

Notes

CHAPTER 1

1. Leo Pfeffer, "Religion, Education and the Constitution," 8 *Lawyers Guild Review* 387 (1948).
2. In Peter G. Mode, *Source Book and Bibliographical Guide for American Church History*, (1921), pp. 78-79.
3. Butts, *American Tradition in Religion and Education*, (Beacon Press, Boston, 1950), p. 113. See also: D. J. Boorstin, *The Americans*, (New York, 1958), pp. 17-19; C. H. Dodd, *The Authority of the Bible*, (New York, Harper Torchbook, 1958), pp. 173-76.
4. M. Curti, *The Growth of American Thought*, (Harper & Brothers, New York, 1951), pp. 53 ff.
5. Curti, *op. cit.*, p. 53.
6. Pfeffer, *op. cit.*, p. 391.
7. Nathan Schachner, *Church, State and Education*, reprinted from *The American Jewish Year Book*, Vol. 49 (1947-48), American Jewish Committee, (New York, 1947), p. 11.
8. *Ibid.*
9. Sherman Smith, *The Relation of the State to Religious Education*, (New York, 1926), p. 71.
10. E. P. Cubberley, *Public Education in the United States*, (Houghton Mifflin Co., New York, 1934), p. 41.
11. Curti, *op. cit.*, p. 54.
12. M. G. Hunt, "Bible Study in Public Schools," *Peabody Journal of Education*, 23:156, Nov., 1945.
13. Curti, *op. cit.*, p. 55.
14. C. H. Moehlman, *School and Church*, (Harper & Brothers, New York, 1944), p. 28.
15. *Ibid.*
16. Curti, *op. cit.*, pp. 57-58.
17. Quoted in Moehlman, *op. cit.*, p. 27.

18. A. P. Stokes, *Church and State in the United States*, (Harper & Brothers, New York, 1950), Vol. I, pp. 470-71.
19. *Journal of the American Congress, 1774-1788*, (Washington, 1823), II, pp. 261-62.
20. *Ibid.*, XIX, p. 221. For a full account see, Robert Dearden, Jr., and Douglas Watson, *The Bible of the Revolution*, (San Francisco, 1931), p. 16; Stokes, *op. cit.*, Vol. I, pp. 470-72.
21. See for example, Butts, *American Tradition in Religion and Education*, (Boston, 1950); Konvitz, "Separation of Church and State," 14 *Law and Contemporary Problems* 55 [1949; Justice Rutledge's dissenting opinion in *Everson v. Board of Education*, 330 U.S. 1 (1947)].
22. See for example, E. S. Corwin, "The Supreme Court as National School Board," 14 *Law and Contemporary Problems* 3 (1949); James O'Neill, *Religion and Education Under the Constitution*, (New York, 1949); L. Pfeffer, "Religion, Education and the Constitution," 8 *Lawyers Guild Review* 387 (1948).
23. Stokes, *op. cit.*, Vol. II, p. 53.
24. Sherman Smith, *The Relation of the State to Religious Education in Massachusetts*, (New York, 1926), p. 104.
25. Stokes, *op. cit.*, Vol. I, p. 310. For a summation of Washington's writings on the Bible and religion see: N. Cousins, *In God We Trust*, (New York, 1958), pp. 44-73.
26. "Washington's Farewell Address," C. R. Gaston, ed., in *Standard English Classics*.
27. *U.S. Stat. at Large*, Foreign Treaties, VIII, 155.
28. Jared Sparks, *The Works of Benjamin Franklin*, (1847), V. 153, quoted by Moehlman, *op. cit.*, p. 52. For a summary of Franklin's writings on the Bible and religion see: Cousins, *op. cit.*, pp. 16-43.
29. From S. Padover, *The Complete Jefferson*, (New York, 1943), p. 1049, by permission of Duell, Sloan & Pearce, Inc. For a summation of Jefferson's views on religion and the Bible see: Cousins, *op. cit.*, pp. 114-216.
30. Padover, *op. cit.*, pp. 669-70.
31. Butts, *op. cit.*, p. 121. See also R. J. Honeywell, *The Educational Work of Thomas Jefferson*, (Harvard University Press, Cambridge, 1931), pp. 200-256; and J. F. Constanzo, "Thomas Jefferson, Religious Education and Public Law," 8 *Journal of Public Law* 81 (1959).
32. Padover, *op. cit.*, p. 1104.
33. Butts, *op. cit.*, p. 126.
34. Honeywell, *op. cit.*, p. 249.
35. From *James Madison: Nationalist, 1780-1787*, by Irving Brant, pp. 353-54; copyright (c) by The Bobbs-Merrill Co., Inc., used by special permission of the publishers. See also: Cousins, *op. cit.*, pp. 295-325.

36. I. James D. Richardson, *Messages and Papers of the Presidents*, (1896), pp. 489-90.
37. See Konvitz, *op. cit.*, p. 56.
38. 7 Pet. (U.S.) 243 (1833).
39. 3 How. (U.S.) 589 (1845).
40. *Cantwell v. Connecticut*, 310 U.S. 296 (1940).
41. *State ex rel. McCollum v. Board of Education* 333 U.S. 203 (1948).
42. Pfeffer, *op. cit.*, p. 391.
43. A. Schlesinger, Jr., *The Age of Jackson*, (Little, Brown and Co., Boston, 1945), p. 355.
44. Butts, *op. cit.*, p. 115. Some observers might disagree with this view.
45. For a thorough discussion of this see: R. A. Billington, *The Protestant Crusade, 1800-1860*, (New York, 1938); also Stokes, *op. cit.*, Vol. I, pp. 833-38.
46. J. L. Blau (ed.), *Cornerstones of Religious Freedom*, (Boston, 1949), p. 160.
47. Sherman Smith, *op. cit.*, pp. 61-62.
48. Stokes, *op. cit.*, Vol. II, p. 56.
49. R. B. Culver, *Horace Mann and Religion in the Massachusetts Public Schools*, (Yale University Press, New Haven, 1929), p. 193.
50. Culver, *op. cit.*, p. 170.
51. Stokes, *op. cit.*, p. 56.
52. *Ibid.*, p. 57.
53. Culver, *op. cit.*, pp. 230-31.
54. Butts, *op. cit.*, pp. 132-33.
55. *Laws of New York*, 1842, 65 Session, C. 150.14.
56. H. S. Randall, *Decision of the State Superintendent of Common Schools, on the Right to Compell Catholic Children to Attend Prayers*, (Dept. of Common Schools, Albany, Oct. 27, 1853), pp. 5-8.
57. *Lewis v. Board of Education*, 157 Misc. 520, 285 NYS 164 (1935), *appeal dismissed*, 276 N.Y. 490, 12 N.E. 2d. 172 (1937).
58. See Billington, *The Protestant Crusade*; and Stokes, *op. cit.*, Vol. II, Chapt. XIX, 4, Vol. III, Chapt. XXIII, 4.
59. For reproductions of some of these cartoons, see Stokes, *op. cit.*, Vol. II, (Illus. inserts).
60. Stokes, *op. cit.*, p. 68.
61. Pfeffer, *op. cit.*, p. 142.
62. *Ibid.*
63. Pfeffer, *op. cit.*, p. 392.
64. Butts, *op. cit.*, p. 144.
65. C. Zollman, *Church and School in the American Law*, (Concordia Publishing House, St. Louis, 1918), p. 8.
66. H. Beale, *A History of Freedom of Teaching* (New York, 1941), p. 214.

