DEPARTMENT OF STATE

BOARD OF APPELLATE REVIEW

IN **THE MATTER OF:** M[redacted] M[redacted] D[redacted] K[redacted]

This is an appeal from an administrative determination made by the Department of State ("the Department") that appellant, R[redacted] M[redacted] K[redacted], expatriated himself on August 13, 1984 under the provisions of section 349(a)(4)(A) of the Immigration and Nationality Act by accepting a seat in the parliament of Israel, the Knesset. 1/

The principal issue presented is whether Rabbi K[redacted] entrance into the Knesset was accompanied by the requisite intent to relinquish his United States citizenship. Since it is our conclusion that the Department has satisfied its burden of proof that appellant performed the expatriating act with the intent to relinquish citizenship, we affirm the Department's determination of loss of appellant's citizenship.

I

Rabbi K[redacted] was born in [redacted] on [redacted], thus acquiring [redacted] citizenship at birth. He received his education in [redacted], where he completed rabbinical studies in 1956, and obtained a law degree from [redacted]

1/ Section 349(a)(4)(A) of the Immigration and Nationality Act, 8 U.S.C. 1481(a)(4)(A), provides that:

Sec. 349. (a) From and after the effective date of this Act a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by:

. . .

(4)(A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, if he has or acquires the nationality of such foreign state;....

Rabbi K[redacted] became an active participant in Jewish public affairs. In 1968 he founded the Jewish Defense League and served as its national leader until August 1985.

Rabbi K[redacted] emigrated to Israel in 1971, and the following year acquired Israeli citizenship by operation of law. Under Israeli law, a Jew who immigrates to Israel to become a permanent resident is entitled to receive an oleh's (immigrant) certificate and thereby become an Israeli national. According to the Israeli Ministry of Interior, appellant became an Israeli citizen pursuant to section 3(a) of the Law of Return of 1950, 4 L.S.I. 114, and section 2(b)(4) of the Nationality Act of 1952, 6 L.S.I. 50. 2/

Appellant was conscripted into the Israeli Defense Force in 1974 and served for a short period of time. Later he served in the Israeli Army reserve.

From the first, Rabbi K[redacted] was active in Israeli political life. In 1973 he founded a political party, the Jewish Defense League of Israel, which subsequently was named Kach. He ran for election to the Knesset on the Kach party list in 1973, 1977 and 1981. 3/ The Kach party failed in those elections to receive the votes required to enter the Knesset. In 1984 Rabbi K[redacted] again headed the Kach list in the elections for the Knesset. This time the Kach party was successful. In the voting on July 23, 1984 Kach received 1.2% of the total vote cast and thus gained one seat in the national legislature. As party leader and head of the party list, Rabbi Ka[redacted] was thereby elected to that seat.

2/ Section 3(a) of the Law of Return of 19.50 provides that: "A Jew who has come to Israel and subsequent to his arrival has expressed his desire to settle in Israel may, while still in Israel, receive an oleh's certificate."

Section 2(b)(4) of the Nationality Law of 1952 provides that: "Israel nationality by return is acquired by a person who has received an oleh's certificate under section 3 of the Law of Return, 5710-1950 -- with effect from the date of issue of the certificate."

3/ The Knesset, a unicameral, nationally elected body, is the highest political authority in Israel. Voting is for party lists rather than individual candidates. The percentage of votes received by each party determines the percentage of seats it receives in the Knesset. Successful candidates are drawn from the party lists in order of party assigned rank.

See generally M. H. Bernstein, THE POLITICS OF ISRAEL (1957); Eliahu Likhovski, ISRAEL's PARLIAMENT: THE LAW OF THE KNESSET (1971); George S. Mahler, THE KNESSET (1981); and Don Peretz, THE GOVERNMENT AND POLITICS OF ISRAEL (1979).

Shortly after the election, New York counsel for Rabbi K[redacted] wrote to the Department on August 1, 1984 to state that, appellant was firmly resolved "to remain a national of the United States;" that he never expressed or implied any intention whatsoever to relinquish or renounce his United States citizenship; and that his campaign for and election to the Israeli Knesset was a wholly separate act, totally unrelated to and independent of his role as a United States citizen.

