

BETWEEN THE DEVIL AND  
THE DEEP BLUE SEA?

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BETWEEN THE DEVIL AND THE DEEP BLUE SEA?  
French Jewry and the Problem of Church and State

by  
Zvi Jonathan Kaplan

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FRENCH JEWRY AND THE PROBLEM  
OF CHURCH AND STATE

Zvi Jonathan Kaplan

Brown Judaic Studies  
Providence, Rhode Island

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## Introduction

The history of the Jews in modern France reflects the struggle of French Jewry to redefine its identity and to acculturate to the values of French society. Phyllis Cohen Albert notes in her seminal work on the Jewish consistories, *The Modernization of French Jewry*, "The history of Judaism in nineteenth-century France must be viewed in light of the Church-State issue in that country between the Revolution and 1905."<sup>1</sup> However, while a few historians have briefly addressed the debates among French Jews on the question of separation that arose in the wake of the Revolution of 1848,<sup>2</sup> no major study has analyzed the development of Jewish positions on the relationship between church and state from the French Revolution until the 1905 law of separation. *Between the Devil and the Deep Blue Sea?* is an attempt to fill the void.

While this concise work is primarily intended for scholars, graduate students, and advanced undergraduate students of modern Jewish and modern French history, I hope it will also appeal to the educated layperson who is interested in church–state affairs. My examination of communal debates on the relationship between church and state in France between the French Revolution and the law of separation reveals the perceptions of French Jews of their role in French civil society and how they came to terms with their social and religious status and also serves as a backdrop for an understanding of the varied interpretations of the legacy of the Revolution of 1789. With this in mind, I analyze journals, books, pamphlets, rabbinic sermons, consistorial documents, and correspondence that I discovered in the many French Jewish archival deposits in both France and the United States, government debates and legislation, and other archival materials to determine the attitude of the organized Jewish community toward the

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1. Phyllis Cohen Albert, *The Modernization of French Jewry: Consistory and Community in the Nineteenth Century* (Hanover, N.H.: Brandeis University Press, 1977), 46.

2. Salo W. Baron, "Church and State Debates in the Jewish Community of 1848," in Mordecai M. Kaplan Jubilee Volume, ed. Moshe Davis (New York: Jewish Theological Seminary, 1953), 52-56; Jonathan Helfand, "French Jewry during the Second Republic and Second Empire (1848-1870)" (Ph.D. diss., Yeshiva University, 1979), 69-75; Zosa Szajkowski, "Internal Conflicts in French Jewry at the Time of the Revolution of 1848," in *Jews and the French Revolutions of 1789, 1830, 1848* (New York: Ktav, 1970), 1063-74.

relationship between religion and state from the French Revolution until the 1905 law of separation. Some of the archival materials I analyze have been examined before but in a different context. Others, particularly in the realm of marital and divorce law, are being addressed here for the first time.

In the past, not surprisingly, many historians have tended to concentrate on the origins of the modern French Jewish experience and have focused on emancipation, the Napoleonic Sanhedrin, and the organization of French Jewry. More recently, some historians have examined the efforts of the French rabbinate to harmonize Judaism with French civic norms<sup>3</sup> and the pace of acculturation.<sup>4</sup> Specifically, Phyllis Cohen Albert and Jay Berkovitz have written extensively about the attempts of the consistories to promote the modernization of French Jews through education and to harmonize Judaism with French values through the implementation of moderate religious reforms.<sup>5</sup> Others, notably Pierre Birnbaum, have examined the extent to which Jews in government, "State Jews," personally balanced their commitments to Judaism and the Jewish community with their service to the French state.<sup>6</sup> What I believe is needed at this juncture in time is a comprehensive study of the complex interplay among all segments of the Jewish population and the community's attempt, as a whole, to come to terms with its social and religious status in the nineteenth century.

While Jeffrey Haus addresses the financial ramifications of the changing relationship between church and state on Jewish educational institutions in his examination of the tangible support that the French state provided for the regeneration of French Jewry,<sup>7</sup> his work only touches tangentially on the greater issues of the Jewish community's evolving position on the separation of church and state. Unlike Haus's dissertation, this book focuses on the attitudes of representatives of the organized Jewish community regarding a whole range of important church-state questions that arose during the nineteenth and very early

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3. Albert, *The Modernization of French Jewry*; Jay Berkovitz, *The Shaping of Jewish Identity in Nineteenth-Century France* (Detroit: Wayne State University Press, 1989); Jay Berkovitz, *Rites and Passages: The Beginnings of Modern Jewish Culture in France* (Philadelphia: University of Pennsylvania Press, 2004).

4. Paula Hyman, *The Emancipation of the Jews of Alsace: Acculturation and Tradition in the Nineteenth Century* (New Haven: Yale University Press, 1991).

5. See note 3.

6. *The Jews of the Republic: A Political History of State Jews in France from Gambetta to Vichy*, trans. Jane Marie Todd (Stanford: Stanford University Press, 1996).

7. Jeffrey Haus, "The Practical Dimensions of Ideology: French Judaism, Jewish Education and State in the Nineteenth Century" (Ph.D. diss., Brandeis University, 1997). Haus is publishing a substantially revised version of his dissertation under the title *Challenges of Equality: Judaism, State, and Education in Nineteenth-Century France* (Detroit: Wayne State University Press, 2009).

twentieth centuries rather than on the financial impact of specific church–state policies on educational institutions.

In her recent book on the development of Jewish internationalism in nineteenth-century France,<sup>8</sup> Lisa Leff examines the efforts of Jewish individuals and organizations to promote the exportation of the secular and egalitarian values of the Revolution to North Africa and the Middle East. As she notes, their attempts to shape a colonial and foreign policy tied to the revolutionary heritage rather than to the Catholic Church led them to forge alliances with French liberals and anticlericalists. *Between the Devil and the Deep Blue Sea?* focuses on Jewish positions on domestic church–state issues and thus sheds light on the extent to which such alliances transcended the foreign policy sphere. French Jews understandably wanted to export the secular revolutionary ideals that led to their emancipation, and, in this, anticlericalists were natural allies. Certainly for Adolphe Crémieux, a central figure in both our works, support for anticlericalism and state secularization mirrored support for international secularization. For others, however, especially the consistorial leadership on which I focus, there was no such correlation.

In several of his works, Pierre Birnbaum addresses the role of Jews in government during the Third Republic in promoting the secularization of the public sphere and the separation of church and state. He concludes, “A few State Jews did sometimes act as ideologues, theorizing or drafting plans for secularization: each time, however, they were men who had little sense of being part of Judaism.”<sup>9</sup> I, by contrast, do not address the positions of Jews who did not see themselves as representatives of French Jewry or did not express their views within a Jewish context. Rather, I examine the positions on church–state questions of those who saw themselves as, in some way, speaking on behalf of French Jewry, such as consistorial officials, both lay and rabbinic, and writers for Jewish periodicals. For the sake of simplicity, I refer to their positions as the positions of the organized Jewish community or Jewish positions. Despite my use of such terminology, at no point do I wish to imply that the average French Jew expressed his opinion—or indeed had an opinion—about the subject of church and state. Because of an absence of scientific polling, it is almost impossible to quantify Jewish reaction to any specific church–state measure during this period. All one can do is make assumptions based on the reports of those who, in some manner, represented French Jews and who contributed to the discussion on church–state questions. For example, when I discuss in my final chapter the exceptionally strong protests of French Jewish leaders and periodicals of a republican proposal to prohibit separate burial plots

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8. Lisa Leff, *Sacred Bonds of Solidarity: The Rise of Jewish Internationalism in Nineteenth-Century France* (Stanford: Stanford University Press), 2006.

