PART ONE

Special Articles
The complete separation of Church and State is rightly considered by most Americans as one of the fundamental bases of American democracy. Federal and state constitutions set forth the principle in vigorous language. The First Amendment to the Constitution of the United States declares emphatically that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The pertinent provisions in the constitutions of the several states are equally emphatic. Typical is the phraseology employed in Article II, Section 24 of the Constitution of Arkansas:

All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can, of right, be compelled to attend, erect or support any place of worship; or to maintain any ministry against his consent. No human authority can, in any case or manner whatsoever, control or interfere with the right of conscience; and no preference shall ever be given, by law, to any religious establishment, denomination or mode of worship above any other.

But though the general principle is thus acknowledged, its practical interpretation in specific cases has not been attended with any degree of certainty. More particularly has this been true in recent years and especially in the field of education. It has therefore been deemed advisable to trace historically the doctrine of the separation of Church and State as it developed in the United States, and to give some account of its present status.
SEPARATION OF CHURCH AND STATE

It must be recognized at the very outset that the principle under consideration is a comparatively recent development; that it came into existence as a novel and revolutionary idea during the latter part of the eighteenth century; that it was conceived in struggle and bore full flower and fruit only in the United States. For this too there is historical justification.

Early History

In antiquity religion was always considered as a function of the State. In Judaea it was the State. In Egypt the hierarchy of the priests was a formal adjunct of the government and in turn exercised a potent, if not dominating influence on that government. In Greece, where religion was never formalized and there was no priestly organization, each city-state nevertheless had its own religious rites, customs and festivals directly under its control. One of the major charges on which Socrates was convicted was that he undermined the religious beliefs of the Athenians, and the primary accusation against his pupil, Alcibiades, was that he had committed sacrilege against the tutelary figures emblematic of the State religion. Even in Rome, where the State viewed the diverse religions of its subject peoples with a remarkably tolerant eye, there was an official order of priests which presided over official rites; during the Empire, moreover, the rendering of honors to the deified Emperor was made obligatory.

The early Christians, in fact, were not persecuted because they were a separate sect. Rome swarmed with a multitude of sects. But the Christians—and the Jews—could not and would not, because of their unique faith, perform that casual gesture of obeisance to the statue of the divine Caesar. The refusal was considered as an act of treason against the State.

When, in turn, Christianity became the official religion of Rome by an edict of Constantine, the elder Roman faith and all other sects were similarly subjected to persecution and eventual extermination. As long as the Empire existed, the established Church was subsidiary to the State; with the
dissolution of the Empire, the Church achieved an equal status and, later on, a predominating role. The history of the Middle Ages is largely the history of a thousand-year struggle for supremacy between Church and State, with the fortunes of the contestants shifting from year to year and century to century.

Only with the coming of the Reformation and the advent of Wycliffe, Huss and Luther did the first faint suspicion arise that religion was a private relation with one’s God and not the proper affair of organized Church or State. But the suspicion was premature. If Luther was willing to dispense with Church omnipotence, he was not willing to dispense with the State for its protection and support; and Calvin sought once again to bring the pair into mystic, indissoluble union. In England, too, where there had been a prior Reformation, the Pope might have been rejected, but the King promptly took his place as Protector and Defender of the Faith.

American Colonies—Settlements

It was inevitable, therefore, that the first colonists in America brought with them these accustomed attitudes toward the relation of Church and Government. The institutions and beliefs to which they had subscribed at home were transplanted with only minor modifications to the new world. The settlers in Virginia and the Carolinas were communicants of the Church of England and that Church therefore became the legal establishment; in New England they were chiefly Calvinist and the frame of government reflected the dour theocratic dogmas of the founder. Pennsylvania was settled under Quaker auspices and Maryland under Catholic; New York, originally Dutch and hence traditionally liberal in matters of religion, after its occupation by the English received a truly conglomerate mixture of races and religions.

The second wave of immigration into all the colonies—with the possible exception of Massachusetts and Connecticut—was even more conglomerate. Scotch-Irish, Palatinate German, French Huguenots, Dutch, Swedes, English,
Portuguese—of almost every religious faith—Anglican, Presbyterian, Catholic, Lutheran, Quaker, Huguenot, Calvinist, Jewish—made up the influx of those who sought freedom of opportunity and religious liberty for themselves.

It was this enforced thrusting together of many races and religions into the vast expanses of America that was ultimately to accentuate the necessity of a separation of Church and State. Any other arrangement would have led to a violent disruption of the structure of the State itself.

In the first settlements, however, no such considerations intruded themselves upon the colonists. The founders of Massachusetts Bay were Puritans, in a sense Calvinists. They had quit their native England because they disavowed the established Church of England and were in turn disavowed. It would seem logical, then, that having fled the tyranny of an establishment in which they disbelieved, they would have yielded to others that freedom in matters of religious belief they themselves had claimed. But logic has never been a dominant factor in human relations. The Puritans organized what was in effect a theocratic state on ancient lines and drove violently from their midst those who dissented from their particular establishment. Quakers were whipped, expelled and threatened with death if they ever returned; Roger Williams was summarily sent into the wilderness because of his liberal religious tenets. It was not until the charter of the Massachusetts Bay Colony was revoked and that province had become a royal appendage that members of other faiths were permitted even to set foot on the sacred soil.

Connecticut and New Hampshire, as offspring of Massachusetts, followed the parent pattern. Rhode Island, however, founded by the exile, Roger Williams, first produced the novel experiment on American soil—a colony where religion was a matter of a man's conscience and not an affair of the State. "All men of whatever nation are welcome here," declared Williams, "be they papists or protestants, Jews or Turks."

The original colonists in Virginia were Church of England men and naturally imported that establishment with them. They tolerated no dissent and pronounced severe penalties for
non-conformity. A similar situation existed in the Carolinas, with the significant difference, however, that private religious variations might be entertained if they did not lead to breaches of the civil peace. This relative tolerance ended abruptly when North Carolina in 1701 and South Carolina in 1704 officially established the Church of England. A few years later the dissenters, chiefly Baptists and Presbyterians who had peopled the western frontier, rebelled against the compulsory support of an establishment in which they disbelieved, and in 1711 North Carolina was forced to call on her sister colony of Virginia for troops to put down the recalcitrant dissenters.

Maryland had been settled originally by Catholics and had granted equal rights to all Christians; but a steady influx of Anglicans into the colony reversed the balance and by 1654 the newcomers, now in the majority, set up the Church of England and barred the "popish religion commonly known by the name of the Roman Catholic religion."

Georgia, founded as a refuge for the poor and the oppressed, was comparatively liberal. It made no invidious distinctions among the various Protestant sects, but "papists" were subject to the usual disabilities. As for Jews, in all of the above colonies with the single exception of Rhode Island, though permitted entrance, they had no political status.

A different situation obtained in the so-called "middle" colonies of New York, Pennsylvania and New Jersey. Here the particular circumstances of their founding and the polyglot nature of their inhabitants did not permit the establishment of any one church to take root and flourish. All through the colonial period they were havens of liberty in religious matters.

The pre-Revolutionary period was not static. As the tide of immigration increased and a heterogeneous group of peoples and religious beliefs pushed into the interstices of the original colonies, it became more and more difficult for the established churches to maintain their monopoly on the public funds. The dissenting faiths demanded either parity for themselves or disestablishment. A new force was also making itself felt. The temper of the eighteenth century was decidedly rationalistic
and anti-clerical. The philosophical ideas of the English and French deists were gradually making themselves felt on the distant American shores, and the intellectual leaders of each colony began to view with a critical eye the claims of particular churches to a monopoly of the truth.

With the sharpening of the conflict between the colonies and Great Britain, moreover, the Anglican church became more and more identified with the repressive measures of the mother country and received thereby its share of the popular opprobrium. It became a matter of hot resentment that the tax-supported church should ostentatiously take sides against the people who paid those taxes.

American Colonies—Revolution

The ground was therefore prepared when the rebellion entered its shooting phase. Thomas Jefferson molded electric phrases into the Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

But Virginia, Jefferson's home state, had already anticipated him. On June 12, 1776 the House of Delegates promulgated a Bill of Rights which included a ringing declaration on religious liberty: "That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience . . . . ."

Yet the Bill of Rights did not dislodge the Anglican church as the official establishment of Virginia. Jefferson, Madison, George Mason and other revolutionary worthies pressed for complete divorcement of Church and State. Other equally revolutionary notables were reluctant to go the entire way with them. Even the dissenting churches opposed that ultimate step. They were willing enough to bring down the Anglican establishment from its high estate, but not to dispense with the principle of state support of churches. The dissenters merely
demanded that they be given an equal share. Such men as George Washington and Patrick Henry agreed with their position.

The struggle was long and bitter, and Jefferson later characterized it as "the severest contest in which I have ever been engaged." It took place in several stages. With the aid of the dissenters, the liberal cohorts succeeded in 1777 in repealing the statute requiring attendance and support by non-communants of the Anglican church. In 1779 that church was disestablished as the sole official one. This left the various churches still in the position of having certain rights which the state might enforce.

The final phase of the struggle was the longest and most difficult—the complete separation of Church and State. Here Jefferson and Madison lost their former allies—the dissenting churches. Having achieved their objective in toppling the Anglican establishment, these now demanded that all Christian churches be considered as equal in the eyes of the State and entitled to support by public taxation.

But the liberals pressed forward to the ultimate goal. Years of debate ensued. Session after session the bill of divorcement was defeated and offered again. By December, 1785 it passed the House; in January, 1786 it cleared the Senate. The Virginia Statute of Religious Liberty had become law—the most thoroughgoing pronouncement on the separation of Church and State ever enunciated:

I. Whereas Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy author of our religion. . . . . that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern . . . .

II. Be it enacted by the General Assembly, that no man
shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities.

But before the great battle was won in Virginia, other states had already quietly but none the less effectively put the principle of the separation of Church and State into their own laws. North Carolina and Maryland voted disestablishment in 1776; South Carolina followed suit in 1778. Vermont, newly erected, placed a permanent ban in its constitution.

The struggle in Massachusetts, stronghold of the Puritan conception, was not as successful. Its Bill of Rights, as finally approved in 1780, while granting unrestricted freedom of worship to the individual and offering the equal protection of the laws to all Christian denominations, nevertheless maintained that the Protestant religion was the public concern of the State:

As the happiness of a people and the good order and preservation of civil government essentially depend upon piety, religion, and morality, and as these cannot be generally diffused through a community but by the institution of the public worship of God and of public instructions, in piety, religion, and morality... the legislature shall from time to time authorize and require, the several towns... and other bodies-politic or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of God and the support and maintenance of public Protestant teachers of piety, religion and morality...

And the people of this commonwealth... do invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid. (Italics added.)

The Pennsylvania Constitution of 1776 definitively provided for the separation of Church and State, though still requiring a form of religious test for the holding of public office. New
York followed suit in 1777, in spite of attempts to exclude members of the Roman Catholic faith, and proved itself more radical than Pennsylvania by dispensing altogether with religious qualifications for office.

By 1787, the year of the adoption of the Constitution of the United States, the situation in the several states was as follows: some form of establishment and a compulsory religious tax still held good in New Hampshire, Massachusetts, Connecticut and Maryland. All states required some sort of religious qualification for public office with the exception of four—New York, New Jersey, Rhode Island and Virginia. In these, Jews were permitted to hold office. The Catholics were given a wider scope for their talents—in addition to these four states, they could hold office in Massachusetts, Pennsylvania, Delaware, Maryland and to a limited extent in Connecticut.

**Constitutional Period**

Thus, by the time a frame of government for the nation as a whole came under consideration, the moot question of the separation of Church and State had already been thoroughly aired in public discussions and a large measure of success achieved in the component states.

Nevertheless, the Constitution of the United States as it came out of the deliberations of the Convention contained only one pertinent provision: "No religious test shall ever be required as a qualification to any office or public trust under the United States." The omission, however, was promptly remedied by the First Amendment and thereafter, as far as the Federal Government was concerned, no power inhered in it to grant official recognition to any church, to support it in any way through public funds, or to make the matter of a citizen's religion the subject of disability or advantage. No more complete separation of Church and State could possibly be envisaged.

It must be remembered, however, that such prohibitions applied only in the field of Federal relations. The Constitution
was silent as to the individual states and, being silent, left to them sovereign powers to control as they saw fit the problems of church and religion within their own borders; at least until the enactment of the Fourteenth Amendment as later interpreted by the courts. An attempt had indeed been made by Virginia to incorporate a similar prohibition against the states in the Federal Bill of Rights, but it failed of acceptance in the Senate, though it passed the House. The original thirteen states were jealous of their sovereignties, even though many of them had already legislated the prohibitions into their own constitutions.

But in the one area where Congress had power to bind—the great Northwest Territory which had been relinquished to the jurisdiction of the United States by the various claimant states—it acted with diligence and dispatch. On July 13, 1787 the Northwest Ordinance became law. Article I was of far-reaching importance: “No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.”

By this ordinance and later enabling acts covering other territories safeguards were taken against any state thereafter admitted to the Union interfering with the religious beliefs of its citizens.

Such were the political aspects of the long struggle for religious liberty and for the separation of Church and State which ended with the formation of the United States. It is true that not in all instances was the separation complete, nor all disabilities removed; but a sufficient start had been made and, during the nineteenth century, the laggard states gradually conformed to the prevailing principle. Only New Hampshire has still retained a provision dating from 1784 which authorizes the employment by its towns and parishes of public Protestant teachers of piety, religion and morality. Yet even here it is specifically provided that no person of one sect or denomination can be compelled to support the teacher or teachers of another.
RELIGION AND EDUCATION

In the field of education, however, progress was considerably slower. From the period of the Dark Ages on, education in western Europe had been regarded as the peculiar province of the Church. The earliest schools were adjuncts of monasteries and the monks were the teachers. When the universities came into existence during the twelfth century, it was the Pope chiefly who granted the charter and the local Bishop who had jurisdiction. Teacher and student alike were regarded as clericus and wore the distinguishing tonsure.

Even the Reformation did not change the clerical pattern of education. Quite the contrary. The essential tenet of Protestantism was that each man read the Bible for himself and know its contents thoroughly. The ability to read the Sacred Word was therefore the sine qua non of education. And who could teach it better than a schoolmaster who had taken orders?

Colonial Concepts

The very first school law in the American colonies emphasized this concept of education. In 1642 Massachusetts instituted local school boards with power to “take account from time to time of all parents and masters, and of their children, concerning their calling and implantment of their children, especially of their ability to read & understand the principles of religion & the capitol lawes of this country.” (Italics added.)

In 1647 Massachusetts was even more specific. In quaintly worded language it was decreed that “it being one chiefe proiect of ye ould deluder, Satan, to keepe men from the knowledge of ye Scriptures, as in formr times by keeping ym in an unknowne tongue, so in these lattr times by perswading from ye use of tongues, yt so at least ye true sence & meaning of ye originall might be clouded by false glosses of saint seeming deceivers, yt learning may not be buried in ye grave of o[u]r fathrs in ye church and commonwealth . . . ,” each township of more than fifty householders must appoint a schoolmaster
to teach the children to read and write, and set up a grammar school if the number of householders reached one hundred.

What is historically significant in these two laws is not so much that the state was directly concerned in religious instruction for its citizens, but that it made education *per se* a matter of public interest and support. Here are the germs of the public school system; the tie-up with religion could be—and eventually was—eliminated.

These laws became the basis for similar legislation in Connecticut and New Hampshire where the same creed was dominant. But in Pennsylvania, where there existed a diversity of creeds, it was not expedient for the state to interfere in the processes of education. Religious instruction was indeed recognized as an integral element in schooling, but in a heterogeneous group it could not safely be decided what particular brand ought to be taught. Education was therefore left to the several denominations, which set up parochial schools with subsidies from the faithful.

In Virginia and most of the other colonies, the procedure of England was generally followed: to wit, that education was a private affair and public education a matter of charity for the orphans and children of the poor only. But even these charity schools were operated by the Church, though the State might be called on for assistance in their support.

Higher education was similarly in the tradition of the English universities. Charters might be granted by the State, but management and courses of instruction were the concern of the Church. Harvard, Yale, William and Mary, the College of New-Jersey (Princeton) and King's (Columbia) were originally considered as seminaries for the training of learned ministers.

*Secularizing Influences*

These schools, however, and the colleges in particular, were not immune from the gradual secularization that shifted interests in the colonies during the eighteenth century and became greatly accelerated with the coming of the Revolution. Curricula changed, more liberal subjects were included, and
religious instruction was diluted to a few courses in ethics and moral philosophy. Fewer and fewer graduates entered the ministry. And, immediately following the Revolution, Jefferson and Madison radically reformed the curriculum of William and Mary in the direction of secular subjects. The process was completed in 1825, when Jefferson founded the University of Virginia and made it wholly non-sectarian.

The Constitution of the United States and the constitutions of the several states necessarily exercised a profound influence on the relations of Church and State in the field of education. While it is true that the Federal constitution does not make any mention of education or its control, the forthrightness of its severance in the matter of religion necessarily had repercussions. More and more it began to be realized that education, on the lower levels at least, was primarily a public concern and should not be left entirely in the hands of the Church or any other private group. It was not contended that these should be driven from the field; it was contended that public schools should be erected which would be State-supported, free to all yet without the taint of charity, and non-sectarian in their teaching.

Thomas Jefferson had first envisaged such a scheme in his Report of the Revisors to Virginia immediately following the Revolution; others took up the cudgels at the beginning of the nineteenth century. The fact that the Federal Government had boldly proclaimed in an official treaty with Tripoli as early as 1796 that "the government of the United States of America is not in any sense founded on the Christian religion" gave a much needed impetus to those who would keep any form of religious instruction or control out of the proposed public schools.

The chief proponent of the new system, aside from a group of enthusiastic reformers, was the politically conscious labor movement. From 1829 on, the workingmen's groups demanded "free, equal, non-sectarian, republican" education for their children. The upsurge of Jacksonian democracy, the rapid growth of population in the West where the Ordinance of 1787 had insisted "that schools and the means of education
should forever be encouraged," the fear of Protestant groups that the new influx of Irish Catholics, if left to their own Catholic charity schools, would remain under "papal domination," all added weight to the movement for free, tax-supported public schools. De Witt Clinton in New York, Thaddeus Stevens in Pennsylvania, Henry Barnard in Connecticut and Horace Mann in Massachusetts, were some of the prominent statesmen and educators who spearheaded the movement. Significant of the shift in sentiment is the language of the Massachusetts High School Law of 1827. No longer, as in 1647, is there any mention of Satan, "ye ould deluder," or of necessary knowledge of the Scriptures; the emphasis is now placed on the wholly secular subjects of history, geometry, Latin, Greek, rhetoric and logic.

Religious Opposition

The battle, nevertheless, was not an easy one. It centered chiefly on the public tax provisions rather than on the non-sectarian idea, though here, too, there was a certain amount of opposition. The Presbyterian Synod of New Jersey expressed alarm in 1845 that the "race of irreligious and infidel youth, such as may be expected to issue from public schools, deteriorating more and more, with revolving years, will not be fit to sustain our free institutions." Let the churches of every denomination set up their own schools, the Synod insisted, and then demand from the state that each citizen be granted the privilege, on payment of his education tax, to "signify to what denomination of Christians it shall be applied."

