1946

Book Review (reviewing Morris R. Cohen et al., The Faith of a Liberal: Selected Essays (1946))

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his book will be sought primarily as a reference by those who wish to find what the law
is on a particular point. For this purpose, the elaborate table of contents and index
will be of service, and the excellence and completeness of the discussion of every point
will assure many users.

QUINCY WRIGHT*

Pp. 471. $3.75.

Unless the reader is already familiar with Mr. Cohen's meanings for the words
faith and liberal, the depth, richness, and delight of this collection of his essays cannot
altogether be anticipated from its title. The collection consists of some fifty-five papers
varying in length from two to thirty pages and varying in subject matter sufficiently
to suggest the range of Mr. Cohen's mind and interests. All but four of the pieces have
been published before but in widely scattered places over the past thirty years, and it
is in the nature of a public service to have had them collected here for us.

There is enough of law here for those who would insist on an intimate connection
with their special field. Thus, we have memorial essays on Cardozo, Brandeis, and
Holmes, who is a particular hero of Mr. Cohen; we have a study in constitutional law;
some remarks on the Sacco-Vanzetti case; a legally sophisticated analysis of the
Bertrand Russell case; and, of course, the effective review of Mr. Arnold's Folklore of
Capitalism.

But, like the title, such an enumeration does not do justice to the catholicity of Mr.
Cohen's interests. It is sometimes said that a good book is really a conversation be-
tween author and reader. That, I think, goes to the root of the appeal of this book; it
is simply mellow, wise, generally wonderful conversation. And it is conversation which
lights up corners of human interest from the technical difficulties of Spinoza's concep-
tion of God to debunking the Magna Charta; from the dilemma of philosophy in the
modern curriculum to whether one should turn Communist; from the weaknesses of
Frazer's anthropology to baseball. In fact there is everything here but a special the-
ory of Hamlet and even on that score we are reminded: "That men's thoughtless or im-
pulsive acts are always wiser than their reasoned conduct is hardly shown, even in the
case of Hamlet."

It is Spinoza with his serenity and his intellectual love of God who appears on these
pages as Mr. Cohen's chief hero, and liberalism for Mr. Cohen appears as the quality
of mind of the Spinozas and Socrates. Mr. Cohen, too, is throughout an intellectual
gadfly, consistently and delightedly stinging us out of our complacent generalizations,
whether from law, economics, metaphysics, art, or biology. It is of Mr. Cohen's liberal-
ism to remind us repeatedly of the pathetic and permanent finitude of human knowl-
edge and of the infinitude of human ignorance and yet to insist that the seeking of
rational explanations is one of the best businesses for man. And again it is liberalism in
his sense to face frankly the considerable and permanent amount of evil in human life
and yet to retain and to inspire a zest for living. We may perhaps suspect by this time
that liberalism for Mr. Cohen has become, in effect, wisdom, and wisdom, "as Sophocles
said long ago, is a major part of happiness."

A special word about the wit which seems an integral part of the wisdom. We are

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enriched with the old Chinese proverb that the first result of any war is that the adversaries exchange vices, and reminded of the man who wanted to unite Heaven and Hell by combining the best features of each. To the suggestion that all this intellectual activity is perhaps unnecessary since some men attain bliss through ignorance, "we reply that success in a lottery is no argument for lotteries." And we are reminded of Hegel, while the Battle of Jena was raging on his doorstep, writing his *Phenomenology* which "for good or evil will last for many years." We are told that "after all, the useful has no intrinsic value." And in an essay written in 1919 on philosophy in wartime: "And when people begin to admonish me that if everyone did as I did, etc., I answer that humanity would probably perish from the cold if everyone produced food, and would certainly starve if everyone made clothes or built houses."

Finally, in one of the concluding essays there is an admonition that has perhaps special relevance today for those in law and in the social sciences: "He who wishes to preach to those in the market place must see more than the market place."

**Harry Kalven, Jr.*


This is the eighth edition of a book which, first published in 1920, has long been accepted as one of the most useful commentaries on the American Constitution. The last previous edition appeared in 1941. The intervening period has been overwhelmingly preoccupied with the fact of war. And since, as Corwin says, in wartime "interpretation of the Constitution falls much more largely to the political branches of the government than to the judiciary," considerable attention is given in this new edition "to executive and legislative acts illustrative of the war power and suggestive of its effect both on private rights and constitutional structure."

Professor Corwin is not disposed to be too critical of wartime infringement of normal constitutional standards. As he says, "Total War is itself a highly justifying, not to say compulsive circumstance, in the presence of which judicial review is apt to be properly self-distrustful, and hence ineffective." And so he apparently hesitates to criticize the Supreme Court for failing to declare illegal the army's evacuation of Japanese residents from the West Coast, though he expresses his own skepticism as to the necessity for such measures. He believes that the destroyer deal with England violated several statutes, but was sanctioned by public opinion and later congressional action. He disapproves of President Roosevelt's threat on Labor Day, 1942, to disregard certain statutory provisions unless Congress repealed them by the following October 1, but adds that "any candid person must admit the possibility of conditions arising in which the safety of the republic would require the waiving of constitutional forms." He expresses no opinion on the use of presidential seizure powers in the *Montgomery Ward* case, though referring to Judge Sullivan's "informative" opinion; the reversal of this decision by the circuit court came too recently to be noted in this book.

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2 United States v. Montgomery Ward & Co., 58 F. Supp. 408 (Ill., 1945), reversed on appeal; see note 1 supra.