THE GAG ON TEACHING

The story of the new restrictions by law on teaching in schools; and by public opinion and donors on colleges.

The record since the war,—the longest in American history.

AMERICAN CIVIL LIBERTIES UNION
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DO YOU KNOW?

That in the Decade Since the War

1. More laws have been passed interfering with teaching in public schools than in all our previous history.

2. More college professors have been dismissed or disciplined because of their views than in any other decade in our history.

3. Meaningless, formal "patriotic exercises," flag-saluting and conventional instruction in the Constitution in public schools are required by law.

4. Special oaths of loyalty to the government, not required of other public officers, are exacted from teachers in some states.

5. History text-books have been revised, to make past history square with today's prejudices.

6. Teachers' unions are generally opposed and in some cases outlawed.

7. More student papers and liberal clubs in colleges have been censored than in any previous decade.

8. Fundamentalists in three states have outlawed the teaching of evolution in all state-supported schools—and secured that result by regulation in many others.

9. Reading of the Protestant Bible in the public schools is now permitted by law in almost half the states in violation of constitutional provisions for separation of church and state or against sectarian teaching in public schools.
The Gag on Teaching

MOST of us do not realize how extensive are the inroads on freedom of teaching both in schools and colleges since the war. More laws interfering with the school curriculum have been passed than in all the years preceding; more teachers have been dismissed for their views; more propaganda for conventional patriotism and religion has colored education.

This little pamphlet summarizes the facts. It is a description free of editorial bias other than the general principle that teaching should be left to teachers with minimum interference by school-boards or trustees and NONE AT ALL BY LEGISLATURES.

This pamphlet holds with educators that the great essential to education is freedom—freedom in presenting and studying all the facts, and freedom of teachers to believe as they see fit and to express their beliefs like other citizens. It holds that, when for any reason this freedom is curtailed,—real education itself is crippled.

The professed objects of our educational system have always been freedom from propaganda for private interests, liberty for teachers outside their classrooms, and the training of children without reference to any economic dogma. It is a condition dangerous to these objects which this pamphlet exposes. The restrictions on teaching in our public schools relate to our basic institutions and beliefs—religion, patriotism and the economic order.

During the hysteria of war, the pattern for interference with education was set, and majority dogmas became firmly entrenched. The dogmas of conventional patriotism developed first as part of the war propaganda, evidenced in the laws for the teaching of the Constitution, flag-saluting, special oaths of loyalty from teachers, and the revision of history textbooks. Then came the efforts of the Ku Klux Klan and the Fundamentalists in the name of Protestantism to outlaw evolution, compel the reading of the Bible (Protestant version) and, in one state, to ban all private (meaning Catholic) schools.

The private utility interests improved the tendency by using the schools and colleges for their propaganda against public ownership, through a nation-wide revision of text-books, by lectures, and by subsidizing professors. The professional patriots and military organizations
have injected themselves into the fight for conventional patriotism, against pacifist and liberal teachers and speakers before student groups, and in cooperation with the War Department for military training in high schools and colleges.

Teachers' unions have been fought as "un-American." In the colleges many professors have been dismissed or disciplined for their views on economics, politics and sex, or their activities as citizens in strikes and in politics. Student liberal clubs often suffer censorship of the speakers and subjects they desire to hear.

The tendencies to restrict freedom of teaching can be fought only by constant agitation, repeal of the present restrictive laws, opposition to specific measures and cases of discrimination and by the growth of teachers' unions to protect teachers' liberties.
Legislative Restrictions on Teaching in Public Schools

Establishing Religion

THE STATE SUPREME COURT of South Dakota, holding void a statute permitting the Bible to be read in schools, said: "This country was . . . settled by men and women . . . with fervent religious convictions who were driven from their mother country by persecution because of these beliefs. They are responsible for the guarantees appearing in the constitutions of the United States and the several states of the Union. They knew by actual experience the evils of governmental control in matters of religion, and therefore sought to secure in this country a religious freedom never before enjoyed in any country. . . ."

And yet, the descendants of these people have turned about and deprived themselves of the religious freedom their fathers sought. They have outlawed the theory of evolution in several states; in others they have forced on all children the reading of the Protestant Bible, in another have ordered the "Ten Commandments of the Christian religion" to be placed on the walls of all schools.

Anti-Evolution Laws

THE AGITATION against the teaching of evolution, started in 1921 by the Fundamentalists, first took the form of bills in southern legislatures outlawing in tax-supported schools the teaching of the theory that denies "the Bible story of the divine creation of man or holds to the idea that man is descended from a lower order of animals."

In the eight years between 1921 and 1929, thirty-seven anti-evolution bills were introduced in 20 state legislatures, chiefly in the south and west. Anti-evolution laws were passed in three states (Tennessee, 1925, Mississippi, 1926, and Arkansas, 1928, by popular vote). In Oklahoma an anti-evolution measure, passed in 1923 as an amendment to the free text-book law, was repealed with that law in 1926. The Florida and Texas legislatures adopted resolutions against such teaching.

Immediately after the passage of the first anti-evolution law in Tennessee the American Civil Liberties Union, in order to get the issue
into the courts to test its constitutionality, published an offer in Tennessee newspapers to finance the defense of any teacher violating the law. The famous anti-evolution trial at Dayton in 1925 was the result, with John Thomas Scopes, a high-school teacher, as the willing martyr, and William Jennings Bryan and Clarence Darrow as the chief opposing lawyers. Scopes was convicted and fined $500. He appealed to the State Supreme Court, which upheld the law on the ground that the court has no right to interfere if the legislature thinks that "by reason of popular prejudice, the cause of education and the study of science generally will be promoted by forbidding the teaching of evolution in the schools."