9. Birnbaum, *Jews of the Republic*, 128.

for Jews and non-Jews, I assume that their outrage represented the views of many, if not most, affiliated Jews.<sup>10</sup>

After the French Revolution's initial outburst of anticlerical activity and the creation of a secular sphere, Napoleon and successive French governments grappled with the tenuous relationship between religion and state. During the Revolution of 1848, some revolutionaries called for an end to state subsidies for religion and even for full separation. Likewise, a debate over separation ensued among Jewish communal leaders and in the French Jewish press, an institution that, for the most part, emerged in the 1840s. In contrast to the era of the Sanhedrin, when, under pressure by Napoleon, communal leaders earlier debated the relationship between religion and state, in 1848, when the issue was revisited, representatives of the Jewish community felt they could express their sentiments more freely.

In analyzing the debates within the Jewish community regarding the relationship between church and state, several questions arise. What were the views of French Jews regarding the place of religion in the state and the place of the state within the sphere of religion? How did Europe's first emancipated Jews understand the constitutional right of religious freedom in a state that supported Judaism while, at the same time, in its Concordat with the Catholic Church, officially recognized Catholicism as "the religion of the great majority of French citizens"? Conversely, how did they respond to the attempt by the republican majority during the Third Republic to radically secularize the public sphere and to impose a moral order based on secular republican rather than religious values? I seek to determine to what extent the French state's clerical character during the Second Republic and Second Empire and the Catholic Church's consistent attempt to dominate the public sphere pushed Jews to advocate the separation of church and state. In a similar vein, I attempt to determine to what extent the state's formal recognition of Judaism and the state's anticlerical character during the Third Republic pushed them to oppose separation. Lurking in the background of all these questions is the broader issue of the extent to which the positions expressed by the representatives

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10. In his work *Shylock's Children*, Derek J. Penslar, makes a similar point with regard to the perception of Jews in modern Europe of the relationship between Judaism and economic practices. As he states, "I do not claim that the Jewish press or the hundreds of books and pamphlets produced by the subjects of this book [*Shylock's Children*] necessarily speak for the Jewish public as a whole, or even its middle-class component. Rather, as he explains, "For my purposes . . . the most useful function of any source, published or archival, is not representativeness of broad social groups so much as a representation of the economic sensibility of the Jewish activist elite and the cultural matrix in which it was formed." See *Shylock's Children: Economics and Jewish Identity in Modern Europe* (Berkeley: University of California Press, 2001), 3–4.

of French Jewry on church–state policies were pragmatic, strategic, and procedural and the extent to which they were ideological.

While I identify certain general trends in the development of Jewish positions on the relationship between church and state, this work also reveals debate within the community over specific church–state policies and the basic issue of separation. I examine which particular areas of church–state associations lent themselves to contention among Jews, which strategies they pursued, and what political alliances they formed to promote their agendas. At the same time, I seek to determine to what extent the centralized consistorial system served to constrict the range of responses of its representatives to specific church–state questions.

French Jews did not live in isolation; and so I compare Jewish attitudes toward the relationship between church and state with those of other religious groups in France. In particular, I consider the impact of Catholic attitudes regarding the proper place of religion in the public sphere on the positions of Jews toward the relationship between church and state and examine how the role and stance of the Church during the Damascus, Mortara, and Dreyfus Affairs led many Jews to fear the influence of Catholicism in the public arena. I do not want to overemphasize the Catholic-Jewish struggle, however. French Jewry did not form opinions about the church–state issue solely in reaction to Catholic domination or anti-Semitism. In general, I portray the debates of Jews on the place of religion in the state as active attempts to grapple with their complex socioreligious status. External events, whether in the guise of legislation or anti-Semitism, may have strongly influenced but did not control the Jewish mind.

The first chapter provides a historical overview of the development of the complex relationship between church and state from the Revolution of 1789 to the Revolution of 1848. I recount Napoleon's struggle to mend the relationship between religion and state shattered during the French Revolution and his decisions to recognize Catholicism, Protestantism, and finally Judaism. As I point out, by organizing Judaism on the basis of the consistorial system, Napoleon, in a sense, reincorporated the Jews only a few years after they exchanged their collective privileges for individual rights. At the same time, Napoleon entrusted the consistories with implementing the decisions of the Assembly of Jewish Notables and Sanhedrin, which he had convened to answer a series of questions regarding Judaism's compatibility with the responsibilities of French citizenship.

By proclaiming the authority of French law in civil areas, the Assembly of Jewish Notables and Sanhedrin had affirmed the compatibility between their religion and their civic duties. However, because marriage fell under the purview of French civil law as well as Jewish ritual law, which the

Assembly and Sanhedrin had preserved, it presented a unique challenge for the rabbinate when conflicts between the two systems of law arose. Based on hitherto unexamined documents, I discuss the innovative efforts of French rabbis to resolve tensions and contradictions between civil and Jewish law in the thorny area of clandestine marriages. More broadly, I show how the ironies and complexities of the relationship between church and state in a country that legally recognized Judaism as one of three official religions and also recognized Catholicism as the religion of the majority could push Jews in either direction when the question of separation arose in 1848.

In the second chapter, I first review the political events surrounding the Revolution of 1848 that brought the questions of secularization and separation to the forefront. In particular, I look at the unsuccessful initiative of Justice Minister Adolphe Crémieux to reinstitute civil divorce, which the Restoration monarchy had abolished. I examine Crémieux's personal background and his legal arguments and discuss whether his Judaism might have played a role in his legislative agenda. I then examine the positions expressed by Jewish communal leaders and the Jewish press on the question of separation. Through an analysis of these arguments, I attempt to determine whether the opponents of separation ideologically believed in a strong role for the state in the religious sphere or whether they merely viewed separation as a hindrance to their agenda of social, economic, and religious reform. Similarly, I attempt to determine whether those who sympathized with the idea of separation supported it in principle or whether they merely viewed separation as a means to undermine the authority of the consistories, whose reformist and authoritarian tendencies they opposed. Finally, I examine the shifting of attitudes of the Jewish community toward separation in response to the attempts of conservative legislators to promote Catholicism in the public sphere. This shift sheds light on the extent to which French Jewry viewed the church–state question in practical and ethnocentric terms.