On August 8, 1984 appellant himself wrote to the Department, stating that: "...I take this opportunity to inform you that my election to the Knesset and my taking of my seat there were undertaken without the slightest intent of relinquishing my U.S. citizenship,..." This letter was followed on August 12, 1984 by a telegram from Rabbi K[redacted] to the Department, reiterating that: "My taking a Knesset seat in Israel is being done with no intention whatsoever of giving up my United States citizenship." He added that: "I value that citizenship and have not the slightest intention of giving it up."

The opening session of the eleventh Xnesset was held on August 13, 1984, and, as the first order of business, the Chairman administered the oath of allegiance to each member. The transcript of this session shows that Chairman Y. Burg read the required declaration: "I pledge to be faithful to the State of Israel and serve faithfully my mission at the Knesset". The transcript, in translation, shows that appellant recited the affirmative statutory reply "I pledge" and added a verse from the Psalms, after some delay caused by his efforts to substitute other, more generalized language for himself, instead of subscribing to the requisite answer.

On August 17, 1984 the United States Consulate General at Jerusalem ("the Consulate") sent appellant a letter notifying him that he might have jeopardized his United States citizenship by taking his Knesset seat, and asked him to fill out a standard questionnaire form to aid the Department in determining his citizenship status. Rabbi K[redacted] partially completed the questionnaire on September 10, 1984, Therein he stated that: "I knew I would not lose my citizenship since I had no intention of relinquishing it and so informed the State Department before taking my seat in Knesset." (Emphasis in original.) He stated further that: "I maintain a residence in the U.S.; have family and social ties there; I head the JDL in the U.S.; I file U.S. income tax returns; and am in the U.S. one third of every year." In his letter of September 10, 1984 transmitting the questionnaire to the Consulate, Rabbi [redacted] again asserted that he had no intention of relinquishing his United States citizenship.

On December 21, 1984 the Consulate executed a certificate of loss of nationality in the Name of M[redacted] M[redacted] D[redacted] K[redacted], as

required by section 358 of the Immigration and Nationality Act ("the Act"), 4/ and submitted it to the Department. The Consulate certified that appellant acquired the nationality of the United States by virtue of his birth in the United States; that he acquired the nationality of Israel automatically through operation of the Law of Return; that he accepted a seat in the Israeli Knesset on August 13, 1984; and thereby expatriated himself on that date under the provisions of section 349(a)(4)(A) of the Act. 5/

The Department approved the certificate of loss of nationality on October 2, 1985. In a letter informing Rabbi Kahane of the approval, the Department stated:

> The Department's decision was based upon a thorough review of your actions and statements. We regard your 1984 election to the Knesset as unequivocal evidence of your exclusive commitment to a foreign state. In our judgment, your membership in the Knesset evidenced your complete transfer of allegiance to a foreign state and represented the effective abandonment of your United States citizenship.
>
> Your recent assertions that it was not your intention to relinquish United States citizenship are completely inconsistent with, and contradicted by, your actions, as well as other statements you have made.

4/ Section 358 of the Act, 8 U.S.C. 1501, provides that:

See. 358. Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his United States nationality under any provision of chapter 3 of this title, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates.

5/ Supra, note 1.

The Consulate delivered this letter to appellant's residence in Jerusalem on October 4, 1985, and the Department sent a copy of the approved certificate of loss of nationality to the Consulate on October 9, 1985 to forward to appellant.

Approval of the certificate constitutes an administrative determination of loss of nationality from which an appeal, timely and properly filed, may be taken to the Board of Appellate Review. On October 10, 1985 Rabbi [redacted] through counsel gave notice of appeal. 6/ Counsel contends that appellant never had, and does not have, an intent to relinquish his United States citizenship. He argues that, in the absence of a factual showing that appellant "specifically intended to renounce his American citizenship," he may not be stripped of his citizenship.

II

Section 349(a)(4)(A) of the Act provides that a person who is a national of the United States shall lose his nationality by accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, if he has or acquires the nationality of such foreign state. There is no dispute that Rabbi [redacted] who is also an Israeli national, accepted a seat in the Knesset, an important post in the government of Israel, and thereby performed a statutory act of expatriation. Nor is there any dispute that he performed the act voluntarily; he has expressly conceded that he did so.