At all times, moreover, the Catholic Church opposed the entire concept of non-sectarian schools supported by public funds. From the earliest days it followed the path which was later to be definitively described by Pope Pius XI in 1929 in an Encyclical Letter on the Christian Education of Youth: "There can be no ideally perfect education which is not Christian [i. e., Catholic] education." Education belongs to the Catholic Church, which has the whole of moral truth. A neutral school from which Catholicism is excluded is irreligious; and such schools should not be attended by Catholic
children except for sufficient reasons and with the approval of the bishop. "Neither can Catholics admit that other type of mixed school . . . in which the students are provided with separate religious instruction but receive other lessons in common with non-Catholic students." All the material of education, as well as the teachers and textbooks, must be "regulated by the Christian spirit, under the direction and maternal supervision of the Church." And, with a special eye toward conditions in the United States, the Encyclical concluded on a significant note: "And let no one say that in a nation where there are different religious beliefs, it is impossible to provide for public instruction otherwise than by neutral or mixed schools. In such a case it becomes the duty of the State, indeed it is the easier and more reasonable method of procedure, to leave free scope to the initiative of the Church and the family while giving them such assistance as justice demands."

Secular Free Public Schools

During the nineteenth century, however, neither of these Catholic or Protestant groups was sufficient to hold back the irresistible tide. In state after state the battle was pushed to victory, while Horace Mann and Henry Barnard, essentially religious men, were responsible for initiating legislation that removed all sectarian instruction and textbooks from the public schools they had helped father. It was felt that in communities of mixed denominational groups any other course, or the establishment of a particular sectary as the official one, would arouse a storm of protest from minority groups that would eventually destroy the entire edifice of public school education.

The same considerations put an end to state support of denominational schools. What happened in New York was decisive. A grant of state funds in 1807 to the non-denominational Public School Society was made available in 1820 to the use of the Bethel Baptist Church for a school for poor children. Even though the school was free to children of all faiths, so vigorous was the opposition that the New York City Council
in 1825 refused to renew the grant to the Baptists or any other religious society.

In 1831, however, the Roman Catholic Benevolent Society asked the city for funds for its Orphan Asylum School, and received a grant. Promptly the Methodists made a similar request; but theirs was refused. In 1840 the Catholics, emboldened by their earlier success, demanded that a part of the New York City general school fund be allotted to them for the erection and support of wholly Catholic schools. When the Council turned them down, they appealed to the State Legislature. Action on their appeal was deferred to 1842; in the meantime a rising clamor of protest from other denominations made itself felt. The Legislature then cut the Gordian knot by creating a public school system supported wholly by public funds, and providing that thereafter no portion of school funds could be given to any school in which "any religious sectarian doctrine or tenet should be taught, inculcated, or practiced."

In spite of the plain language of the act, the New York City Board of Education defiantly continued to use textbooks colored by Protestant dogma and the King James version of the New Testament in the schools. Both the Catholics and the Jews protested, but were met with the response that this was a Protestant Christian country and the board was within its rights in using Protestant material.

The controversy does not seem to have been brought into court, but evidently pressure was concentrated on the state legislature; for, in 1851, a new law forbade in express terms the use of sectarian books in the public schools. The board, still somewhat recalcitrant, now made the reading of the Scriptures optional with the local ward boards. By 1860, however, the objectionable material was wholly withdrawn and the dispute ended.

By the eighteen-fifties the principle of non-sectarianism in educational as well as political areas had been firmly established in the American scene. It was taken for granted in exactly the same manner as a free press and the right to vote. Even such a bigoted movement as the Know-Nothing Party
incorporated in its platform for the campaign of 1856 a clause expressing "opposition to any union between Church and State; no interference with religious faith or worship, and no test oaths for office...""

The Civil War brought no change; nor did the great industrial sweep of the second half of the nineteenth century. In 1875 President Grant could say to enthusiastic applause:

Let us all labor to add all needful guarantees for the security of free thought, free speech, a free press, pure morals, unfettered religious sentiments, and of equal rights and privileges to all men, irrespective of nationality, color, or religion. Encourage free schools and resolve that not one dollar appropriated for their support shall be appropriated to the support of any sectarian schools. Resolve that either the state or the nation, or both combined, shall support institutions of learning sufficient to afford to every child growing up in the land the opportunity of a good common school education, unmixed with sectarian, pagan, or atheistical dogmas. Leave the matter of religion to the family circle, the church, and the private school supported entirely by private contributions. Keep the church and state forever separate.

That same year Senator James G. Blaine proposed an amendment to the Constitution of the United States which would prohibit to the separate states on an even more sweeping scale what was prohibited to the United States. It read as follows:

No state shall make any law respecting an establishment of religion, or prohibiting the free exercise thereof; and no money raised by school taxation in any State, for the support of public schools, or derived from any public fund therefor, nor any public lands devoted thereto, shall ever be under the control of any religious sect; nor shall any money so raised, or lands so devoted, be divided between religious sects or denominations.

The amendment passed the House by a huge majority of 180 to 7; but it failed by a bare margin to receive the necessary two-thirds vote of the Senate, the count standing 28 for and 16 against.
Constitutional Provisions

By this time, however, or within the next few decades, most of the states had incorporated in their own constitutions provisions which prohibited to themselves the very things which the Blaine amendment had proposed to prohibit by federal compulsion. The provisions of the California Constitution are perhaps more exhaustive than the average. Article I, Section 4 guarantees religious liberty. Article IV, Section 30 forbids aid in any form whatsoever to "any religious sect, church, creed or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever ......." As if the people of California were afraid that some loopholes might be found in the sweeping provisions of this article, they added another, Article IX, Section 8, which declares that

no public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

While the First Amendment to the Federal Constitution is plainly a prohibition only against federal interference with religious liberties, it has since been adjudicated that the Fourteenth Amendment gives the Federal courts jurisdiction over state intrusions in the same realm. "No state shall .... deprive any person of life, liberty, or property, without due process of law." The Supreme Court of the United States has gradually broadened its interpretation of this clause. In 1898, in the case of Allgeyer vs. Louisiana (165 U. S. Rep. 578) the Court interpreted the "liberty" described in the amendment to include not merely the absence of physical restraint but "the right of the citizen to be free in the enjoyment of all his faculties."

In 1923 in the case of Meyer vs. Nebraska (262 U. S. 390) the Court broadened it still further to include the citizen's
right "to worship God according to the dictates of his own conscience."

The trail-blazing case under the amendment, however, was decided in 1925 on an Oregon statute which required all parents to send their children to the public schools and in effect was aimed against the continued existence of full time Catholic parochial schools. The matter became a cause célèbre. When the State Supreme Court upheld the law, an appeal was taken to the United States Supreme Court. Though the statute was primarily aimed against Catholic schools, Louis Marshall, president of the American Jewish Committee and a prominent constitutional lawyer, voluntarily joined in the appeal (Pierce et al. vs. Society of Sisters, 268 U. S. 510). Mr. Justice McReynolds, writing the unanimous decision of the Court that the offending statute was unconstitutional, practically quoted verbatim from Marshall's brief to the effect that "the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."

Here, in express terms, it was decided that under the Fourteenth Amendment, no state had the power to interfere with the liberty of its citizens to provide whatever religious instruction they wished for their children, even though it was coupled with their secular education. It was understood, of course, though not at issue in the instant case, that the state had the right to maintain standards on secular education to which parochial and private schools must conform. The importance of this decision rests not so much on the questions actually decided as on the broader ground that the Federal courts would accept jurisdiction in state matters involving religious liberties.

The present constitutional provisions relating to the separation of Church and State may be summarized as follows:

The Federal Constitution forbids religious tests for office, the establishment of any church, and interference with freedom of worship. Nothing, however, is said specifically about the possible use of Federal funds for sectarian purposes, unless such a prohibition can be implied from the language of the First
Amendment. The bills currently introduced in Congress for Federal aid to education bring this particular issue sharply into focus.

The situation in the states is much more complicated. Forty-eight states with forty-eight constitutions have neither uniformity nor unanimity. In addition, state judicial bodies have variously interpreted constitutional and statutory provisions even when the language is either exactly the same or similar in content.

But some general conclusions can be made. Thirty-seven states specifically forbid any religious tests for holding public office, but eight do demand belief in a Supreme Being, and three a belief in a future state of rewards and punishments.

All of the states expressly grant religious liberty and the right to worship in any peaceable manner; most forbid the establishment of a church as well, while those which have no express prohibition imply it in the context. There never has been any difficulty along these lines. Where there has been general confusion, however, is in the relation on the one hand of religious instruction and the public schools and, on the other, of the State and sectarian schools. Since it is within these areas that the current controversy rages, they will be considered separately and at length.

RELIgIOUS INSTRUCTION IN PUBLIC SCHOOLS

The problem of religious instruction in the public schools centers chiefly in the question of whether or not excerpts from the Bible, usually in the King James version, shall be read in the classroom or assembly. Outright sectarian instruction is universally considered as not appropriate in the curricula of the public schools, even though only twelve states have constitutional provisions against it. Nevada may be taken as typical of these: "No sectarian instruction shall be imparted or tolerated in any school or university that may be established under this Constitution." (Article XII, Section 9.)

But does a reading of the Bible constitute sectarian instruction? The question has cropped up again and again in legislature, school and court. The multiplicity of statutes and
decisions is bewildering; they vary from state to state and jurisdiction to jurisdiction.

No state constitution forbids Bible reading by name; one state—Mississippi—specifically permits it: “The rights hereby secured shall not be construed to . . . exclude the Holy Bible from use in any public school of this State.” But twelve states have passed laws requiring the reading of the Bible in the schools; five more have permissive legislation; while the reading of the Lord’s Prayer or instruction in the Ten Commandments is required or permitted in others.

In some of the states in this group attempts have been made to throw safeguards around such readings. In eight states the reading must be without comment; in three, pupils may be excused from attendance at the request of their parents or guardians; and in two, on a similar request, pupils may be excused from personal participation in the reading.

From the very beginning of the public school system protesting voices have been raised against inclusion of the Bible. The opposition has come from religious groups and freethinkers alike. Freethinkers maintain that the Bible, though a great literary classic, is a sectarian book—the fundamental base of the Judaic and Christian religions. But even among Jews and Christians objections have been raised. To the Jews the New Testament is a body of religious material to which they do not subscribe. And, though all Christians consider both the Old and the New Testaments as sacred volumes, there is a sharp clash of opinion as to which version is the proper one. The King James version is the authorized book of most Protestant sects, but the Catholics deny its validity and use the Douai translation instead. The Jews, on the other hand, consider both versions of the Old Testament as misleading and doctrinaire in a good many places and employ their own translations. Here then is a skein of confusion which the courts have been called on time and again to untangle.

The first case in the country in which the issue was posed in the courts was in Maine in 1854 (Donahoe vs. Richards, 38 Me. 376). Donahoe, a Roman Catholic, instituted action against the school committee of the town of Ellsworth because
his daughter had been expelled for refusal to read a section of
the King James version of the Bible as ordered by her teacher.
The school regulations required such reading as a regular part
of classroom instruction. The court upheld the school com-
mittee in its action, declaring that each committee had a right
to pick its own version of the Bible and that such a choice was
neither unconstitutional nor an infringement on the religious
freedom of the pupils.

The second case came up in Massachusetts in 1866 (Spiller
vs. Inhabitants of Woburn, 94 Mass. 127). Here the cause of
action arose from a girl who refused to bow her head during
the reading from the Bible and subsequent prayer at morning
exercises and who refused to ask special permission to be
excused from attendance. Here too the court held that the
general religious liberty clause of the Massachusetts consti-
tution was not infringed by such a regulation.

On the other side of the fence, however, was the forthright
pronouncement of the Ohio Supreme Court in 1872 (Board
of Education of Cincinnati vs. Minor et al., 23 Ohio St. 211).
In this instance the action was against a Board of Education
to compel it to institute Bible reading in spite of its refusal to
do so. The court declared that
legal Christianity is a solecism, a contradiction of terms.
When Christianity asks the aid of government beyond mere
impartial protection, it denies itself. Its laws are divine,
and not human. Its essential interests lie beyond the reach
and range of human governments. United with govern-
ment, religion never rises above the merest superstition;
united with religion, government never rises above the
merest despotism; and all history shows us that the more
widely and completely they are separated, the better it is
for both.

In recent times the situation has become even more con-
fused, though the vast majority of decisions has been in favor
of Bible reading, especially where those with conscientious
objections are permitted to absent themselves from the reading.
In 1921 a Georgia court held that a local ordinance requiring
instruction in the King James Bible did not conflict with the
rights or beliefs of Catholic and Jewish pupils.
It would require a strained and unreasonable construction to find anything in the ordinance which interferes with the natural and inalienable right to worship God according to the dictates of one's own conscience. The mere listening to the reading of an extract from the Bible and a brief prayer at the opening of school exercises would seem far remote from such interference. (Wilkerson vs. City of Rome, 152 Ga. 763).

But Mr. Justice Hines interposed a vigorous dissent to the reasoning of the majority. It was his conclusion that Catholics, Jews, certain sects of Protestants, deists, atheists and agnostics were right in feeling offended. "We cannot disguise the fact," he remarked, "that making the reading of the King James version of the Bible a part of the worship of the public schools puts municipal approval upon that version, and thus discriminates in favor of and aids the Protestant sects of the Christian religion."

Illinois, South Dakota and Louisiana have filed strong dissents to the prevailing weight of opinion that the Bible in general, and the King James version in particular, violates no fundamental rights when used in the public schools. The Illinois court in 1910 admitted that the great majority of the people in the state were Protestant Christians, but maintained that

the law knows no distinction between the Christian and the pagan, the Protestant and the Catholic. All are citizens. Their civil rights are precisely equal . . . . The school, like the government, is simply a civil institution. It is secular and not religious in its purposes. The truths of the Bible are the truths of religion, which do not come within the province of the public school. (People vs. Board of Education, 92 N. E. 251).

South Dakota, in a decision rendered in 1929, dismissed the argument that the Bible ought to be used because it taught the youth of the state morality, reverence and wholesome religious beliefs with the remark that while such aims were praiseworthy in themselves
it does not follow that a reading of the King James version of the Bible in our public schools is essential to such teaching . . . . The difficulty in reading any version in the public schools seems to be in agreeing upon the version to be read and the person to read it. (Finger vs. Weedman, 226 N. W. 348).

A Louisiana court in 1915 held a similar brief against the reading of any version of the Bible, and in particular of the New Testament, on the ground that non-Christians have rights which must be protected. (Herold vs. Parish Board, 68 So. 116).

Nevertheless, in spite of these vigorous dissents, there has been a steadily accelerating trend in both statutes and decisions in favor of introducing the Bible into the public schools. Whereas in 1913 only two states had provisions for the mandatory reading of the Bible, by 1933 the number had increased to twelve and the District of Columbia. By the latter year, in addition, eighteen states permitted Bible reading at the option of local boards, while only eleven states interposed any prohibition.

"Non-Sectarian" Religious Instruction

Pressure has been brought to bear by religious bodies and influential individuals to introduce not merely Bible reading and the Lord’s Prayer but also instruction in morals, ethics and generalized religion. The tragic insecurity of the times, the "godlessness" of American youth and "the threat of atheistical Communism" have all been cited by the proponents of such measures.

The Gideon Society has been especially active in its attempts to place copies of the Gideon Bible in the public schools of the country. A typical resolution calling for the reading of the Lord’s Prayer at general assemblies was introduced in the New York City Council in the early part of 1947. In Illinois the Supreme Court, which in 1910 had decided against the use of the Bible, reversed itself. In a unanimous decision, dated January 23, 1947, the Court upheld the action of a Champaign,
Illinois school board in organizing Bible classes in its schools against the protest of an atheist. "If the classes are purely voluntary," ruled the Court, neither the Constitution of the United States nor of Illinois has been violated. In May, 1947 the case was being appealed to the Supreme Court of the United States.

More and more voices are being raised in behalf of complete religious instruction. Its proponents are pressing hard. The movement emanates from both Protestant and Catholic sources. Henry R. Luce, the founder of *Time*, *Life* and *Fortune* magazines, in a speech before the Church Federation of Greater Chicago, called for

Christianity in the public school system, which over the past century Protestants were mainly responsible for having established . . . . It is certainly time that Protestants, if they don’t do anything else, should unite on a program to bring the knowledge of God to our boys and girls at school.

If the Catholics are not anxious to bring religious instruction into the regular classes of the public schools it is only because, in most communities, they are aware that such instruction, in spite of attempts at non-sectarianism, must necessarily be tinged with Protestant doctrine. Yet they are the most ardent advocates of the doctrine that religious instruction and education are inextricably bound together. "The Catholic Church is vitally concerned about the education of children," declared Archbishop McNicholas before a meeting of 8,000 delegates to a convention of the National Catholic Education Association in Boston on April 9, 1947. "The Church is very anxious to cooperate with parents and with the state in the education of the child." He went on to remark that

our complaint is not against government, but against high-pressure groups of the school profession that attempt to foist on the American public the pseudo-religion of public education as if it were the only true American education. These same groups are becoming more insistent on the complete separation of church and state in a wrong light; they are increasing the economic burdens of parents who wish their children trained in religious schools; they are
striving, unwittingly perhaps, to make our government a dictator in education.

While the Catholics would much prefer to have their children attend Catholic parochial schools and not the public schools, and are opposed to "general" religious instruction in the public schools, they are willing to introduce religious classes into the public schools on a segregated basis. In other words, let Catholic children receive instruction from teachers furnished by the Catholic authorities; Protestant children from Protestants; and Jewish children, if there are a sufficient number, from Jewish instructors. Such an attempt was made in New Mexico, where the Catholic population is large. A bill was introduced in the legislature in the early part of 1947 permitting religious instruction in the public schools by any religious group prepared or organized to do so. The Catholics backed the bill; but the Protestants were opposed, and it went down to defeat.

That even certain educators have been falling into line was indicated by a report issued by the Committee on Religion and Education of the American Council on Education. Composed of educators and representatives of the three major faiths, the Committee made public a document on April 1, 1947 which, while "holding to the principle of separation of church and state," deplored the "strained application of that principle in our school system . . . . The exclusion of religious subject matter which so largely prevails is neither required on grounds of public policy nor consistent with sound educational principles." To overcome the so-called secularization of American education the committee proposed that a study of religious institutions be included in the social studies program, that the Bible be used in literary courses and that the requisite religious aspects be taught in the fields of history, psychology, music, economics, etc. All, of course, were to be presented non-dogmatically. How this was to be done, without sectarian doctrines creeping in as the result of community majorities and with teachers as well as pupils of differing faiths or no faiths at all, was not indicated.
RELEASED TIME FOR RELIGIOUS EDUCATION

In recent years, the proponents of religion as an integral part of the public school system have concentrated their efforts on a different plan which, they hope, will obviate the objections of those who have fought the introduction of religion into the classroom.

The new plan has been termed "released time for religious education." Children are to be released from public school classes at specified hours in order to attend outside classes offered by their respective churches. To obtain such a release a written request from the parent, countersigned by a clergyman of the church, is frequently essential. In turn, the church school must forward a registration certificate and weekly attendance records to the school authorities.

Another plan has also been proposed, called "dismissed time." In this the public schools are to be dismissed an hour or so earlier on specified days so that all pupils who wish may be free to attend classes in religious instruction. But this plan has made little headway. Since the compulsive element is lacking, as in the released time scheme, it has been found that the great majority of the pupils welcome the free hour merely as an additional holiday.

The released time idea had its inception in 1913 in Gary, Indiana, when the Superintendent of Schools authorized the public schools in his jurisdiction to put it into operation. The pressure for its introduction originally came from ministers of the various Protestant persuasions who had for many years viewed with dismay the steady decline in the number of their enrolled communicants and attributed it to the moribund condition of their Sunday and parochial schools. These in turn, it was felt, had been unable to compete with the attractive pull of secular public education.