The third chapter covers the period of the Second Empire, 1852–1870, and the early years of the Third Republic, 1870–1882. The support of conservative Catholic deputies for his coup d'état led Emperor Louis-Napoleon to deepen his relationship with the Catholic Church. Secularization and separation, both of which the Catholic Church consistently opposed, became dead issues. As a result, communal leaders and the Jewish periodicals turned inward and debated questions of religious reform. Although these debates did not directly address the church–state issue, they reveal a great deal about the distinctions some Jewish leaders drew between the right to liberty of conscience in relationship to the state and the right to liberty of conscience and freedom of dissent with regard to internal halakhic (Jewish legal) and communal matters.

The church–state issue became more relevant during the decline of Emperor Louis-Napoleon’s relationship with the Catholic Church in 1858–59. It came to the forefront in 1871 after the proclamation of the radical Paris Commune, whose extreme anticlerical stance frightened Jewish leaders, and again in 1876, when the more moderate anticlerical republican majority assumed power following several years of conservative rule. I examine the extent to which the organized Jewish community openly sided with anticlerical forces and their attempts to secularize the public arena, especially in the realm of education, in an era of heightened tension between the Catholic Church and the French state. I also, based on an extensive reading of documents concerning levirate marriage, discuss the internal efforts of the French rabbinate to harmonize Jewish and civil law in the wake of halakhic problems that arose from the collective naturalization of Algerian Jewry after the establishment of the Third Republic.

In the final chapter, which covers the period from 1881–82 to the law of separation of 1905, I examine the response of the representatives of the organized Jewish community to the growing radicalization of the republican majority. Once the government began to pursue more extreme measures, such as the secularization of burial plots, an act that contravened Jewish law, communal leaders had to balance more delicately their support for the republican regime with their fear of its excesses. At the same time, whenever possible, the French rabbinate attempted to harmonize Jewish law with radical legislation. As we shall see, when the government reinstituted civil divorce, an act that outraged supporters of the Catholic Church, prominent French rabbis tried to resolve the contradiction between Jewish law, which required a religious divorce to dissolve a marriage, and French law, which required only a civil divorce. Although the outbreak of anti-Semitism in Catholic clerical circles during the years surrounding the Dreyfus Affair pushed the organized Jewish community toward the anticlerical camp, support for separation, as I demonstrate, was not a given for the representatives of French Jewry.

In the conclusion, I review trends in the development of Jewish positions on the relationship between church and state. In particular, I try to determine the extent to which changes in these attitudes stemmed from evolving ideological and religious beliefs and the extent to which they stemmed from practical political and social considerations resulting from changing circumstances. Finally, I examine the larger implications that this case study has for our knowledge of modern Jewish history and of the attempts of Western Jewish communities to reformulate their positions in an age of emancipation.





## The Making of Franco-Judaism: 1789–1848

Between the Revolution of 1789 and the Revolution of 1848, the status of the three dominant religions, Catholicism, Protestantism, and Judaism, underwent many radical changes. During the course of the French Revolution, the revolutionaries crushed the Catholic Church and attempted to dechristianize France and to replace organized religion with the cult of the Supreme Being. By 1848, the government officially recognized all three major religions and provided them with financial support. An examination of this gradual shift from persecution of the Catholic Church to substantial accommodation with religion will help to explain how Jews and others responded when the relationship between church and state was again challenged during the Revolution of 1848. This chapter will examine the evolving relationship between religion and the state, with an emphasis on Judaism.

Prior to the Revolution and the creation of the modern state, France and Catholicism were intertwined. France was long considered to be the eldest daughter of the Catholic Church, and the French monarch was said to rule by divine right. The tension inherent between these two concepts is readily apparent. If France is the “eldest daughter of the church,” then its subjects owe their allegiance to the pope. Yet, if the king rules by “divine right,” then he commands the primary allegiance of his subjects. It was therefore unclear as to who could claim the supreme authority over the Catholics of France.

Under the Concordat of Bologna of 1516, Pope Leo X and King Francis I reached an agreement on the division of religious power. The king would nominate all higher clergy, and the pope would formally consecrate his choices, although he reserved the right to reject truly unqualified candidates. In return for the confirmation of the king’s nominees, the pope was entitled to the first year of revenue from each benefice. The Concordat of Bologna, however, did not resolve all the tensions between the monarchy

and the pope. In 1764, Louis XV expelled the Jesuit order, which promoted the absolute authority of the pope over the Gallican (French) Church.<sup>1</sup> Nonetheless, the Concordat did provide for a *modus vivendi* between the rulers of France and the church in Rome. It was not until the Concordat of 1801 that Napoleon would reach a new accommodation with the Catholic Church, based, to a certain extent, on the Gallican tradition.

The pope and the monarchy argued about who possessed greater religious authority in France because they both understood the deep bond between the majority of the French people and Roman Catholicism. The life of the average individual revolved around the Catholic festivals and sacraments. No king ever questioned the official status of Catholicism; and Protestantism and Judaism were, at most, tolerated in the Ancien Régime (Old Regime). In 1685, Louis XIV banned Protestantism in most of France by revoking the Edict of Nantes, which had granted toleration to Calvinists in 1598. In the years following the revocation of the Edict of Nantes, approximately 150,000 Protestants fled, and as many as another 200,000 continued to worship secretly. Few converted to Catholicism. Only in Alsace, where their religious privileges were protected by the Treaty of Westphalia, could Protestants, mostly Lutherans, worship openly. In 1787, Louis XVI finally restored toleration and allowed thousands of Protestants to emerge from the underground.<sup>2</sup>

Prior to the French Revolution, one cannot speak of one organized Jewish community in France.<sup>3</sup> There were four disparate Jewish communities in France, and the law treated them differently. Most Ashkenazi Jews lived in the northeast and came under French rule when France annexed the German provinces of Alsace-Lorraine in the seventeenth century. Few spoke French, and they were virtually indistinguishable from the Jews across the Rhine. Despised by and isolated from the non-Jewish population, they could not purchase land, engage in most professions, or move

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1. The Jesuits had already been expelled from Portugal in 1759, and they were to be expelled from Spain in 1767.

2. William Doyle, "Politics: Louis XIV," in *Old Regime France: 1648–1788*, ed. William Doyle (New York: Oxford University Press, 2001), 179–81; André Encrevé, *Les Protestants en France de 1800 à nos jours* (Paris: Stock, 1985), 21–24.

3. On the history of the Jews in France during the pre-Revolutionary, Revolutionary, and Napoleonic areas, see Arthur Hertzberg, *The French Enlightenment and the Jews* (New York: Columbia University Press, 1990); Paula Hyman, *The Jews of Modern France* (Berkeley: University of California Press, 1998); Esther Benbassa, *The Jews of France*, trans. M. B. DeBevoise (Princeton, N.J.: Princeton University Press, 1999); Jean-Jacques Becker, "A la vielle de l'émancipation," in *Les Juifs de France: De la Révolution française à nos jours*, ed. Jean-Jacques Becker and Annette Wieviorka (Paris: Liana Levi, 1998); Simon Schwarzfuchs, *Napoleon, the Jews and the Sanhedrin* (Boston: Routledge & Kegan Paul, 1979); and Simon Schwarzfuchs, *Du Juif à l'israélite: Histoire d'une mutation (1770–1870)* (Paris: Fayard, 1989).

freely from one area to another. Most survived by engaging in money-lending and peddling. Though Louis XVI abolished a humiliating body tax in 1784, many still suffered from poverty. On the eve of the French Revolution, the Ashkenazim of Alsace-Lorraine numbered approximately twenty-seven thousand.