With the obvious object of preventing an appeal to the United States Supreme Court, the state court ruled that the fine had been improperly imposed, and thus reversed the conviction. The Civil Liberties Union has sought a test case under the Arkansas statute, in order to carry the issue to the United States Supreme Court, so far without success.

When the Fundamentalists failed to secure further state legislation they turned to other methods.

1st. Revision of text-books to eliminate all reference to the evolutionary theory. Pressure has been brought to bear on publishers and authors so that in many states only those books are used which conform to Fundamentalist beliefs. In Texas and a number of other states the word "development" is used instead of "evolution." Many publishers have instructed their authors to omit discussion of the subject entirely. Others are publishing two editions of their text-books, one for districts under Fundamentalist control and the other outside.

2nd. Influencing state and local school boards to adopt anti-evolution rulings. In the face of rejection by the Mississippi legislature in 1925 of an anti-evolution bill (passed in 1927), the State Superintendent of Education assumed the power to bar the teaching of evolution in the schools. In California the State Board of Education has ruled that it may be taught in the schools "only as a theory." One local school board in the state interpreted the ruling to apply to private conversations between pupils and teachers. A resolution of the Texas Text-Book Commission provides for the appointment of a revision committee to censor text-books and eliminate "objectionable" features.

3rd. Removal from the libraries of books teaching evolution.
4th. Attacks on teachers. Teachers have been forced to resign for teaching evolution.

The net effect of the anti-evolution agitation has been to restrict the teaching of the theory in science courses in the secondary schools and small colleges, chiefly in the north and northwest. In state universities teaching has been little, if any affected.

**Bible-Reading Laws**

Even more successful than the attempt to impose "Genesis as a state religion," has been the movement to compel by legislation the reading of the Bible in the public schools. In practical effect this is equivalent to attempting to impose the Protestant religion on the children of the schools, for the King James version is almost invariably the Bible selected. Any Bible-reading in the schools was once generally held to be contrary to the provision for complete separation of church and state.

The movement did not spread until after the war, and developed under the influence of the Klan and the Fundamentalists. Reference to the map on page 9 shows that in 12 states Bible reading is compulsory, in 24 it is permitted, either expressly or by construction. Most of the laws require that the Bible shall be read every school day; some specify the amount to be read. Many contain stringent provisions for their enforcement. From teacher up to superintendent, school officials are required to certify each month that the law is being obeyed. Violation is punishable by loss of salary, revocation of license, fine or imprisonment.

No explanation for this reversal of a national policy maintained for over a century (save in five states) is offered, except the drive of organized religious groups. They have taken advantage of the general tendency since the war to buttress majority dogma by law.

These Bible-reading laws are opposed by Catholics, Jews, free-thinkers and by many liberal Protestants as contrary to religious freedom. The courts, to which the issue has been repeatedly carried, differ sharply on their constitutionality. Sixteen state supreme courts have passed on them. No case has yet reached the United States Supreme Court, but two are on their way. In four states the supreme courts have held such laws unconstitutional,—Illinois, South Dakota, Louisiana and Wisconsin. Twelve supreme courts have upheld the laws.
Laws Establishing Religion in Public Schools

- **Laws compelling or permitting reading of the Bible**: 18 states.
- **States with compulsory laws marked c—with date.**
- **Prohibiting the teaching of evolution as contrary to the Bible**: 3 states.

**Note:** Bible-reading in schools is not forbidden in 18 more states. Practices vary in such states. In 12, Bible-reading is prohibited. Bible-reading is compulsory by rule of the District of Columbia Board of Education adopted in 1866. In one state, North Dakota, a law of 1925 requires the posting of the Ten Commandments in all school-rooms.
Opinions from the attorney-general in one state, and of the state Board of Education in another held Bible-reading unlawful, and in six more states it is simply assumed that it is unlawful and the practice ruled out by general consent.

The Supreme Court of South Dakota held that under our system of government the teaching of religion is committed to individuals and to religious non state-supported organizations, also that the primary purpose of state constitutions is to guarantee religious freedom. The Wisconsin Supreme Court, after pointing out that reading the Bible is sectarian instruction, stated that because of our compulsory school laws, those who cannot afford to send their children to private schools, are compelled to send them to schools which are, in a sense, places of worship. Both the Illinois and Louisiana Supreme Courts referred to the unfairness of the arrangement to Jews, and the former pointed out that to both Jews and to any believer in a non-Christian religion, the Bible is a sectarian book.

Against these decisions of supreme courts voiding the Bible-reading laws are these upholding them. The Nebraska Supreme Court declared that whether or not the Bible is sectarian depends entirely on its use, and the Georgia Supreme Court held the Scriptures to be non sectarian. The Texas Supreme Court practically upholds Christianity as a state religion. It says:

"... Christianity is so interwoven with the warp and woof of the state government that to sustain the contention that the Constitution prohibits reading the Bible, offering prayer, or singing songs of a religious character in any public building of the government would produce a condition bordering upon moral anarchy."

Two cases to test the constitutionality of these laws are now on their way to the United States Supreme Court—one involving a charter provision of New York City and the other brought by a group of taxpayers in the State of Washington to compel the school board to permit Bible-reading in the schools.