67. *Ibid.*, p. 215.
68. See *Moore v. Monroe*, 64 Iowa 367, 20 N.W. 475 (1884); *Pfeiffer v. Board of Education*, 118, Mich. 560, 77 N.W. 250 (1898); *Spiller v. Inhabitants of Woburn*, 12 Allen (Mass.) 127 (1866); all upholding Bible reading; and, *Board of Education v. Minor*, 23 Ohio St. 211 (1872); *State ex rel. Weiss v. Dist. Board*, 76 Wis. 177, 44 N.W. 967 (1890), prohibiting such programs.
69. *U.S. Stat. at Large*, 29:411 (June 11, 1896).
70. National Educational Association Research Bulletin, "The State and Sectarian Education," February, 1946, p. 36.

CHAPTER 2

1. Leo Pfeffer, "Religion, Education and the Constitution," 8 *Lawyers Guild Review* 387 (1948); Butts, *American Tradition in Religion and Education*, (Boston, 1950), p. 142.
2. 221 U.S. 559 (1911).
3. Wisconsin Const., Art. I, Sec. 18.
4. *Ibid.*, Art. X, Sec. 3.
5. For fuller discussions of the state constitutions mentioned in this section see F. N. Thorpe, *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States*, (Washington, 1909), Vols. I-VII; and A. P. Stokes, *Church and State in the United States*, (New York, 1950), Vol. I.
6. Thorpe, *op. cit.*, Vol. IV, p. 2454. For the text of this section see Ch. 2, p. 45, *infra*.
7. Stokes, *op. cit.*, Vol. I, p. 424. For J. Adams' views on religion and the Bible see the Jefferson-Adams letters, as selected in N. Cousins, *In God We Trust*, (New York, 1958), pp. 217-94.
8. J. C. Meyer, *Church and State in Massachusetts, 1740-1833*, (Cleveland, 1930), pp. 234-35.
9. Stokes, *op. cit.*, Vol. I, p. 432. For the text of this elaborate article see Thorpe, *op. cit.*, Vol. VI, pp. 3255-57.
10. Swart v. South Burlington Township School District, 167 A. 2d. 514 (1961).
11. For a thorough discussion of the battle in Virginia, see for example, Stokes, *op. cit.*, Vol. I, pp. 366-97.
12. Thorpe, *op. cit.*, Vol. I, pp. 544-45.
13. *Ibid.*, Vol. III, pp. 1274-76.
14. N.E.A. Research Bulletin, "The State and Sectarian Education," February, 1946, p. 10.
15. Cooley, *A Treatise on Constitutional Limitations*, 8 ed., (Little, Brown and Co., Boston, 1927), Vol. II, Ch. XIII, "On Religious Liberty," p. 966.
16. But Vermont does have a constitutional provision guaranteeing the free exercise of religion; Vt. Const. c. I, Art. 3.
17. See "Public Aid to Establishments of Religion," 96 *Univ. of Pa. L. Rev.* 230 (1947); "Catholic Schools and Public Money," 50 *Yale L. J.* 917 (1940); David Fellman, "Separation of Church and State," 1950 *Wis. L. Rev.* 443-44.

18. See 96 *Univ. of Pa. L. Rev.* 230 (1947).
19. Constitutions of: Ariz. Art. II, sec. 12; Calif., Art. IV, sec. 30; Colo., Art. V, sec. 34, Art. IX, sec. 7; Fla. Declaration of Rights, sec. 6; Ga. Art. I, sec. 1, par. XIV; Idaho Art. IX, sec. 5; Ill. Art. VIII, sec. 3; Ind. Art. I, sec. 6; La. Art. IV, sec. 8; Mich. Art. II, sec. 3; Minn. Art. I, sec. 16; Mo. Art. II, sec. 7; Mont. Art. V, sec. 35; Nev. Art. XI, sec. 10; N. H. Art. 82; Okla. Art. II, sec. 5; Ore. Art. I, sec. 5; Pa. Art. III, sec. 18; S. Car. Art. XI, sec. 9; S. Dak. Art. VI, sec. 3; Tex. Art. I, sec. 7; Utah Art. I, sec. 4; Wash. Art. I, sec. 11; Wis. Art. I, sec. 18; Wyo. Art. I, sec. 19.
20. Constitutions of: Ala. Art. XIV, sec. 263; Ariz. Art. IX, sec. 10; Calif. Art. IX, sec. 8; Del. Art. X, sec. 3; Fla. Art. XII, sec. 13; Ky. sec. 189; La. Art. XII, sec. 13; Minn. Art. VIII, sec. 3; N. Mex. Art. XII, sec. 3; N. Y. Art. IX, sec. 4; N. Dak. Art. VIII, sec. 152; Pa. Art. X, sec. 2; S. Dak. Art. VIII, sec. 16; Tex. Art. VII, sec. 5; Wash. Art. IX, sec. 4.
21. Constitutions of: Ala. Art. IV, sec. 73; Ark. Art. XIV, sec. 3; Calif. Art. IX, sec. 8; Idaho, Art. IX, sec. 5; Kans. Art. VI, sec. 8; Me. Art. VIII; Mass. Amend. XLVI; Mo. Art. XI, sec. 11; Mont. Art. XI, sec. 8; Neb. Art. VIII, sec. 11; N. Mex. Art. XII, sec. 3; Utah, Art. X, sec. 13; Va. Art. IX, sec. 141; Wyo. Art. VII, sec. 8.
22. Ala. Const. Art. XIV, sec. 263; Ohio Const. Art. VI, sec. 2.
23. Constitutions of: Ark. Art. XIV, sec. 3; Conn. Art. VIII, sec. 2; Del. Art. X, sec. 4; Idaho, Art. IX, sec. 3; Ind. Art. VIII, sec. 3; Iowa, Art. IX, par. 2, sec. 3; Kans. Art. VI, sec. 3; Neb. Art. VIII, sec. 9; N. J. Art. VI, sec. 6, par. 6; N. Car. Art. XI, sec. 4; Okla. Art. XI, sec. 3; R. I. Art. XII, sec. 4; Tenn. Art. XI, sec. 12; W. Va. Art. XII, sec. 4.
24. This arrangement may be found in "Catholic Schools and Public Money," 50 *Yale L. J.* 917 (1940) along with the appropriate citations to the state constitutions at 920-21. See also Fellman, *op. cit.*, at 444.
25. 29 Stat. 411 (1896), D.C. Code, sec. 32-1008 (1940).
26. See *Hale v. Everett*, 53 N.H. 9 (1868); *Glover v. Baker*, 76 N.H. 408 (1912).
27. *Hale v. Everett*, 53 N.H. 9 (1868).
28. *Warde v. Manchester*, 56 N.H. 509 (1876).
29. "Model State Constitution," Fourth Edition, 1941, reprinted in W. Brooke Graves, *American State Government* (Boston, 3d. ed., 1946), p. 1028.
30. Const. of Kansas, Art. VI, sec. 8.
31. 69 Kans. 53, 76 Pac. 422 (1904).
32. Ariz. Code Anno. 1939, c. 54, sec. 1006; Calif. Ed. Code (Supp. 1941), sec. 3.52; Code of Ga. Anno. 1951, tit. 32, sec. 708; Idaho Code Anno. 1932, Vol. 2, tit. 32, sec. 2204; Burn's Indiana Stat. Anno. (1933 Supp. 1953), Vol. 6, tit. 28, sec. 601; Kans. Gen. Stat. Anno. (1935 Supp. 1947), c. 72, sec. 1722 and 1819; Ky. Rev. Stat. (1942 Supp. 1948), tit. XIII, sec. 158.190; Anno. Code of Md. 1951, Vol. 3, Art. 77, c. 10, secs. 139 and 197; Rev. Stat.

