archbishop of Cincinnati in 1851-- approached the Board of Education again in 1852, it was even less receptive to his accusation that Catholic students in the Common Schools were still being required to read the King James Bible. He also proposed that some of the school tax funds paid by Catholics be used to support the parochial schools. Following intensive meetings, arguments and votes lasting intermittently from mid July until November 8, the Board finally passed, by a vote of 15 to 10, a resolution allowing students to use the Catholic scriptures as long as notes and commentary were not read publicly. However, the question of parochial school funding got tangled in the hotly contested 1853 election that turned into a religious litmus test in Cincinnati. Candidates--mostly Democrats--

favorable to Catholic positions lost heavily. The common schools became the primary battleground in the consequent bitter sectarian competition. Nathan Guilford could be considered its first casualty. He was appointed Superintendent of the Common Schools of Cincinnati when the position was created by the state legislature in 1850; but he felt compelled to resign in 1852 objecting to continuation of daily reading from the King James Bible in the common schools.

That same year Horace Mann, the nationally prominent Unitarian common school educator, was appointed President of Antioch College—then under Unitarian control-- in nearby Yellow Springs. As a friend of fellow New Englander Abiel Livermore, the theologically conservative minister of Cincinnati's Unitarian Church, Mann, a firm adherent of Bible reading in the common schools, spoke frequently from its pulpit and from the city's lecture platforms. He was a welcome ally of the evangelical Christians. However, in 1856 Livermore left Cincinnati and 25 year old Moncure Conway was called to the Unitarian Church pulpit. Conway was already a noted abolitionist, a brilliant speaker and writer, and an outspoken liberal, both theologically and socially. He and Mann were not close.

The Unitarian congregation had traditionally been evenly split between liberals and radicals, but had thrived under the experienced ministrations of Livermore. However, under Conway the conservatives grew increasingly discontented. In January of 1859 Conway delivered two sermons condemning supernaturalism in religion, and denying the reality of Biblical miracles. By the end of March the congregation had split in two and the conservatives withdrew to form the Church of the Redeemer. Both congregations used the old building at 4th and Race amid much publicized ill will until 1862, when the Church of the Redeemer purchased an old Universalist church building at 6th and Mound. Horace Mann had died in 1859, but the Church of the Redeemer replaced him as an advocate of Bible reading in the common schools when the congregation called Amory Dwight Mayo to its pulpit in 1863. Mayo was a fellow New Englander, and a disciple of Mann. Above all, he was a great admirer of Mann's educational ideas. He quickly became a tireless and effective public advocate of Bible reading in the Cincinnati common schools.

The First Congregational Church (Unitarian) building at 4th and Race was sold in 1864, finally settling the rancorous and highly publicized law suit with the Church of the Redeemer by splitting the proceeds. Rev. Conway

resigned in 1862, and the original Unitarian congregation found rental space in which it continued to meet with supply ministers from Boston in the pulpit. Finally, in January 1867, Rev. Thomas Vickers was called to the pulpit as the settled minister of First Congregational Church (Unitarian). Following graduation from the Unitarian Seminary, Vickers had spent four years at Heidelberg University and in Zurich studying history, philosophy and educational theory in addition to mastering Latin, Greek, Hebrew and German. He was also proficient in the other modern European languages; he was an exceptional speaker; and was a formidable debater. No sooner had the 32 year old Vickers settled into his pulpit than he instigated a very public dispute with Archbishop Purcell. On September 19, 1867 he dedicated the cornerstone of the new home of St. John's German Protestant church at 12th and Elm, a liberal non-sectarian congregation founded in 1814 that became St. John's Unitarian Church in 1924. Vickers vigorously condemned the Catholic Church for its hostility to freedom of thought. The address was printed in the newspapers, and the Archbishop responded in kind when he dedicated one of his churches the following week. And so it went for the next four months with full coverage in the Cincinnati newspapers as well as in many out of state. Ultimately each side published a book containing its version of the affair, which was regarded by most as a draw.

Vickers soon became a good friend of Rabbi Wise, and an even closer one of the almost equally prominent Max Lilienthal, Rabbi of Congregation Bene Israel, which moved into its new building at 8th and Mound in 1868.. As had Wise, so did Lilienthal exchanged pulpits with Vickers occasionally, The Rabbis shared with him their active interest in common school education and condemnation of Bible reading. Lilienthal was on the Board of Education and kept Vickers closely apprised of the volatile situation, particularly in regard to Bible Reading in the schools. Of course Vickers shared with them his detestation of the practice. In 1868 First Congregational Church bought the lot on the Northeast corner of Eighth and Plum for its new building and construction started. In that year's school board election Vickers won a seat on the board, joining his friend Lilienthal. In the April 1869 election Amory Dwight Mayo joined Vickers on the board, but Lilienthal did not run for re-election.