Recently this position has been stated by Dr. Charles Clayton Morrison in a series of editorials in the Christian Century, a leading Protestant publication. In the issue dated April 17, 1946, he wrote:

One thing is sure, Protestantism cannot long maintain its position in American culture while it continues to allow its
children to grow up in religious illiteracy. Catholicism, with its parochial schools in which not only knowledge about their religion is imparted, but religious devotion is inculcated, is in a position to take advantage of the vacuum in the general culture, and it is acting accordingly. Until Protestantism awakens to the fact that its position is vulnerable to Catholicism on the one hand, and to secularism on the other, its hope of winning America is a blind illusion.

It was with these frank considerations in mind that released time was proposed. Since the time involved would be taken out of the legal school day, there could be no outcry from parents or children about additional burdens being laid upon them. Clerical pressures, the moral weight of the community, in some cases even the cooperative attitude of the school authorities, would help to bring the pupils into the fold. And, by the legal formalization of the plan and the necessary working together of school and church, it was hoped that a religious spirit would eventually penetrate into that most formidable citadel of secularism, the public school.

For the same reasons that the Protestant ministers ardently advocated the principle of released time, the Catholics at first opposed it. The Catholics did not regard one hour a week as sufficient for religious instruction. It was the full-time control of the education of their communicants that they were openly after. The pressures they exerted were for Catholic children to attend Catholic parochial schools, not the public schools. Education to them was one and indivisible, and religion was its fundamental base.

But as the plan went into effect, the Catholics were quick to see its possibilities. A large percentage of Catholic parents, in spite of the pressures brought to bear on them, clung to the belief that the public school system was in the American tradition. The released time plan gave the Catholic Church the opportunity to gain at least an extra hour in the religious instruction of these children. This fact finally influenced certain dioceses of the Catholic Church to participate in the plan.

As for the Jews, aside from a few rigidly Orthodox leaders, there never had been in America any desire for the mainte-
nance of full-time parochial schools. The few that did exist represented but an inconsiderable percentage of the total Jewish community. Those who desired religious instruction found it without difficulty in after-school Talmud Torahs whose work did not conflict in any way with the work of the public schools. In fact, there have been no more enthusiastic upholders of the public school system and all that it connotes in America than the Jews.

From its beginning in Gary, Indiana in 1913, and with the powerful impetus furnished it by various Protestant denominational groups, the released time plan spread rapidly. Communities all over the country took up the plan. In the first year of its existence in Gary only 619 pupils were enrolled in week-day church schools and released for an hour from the public schools. By 1925, however, about 200 communities in twenty-four states had put the plan into operation and 40,000 pupils attended. From this point on claims vary widely. The only semi-official figure is given in a survey conducted by the United States Office of Education in 1940 which indicated an enrolled membership of 225,000 pupils in 282 communities. But the advocates of the scheme have made much larger claims. According to Erwin L. Shaver, of the International Council of Religious Education, in the January-February, 1946 issue of Religious Education: "In 1935 programs in thirty states were reaching 250,000 pupils. Today, approximately two thousand communities in all but two states provide religious education in cooperation with the public schools for more than a million and a half of pupils." These figures have been described as exaggerated by others.

Court Decisions

In its original form, released time was put into effect not by statutory enactment, but by the fiat of local school boards. Though there were scattered protests against its initiation by those who believed that the plan was an encroachment on the inviolability of the public school system and the separation of Church and State, for a considerable period no court actions were brought to test the constitutionality of the plan. The
first case of record was argued in New York in 1925. The School Board of Mount Vernon had adopted released time and printed cards at the public expense for parents to sign and others on which the religious teachers might return their reports. A lower court declared released time a violation of the Education Law and the printing of cards an illegal expenditure. The judge's opinion read:

The fact that no particular denomination was favored or intended so to be by this action of the board of education does not affect the question . . . . I find nothing whatsoever in the Education Law authorizing either the board of education, the state commissioner of education, or the education department to change, limit, or shorten the time of attendance . . . . [The] Education Law . . . prescribes the instruction required in public schools. Religious instruction is not one of them. Consequently it would be unlawful and unauthorized for a board of education to substitute religious instruction in the school in place of the instruction required. To permit the pupils to leave the school during school hours for religious instruction would accomplish the same purpose, and would in effect substitute religious instruction for the instruction required by law. (Stein vs. Brown, 211 N. Y. S. 822).

If this seemed a clear-cut victory, a decision on a similar situation in White Plains, New York, two years later was directly contra. The facts were the same, except that no cards were printed at the public expense, and it was on this point of dissimilarity that a court of equal jurisdiction seized to write a differing opinion:

It is natural that parents should wish their children to have religious instruction at any favorable opportunity. It is not thought wise that it should be given directly in the school. But, when the children are assembled, they may be sent elsewhere. We are told that in 23 other states there are in force methods similar to those employed here . . . . They (the local authorities) recognize that all education is not acquired in the schools; that, except for subjects legally prescribed, the parents may select the studies their children shall pursue; that it is the right of parents to direct the
destiny of their children and guide them along paths of filial duty, as well as in those of obligation to the state, and that a belief in religion is not foreign to our system of government. (People vs. Graves, 219 N. Y. S. 189).

This decision was unanimously affirmed on appeal (245 N. Y. 195).

The statutory inhibition in New York, if it was such, was removed by the passage of a law on March 26, 1940 which permitted local school boards to authorize the plan in their own communities. This law in turn merely legalized a prior resolution of the State Board of Regents, dated May 13, 1939, to the same effect. The plan went into effect in New York City schools on February 1, 1941, with the final hour on Wednesdays designated as the released hour.

Meanwhile other states were enacting into general law what earlier had been merely local practice. The usual pattern of these laws was to permit local school authorities to excuse during school hours those pupils whose parents requested their absence in order to obtain religious instruction elsewhere. Among the states with such statutes on their books are California, Connecticut, Indiana, Iowa, Maine, Massachusetts, Minnesota, New York, Oregon, Pennsylvania, South Dakota and West Virginia.

Only recently, however, have these permissive laws been tested in the courts. A California case, decided in 1947, may be taken as indicative of the trend. The constitutionality of the statute was attacked on the ground that both the Federal and State constitutions clearly prohibited any rapprochement between Church and State. The District Court of Appeals, Second District (Div. 1), on March 10, 1947, affirmed a lower court judgment that the statute was constitutional. Displaying unjusticial asperity in his opinion, Mr. Justice White accused the appellant of arguing for freedom from religion rather than freedom of religion. Her argument, he declared, "leads one to the conclusion that the doctrine of separation of Church and State looks upon religion as something intrinsically evil and against which there should be a rigid quarantine. Nothing is farther from the true concept of American philosophy of
government.” (Rita Gordon vs. Board of Education, City of Los Angeles, 178 Pac. Rep., 2nd series, 488.) The State Supreme Court has since affirmed this decision.

Many observers felt that regardless of the arguments adduced in the appellant’s brief, the Court had allowed itself to formulate sweeping generalizations that were not justified either in the facts of the appeal or “the true concept of American philosophy of government.” The feeling was especially marked since Article IX, Section 8 of the California Constitution reads:

No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

Current Trends

Present-day trends seem to lend substance to the arguments of the opponents of released time that, while it was maintained that the plan would not contravene the established tradition of the separation of the Church and State because the role of the public schools was confined solely to a release from classes at a specified hour, in actual practice the plan has proved an entering wedge for eventually bringing sectarian instruction into the public schools themselves.

The evidence that this fear has already been justified is increasing. Practices employed by overenthusiastic religious groups in many communities not only involve the public schools as a co-partner in the enforcement of their own sectarian instruction, but employ public school facilities in violation of numerous state constitutions.

For example, in New York City the Board of Education specifically ruled in connection with released time that “there shall be no comment by any principal or teacher on the attendance or non-attendance of any pupil upon religious instruction.” Yet a survey in New York State in 1943 disclosed that in twenty-five schools a failure to attend sectarian classes
by a pupil released for that purpose was made the subject of discussion with the pupil or his parent by the public school teacher. The same survey also disclosed that in some schools the released children were met either in the street or in the public school yard by their respective sectarian teachers and conducted in groups to the places of instruction.

In some communities throughout the country, at the designated hour the children are lined up in the classrooms by the public school teacher according to their faith and then marched out by separate doors to meet their religious guide. In other communities, the sectarian classes are conducted in the public school buildings themselves, while regular classes are still in session. According to Erwin L. Shaver, one of the strongest advocates of the released time plan, at the end of 1945 forty-two per cent of all sectarian classes were conducted in the public school buildings. ("The Movement for Weekday Religious Education," Religious Education, Jan.-Feb., 1946.)

In the country as a whole in 1947 the released time situation may be summed up as follows: (1) the movement is spreading rapidly and has the determined backing of large sections of Protestant and Catholic clergymen, and a small minority of rabbis, Jewish educators and laymen following suit; (2) recent court decisions have held that the plan does not contravene either Federal or state constitutions; (3) public school facilities are becoming more and more involved in the functioning of the plan.

At the same time, however, a counter-movement is gradually getting under way. Certain influential sections of the Protestant and Jewish ministries are beginning to raise their voices against what they consider a clear-cut invasion of the public school system by sectarian religious instruction. Educators, laymen and even legislators are becoming more and more aware of the situation. In Wisconsin a bill to require local school boards to release public school pupils up to a maximum of three hours a week for religious instruction was defeated in April, 1947. A similar proposal in Washington died in committee.
STATE AND FEDERAL AID FOR PAROCHIAL SCHOOLS

The battle is also being fought out on other fronts, notably in the granting of state and federal aid to parochial schools. In this field rapid headway is being made by the proponents for such aid. Whereas the fight for released time was largely conducted by the Protestant clergy, with the Catholics joining in later, the struggle for the allocation of state funds for the benefit of children attending parochial schools is almost entirely conducted by the Catholic Church. For this there are historic and doctrinal grounds.

The Catholic Church has never agreed to the principle of the separation of Church and State. Rather, it has insisted that the Church and parents alone have the right to control the religious content of education, while the State is in duty bound to finance the cost of such education. The argument is further made that since Catholic parents contribute their share in taxes toward the general education fund, their children who are in parochial schools and not in the public schools have an equal right to share in the expenditures from that fund.

Many state constitutions, however, specifically prohibit the use of state funds for the aid of sectarian schools. Article VII, Section 3 of the Minnesota constitution, for example, declares:

But in no case shall the moneys derived as aforesaid, or any portion thereof, or any public moneys or property be appropriated or used for the support of schools wherein the distinctive doctrines, creeds or tenets of any particular Christian or other religious sect, are promulgated or taught.

Free Textbooks

The first real attempt to reinterpret such express or implied prohibitions against state aid to parochial schools was made in New York in 1922. In the case of Smith vs. Donahue the issue raised was that of providing free textbooks to children attending parochial schools in line with similar practice in the public schools. It was argued by its proponents that this did not constitute “aid” to the parochial schools within the mean-
ing of the constitution or the education law; it was aid to the pupils. The textbooks were to be of the same type as those provided for the public schools and completely non-sectarian in nature.

But the Appellate Division decided both against the practice itself and the arguments urged in its favor.

The school is not the building and its equipment; it is the organization, the union of all the elements in the organization. . . . It is the institution and the teachers and scholars together that make it up. . . . The pupils are part of the school. . . . It seems to us to be giving a strained and unusual meaning to words if we hold that the books and the ordinary school supplies, when furnished for the use of pupils, is a furnishing to the pupils, and not a furnishing in aid or maintenance of a school of learning. It seems very plain that such a furnishing is at least indirectly in aid of the institution and that if not in actual violation of the words, it is in violation of the true intent and meaning, of the constitution and in consequence equally unconstitutional. (Smith vs. Donahue, 195 N. Y. S. 715).

When a similar situation arose in 1929 in Louisiana, however, a completely contrary decision was arrived at. The Louisiana Legislature had passed a law which provided free textbooks for the "school children" of the state. Since the law did not seek to limit such free distribution to public school children, the statute was attacked in the courts as unconstitutional. Article XII, Section 13 of the Louisiana Constitution reads: "No public funds shall be used for the support of any private or sectarian school."

But the state courts upheld the constitutionality of the act. They maintained that the law was general in its nature and, by providing textbooks to all school children, was enacted for the benefit of the children themselves and not of the school which they happened to attend; that the benefit and welfare of the children was an essential state concern; and that the books so purchased and granted were not sectarian in nature or "adapted to religious instruction." (Bordon vs. Louisiana State Board of Education, 123 So. 655).

Another case (Cochran vs. La. State Board of Ed., 123 So.
664), decided on the same day by the same court on the same grounds, was appealed to the Supreme Court of the United States. That tribunal upheld the theory of the Louisiana court. "Viewing the statute as having the effect thus attributed to it," wrote Chief Justice Hughes, "we cannot doubt that the taxing power of the state is exerted for a public purpose. The legislation does not segregate private schools, or their pupils, as its beneficiaries or attempt to interfere with any matters of exclusively private concern. Its interest is education, broadly; its method, comprehensive. Individual interests are aided only as the common interest is safeguarded." (281 U. S. 370).

Mississippi passed a law similar in effect to the Louisiana statute; and the State court in 1941 upheld the statute on the same grounds as the Louisiana court. (Chance vs. Miss. State Textbook . . . Board, 200 So. 706). New Mexico has also decided to furnish textbooks to school children without limitation (Statutes, 1941, vol. 4, ch. 55).

The implications of these decisions, state and federal, were far-reaching. The plain terms of the Louisiana Constitution prohibiting the use of public funds for the benefit of sectarian schools were interpreted in the light of a new doctrine—the doctrine of "child benefit." And, by placing its stamp of approval on the doctrine, the Supreme Court of the United States has indicated that it will not invoke the Fourteenth Amendment to put a stop to such practices. This has led opponents of these practices to inquire, what is to prevent the enactment of statutes in the future to provide free athletic equipment, better parochial school buildings, or even better parochial teachers by the payment to them of better salaries than the sects themselves can provide? As a matter of fact, it is pointed out, other services are already being rendered to children attending sectarian schools on the logic of the child benefit provision set up in these decisions.

Free Bus Transportation

With these successes in the courts, the advocates of benefits to parochial schools have moved on to other fields. The
consolidation of rural schools has rendered it necessary for the school districts to furnish bus transportation to and from these schools for pupils who reside at considerable distances. Agitation arose to furnish the same means of transportation for pupils attending parochial schools. The first case to come to the attention of the courts was in Wisconsin in 1923. Some thirty pupils were offered bus transportation to schools in an adjoining district by a school board whose own school had been closed down. Only two of the pupils went to the public school; the others were deposited at a parochial school. The court declared that the board had no right to enter into a contract for the transportation of the parochial-school children and forbade the practice. (State vs. Milquet, 192 N. W. 392.)

In Delaware in 1934 a similar decision was rendered. The legislature had appropriated $5,000 to transport pupils to sectarian schools and the court declared the law unconstitutional. "We are of the opinion that to furnish free transportation to pupils attending sectarian schools, is to aid the schools." (State vs. Brown, 172 Atl. 835).

In May, 1938, however, a Maryland court upheld the validity of such transportation. "School attendance is compulsory and attendance at private or parochial schools is a compliance with the law," remarked the court. "It is in furtherance of a public function in seeing that all children attend some school and in doing so have protection from traffic hazards." (Board of Education vs. Wheat, 199 Atl. 628).

Yet in the same year a New York court held a similar proposal to be unconstitutional, though the decision was rendered by a 4–3 vote. The majority asserted that since the purpose of the transportation "is to promote interest of private school or religious or sectarian institution that controls it," any grant of state aid, either direct or indirect, is a violation of the concept of the complete separation of Church and State and of the spirit and mandate of the constitution. (Judd vs. Board of Education, 15 N. E. [2d] 576).

The victory in New York for the opponents of bus transportation to parochial schools, however, proved a temporary
An amendment to the state constitution had already been proposed, and it was approved by the voters in the same year the decision was rendered. (N. Y. Const., Art. XI, sec. 4, as amended in 1938). The amendment, supported by the Catholic Church, permitted the transportation of parochial-school children as a special exception to the constitutional provision against aid to sectarian schools.

But the New York decision, as laid down before the amendment took effect, has been followed in many other states. The reasoning of the court, as opposed to that in Maryland and Louisiana, was generally approved. Oklahoma in 1941, Kentucky in 1942 and Washington in 1943 declared the use of buses at the public expense for parochial schools to be unconstitutional. (Gurney vs. Ferguson, 122 Pac. [2d] 1002; Sherrard vs. Jefferson Co. Bd. of Ed., 171 S. W. [2d] 963; Mitchell vs. Consol. School Dist., 135 Pac. [2d] 79.)

Maryland, however, extended its theory of bus transportation, as laid down in the 1938 decision, to include outright payments to parochial schools for the exclusive transportation of its own pupils in its own buses, and its court held that this too was constitutional. (Adams vs. County Commissioners, 26 Atl. [2d] 377). Here indeed was a considerable stretching of the original doctrine.

New Jersey Bus Case

The most noteworthy case occurred recently in New Jersey. A statute, passed in 1941, permits school boards to provide means of transportation in their districts to "school children to and from school other than a public school, except such school as is operated for profit in whole or in part." The wording of the statute makes it apply almost exclusively to parochial schools. The Board of Education of the township of Ewing authorized reimbursement to parents of moneys expended by them for the transportation of their children to seven named schools, three of them public, and four of them Catholic parochial schools. A taxpayer in the district brought suit to challenge the payments on the ground that the statute under which they were made violated both the state and
Federal constitutions. The lower court agreed with him but, in 1945, the Court of Errors and Appeals reversed its findings, though not without a dissenting opinion. (Everson vs. Board of Education, 44 Atl. [2d] 333).

The majority opinion was bottomed, not on the child-benefit doctrine made popular by the Louisiana and the United States Supreme Courts but upon an interpretation of the provisions of the New Jersey constitution relating to school funds. The Constitution contains no such specific prohibition against aid to sectarian schools as many of the other states have. Therefore the challenge against the statute had to be based on Article IV, Section 7 of the State Constitution, which provides that the school fund shall be appropriated to the “support of the public free schools” and on the Fourteenth Amendment to the Federal Constitution.

The majority decision of the appellate court held that the provisions of the section applied only to the state school fund and did not prohibit the use of any other school fund for such a purpose.

The dissenting opinion, on the other hand, pointed out that school moneys from all sources are commingled, including the state fund, and that therefore the constitutional inhibition applied. The dissent did not limit itself to this narrow point, however; it considered the entire question on a broader and more general level.

The dissenting judges remarked

We quickly perceive that it applies not merely to transportation costs but to the potential costs of the many and varied items entering into modern education. There is no logical stopping point. Related items, already in the public school system, . . . . are the installation and maintenance of cafeterias, the preservation and promotion of the health of pupils, the employment of medical inspectors and nurses, the keeping of records of development and growth, and the supervision of athletic activities and bodily exercise . . . . Every step in the educational process is, presumably, for the benefit of the child . . . . Consequently, if the argument is sound, it is within the discretion of the legislature, free of constitutional restraint, to provide for practically the entire
cost of education in private and parochial as well as in public schools.