It is settled, however, that even though a United States citizen has voluntarily performed a statutory act of expatriation, loss of citizenship will not result unless, as required by section 349(c) of the Act, 7/ the government is able to prove by a preponderance of the evidence that the citizen intended to relinquish

6/ Appellant, on October 11, 1985, filed a civil action in the United States District Court for the Eastern District of New York, [redacted] v. Shultz, No. CV-85-3754, requesting a temporary stay of the Department's determination of loss of nationality and a declaratory judgment in appellant's favor. The District Court stayed further proceedings pending the outcome of appellant's appeal to this Board.

7/ Section 349(c) of the Act, 8 U.S.C. 1481(c), reads in pertinent part as follows:

> (c) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after the enactment of this subsection under, or by virtue of, the provisions of this or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence....

citizenship. Vance v. Terrazas, 444 U.S. 252 (1980); Afroyim v. Rusk, 397 U.S. 1967).

Rabbi [redacted] appeal presents a situation unique among cases appealed to this Board. Here, a United States national performed a statutory expatriating act after making repeated declarations, apparently on the advice of counsel, that he had no intention of relinquishing his United States nationality. Yet, the expatriating act was also preceded (and followed) by writings, actions and public statements that are indicative of a contrary intent.

The essence of appellant's argument, as articulated by his counsel, is that the Department cannot begin to prove by a preponderance of the evidence that appellant intended to relinquish his United States citizenship when he entered the Knesset, because appellant did not take any oath disclaiming or renouncing allegiance to the United States at that time and, on the contrary, repeatealy asserted his intention to retain such citizenship before and after taking his oath to the Knesset. Further, counsel argues that the Department is in error and acting contrary to both Afroyim and Terrazas in urging "a legal standard that looks not to subjective intent to renounce citizenship but rather to the objective, or 'functional', compatibility of particular expatriating acts with -- the duty of allegiance to the United States."

The foundation of the doctrine of intent was laid by Chief Justice Warren in his dissent in Perez v. Brownell, 356 U.S. 44 (1958). In Perez, the court rejected (for the last time) the argument that Congress has no power to terminate citizenship except with the assent of the citizen. In dissenting, the Chief Justice said:

> It has long been recognized that citizenship may not only be voluntarily renounced through exercise of the right of expatriation but also by other actions in derogation of undivided allegiance to this country. While the essential qualities of the citizen-state relationship under our Constitution preclude the exercise of governmental power to divest United States citizenship, the establishment of that relationship did not impair the principle that conduct of a citizen showing a voluntary transfer of allegiance is an abandonment of citizens hi^....Any action by which he /the citizen/ manifests allegiance to a foreign state may be so inconsistent with the retention of citizenship as to result in loss of that

> status. In recognizing the consequence of such action, the Government is not taking away United States citizenship to implement its general regulatory powers, for, as previously indicated, in my judgment citizenship is immune from divestment under these powers. Rather, the Government is simply giving informal recognition to the inevitable consequence of the citizen's own voluntary surrender of his citizenship. 356 U.S. at 68, 69. [citations omitted]

Afroyim, supra, expressly overruled Perez. Drawing on Chief Justice Warren's dissent in Perez, the court held in Afroyim that a United States citizen has a constitutional right to remain a United States citizen "unless he voluntarily relinquishes that citizenship." 387 U.S. at 268. Although Afroyim did not define what conduct constitutes "voluntary relinquishment" of citizenship, it stressed "the constitutional mandate that no citizen...can be deprived of his citizenship unless he has 'voluntarily reiinquished it.'" 42 Op. Atty. Gen. 397, 398 (1969).

In Terrazas, supra, the Supreme Court affirmed and clarified Afroyim. Afroyim requires, the court declared, that the record support a finding that the expatriating act was accompanied by an intent to terminate United States citizenship. 444 U.S. at 263. Intent may be expressed in words or found as a fair inference from proven conduct. Id. at 260. The court made it clear that under section 349(c) of the Act, which it declared constitutional, the government bears the burden of proving by a preponderance of the evidence that the expatriating act was done with the intent to relinquish citizenship. Id. at 267. The court pointed out that any of the acts specified in section 349(a) of the Act "may be highly persuasive evidence in the particular case of a purpose to abandon citizenship," 8/ adding, "[B]ut, the trier of fact must in the end conclude that the citizen not only voluntarily committed the expatriating act, but also intended to relinquish his citizenship." Id. at 261.