The Ten Commandments on the School Walls

The same inspiration which put the Bible into the schools prompted the legislature of North Dakota in 1927, to require the posting of the "Ten Commandments of the Christian Religion" (!) on the walls of every school-room in the state.
Some opposition was expressed to establishment of religion in this manner by a group of German Lutherans of the state. They held that the law was in violation of the federal guarantees of religious freedom, and that it was the only instance where state regulations recognized the Christian religion. No very strong opposition could be developed, however, as a statute in North Dakota declares: "The Bible shall not be deemed a sectarian book. . . . It shall not be excluded from any public school." Nothing came of their effort to repeal the law. The State Superintendent of Schools is enthusiastic over the achievement and advocates its extension to other states. She does not indicate what the educational or moral effect has been on the conduct of children.

Compulsory Patriotism

The teaching of patriotism is of course an entirely legitimate activity of a public school system. But to confound it with capitalism, as is too often done, is not to teach patriotism, but acceptance of the present economic system as loyalty to the United States, and all dissent from it as disloyalty. Much of the teaching of patriotism is aimed at alleged radicalism, at pacifism and internationalism.

This religion of patriotism has evolved its ritual. Although many of the practices were developed before the war, they were not commonly made compulsory by law until after the war. Legal compulsion is the objectionable feature because it forces majority dogmas on all, without allowance for minority rights.

These laws require the display of the flag in public schools, the holding of flag exercises, the singing of prescribed patriotic songs, the teaching of patriotism and the memorizing of the Constitution and the Declaration of Independence.

Flag Saluting and Patriotic Exercises

Thirteen States require by law general patriotic exercises in the schools. In thirteen states flag-saluting ceremonies are required. In Delaware the schools are required to open each morning with flag-salute and pledge of allegiance. In Texas the superintendent of instruction must provide for the regular use of the flag in patriotic exercises to "inspire in the children of the state proper reverence and enthusiasm for the Star Spangled Banner of the greatest Republic of the world."
Compulsory Patriotism

- States Requiring Patriotic Instruction with Date of Enactment: (21)
- States Requiring General Patriotic Exercises with Date of Enactment: (13)
- States Requiring Flag Exercises with Date of Enactment: (13)
- States Requiring Special Oaths of Loyalty from Teachers with Date of Enactment: (7)
In Oklahoma a teacher who does not carry out the flag ceremonial may be fined from $10 to $500.

The flag-saluting laws have brought in several states a sharp conflict with the religious beliefs of certain small sects. For example, in the state of Washington, a nine-year-old boy, Russell Tremaine, whose parents were members of the Elijah Voice Society, a sect which does not recognize “symbols of earthly power,” refused to salute the flag in school. The boy was taken from his home by the Juvenile Court, and placed out for adoption. In other words, his parents, who had trained him to believe in the God they believed in, and to have the courage to express his belief, were to be rewarded by having him taken from them permanently. An aroused public opinion made a national issue of the case. After being held in a detention home for a year Russell was finally returned to his parents by order of another judge.

In Denver in 1926, fifty children whose parents were members of the Jehovite sect, refused to salute the flag, as the act was contrary to their religious beliefs. The school board, in spite of the compulsory education law, forbade the children to return to school unless they complied with the laws. The religion of the Jehovites does not recognize earthly courts, and consequently the parents refused to take legal action, as attorneys for the American Civil Liberties Union advised. Negotiations finally brought the school authorities around, and they allowed the children to return to school without requiring them to join in the patriotic exercises.

In Delaware and Oklahoma, Mennonite children refused to take part in flag-saluting, and were expelled by the Board of Education. In Delaware a private school was organized for the children. The boy in Oklahoma was allowed to come to school after the flag-saluting exercises had been held.

Compulsory Teaching of the Constitution

The movement to require the teaching of the Constitution in the public schools began as far back as 1857, but it was only after the war that the movement to compel the teaching of the Constitution in all schools gained real headway.

Behind the movement was (1) the American Bar Association which formulated a program “to stem the tide of radical and often treasonable
attacks on our Constitution”, recommending that “the Constitution of the United States be taught in every school”; (2) the National Security League, whose model bill was adopted in most of the 43 states; (3) the Constitution Anniversary Association; and (4) the Better America Federation, which feared for the future of the country because of “groups of free thinkers or radicals” agitating for some other form of government under which there would be “no profits . . . in business.”

Endorsement of the compulsory study of the Constitution was given by Congress in 1925 when the Senate passed a resolution recommending that this become a part of the required curriculum in every public and private school.

Under the sponsorship of these groups in two short years, thirty-one states had passed these laws, which are now in effect in 43 states.

Patriotic Instruction

The legislative requirements for teaching patriotism are either so vague or so narrow that they all boil down to dead formalities like flag-saluting. Twenty-one states have passed such laws, all during or since the war. They reflect the fear of radicalism and disloyalty current at the time. Their general purpose is to instill “into the hearts of the various pupils . . . an understanding of the United States . . . a love of country and . . . a devotion to the principles of the American government.”

The first three states to pass these laws were South Dakota, Texas and New York, in 1918. In Texas, an emergency act was passed requiring that “at least ten minutes” each day should be set aside for the teaching of “intelligent patriotism.” The South Dakota law requires an hour a week. In Arizona the “study of devotion to American institutions and ideals” is compulsory. In two states the Star Spangled Banner and America must be taught. In South Carolina the students, in order to graduate, must prove their loyalty to the Constitution. In Pennsylvania, the Superintendent of Instruction must prescribe “courses of instruction conducive of loyalty and devotion to state and national governments,” and in Washington, failure to teach “morality and patriotism” is ground for revocation of teachers’ certificates.