There were profound differences between the Ashkenazi community of Alsace-Lorraine and the Sephardi community of southwest France. In the wake of the Inquisition, Spanish and Portuguese Conversos (Jewish converts to Christianity) immigrated to Saint-Esprit, Bordeaux, and other areas in the southwest. Recognized as members of the “Portuguese Nation,” the crown granted the immigrants generous economic and residential privileges. The new immigrants learned French rapidly, mingled with their Christian neighbors, and participated in general communal affairs. Most integrated into the middle classes and earned their livelihood through commerce and trade. Gradually, the members of the “Portuguese Nation” began openly to assert their Jewish identity (although they were more lax in their observance of Jewish law than the Ashkenazim). In 1723, Louis XV specifically referred to them as Jews when he renewed their extensive privileges. On the eve of the French Revolution, these acculturated Jews numbered approximately five thousand. In addition to the Sephardi center in the southwest and the Ashkenazi center in the northeast, there was also a smaller community of 2,500 Jews in the papal territories of the Comtat Venaissin and Avignon in the south. At least one thousand Jews also lived in Paris, but they did not constitute a recognized community.<sup>4</sup>

The French Revolution had an impact on adherents of all religions and profoundly affected the status of Catholicism in France.<sup>5</sup> Although the Gallican (French) Church had achieved a degree of independence from Rome, it was not independent enough for the revolutionary government. On August 26, 1789, the National Assembly proclaimed the “Declaration of the Rights of Man and Citizen,” which challenged Catholicism’s status as the religion of the state. Article I of the Declaration states, “Men are born free and remain equal in rights. Social distinctions can be based

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4. As Frances Malino notes in her review of *The Jews of Modern France*, by Paula Hyman (*AJS Review* 26, no. 2 [2002]: 395), previous estimates of five hundred are too low.

5. On the Catholic Church during the Revolutionary and Napoleonic eras, see François Furet, *Revolutionary France: 1770–1880*, trans. Antonia Nevill (Oxford: Blackwell, 1992); Malcolm Crook, ed., *Revolutionary France: 1788–1880* (New York: Oxford University Press, 2002); Adrien Dansette, *Religious History of Modern France*, vol. 1, *From the Revolution to the Third Republic*, trans. John Dingle (New York: Herder & Herder, 1961); Owen Connelly, *The French Revolution and the Napoleonic Era* (New York: Harcourt, 2000); and Laura Mason and Tracey Rizzo, eds., *The French Revolution: A Document Collection* (Boston: Houghton Mifflin, 1999).

only on public utility." At least in theory, the state could no longer deny civil and political rights to any Frenchman because of his religion. Article X emphasizes that "no one should be disturbed on account of his opinion, even religious, provided their manifestation does not upset the public order established by law." Because the Declaration was a statement of principles rather than of law, in reality, it did not grant rights because it was not legally binding. It paved the way, however, for the enfranchisement of Protestants in 1789 and of Jews in 1790–91 and the creation of a new French identity separate from the Catholic religion.

The National Assembly was not content merely to revoke the privileged status of the Catholic religion in France. It actively sought to suppress the Catholic Church and to transform its status from a state religion into just another government bureaucracy. In November 1789, a few months after its "Declaration of the Rights of Man and Citizen," the National Assembly voted to confiscate and then sell church land to help pay for the new government. Furthermore, on July 12, 1790, the National Assembly passed the Civil Constitution of the Clergy, which dealt a severe blow to the French church. The Civil Constitution firmly placed the church under the authority of the French state. In its attempt to limit the powers of and rivalries between the large French provinces, the National Assembly redivided France into eighty-three departments, breaking up the provinces into smaller units and weakening local authority. The National Assembly forcibly attempted to harmonize the administrative structure of the Catholic Church with the new centralized administrative system. Title I of the Civil Constitution decreed that each department had to form a single diocese, reducing the number of bishops from approximately 135<sup>6</sup> to 83. Any bishop in a diocese eliminated by the Civil Constitution lost his bishopric.

If Title I of the Civil Constitution presented a hardship for many bishops and confirmed the decision of the state to harmonize the administrative structures of the state and the church, Title II severely limited the independence of the French church. It required the election of bishops and parish priests by taxpaying citizens, including nonbelievers, and even prohibited the papal confirmation of newly elected bishops. Furthermore, every priest had to take an oath of allegiance to the nation, the law, and the king, and to support the constitution. Though the Civil Constitution provided for government salaries for priests and bishops to replace the revenue lost by the confiscated church lands, this decision too was calculated to further the transformation of the church into a tightly controlled government bureaucracy.

The passage of the Civil Constitution by the National Assembly led to an outcry among churchmen and split the Catholic Church in two. Half of

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6. The exact number is in dispute.

French priests and the majority of French bishops refused to take the oath of allegiance. As a result, the National Assembly stripped these refractory or nonjuring clergy of their offices and subjected many to persecution. Those clergymen who did take the oath, the constitutional or juring clergy, were regarded as illegitimate by both Rome and the French refractory clergy, and the validity of their sacraments was placed in doubt.

Although the confiscation of church land and the Civil Constitution severely interfered with the independence of the Catholic Church in France, the real attack on Catholicism was yet to come. The outbreak of war in early 1792 and the insurrection of the radical revolutionary Paris Commune propelled the National Convention, which had replaced the National Assembly, to abolish the Constitutional Monarchy, formally established in 1791, and to proclaim a Republic on September 22, 1792. The National Convention found Louis XVI guilty of treason, and he was guillotined on January 21, 1793. In the days preceding the establishment of the Republic, revolutionary mobs massacred more than a thousand political prisoners, including many refractory priests, and the authorities made no real effort to protect the victims or to bring their attackers to justice. Instead, during its final days, the National Assembly intensified its efforts to secularize France and to weaken the embattled church's control over the lives of its citizens. Indeed, on the very day the Assembly dissolved itself, September 20, 1792, it passed legislation authorizing civil marriage, civil divorce, and secular burial rites.