The intent the government must prove is the party's intent at the time he performed the expatriating act, Terrazas v. Haig, 653 F. 2d 285, 287 (7th Cir. 1981); in the instant case, Rabbi [redacted] intent when he assumed a seat in the Knesset.

8/ The Court quoted from Nishikawa v. Dulles, 356 U.S. 129, 139 (1958), (Black, J., concurring).

In Terrazas v. Haig, the Seventh Circuit observed that: "a party's specific intent to relinquish his citizenship rarely will be established by direct evidence. But, circumstantial evidence surrounding the commission of a voluntary act of expatriation may establish the requisite intent to relinquish citizenship." 653 F. 2d at 288. In this connection, the Seventh Circuit cited an earlier Ninth Circuit decision, King v. Rogers, 463 F. 2d 1188 (9th Cir. 1972). In King, the court stated that the Secretary of State may prove intent, inter alia, by "acts inconsistent with United States citizenship," citing Baker v. Rusk, 296 F. Supp. 1244 (C.D. Cal. 1969). 364 F. 2d at 1189.

Counsel for Rabbi [redacted] contends that certain factors in appellant's conduct are consistent with his professed intent to retain citizenship. Counsel notes, as appellant stated in the citizenship questionnaire he completed in September 1984, that Rabbi [redacted] maintains a residence in Brooklyn, spends one-third of each year in the United States, pays U.S. income taxes, has resisted and is resisting expatriation, continues to use his passport, and has conducted himself as a United States citizen "in contacting the Consulate for advice and assistance (and protest)."

We note that the Department considers these factors to be some of the indicia of an intent to retain citizenship. They are therefore, of course, relevant to the issue of Rabbi [redacted] intent when he performed the expatriating act. The weight to be assigned to them, however, must be determined by evaluating them in the light of all the evidence of record.

Counsel also argues that the statements Rabbi [redacted] made immediately before and after he entered the Knesset evidence his lack of intent to abandon United States citizenship.

As we have seen, following his election to the Knesset on July 23, 1984, Rabbi [redacted] informed the Department by letter dated August 8, 1984 and by telegram on August 12, 1984 that his election and taking his Knesset seat were being undertaken with no intention of giving up his United States citizenship. He also informed the Consulate on September 10, 1984 that he had no intention of relinquishing his United States citizenship. Appellant's counsel contends that these and other contemporaneous expressions of intent are controlling on that issue and are "an insurmountable obstacle" to the Department's attempt to revoke appellant's citizenship.

We find counsel's theory untenable. To accept it would lead to the anomalous result, as the Department suggested in its submissions, that the government would be foreclosed (except perhaps where perjury could be proved) from making a determination of loss of nationality simply because a citizen says at the crucial time he did not intend to relinquish citizenship. We find no authority

for the proposition that the Department is barred from looking beyond a citizen's professed lack of intent to abandon citizenship. Clearly, the Department (and, ultimately, as here, the trier of fact) must be free to evaluate professions of lack of intent against all other relevant evidence.

Section 349(c) of the Act imposes on the government the burden to prove by a preponderance of the evidence that a person who performs a statutory expatriating act intended to relinquish citizenship. Obviously, the statute must be read to permit the government to satisfy its burden of proof, which the Supreme Court observed is in itself *a* heavy one (Vance v. Terrazas, 444 U.S. at 267), by examining all the relevant evidence in a particular case.

Counsel's implication that Rabbi K[redacted]'s words alone should be dispositive of the issue of his intent finds no support in the rules of evidence. it is firmiy established that intent, being a subjective fact, is often not susceptible of direct proof but must be determined by facts from which fair inferences may be drawn. 9/ This is the plain meaning of Vance v. Terrazas, supra.

That the Department and the trier of fact not only may but indeed must look beyond a citizen's mere words, whether those words articulate an intent to retain or an intent to relinquish citizenship, is made abundantly clear by Terrazas v. Haig, supra: Richards v. Secretary of State, 752 F. 2d 1413 (9th Cir. 1985); and Meretsky v. Department of State, et al., Civil Action 85-1985, memorandum opinion (D.D.C. 1985). In each of those cases, the petitioner made a declaration renouncing United States citizenship at the time he performed an expatriating act; nonetheless, in each case the court carefully weighed all other evidence to determine whether the petitioner's other words and proven conduct confirmed (or did not confirm) the evident intent to relinquish citizenship that the petitioner manifested when the act was done.