- of Me., 1944, Vol. I, c. 37, sec. 127; Anno. Laws of Mass. (1932 Supp. 1953), Vol. II A, tit. XII, c. 71, sec. 31; Miss. Code, 1942, tit. 24, sec. 6672; Rev. Code of Montana 1947, Vol. 4, c. 20, sec. 75-2002; Nev. Compiled Laws, 1929, Vol. 3, sec. 5754; Rev. Laws of N. H. 1942, c. 135, sec. 26; New Mex. Stat. Anno. 1941, Vol. 4, c. 55, sec. 1102; N. J. R.S. Cum. Supp. (1937 Supp. 1953), tit. 18, sec. 14-78; N. Dak. Rev. Code of 1943, tit. 15, sec. 2507; Okla. Stat. Anno. 1941, tit. 70, sec. 495; Code of Laws of S. Car. 1952, Vol. 3, tit. 21, sec. 21-23; S. Dak. Code (1939 Supp. 1952), Vol. 1, tit. 15, sec. 3103; Utah Code Anno. 1953, Vol. 5, sec. 53-1-4; Wis. Stat. 1951, tit. VI, sec. 14.57; Rev. Stat. of Wash. Anno., (1932 Supp. 1949), Vol. 6, tit. 28, sec. 4693.
33. Kans. Gen. Stat. Anno. (1935 Supp. 1947), c. 72, sec. 1819.
 34. Nev. Comp. Laws, 1929, sec. 5754.
 35. N.E.A. Research Bulletin, *op. cit.*, p. 12.
 36. Butts, *op. cit.*, p. 189.
 37. For a most thorough expression of this point of view see Butts, *American Tradition in Religion and Education*, p. 103.
 38. Const. of Miss., Art. III, sec. 18.
 39. Code of Ala., 1940, tit. 52, sec. 542; Ark. Stat. Anno. 1947, Vol. 7, sec. 80-1616; Rev. Code of Del. 1935, c. 71, sec. 2758; Fla. Stat. Anno. 1943, tit. XV, sec. 231.09; Code of Ga. Anno. 1951, tit. 32, sec. 705; Idaho Code Anno. (1932 Supp. 1947), Vol. 6, sec. 33-2705; Ky. Rev. Stat. 1948, tit. XIII, sec. 158.170 & 158.990; Rev. Stat. of Me. 1944, Vol. I, c. 37, sec. 127; Anno. Laws of Mass. (1945 Supp. 1950), Vol. 2, tit. XII, c. 71, sec. 31; N. J. Rev. Stat. (1937 Supp. 1952), c. 18, sec. 14-77; William's Tenn. Code Anno. (1934 Supp. 1943), Vol. 2, tit. 7, sec. 2343 (4). To these might be added the Rev. Code of Del. 1935, c. 71, 136, which deals mainly with Bible reading and the Lord's Prayer, but refers to no other religious instruction.
 40. Schempp v. School District, 177 F. Supp. 398 (1959) and Schempp v. Abington School District, 201 F. Supp. 815 (1962).
 41. 374 U.S. 203 (1963).
 42. Code of Ala., 1940, tit. 52, sec. 542.
 43. Ark. Stat. Anno., 1947, Vol. 7, sec. 80-1606.
 44. Butts, *op. cit.*, p. 192.
 45. See, for example, Vollmar v. Stanley, 81 Col. 276, 255 Pac. 610 (1927) and Wilkerson v. City of Rome, 152 Ga. 763, 110 S.E. 895, 20 A.L.R. 1535 (1921), Murray v. Curlett, 179 A. 2d. 698 (1962).
 46. Stevenson v. Hanyon, 7 Pa. Dist. R. 585 (1898).
 47. For a thorough yet humorous discussion of some of the essential differences of the various Bibles see Moehlman, *School and Church*, (New York, 1944).
 48. Stevenson v. Hanyon, *op. cit.*, pp. 590-91.
 49. See Konvitz, "Separation of Church and State," 14 *Law and Contemporary Problems*, 55 (1949); Brant, *James Madison: Nationalist, 1780-1787* (1948), pp. 353-54.

50. Burn's Indiana Stat. Anno. (1935 Supp. 1948), Vol. 6, tit. 28, sec. 5101; Iowa Code, 1950, tit. XII, sec. 280.9; Kan. Gen. Stat. Anno. (1935 Supp. 1947), c. 72, sec. 1722, 1819; N. Dak. Rev. Code, 1943, tit. 15, sec. 3812; Okla. Stat. Anno. 1941, tit. 70, sec. 495; Laws of Pennsylvania (1959) Act 700.
51. State ex rel. Finger v. Weedman, 55 S.D. 343, 226 N.W. 348 (1929).
52. Indiana Stat. Anno. (1933 Supp. 1948), Vol. 6, tit. 28, sec. 5101.
53. Iowa Code, 1950, tit. XII, sec. 280.9.
54. Colorado, Connecticut, Maryland, Michigan, Minnesota, Missouri, New Hampshire, New Mexico, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia, West Virginia, Wyoming, and New York.
55. Arizona, California, Illinois, Louisiana, Nebraska, Nevada, Ohio, South Dakota, Washington, and Wisconsin.
56. N.E.A. Research Bulletin, *op. cit.*, p. 36.
57. Rev. Code of Ariz. 1928, sec. 1044.
58. N.E.A. Research Bulletin, *op. cit.*, p. 36.
59. Calif. Const., Art. 8, sec. 9.
60. Calif. School Code, sec. 3.52 (Supp. 1941).
61. N.E.A. Research Bulletin, *op. cit.*, p. 36.
62. Evans v. Selma High School, 193 Cal. 54, 222 Pac. 801 (1924).
63. The American Jewish Committee and The Anti-Defamation League of B'nai B'rith, *Joint Memorandum*, "Proposed Bible Reading Legislation in California," February 20, 1953.
64. *Ibid.*, p. 1.
65. Nev. Const., Art. II, sec. 9 and sec. 10.
66. Nev. Comp. Laws, 1929, sec. 5754.
67. A. W. Johnson and F. Yost, *Separation of Church and State in the United States*, (Univ. of Minnesota, 1948), p. 65.
68. N.E.A. Report, *op. cit.*, p. 36.
69. Const. of Montana, Art. V. sec. 35.
70. N.E.A. Report, *op. cit.*, p. 35.
71. *Ibid.*, p. 35.
72. State ex rel. Dearle v. Frazier, 102 Wash. 519, 293 Pac. 1000 (1930).
73. Rev. Code of Del. 1935, c. 71, sec. 2758; Rev. Stat. of Me., 1944, Vol. I, c. 37, sec. 127; N.J. Rev. Stat. Anno. (1937 Supp. 1952), tit. 18, sec. 14 and sec. 78.
74. Miss. Code, 1942, tit. 24, sec. 6672; N. Dak. Rev. Code, 1943, tit. 15, sec. 4710.
75. Moehlman, *op. cit.*, pp. 110-11.
76. See, for example, L. A. Cook, *Community Backgrounds of Education*, (McGraw-Hill Book Co., New York, 1938); Sidney Hook, "Moral Values and/or Religion in the Schools," *Progressive Education*, 23:256-57, May, 1946.