An appeal from the decision as laid down in the majority opinion was taken to the Supreme Court of the United States on the grounds that, first, the appropriation by the state of the private property of one group of citizens by taxation and bestowing it on others for their own private purposes violated the due process clause of the fourteenth amendment; and, second, that the statute forced all citizens to help maintain by their taxes schools dedicated to, and which regularly teach, the Catholic faith, and thereby violated the prohibition of the First Amendment which the Fourteenth Amendment made applicable to the states.

The Supreme Court upheld the validity of the New Jersey statute on February 10, 1947 by a vote of five to four. Mr. Justice Black wrote the majority opinion. He disposed of the first point by saying that “it is much too late to argue that legislation intended to facilitate the opportunity of children to get a secular education serves no public purpose,” and cited Cochran vs. La. State Board of Education (supra) and others.

On the second point Mr. Justice Black admitted that the Supreme Court had already ruled, in Murdock vs. Pennsylvania, 319 U. S. 105, that the First Amendment had been applied to the states by the Fourteenth Amendment so that it might now also read that a state “shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” Mr. Justice Black also admitted that “the ‘establishment of religion’ clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another . . . .” (Italics added.) Though he was frank to confess that the statute in dispute represented an approach to the verge of the power of a state in such cases, nevertheless he did not consider that it aided any or all religions, or discriminated among classes of citizens. “It is undoubtedly true that children are helped to get to church schools,” he declared; but on that basis, so does the maintenance by the
state of police protection at crossings, public sidewalks and sewers, etc., help keep the church schools running. Yet no one has argued that these other services be cut off. The New Jersey legislation, as applied, he concluded, "does no more than provide a general program to help parents get their children, regardless of their religion, safely and expeditiously to and from accredited schools."

Vigorous dissents to the majority opinion were interposed by Justices Jackson, Rutledge, Frankfurter and Burton. Dissenting opinions were written by Jackson and Rutledge.

Mr. Justice Jackson attacked the majority as being inconsistent. "The undertones of the opinion, advocating complete and uncompromising separation of Church from State," he asserted, "seem utterly discordant with its conclusion yielding support to their commingling in educational matters." The facts, he continued, are not as the majority pretended. The Ewing township regulation does not authorize reimbursement to parents for transportation of all children to all schools, since it does not apply to private schools run wholly or in part for profit. The only schools for which refunds were given, aside from public schools, were specified Catholic parochial schools.

He contended that education and religion are vitally intermingled in the Catholic schools, and that the education received in such schools is carefully planned so as to buttress the doctrines of that faith. In support he cited Canon 1372 of the Canon Law of the Church: "Catholic children are to be educated in schools where not only nothing contrary to Catholic faith and morals is taught, but rather in schools where religious and moral training occupy the first place . . . ." Whether for good or for ill, Mr. Justice Jackson commented, our public schools have been organized "on the premise that secular education can be isolated from all religious teaching so that the school can inculcate all needed temporal knowledge and also maintain a strict and lofty neutrality as to religion. The assumption is that after the individual has been instructed in worldly wisdom he will be better fitted to choose his religion."
He dismissed the question of who receives the primary benefit—the child or the parochial school—by maintaining that it does not matter which came first and which came after: “The prohibition against establishment of religion cannot be circumvented by a subsidy, bonus or reimbursement of expense to individuals for receiving religious instruction and indoctrination.”

He caustically added:

This whole policy of our Federal Constitution has never been wholly pleasing to most religious groups. They all are quick to invoke its protections; they all are irked when they feel its restraints . . . . But we cannot have it both ways. Religious teaching cannot be a private affair when the state seeks to impose regulations which infringe on it indirectly, and a public affair when it comes to taxing citizens of one faith to aid another, or those of no faith to aid all.

Mr. Justice Rutledge, in a separate opinion, to which all the dissenting justices subscribed, delved deeply into the historical background of the First Amendment and the entire tradition of the separation of Church and State in this country. The phrase “establishment of a religion” did not, he averred, citing Jefferson and Madison in support, mean merely the establishment of a church, but of any religious exercise, instruction or belief such as is given in a Catholic parochial school. “It is precisely because the instruction is religious and relates to a particular faith . . . . that parents send their children to religious schools . . . . And the very purpose of the state’s contribution is to defray the cost of conveying the pupil to the place where he will receive not simply secular, but also and primarily religious, teaching and guidance.” Yet it was this very mixture which was “disestablished” by the First Amendment.

As did the dissenting judges in the New Jersey court, Justice Rutledge could foresee no other logical end if the statute were upheld than eventual complete state support of sectarian schools. “This is not therefore just a little case over bus fares,” he remarked. “In paraphrase of Madison, distant as it may be in its present form from a complete establishment of
religion, it differs from it only in degree; and is the first step in that direction.”

The opinion ended on a warning note.

Two great drives are constantly in motion to abridge, in the name of education, the complete division of religion and civil authority which our forefathers made. One is to introduce religious education and observances into the public schools. The other, to obtain public funds for the aid and support of various private religious schools. In my opinion both avenues were closed by the Constitution. Neither should be opened by this Court. We should not be less strict to keep strong and untarnished the one side of the shield of religious freedom than we have been of the other.

This Supreme Court decision is regarded as important in more ways than one. It represents, as the majority itself admitted, an approach to the verge of the power of a state in such cases. But even more so, it is of the greatest importance for the bold and clear-cut exposition of the American doctrine of the separation of Church and State as enunciated in the dissenting opinions of Mr. Justice Jackson and Mr. Justice Rutledge. In the light of Supreme Court history the closeness of the decision and the sharpness with which the issue was clarified point toward a possible shift in the majority opinion should other instances arise.

As a matter of fact, the state legislatures are themselves beginning to draw back from a too easy liberality in the matter of these so-called child benefits. Maine, Wisconsin, Pennsylvania and Texas have either rejected bills for bus transportation or are letting them die in committee; Oklahoma has turned down a proposal to give free textbooks to other than public school children; and Vermont has withdrawn an offer to appropriate $100,000 for a new dormitory for a Catholic college.

As if to point up the “clear and present danger” involved in the warning of Mr. Justice Rutledge came the report in March, 1947 of a violent upflare of a controversy that had long been simmering in North College Hill, a suburb of
Cincinnati, Ohio. The roots of the controversy originated in 1933 when John W. Bricker, then Attorney-General of Ohio, gave it as his opinion that the local public school boards of the State had the right to employ public school funds for the lease and operation of parochial schools as part of the public school system.

On the basis of this opinion, which had never been tested in the courts, several Ohioan communities brought certain parochial schools within the orbit of the regular school system. In 1940 the North College Hill public school board, composed of three Roman Catholics and two Protestants, voted on a strict division according to religious faith to incorporate into their public school system a Catholic parochial school in that community, contracting to pay the local Catholic church an annual rental for the use of the building and equipment, and agreeing to retain the incumbent nun teachers in their old positions and to pay their salaries.

In 1942 an election was held which placed five Protestants on the board, and support of the Catholic school was promptly withdrawn. In 1946, however, a new election returned the religious complexion of the board to the old majority of three Catholics over two Protestants; and once again the parochial school was voted into the public school system.

The controversy was brought sharply to a head when the contract of the incumbent superintendent of schools, William A. Cook, a Protestant, was not renewed, on a similar division of votes in the board. This action was the spark that touched off an explosion of student strikes, vehement protests and mass resignations of the public school teachers. There were angry meetings, accusations and counter-accusations, denunciations and charges of religious bigotry, and instances of physical assault that ended in the police courts.

Nation-wide attention was attracted to the little suburban town, and the National Education Association, after an investigation, placed the school system of North College Hill on its educational blacklist, accusing the local school board of "unprofessional conduct."

As a result, all five members of the board resigned and the school system was placed under the jurisdiction of the local probate judge pending an adjudication of the several facets of
the controversy in the State courts. The judge re-engaged Dr. Cook as superintendent and terminated the contract with the Catholic church. As this goes to press, it seems likely that the fundamental issue of the legality of employing public school funds for the operation of a parochial school will be brought to the attention of the Ohio and the Federal courts.

**Federal Aid**

Until recently there had been practically no controversial issues on a federal level regarding the relations of Church and State. The First Amendment to the Constitution was plainspoken and specific, and its meaning seemingly well understood. But the current controversy within the states as to what exactly constitutes separation or non-separation when applied to educational facilities has now been transferred to the federal scene as well.

In May, 1947, there were pending in the Congress of the United States a series of bills proposing large grants of Federal funds to the several states for educational purposes. It is not within the purview of this article to discuss these bills generally, but only those whose provisions, if made into law, would permit such grants to be used for the benefit of sectarian schools.

Two such bills are now before the Senate—the Taft bill (S. 472) and the Aiken bill (S. 199). The Taft bill would offer Federal funds to the states generally for the purpose of "financing a minimum foundation education program of public elementary and secondary schools . . . ." On the face of it such a provision would seem to exclude aid to sectarian schools; but Section 6 (B) changes the picture by giving each state the sole right to define what is meant by "public education"; and specifically authorizing those states which already make disbursements for the benefit of "non-public educational institutions" to allocate a certain proportion of the federal grants for the same purpose. Obviously, then, states like New York and New Jersey could use the Federal funds to help pay bus transportation to parochial
schools, and Louisiana could purchase textbooks for parochial school children from the same source.

The Aiken bill goes still further in the direction of assistance to "nonpublic tax-exempt schools." Regardless of whether a state already provides services to such schools, the bill would reimburse the schools without any restrictions whatever up to sixty per cent of "their actual expenses incurred in providing (a) necessary transportation of pupils, (b) school health examinations and related school health services, and (c) purchase of nonreligious instructional supplies and equipment, including books." Such aids to parochial schools would go far beyond what is now offered by any one particular state. The phrase *instructional supplies and equipment* could quite probably be interpreted to include blackboards, desks, chairs, maps, writing materials, if not school buildings themselves.

So far-reaching, in fact, are the terms of the Aiken bill, that even in those states where such use of public funds for parochial schools is forbidden by constitution or statute, the fund may be disbursed directly by the Federal Commissioner.

Pending in the House of Representatives is a similar series of bills. The Morrison bill (H. R. 2525) is the counterpart of the Taft bill in the Senate; the bills introduced by Whitten (H. R. 1762), Winstead (H. R. 1722) and Abernethy (H. R. 1803) are couched in identical language and permit each state to define for itself what it means by "public schools" and "public education."

The Welch bill (H. R. 156) is substantially similar in content to the Aiken bill in the Senate, and equally far-reaching in its benefits and controls. The Pace bill (H. R. 140), on the face of it, seems the one least likely to be utilized as a means of turning Federal funds over to sectarian schools, though this too includes the significant clause which gives each state the right to define what it means by "public education."

The introduction of these bills, and the open hearings now in progress before the Senate committee have brought powerful forces to bear on either side. The Catholic position is one of
determined advocacy of those measures which would grant Federal aid to parochial schools. The Catholics would prefer the passage of the Aiken-Welch bills, though the Commonweal, liberal Catholic weekly, has come out for the Taft bill as a compromise. The position of the National Education Association is still in doubt. It was first reported that it would be willing to accept the Taft bill, but its executive secretary later averred that the Association was “still opposed to federal aid for non-public schools.”

Consistent attacks on these bills as definitely breaking down the whole thesis of the separation of Church and State in America have come from numerous educators, from many Jewish groups, from powerful Protestant groups like the Baptists, Methodists, Evangelicals and Unitarians, though the Federal Council of Churches of Christ in America has come out in favor of the Taft bill. So have the American Legion and many women’s organizations, on the theory that unless some compromise is made with the advocates of aid to parochial schools, no general grant of Federal funds in the current educational crisis would have a chance of passage.

CONCLUSION

Such, then, is a necessarily compendious picture of the history of the relations of Church and State in the United States. It may be summed up briefly. Up to the Revolution, Church and State in a majority of the colonies were closely allied. With the enactment of the Federal Constitution and the Virginia statutes relating to religious liberty, a new doctrine arose that spread rapidly through all the states: Church and State must be kept forever separate and distinct. The final struggle was in the field of education, which had been traditionally associated with the Church. The victory for complete secularization of the public schools was won by the middle of the nineteenth century, though the theory was never conceded by certain religious groups in America.

For about three-quarters of a century no one—at least publicly—questioned the validity of the doctrine of the separation of Church and State. Even public education,
which had been the last to yield to secularization, was almost universally conceded to come within the various constitutional prohibitions. The first evidences of a change in this latter position began to appear in the second decade of the twentieth century. The advocates of a closer relation between religion and education now denied the earlier assumption that such a tie was unconstitutional, or that grants of state funds which might in some way indirectly benefit sectarian schools violated either the constitutional provisions or the doctrine of the separation of Church and State. The proponents of these views have been measurably successful in recent years in getting legislatures to pass laws in their behalf and in obtaining court decisions to substantiate their claims. Though no one openly espouses a removal of all barriers to some form of alliance between Church and State there are those who, like Mr. Justice Rutledge, profess grave concern over possible future developments along those lines.
MORRIS R. COHEN
1880-1947
SEVERAL DAYS after the death of Morris Raphael Cohen on January 28, 1947, an editorial in The New York Times stated that long before his death Professor Cohen had become "an almost legendary figure in American philosophy, education and the liberal tradition." His wise and scholarly works, the editorial continued, were well known not only to professional philosophers but to lawyers and judges—including Justices Holmes, Brandeis and Cardozo, who were his intimate friends.

Professor Cohen also had won renown as a great teacher; according to the Times, "Several college generations of students at the College of the City of New York knew him as a contemporary Socrates who asked ruthlessly searching questions and persisted in questioning until he evoked such answers as the rational mind could assent to." But he was a gadfly to more than his students: "He was one of the most celebrated conversationalists of intellectual circles in our time, at once ironical and genial. He was, through his students, many of them in positions of major importance in law, industry, education and government, a deep and wide influence on American life."

The editorial noted two special qualities by which one might measure the nature of Professor Cohen's philosophical temper and achievements; namely, "the wide human range of his learning and interests, and his concern for precision and intellectual rigor . . . . He insisted on the necessity and the possibility of a rational discovery of the principles implicit in human existence and experience. He was a liberal in his warm and wide sympathies and his awareness of human tragedy in our time, but he was never taken in by sentimental or fanatic cliches. He was as critical of the rigidities and the emotionalisms of the left as he was of the right."
Philosophy was to Professor Cohen a way of life, a guard against prejudices, and “a consolation of steady insight and understanding in a world of the precarious and the disastrous.... He will live not only as a philosopher but as an example of a typically American achievement. Morris R. Cohen, an immigrant boy, through his own genius and through public education, became a leader in American thought and life.”

II

Born in Minsk, Russia, on July 25, 1880, Morris Raphael Cohen received the traditional education of an Orthodox Jewish boy in eastern Europe. When he was twelve his parents brought him to the United States. Eight years later he received his bachelor’s degree from the College of the City of New York through which he had worked his way by doing various jobs, including those of newsboy and poolroom attendant. Six years afterward Cohen was awarded the degree of Doctor of Philosophy by Harvard University where he had studied under William James and Josiah Royce. Shortly before, and for several years after the turn of the century, Cohen taught at the Educational Alliance on New York’s East Side, and at the Davidson Collegiate Institute, a school directed by Rabbi David Davidson. In 1899 Cohen met Thomas Davidson, founder of the Fabian Society, the Fellowship of the New Life and the Aristotelian Society. In later years Cohen said that Davidson had greatly stimulated him intellectually and spiritually.

In 1902 Morris Cohen began to teach mathematics at City College, an assignment in which he continued for almost ten years. He was not happy teaching mathematics, although his interest in the subject was very keen. It was a study of mathematical philosophy, especially Bertrand Russell’s Principles of Mathematics, he said, which liberated him “from the feeling of helpless philosophic bewilderment” and enabled him “to undertake an independent journey.”

Cohen’s first love was philosophy. He felt it had been awakened in him in his early years by his grandfather, a poor tailor in the Russian town of Nesviesh. “Though he never
learned to write and had only a moderate reading knowledge of Hebrew," Morris Cohen wrote, "he had become the master of an extraordinary amount of knowledge and wisdom. Walks and talks with him first stimulated my imagination about the world at large and its history. From him, also, I acquired a certain ineradicable admiration for the ascetic virtues and a scorn for the life of wealth, ease, creature comforts and all that goes under the old name of worldliness."

To Morris Cohen to philosophize seemed "as natural and desirable in itself as to sing, to dance, to paint, or mould, or to commune with those we love." The opportunity to teach his favorite subject came to him in 1912 when he was appointed assistant professor of philosophy at City College. This meant to him "the end of a long valley of humiliation. I had labored for six years with the Leah of mathematics yearning for the Rachel of philosophy."

For twenty-six years Cohen taught philosophy to thousands of students at City College. It was not until seven years before he retired from his position at City College in 1938 that Reason and Nature, his major work, was published; yet for a quarter of a century his name had been known throughout the length and breadth of the country wherever men were devoted to a pursuit of wisdom. This was, indeed, a remarkable achievement, matched in recent times only by the reputation of Felix Frankfurter; for the renown of each was due chiefly to the opinion and devotion of thousands of students.

Cohen made no effort to acquire disciples. He conceived it as his duty as a teacher to be the critic rather than the prophet or the system-builder. This position exposed him to the charge of being "merely critical, negative, or destructive." "I have always been ready," he said, "to plead guilty to that charge." He considered it an important service "in the cause of liberal civilization to develop a spirit of genuine regard for the weight of evidence, to inculcate the habit of admitting ignorance when we do not know and to nourish the critical spirit of inquiry which is inseparable from the love of truth that makes men free." He once said to a student who reproached him for his destructive criticism: "You have heard the story of how Hercules cleaned the Augean stables. He
took all the dirt and manure out and left them clean. You ask me: 'What did he leave in their stead?' I answer: 'Isn't it enough to have cleaned the stables?'

Morris Cohen challenged accepted dogmas, fashionable opinions, uncritical acceptance of beliefs and views, no matter by what authority they were supported. He compelled his students—future physicians, lawyers and teachers—to think critically about the problems they would face as specialists and as citizens. He wanted to make of his students responsible thinkers, not disciples. Some of his students became eminent philosophers in their own right. They include Ernest Nagel and Herbert W. Schneider of Columbia University, Sidney Hook of New York University and Paul Weiss of Yale University.

Morris Raphael Cohen's family life was rich in sentiment and love. Mary Ryshpan, whom he married in 1906, died in 1942. In his wife, two sons and a daughter, Cohen found society almost enough for his needs; in addition he enjoyed the close friendship of men like Justices Holmes, Brandeis, Cardozo and Frankfurter; Albert Einstein, Bertrand Russell, Arthur S. Meyer, A. A. Himwich, Harold J. Laski, John Dewey, Irwin Edman, Alvin Johnson and Huntington Cairns.


Cohen had plans for ten other books—a volume on metaphysics, a treatise on law, a book on logic, a statement of his philosophy of liberalism, a volume on the will to illusion, an introduction to philosophy, a volume on Jewish problems, a philosophy of history, a history of science and a study of the development of American thought. However, he felt that he would not be strong enough to accomplish this program if he continued to teach, so in January, 1938, he retired from active teaching at City College—the institution with which he had been intimately associated since 1895.
By the time of Cohen's death in 1947, at the age of sixty-six, he had seen two more of his books appear in print: *A Preface to Logic* (1944) and *The Faith of a Liberal* (1946). The first was dedicated to City College and its students "who gave zest to my life." Cohen also was able to write some of the ten books he had planned. To be published posthumously they are: *The Meaning of History; Reflections of a Wandering Jew; A Dreamer's Journey: an Autobiography; Studies in Philosophy and Science; Studies in Juristic Philosophy; and Currents of American Thought*. In addition there is *Source Book in Greek Science*, which Cohen had prepared with the collaboration of I. E. Drabkin.