Such legislation is hard for educators to oppose for they open themselves at once to the charge of not being patriotic.
English Only Is Patriotic

As a product of the war, laws requiring the teaching of all subjects in English only and banning the teaching of foreign languages to children under the eighth grade in public or private schools are on the statute books of 29 states. The German language was the object of these prohibitions and was specifically mentioned in several states.

The constitutionality of these laws was attacked in three states, Ohio, Iowa and Nebraska, and was sustained in all of them by the state supreme courts. But the United States Supreme Court in the Nebraska case held that the statutes forbidding teaching except in English violated the liberties guaranteed by the Fourteenth Amendment and exceeded the police powers of the state. The Court said: "The protection of the Constitution extends to all, to those who speak other languages as well as to those born with English on the tongue."

Although the Supreme Court decided that such legislation was unconstitutional, the laws have not been repealed in the other states. Presumably they are not enforced. Wherever any attempt is made to enforce them, of course, this could be easily and successfully attacked.
Other Inroads on Freedom of Teaching
Not Directly Violating Civil Liberty

Religious Instruction on School Time

Religious instruction on school time is permitted by law in four states and practiced without authority of law in 30 more. In five states either the courts, the attorney generals or Boards of Education have ruled against it. Cases testing the constitutionality of the plan were brought in the courts of New York and Washington. In New York Judge Seager of the Supreme Court of Westchester county held the practice unconstitutional, unlawful and objectionable. But an exactly opposite opinion was rendered a year later by Justice J. Staley of the New York Supreme Court of Albany County, who ruled that neither the Constitution nor the law discriminates against religion. The Court of Appeals affirmed his judgment. The Supreme Court of Washington ruled that the provision giving credits for religious study outside the school was unconstitutional.

Control of History Text-Books

Ever since the World War history text-books in the schools have been the target of the patriotic censors. These included the Sons of the American Revolution, the Daughters of the American Revolution, the Descendants of the Signers of the Declaration of Independence, the Veterans of Foreign Wars, and the American Legion, which undertook the writing of an American history having the “inspiration of patriotism” and expressing on “every page a vivid love of America.”

As a result of these efforts, investigations of text-books were instituted notably in New York, Chicago and Boston. Important books were banned; laws were passed in several states. New York and Wisconsin enacted drastic laws followed by similar though less drastic legislation in eight other states. The active opposition of the faculty of Princeton University who declared that “such legislation is in direct contravention of the fundamental principles of freedom of speech and of the press” prevented the enactment of the law in New Jersey.

The net effect of the agitation against text-books too friendly to
Great Britain or lacking in “patriotism” has been to bar the use of certain history texts and to revise others. Since the agitation has died down in recent years, school boards are comparatively free to select text-books without intimidation.

**Power Trust Propaganda**

The propaganda of the public utility interests to spread the gospel of private ownership in the schools was revealed in the investigation of the Federal Trade Commission in 1928. Thousands of dollars were spent in universities for subsidies to schools of commerce, fees to professors and promotion work for text-books favorable to the utilities. That there was “a close connection between public utilities and the academic profession” was confirmed by the American Association of University Professors which undertook an investigation of the charges against members of the profession in 1930.

It is significant that after this exposure of the prostitution of the schools and colleges to the Power Trust no teacher was dismissed or disciplined. Some of them may have severed their connections by reason of policy or because of pressure by the authorities of the institution under criticism, but nothing happened remotely akin to the prompt dismissal of teachers or professors guilty of radical utterances. The public furore aroused by the exposure of this propaganda has resulted in dissolving the alliance between schools and utilities.

**Political Dictation**

A scandalous situation arose in Mississippi in 1930, where Governor Bilbo subjected the state educational institutions to a political house-cleaning. He discharged 179 faculty members, replacing them by teachers personally pleasing to him. The Governor’s action was condemned by the American Association of University Professors, the American Medical Association, the Southwestern Association of Colleges and Secondary Schools, and other educational organizations. Such open political manipulation of state institutions is rare. In more concealed form it exists in certain other states where those politically active in opposition to the party in control have been disciplined or silenced. No pretense of academic freedom can be maintained under such a regime.
Legislative Restrictions on Teachers

Teachers' Oaths of Loyalty

THE LAWS REQUIRING special oaths of loyalty from teachers force on them the uncritical acceptance of our political and economic institutions. They have resulted in intimidation, and a fear to express any but majority beliefs. No full and free discussion of the problems of American life either within or without the schools is possible on the part of many teachers. Any vigorous dissent from accepted institutions would bring about discipline or dismissal.

The public school system is on the whole autocratic and uncritical, and for that reason, must fail in arousing in students any capacity for independent judgment. The whole system is directed toward a blind acceptance of things as they are without regard to minority views.

The first laws placing special restrictions on teachers were passed in New York State by the legislature in 1917 and 1921, the last one on the recommendation of the so-called “Lusk Committee” appointed by the legislature to investigate “seditious radicalism.”

The 1917 law, passed as a result of the war hysteria and still on the statute books, provides that any teacher or employee in the public schools “shall be removed from such position for the utterance of any treasonable or seditious word, or the doing of any treasonable or seditious act or acts. . . .” The 1921 law, repealed in 1923 along with one for the licensing of private schools, provided that “applicants for teachers’ licenses must be loyal and obedient” and that “no such certificate shall be issued to any person who . . . advocated a change in the form of government of the United States or of this state, by force, violence or any unlawful means.”

The passage of these laws aroused wide-spread public protest. They were never enforced, and in 1923, under the leadership of Governor Smith, were repealed. In other states, however, the same movement which brought forth the Lusk laws in New York succeeded in writing similar legislation.