CHAPTER 3

1. *Moore v. Monroe*, 64 Iowa 367, 20 N.W. 475, 52 Am. St. Rep. 444 (1884); *Hackett v. Brooksville Graded Dist.*, 120 Ky. 608, 87 S.W. 792, 69 L.R.A. 592, 117 Am. St. Rep. 599 (1905); *Billard v. Board of Education*, 69 Kan. 53, 76 Pac. 422, 66 L.R.A. 166, 105 Am. St. Rep. 148 (1904); *Murray v. Curlett*, 179 A. 2d. 698 (1962); *Pfeiffer v. Board of Education*, 118 Mich. 560, 77 N.W. 250, 42 L.R.A. 536 (1898); *Kaplan v. School District*, 171 Minn. 142, 214 N.W. 18, 57 A.L.R. 185 (1927); *Spiller v. Inhabitants of Woburn*, 12 Allen 127 (Mass. 1866); *Donahoe v. Richards*, 38 Me. 379, 61 Am. Dec. 256 (1854); *Lewis v. Board of Education*, 157 Misc. 520, 285 N.Y. Supp. 164 (1935), *appeal dismissed*, 276 N.Y. 490, 12 N.E. 2d. 172 (1937); *Doremus v. Board of Education*, 5 N.J. 435, 75 A 2d. 880, 342 U.S. 429 (1952); *Church v. Bullock*, 104 Tex. 1, 109 S.W. 115, 16 L.R.A. (n.s.) 860 (1908); *People ex rel. Vollmar v. Stanley*, 81 Col. 276, 255 Pac. 610 (1927); *Wilkerson v. City of Rome*, 152 Ga. 763, 110 S.E. 895, 20 A.L.R. 1535 (1921); *Carden v. Bland*, 288 S.W. 2d. 718 (1956); *Schempp v. Abington School District*, 177 F. Supp. 398 (1959).
2. *Pfeiffer v. Board of Education*, 118 Mich. 560, 77 N.W. 250, 42 L.R.A. 536 (1898).
3. *People ex rel. Vollmar v. Stanley*, 81 Col. 276, 255 Pac. 610 (1927).
4. Colo. Const. Art. V, sec. 34; Ga. Const. Art. I, It. 14; Mich. Const. Art. II, sec. 3; Minn. Const. Art. I, sec. 16, Art. VIII, sec. 3; N.Y. Const. Art. XI, sec. 4; Tex. Const. Art. I, sec. 7; Tenn. Const. Art I, sec. 3.
5. Code of Ga. Anno. 1951 tit. 32, sec. 708; Kan. Gen. Stat. Anno. c. 72, sec. 1722 & 1819 (1935 Supp. 1947); Ky. Rev. Stat. 1948, tit. XIII, 158.190; Rev. Stat. of Me. 1944, Vol. I, c. 37, sec. 127; N.J. Rev. Stat. (1937 Supp. 1952), c. 18, sec. 14-78; Md. Code (1957) Art. 57, sec. 203.
6. Code of Ga. Anno. 1951, tit. 32, sec. 705; Ky. Rev. Stat. 1948, tit. XIII, sec. 158.170 & 158.990; Rev. Stat. of Me. 1944, Vol. I, c. 37, sec. 127; N.J. Rev. Stat. (1937 Supp. 1952), c. 18, sec. 14-77.
7. Kan. Gen. Stat. Anno. (1935 Supp. 1947), c. 72, sec. 1722 and 1819.
8. Anno. Laws of Mass. 1945 (1950 Supp.), Vol. 2, Title XII, Ch. 71, sec. 31; Tenn. Code Anno. sec. 49-1307 (4).
9. Iowa Code 1950, tit. XII, sec. 280.9.
10. 47 Am. Jur. 448.
11. *State ex rel. Weiss v. District Board*, 44 N.W. at 973.
12. *Church v. Bullock*, 109 S.W. at 117.
13. *Ibid.*, 109 S.W. at 118.
14. 255 Pac. at 616.
15. 285 N.Y. Supp. at 170.
16. F. Swancara, "The Colorado Bible Case," 21 *Lawyer and Banker* 164 (1928).
17. 110 S.E. at 899.
18. 109 S.W. at 117.

19. *Ibid.* at 118.
20. 214 N.W. 19.
21. *U. S. Stat. at Large*, Foreign Treaties, VIII, 155.
22. 214 N.W. at 19.
23. *People ex rel. Ring v. Board of Education*, 92 N.E. at 253; *Board of Education v. Minor*, 23 Ohio St. at 239 and 245.
24. 77 N.W. at 252.
25. *Ibid.*, at 254.
26. *Ibid.*, at 262.
27. 20 N.W. at 476.
28. *Ibid.*, at 476.
29. 285 N.Y. Supp. at 167.
30. *Ibid.*, at 168.
31. 12 Allen (Mass.) at 129.
32. 61 Am. Dec. at 272.
33. *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943).
34. 61 Am. Dec. at 267.
35. *McGowan v. Maryland*, 366 U.S. 420 (1961); *Gallagher v. Crown Kasher Super Market*, 366 U.S. 617 (1961); *Braunfeld v. Brown*, 366 U.S. 599 (1961); *Two Guys from Harrison-Allentown, Inc. v. McGinley*, 366 U.S. 582 (1961).
36. 87 S.W. at 794.
37. 61 Am. Dec. at 265.
38. 110 S.E. at 904.
39. 214 N.W. at 22-23.
40. 214 N.W. at 23.
41. Swancara, *op. cit.*
42. 81 Col. 276, 255 Pac. 610 (1927).
43. Swancara, *op. cit.*, p. 166.
44. 12 Allen (Mass.) at 128.
45. 76 Pac. at 423.
46. 214 N.W. at 18.
47. 157 Misc. 520, 285 N.Y. Supp. 164 (1935).
48. 76 Pac. at 423.
49. 12 Allen (Mass.) at 129.
50. *Nessle v. Hum*, 1 Ohio N.P. 140 (1894).
51. 61 Am. Dec. at 258.
52. *Ibid.*, at 271.
53. 109 S.W. at 118.
54. *Hart v. Board of Education*, 2 *Lanc. Law Rev.* at 351, (1885).
55. 285 N.Y. Supp. at 174.
56. 87 S.W. at 794.
57. 61 Am. Dec. 270.
58. 255 Pac. at 616.
59. *Evans v. Selma High School*, 193 Cal. 54, 222 Pac. 801, (1924).
60. 222 Pac. at 802.
61. 77 N.W. at 257.
62. *Ibid.*, at 255.
63. 104 Tex. 1, 109 S.W. 115, 16 L.R.A. (n.s.) 860 (1908).
64. 81 Col. 276, 255 Pac. 610 (1927).