His retirement from City College left Cohen with more time to devote to his studies and writing; but he did not give up teaching entirely. He was a visiting professor at Harvard in 1938–39 and at Yale the following year. In 1941 he began preparation of the Carus lectures which he delivered at the University of Chicago in 1945.

**III**

Morris Raphael Cohen considered himself philosophically "a stray dog unchained to any metaphysical kennel." It seemed to him "better to brave the muddy realities of the unprotected out-of-doors, the uncertain food, the attacks from the watch dogs of comfortable homes, and above all the chilling rains and winds of factual experience . . . . I have never become completely at home in even the greatest of academic philosophies." Bertrand Russell came closer to being his philosophical god than any other thinker. Cohen said that he was faithful to Russell's fundamental teaching even when Russell strayed from the way. He liked to think of himself as a logician, calling his intellectual autobiography in *Contemporary American Philosophy* (1930), "The Faith of a Logician." His emphasis on criticism, skepticism and logical analysis led many persons to view Cohen as a philosophical nihilist, a great nay-sayer, an iconoclast, a destroyer of other men's faiths and philosophies, as one who could effectively wreck but not build. This view of Cohen is, however, only partially true. Cohen had the capacity to build and this capacity he
manifested in his more substantial productions, such as *Reason and Nature, Law and the Social Order* and *The Faith of a Liberal.*

A look into *Reason and Nature: an Essay on the Meaning of Scientific Method* shows that the book covers a wide range of subjects, disclosing the catholicity and erudition of the author: mathematics, biology, jurisprudence, ethics, the social and physical sciences. From the first page to the last Cohen demonstrates his unqualified devotion to impartial reason: “Our reason may be a pitiful candle-light in the dark and boundless seas of being,” he says, “but we have nothing better, and woe to those who wilfully try to put it out.”

Cohen’s search for fundamental principles of thought and categories of reality led him to attack empiricism or nominalism of the type which admits the existence of only particulars. Logical or mathematical relations are real; their reality justifies the hypothetical and deductive procedures of science. Scientific inquiry discovers abstract relations which characterize the world of phenomena. The reality of mathematical relations makes possible a “biting into the world.” Relativism, nihilism or skepticism fails to disclose the nature of mind or reality. It does not follow from this, however, that *a priori* rationalism must, therefore, be accepted. An understanding of the logical and hypothetical character of mathematics destroys the ground of any assertion that space must be Euclidean.

On the one hand, said Cohen, one sees that the laws or postulates of mathematics or logic are the invariant forms or relations of all possible objects; they are the laws of all possible being but are themselves neither physical nor mental. On the other hand, one sees that from purely formal considerations no material facts are deducible. Science involves logic; on the one hand we see that it is rational, that phenomena conform to laws of logic; on the other hand we see that phenomena involve an element of contingency.

The discussion thus far of the laws of logic and the nature of science shows Cohen’s adherence to what he called the principle of polarity, which occupied a central place in his thought. There is a polarity of terms and relations; neither is reducible to the other; terms and relations involve one another.
Opposites “such as immediacy and mediation, unity and plurality, the fixed and the flux, substance and function, ideal and real, actual and possible,” all involve each other when applied to any significant entity.

This principle of polarity seems to be the central fact of Cohen’s metaphysics of science. Polarity is a supplement to the principle of causality; for a natural event must have a cause, but the cause is opposed by some factor which prevents it from producing a greater effect than it actually does; thus protoplasm lives by continually dying. The principle of polarity applies to social as well as to physical and biological events. In all determination there are opposing categories: unity and plurality, identity and difference, activity and passivity.

Thus Cohen’s denial of both empiricism and absolutism may be viewed as an instance of the effectiveness of the principle of polarity. He believed that rational structure is a fundamental phase of the world; but he also believed that there is an element of contingency. There is both intelligibility and contingency in the world.

Cohen did not always, in the presentation of his argument, keep himself scrupulously neutral between two poles, between the fixed elements in reality and the flux, between the variant and the invariant characters of the world, between unity and plurality, between the ideal and the real or between idealism and naturalism, between reason and nature. His sharpest barbs were directed at those who are romantically attached to immediacy rather than mediation, who are attached to “life” or “experience.” There is no intelligible life without the polestar of invariance or identity; the weight and emphasis of his argument seemed to be on the side of intelligibility as opposed to contingency, on the side of idealism as opposed to naturalism, on the side of reason as opposed to nature, status or fixity as opposed to change.

It is to be doubted, however, if this disparity in the weights of opposite sides of the scale was more than polemical. When Cohen framed his arguments, empiricism was in the ascendant and idealism was on the defensive. Cohen always distrusted ideas that were fashionable, for they threatened to become the new dogmas, displacing the old. There was more danger that men would adopt the new philosophies as absolutes than that
they would go back to the discredited faiths. It was, therefore, necessary to fight harder against the new gods, still young and fresh, than against the gods already in the twilight.

IV

Cohen’s influence on judges and teachers of law can hardly be exaggerated. The weight of his legal philosophy was felt in high courts, including the United States Supreme Court.

As a young boy Cohen discovered that the law is chiefly a pattern of life, rather than a set of rules to be memorized and obeyed. The God of the Jews was primarily a law-giver, and Moses was a law teacher. Cohen was exposed to legal studies as soon as he began to study the Old Testament and the Talmud. The law became and remained for him a life-long interest.

Law and the Social Order: Essays in Legal Philosophy consists of twenty-five essays published in the twenty years preceding 1933. The book discloses an extensive and penetrating knowledge of legal philosophy that was equalled in the United States only by Dean Roscoe Pound and probably was unequalled by any British or continental thinker. The book treats of the legal philosophies of de Tourtoulon, Geny, Duguit, Charmont, Demogue, Ihering, Stammler, Kohler, del Vecchio, Pound, Laski, Gray, Jerome Frank, Holmes, Krabbe and others. The book has notable discussions of property and contract; an attack on what he called the "phonograph theory of the judicial function." Even before Franklin D. Roosevelt’s attempt to reorganize the Supreme Court, Cohen had pointed out that the judges of our higher courts generally are elderly gentlemen who in their younger days were successful representatives of the interests of bankers, manufacturers and merchants.

But Cohen’s sharp criticism of the jurisprudence of concepts did not mean that he joined the camp of the legal realists. Here, too, the principle of polarity came into play: one must give weight to the abstract legal principle and to the concrete case. Cohen was as opposed to legal anarchy or naked “experience” in legal phenomena as he was to the legal philosophy that saw only the empty abstract rule or doctrine. There must
be both discretion and rule; there is a need for both realism and idealism.

In this instance, too, his argument in later years seemed to favor order and reason, rationalism, the unchanging, as against the contingent and the changing. But this emphasis was only polemical; for in legal philosophy, too, nominalism of a radical nature appeared to be in fashion and the old conceptualism was losing favor. Cohen distrusted the new movement; he wanted to expose its more extreme manifestations as shallow fads. In his legal philosophy, as in his philosophy of nature, Cohen was no champion of causes; no partisan advocate. He attacked all false prophets but especially those who made the most noise in his day or appeared to attract more devotees than did competing prophets.

Cohen attacked those who, like Professor Beard, distrusted the Supreme Court less than Congress. When one considers, he said, the long roll of judicial decisions "such as the Dred Scott Case, the Lochner Case, the Adair Case, the child labor cases, the Coppage case, the minimum wage cases up to 1937, the voiding of Congressional legislation to protect the Negroes against lynching and the deprivation of civil rights, or the public against being gouged by ticket scalpers, fraudulent bakers, and conscienceless employment agencies, the sadism of the courts will far outweigh that of Congress even though esthetically the procedure of the courts is more refined."

Long before it became respectable to mention such things, Cohen argued against the hypocrisy of the legal orthodoxy centered in the axiom that judges declare but do not make law. His interest in the judicial function was first stimulated in the early years of the century by the course of decisions in labor cases. The "arbitrary (and often unenlightened) character" of these decisions revealed to him the inadequacy of the dogma that judges are legal phonographs. Judges are influenced by economic and social theories and prejudices; and no study of the law should ignore or fail to evaluate economic and social interests and forces. The judicial process has a human aspect. These and similar statements are commonplace today, but early in the century it took courage to make them. When they became commonplace, Cohen began to point to the opposite pole, which was being neglected; namely, that ideal-
ism, tradition and fixity of rule have a necessary and justifiable place in the judicial process.

In the early years of his interest in jurisprudence and the philosophy of law, Cohen received intellectual stimulation from American scholars and thinkers like Roscoe Pound, John Dewey and Felix Adler. However, Cohen found his chief inspiration in the writings of continental thinkers. That he studied these writings well and beneficially can be easily seen from a reading of *Law and the Social Order*.

Professional legal scholars soon became aware of Cohen. When the Association of American Law Schools appointed an editorial committee to translate, edit and publish the Modern Legal Philosophy Series in 1910, Cohen was made a member of the committee, although he was neither a lawyer nor a teacher of law. In 1913 Cohen organized the Conference on Legal and Social Philosophy, the chairmanship of which was taken by John Dewey. The Conference held four meetings, each of which attracted outstanding scholars. The meetings stimulated discussion and thought and underscored the need for radical and fresh thinking in legal and social philosophy. The Conference on Legal and Social Philosophy and the *New Republic* magazine, founded in 1914, were forums from which Cohen's influence effectively emanated. Holmes and Cardozo, Brandeis and Frankfurter, Learned Hand, Roscoe Pound and Harold Laski, American courts, philosophers and men of public affairs felt and responded to that influence.

V

"Like science, liberalism insists on a critical examination of the content of all our beliefs, principles, or initial hypotheses," Cohen said, "and on subjecting them to a continuous process of verification so that they will be progressively better founded in experience and reason." It was socialism, he said, that offered the specific occasion for his entering upon a study of technical philosophy, for socialism seemed to him to offer "the only scientific analysis of the economic evils and political corruption of our age as well as of the main course of human history." The 1896 campaign of Bryan stirred in Cohen a deep interest in politics. Cohen was then teaching working-
men's classes as part of his work for Daniel de Leon's Socialist Labor Party. In 1897 he campaigned for Henry George who ran in the New York mayoralty election.

This was also the period during which Cohen belonged to a Marxist study group; and, as a matter of fact, he never ceased to be grateful for the illumination he found in a study of *Das Kapital*. "It not only helped me to recognize the poverty of most non-economic interpretations of history," he said, "but also prepared me to see that the recurrent breakdowns of capitalist economy are not unforeseeable accidents but a consequence of the private ownership of the machinery of production, . . . . It helped me to see that the old optimistic but essentially anarchistic notion that the good of all will best be promoted by 'rugged individualism,' by each pursuing his own selfish economic gain, is a cruel superstition which men possessed of both reason and a decent amount of human sympathy cannot long maintain in the face of the hideous miseries that flourish in the shadow of men's mighty productive powers."

On the other hand, he was repelled by the exaggerated materialism that pervaded Marx's thinking. This materialism was evident at many points in Marxism; it was especially, evident, said Cohen, "in the Marxist boast, which I could not swallow, that Marx never spoke of justice."

All his life Cohen maintained an active interest in social problems and social reform. Social injustices aroused his hatred and put him in a fighting mood. He never forgave Roosevelt's imposition of the embargo against the Spanish Republic. Always taking his stand for freedom of thought and inquiry, freedom of discussion and criticism, he opposed Communism and the Russian dictatorship. He did not believe that the "proletarian" dictatorship was necessary as a "temporary" expedient. "The plea that the denial of freedom is a temporary necessity is advanced by all militarists. It ignores the fact that, when suppression becomes a habit, it is not readily abandoned . . . . When the Communists tell me that I must choose between their dictatorship and Fascism, I feel that I am offered the choice between being shot and being hanged. It would be suicide for liberal civilization to accept this as exhausting the field of human possibility."
In his social philosophy, too, Cohen used the principle of polarity. There must be the principle of order and the principle of freedom; opposing groups must cooperate, for each group must be wise enough "to see the necessity of compromising with those with whom we have to live together and whom we cannot or do not wish to exterminate"; not all property should become communal, nor may an individual use his property in antisocial ways.

Principles of social aims and policy should not be posited as fixed dogmas; they should be viewed as "provisional hypotheses, to be tried with as much intelligence and persistence as we can summon, but never without watching their consequences to see whether these hypotheses are really confirmed."

A fundamental tenet of his liberalism is that an individual may never assume that he has the whole truth in his possession. Moral humility, tolerance, a belief in the scientific method, freedom of speech and inquiry—a faith in these qualities of mind and action was at the heart of his liberalism.

He did not believe in the inevitability of progress; with Justice Holmes he said that effort is one of the ways through which the inevitable comes to pass. His philosophy of liberalism was satisfied with the mere possibility of progress. But this mere possibility is all a man needs to provide the moral strength for his will, to engage in the fight for social reform. No social cause, however, will bring about universal salvation. The achievement of universal suffrage, popular education or some other end greatly desired brings in its train new disappointments. But despair is not a permanent state of the emotions; new waves of hope arise, and so human history swings between the pole of growth and the pole of decay, between the pole of hope and the pole of despair.

Cohen's liberalism stands between these poles: it is not a set of dogmas or doctrines, but a process, a temper of mind. It means an open eye for alternatives, a questioning of all "self-evident" propositions, a faith in enlightenment "yet colored with a deep humility before the vision of a world so much larger than our human hopes and thoughts"; a readiness for new risks in new situations, "in which there is no guarantee that the new will always be the good or the true, in which progress is a precarious achievement rather than an inevi-
tability”; a liberation of “the energies of human nature by the free and fearless use of reason.”

In this social philosophy, as in his philosophy of nature and in his philosophy of law, Cohen saw the operations of the principle of polarity: there is the opening up of new situations with new challenges, but this activity should be the result of disciplined intelligence rather than of arbitrary forces; for social life “involves a balance between the expansive or centrifugal forces which make for diversity and adventure, and the constraining or centripetal forces which make for organization and safety . . . . The life of civilization, like the life of each organism, oscillates between opposite extremes.”

VI

Cohen said that piety as defined by Santayana — “reverence for the sources of one’s being” — is but a necessary corollary of the Socratic maxim “know thyself.” If a Jew is to know himself, he must know the history of the Jewish people—in Biblical, Talmudic and recent times. Cohen’s interest in Jewish history began when he was still a young boy subject to the influence of his grandfather and remained a lively one all his life. His essay “Philosophies of Jewish History,” in the first number of *Jewish Social Studies*, is one of the significant fruits of his devotion to this subject.

His mother tongue was Yiddish and for this language he always maintained a special love. “No other language,” he once admitted, “ever entirely replaced it in the expression of intimate affection.” He owed a great deal of his education, he said, to the Yiddish press: “It taught me to look at world news from a cosmopolitan instead of a local or provincial point of view, and it taught me to interpret politics realistically, instead of being misled by empty phrases.”

The first language Cohen learned to read was Hebrew. Up to the time of his bar mitzvah his life conformed to the tenets of orthodox Judaism; after that he gave up a belief in a personal God, and at the age of nineteen discontinued the orthodox observances. Later he rejected monotheism—and all other forms of theism—on philosophical grounds, for he was not able to reconcile the reality of evil with the idea of a benevolent
and omnipotent deity. Nor was he able to understand, he said, any theism that was not anthropomorphic, and “making a God in man's image has always seemed to me the height of arrogance.”

Nor did he accept Zionism. “I should like to see Palestine, and all its inhabitants, grow in wealth,” he said. “I have the deepest admiration for the brave and wise efforts through which Jewish pioneers have rescued the soil of Israel from centuries of neglect and abuse. I should like to see the racial or religious discriminations with which the British exclude Jewish immigrants and restrict Jewish land ownership broken, just as I should like to see similar discriminations in our own land broken. I should, above all, like to see the Hebrew University become a beacon of light throughout the world.”

A politically-Zionist Palestine, Cohen felt, would not have free non-Jewish immigration. It would be a state founded on a peculiar race or people, a tribal religion, and a mystic belief in a peculiar soil; there would be no separation of church and state, no free mixing of races or peoples. “Tribalism,” he said, “is a creed that leads to grief and massacre, whether it bears the label of Zionism, Aryanism, Anglo-Saxon America, or Pan-Islam.” The fine achievements of the halutzim did not, he said, presuppose the establishment of a Jewish state, “and I trust that they may be advanced and extended in years to come within the framework of a nonsectarian state that allows equal rights to all—Jews, Christians, Mohammedans and atheists alike.”

In any case, he believed, Zionism distracted the minds of American Jews from the solution of domestic problems. “To my way of thinking,” he said, “the realities before us here and now, where our practical efforts are likely to be most effective, are actual human beings, boys and girls who are our children, who live here, who must adapt themselves to the conditions of American life, and who want to make their lives fuller and richer. A few of them will go to Palestine and cease to be Americans. A few will stay here and cease to be Jews. But the great majority, for generations to come, will be American Jews and, out of self-respect, will want to make the greatest contributions to American life which their heritage, their training and their individual efforts make possible. For them,
as for those of us whose hopes as parents and as teachers are bound up with theirs, the problem remains: what can we, with our age-old heritage, contribute to the fullness of American life?"

Cohen rejected Judaism as a theology; he rejected political Zionism; he also rejected assimilationism. "Jewish young men will continue to fall in love with Jewish young women. The highest rate of intermarriage ever known in the heyday of German liberalism was fourteen per cent. Even if centuries of assimilation in an atmosphere of tolerance were unbroken by waves of anti-Semitism it would probably be eighty generations before the Jews would disappear as distinguishable people upon the American scene."

When Cohen began to teach at City College in 1902, and for thirty-six years thereafter, his students were predominantly Jewish boys. He shared their struggles against the discrimination that so many of them faced as they sought to establish themselves in careers. As a citizen he felt he could not be silent "in the face of the great campaign to repudiate the declaration that all men are created equal which culminated in the racist immigration laws of 1922 and 1924." In the early 1920's alongside his wife, Mary Ryshpan Cohen, he became active in the vocational training work of the ORT. Later, in 1939, he became president of the Jewish Occupational Council. These affiliations should not suggest that Cohen believed that Jews should seek careers and employment in which their "visibility" in public life would be relatively small and thus points of irritation leading to anti-Semitism would be reduced in number. Why should Americans object to Norwegian immigrants, who possess a maritime tradition, supplying more than their proportionate numbers to American shipping? "If the traditional Jewish love of learning is of value to a liberal civilization, is it not better for the Jews to maintain it, and perhaps transmit it to other portions of the population, rather than retreat from it as a source of danger?"

When Cohen heard of the pogroms in Czarist Russia and later of the massacres by the Nazis, it was natural for him to recognize that, but for the good luck and fortitude of his parents, he and those dearest to him might have been among the victims. He always sought for ways to identify himself with
fellow Jews and not to let differences in religious belief or politics stand in the way of practical cooperation. Believing in division of labor, he felt that he could best make his contribution by concentrating on scientific pursuits. In the fight against injustice and cruelty, facts and an understanding of facts are necessary, useful weapons.

Cohen, therefore, in 1933, organized the Conference on Jewish Relations with which he was closely identified until his death. Not long afterward Cohen took a leading role in the establishment of the *Jewish Social Studies*, a quarterly that has won a distinguished place among learned sociological and Jewish journals. The Conference has pursued and the journal has published detailed scholarly studies of Jewish social, political and economic problems. Motivated by the same spirit of truth-seeking, Cohen became one of the founders and the first chairman of the Research Institute on Peace and Postwar Problems of the American Jewish Committee.