Laws similar to one or the other of the Lusk Laws given above are on the statute books today in eleven states (Idaho, Michigan, Montana,
Nebraska, Nevada, Ohio, Oklahoma, South Dakota, Tennessee, Washington, and West Virginia).

A special declaration of loyalty from teachers not required of other public officers, and also of intention "to inculcate patriotism" in their pupils is required in seven states (Colorado, Ohio, Oregon, Oklahoma, South Carolina, South Dakota and Washington). In addition to the requirement of an oath of allegiance the South Dakota law disqualifies any teacher "who shall have publicly reviled, ridiculed or otherwise spoken or acted with disrespect and contumacy toward the flag of the United States or the government of the United States and its Constitution." Applicants must satisfy the examiners of their loyalty to the United States before getting their certificates in South Carolina. Under the Ohio law teachers' certificates are granted only after an oath to "teach by precept and example respect for the flag, reverence for law and order." A new drive under the sponsorship of the Daughters of the American Revolution to pass these laws was undertaken in 1931 with the result that Washington adopted such a law.

As a result of these laws and the spirit behind them, teachers were brought to trial before school boards during the war and after it. Opponents of the draft, religious pacifists, Quakers, Socialists and economic radicals were summarily dismissed.

In New York City the gag was applied most vigorously. Numerous cases arose,—some attended by wide publicity, others disposed of without public notice. Permanent licenses were refused to teachers who admitted membership in the Communist Party, and to another who advised his class to read an article on Communism. One teacher who received the highest rating for his work was dismissed for answering questions about Russia put to him outside his classroom.

Other teachers have been penalized by refusal of promotion. Three New York teachers were so refused because of their alleged radical views. One of these stood for two years at the head of the eligible list as first assistant in history and civics. After strong public protest he received his promotion. The other two teachers have not yet received theirs.

A high school teacher in Washington, D.C., recently was threatened with expulsion because he won a prize for the definition of Socialism published in the Forum Magazine. A teacher of many years' standing in Lynn, Mass., was dismissed because of her liberal views and labor sym-
pathies, although the formal charge was “incompetency.” She was later elected to the very School Board which had dismissed her. In New Jersey the Board of Education in Woodbury, at the instigation of the American Legion, threatened to try a teacher of civics because she was an active pacifist. They were prevented only by public protest.

Restrictions on Teachers' Unions

The problem of academic freedom for teachers is bound up with the subject of their tenure of office, an issue which has occupied teachers' associations for years. Tenure laws to protect teachers against unjust dismissal have been passed in the following states under the pressure of teachers' associations: California, Colorado, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Montana, New Jersey, New York, Oregon, and Wisconsin. They provide for a reasonable notice of intention to dismiss, for a hearing on dismissal charges, and the right to counsel. In other states the boards of education and superintendents hire and fire at will.

A counter movement to modify or break these laws has gained headway, and the state courts thus far have supported the policy of greater control over teachers rather than to uphold their right to a definite status.

The first case to test the right of school authorities to ban teachers' unions arose in Cleveland, Ohio, in 1914, where some of the teachers in the public schools formed an organization similar to a union. The Board of Education called upon the members to disband and added a “yellow dog” clause to the teachers' contracts which forbade them to join a union during their employment. An injunction to restrain the Board from enforcing this rule was denied on the ground that the Board of Education has the entire control over selection of teachers and the courts have no power to review.

Shortly after this, the Supreme Court of Illinois (1916) rendered a decision in the case of 68 teachers who had been dismissed by the Chicago Board of Education for belonging to the Teachers Union, declaring that the Board of Education was within its rights in refusing to re-employ a teacher “for any reason whatsoever or for no reason at all.”

The Superior Court of the State of Washington in 1928 cited this case in a decision upholding the Seattle Board of Education's dismissal
of teachers who refused to sign a contract not to join a union. The case was carried on appeal to the State Supreme Court, and the action of the Board upheld (1930), on the ground that there was no limitation on the board’s right to employ teachers, and that this right did not interfere with a person’s constitutional right to engage in his chosen profession.

Immediately following the Court’s decision, under political pressure, the Seattle Board of Education removed the “yellow dog” provision in the contract.

Restrictions on Private Schools

Hardly less sweeping than the restrictions on public schools have been the restrictions on private schools by law. So extensive have they become in recent years that the National Catholic Welfare Conference published in 1926-7 a 64-page compilation of all the state laws affecting private schools. In the introduction to that volume, the editor says:

“There can no longer be any doubt that many legislatures consider private schools not merely a part of the educational resources of the state, but practically a part of its educational system subject to indefinite regulation and restriction. If the present tendency to make laws effective for private schools persists, a situation will gradually but inevitably arise where private elementary schools will be private only in the sense that they will be allowed to teach religion, to be supported privately and to retain direct administration.”

Practically all state laws applying to secondary schools, requiring special instruction in the Constitution, civics and patriotism, the display of the flag, and that instruction shall be in English, apply equally to private and public schools. In a few states the special oaths of loyalty to the government required of public school teachers are also required of private school teachers.

The attempt and failure of one state to abolish private schools has become history in the United States. An initiative measure in Oregon in
1922, supported by the Klan, aimed at destroying private schools by requiring all children to attend public schools only. The measure was the outstanding issue of the state campaign. The successful Democratic candidate had the support of the Ku Klux Klan and Federated Patriotic Societies, which campaigned for 100% Americanism and against Roman Catholicism. Supporting the measure were the Supreme Council of Masons, the Grand Lodge of Oregon and the Imperial Council of the Nobles and of the Mystic Shrine.