65. 255 Pac. at 614.
66. 214 N.W. at 22.
67. 255 Pac. at 618-20.
68. *Ibid.*, at 618.
69. 214 N.W. at 22.
70. *Wilkerson v. City of Rome*, *op. cit.*
71. *Doremus v. Board of Education*, 5 N.J. 435, 75 A. 2d. 880, 342 U.S. 429 (1952).
72. 159 Wash. 519, 293 Pac. 1000, 284 U.S. 573 (1931).
73. N.J. Rev. Stat. (1937) 18:14-77.
74. 5 N.J. 435, 75 A. 2d. 880 (1951).
75. 75 A. 2d. at 882 ff.
76. 343 U. S. at 312.
77. *Ibid.*, at 313.
78. *Ibid.*, at 435.
79. *Ibid.*, at 435.
80. 262 U.S. 447, 486 (1923).
81. 343 U.S. at 316.
82. *Tudor v. Board of Education of Rutherford*, 14 N.J. 31 (1953).
83. For a detailed discussion evaluating the rationale of the court in the Tudor case and comparing it to that in the Doremus case, see: R. F. Cushman, "The Holy Bible and the Public Schools," 40 *Cornell L. Rev.* 475 (1955).
84. *Carden v. Bland*, 288 S.W. 2d. 718 (1956).
85. 288 S.W. 2d. at 719.
86. Article I, Section 3 of the Tennessee Constitution provides:

"That all men have a natural and indefeasible right to worship almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship or to maintain any minister against his consent; no human authority can in any case whatever, control or interfere with the rights of conscience; and that no preference shall be given by law to any religious establishment or mode of worship."
87. 288 S.W. 2d. at 724.
88. 245 Ill. 334, 92 N.E. 251 (1910).
89. *Murray v. Curlett*, 179 A. 2d. 698 (1962).
90. *Ibid.*, at 699.
91. *Ibid.*, at 700.
92. *Ibid.*, at 701.
93. *Ibid.*, at 702.
94. 81 S. Ct. 1680.
95. 74 S. Ct. 686 (1954).
96. 179 A. 2d. at 704.
97. 179 A. 2d. at 708.
98. 366 U.S. at 441-42.

CHAPTER 4

1. *People ex rel. Ring v. Board of Education*, 245 Ill. 334, 92 N.E. 251, 29 L.R.A. (n.s.) 442 (1910); *Herold v. Parish Board*, 136 La. 1034, 68 So. 116 (1915); *State ex rel. Freeman v. Scheve*, 65 Neb. 853, 91 N.W. 846 (1902); *Board of Education v. Minor*, 23 Ohio St. 211 (1872); *State ex rel. Finger v. Weedman*, 55 S.D. 343, 226 N.W. 348 (1929); *State ex rel. Clithero v. Showalter*, 159 Wash. 519, 293 Pac. 1000 (1930); *State ex rel. Dearle v. Frazier*, 102 Wash. 369, 173 Pac. 35 (1918); *State ex rel. Weiss v. District Board*, 76 Wis. 177, 44 N.W. 967 (1890); *Schempp v. School District of Abington*, 177 F. Supp. 398 (1959).
2. 276 N.W. 348 (1929).
3. Research Bulletin of the National Education Association, *The State and Sectarian Education*, Vol. 24, No. 1, 1946, p. 26.
4. 76 Wis. 177, 44 N.W. 967 (1890).
5. 92 N.E. 251, at 252-53.
6. *State ex rel. Dearle v. Frazier*, 102 Wash. 369, at 370.
7. 23 Ohio St. 211, at 247.
8. 92 N.E. 251, at 256.
9. 23 Ohio St. 244.
10. 44 N.W. 981.
11. *Ibid.*, 976.
12. *Ibid.*, at 981.
13. 23 Ohio St. 239.
14. *Ibid.* at 245.
15. 92 N.E. at 253.
16. 102 Wash. 369, 173 Pac. 35 (1918).
17. *People ex rel. Ring v. Board of Education*, 245 Ill. 344, 92 N.E. 251, 29 L.R.A. (n.s.) 442 (1910), Justices Hand and Cartwright dissenting.
18. *State ex rel. Finger v. Weedman*, 55 S.D. 343, 226 N.W. 348 (1929), Justices Sherwood and Brown dissenting separately.
19. 226 N.W. at 367-69.
20. 68 So. at 119.
21. 44 N.W. at 973.
22. *Ibid.*, at 972.
23. 68 So. at 121.
24. 92 N.E. at 255.
25. 44 N.W. at 973.
26. 102 Wash. 369, 173 Pac. 35 (1918).
27. Const. of Washington, Art. 1, sec. 2.
28. 102 Wash. at 374.
29. *Ibid.*, at 379.
30. 44 N.W. at 975.
31. 92 N.E. at 253-55.
32. 91 N.W. at 848.

33. *Ibid.*, at 848.
34. 68 So. at 117.
35. 92 N.E. at 255.
36. 226 N.W. at 349-51.
37. 68 So. 116.
38. 44 N.W. at 975.
39. 23 Ohio St. at 244.
40. 92 N.E. at 254.
41. 23 Ohio St. at 248.
42. *Ibid.*, at 248.
43. 91 N.W. at 847.
44. 102 Wash. at 385.
45. 44 N.W. at 976.
46. 226 N.W. at 351.
47. 92 N.E. at 256.
48. *Ibid.*, at 255.
49. 68 So. at 121.
50. 92 N.E. at 257.
51. 76 Wis. 177, 44 N.W. 967 (1890).
52. 44 N.W. at 973.
53. 23 Ohio St. 211 (1872).
54. 102 Wash. 369, 173 Pac. 35 (1918).
55. 159 Wash. 519, 293 Pac. 1000 (1930).
56. 23 Ohio St. at 237.
57. 102 Wash. 369, 173 Pac. 35 (1918).
58. 102 Wash. at 378.
59. 159 Wash. 519, 293 Pac. 1000 (1930).
60. 102 Wash. 369, 173 Pac. 35 (1918).
61. 293 Pac. at 1001-02.
62. 23 Ohio St. at 249-50.
63. 255 Pac. at 618.
64. 44 N.W. at 975.
65. 92 N.E. at 252.
66. *Ibid.*, at 256.
67. State ex rel. Finger v. Weedman, 55 S.D. 343, 226 N.W. 348 (1929).
68. Schempp v. Abington School District, 177 F. Supp. 398 (1959).
69. The Pennsylvania Statute at issue, (24 Pa. Stat. School code 15-1516) specifically provides:

"At least ten verses from the Holy Bible shall be read . . . without comment at the opening of each public school for each school day, by the teachers in charge: provided, that where any teacher has other teachers under and subject to her direction then the teachers exercising such authority shall read the Holy Bible, or cause it to be read as herein directed.

If any school teacher, whose duty it shall be to read the Holy Bible, or cause it to be read, shall fail or omit so to do, said school teacher shall upon charges preferred for such failure or omission

and . . . before the board of school directors of the school district be discharged."

70. 177 F. Supp. 398 at 401.
71. The court was especially concerned with this legal concept in light of certain Supreme Court decisions. See: *County of Alleganey v. Meshuda Company*, 360 U.S. 185 (1959); *Harrison v. NAACP*, 360 U.S. 167 (1959); *Louisiana Power and Light Company v. City of the Thibodaux*, 360 U.S. 25 (1959).
72. 347 U.S. 483 (1954).
73. 177 F. Supp. at 405.
74. *Ibid.*, at 406.
75. *Ibid.*, at 407.
76. *School District of Abington v. Schempp*, 364 U.S. 298 (1960).
77. 201 F. Supp. 815 (1962).
78. *Ibid.*, at 818.
79. *Ibid.*, at 820.
80. *School District of Abington v. Schempp and Murray v. Curlett*, 374 U.S. 203 (1963).