In mid 1869 the forty man Board of Education included only two clergymen, Revs. Thomas Vickers and Amory Dwight Mayo. Vickers was already the leading spokesman on the Board for the city's Anti Bible Reading forces; and Mayo quickly became the leading spokesman for the Pro Bible Reading

forces. Together their Unitarian congregations totaled about one-half of one percent of Cincinnati's approximate population of just over 200,000. The balance were Catholics 35%, Protestants 61% and Jews 3.5%. In addition to evangelical Christians, the Protestant category included liberal Protestants, free thinkers, agnostics, atheists and others. In light of this, it is quite possible that evangelical Christians were coming close to being a political minority in Cincinnati

In 1869 there were about 12,000 Catholic students in the city's parochial schools, and there were thousands more among the 26,000 students in the Cincinnati common schools. All efforts at removing the mandated use of the King James Bible in the common schools had failed. Now a few Catholics on the board of education discussed merging the two school systems in a way that would solve the financial problems of the parochial schools as well as settle the Bible reading conflict. In the midsummer of 1869 F.W. Rauch, a newly elected Catholic member of the Board of Education, consulted with the Very Rev. Father Edward Purcell, Vicar General of the archdiocese and the archbishop's brother. He agreed with Rauch on the suggested approach which would help dispel the popular notion that Catholics were enemies of free common school system. Rauch and his nine fellow Catholic Board members drew up recommendations that would consolidate the two present systems into one public education system through municipal purchase and control of the Catholic schools "provided that no religious teaching or the reading or circulation of any religious papers or documents shall be permitted in them." They circulated their plan among the 40 Board members and 27 signed it, including all 10 Catholics, all of the free thinkers and agnostics, the two Jews, Rev. Vickers and a handful of Protestants. They presented the plan to father Purcell in the name of the 27 members of the board who had signed it. Father Purcell agreed to the proposal after demanding two concessions: First, "that the former Catholic school houses might be used on weekends for religious instruction"; and second "that the teachers then employed in the Catholic schools who possessed accredited certificates from the state board of examiners would be retained in their positions."

When the negotiations and proposals were printed in the city's newspapers during the last week of August they ignited vociferous public reaction—mostly negative. Included among the latter was a declaration condemning the proposals signed by 24 German Priests that appeared in all the newspapers on August 29. Despite hopeful words in the *Catholic Telegraph*,

this official organ of the see called it quits in the form of a statement by Father Purcell in its pages on September 1st concluding: “When both parties forbid the bans there is no danger of marriage.”

Rauch and his allies on the Board of Education moved ahead at its meeting of September 6th despite Father Purcell having washed his hands of the proposals, and without any sign of approval from the Archbishop. They introduced a resolution appointing a five-member committee to discuss the issue with the Catholic authorities. Immediately Samuel Miller, a liberal board member, offered two amendments: The first prohibiting religious instruction and reading the Holy Bible in the common schools of Cincinnati, thereby permitting children of parents of all sects and opinions in matters of faith to enjoy the benefits of the common schools; and the second that the regulations requiring the daily reading of the Bible and appropriate singing by the students in each classroom be repealed. Miller had initiated the grand climax of the Bible War. A lawyer and geologist, Samuel Miller seems to have had no religious affiliation. However, his place on the religious spectrum may be surmised from the knowledge that before his death in 1897 he requested that Rev. Thomas Vickers perform his funeral service.

Although some heated discussion followed, the board decided to carry the discussion over until September 13th, by which time Cincinnati was in an uproar over the Miller resolutions. They struck at the very core of the evangelical understanding of the intimate relationship between religion and common schooling. At the meeting on the 13th a letter from the Archbishop was read. Written in the third person, it stated that although he would be happy to meet with a committee of the Board, “He is perfectly satisfied with the Catholic schools as they now exist, ...it is unjust to impose restrictions, such as in conscience they and their natural guardians must ever resist on the rights of Catholic children to the benefits of the district schools. He is quite prepared for a vote against the exclusion of sectarianism from the public schools. The public will then see who are the exclusionists and the intolerant.” He had tactfully informed the Board that the Rauch resolutions were a dead issue and—in no uncertain terms-- that he supported the Miller resolutions. Amid the continuing uproar the Board of Education met again on September 20th. The demise of the Rauch resolutions was complete when the Board discharged the Committee it had appointed at the previous meeting. The Miller resolutions were now the order of business. After brief discussion, the board adjourned and the public debate soon reached a fever

pitch. Bitter antagonists in 1867, Archbishop Purcell and Rev. Thomas Vickers had become allies of convenience just two years later.