Although the creation of the Republic provided a modicum of order to the violence and chaos, the status of Catholicism in the new Republic progressively worsened as official terror replaced mob violence. In the midst of both a revolution and a war with the surrounding nations, the revolutionaries, so they claimed, could not tolerate any internal dissent. As Robespierre asserted on February 5, 1794:

If the motivating force of popular government in peacetime is virtue, the motivating force of popular government in revolution is both virtue and terror: virtue, without which terror is disastrous; terror, without which virtue is powerless. Terror is nothing other than prompt, stern, inflexible justice; terror thus issues from virtue; it is less a particular maxim than a consequence of the general principle of democracy applied to the most pressing needs of the fatherland.<sup>7</sup>

Although the Terror of 1793–94 was not directed specifically at the clergy, many priests lost their lives. Moreover, on October 5, 1793, days before the execution of the deposed queen, Marie Antoinette, the National Convention introduced the revolutionary calendar. This new calendar,

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7. Translated by Laura Mason in *The French Revolution*, 256–57.

which replaced the traditional Christian calendar, designated September 22, 1792, the day the Convention had proclaimed the Republic, as the first day of Year I. Although a year still consisted of 365 days, the names of all the months were changed, and each month was now divided into three *décades* of ten days, the tenth day being a day of rest. If earlier legislation had primarily targeted the church and its priests, the introduction of the revolutionary calendar targeted the average Christian worker by eliminating the Christian Sabbath and Christian holidays. Indeed, it made life more difficult for all Frenchmen by extending the work week to nine days. From this new calendar would emerge a Cult of the Supreme Being, the deist God of many Enlightenment *philosophes*. This new religion of reason, believed Robespierre, was in consonance with the values of the Republic and was a superior alternative to atheism, which would likely lead to anarchy.

At the same time as the National Convention abolished the traditional calendar, it also introduced other measures aimed at the dechristianization of France. It violated the Civil Constitution of the Clergy and refused to pay the salaries of the constitutional clergy. Moreover, some churches were closed, and others were transformed into Temples of Reason. Any priest who tried to interfere with the efforts to promote the Cult of Reason faced arrest. Even the denunciation of Robespierre on the floor of the Convention on July 27, 1794 (9 Thermidor of Year III according to the revolutionary calendar), and his execution on the following day did not completely put an end to the dechristianization of France. While practicing Catholics, like many other Frenchmen, welcomed the "Thermidorean reaction" against the Terror, the Thermidorean Convention did not abolish the revolutionary calendar, and it did not immediately do away with the Cult of the Supreme Being. Furthermore, both the Thermidorean Convention and the Directory that replaced it prohibited several forms of public displays of worship.

Despite the lingering anti-Catholic sentiment in the government, the postrevolutionary period presented an improvement for Catholicism in France. On February 21, 1795, the Convention passed a law that restored freedom of conscience, but it continued to prohibit open-air processions and the public display of religious banners and crosses. Gradually, the Cult of Reason was allowed to fade away and houses of worship to reopen. The frontal assault on Catholicism of the final years of the Revolution had come to a close.

The end of the Terror, the reopening of houses of worship, and the gradual disappearance of the Cult of Reason and the Supreme Being cannot mask the debilitating blow that the French church suffered during the Revolution, one from which it never recovered. Prior to the Revolution, a Catholic king had ruled by divine right, and Catholicism was

the official religion of France. By the end of the Revolution, the “divine-right” king had been beheaded, and Catholic and French identities were torn asunder.

Before the Revolution, French identity and Catholicism were intertwined; after the Revolution, even during the days of the Thermidorean Convention and the Directory, Catholicism was, at best, tolerated. The Revolution gave birth to modern French nationalism, which reformulated the ties that bound the people of France. The revolutionaries sought to construct a new French identity rooted in a national language, shared values, and loyalty to the fatherland rather than religion. The church had helped to unite an ethnically and economically diverse population through the glue of a common faith. The revolutionaries, through their own secular form of missionary work, sought to preserve this unity with the glue of nationalism.<sup>8</sup>

French Jews during the nineteenth century overwhelmingly aligned themselves with the ideals of 1789 that redefined French identity. With the Revolution came citizenship, and successive generations of French Jews celebrated the anniversary of the Revolution as their day of liberation from serfdom. The Declaration of the Rights of Man and Citizen, which proclaimed that “men are born free and remain equal in rights” and that “no one should be disturbed on account of his opinion, even religious,” did not enfranchise the Jews. The deputies in favor of emancipation had to persuade the National Assembly that the Jews could become productive citizens of France. Even they believed that many Jews had engaged in unsavory practices. But they also believed that anti-Jewish discrimination was the primary cause for their vices and that the Jews could improve.

The National Assembly, at first, voted only to emancipate the more acculturated Sephardim, who had already achieved a modicum of integration. The Ashkenazim, unlike the Sephardim, who were granted the rights of citizenship on January 28, 1790, had to wait until the Constitution of September 3, 1791, left the National Assembly without much of a choice. The Constitution of 1791 transformed the principles of the Declaration of the Rights of Man and Citizen into law. It became illegal to distinguish among Frenchmen for reasons other than public utility. Thus, on September 28, 1791, the National Assembly recognized that it could no longer deny the Ashkenazim of Alsace-Lorraine citizenship solely because of their religion.

The emancipation of the Jews of France was not merely an act of goodwill on the part of the National Assembly. It was, to cite Salo Baron’s famous words, “a necessity even more for the modern State than for

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8. David Bell, *The Cult of the Nation in France* (Cambridge: Harvard University Press, 2001), 7–8.

Jewry.”<sup>9</sup> The modern French state broke down all corporate structures. If the state stripped away the privileges of the clergy and other corporate groups, it could not make an exception for the Jews. National Assembly deputy Count Clermont-Tonnerre, a proponent of emancipation, had asserted this much in December 1789 during the debates over emancipation.

The Jews should be denied everything as a nation, but granted everything as individuals. It is claimed that they do not want to be citizens, that they say this and that they [are] thus excluded; there cannot be one nation within another nation. . . . It is intolerable that the Jews should become a separate political formation or class in the country. Every one of them must individually become a citizen; if they do not want this, they must inform us and we shall be compelled to expel them. The existence of a nation within a nation is unacceptable to our country.<sup>10</sup>

Clermont-Tonnerre did not mean to say that the Jews would face expulsion unless they abandoned their religion. If anything, the Jewish religion fared much better than Catholicism during the Revolution and especially the Terror. Early in his speech, Clermont-Tonnerre emphasized how no one should be persecuted because of his religious beliefs, and later in his speech he specifically proclaimed that the Jews “must be assumed to be citizens as long as it is not proven that they are not citizens, as long as they do not refuse to be citizens.”<sup>11</sup> The deputy merely stated the obvious. The Jews had to give up, not their religion, but their corporate privileges, their autonomy, and their own judicial system. They had to exchange their communal privileges for the individual rights of citizenship. The new French state was religiously tolerant, but ethnically, nationally, and culturally intolerant. It could not tolerate a “nation within a nation.” It required the abrogation of Jewish autonomy.

While originally some Ashkenazim expressed concern about the impending curtailment of their autonomy, the leadership, exemplified by the merchant and banker Berr Isaac Berr, who had argued before the National Assembly for Jewish civic equality, welcomed the new contract with the state. In the “Letter of a Citizen to His Fellow Jews,” Berr spoke

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9. Salo Baron, “Ghetto and Emancipation,” *Menorah Journal* 14, no. 6 (June 1928): 524. See also Baron, “Newer Approaches to Jewish Emancipation,” *Diogenes* 8, no. 29 (March 1960): 57.

10. Adolphe-Edmond Halphen, *Recueil des lois, décrets, ordonnances, avis du conseil d'état, arrêtés et règlements concernant les Israélites depuis la Révolution de 1789* (Paris, 1851), 185 (Translated by J. Rubin in Paul Mendes-Flohr and Jehuda Reinharz, eds., *The Jew in the Modern World*, 2nd ed. [New York: Oxford University Press, 1995], 115).