CHAPTER 5

1. 76 Wis. 177, 44 N.W. 967 ff. (1890).
2. 162 Wis. 482, 156 N.W. 477 ff. (1916).
3. *Ibid.*, at 480.
4. *Ibid.*, at 479.
5. *People ex rel. Ring v. Board of Education*, 245 Ill. 92 N.W. 259, 29 L.R.A. (n.s.) 442, 19 Ann. Cas. 220 (1910).
6. *North v. Trustees of the University of Illinois*, 137 Ill. 296, 27 N.E. 54 (1891).
7. 27 N.E. at 55.
8. 28 N.E. at 26.
9. *St. Hedwig's Industrial School v. Cook County*, 289 Ill. 432, 124 N.E. 629 (1919); *Dunn v. Chicago Industrial School*, 280 Ill. 613, 117 N.E. 735 (1917).
10. 141 A. 2d. 903 (1961).
11. *Knowlton v. Baumhover*, 182 Iowa 691, 166 N.W. 202, 5 A.L.R. 841 (1918); *Wright v. School District*, 151 Kan. 485, 99 P. 2d. 737 (1940); *Williams v. Stanton School District*, 173 Ky. 708, 191 S.W. 517 (1917); *Richter v. Cordes*, 100 Mich. 278, 58 N.W. 1110 (1894); *Harfst v. Hoegen*, 349 Mo. 808, 163 S.W. 2d. 609, 141 A.S.R. 1136 (1942); *State ex rel. Public School No. 6 v. Taylor*, 122 Neb. 454, 240 N.W. 573 (1932); *Dorner v. School District No. 5*, 137 Wis. 147, 118 N.W. 353 (1908); *Zeller v. Huff*, 55 N.M. 501, 236 P. 2d. 949 (1951); *Miller v. Cooper*, 56 N.M. 355, 244 P. 2d. 520 (1952).
12. 182 Iowa 69, 166 N.W. 202, 5 A.L.R. 841 (1918).
13. 166 N.W. at 212.
14. Iowa Code, 1950, tit. XII, Sec. 280.9.

15. 166 N.W. at 204 ff.
16. 5 A.L.R. 851.
17. *Moore v. Monroe*, 64 Iowa 367, 20 N.W. 475, 52 Am. St. Rep. 444 (1884).
18. 166 N.W. at 212.
19. *Zeller v. Huff*, 55 N.M. 501, 236 P. 2d. 949 (1951).
20. *Miller v. Cooper*, 56 N.M. 355, 244 P. 2d. 520 (1952).
21. 236 P. 2d. at 968.
22. 56 N.M. 355, 244 P. 2d. 520 (1952).
23. 244 P. 2d. at 521.
24. *Ibid.*, at 520.
25. *Harfst v. Hoegen*, 349 Mo. 808, 163 S.W. 2d. 609, 141 A.L.R. 1136 (1942).
26. 163 S.W. 2d. at 614.
27. *Ibid.*, at 614.
28. *Dorner v. School District No. 5*, 137 Wis. 147, 118 N.W. 353 (1908).
29. Wisconsin Const. Art. I, Sec. 18.
30. 118 N.W. at 353-54.
31. *Ibid.*, at 354.
32. *Ibid.*, at 354-55.
33. *New Haven v. Torrington*, 132 Conn. 194, 43 A. 2d. 455 (1945), *Millard v. Board of Education*, 121 Ill. 297, 10 N.E. 669 (1887); *State ex rel. Johnson v. Boyd*, 217 Ind. 348, 28 N.E. 2d. 256 (1940); *Crain v. Walker*, 222 Ky. 828, 2 S.W. 2d. 654 (1928).
34. *Millard v. Board of Education*, 121 Ill. 297, 10 N.E. 669 ff. (1887).
35. 10 N.E. at 671.
36. *New Haven v. Torrington*, 132 Conn. 194, 43 A. 2d. 455 (1945).
37. *State ex rel. Johnson v. Boyd*, 28 N.E. 2d. at 256.
38. *State ex rel. Johnson v. Boyd*, 217 Ind. 348, 28 N.E. 2d. 256 (1940).
39. *Gerhard v. Heid*, 66 N.D. 444, 267 N.W. 127 (1936); *State ex rel. Johnson v. Boyd*, 217 Ind. 348, 28 N.E. 2d. 256 (1940); *New Haven v. Torrington*, 132 Conn. 194, 43 A. 2d. 455 (1945).
40. *Gerhard v. Heid*, 66 N.W. at 459, 267 N.W. at 135 (1936).
41. *Hysong v. School District*, 164 Pa. 629, 30 Atl. 482 (1894).
42. *Commonwealth v. Herr*, 229 Pa. 132, 78 Atl. 68 (1910).
43. Pennsylvania Acts of 1895, Public Law No. 395.
44. 229 Pa. 132, 78 Atl. 68 (1910).
45. *O'Conner v. Hendrick*, 184 N.Y. 421, 77 N.E. 612, 7 L.R.A. (n.s.) 402 (1906); *Knowlton v. Baumhover*, 182 Iowa 691, 166 N.W. 202, 5 A.L.R. 841 (1918); *Zeller v. Huff*, 55 N.M. 501, 236 P. 2d. 949 (1951).
46. Oreg. Comp. Laws Ann., Sec. 111-2106, 2109 (1940); Neb. Rev. Stat. 79-1403, 1404 (1943).
47. *Milwaukee Journal*, Nov. 23, 1952, State News Section, p. 8. For a thorough discussion of this situation, see William Boyer, Jr., "Religious Education of Wisconsin Public School Pupils," Part I, 1953 (March), *Wis. L. Rev.* 213.

48. Torpey, W. G., *Judicial Doctrines of Religious Rights in America*, (Chapel Hill, N. Car., 1948), p. 260.
49. State ex rel. McCollum v. Board of Education, 333 U.S. 203 (1948).
50. *Zorach v. Clauson*, 343 U.S. 306 (1952).
51. Nicholas Murray Butler, *Liberty, Equality, Fraternity*, (New York, 1942), pp. 145, 147.
52. A. P. Stokes, *Church and State in the United States*, Vol. II, p. 525.
53. *Ibid.*, at 506-7.
54. From "Report of the Committee of Week Day Religious Education," (m.d.) transmitted by the Reverend C. W. Brown, its Chairman, p. I, quoted from Stokes, *op. cit.*, Vol. II, p. 506.
55. See Stokes, *op. cit.*, Vol. II, p. 507.
56. A. Johnson, *Legal Status of Church and State Relationships in the United States*, (Minneapolis, 1934), pp. 143, 145.
57. 333 U.S. at 207-9.
58. Stokes, *op. cit.*, Vol. II, p. 516. See also Vashti McCollum, *One Woman's Fight*, (New York, 1951).
59. *Churchman*, Feb. 15, 1946.
60. People ex rel. McCollum v. Board of Education, 396 Ill. 14, 71 N.E. 2d. 161 (1947).
61. People ex rel. Latimer v. Board of Education, 349 Ill. 228, 68 N.E. 2d. 305, 167 A.L.R. 1467 (1946).
62. 71 N.E. 2d. at 168.
63. *Churchman*, Jan. 1, 1948.
64. 333 U.S. at 211, 212.
65. *Ibid.*, at 212.
66. *Ibid.*, at 216.
67. *Ibid.*, at 215.
68. *Ibid.*, at 231.
69. *Ibid.*, at 233-36.
70. *Ibid.*, at 255-56.
71. *New York Times*, Nov. 21, 1948.
72. See J. O'Neill, *Religion and Education Under the Constitution*, (New York, 1949).
73. *Commonweal*, Feb. 18, 1949.
74. Stokes, *op. cit.*, Vol. II, at 522.
75. See in particular, E. S. Corwin, "The Supreme Court as the National School Board," 14 *Law and Contemp. Prob.* 3; Murray, "Law, or Prepossession," 14 *Law and Contemp. Prob.* 23 (1949); Owen, "The McCollum Case," 22 *Temple L. Q.* 159 (1948).
76. See Stokes, *op. cit.*, pp. 504-5.
77. People ex rel. Lewis v. Graves, 245 N.Y. 195, 156 N.E. 663, (1927).
78. Lewis v. Spaulding, 193 Misc. 66, 85 N.Y. Supp. 2d. 682, (Sup. Ct. 1948), *Appeal withdrawn*, 299 N. Y. 564, 85 N.E. 2d. 791 (1949).