9/ See Shaffer v. United States, 308 F. 2d 654, 655 (5th Cir. 1962):

> Intent...is not to be measured by the secret motive of the actor, or some undisclosed purpose merely to frighten, not to hurt, but rather 'is to be judged objectively from the visible conduct of the actor and what one in the position of the victim might reasonably conclude.

Similarly, United States v. Guilbert, 692 F. 2d 1430 (11th Cir. 1982).

See also Wigmore on Evidence, Chadbourn Rev., 1979, Vol. 2, Ch. 11, sec. 244; 4 ALR DIG., 3rd, 4th Fed., Evidence, section 221 (1985) Words and Phrases, Vol. 22, pp. 3-4; American Jurisprudence, 2nd Ed. 1967, Vol. 29, sec. 361.

In Terrazas v. Haig, the court examined circumstantial evidence surrounding plaintiff's application for a certificate of Mexican nationality, which contained a declaration of allegiance and renunciation of United States citizenship, to determine whether he had the requisite intent to relinquish citizenship. The Court looked not only at the form of the declaration mandated by Mexican law, but also at other actions taken by plaintiff. He executed the application for a certificate of Mexican nationality just one week after taking and passing his Selective Service physical examination; and, when later informed by American consular officials that he had probably expatriated himself, he sought to inform his draft board in Chicago that he was no longer a United States citizen. "Here," the court said, "there is abundant evidence that plaintiff intended to renounce his United States citizenship when he acquired the certificate of Mexican nationality willingly, knowingly and voluntarily." 653 F. 2d at 288.

Plaintiff in Richards, a native born United States citizen, became a legal resident of Canada. In order to meet the citizenship requiremepts for employment with the Boy Scouts of Canada, he obtained naturalization in Canada upon swearing an oath of allegiance to Queen Elizabeth the Second and expressly renouncing all allegiance and fidelity to any foreign sovereign or state. In upholding the Department's determination of loss of Richards' citizenship, the Ninth Circuit said:

> In Terrazas /444 U.S. 252 (1980)/, the court stated that 'intent to renounce' may be evidenced not only through ~~words~~ but also through conduct. Some expatriating acts may be so inherently inconsistent with United States citizenship that persons performing them may be deemed to intend to relinquish their United States citizenship even in the absence of statements that they so intended, or, indeed, despite contemporaneous denials that they so ~~inte~~nded the acts. /Emphasis added./ 752 F. 2d at 1420, note 5.

In Meretsky, plaintiff obtained naturalization in Canada in order to practice law in that country. He argued that although he had made a declaration renouncing his allegiance to the United States, he never intended to relinquish his United States citizenship; ne had become a Canadian citizen for the limited purpose of satisfying the technical licensing requirements to practice law. In holding that Meretsky expatriated himself, the court placed heavy stress on the fact that he voluntarily became a citizen of Canada and took an

oath of allegiance to Canada that contained a renunciation of his allegiance to the United States. Plaintiff's "specific intent'' to relinquish his United States citizenship, the court said, was clearly established by that renunciation. But the court also examined plaintiff's subsequent conduct as well as his words. "His position is further weakened," the court said, "by the fact that he completed a citizenship questionnaire in **1976**, nine years after he became a Canadian citizen. ..in which he admitted making **a** visa inquiry to gain entry into the United States rather than first seeking documentation as an American citizen." Mem. Op. at 8, 5. In summing up, the court stated that "all the facts presented run counter to his articulated lack of intent." **Id**. at 11.

Rabbi [redacted] counsel expresses the view that service as a legislator in [redacted] government of a foreign state is, in light of Afroyim, supra, conceptually indistinguishable from voting and no more demonstrative of a transfer **of** allegiance to a foreign government. 10/ He maintains that the Supreme Court's holding in Afroyim that voting in **a** foreign political election is not sufficient to satisfy the government's burden **of** proving an intent to relinquish Citizenship,-establishes that services as a legislator, "who merely undertakes to represent the wishes ***of*** those sovereign voters," is equally insufficient. We disagree. The Knesset is sovereign in the Israeli political system. 11/ The government takes office and retains office **only** with the formal approval and confidence of the Knesset. The Prime Minister must be a member. Members have immunity; can acquire information from the government; amend its agenda; modify and dismiss government legislation. The powers, rights, and privileges of a Knesset member far transcend those of an ordinary Israeli voter. **We** do not see "simply a replay of Afroyim" in appellant's situation. Service in the Knesset plainly brings appellant within the terms of section 349(a) (4)(A) of the Act.