The forces of the opposition were mobilized. The Catholics organized a Civic Rights Association to fight the measure. The Lutherans, Episcopalians, Presbyterians, Seventh Day Adventists and private schools joined forces in opposition.

Immediately on the adoption of the measure by a vote of 115,506 to 103,685, a test of its constitutionality was arranged jointly by the Society of Sisters conducting a Catholic School and the Hill Military Academy. An injunction was sought to restrain the Governor and other officials from enforcing the law. The law was declared invalid by the Federal District Court and carried on appeal by the state to the United States Supreme Court.

The Supreme Court, by unanimous decision, declared the law unconstitutional, stating:

"... we think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control. ... 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."

The Gag on the Colleges

INTERFERENCE with freedom of expression in colleges, in sharp contrast to that in the public schools, is due rather to pressure from public opinion or donors than to legislative restrictions.

But though the colleges are not directly controlled by statute, they
respond to the same influences behind the laws instilling conventional patriotism and religion, namely, the influence of that part of the public from whom endowments may be expected, and to the fear of radical or pacifist propaganda. Little difference in this respect is shown between private colleges and those maintained by taxes.

The institutions freest from censorship and interference are among the privately-supported colleges, either with a tradition of liberalism or under a strong and tolerant president. On the other hand the colleges with the most numerous instances of censorship are with one exception tax-supported,—the University of Pittsburgh, the City College of Detroit, the College of the City of New York, Clark University, the University of California, the University of Pennsylvania, and the University of Ohio.

The record of cases of interference is, however, divided almost equally between private and public colleges. Some, in which no trouble has arisen, are so tightly controlled that no teachers are employed likely to raise issues, and student discussion of controversial matters in their own societies is not tolerated. In some places only “safe and sane” men are hired. In others one year contracts are made and tenure of office has been cut so that a troublesome man can be let out without raising the issue of his views. In some colleges a whole course has been eliminated or a department reorganized to get rid of too independent a teacher.

Restrictions on Professors

The chief instances in these recent years affecting academic freedom cover discharge of teachers for political activities outside of the college or for the championship of strikers; dismissals for discussing favorably in their classes such taboo subjects as Soviet Russia and Communism; for challenging inquiries into sex morality, and for attacks on local business interests.

The outstanding cases since 1925 are these:

1. Two teachers in the state Normal School at Genesee, New York, were dismissed in 1926 without a statement of cause, but apparently for their “progressive” political activities. An appeal was taken to the State Commissioner of Education, but was dropped on request of the teachers.

2. Professor John E. Kirkpatrick in 1926 was dropped from the faculty of Olivet College, Michigan, because he discussed the control
THE GAG ON TEACHING


3. Sol Auerbach was dismissed from the philosophy department of the University of Pennsylvania in 1927 for praising Soviet Russia. It was explained to him that the department felt it "incompatible for a man to take a stand on a public issue and at the same time to retain the critical state of mind necessary for research in philosophy and teaching." The University of Pennsylvania was revealed as employing a professor who drew a substantial salary as an official of the Power Trust in New Jersey. He was not dismissed.

4. Professor Wesley Maurer, of the journalism department of Ohio University, was dismissed in 1928 because he published a series of articles sympathetic to striking miners in a local paper which he conducted as a laboratory in journalism for his students. A member of the Board of the University was a powerful coal operator who objected to Professor Maurer's attitude to the strikers. At the same time, Walter Ludwig, student pastor at the University, showed signs of friendliness to the miners' cause. His contract was terminated at the end of the year and his job abolished.

5. M. F. Meyers, professor of psychology, University of Missouri, was suspended early in 1929, without pay, for a year and the following year dismissed, and H. O. DeGraff, professor of sociology and O. H. Mower, student assistant in psychology, were dismissed at once for circulating among students a sex questionnaire. The university's action was severely condemned by the American Association of University Professors.

6. Fred T. Woltman, graduate assistant in psychology at the University of Pittsburgh, secretary of the local Civil Liberties Committee, was discharged in 1929 for his activities outside the university. Because of a meeting on the Mooney-Billings case, the Liberal Club was disbanded and its two student officers expelled.

7. A professor in the department of economics at Battle Creek College charged with being a Socialist was ordered to resign or be discharged. When he refused to resign the administration backed down for fear of a student strike. They accomplished his dismissal later by discontinuing his department.

8. Prof. Herbert Adolphus Miller at Ohio State University, well-known sociologist, was refused reappointment by the Board of Trustees in 1931, because of his support of the Indian nationalist movement,
his opposition to compulsory military training, and his sponsorship of advanced causes.

Restrictions on Student Activities

In an attempt to get first-hand information as to the extent of the control of student discussion, the American Civil Liberties Union, in 1929, sent a questionnaire on the subject to over two hundred presidents of leading universities throughout the country.

Fifty-one replies were received,—sixteen from public institutions, thirty-five from private.

Twenty-one of the fifty-one presidents endorsed unqualified freedom of discussion, opposing all censorship of student meetings and speakers. Sixteen favored some form of control. The others reported that no occasion for censorship had arisen and no formal regulations existed, indicating in several instances such unwritten control as is implied in the following statement of the President of Louisiana College:

". . . There are no regulations at Louisiana College concerning the discussion of public issues by student organizations, either on or off the college premises.

"Probably in order to be entirely frank with you, I ought to say that it is possible that the reason neither of the things mentioned above have ever been necessary to be done here is because the student body of Louisiana College . . . are loyal to the Government of the United States.

"It is my judgment that if there should arise in our student body a group of people who tried to overthrow the Government that has nursed them and the God who has created and blessed them,—I say that in my judgment if such a condition had to be met, the authorities of Louisiana College would probably meet them as other college authorities have had to do."