79. *People ex rel. Latimer v. Board of Education*, 394 Ill. 228, 68 N.E. 2d. 305, 167 A.L.R. 1467 (1946).
80. *Gordon v. Board of Education*, 78 Cal. App. 2d. 464, 178 P. 2d. 488 (1947).
81. The term "released time" here is used synonymously with "dismissed time." The practice complained of in New York is an example of "dismissed time" as was defined earlier.
82. "Constitutionality of the N.Y. Released Time Program," 49, *Col. L. Rev.* 836, 842 (1949).
83. See D. Fellman, "Separation of Church and State," 1950, *Wis. L. Rev.* 426, 473. Defendants' motion to change venue or dismiss was overruled in *Zorach v. Clausen*, 86 N.Y. Supp. 2d. 17 (S. Ct. 1948), *Aff'g*, 87 N.Y. Supp. 2d. 639 (App. Div. 1949); motion for leave to appeal granted, May 2, 1949, 89 N.Y. Supp. 2d. 232 (App. Div. 1949), In *Zorach v. Clausen*, 90 N.Y. Supp. 2d. 750 (S. Ct. 1949), the Greater New York Coordinating Committee on Released Time was permitted to intervene.
84. 303 N.Y. 161; 100 N.E. 2d. 463 (1951).
85. 343 U.S. at 306.
86. 100 N.E. at 465.
87. *Ibid.*, at 467.
88. *Ibid.*, at 467-68.
89. *Lewis v. Graves* 245 N.Y. 195, 156 N.E. 2d. 663 (1927). This case has as one of its major issues, the question of Bible-reading exercises in the public schools.
90. 100 N.E. at 470.
91. *Ibid.*, at 471.
92. *Dennis v. U.S.* 341, U.S. 494, 508.
93. 100 N.E. at 471. It should be noted that Judge Desmond holds a decided minority view. Our history is replete with multitudinous examples of the exercise of religion being restricted by state and national action. See Torpey, *op. cit.*, Chap. 2, and Stokes, *op. cit.*, Vol. II, pp. 733-40; Vol. III, Chap. XXI, XXII, XXIII.
94. 100 N.E. at 476.
95. *Ibid.*
96. 343 U.S. 306 (1952).
97. *Ibid.*, at 311.
98. *Ibid.*, at 312.
99. *Ibid.*, at 313.
100. *Ibid.*, at 314.
101. *Ibid.*, at 311. It is noteworthy that appellants contended they should have been allowed to prove that this program was actually administered in a coercive manner. The New York Court of Appeals, however, refused to grant trial on this issue. See 306 U.S. 311, Note 7.
102. *Ibid.*, at 316.
103. *Ibid.*, at 319, 320.
104. *Ibid.*, at 320-21.

105. *Ibid.*, at 321-22.
106. *Ibid.*, at 324-25.
107. 82 S. Ct. 1261 (1962).
108. See Chapter 6, pp. 248 ff.
109. See 18 Misc. 2d. 659, 191, N.Y.S. 2d. 453.
110. 268 U.S. 652 (1925).
111. See 10 N.Y. 2d. 174, 218 N.Y.S. 2d. 659; 176 N.E. and 579.
112. 82 S. Ct. 1264.
113. *Ibid.*, at 1266.
114. *Ibid.*, at 1267.
115. *Ibid.*, [Italics mine].
116. *Ibid.*, at 1268.
117. *Ibid.*, at 1269.
118. *Ibid.*, at 1269.
119. *Memorial and Remonstrance against Religious Assessments*, II Writing of Madison 183, at 185-86.
120. *Ibid.*, at 1270.
121. 14A 333 U.S. 203.
122. 82 S. Ct. at 1273.
123. 343 U.S. 306.
124. *Engel v. Vitale*, 82 S. Ct. at 1273.
125. 330 U.S. 1.
126. See 67 S. Ct. at 529-30.
127. 82 S. Ct. at 1274.
128. *Ibid.*, at 1276-77.
129. *Ibid.*, Note 4, at 1276.
130. *Ibid.*, at 1272.
131. The New York Times, lead editorial, June 27, 1962; the New York Herald Tribune, June 27, 1962.
132. The New York Times, July 1, 1962.
133. The Jewish News, July 6, 1962.
134. The New York Times, July 1, 1962.
135. Miami Military Institute v. Leff, 220 N.Y. Supp. 799 (1926).
136. Cincinnati v. Minor, 23 Ohio St., 211, 13 Am. Rep. 233 (1872).
137. 220 N.Y. Supp. at 810.
138. This appears to be a somewhat questionable theory of history, particularly if applied to the settlement of New England. See V. Parrington, *Main Currents in American Thought*, (New York, 1930), pp. 16-50, and M. Curti, *The Growth of American Thought*, (New York, 1951), pp. 50-55.
139. State ex. rel. Atwood v. Johnson, 170 Wis. 251, 176 N.W. 224 (1920).
140. 176 N.W. at 228.
141. Watchtower Bible and Tract Soc. v. Los Angeles County, 30 Cal. 2d. 426, 182 P. 2d. 178 (1947).
142. 182 P. 2d. at 181.
143. *Ibid.*, at 182.
144. Brown v. Orange County Board, 128 So. 2d. 181 (1960).
145. *Ibid.*, at 185.

146. 8 *The Writings of Thomas Jefferson* (Washington ed. 1861) p. 113.
147. *Lewis v. Allen*, 159 N.Y. Supp. 807 (1957).
148. U.S.C. Title 36, Chapter 10, Sec. 172, 36 U.S.C.A. Sec. 172.
149. N.Y. Laws (1956) Ch. 177, Sec. 802.
150. Article 1, Section 3 of the New York Constitution provides: "The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious beliefs; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state."
151. *Dickman v. School District*, 366 Pac. 2d. 533 (1962).