Here are a few relevant highlights of the next few weeks:

- September 26th: A public meeting to drum up support for the Miller Amendments was very poorly attended; it was rudely dismissed in the Anti-Bible reading press.
- September 28th: A pro Bible reading public meeting packed Pike's Opera House with an overflow of 1,500 people; it was given banner enthusiastic detailed coverage in the *Gazette* and other pro Bible reading newspapers.
- October: Rev. Amory Dwight Mayo delivered three well-attended public lectures during the month supporting Bible reading in the common schools. Rev. Thomas Vickers was busy delivering frequent talks supporting the Miller amendments.
- October 8th: Rabbi Wise supported the Miller Amendments in a strongly worded *Israelite* editorial. Rabbi Lilienthal had already stated his support in a letter published in the *Commercial* on September 13th.
- October 15th: Rabbi Wise's editorial on Eighth and Plum published in *Israelite* in an effort to put a positive spin on the entire process.
- October 18th: The board of education met before a large audience of vociferous supporters and foes of Bible reading—but no vote was taken on the amendments. The proceedings were reported in lengthy biased front- page articles in the daily press.
- October 25th: The entire board meeting was devoted to debating the Miller Amendments without coming to a vote; Rev. Mayo argued extensively with two of the Catholic members.
- November 1st: The Board meeting featured long speeches by Mayo and Vickers following which the question of the Miller Amendments was finally called just before midnight. The vote was 22 yeas to 15 nays, effectively removing Bible reading from the common schools.

The next day a group of 37 citizens petitioned Judge Bellamy Storer of the Superior Court in Cincinnati for an injunction to restrain the board from implementing the majority vote. Storer granted a temporary injunction and subsequently set the trial of *Minor v. Board of Education of Cincinnati* for November 30th at which all three Judges of the Superior Court in Cincinnati would sit as a panel to hear arguments for making the injunction permanent.

The judges were Bellamy Storer, Marcellus Hagans and Alphonso Taft. Judge Storer, a highly regarded judge of many years standing, was a founder

of Christ Church and widely known for his evangelical views. His approval of Bible reading in the common schools was common knowledge. Judge Hagans was a Methodist Sunday school teacher and also an evangelical with views similar to Storer's. Judge Taft had been a member of First Congregational Church (Unitarian) for some thirty years; he was a theological liberal who supported Rev. Conway and Rev. Vickers. Taft was a stalwart Republican, having been a founder of the Party in Ohio. He was later appointed Secretary of War, U.S. Attorney General, and Minister to Austria-Hungary and then to Russia. Taft was almost universally regarded as one of the finest attorneys in Ohio.

The three attorneys selected for the Court were led by Rufus King, one of the foremost lawyers in the state. He was grandson of a signer of the Constitution and son of Edward King, co-founder of the Cincinnati Law College. King was former president of the Board of Education, a vestryman at Christ Church and an outspoken advocate of Bible reading in the common schools. William R. Ramsey and George R. Sage were prominent and greatly respected attorneys who were publicly pro Bible reading—Sage was a principal speaker at the September 28th meeting at Pike's Opera House.

The Board of Education appointed a committee of three members to secure legal counsel, and voted an appropriation of \$2,500 to pay the attorney(s). One member of the committee was Rev. Thomas Vickers, whose influence became obvious. The attorneys they hired were:

- George B. Hoadly: a member of First Congregational Church (Unitarian) since 1848, a former law partner of Salmon P. Chase, former elected city solicitor and former judge of the Superior Court in Cincinnati. He was the city's foremost corporate attorney, and future Governor of Ohio.
- Stanley Matthews, an elder of Glendale First Presbyterian Church, was a former judge of the Superior Court in Cincinnati; a future United States Senator; and ultimately an associate justice of the United States Supreme Court. Members of Glendale First Presbyterian Church were so angry at Matthews for serving as a counsel to the anti Bible readers that he resigned his position as an elder to help calm the congregation.
- Johan Bernhard Stallo was a German immigrant free thinker, a practicing lawyer, a former municipal judge, Professor of the History of Science—a course of study he originated--and a philosopher of note. Stallo counted numerous Unitarians among his friends and spoke at First Congregational Church on numerous occasions. He served as U.S. Minister to Italy in future years.

From early November until after the trial, the pro Bible reading press conducted a “No-Papery” crusade even more vituperative than the Know-Nothing campaigns of the 1850s. “Scheming priesthood” was one of the frequent epithets. Not only did a few of the leading Cincinnati newspapers—particularly the *Gazette*—regularly feature anti Catholic diatribes, but editors throughout the country joined in the crusade, warning their readers that the Cincinnati Catholic problem might be theirs next. Such articles and editorials appeared in Cleveland, Dayton, Toledo, Philadelphia, Baltimore, Buffalo, Albany, New York City and Washington, etc. Thomas Nast’s unrestrained anti Catholic cartoons in *Harper’s* weekly helped keep the pot boiling nationally. Finally the trial of *Minor, et al. v. Board of Education of Cincinnati* opened on November 30 and lasted for five days during which the complete proceedings were printed, with strident commentaries, in the major Cincinnati newspapers.