Those who advocated freedom gave, among other reasons, that only by allowing open discussion will the students, if left to make their own decisions on social questions, decide fairly.

From the President of the University of New Hampshire came a straightforward expression for freedom of discussion in the colleges. Pres. Edward M. Lewis wrote: "Democracy depends upon agitation and education and unless we allow our young people to discuss freely and
openly any question, as lovers of and seekers after truth, we should be failing to uphold the American educational ideal.” At Dartmouth, President Hopkin’s attitude has been that it is far better to allow complete freedom of expression within the college. President Jones of Fiske University allows freedom so that his students can “maintain a constructive critical attitude toward all questions of public policy.”

Sixteen replies from public universities favored “freedom with reservations.” Typical of this group was the reply of President H. Y. Benedict of the University of Texas: “I write from the point of view of a liberal who regards the University as a training place for the future citizens of a justice- and freedom-loving country, and who, therefore, wishes students to have all the freedom they can safely use—safely meaning that they remember their duties as well as their rights.” From President Campbell of the University of California: “The University is generous in providing facilities for the discussion of subjects of the day... It could happen that prospective speakers would be denied the privileges of the campus because of their violations of the civic laws of this country or because they have treated with contempt what we may call the overwhelming attitude of the people of the United States on moral questions.”

Most of the presidents who advocated freedom “with reservations” referred to giving the students all the freedom they could “safely” use.

The Other Side

But the other side of the story was not revealed in the questionnaires. For that we go to the history of suppression and expulsion during the last few years.

The following persons were not allowed to address students of various colleges and universities—Mrs. Bertrand Russell, English author and lecturer, on a sex subject in the University of Wisconsin; Scott Nearing, economist, Arthur Garfield Hays, and Clarence Darrow, lawyers, in the University of Pittsburgh; Kirby Page, pacifist editor of “The World Tomorrow” in the University of West Virginia and in Oregon State College. The universities of Oklahoma, Wyoming, Indiana and Missouri prevented John Nevin Sayre, chairman of the Committee on Militarism in Education, from addressing their student bodies. Mr. Sayre attributes his difficulties to the influence of the Reserve Officers Training Corps.
Discussion of the case of Ella May Wiggins, textile worker killed during the Gastonia strike, before the Liberal Club of Duke University, was forbidden on the ground that the subject was "controversial."

Detroit City College speakers must not be objectionable to the Employers' Association of that city. When Roger N. Baldwin, director of the American Civil Liberties Union, and Scott Nearing addressed a college speakers' forum under the auspices of the Y.M.C.A., the employers' organization protested to the university officials. The complaisant dean thereupon denied the students use of the college hall. The students then formed the Independent Students' Association and held meetings in the assembly hall of the city library. At this point the Employers' Association brought pressure to bear on the library commissioner and the students were promptly denied use of the room. Later the Dean warned the students against incurring any more publicity. "You will jeopardize your future," he told them. Since then the college has shown some liberality in permitting the use of its auditorium for a fairly radical weekly forum not under college auspices.

At the College of the City of New York two students were suspended for their views on compulsory military drill. Discussion of the subject was forbidden in the college paper. Another student was suspended after his arrest on disorderly conduct charges for distributing handbills announcing a Communist demonstration at New York City. At the University of Minnesota 36 students were suspended for opposing military training but 24 were later reinstated when steps were taken to test the action in court.

The authorities of the University of Pittsburgh disbanded the Liberal Club of that institution for holding a protest meeting demanding the "unconditional release of Thomas Mooney and Warren K. Billings." F. E. Woltman, a faculty adviser of the club, was dismissed at the same time. "The University had adopted a highly ambitious project for expansion," says the report of the committee of the American Association of Professors, "and is dependent for funds partly on the local community and partly on the state government, in both of which the influence and peculiar point of view of certain big business and industrial interests seem to be paramount."

It was charged, at the time, that the Liberal Club incident was one of many similar ones. It was said that a professor who wanted to stump for Al Smith in the 1928 presidential campaign was given to understand that silence would be the wiser course. A professor who wanted to deliver
a radio address on the work of the Pennsylvania Tax Commission at a
time when the university was seeking appropriations from the Legisla-
ture was forced to speak on Abraham Lincoln instead. Another was
obliged to call off negotiations for writing a series of articles on a
local coal strike.

The investigating committee found that when a professor's "public
utterances" are "annoying" to the chancellor he interviews the offender
and tactfully calls him to account, and if the professor is not amenable
to friendly remonstrance he is dismissed.

Many college editors take their jobs seriously, using their publica-
tions to stimulate student thought on campus problems or controversial
questions of public interest, and have thus incurred the wrath of pussy-
footing deans and president. The Collegian, organ of the students of
Junior College, Kansas City, Mo., was suppressed, one student expelled
and four suspended for writing articles voicing student criticism of the
institution. The editors of a student publication at the University of
Washington were barred from the campus for a year for publishing an
article reflecting on Lincoln. At the University of Illinois two students
were ousted for writing an article presenting the zinc smelting industry
in an "unfavorable light." A student at the University of Missouri was
dismissed because the college paper of which he was editor contained a
reference to "sex appeal." An article considered "objectionable" by the
authorities at Rice Institute led to the dismissal of the editor of "The
Thresher," a weekly paper. In Oklahoma a student paper at the Baptist
University was suppressed because it demanded the reinstatement of
three professors dismissed for teaching evolution.