CHAPTER 6

1. *Milwaukee Journal*, December 16, 1952.
2. *Ibid.*
3. *Capital Times*, December 18, 1952.
4. *Ibid.*
5. "The State, Schools and Sects," *Life*, 33 VI:36; Dec. 1, 1952; Protestant critics might contend that this is a somewhat slanted view.
6. W. Herberg, "The Sectarian Conflict Over Church and State," *Commentary*, 14:450, Nov., 1952.
7. Notably H. P. Van Dusen, of Union Theological Seminary. He wrote the tract *God in Education*, (New York, 1951), which attacks secularism in the schools.
8. See the editorial "Christ in American Culture," *Life*, 33 VI:16, Dec. 29, 1952, for a further discussion of religion versus secularism, particularly in American universities. For similar views by Luce publications see, "Argument for the Court," *Time*, 57:55, Mar. 26, 1951; "Replace the Keystone," *Time*, 57:78, May 14, 1951; "Wall Can Be Too High," *Time*, 58:62, July 23, 1951; "Bible in the Schools," *Time*, 56:71, Oct. 30, 1950.
9. A. P. Stokes, *Church and State in the U. S.*, Vol. II, p. 567. This conclusion is bitterly attacked in Wm. McManus' "Church, State and Dr. Stokes," *Commonweal*, 55:41, April 18, 1952. Father McManus, in reviewing these volumes, states "Even in 1774 lay members of the church were not denied their right to read the Bible," p. 44. Note also M. D. Howe, in 64 *Harvard L.R.* 170, criticizing Dr. Stokes for treating the Catholic position too leniently.
10. P. Blanshard, *American Freedom and Catholic Power*, (Boston, 1949), p. 77.
11. *Ibid.*, p. 83. For a most recent work of Blanshard in this field see: *God and Man in Washington*, (Boston, 1960).
12. J. O'Neill, *Catholicism and American Freedom*, (Harper & Brothers, New York, 1952), p. 212.

13. *Ibid.*, pp. 212-13.
14. A. Baer, "On Reading," *Commonweal*, 51:34-36, Oct. 21, 1949.
15. *Ibid.*, p. 36.
16. "U. S. Catholics Honor the Bible," *America*, 88:481, Jan. 31, 1953.
17. See Chapters 3 and 4, *Supra*.
18. H. Beale, *A History of Freedom of Teaching in the Public Schools*, (Charles Scribner's Sons, (New York, 1946), pp. 97-99 and 213-18.
19. R. J. Gabel, *Public Funds for Church and Private Schools*, (Catholic University of America, Washington, D.C., 1937), p. 439.
20. *Ibid.*, p. 442.
21. See "Statement of Catholic Bishops on Secularism and Schools," *N.Y. Times*, Nov. 16, 1952.
22. "Yale vs. Harvard," *Commonweal*, 56:285, June 27, 1952.
23. Stokes, *op. cit.*, Vol. II, p. 567.
24. *America*, 36:469, Feb. 26, 1927.
25. A. S. Will, *Life of Cardinal Gibbons*, (E. P. Dutton & Co., New York, 1922), Vol. I, p. 478.
26. *America*, 36:78-79, Nov. 6, 1926.
27. *America*, 36:78, Nov. 6, 1926.
28. *America*, 35:366-67, July 31, 1926.
29. See in particular: A. Freemantle, "Either-Or," *Commonweal*, 49:461, Feb. 18, 1949; "Secularism," *Commonweal*, 47:187, Dec. 3, 1948; "Religion and the Schools," *Commonweal*, 54:373, July 27, 1951; "Church-State: A Fresh Approach," *America*, 88:292, Dec. 13, 1952; "A Hymn for a Prayer in Our Schools," *America*, 88:143, Nov. 8, 1952; "That Wall of Separation and the Public School," *Catholic World*, 173:252, Jan. 1951; W. W. Butler, "No Lamb of God in School," *Catholic World*, 167:203-11, June, 1948.
30. See: "Protestants Point at Secularism in Education," *Commonweal*, 49:389, Jan. 28, 1949; "Protestants on Secularism," *Commonweal*, 57:296, Dec. 26, 1952; "Church-State: A Fresh Approach," *America*, 88:292, Dec. 13, 1952; "Sectarian Conflict," *Commonweal*, 57:249, Dec. 12, 1952.
31. See for example: "To Spite His Face," *Commonweal*, 49:435, Feb. 11, 1949, "Sectarian Conflict," *Commonweal*, 57:249, Dec. 12, 1952; "Church-State: A Fresh Approach," *America*, 88:292, Dec. 13, 1952.
32. "To Spite His Face," *Commonweal*, 49:435, Feb. 11, 1949.
33. See, for example: James O'Neill, *Religion and Education Under the Constitution*, (New York, 1949); R. F. Drinan, "The Supreme Court and Religion," *Commonweal*, 56:554, Sept. 12, 1952.
34. R. F. Drinan, "The Supreme Court and Religion," *Commonweal*, 56:554, Sept. 12, 1952; "A Matter of Tradition," *Commonweal*, 56:133, May 16, 1952; "Religion and the Schools," *Commonweal*, 54:373, July 27, 1951.
35. *Burstyn v. Wilson*, 343 U.S. 493 (1952). See also, "The Miracle Decision," *Commonweal*, 56:235, June 13, 1952.
36. Statement by Catholic Bishops on "Secularism and Schools," *New York Times*, Nov. 16, 1952.

37. *New York Times*, March 17, 1953.
38. Stokes, *op. cit.*, Vol. II, p. 567.
39. *Christian Century*, 43:652, May 20, 1926.
40. "Proposed Bible Reading Legislation in California," *Joint Memorandum of the American Jewish Committee and the Anti-Defamation League of B'nai B'rith*, Feb. 20, 1953.
41. *Ibid.*, p. 1.
42. *Jewish Daily Bulletin*, March 15, 1925.
43. *Churchman*, August, 1947.
44. *The Jewish News*, July 6, 1962.
45. *Ibid.*
46. L. Pfeffer, "Religion and the Public Schools," *Churchman*, Jan. 15, 1948.
47. M. R. Konvitz, "Whittling Away Religious Freedom," *Commentary*, 1:10, June, 1946.
48. Will Herberg, "The Sectarian Conflict Over Church and State," *Commentary*, 14:450, Nov., 1952.
49. See R. A. Billington, *Protestant Crusade*, (New York, 1938); and Stokes, *op. cit.*, Vols. I and II.
50. Stokes, *op. cit.*, Vol. II, p. 571.
51. *Forum*, 7:63, March, 1889.
52. J. H. Seelye, *Bibliotheca Sacra*, 13:740, Oct., 1856.
53. Deets Pickett, *Leaflet Number 135*, Board of Temperance, Prohibition and Public Morals of the Methodist Episcopal Church, 100 Maryland Ave. N.E., Washington, D. C. (n.d.).
54. *Milwaukee Journal*, April 18, 1953.
55. In an interview with the author, June 6, 1953.
56. In an interview with the author, June 6, 1953.
57. C. P. Taft, "Religion and the Public Schools," *Christian Century*, 69:944-46, Aug. 20, 1952.
58. Mr. Taft presents no concrete suggestion as to how this agreement is to be achieved.
59. For similar statements presenting plans for Bible reading and religious exercises in the public schools see: H. E. Fosdick, "Our Religious Illiterates," *Readers Digest*, 42:97-100, Feb., 1949; P. N. Elbein, "Religion in the State Schools," *Christian Century*, 69:1061-63, Sept. 17, 1952; "Denies Public Schools are Irreligious," (Editorial), *Christian Century*, 70:99, Jan. 28, 1953.
60. "Religion in Public Education," *Christian Century*, 66:231-33, Feb. 23, 1949.
61. Text in *New York Times*, December 13, 1952, p. 17.
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CHAPTER 7

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CHAPTER 8

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CHAPTER 9

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