11. Mendes-Flohr and Reinharz, eds., *Jew in the Modern World*, 115.



of the emancipation of the Jews as an act of God. Though Salo Baron later characterized the granting of citizenship as an exchange of collective privileges for individual rights,<sup>12</sup> Berr spoke of it as the redemption from bondage. Nonetheless, he too must have had a sense of what was at stake. Echoing Clermont-Tonnerre, he called on his coreligionists to “divest [themselves] of that narrow spirit, of Corporation and Congregation, in all civil and political matters, not immediately connected with our spiritual laws.” Jews would have to demonstrate their patriotism by learning French and becoming productive members of society. Far from a cry for the abandonment of Jewish identity, Berr appealed to a contemporary strain of Jewish thought, the German *Haskalah* (Jewish Enlightenment). He referred to the poet, linguist, and exegete Naphtali Herz Wessely, who had spoken of the importance of “*Torat ha-adam*—human knowledge,” by which Wessely meant good character, proper manners, and the acquisition of a secular education.<sup>13</sup> As Frenchmen, the Jews of France could not afford to ignore “*Torat ha-adam*.”<sup>14</sup> They had to acculturate, but they did not have to abandon their religion.<sup>15</sup>

Despite the revolutionary contract and the plea of Berr Isaac Berr, the Jews did not modernize overnight. Legal emancipation did not imme-

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12. Baron, “Ghetto and Emancipation,” 524; Baron, “Newer Approaches to Jewish Emancipation,” 65.

13. Naphtali Herz (Hartig) Wessely, *Divrei Shalom Vemet* (Berlin, 1782).

14. Berr Isaac Berr, “Lettre d’un Citoyen” (Nancy, 1791) in M. Diogene Tama, *Transactions of the Parisian Sanhedrin*, trans. F. D. Kirwan (London, 1807), 11–29 (in Mendes-Flohr and Reinhartz, eds., *Jew in the Modern World*, 18–21). Berr translated Wessely’s *Divrei Shalom Vemet* (*Words of Peace and Truth*) into French.

15. See Phyllis Cohen Albert, “Israelite and Jew: How Did Nineteenth-Century French Jews Understand Assimilation?” in *Assimilation and Community*, ed. Jonathan Frankel and Steven J. Zipperstein (New York: Cambridge University Press, 1992), 98. Here Albert distinguishes between active and passive forms of “assimilation.” French Jews, she argues, engaged in the active form of assimilation (*assimiler* in French). They assimilated or absorbed the surrounding culture. Jews did not, however, as a group, assimilate in the passive sense (*s’assimiler* in French). They were not, Albert contends, assimilated or absorbed into the surrounding culture.

I would characterize it as follows: French Jewry acculturated rather than assimilated. Certainly they were absorbed, to some degree, in French society, but they did not disappear or abandon their Jewish identity. This integration without disappearance comes as no surprise, given the official recognition of organized religions in nineteenth-century France. The classic work on the distinction between assimilation and acculturation is Milton Gordon, *Assimilation in American Life: The Role of Race, Religion, and National Origins* (New York: Oxford University Press, 1964). For a nuanced approach to Jewish assimilation in the French context, see Maud Mandel’s recent historiographical essay, “Assimilation and Cultural Exchange in Modern Jewish History,” in *Rethinking European Jewish History*, ed. Jeremy Cohen and Moshe Rosman (Oxford: Littman Library, 2008), 72–92.

diately give way to acculturation. In fact, one could speculate that legal emancipation actually retarded the process of acculturation. Because the Jews of France had already been granted the rights of citizenship, they may have felt less of a need to adopt modern French values. In the German states, where the Jews were not citizens, modernization was seen as a prerequisite to citizenship. In France, where citizenship was already guaranteed by law, there was less to be gained through modernization and reform. Not surprisingly, it was later external pressure that encouraged modernization and reform. New pressure was placed on the Jewish community to acculturate when Alsatian farmers bombarded Napoleon during his stay in Strasbourg after returning from victory at Austerlitz in 1806 with complaints about continued Jewish money lending. At that point, Napoleon decided once and for all to determine the compatibility of Judaism with French civic values. He convened an Assembly of Jewish Notables to answer a series of questions relating to Judaism's compatibility with the responsibilities of French citizenship. The delegates, who were nominated by prefects from among the wealthy and educated Jews of their departments, consisted of rabbis, scholars, and prominent businessmen.

Napoleon's decision to convene the Assembly of Jewish Notables did not, of course, occur in a vacuum. Already as first consul, Napoleon had recognized the need to address the question of religion in France. He understood that the continued suppression of the Catholic Church would offend many Frenchmen and could risk destabilizing his regime. Moreover, religion had a certain social utility in the cultivation of morality and order in society.<sup>16</sup> Better to regulate organized religion than to suppress it. In this vein, Napoleon decided to embark on the path of centralization of religion.

In 1801, Napoleon reached his famous agreement with the church, the Concordat, which allowed him to reconcile with the Catholic Church without betraying the legacy of the Revolution. The preamble states, "The Government of the French Republic acknowledges that the Catholic, Apostolic, and Roman religion is the religion of the great majority of French citizens."<sup>17</sup> This acknowledgment, however, in no way denied the rights of non-Catholics in France. It did not establish an official religion but merely acknowledged that most French citizens were Catholic. The articles of the Concordat provided for the free exercise of the Catholic religion and reinstituted the prerevolutionary process for the appointment of bishops. The French head of state would nominate candidates, and the pope would formally confirm them. The Concordat did not, however, abolish the oath

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16. Jean-Marie Mayeur, *La question laïque* (Paris: Fayard, 1997), 14–16.

17. A translated copy of the Concordat can be found in Mason and Rizzo, eds., *French Revolution*, 337–38.

to the state that had caused such uproar and a split among the clergy during the Revolution. Furthermore, though the Concordat reinstated salaries for the clergy, suspended since the Terror, the church had to abandon any claim for restitution of confiscated property. Finally, without the consent of the pope, Napoleon added the Organic Articles to the Concordat, which limited the influence of the church by, for example, requiring government authorization for the publication of papal bulls in France and for the convocation of any assembly of French bishops. Despite his reconciliation with the church, Napoleon demonstrated his commitment to the principles of the Revolution through his Organic Articles and his refusal to abolish civil marriage and civil divorce or to elevate Catholicism to a state religion. His agreement with the Catholic Church was motivated more by a desire to regulate religion than to restore the prestige of the Catholic Church in France. Likewise, his subsequent decision to officially recognize Protestantism and Judaism was motivated more by his desire to control them than by his benevolence.