**VII**

Although Cohen gave up a belief in a personal God, he did not give up the Jewish "ideal of holiness that enables us to distinguish between the good and evil in men and thus saves us from the idolatrous worship of a humanity that is full of imperfections." He might have called this "ideal of holiness" by the name of God, but he did not want to cause confusion or be misunderstood. He never returned to any supernatural beliefs, but if by religion is understood what he called "the realm of ideal expression," Cohen was a religious man.

Atheists, he said, are as a rule singularly blind "to the limitations of our knowledge and to the infinite possibilities beyond us. And those who called themselves materialists appeared to me to be shutting themselves off from philosophy, wisdom and the life of the spirit, which are certainly not material things. Those of my circle who rejected religion *in toto* seemed to me to be casting away the ideals that had sustained our people through so many generations before we had fashioned guide posts to our own lives that could stand up against the sort of buffetings that the old guide posts had withstood. In this some of us lost sight of the larger view that
Thomas Davidson had taught, that we have no right to break away from the past until we have appropriated all its experience and wisdom and that reverence for the past may go hand in hand with loyalty to the future, 'to the Kingdom which doth not yet appear.'

In Spinoza Cohen saw a kindred spirit and in Spinoza's writings he found most clearly developed "the rational and tolerant attitude to the values of religion" for which he had been searching. If "religion consists in humility (as a sense of infinite powers beyond our scope), charity or love (as a sense of the mystic potency in our fellow human beings), and spirituality (as a sense of the limitations of all that is merely material, actual or even attainable), then no one was more deeply religious than Spinoza." In these passages Cohen is describing not only Spinoza's religion, but also—and especially—his own.

In his later years Cohen came to view with more sympathy the role of ritual "as a primary fact in human religious experience. For each of us the symbolism of our childhood offers paths to the peace and understanding that can never be wholly replaced by other symbolisms. For me the ancient ceremonies that celebrate the coming and going of life, the wedding ceremony, the birth and the funeral service, give an expression to the continuity of the spiritual tradition that is more eloquent than any phrases of my own creation. The ritual may be diluted by English and by modernisms, but the Hebrew God is still a potent symbol of the continuous life of which we individuals are waves. So it is, too, with the celebration of the eternal struggle for freedom, in the family service of the Passover.

"Like vivid illustrations in the book of my life are the prayers of my parents, the services at their graves, the memory of an old man chanting funeral songs at the jahrzeit of my dear friend Dr. Himwich, the unveiling of the monument to the beloved comrade of my life's journeys, and the celebration of the continuity of generations in the Passover services in the home of my parents and in the homes of my children. And though I have never gone back to theologic supernaturalism, I have come to appreciate more than I once did the symbolism in which is celebrated the human need of trusting to the larger
vision, according to which calamities come and go but the 
continuity of life and faith in its better possibilities survive.”

When Cohen taught in the Thomas Davidson school, he 
gave courses in the Book of Job and the Hebrew Prophets. 
When he was a graduate student at Harvard, his work under 
George Foote Moore formed a major part of his studies. In 
later years, said Cohen, a considerable part of his reading was 
in the field of Old Testament literature and criticism, espe-
cially in days of depression when he had little energy for 
writing or professional studies.

The “larger vision” of Professor Cohen, especially after his 
retirement from the professorship at City College, encom-
passed many fields of interest. His eye saw through a “dome 
of many-coloured glass.” He was a whole man; he sought the 
truth and was willing to open many doors in his search. 
Logical analysis was one door; scientific method was another 
door; history and tradition also were doors; active devotion 
to humanitarian causes was still another door; defense of free-
dom was another door; a religion of humility, charity or love, 
and spirituality was also a door. He did not always see all 
doors at one and the same time. But what man does?

He always sought, however, the larger vision and more 
often than is given to others he had the fortune to see his 
“father’s mansion” in its totality. Yet can one honestly say 
that any mortal sees this totality? No; Cohen would say, no. 
For there is a “Kingdom which doth not yet appear”; there 
are “those human values that the process of time can never 
adequately realize or destroy.” As his teacher William James 
said in *A Pluralistic Universe*: “the word ‘and’ trails along 
after every sentence. Something always escapes. ‘Ever not 
quite’ has to be said of the best attempts made anywhere in 
the universe at attaining all-inclusiveness.”

Morris Raphael Cohen did not always agree with William 
James, but Cohen himself could have written these sentences. 
He had a sense of the infinite powers beyond any man’s scope. 
His favorite form of expression was the question; his life was 
a quest. He worshiped no God, yet, like young Samuel, he 
lived a dedicated life. In the company of Morris Raphael 
Cohen, Mr. Justice Holmes once said, he felt the presence of 
a holy man.
SIDNEY HILLMAN
1887-1946
A frail man with the voice of a doer and the face of a dreamer
stood in the great convention hall at Atlantic City in May,
1946. Seated at the long tables before him were more than
1,000 delegates representing 350,000 members of the Amal-
gamated Clothing Workers of America. They were men and
women of all ages. Some had come to this country from
Europe thirty or forty years before to settle on New York’s
East Side and take jobs as tailors in steaming sweatshops;
others were still in their teens, eager-eyed youths from Georgia
and Mississippi and Texas.

The crowd was restless. The union’s fifteenth biennial
convention was drawing to a close. The delegates had heard
thousands of words and adopted scores of resolutions in the
past week. They had taken cognizance of almost every major
problem affecting the labor movement, the nation and the
post-war world. Now they were eager to get out into the
bright sunshine and enjoy the attractions of the boardwalk
for a few hours before starting back to their homes in the
forty-eight states.

The man on the platform was tired too; he was but recently
risen from a sick bed and the week had been a strenuous one
for him. As president of the union, he had introduced every
speaker and spoken on every issue. He had no intention of
making a speech at this farewell session but the newspapermen
covering the convention had other ideas. Seeking desperately
for something on which to build a closing-day story, they
sent an SOS to the rostrum. “Would Sidney Hillman, in
taking leave of the convention, set forth a little of his philos-
ophy about the kind of world American labor was seeking to
create through its activities on the social, political and economic front?" That was what the reporters' message asked. That was about all anyone could think of that had not been covered during the convention.

Wearily Sidney Hillman began to speak. It was not an atmosphere conducive to eloquence; the delegates were putting away their papers, many were drifting toward the door, a number had already left. None realized, least of all the reporters who had asked for the statement, that they were listening to the last testament of one of the most controversial Americans of their generation. It was an address made without a moment's preparation but into it went the philosophy of a lifetime. It ranged over the whole realm of men's aspirations, material and spiritual. Its climax was in these words.

We want a better America, an America that will give its citizens, first of all, a higher and higher standard of living so that no child will cry for food in the midst of plenty. We want to have an America where the inventions of science will be at the disposal of every American family, not merely for the few who can afford them. An America that will have no sense of insecurity and which will make it possible for all groups, regardless of race, creed or color, to live in friendship, to be real neighbors; an America that will carry its great mission of helping other countries to help themselves.

Two months after the speech was delivered, Sidney Hillman was dead. The illness that had kept him from full activity for ten years took his life on July 10, 1946.

Son of a Lithuanian wheat trader, Hillman had become one of the foremost leaders in labor and in the political life of the United States. As chairman of the Political Action Committee of the Congress of Industrial Organizations and as an intimate of President Franklin D. Roosevelt, he was credited with enough power to influence the selection of a Vice-President of the United States — a Vice-President who later attained the Presidency.

He was given principal responsibility for mobilizing the productive energies of America's working men and women behind the national defense program in the period preceding
Pearl Harbor. When war engulfed the United States, he was assigned the immeasurably more difficult task of seeing that labor difficulties did not retard production of the planes, ships and weapons so urgently needed for victory.

He helped alter the pattern of labor organization by joining with John L. Lewis, Philip Murray and other industrial unionists in forming the CIO in 1935. After World War II he became a prime mover in the formation of the World Federation of Trade Unions, which he hoped to transform into an instrument for the promotion of international understanding and peace.

Although it was these activities and the controversy engendered by them that made Sidney Hillman's name almost as well known as that of the President, his most lasting contributions to the welfare of America and to the stability of the American form of government were in the capacity in which he was known least, as president of the Amalgamated Clothing Workers.

It was as head of this union that he developed and put into practice a doctrine of labor-management relations that is fundamental to the survival of democracy in the United States—the principle that industry and labor have a common stake and that the welfare of the workers depends upon the welfare of the business in which they work.

It is characteristic of the American nation that a philosophy so imperative to the perpetuation of a capitalist society should become established in its economic life through the efforts of a leader and an organization whose roots were grounded in socialism and rebellion against old-world tyranny.

II

Sidney Hillman was born in Zagare, Lithuania, on March 23, 1887, second of a family of seven children. His grandfather and his grandfather's brother both were rabbis, and when Sidney was thirteen his father sent him to study for the rabbinate. The broad sweep of Jewish history fired his imagination and filled him with resentment against the Tsar's persecution of the Jews and all lovers of freedom. Hillman
became an avid seeker after more and more knowledge. Not content with the narrow course of theological instruction at the Yeshivah, he studied the Russian language outside of school, a forbidden thing to do. So insistent was his desire to extend the horizons of his learning that he continued these secret Russian lessons even after his father had cut off his allowance. Hillman had to walk five miles each way to the home of the friend who was teaching him and was not discouraged even when storms or floods made the walk extremely hazardous. When his money gave out, he found work in a chemical laboratory. Here he made the acquaintance of a group of young intellectuals who opened up new vistas in literature and science. Here also young Hillman received his introduction into political activity.

In common with most young intellectuals of the day he became active in the movement to overthrow the Tsar and he joined wholeheartedly in the short-lived Russian Revolution of 1905. With scores of other insurgents, eighteen-year-old Sidney was arrested for his part in a demonstration in Kovno. For six months he sat in prison awaiting exile to Siberia, but he did not languish while in jail. Indeed, the six months represented the most fruitful period of his education for he was surrounded by four hundred other political prisoners, many of whom were among the best-read and most interesting personalities he had ever met.

The prisoners enjoyed enough freedom within the Kovno jail to organize what amounted to a university and there was no lack of books, magazines and newspapers smuggled in from outside the walls. Hillman became acquainted with the writings of John Stuart Mill, Adam Smith, Karl Marx, Tolstoi, Kropotkin and many other illustrious economists and authors.

At the end of six months a general amnesty for political prisoners enabled him to return to his home, but soon after he was arrested again. This time he served four months in jail. Convinced that there was little opportunity of establishing political and religious freedom in Russia at that time, Hillman decided to give up the struggle and leave the country. He went to stay with an uncle in England but he had no
appetite for the life of trade in which his uncle sought to interest him. Soon he was on his way to the United States, one of many millions who were flocking to the country as the beacon of freedom and opportunity. When the Cunard liner, Cedric, carried Sidney Hillman past the Statue of Liberty on August 10, 1907, there was nothing to distinguish him from the hundreds of other immigrants who crowded beside him at the rail.

III

His start in America was as unspectacular as his arrival. His first job was as an eight-dollar-a-week stock clerk in the Sears Roebuck mail order house in Chicago. After a year and a half he was laid off because of slack business. The youth used his enforced leisure to renew and amplify his education. He attended night school at the Hebrew Institute and spent long hours in his room reading literary classics. He lived in a world of ideas and had little need for the social life he might have enjoyed if he had more money. Much of his thinking revolved around methods for spreading more widely the fruits of American democracy and for avoiding depressions of the type that had thrown him out of work.

In the summer of 1909 he entered the men's clothing industry as an apprentice cutter in the Chicago factory of Hart, Schaffner and Marx. Here he worked without pay for eight weeks to learn the trade and then went on the payroll at six dollars a week. Conditions in the Chicago clothing industry were extremely disorganized at that time. The factories were much larger than those in New York, where the sweatshop still prevailed, but wages were low and hours were long. During the season work proceeded at top speed. When the season was over, workers were laid off by the thousands. The employers felt no responsibility for the welfare of the workers, and the availability of a huge and constantly replenished pool of immigrant labor intensified the tendency toward arbitrary exercise of power on the part of foremen and supervisors.

If workers protested against wage cuts, fines or inhuman
production schedules, they were bluntly advised that there were plenty of "greenhorns" ready to take their place. Nevertheless, conditions were so intolerable that spontaneous walkouts were frequent in the busy season. They never achieved any lasting benefits because they were almost always confined to a single shop or department and because the union then functioning in the industry was puny and lifeless.

The United Garment Workers, an American Federation of Labor affiliate, had jurisdiction over the manufacture of men's clothing but its leaders were lethargic. They were perfectly willing to accept the notion that the clothing industry "could not be organized." The only section of the industry in which the union was strongly entrenched was that making men's work-clothes and overalls. Union workers in other trades demanded the union label on their work-clothes and the UGW received a steady income from the sale of its label to manufacturers in this field. The union heads had no desire to disturb their comfortable bureaucratic existence by bringing into their organization the thousands of young Jews, Italians and Poles who were streaming into the clothing factories of New York, Chicago, Baltimore and Boston.

On September 22, 1910, fourteen seamers in one of the pants factories of Hart, Schaffner and Marx walked out in a strike that soon became city-wide despite the opposition of the UGW leadership. The Chicago Federation of Labor and the Women's Trade Union League rallied to the support of the strikers. So did educators, social workers and other public-spirited citizens. Young Hillman was not a member of the strike committee. Because of his youth and his inexperience in the trade, he was almost unknown to his fellow strikers. But his earnestness, clarity of thought and skill in building up outside backing for the strikers brought him to the fore in the early days of the walkout.

His first speech was made at a rally called to ratify an abortive "settlement" effected without the knowledge of the strikers by the do-nothing heads of the UGW. So cogently did Hillman marshal the arguments against the proposed agreement and so eloquently did he present them that the pact was rejected by an overwhelming vote. The strike went
on. Weeks later, when an agreement had been worked out by the strike committee and the firm, Sidney Hillman appeared before the rank and file in the role of advocate.

The surging, excited throng shouted approval and dissent in eleven languages. A small group of extreme radicals had sworn to resist the agreement. When a vote to adopt had been carried, this group attempted to reverse it. The meeting was plunged into turbulence until Hillman, who had played a leading part in negotiating the peace compact, stepped to the rostrum and declared, "You may take my life but you shall not repudiate this agreement while I live."

The strike produced no immediate gains for the workers but it had long-range effects of prime importance. Hart, Schaffner and Marx became the proving ground for a form of industrial democracy in which the workers participated with real power and responsibility. A permanent board of arbitration to settle all disputes was a trail-blazing feature of the first contract, signed in 1911. The effectiveness of this board was demonstrated by the fact that the friendly relations between management and workers in the shop were never again broken by strikes or lockouts.

That the Hart, Schaffner and Marx strike did not terminate, as all previous strikes had, in a short-lived peace that brought no permanent benefits to the workers was a reflection of Hillman's insistence on machinery intended to bring democracy into the factory. In this, he had the enthusiastic cooperation of Joseph Schaffner, head of the company, who had resisted the strike until he made a personal investigation into affairs in the plant and decided the walkout should have occurred long before it did.

As the local union, under Hillman's guidance, proved its responsibility, Schaffner extended it additional benefits. When direct agreement was impossible between representatives of the union and management, the case went to an impartial chairman. His decision was binding upon both sides, and Hillman was inflexible in holding the union members to account for adherence to all such rulings. The union's record for living up to its obligations was so high that Schaffner became its ardent champion. Asked a few years after the
bitter and long-drawn-out strike whether he would go back to the old way if he could, he replied with an emphatic "No."

After 1914, when Hillman became president of the Amalgamated Clothing Workers, the process of winning the respect and confidence of employers was repeated on a national scale. But the path was not smooth. The union had been formed through a split with the dormant leadership of the UGW, and employers took a dim view of entering into contractual relations with the infant organization. Moreover, the AFL regarded Hillman and his associates as secessionists and withheld recognition and support in their initial struggles. It was a two-way fight and it began just as the world was falling under the shadow of a catastrophic war.

Strikes and lockouts were the union's lot in every major clothing center. Its growth was slow until the United States entered the war and the country's paramount need became quick production of military equipment. The Federal Government set itself up as protector of union rights and decent labor standards. The Amalgamated Clothing Workers surged forward in shops manufacturing uniforms and other Army and Navy supplies. Wages went up, hours came down and arbitration machinery became almost universal in the industry.

The post-war period brought reverses for the Amalgamated as it did for all other American unions. In some quarters its leaders were depicted as un-American and subversive. The Lusk investigating committee of the New York State Legislature pilloried the Amalgamated. Criminal indictments were leveled against the union's officers in Chicago and lurid stories defaming the organization filled the newspapers for months before the indictments were dropped. It was a period of depression and wage-cutting, and employers in all parts of the country were fighting to re-establish the open shop.

Strikes again drained the union's treasury. By this time, however, the organization had staunch friends in the ranks of industry who recognized that the interests of management were protected by having a strong, responsible union in their plants. By 1929 the Amalgamated had a firm foothold in
every production center, had curbed "cutthroat" competition between markets and had dealt drastically with the cancer of racketeering in its own ranks.

As the number of unorganized factories became insignificant, Hillman was able to give fuller expression to his concept of the union’s function in helping the industry help its workers and itself at the same time. He persuaded the employers that they would all be better off if negotiations were conducted on a nation-wide basis so that manufacturers in one city would not be able to compete with manufacturers in another at the expense of labor. In this way, the union became a major factor in industrial stabilization. So pleased were the manufacturers with the success of this experiment in industry-wide bargaining that they actively opposed moves in Congress in 1947 to outlaw this type of negotiation.

When employers with long records of honorable dealing with the union found themselves in financial difficulties, it was not unusual for Hillman to come to their aid. Loans would be made from the union treasury when investigation disclosed the position of the business to be essentially sound. Such aid enabled a number of large concerns to remain solvent in periods of depression when bank credit was tight. It also kept thousands of union members employed instead of plunging them into idleness.

In furtherance of its policy of constructive cooperation, the Amalgamated pioneered in the development of an industrial engineering service that helped less efficient companies overhaul their production methods. The union representatives installed cost systems and assisted employers in cutting out waste motion and unnecessary overhead. It was a commonplace for employers to remark that they did not know how they would get along without the union—this in an industry that had once been classified as unorganizable.

In fact, employers came to regard union organization as a tangible asset. George Soule, Hillman’s biographer, tells of one large New York clothing manufacturer who had operated on a non-union basis for years and who sent for the union leader when the firm became embroiled in money troubles. The employer asked Hillman to organize the shop
and was startled when he refused. Hillman pointed out that
the company was near bankruptcy and he had no desire to
have the union become the scapegoat if it went under soon
after the workers had come into the union.

The company official then laid his cards on the table. He
told Hillman that he had been seeking to hire the most
capable production manager in New York as a means of
getting the business back on its feet and raising additional
capital. However, the man he wanted to hire would have no
part of the job unless he could count on the cooperation of the
Amalgamated, on which he had always relied in his previous
jobs. Hillman decided to take the chance, production was
reorganized and the company pulled through.

Unlike many unionists, Sidney Hillman felt that the union
had a definite responsibility for the maintenance of fair
production standards and for protecting fair employers against
destructive competition from the chiseling fringe of the
industry. By the time of his death, ninety-six per cent of the
clothing industry had been brought under contract and the
"runaway shop" evil almost totally eliminated.