An article that was never published was the cause of the suspension
of the editorial board of the "Clark Monthly" and the summary dismissal
from Clark University of three students. President W. T. Atwood
secretly got possession of the galley proofs of the article, called to his
office the editors, who had not yet seen it, and demanded that they resign.
When they refused he expelled them from college. The student body held
a protest meeting and sent a delegation to the president to remonstrate,
but he refused to meet them.

Many college papers are strictly supervised by a faculty board of
censors. The "Newspaper" at Detroit City College was put under censor-
ship, and its editor removed after the editor-in-chief ridiculed an action
of the assistant dean.
The Struggle for Freedom of Teaching

OPPOSITION to restrictions on teaching in schools and colleges is voiced in many quarters by organizations, by the press, by men and women in public life and by many educators themselves. The only continuous organized efforts to repeal the laws, to carry test cases into the courts and to arouse public opinion, are made by the American Civil Liberties Union and the American Federation of Teachers.

Cases of discrimination against professors and instructors in public and private colleges are investigated and reported on by the American Association of University Professors, and also occasionally by the American Federation of Teachers.

Where special issues arise as in the anti-evolution and compulsory Bible-reading laws, the organizations whose interests are directly affected can be counted on to join the fight.

The American Federation of Teachers is a union organized in 1916 affiliated with the American Federation of Labor. Nearly all of its members are public school teachers, although it has members in private schools, colleges and universities. Its membership is largely concentrated in New York City, Chicago, St. Paul, Minneapolis, Atlanta, Washington, Memphis, and San Francisco. It has grown slowly because of the opposition of school boards to an association of teachers affiliated with the labor movement and also to the disinclination of teachers to regard themselves as belonging properly in the trade union movement.

The objects of the Federation are:

"1. To bring associations of teachers into relations of mutual assistance and cooperation.

"2. To obtain for them all the rights to which they are entitled.

"3. To raise the standard of the teaching profession by securing the conditions essential to the best professional service.

"4. To promote such a democratization of the schools as will enable them better to equip their pupils to take their place in the industrial, social and political life of the community."
The Federation’s activities against the new restrictions on teaching have covered the Lusk school law controversy in New York State, the history text-book censorship measures in New York, the evolution controversy in Tennessee, and numerous cases of dismissals of school and college teachers for their views. The Federation has also fought “yellow dog” contracts for teachers in the states of Illinois and Washington.

The American Association of University Professors was organized in 1915 for the specific purpose of dealing with issues of academic freedom and tenure in colleges and universities. The executive committee of the Association defined academic freedom as follows:

“The term ‘academic freedom’ has traditionally had two applications—to the freedom of the teacher and to that of the student. . . . Academic Freedom in this sense (that of the teacher) comprises three elements: freedom of inquiry and research; freedom of teaching within the university or college; and freedom of extramural utterance and action.”

The Association up to now has functioned only as an investigating body, trusting to publicity to correct the evils, but it now has under consideration the adoption of a more militant policy toward academic freedom. Although it has had the reputation of being a slow-moving body, sometimes not completing its inquiries and publishing its reports until after the issues had been forgotten, it has made three notable reports recently—on the dismissals at the University of Pittsburgh, on the circulation of a sex questionnaire at the University of Missouri, and on the propaganda of public utilities in the colleges.

The American Civil Liberties Union in 1924 appointed a special committee on academic freedom which is in agreement with the general principles of academic freedom outlined by the American Association of University Professors. It holds that outside classrooms teachers have the common rights of citizens, without interference by the school authorities with their political or economic activities or utterances. The Committee’s stated principles are:

1st. There should be no legislative interference whatever with the school curriculum. The preparation of the curriculum should be left entirely in the hands of professional educators.
2nd. Teachers should be permitted the same freedom of expression inside the classroom as is demanded by citizens outside the classroom. The free exercise of this right should not be interfered with by the authorities of the institutions which employ them.

3rd. Teachers should not be dismissed on charges involving academic freedom within the institution without trial before members of the profession, with right of counsel and appeal. Academic tenure should depend solely upon professional merit.

4th. Students should be permitted to examine and openly discuss all ideas in the search for truth. This is essential if they are to learn to judge for themselves. Granted unlimited freedom of expression, abuses would seldom occur. Checks, if necessary, should come not from censorship by the faculty but from pressure by student opinion.

The American Civil Liberties Union has taken up and fought through the issues of repressive laws wherever they could be contested, unless others were already on that job. It fought the anti-evolution laws by organizing and financing the Scopes anti-evolution case in Tennessee. It is preparing now to bring a test case in Arkansas in order to get the issue before the United States Supreme Court. The Union is also supporting a test case of the compulsory Bible reading laws. It took up and fought through the issues presented by the refusal of members of religious sects to salute the flag in public schools. It has also offered to students and teachers to take up at once any case of discrimination, dismissal or interference wherever any such issue could be raised by legal action.

What To Do?

Those who are interested in these issues of academic freedom are urged to cooperate with the Union in campaigns

1. To repeal repressive laws;
2. To bring test cases into the courts;
3. To arouse public opinion on specific cases as they arise.

Information as to how and when to act will be sent to those who sign and return the coupon on the back page.
References

Books


*Legislative Control of the Elementary Curriculum*, J. K. Flanders, Teachers College, Columbia University, 1925.

Pamphlets


*Supplement to above Bulletin*. 1928.


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Committee on Academic Freedom
American Civil Liberties Union
100 Fifth Avenue, New York City

Date

1. Send me further information as to how and when to act in your work for freedom of teaching in schools and colleges.

2. I suggest as others interested

3. Remarks:

Signed

Address

City State