In brief, the principal argument by the Court was that the Board of Education had violated both the seventh section of the Bill of Rights, and the second section of the sixth article, of the Constitution of Ohio which read as follows:

“All men have a natural and indefeasable right to worship almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. . . . Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.”

“... The General Assembly shall make such provision, by taxation or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect or sects shall ever have any exclusive right to, or control of, any part of the school funds of this state.”

The Court’s attorneys maintained, and attempted to prove, that the United States Constitution, although never mentioning Christianity, was held to be a Christian State by the founding fathers, i.e., that wherever Religion is mentioned it means Christianity. This being so, Ohio is a Christian State and has the obligation to teach Christianity through Bible reading and hymn

singing in the common schools. The three arguments attempted to prove this dubious thesis.

The three attorneys for the Board of Education cited section 9 of the School Act of 1853, the law under which the common schools were operated. “The Board [of Education] shall have the superintendence of all the common schools in the city, and from time to time make such regulations for the government and instruction of the children therein, as shall appear to them proper and expedient....And generally to do and perform all other matters and things pertaining to the duties of their said office which may be necessary and proper to promote the education, morals and good conduct of the children in said schools.”

The attorneys also cited the same sections of the Ohio Constitution cited by the court’s lawyers, but used them to demonstrate that the State Assembly had clearly delegated to the Board of Education the power to run the schools without judicial interference.

While the trial had drained some of the venom from the persistent vociferous public discussion, the furor continued while all waited for an early decision. It never has been satisfactorily explained why it took the judges two and a half months to arrive at what had seemed a sure win for the Court’s case. However, the expected 2 to 1 decision was finally handed down on February 18, 1870, stating that “...the resolutions passed by the Board of Education on the 1st day of November, A.D. 1869, and which are set forth in the petition, were passed without warrant or authority in law, and are in violation of the provisions of the seventh section in the first article of the Bill of Rights in the Constitution of this state. ... It is therefore adjudged and ordered, that the restraining order heretofore entered in this action be made perpetual...” Daily Bible reading was reinstalled in the common schools.

Almost lost in the excitement was Judge Alphonso Taft’s exquisite dissent. Judges and attorneys still refer to it, while the words of the majority are long forgotten.

The Board of Education attorneys appealed the decision to the Supreme Court of Ohio as *Board of Education of Cincinnati v. Minor, et al.* All five members of the Court were Protestants—two Presbyterians, one Methodist,

and two who were unchurched but received Protestant funerals. For unknown reasons the case was not put on the Court's docket until the December, 1872 term; further, we have no idea when the decision was handed down. The complete records of the case are missing from the Ohio Supreme Court archives, and I was not able find references in the literature to newspaper articles or other likely sources for this information. However, we do know this: Judge John Welch, writing for a unanimous Court, overturned the Superior Court's decision using the precise legal reasoning that was the basis of the Taft dissent. I'm confident Judge Welch would not mind my giving Taft the final word by quoting the closing words of his argument that, in essence, became the Supreme Court's decision:

“On the whole case, my conclusions are that the Board of Education had the power to pass both the first and second of these resolutions, and whether expedient or inexpedient, this Court [the Superior Court in Cincinnati] has no lawful authority to restrain it [the Board of Education] from acting under either of them; that, upon the pleadings and evidence in the case, the Board, in adopting the first of these resolutions, acted with a justice and liberality warranted by the Bill of Rights, and made necessary by the facts; and that, in adopting the second, performed a duty imposed upon it by the language and the spirit of the Constitution of Ohio.”

Although both Taft and Welch had carefully and forcefully disposed of the Court's “Christian State” argument, they left judicial decision of the issue to a future trial. They preferred deciding this case on the irrefutable grounds that the Ohio Assembly delegated to the Board of Education sole authority to run the common schools, including selection of the subject matter and how it was taught, without judicial interference.

The Cincinnati Board of Education report for the school year ending June 30, 1874 includes instructions for classroom opening exercises without Bible reading--and so it remains today. As Rabbi Wise said in the closing words of his October 15, 1869 editorial, Eighth and Plum is “the most striking monument of civil and religious liberty in this or any other country.”

--30--

Coda

10 of the 14 most important protagonists in the Cincinnati Bible War were members of the Literary Club of Cincinnati. This makes it all the more

incredible that, so far as I've been able to determine, this is the first paper ever presented on this subject despite its importance in the history of Cincinnati.