Thus the march of the clothing workers out of the sweat-
shop was accompanied by a strengthening of the position of
the employers and a larger measure of prosperity for both
worker and employer. This was the essence of the Hillman
creed. Although the union became the dominant element in
the industry—so powerful no manufacturer could challenge its
decrees—Hillman always eschewed demands he felt were
beyond the industry's capacity to sustain. The very word,
"demand," was anathema to him. He was a firm believer
in the conference method and the rule of reason. He felt
it was possible to convince employers that they would be
hurt if workers lost efficiency or morale because wages were
too low, hours too long or grievances remained unsettled.
For his part, he did not doubt that workers could not prosper
if labor costs were so high or productive efficiency so low as
to make it impossible for the employer to compete success-
fully with other manufacturers.

To left-wingers who sought to push the union into making
demands that would injure the industry, Hillman had a
stock reply: "Don't forget that this is a trade union, which exists for the purpose of dealing with employers. If you want to destroy the employers, don't try to do it through the union. Join some other organization which exists for that purpose."

Yet Sidney Hillman was no docile defender of the status quo. He abandoned early in life the doctrinaire socialism he had brought to the United States from Russia but he remained a passionate seeker after increased economic, social and political justice. The shibboleths of "free enterprise" as a cloak for private greed infuriated him.

He saw more clearly than most the interrelated character of modern society. Just as he recognized that there was no security for the clothing workers unless the clothing industry was healthy, so he saw that there was no security for the clothing industry unless the whole economy of the nation was sound. By the same token, he recognized that the security of America's national economy was itself dependent on world security. This doctrine of mutual dependence was an impelling force in most of his activities outside the Amalgamated.

He was an advocate of national economic planning long before Franklin D. Roosevelt entered the White House. While others were calling for separate action by the various segments of industry to lift the nation out of the depression of the early 'Thirties, Hillman was emphasizing the impossibility of obtaining effective results from any approach that failed to take into account the over-all character of the problem. The same breadth of vision was reflected in his subsequent assignments as an economic adviser to the President and in his mobilization of labor support for the national defense program.

Another instance of Sidney Hillman's foresight was his protection of clothing workers against the hazards of unemployment, sickness and death. Under his leadership the Amalgamated pioneered in social security ten years before the New Deal. The union's first unemployment insurance program was established in Chicago in the 'Twenties and gradually the coverage was broadened to include illness and old age. The Amalgamated also was a pioneer in building cooperative apartments and establishing banks for its members.
Hillman viewed the CIO, which he helped form in 1935, as an indispensable instrument for the extension of industrial democracy in the mass-production industries. In common with many other progressive leaders in the AFL, he felt that there was no hope for organizing steel, automobiles, electrical manufacturing, textiles and other basic industries through reliance on craft methods. Moreover, he was convinced that the will to organize was as slack in the AFL high command as it had been in the United Garment Workers leadership during his first years in the United States. Hillman's own organizing work in the CIO was primarily in textiles, one of the most sweated of American industries. Battling ill health as well as the resistance of open-shop employers, he laid a solid foundation for the Textile Workers Union, now strongly bulwarked in this field.

IV

It was in the sphere of political action, however, that Hillman received greatest attention and aroused most intense controversy. In July, 1943, he was designated chairman of the CIO Political Action Committee. The country was engulfed in the greatest war in history. Hillman himself had been forced by a heart ailment to resign as director of the labor division of the War Production Board. He took on his new duties reluctantly and against the advice of his physician.

CIO-PAC, as Hillman envisaged it, offered an opportunity for influencing the two major parties along progressive lines. It was his theory that labor's political strength and the strength of farmers, small business men and others who shared labor's economic and social aims could be applied most effectively through organizations like PAC. In the process of building up PAC, Hillman's close association with Communist elements in the CIO led to charges that he was permitting it to become a device for spreading Red doctrines. The record of his activity lent scant support to this allegation.

He slapped down all Communist efforts to turn PAC into
a third party. He kept Communists out of strategic posts not only in his own union but in all the governmental and political organizations he led. He opposed political strikes, a key weapon in the Communist arsenal of disruptive tactics. He insisted on rigid adherence to contracts.

During the national defense period, when the Nazi-Soviet pact caused Communists and their sympathizers to sabotage all defense preparations in this country, Hillman was the target of bitter abuse from the party’s henchmen. When he accepted their help later in war production and in the activities of PAC, it was with full knowledge that their basic allegiance to a foreign power made them untrustworthy allies. His intimates in the Amalgamated were convinced that he was prepared to break with the Communists at the first sign of disloyalty.

On the other hand, he did not believe in fighting Communists when they wanted to contribute to a cause he considered meritorious. It is incontestable that much of the work of PAC was done by Communists and their supporters. It is equally true that they exercised a significant, though not a controlling, voice in its policies. But Hillman was never under any delusion about who the Communists were or what they were after. He was almost psychic in spotting those whose thoughts and actions were controlled by the party’s apparatus and he saw to it that they did not become too firmly lodged in positions of influence.

Hillman was not one of those who lead through personal magnetism. He was not a crowd pleaser, with the gift of rhetoric or bombast that sways huge throngs. His was the technique of persuasion rather than appeal to emotion or sentiment. He spoke calmly, yet forcefully, and he was usually able to convince his hearers through the vigor and clarity of his views. In his personal relations, he often gave the impression of coldness and detachment. But this was an illusion. Actually, one of the delights of his life was to relax with a little group of his old cronies—men and women with whom he had shared the Amalgamated’s early battles—and listen to the singing of well-remembered Yiddish melodies.
Sidney Hillman was deeply religious, although he shunned participation in the organized religious life of the Jewish community. His life-long friend, Jacob S. Potofsky, who succeeded him as president of the Amalgamated, tells how Hillman would slip away at critical periods in his career to meditate in the quiet of a Jewish temple. He would rarely attend services, however, and at the Passover Seder he would surrender his place at the head of the table to Potofsky.

The problems of the Jews affected Hillman profoundly. As a boy he had experienced religious persecution in its crudest forms. Even after he had attained greatness in his adopted land, he knew at first hand how hard it was to be a Jew. He was subject to the most scurrilous anti-Semitic attacks throughout his life, particularly in the period when he was active in the defense program and in the organization of labor's political power.

These personal tribulations sharpened Hillman's sympathy for the suffering of the European Jews under Hitler and in the economic chaos that followed the war. He frequently discussed the problems of displaced persons and of immigration with President Roosevelt and later with President Truman. Both valued his sage and unemotional guidance on steps the United States might take toward the alleviation of these problems.

At one time Hillman was asked to accept membership in the Executive of the Jewish Agency for Palestine; but he declined, believing that he could render greater assistance by remaining remote from active connection with the organization. The same thought kept him out of positions of personal leadership in other Jewish groups.

The Amalgamated has established in Sidney Hillman's memory a $1,000,000 fund to finance scholarships and awards for public service. It is a fitting monument to a man who warned his union never to grow too practical. He accomplished much but his mind always remained focused on the goals still to be realized. His legacy was the quest for a world in which democracy and the good things of life will be the birthright of every child.
Dr. Emanuel Libman died in New York City on June 28, 1946, at the age of seventy-three. His life story was that of a great medical personality; at the same time in many ways it was also that of a typical Jewish physician and Jewish scientist in an era which has recently closed.

Dr. Libman was born in New York City on August 22, 1872. He was the son of Fajbush Libman, a dealer in picture frames, who owned a small store on the lower East Side. Fajbush Libman was a handsome, dignified gentleman who was already learned in the older European school of Jewish scholarship before coming to the United States. Here, self-taught, he acquired a broad knowledge of English literature and a deep admiration for the basic philosophy of American life.

Emanuel Libman was graduated from the College of the City of New York in 1891 and from the College of Physicians and Surgeons, Columbia University, three years later. He served as House Physician at the Mount Sinai Hospital in New York City from 1894 to 1896. On the advice of the distinguished pediatrician, Dr. Henry Koplik, he then did a year of postgraduate work in Berlin, Munich and Vienna, with the intention of preparing himself for a career in pediatrics. Young Dr. Libman's European tour ended in a brief period of research in the laboratory of Theodor Escherich, the eminent Viennese pediatrician and clinical investigator; this determined the young man's subsequent interests in the application of the relatively new science of bacteriology to the ancient art of clinical medicine.

During his very active subsequent career Dr. Libman was associated chiefly with the Mount Sinai Hospital, which he served as Associate Pathologist (1898-1923), Attending Phy-
sician (1912–1925) and Consulting Physician (1925–1946). He also acted as Consulting Physician to numerous hospitals in and near New York, and as Professor of Clinical Medicine at Columbia University. Throughout his lifetime he was active in many societies of bacteriology, pathology and clinical medicine, local and national.

Endowed with almost phenomenal powers of observation and inference, he soon won lasting recognition among both the laity and the medical profession. Physicians appreciated that his superior diagnostic skill was based upon a solid foundation of hard work in laboratories of bacteriology and pathology, and upon extensive study of the medical literature. Much of his astuteness impressed observers as being distinctively Jewish. Many saw a connection between Dr. Libman’s intense mental and physical activity and certain elements in Jewish tradition and Jewish life.

Dr. Libman’s prodigious energies and extensive intellectual powers could not fail to produce conspicuous achievements in the field of his choice. His greatest contributions dealt with diseases of the heart and with infections of the circulating blood. These interests were combined in a series of studies on subacute bacterial endocarditis, a form of infection of the heart. This disease was probably his main scientific interest and was certainly one of the principal landmarks of his fame.

By the end of the nineteenth century it had been established from clinical observations that a proportion of patients whose hearts had been damaged by rheumatic fever subsequently developed a more or less protracted febrile ailment, which usually was fatal. The clinical features of this grave disease were as yet imperfectly known and were poorly distinguished from those of rheumatic and other prolonged fevers. By a series of clinical, anatomical and bacteriological studies extending over decades Libman defined and clarified the problem; at the same time he greatly increased the precision and hence the usefulness of the diagnostic technique. He also suggested the name subacute bacterial endocarditis, which is the designation most commonly employed at the present time.

Libman’s researches disclosed that subacute bacterial endocarditis was much more common than had been surmised.
During the years the voluminous recesses of Dr. Libman's famous brownstone private house came to bulge with hundreds of case records which described in detail the intricacies of the disease as manifested in the legions of sufferers whom the great diagnostician saw in consultation.

Less well known but no less important and useful was his work on behalf of young physicians, whom he guided, directed and often subsidized. In accordance with ancient traditions which are still valid, these good deeds were usually done in secret. Many of the beneficiaries of Dr. Libman's unobtrusive, well-directed aid have risen to positions of importance and usefulness in the scientific world.

Dr. Libman's interest in education also led to concern with the affairs of the Hebrew University and of Hadassah. He was a member of the Board of Governors of the University from the time of its inception in 1925 and he served as President of the American Friends of the Hebrew University. Those who know in detail the story of the birth and infancy of the University tell innumerable anecdotes which testify to the effective, selfless manner in which Dr. Libman submerged his own strong personality for the common good and employed his unusual mental powers for the welfare of the nascent institution.

Not content with acting at a distance, Emanuel Libman visited Palestine on a number of occasions and gave lectures and spirited clinical demonstrations at the Rothschild Hadassah Hospital. He also lectured at the Hebrew University. On one of these occasions he paid homage at the tomb of Thomas Hodgkin, the celebrated nineteenth-century British clinician, who is buried at Jaffa and for whom Libman, always a great hero worshiper, had a profound admiration.

Libman's primary interests in the Hebrew University were the Post Graduate and Research Institutes, established and supported by the American Jewish Physicians’ Committee of which he was one of the founders. He contributed large sums of money to the University and to the proposed Medical School. Just before his death he made a last contribution of $10,000.

A certain measure of egocentricity in Emanuel Libman's personality was more than counterbalanced by his intense pride in the scientific and clinical achievements of his younger
colleagues as well as by his admiration for the great leaders in medicine of the past and of his own day. His encyclopedic knowledge of the treasures of medical literature, his keen intellect and great capacity for friendship won him the esteem of leaders in almost all branches in medicine and the basic sciences throughout the world. Perhaps no American physician ever had more professional friends and acquaintances in this country and in foreign lands.

In the field of the medical sciences Dr. Libman occupied the double role of innovator and transmitter. He transmitted to this country the invigorating influences of pathology and European bacteriology at a time when these sciences were not yet well developed on this side of the Atlantic. Yet his restless original genius could not be content with mere transmission; and much that he passed on was inevitably improved by his innovation. In these respects he conformed to the historic role of the Jew in the western world.
HENRY MONSKY
1890–1947
HENRY MONSKY, who died suddenly on May 2, 1947, at the age of fifty-seven, was representative of the new leadership in American Jewry. Born in the Middle West of a family of an east European Orthodox background, he assumed a place of leadership in an American Jewish life that formerly had been directed chiefly from the eastern seaboard. That Monsky was a westerner, and of non-Germanic background, are points of significance in any attempt to understand the man and his works.

As the leader of B'nai B'rith, a fraternal and service organization which describes itself as a cross section of American Jewry and which is the nearest thing in Jewish life to Rotary and Kiwanis, Henry Monsky became the symbol and the leader of middle-class American Jewry. He was deeply American, but no less deeply Jewish. An independent Republican, and as an attorney, a counsellor for private enterprise, he was a devoted adherent of the principles of social justice that are a part of the tradition of prophetic Jewry. A lifelong Zionist, his Zionism was not of one party, nor fanatical. Though opposed to the concepts of assimilation in American Jewish life, he recognized the need for integration of American Jewry and was one of the staunchest supporters of the program of democratic action espoused by the Anti-Defamation League of B'nai B'rith and other Jewish defense agencies.

With Henry Monsky's death, there passed from the American Jewish scene one who was unswerving in his ideology yet a great compromiser in methods to attain those ideological objectives. In all of the many aspects of his Jewish organizational life, Monsky was to be found somewhere in the center. An ardent exponent of unity in Jewish life, he was able to
maintain close relationships with upholders of divergent views in the councils of the National Community Relations Advisory Council and the American Jewish Conference.

II

Henry Monsky was born in Omaha, Nebraska, on February 4, 1890, the son of Abraham Monsky, an Orthodox cantor who had immigrated to the United States from Lithuania in the early years of the previous decade. Thus Monsky was born two years after the beginning of the so-called third era of American Jewish immigration which originated in eastern Europe. Unlike so many of the two million east European Jews who were to come to the United States between 1888 and 1921, however, the Monsky family had bypassed New York and settled some two thousand miles away, in Nebraska.

There already was a Jewish community in Omaha—a Reform temple, Temple Israel, having been organized in 1870—but this Nebraska community still possessed some of the aspects of a frontier town when Henry Monsky was born. He had a typical American Midwestern boyhood, except that along with his public school education he went to cheder. A brilliant student in both high school and college, Monsky received his Bachelor of Laws degree from Creighton University, Omaha’s Jesuit school, in 1912.

A year earlier Henry Monsky had joined the Omaha lodge of B’nai B’rith. His rise to leadership within the organization was rapid. In 1913, at the age of twenty-three, he became president of his lodge. Soon he entered the council of leaders of District No. 6 and in 1921 was elected district president. When a vacancy occurred on B’nai B’rith’s National Executive Committee in 1923, Monsky was chosen to represent District 6. In 1938, he became president of the Supreme Lodge, marking the beginning of a vital period in the development of the order.

By the time of Monsky’s death, the membership included over 200,000 men in 812 lodges, 95,000 women in 466 chapters and 30,000 young people in 1,200 youth units in the United States, Canada, England, Australia, China, France and Palestine. The order’s Anti-Defamation League, one of the leading Jewish defense agencies, had 17 offices in com-
munities throughout the United States; its Hillel Foundation Commission had grown to 66 full-time groups and 111 counselorships on college campuses in the United States and Canada.

Monsky brought to B'nai B'rith the Midwestern concept of the service organization, of Rotary and Kiwanis, and continued the conversion of what formerly had been mainly a fraternal order into a Jewish service organization. In this area, his greatest opportunity came with the outbreak of World War II and his appointment of a B'nai B'rith National War Service Committee, of which he was chairman. Its service on behalf of camps and ships won citations from the War and Navy Departments.

At the end of the war, Monsky merged the service activities of B'nai B'rith with its Americanism Commission and launched a many-sided program that featured work in the prevention of child delinquency. In this effort Monsky cooperated with United States Attorney General Tom C. Clark and was elected chairman of the Executive Committee of the National Conference for the Prevention and Control of Juvenile Delinquency.

A major part of the works of Henry Monsky was his devotion to B'nai B'rith, with which he was associated for thirty-six of his fifty-seven years. Another significant aspect of his life, however, was the part he played in the organization and growth of the American Jewish Conference. The Conference was born of a letter he sent in January, 1943, after intensive negotiations with the heads of the thirty-five largest Jewish national membership organizations in the country. At the first meeting, in June, Monsky was elected one of the three co-chairmen of the interim committee; in 1946, at the Conference's third session, he was named chairman. In addition, in June, 1945, he had been chosen by the Conference as its consultant to the American delegation at the United Nations deliberations in San Francisco.

Although Monsky had originally convened the American Jewish Conference as a temporary organization, designed particularly to develop a measure of unity among American Jewry in its approach to the peace conferences of World War II, he later agreed to submit a plan for a permanent
Conference. In fact, he was arguing for such a Conference at the meeting of the Interim Committee when he was fatally stricken on May 2, 1947. On that day the committee approved a plan for a permanent Conference. Though not written by Monsky, the proposal bore his imprint. The plan did not envision an all-encompassing, highly disciplined Jewish organization which would have the attributes of a modern Kehilla. Its authority is limited to one area — representing American Jewry in the councils of the nations of the world. In American affairs, the Conference is to be a central clearing house through which the various Jewish organizations can report to the American Jewish public. On Zionism, the Conference's sole activity will be cooperating with accredited Zionist agencies.

This plan did not satisfy the extremists within the Conference who sought an all-embracing organization. But neither did it completely alienate the non-nationalist-minded Jews who opposed the creation of anything that resembled a government within a government. Thus the plan exemplified the Monsky approach to a problem. It was the approach of the lawyer who knows the limitations imposed upon him and who seeks to win his case under the rules set down for him. Henry Monsky was a statesman who knew well the limits of possible achievement.

A devoted Zionist, Monsky adopted the same realistic approach to the many problems concerning Palestine. Maurice Bisgyer, national secretary of B'nai B'rith and his close associate for many years, said that Monsky never compromised his Zionism in all the years he knew him. At the same time, Monsky never sought to impose his personal Zionism on the B'nai B'rith, nor did he ever show disrespect for the non-Zionist views held by others.

As an individual, however, and in his capacity as chairman of the American Jewish Conference, Monsky time and again expressed his belief in political Zionism. Speaking in behalf of the Conference at the hearings of the Anglo-American Committee of Inquiry on Palestine in January, 1946, he said

I would consider it unfortunate, gentlemen, if your consideration of the problems which have been referred to you should be limited to the matter of finding a haven or
HENRY MONSKY

a sanctuary for Jewish refugees, although I do not minimize in the slightest the vital necessity for immediate action in that regard. Any ultimate recommendations based upon such a limited perspective, however, would be only a temporary expedient and would contribute little to the solution of the status of the Jewish people. Your recommendations, we fervently hope, therefore, will be based upon the long-range point of view and we hope that you will, after the many years of vacillating and changing attitudes with respect to this vital problem, concern yourselves with the restoration of the Jewish people to status and security in a national Jewish homeland, as was intended by His Majesty’s Government when the Balfour Declaration was issued.