In 1802, Napoleon organized the Reformed and Lutheran Churches in France. Although his initiative made Protestantism an official religion and provided for subsidies, it did not respect the traditional organizational principles of both churches. The Organic Articles of the Protestant Churches established a regional consistory for every six thousand Calvinists or Lutherans. The articles also created a central Lutheran consistory in Strasbourg. They completely ignored the independence of the local churches and granted the consistories the sole authority to appoint pastors. Although the articles preserved the regional synods, which had represented the local Reformed Churches, they now required the permission of the government to meet. Finally, the articles prohibited both synods and consistories from publicizing any doctrinal decisions without the authority of the government.<sup>18</sup>

In 1806, Napoleon convened the Assembly of Jewish Notables to answer a series of questions relating to Judaism's compatibility with the responsibilities of French citizenship. These included questions about the attitude of Judaism toward non-Jewish French citizens, the applicability of French civil law for Jews, and the jurisdiction and role of the rabbis. Even though, as the Assembly of Jewish Notables understood, Napoleon's intention was to ascertain whether Judaism was compatible with modern French values and the responsibilities of citizenship, the decisions of the members of the Assembly were not necessarily insincere. They relied on the more liberal halakhic (Jewish legal)<sup>19</sup> precedents and the rabbinic

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18. D. Robert, A. Encrevé, J. Baubérot, and P. Bolle, "Les Réveils et la vie interne du monde protestant," in *Histoire des Protestants en France*, ed. Robert Mandrou et al. (Toulouse: Privat, 1977), 265–66; Encrevé, *Les Protestants en France*, 52–59.

19. In any event, as Jay Berkovitz notes, the Sanhedrin reformulated the responses

principle *dina de-malkhuta dina*—"the law of the state (lit., kingdom) is the law."<sup>20</sup> They separated the ritual from the civil sphere of Judaism. The ritual law remained applicable whereas Jewish civil law, which had included tort, property, and criminal law, was subsumed under the authority of the French state. Through the separation of the ritual from the civil law and the restriction of the role of the rabbis to preaching, teaching, and performing religious ceremonies, the Assembly of Jewish Notables and later the Sanhedrin, in a sense, effected the separation of religion and state within Judaism. Religious law, ritual law, was maintained. Jewish civil law was abandoned.

Although Napoleon passed the "Infamous Decree" in 1808, which imposed restrictions for a period of ten years on the economic activities and rights of residence of the Jews in Alsace-Lorraine, he was not dissatisfied with the responses of the Assembly of Jewish Notables. Otherwise, he would not have convened a Sanhedrin of seventy-one members, modeled after the ancient high court, to ratify the responses as binding Jewish laws, nor would he have created a new central Jewish institution to enforce these laws. For example, Judaism, as the members of the Assembly of Jewish Notables asserted, permitted divorce. Napoleon, who had refused to abolish the revolutionary innovation of divorce during his negotiations with the Catholic Church over the Concordat, must have appreciated the compatibility of Judaism and French law on this particularly sensitive issue.

Napoleon responded to the decisions of the Assembly and Sanhedrin by reorganizing the Jews of France and granting Judaism official government status. In a sense, Napoleon reincorporated the Jews only a few years after they exchanged their collective privileges for individual rights.<sup>21</sup> Given Napoleon's penchant for centralization, this move was not as ironic as it first appears. Through the organization of the Jews in a consisto-

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of the Assembly of Jewish Notables in more traditional and less apologetic language. See Jay R. Berkovitz, *Rites and Passages: The Beginnings of Modern Jewish Culture in France* (Philadelphia: University of Pennsylvania Press, 2004), 125.

20. The Babylonian Talmud, in four separate places (*Nedarim* 28a, *Gittin* 10b, *Bava Kama* 113a-b, *Bava Batra* 54b-55b), invokes the principle of *dina de-malkhuta dina* to affirm the authority of the non-Jewish sovereign over the Jews in exile in the realms of taxation, confiscation, and the execution of deeds. Over time, the rabbinic principle was gradually expanded to cede jurisdiction to non-Jewish authorities in other areas. The Assembly of Jewish Notables and Napoleonic Sanhedrin used the principle to argue for the supremacy of French law in civil matters. For more on the development of the principle, see Gil Graff, *Separation of Church and State: Dina de-Malkhuta Dina* (University, Ala.: University of Alabama, 1985). For a philosophical reflection on the question of conflicts between Jewish and civil law in France, see Julien Taieb, "From Maimonides to Napoleon: The True and the Normative," *Global Jurist* 7, issue 1, article 8 (2007).

21. Schwarzfuchs, *Du Juif à l'israélite*, 222.

rial system, first introduced in 1802 for the organization of Protestantism, Napoleon believed that he could exercise more control of the Jews and hasten their pace of modernization. The law organizing the Jews did not restore the prerevolutionary authority of the rabbis but created rabbinic civil servants entrusted with the implementation of the decisions of the Sanhedrin and the modernization of French Jews.

The 1808 imperial decree for the organization of Judaism created a central consistory in Paris and a regional consistory in every department of two thousand or more Jews located in the city with the largest Jewish population. Departments with fewer than two thousand Jews were combined to share a single regional consistory. Any Jew who wished to reside in France would have to register with the consistory in his area. Each regional consistory was to be administered by a board of three laymen and one or two rabbis, who were to be elected by twenty-five Jewish notables chosen by the government. (In practice, only one rabbi ever served on the board.) The rabbi was to serve as grand rabbi of the region. The regional consistories were entrusted with ensuring that the rabbis conformed in their teaching and legal rulings to the Sanhedrin's decisions. They also had to maintain order in the synagogue and prohibit unauthorized services, encourage Jews to engage in productive professions, and inform the authorities of the number of Jewish conscripts in the region. The Central Consistory in Paris was to be administered by a board of three grand rabbis and two laymen appointed by the government. All three rabbis on the board served as grand rabbis of France. (Neither Rabbi David Sintzheim, who died in 1812, nor Rabbi Abraham de Cologna, who resigned in 1826, was replaced; and, over time, the law was formally revised to provide for only one grand rabbi.) The Central Consistory had to supervise the regional consistories and ensure that they conformed to the laws that governed them. The imperial decree also laid out the rather limited functions of French rabbis. They were to teach religion in accordance with the doctrine of the Sanhedrin, promote respect for French law, to characterize conscription as a religious duty overriding Jewish law when necessary, preach in the synagogues, recite prayers for the emperor, and perform religious marriages, and declare religious divorces. Finally, the law guaranteed salaries for rabbis, though the state did not assume the burden for this expense as it had with the salaries of Catholic priests and Protestant ministers. The consistories were granted the authority to collect special taxes from French Jews for the salaries of the rabbis.<sup>22</sup>

Successive governments made changes to the initial legislation, but the consistories maintained their official status until the separation of

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22. Décret impérial qui ordonne l'exécution d'un règlement du 10 décembre 1806, concernant les Juifs. A copy of the decree can be found in Roger Berg, *Histoire du rabbinat français* (Paris: Cerf, 1992), 211–14.

