much to stimulate the researches of Blum and Kalven. It is good to know that catalyzers like Director are at large in American university life. Now, if Aaron Director or his colleague, F. A. Hayek, will only find the author to rewrite Tawney's *Religion and the Rise of Capitalism* and *Equality* from a new point of view, we really will be getting somewhere. The future opens before us; let us get to work.

JOHN CHAMBERLAIN*

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None of the freedoms guaranteed by the Bill of Rights has been so thoroughly studied as has freedom of religion. Only with respect to this freedom does the scholar find bibliographical riches. To the layman this may seem paradoxical; for, since the Constitution provides for the separation of church and state and for freedom of religion, and prohibits the state from invading the precincts of the church, what need is there to say more? Does not the First Amendment settle everything? The answer is that the First Amendment is as much of a "settlement" as are the commandments of the Decalogue—"Thou shalt not ..." Constitutional prohibitions have a way of generating a great number and variety of attempts at circumvention as well as outright and flagrant violations. The constitutional "Thou shalt not," addressed to the federal and state governments, is only an appeal to self-restraint. There is a wall of separation between church and state, but there is nothing that can stop people from trying to climb over the wall, or to catapult stones over it, or to bore holes in it, or to march around it and try to make it fall as they make a great noise with trumpets of rams' horns and with a great shout. The record shows that "Something there is that doesn't love a wall."

The most thorough study of that record until recently was Carl Zollmann's *American Church Law*, first published in 1917 and revised in 1933. In 1950 this work was in a sense displaced by Anson Phelps Stokes' *Church and State in the United States*, a monumental work in three volumes with close to three thousand pages. These works are for the rare specialist. Then there are a number of smaller monographs for the scholar, like the books by Johnson and Yost, Torpey, Cobb, Butts, and Sweet. Finally, there are the books that are important as statements of a point of view, books that are written as tracts for the times, like those by Dawson, Moehlman, Thayer, Bower, O'Neill, and Parsons. What has been missing is a book that would combine the virtues of Stokes, Sweet, and Moehlman: a book based on sound scholarship, yet written in a style that would not repulse the non-specialist; a book that does not hesitate to debate a point, but one that gives both sides of the argument; a book that does not fear to state
the author's conclusions, but in which the conclusions are based on reasons that are explicitly stated and carefully examined.

This need now has been generously supplied by Leo Pfeffer in his *Church, State, and Freedom*. Here is a work that is at one and the same time a scholar's book and a tract for the times. It is eminently readable, yet it does not sacrifice the highest standards of sound scholarship. It is argumentative, yet it is angelically fair. It is a big book, yet it knows nothing of boredom. It reflects not merely learning, not merely the knowledge of what is in other scholars' books, but the author's rich day-by-day living experience with cases and problems as he got to know them in the busy offices of the Commission on Law and Social Action of the American Jewish Congress. It is a book for the lawyer in his office, for the student of public affairs in his study, for every man and woman who seeks an understanding of some of the most controversial, even explosive, issues of our time.

The book organizes a great mass of materials in a clearly articulated order. First it provides a summary, in about 160 pages, of the relations between church and state in ancient and modern history, a description of the relations as they obtain today in countries other than the United States, a review of the relations in the colonial period in America, and the origins of the religion clause in the First Amendment, and its meaning. Next, in about 330 pages, the book covers such topics as state aid to religion and state intervention in church affairs, and the problems relating to public education (including Bible-reading and released-time). In the last 150 pages the book considers such problems as those that relate to the conscientious objector, the missionary work of Jehovah's Witnesses, the special claims of Christian Scientists, and the custody and adoption of children. In almost every instance the topic is treated against a background of history; relevant sociological data are provided when they can help the reader understand the difficulties; the views of proponents and of opponents are summarized; and a resolution is attempted in terms of stated premises.

The author brings a freshness and an untainted honesty to a multitude of problems and topics, like the Sunday laws, the famous *Melish* case, the child-benefit theory stated in several Supreme Court cases, the *de minimis* test, chaplains in the army, and *Zorach v. Clauson*. Believing in the principle of separation, Mr. Pfeffer criticizes the decision in the *Zorach* case. It is difficult to explain the decision, he says, "in terms other than the increasing four-year campaign against the *McCollum* principles and the justices who propounded them." He agrees, however, with Justice Frankfurter that the *McCollum* principles have not been disavowed by the Supreme Court and that they may again be honored in the observance. "In short," says Mr. Pfeffer, "it may be said that the *Zorach* decision has breached but not demolished the wall of separation between church and state, and that it is probable that future courts will repair rather than widen that breach."

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1 343 U.S. 306 (1952).  
Yet Mr. Pfeffer is no purist. For example, he believes that chaplains in the armed forces may even be necessary "under the constitutional guarantee of freedom of conscience." For a soldier is deprived of the opportunity to go to the church of his own choice; the government has the duty to furnish him, insofar as it can do so, "a substitute in the form of a traveling church." Tantalizingly he says that so, too, "much of the exemption that religion enjoys under tax laws may likewise be justified under the 'free exercise' clause." These instances illustrate the approach of the author: he thinks in terms of principles, but never forgets that principles have limits and margins and shadows, and that when a principle seems to contradict common sense, it is best to sit up and count a hundred.

One ends the book with a feeling of deep respect and gratitude for the author. One feels also a heightened regard for the work of the Commission on Law and Social Action, for it must have been out of the felt needs and work of this important civil liberties agency that the book had its origin. Finally, one ends the book with the conviction that, as the author says, "religion has achieved in the United States a high estate unequalled anywhere else in the world" under our constitutional system of the separation of church and state and freedom of religion—for which we say: laus Deo!

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Sir Alan Patrick Herbert is the enfant terrible of the British Isles. He was, until the position recently was abolished, an Independent Member of Parliament for Oxford University. His activities in that distinguished House included the introduction of a Marriage Bill which ultimately became the Matrimonial Causes Act of 1938 and achieved the impossible by reforming the English law of divorce. They also included the laying of an information against certain fellow members of the House for selling liquor without a license, which resulted in a decision¹ in King's Bench that the august precincts in which the offense occurred were beyond the jurisdiction of any court of law.

He is the author of fiction of some note; both The Water Gypsies and Holy Deadlock, the novel which finally broke the back of the divorce laws, are well worth anyone's trouble. He has also written innumerable comic operas, revues, skits, and bits of light verse, doggerel and otherwise. Whenever a pompous head is uplifted, he has been there to smite it down. Since 1924 he has been one of the leading lights on the staff of Punch.