In collaborating with other Jewish defense agencies in the National Community Relations Advisory Council, Henry Monsky continually adhered to his practical approach. Unity in defense agencies, the dream of a single agency, has long been hoped for, but in the councils of the NCRAC Monsky always defended the viewpoint that varying ideological differences in American Jewry made it impossible to create one defense agency. He argued that the different agencies complemented one another and that the highest state of efficiency in defense work could be achieved not by unification but by co-ordination.

III

In his home city of Omaha, Monsky was known as a brilliant and successful lawyer and a social-minded citizen who was a leader in local communal affairs as well as in national Jewish life. In 1922, he was one of the founders of Omaha’s Community Chest, an organization in which he held board membership continuously and on which he served first as vice-president and later as president. He was an active collaborator with Father Flanagan in the development of Boy’s Town, and it is generally believed that the Jewish friend of Father Flanagan depicted in the motion picture Boys’ Town honored Monsky’s close collaboration with the priest. Monsky also was a director of the Omaha Chamber of Commerce,
president of the Nebraska Conference of Social Work, president of the Omaha Council of Boy Scouts and a member of the Omaha Welfare Fund.

Personally, Henry Monsky was a very friendly man, in the Midwestern tradition. He maintained the quiet dignity and respect that is a component of leadership but very few people called him "Mr. Monsky." He was "Henry" to all his associates, whether they were professional staff members or fellow lay workers.

In religion, Monsky was a Reform Jew, but he always maintained membership affiliation with the Omaha Orthodox Congregation. His funeral services in Omaha, which were held at Temple Israel on May 7, 1947, were conducted jointly by Reform and Orthodox rabbis.

Henry Monsky's philosophy of Jewish life is best described in his statement on being awarded an honorary degree at Dropsie College, in Philadelphia, in 1942. Declaring that it is the responsibility of contemporary American Jewry to pass on to its descendants the Jewish heritage and to continue Israel's contribution to the betterment of humanity, he said

Judaism is something more than philanthropy and social service. It is a civilization many-faceted, rich and profound in its diversity. Down through the centuries of our history and throughout our literature, in the Talmud, in the Midrash and in other great Jewish classics, we find emphasis on Jewish education as a vital, life-giving force, and as a primary philosophy of Jewish life. . . . .

There are those among our people who feel it is a liability to be a Jew. This does not occur to the Jew who has had an adequate Jewish background. The glories of his people, the luster of their history, the magnificent values which constitute the essence of his religion, the recognized fountainhead of all religions of modern civilization, condition him to avert such self-hatred and self-pity. He can understand why the martyrs in Israel's history died for their ideals. Their pride of ancestry gave them courage to accept and endure the most extraordinary punishment. Their thorough appreciation of their history was a sustaining force against shock and against confusion. It constituted a basis for the rebuilding of dignity and self-respect.
THE YEAR 1922, in which the Jewish Institute of Religion was founded by Dr. Stephen S. Wise, fell in a period of renewed affirmations of Judaism and the peoplehood of Israel. The negativism of an earlier day, still continuing in the halls of Judaism, was giving way before a spiritually rich Jewish life rediscovered in the east. By 1922, the Balfour Declaration had been made; the Hebrew renaissance, the Hasidic revival had occurred; the common man was coming into his own and at the same time there came a new understanding of the meaning of Kelal Yisrael. The era of “stiff cuff and gold link” Judaism was fast going, but only the historically sensitive perceived it, the poets articulated it and the “men of deeds” built.

Thus Dr. Wise projected the Institute primarily to express the newer insights into the meaning and destiny of Israel. It rejected ready-made formulas and its program was to be largely exploratory in character so that it might catch the new currents as they started up, test and prove them in the light of tradition, scholarship and current needs.

There were also secondary reasons which made the founding of another school for the training of rabbis logical and even necessary. It had been felt for a number of years that a vast Jewish population such as that in the United States required it. Furthermore, judging by the requests that came to Dr. Wise from communities all over the land, there was an actual dearth of rabbis and hardly a school for training men for community service and Jewish education.
In his venture Dr. Wise had the encouragement of scholars like Israel Abrahams of Cambridge University, England, and Ismar Elbogen of the Hochschule für die Wissenschaft des Judentums in Berlin; of friends and colleagues like George Alexander Kohut, patron of Jewish learning; Maurice H. Harris, scholarly and eloquent rabbi of Temple Israel in New York, and Professor Richard J. H. Gottheil, savant and Semitist of Columbia University, as well as the learned Rabbi Emil G. Hirsch of Chicago's Sinai Temple.

It was then that Dr. Wise and a group of eminent rabbinical and lay associates realized that New York, which has become the largest Jewish community in the history of our people, was ideally situated as a place for a liberal school for the training of rabbis, communal workers and Jewish educators. This general feeling evolved into a plan whereby a number of distinguished Jewish laymen joined Dr. Wise in formulating a program towards opening a Jewish Institute of Religion, "liberal in spirit, wherein its teachers and students are not committed to any special interpretation of Judaism, and wherein the different interpretations of the literature, history and religion, the different constructions of Judaism and of Jewish life, orthodox, liberal, radical, Zionist and non-Zionist will be expounded to the students in courses given by men representing these different points of view."

There was some hope that the new Institute would be enabled "to cooperate without mental reservation with all existing schools dedicated to the study of the documents and history of Judaism." A series of negotiations was entered into with the leaders of the Union of American Hebrew Congregations to promote this cooperation and support for the program projected by the Institute, but they did not succeed.

Several months later in 1922, the Jewish Institute of Religion was founded under a charter granted by a special act of the Legislature of the State of New York, "For the purpose of establishing and maintaining an institution to train, in liberal spirit, men and women for the Jewish ministry, research and community service . . . . to advance Jewish scholarship, to establish and maintain a library and to educate and train rabbis and teachers." Subsequently it
was also duly registered, its courses accredited and recognized by the University of the State of New York, with the right to grant the academic degrees of Rabbi, Bachelor of Hebrew Literature, Master of Hebrew Literature, Doctor of Hebrew Literature, Doctor of Divinity and Doctor of Theology. Thus in the course of its twenty-five years 188 men were ordained as Rabbis, 148 men and women received the degree of Master of Hebrew Literature, two received the degree of Doctor of Hebrew Literature in course, 51 men and women were awarded the degree Doctor of Hebrew Literature Honoris Causa, and twelve the honorary Doctor of Divinity and Doctor of Jewish Theology degrees.

The only liberal seminary then in existence was distant from the dynamic centers of Jewish activity in the country. The average rabbinical student began his studies after graduation from high school, and the older Jewish college graduate was therefore reluctant to apply to the schools where the number of younger and less mature students predominated. In general, the existing seminaries were static in their curricula and programs which were crystallized early in the century, and then procedures of rabbinical training usually followed the forms and absorbed many of the prejudices which originated abroad during the last century. It was obvious that mature American Jewish college graduates were unwilling to accept the prevailing conditions in the seminaries where the dogmatisms of either left or right dominated. The non-conformist was thus automatically excluded from a place in the institutions for higher Jewish studies. At every college and following every forum where Dr. Wise spoke, young men and young women who were fired by his message, turned to him for guidance in planning their Jewish studies and the development of their interest in Jewish tradition and in Jewish culture. Many of them were soon to become active in different phases of Jewish communal endeavor.

The Rabbinical seminaries of Europe were undergoing the process of reconstruction and readjustment which followed the difficult period at the end of the first World War. The European communities, together with their leaders and scholars, were preoccupied with this great task at Vienna, at Bres-
lau, at Berlin and in Budapest. Nevertheless the kinship which they felt with the newly opened Institute and its founder was made evident in the warm communications in which they expressed repeatedly their readiness to join in the work of the Institute by offering to serve as Visiting Professors. This close association continued throughout the years, and it was no ordinary philanthropic project which led Dr. Wise to seek and obtain aid for the work of the European seminaries in which so many of the early teachers of the Institute took a leading place.

II

The news spread in the American Jewish community that a new school for the training of rabbis, community workers and Jewish educators would open in the fall of 1922 before it had "a home, faculty, student body or resources." However, the Jewish Institute of Religion opened in the fall of 1922 with classes held at the Community Center of Temple Israel in New York. It was felt that the school should be situated in the metropolis where a variegated Jewish life could best serve both teachers and students in probing current tendencies and needs. In the first class there were about fifteen students and a faculty headed by Israel Abrahams, Felix Perles and Ismar Elbogen. By 1926, when the student body had mounted to about fifty, ten of the earliest students received degrees of Rabbi and Master of Hebrew Literature.

The distinctive character of the Institute's contribution to the American Jewish community and to Jewish learning depended on the ability of Dr. Wise and his associates to attract a faculty which would be representative of every phase of Jewish thought and aspiration. Each scholar was free to express his own gifts and his own spirit, liberal, Zionist, orthodox or reform. The aim of serving *Kelal Israel* was fulfilled in the quarter century of the school's existence as can be seen from a glance at the roster of eminent scholars and teachers who have been associated with the Institute.

The study of the modern Hebrew renaissance was given a special place, for which men of distinguished position and
scholarship were invited. For perhaps the first time in a Jewish institution of higher studies in the United States graduate courses were conducted through the medium of modern Hebrew. Leading this teaching of the Hebrew renaissance was David Yellin, founder and principal of the Hebrew Teachers Seminary of Palestine, and at that time also the Vice-Mayor of Jerusalem, who lectured in Hebrew on the Bible, Hebrew grammar, and medieval Hebrew poetry, and the substance of his lectures later formed his well-known books in these fields. Prof. Salo Baron, on his arrival from the Juedisches Paedagogium of Vienna, also taught his Jewish history course in Hebrew, as were the courses which were given by Prof. Zevi Diesendruck in modern Hebrew literature and medieval Jewish philosophy. This Hebrew tradition which began partly as a necessity and continued as a natural development, has been followed to this day in many of the classes. Prof. Henry Slonimsky, the Dean of the Institute, has added to the enrichment of this tradition by his classical presentation of Midrash and Jewish philosophy. Prof. Simon Halkin, noted Hebrew poet, now occupies the chair in Hebrew literature, and Prof. Guido Kisch, Editor of Historia Judaica, is Visiting Professor of Jewish History. Prof. Harry Orlinsky heads the Bible Department.

Another new departure in the curriculum was the inclusion of studies dealing with practical communal problems and activities. From the very beginning Dr. Wise himself has given a course which is known as "Practical Problems of the Ministry." This class which has continued for twenty-five years actually presents the students with an analysis and survey of Jewish affairs, acquainting the students with the background and basic trends touching Jewish life here and abroad. There was also a series of practical courses in social work, community organization and synagogue administration given by Prof. Sidney E. Goldstein, who has pioneered many undertakings in this field. The knowledge of Jewish musical art, liturgical, folk and Hasidic, was another important aspect of modern Jewish culture taught in the courses of Prof. A. W. Binder.

The major part of the four-year course was devoted to a
study of Biblical literature, Midrash, the Talmud and codes, Jewish history and sociology, to Hebrew and Semitic languages, to Jewish philosophy and ethics, and to medieval and modern Hebrew literature.

The faculty represented the entire gamut of Jewish thought and aspiration and each member was free to express his own gifts and his own spirit. It was left to the student, after imbibing the knowledge essential to mature judgment, to select that which was most congenial to his own temperament, aspirations and vision.

That was what Dr. Wise was striving after. To make it possible, he divided the faculty into two categories. The first was composed of visiting professors and lecturers from this country or abroad, who would stay for about a year. The second consisted of resident teachers who were to carry on the more stable part of the curriculum. The latter group included Harry S. Lewis, an Englishman of culture and extensive Jewish erudition. In addition, early visiting teachers like Chaim Tchernowitz, a typical and eminent representative of East European Judaism, later became permanent members of the faculty.

Notable among the original band of scholars associated with the Institute were Harry A. Wolfson, who later confined his activities to Harvard; Salo W. Baron, who left in 1930 to occupy the Nathan Miller Chair in Jewish History and Institutions at Columbia University; Shalom Spiegel, now at the Jewish Theological Seminary; Julian Obermann, now at Yale University; Nissan Touroff; Cecil Roth of Oxford University; the late Moses Marcus; Ralph Marcus, now at the University of Chicago; Joshua Bloch, now Chief of the Jewish Division at the New York Public Library; the late Zevi Diesendruck; Reuben Levy of Cambridge; Harry Torczyner; and Julius Guttmann, themselves now of the Hebrew University, Jerusalem.

The faculty were not only scholars but men of affairs participating actively in the great Jewish movements, like Israel Abrahams, a founder of the liberal Jewish movement in England, or Prof. Ismar Elbogen, an inspired leader of Jewish cultural life in Germany. Prof. Tchernowitz, after a signif-
icant career as founder and head of the Yeshivah in Odessa and a leading figure in the rabbinate in Russia, is the founder and editor of *Bitzaron*, the only Hebrew monthly in America.

If scholars grouped themselves around Dr. Wise, he found very little encouragement in the higher reaches of the Jewish community. The school was regarded with cold indifference and occasionally even with resentment. However, many prominent men supported Dr. Wise and joined the first Board of Trustees. They included Judge Julian W. Mack; Nathan Straus, Jr., the business man and civic leader; Lee K. Frankel, pioneer in the field of social welfare and industrial insurance; and Abram I. Elkus, the distinguished jurist and diplomat. In addition, the Free Synagogue, which started the school off financially with a subvention of $50,000, also supplied the Board of Trustees with some of its members, including its chairman in 1947, Judge Joseph M. Levine.

By the fall of 1923 the Jewish Institute of Religion acquired a home on West Sixty-eighth Street in the Free Synagogue House which had been built with the Institute occupancy in mind. Several adjoining brownstone houses were set apart for a Student Hall and residence.

**III**

The Library of the Institute, which has become one of the important Jewish collections in the United States, now numbers 62,000 books and more than 200 Hebrew manuscripts. It began with a very good reference library consisting chiefly of Dr. Wise's gift of his personal books and many books belonging to his father, the late Dr. Aaron Wise. To this nucleus of about 5,000 volumes was added a part of the library of the late Rev. Dr. Emil G. Hirsch which was presented to the Institute by his son-in-law, Rev. Dr. Gerson B. Levi of Chicago. Thereafter, the library was named after these two distinguished rabbis. A significant addition soon followed in the important collection of books on Jewish history and rabbinical literature which belonged to the late Prof. Marcus Brann, distinguished successor to Graetz at Breslau. A year later, in 1924, the family of the late Rabbi Samuel Mendelsohn of
Wilmington, N.C., presented his valuable collection of Talmudic and Rabbinic texts, and part of another large library was bequeathed by the late Dr. Louis Grossmann of Cincinnati. The late Dr. George Alexander Kohut presented his collection of Hebrew manuscripts in 1929, and bequeathed a part of his personal library to the Institute’s library. The families of the late Dr. Maurice H. Harris and the late Dr. Nehemiah Mosessohn and David Mosessohn presented substantial parts of their respective libraries.

The Hebrew University in Jerusalem and Jewish educational institutions everywhere have agreed to make the Institute library a depository for their publications. Numerous Jewish scholars and authors regularly presented copies of their works. In recent years the library of the Institute has assembled a very large collection of Hebrew books printed in Palestine during the last quarter of a century. It also possesses seven incunabula, or books printed before the year 1500, and close to two hundred volumes which were printed in the 16th century including most of the volumes of the first edition of the Talmud printed by Daniel Bomberg in Venice early in the 16th century.

IV

As the Institute grew, its annual budget increased to $140,000. Fellowships and scholarships were endowed, the most noteworthy being the Bertha Guggenheimer Fellowship for study and travel in the Holy Land. In 1947 Dr. and Mrs. Henry Slonimsky offered a fellowship in memory of their brother, the late Mendel Tennenbaum, to enable a graduate to pursue special studies at the Hebrew University, Jerusalem.

The school was open to students with an accredited college degree who were ready to undertake a four-year course of study. It became a policy of the school to encourage those who qualified to go out into the field and acquaint themselves with the character and needs of American Jewish communities.

By 1947, the graduates of the Institute numbered 180 men in the active rabbinate serving in both conservative and reform congregations. Dr. Samuel Blumenfield, is the President
of the College of Jewish Studies in Chicago, and a number of alumni are active as directors of Bureaus of Jewish Education, while others head Jewish Community Centers. The B'nai B'rith Hillel Foundations in many American universities are directed by Institute alumni. At present there are thirty rabbis from the Institute serving in this capacity. While many of the alumni are affiliated with the Central Conference of American Rabbis, there are also alumni who are members of the conservative Rabbinical Assembly of America.

About fifty were appointed chaplains in the armed forces of the United States during World War II, several receiving citations and awards for their service.

The Chaplaincy Service was a special feature of extracurricular activity in which the students were encouraged to serve. The very large number of hospitals and institutions in the New York area presented this special opportunity for practical service. Not infrequently many of these institutions turned to the Institute for assistance in sponsoring religious programs and offering religious consolation to the needy and the sick. Students eagerly participated in this work, many of them serving under the guidance of Chaplain Harry S. Lewis who served as an example of personal devotion to this important phase of Judaism and social service. The work of the civilian chaplain was thereby given new importance and gained an added impetus through the initiative of the Institute.

The Department of Field Activities was inaugurated for the purpose of expanding the congregational field, to encourage and foster religious and educational services for new and outlying communities, and to assist students and rabbis generally in their work. The first director of this department was Rabbi Jacob P. Rudin, now Rabbi of Temple Beth El, Great Neck, N. Y., who was succeeded by Rev. Dr. Morton M. Berman and later by Rabbi Abram M. Granison, the present director. As a result, students and graduates of the Institute have been in the forefront as the organizers and leaders of new congregations, educational projects and community centers, both liberal and conservative, throughout the country.
The Department of Advanced Studies was begun in 1929 to encourage continued interest in Jewish scholarship. Enrollment in this Department leading to the degree of Doctor of Hebrew Literature is open to alumni and to graduates of recognized seminaries.

Since 1937, a Summer Institute has been functioning for the benefit of the alumni and other rabbis. Now offering a two-week session, the Summer Institute was organized by the Alumni Association primarily as a means of bringing graduates together for the exchange of experiences, intensive study and discussion of common problems. Around this core has grown up a substantial curriculum, consisting of academic courses, lectures, panel discussions and symposia on current congregational issues.

Of significance to the world of scholarship and the general public have been the series of lectures offered each year by an outstanding scholar. The Hilda Stich Stroock Lectureship on the history and philosophy of religion was established in 1927 and its first incumbent was Hugo Gressmann of the University of Berlin. His lectures were published under the title *Israel and the Tower of Babel*. Others were *Josephus: The Man and the Historian* by H. St. John Thackeray of Oxford University; *The Jewish Foundations of Islam* by Charles Cutler Torrey and *Major Trends in Jewish Mysticism* by Gershon Scholem.

The last series of lectures given by Prof. William Foxwell Albright of Johns Hopkins University, entitled *Israel and Canaan*, is being published.

The Institute Press was established in 1924 mainly with a grant from the family of Dr. George Alexander Kohut. In addition to lectures, the Press has published such works of scholarship as *Index Philonis* by Hans Leisegang; *Pirke Aboth* by R. Travers Herford; *Glory of God* by Israel Abrahams; and *Jewish Studies in Memory of Israel Abrahams* by the Faculty and Visiting Teachers of the Jewish Institute of Religion.