Appellant's counsel also argues that Rabbi [redacted] membership in the Knesset does not preclude appellant's "continued intent" to retain United States citizenship. Counsel asserts that neither appellant's obligations as a legislator nor any actions taken by him in that capacity are inconsistent with continued allegiance to the United States ***or*** the discharge of his obligations **of** United States citizenship.

10/ In Afroyim v. Rusk, the Supreme Court held unconstitutional section 401(e) of the Nationality Act of 1940, 8 U.S.C., 801(e), which provided that a citizen of the United States shall lose his citizenship **by** voting in a foreign political election.

11/ See supra note 3.

"It has long been settled," counsel asserts, "that Americans employed by or otherwise in service of foreign governments are not per se incapable of retaining United States citizenship." Counsel is, of course, correct; citizenship will not be lost even by voluntary performance of a statutory expatriating act unless the government is able to prove that the citizen intended to relinquish citizenship. Conceptually and functionally, however, serving in the legislature of a foreign state, friendly or not, is on its face inconsistent with an intent to retain United States citizenship. The potential for constant clash of loyalties is as limitless as it is obvious.

But counsel adds that the Board of Appellate Review in particular "has found foreign legislative service itself not inconsistent with United States citizenship," citing In re M.F., decided by the Board January 29, 1982. We do not consider In re M.F. either precedential or apposite.

In re M.F. turned on what the majority (one member dissented) called "very thin edges of highly unusual circumstances" mainly because of the following considerations: M.F. had gained her seat in the Knesset only because the Civil Rights party had won an unexpected number of seats, she being third on the fist of candidates; M.F. appeared rarely in the Xnesset and when she did, was mainly active on women's rights issues; she did not involve herself in the broader political issues in Israel. Although the Board found that M.F.'s service in the Knesset was "highly persuasive of a manifest intent to relinquish her United States citizenship and tnat very unusual circumstances would be required to overcome the presumption of intent to abandon her allegiance to the United States," the majority opinion emphasized M.F.'s lack of any "significant participation in the political community prior to the election, and saw nothing in her dedication to women's rights issues while serving in the Knesset that signified a conflict with or abandonment of allegiance to the United States. On balance, the majority considered that the record left the issue of appellant's voluntary relinquishment of her United States citizenship "to some extent, in doubt." The Board accordingly resolved the doubt in favor of continuation of citizenship.

Even if we were to consider In re M.F. precedent, that case and the case of Rabbi [redacted] are so obviously distinguishable on the facts that In re M.F. in no way supports the Rabbi's cause.

The Department submits that appellant's conduct and statements establish that his voluntary acceptance of a seat in the Knesset is the culmination of a long series of events which reveal a deep and sustained allegiance to Israel and an intentional abandonment of his United States citizenship. The Department contends that appellant's acceptance of his Knesset seat and his related actions speak

louder than words and express more clearly his true intentions regarding United States citizenship than do his "manifestly self-serving statements." In the Department's view, Rabbi [redacted] conduct manifested his voluntary transfer of allegiance to Israel and his intent to abandon United States citizenship, notwithstanding his contemporaneous statements to the contrary.

Beyond question the salient characteristic of Rabbi [redacted] case is his purposeful involvement over an extended period of time in the political life of a foreign state. That that state is one to which the United States has ties or interest and friendship is beside the point; the proscription of the Act applies to service by a national of the United States in any foreign government. Nor are Rabbi [redacted] policies and programs relevant considerations in the disposition of the appeal. This Board's sole responsibility is to decide the issues of fact and law that are presented by the appeal - to determine whether on all the evidence Rabbi [redacted] intended to relinquish his United States citizenship when he entered the Israeli parliament.

The record before us is replete with evidence of acts of appellant manifesting a commitment to and involvement in the public affairs of Israel that transcend mere empathy and a disposition to support a friendly foreign state.

Rabbi [redacted] long ago became a citizen of Israel. He has served in the armed forces of Israel. His taking a seat in the Knesset climaxed fourteen years of political activism characterized by a professed ambition to change the social and political land scape of Israel. Shortly after arriving in Israel he founded a political party, and beginning in 1973 ran for the Knesset in every national election. Before he was finally elected to the Knesset, Rabbi [redacted] attempted, through speeches and public manifestations, to influence the direction of government policies and programs. Upon election in 1984, he took a seat in the Knesset, the supreme authority in the Israeli governmental structure. He made a declaration of allegiance to Israel, as required by law, at the first session of the Knesset, pledging to be faithful to the State of Israel and to serve faithfully in the Knesset. Entering the Knesset was, by his own admission, one more step along the road he has travelled to make Israel his "permanent home." As leader of a political party, Rabbi [redacted] enjoys a status and influence in the Knesset greater than that of an ordinary member. He has made himself a factor in Israeli politics, arguably a formidable one, and aspires to become Prime Minister as he told a National Press Club audience in Washington, D.C. on September 12, 1985.

In the written and spoken word too Rabbi [redacted] reveals himself not simply as one who feels a strong moral attachment to Israel; rather, he admits that his primary loyalty is to Israel. His books,

The Story of the Jewish Defense League (1975) and Our Challenge: The Chosen Land, (1974), indicate where his allegiance lies. 12/

In his speech to the National Press Club in September 1985 he expressed his feelings candidly, referring to Israel as "my country - I have only one country." He continued:

> ...I'm a dual citizen. I live in Israel. I believe that a person should not be a dual citizen. And I would have long since given it up if I did not fear -- and with justification -- that If I gave it up, the American Government would place great obstacles in my path in attempting to enter America for lecture tours...That's the only reason why I haven't given up the citizenship.
>
> However, there is a bill in Knesset by my enemies which will force me, when it passes -- which will probably be sometime in the fall -- to give it up. And at that time I will. And, hopefully, the American Government will allow me in.

Rabbi [redacted] voluntary acceptance of an important political post in the government of Israel is persuasive evidence of an intent to relinquish United States citizenship, Vance v. Terrazas, 444 U.S. at 261. The declaration of allegiance he made to Israei also "provides substantial evidence" of an intent to abandon citizenship. King v. Rogers, 463 F. 2d at 1189. Other words and actions, which demonstrate unambiguously that he transferred his allegiance from the United States to Israel, supply overwhelming evidence of his "voluntary relinquishment" of United States citizenship. Measured against the foregoing evidence, Rabbi [redacted] disavowals in 1984 of an intent to relinquish citizenship and the fact that he has certain ties to and interests in the United States simply cannot be considered, as his counsel maintains, 'strongly probative" of a lack of intent to abandon citizenship.

12/ Illustrative of his thinking is this passage from Our Challenge: The Chosen Land: "...It is the obligation of every Jew to go and live in that State (Israel); this has been the nope of the Jewish people, as expressed in Judaism, its prayers and commandments. Thus, while the Jew may still live outside the borders of israei, he does not lose his obligation to the Land of Israel, whether there is a state there or not. So long as his duty to the Land of Israel does not conflict with his duty to the land in which he temporarily resides, he must do all in his power to aid the Land of the Jews. When that duty does come into conflict, he must leave the land, give up his citizenship, and resolve the conflict by returning from Exile to his permanent home, the Land of Israel." P. 114.

By accepting a seat in the Knesset, Rabbi [redacted] performed an act that "is so inconsistent with retention of United States citizenship as to result in the loss of that status." Perez v. Brownell, 356 U.S. at 68 (Warren, C.J., dissenting). On all the evidence, we consider that he assented to loss of his citizenship. The Department has satisfied its burden of proof by a preponderance of the evidence that appellant's acceptance of membership in the Knesset was accompanied by the requisite intent to relinquish his United States citizenship.

III

Upon consideration of the foregoing, the Board hereby affirms the Department's administrative determination that Rabbi [redacted] expatriated himself on August 13, 1984 under the provisions of section 349(a)(4)(A) of the Act by taking a seat in the parliament of Israel.

Alan G. James, Chairman

Edward G. Misey, Member

Howard Meyers, Member