church and state in 1905. In 1814, after Napoleon's abdication, Louis XVIII, brother of the beheaded Louis XVI, ascended to the throne. Although the restored monarch was sympathetic to the Catholic ultraroyalists, he understood that he could not simply undo the Revolution and revive the Old Regime. His Charter of 1814 created a constitutional monarchy and preserved many of the achievements of the revolutionary years, such as equality before the law regardless of title or rank. While it recognized Catholicism as the religion of the state, and not merely as the religion of the majority, this change was symbolic. The Charter specifically guaranteed the free exercise of religion and the continued subsidization of the Protestant clergy. It did not dismantle the Protestant and Jewish consistories. What proved more substantive than the new status of Catholicism was the campaign of White Terror of 1815 conducted by ultraroyalists against individuals suspected of disloyalty to the new regime. Among the victims of this White Terror were many Protestants. The king, who had initially done little to stop the terror, soon realized that mob violence would undermine the credibility of his regime. He therefore dissolved the Chamber of Deputies, which was dominated by ultraroyalists, whose extremist views had encouraged the mobs. A moderate royalist chamber was elected and tranquility reigned.<sup>23</sup>

After Louis XVIII's death in 1824, his brother Charles X ascended the throne. Unlike Louis XVIII, who ruled with moderation, Charles X tried to undo many revolutionary and Napoleonic achievements. While he did not revoke the Charter, he consistently undermined its principles. He looked to the ultraroyalists for support and was sympathetic to the Jesuit order, which had been legally banned in France since 1764. He decreed the Law of Sacrilege, which transformed the profanation of the host and sacred vessels into capital offenses, and he also strongly supported the creation of Catholic schools to compete with the state secondary schools, the lycées, established by Napoleon. Not one to tolerate opposition, he twice dissolved the Chamber of Deputies when the electoral results did not suit him. In July 1830, unhappy with the outcome of yet another election, the king issued royal ordinances that not only dissolved the Chamber but also suspended freedom of the press and deprived many members of the middle class of the franchise. Students, republicans, and other vociferous opponents of the regime took to the streets in Paris to protest the policies of the king, and violence broke out. The king was forced to abdicate, and a new king, Louis-Philippe, the duke of Orléans, was anointed by a group

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23. Furet, *Revolutionary France*, 269–71, 280–84; Charte constitutionnelle du 4 juin 1814. A translated copy of the charter can be found in Paula Pilbeam, *The Constitutional Monarchy in France: 1814–1848* (New York: Longman, 2000), 92–93.

of moderate leaders who opposed Charles X but did not favor a republican government.<sup>24</sup>

Although he, like Charles X, ruled as king, Louis-Philippe did not align himself with the ultraroyalists, the nobility, or the church. His new charter, like the Napoleonic Concordat, merely proclaimed Catholicism the religion of the majority. It did not recognize Catholicism as the religion of the state.<sup>25</sup> The charter did not establish universal male suffrage, but by lowering the amount of tax a man had to pay in order to vote, the government doubled the electorate. The most prominent minister of the new regime, who eventually served as premier, François Guizot, was a Calvinist, and it was he who truly shaped its policies. Guizot strongly believed that the authority of government must be rooted in reason, not some claim to absolute sovereignty based on divine right or birthright. In his mind, the acquisition of wealth through hard work was a sign that one possessed reason. Therefore, members of the upper middle class, whose earned wealth served as proof of their rational capacity, were given a role in politics that was denied to them during the Restoration. On the other hand, Guizot looked down on the nobility, who had simply inherited their wealth, and on the members of the lower class, who had none, because they had not proven their capacity for reason. Neither group played a significant political role in the July Monarchy regime, which became known as the “Bourgeois Monarchy.”<sup>26</sup>

The right-of-center faction in the government, represented by Guizot, intended to permanently deny the vote to members of the working class and lower middle class. If they wanted to vote, they simply had to heed Guizot’s call to “enrich yourselves,” which would demonstrate their capacity for reason and their qualification to participate in the political process. Guizot did make an effort to help them to improve their chances for financial success. In 1833, in a major overhaul of the educational system, he sponsored a law that required every commune with more than five hundred residents to maintain a primary school and all teachers to obtain certification. It did not, however, mandate compulsory, tuition-free, or lay education. Despite passage of the Guizot Law, the left-of-center faction in the government, represented by rival minister Adolphe Thiers, was concerned that Guizot was not committed to a gradual widening of the electorate. The king, however, supported Guizot, and the left-of-center faction was marginalized, especially after Guizot assumed the premiership in 1840. The king responded to working-class and republican pro-

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24. Furet, *Revolutionary France*, 305, 320–25.

25. Charte constitutionnelle du 14 août 1830. A translated copy of the charter can be found in Pilbeam, *Constitutional Monarchy in France*, 107–8.

26. Furet, *Revolutionary France*, 333; Robert Tombs, *France: 1814–1914* (New York: Longman, 1996), 69.

tests with force and with repressive legislation, including restrictions on freedom of the press, which merely drove the opposition underground. In the end, the regime alienated almost all but the upper middle class. The general laissez-faire attitude of the July Monarchy and its unwillingness to consider reforms even amidst the revolutionary climate in Europe in 1848 were largely to blame for its downfall.<sup>27</sup>

Even though the Charter of 1814 recognized Catholicism as the religion of the state, the Jewish consistories functioned without hindrance under the rule of both Louis XVIII and Charles X, the restored Bourbon monarchs. In 1829, the Central Consistory opened a modern rabbinical school in Metz and even secured funding from the regime. The school accepted only candidates who were both citizens of France and proficient in French, and it expected its students to master both Jewish and secular subjects.<sup>28</sup> The decision of the regime of the ultra-Catholic monarch Charles X to provide financial support to the rabbinical school served as an impetus for the July Monarchy to assume the burden of paying the salaries of Jewish clergy in 1831. Until then, only Catholic and Protestant clergy had received their salaries from the state. The Jewish clergy had received their salaries from the consistories, which were authorized by the government to tax their constituents. Under the rule of Louis-Philippe, Jews also benefited from the Guizot Law. In some communes, Jewish schools were designated as public schools, enabling them to receive government subsidies.<sup>29</sup> In 1844, in response to a request from the lay members of the Central Consistory in Paris led by the president Adolphe Crémieux, a distinguished jurist and politician, the government changed the regulations governing the consistories. Faced with opposition from the regional consistories in the traditionalist strongholds of Alsace-Lorraine, the Central Consistory wanted more power to promote modernization. The new regulations made it easier for the Central Consistory to initiate reforms and also increased the influence of its lay members.<sup>30</sup>

Until the mid-1840s, the consistories promoted modernization primarily in the educational and economic spheres rather than in the more sensitive ritual sphere. They created Jewish elementary schools and vocational schools to replace the traditional *heders* and *yeshivas* and opened a

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27. Furet, *Revolutionary France*, 334–35; Tombs, *France: 1814–1914*, 358–73.

28. Berg, *Histoire du rabbinat*, 39–41.

29. As Paula Hyman notes, notwithstanding the Guizot Law, many Alsatian village and town councils refused to support Jewish schools. See Paula Hyman, *The Emancipation of the Jews of Alsace: Acculturation and Tradition in the Nineteenth Century* (New Haven: Yale University Press, 1991), 103.

30. For a detailed description of the debates and events that led to the Ordinance of 1844, see Phyllis Cohn Albert, *The Modernization of French Jewry: Consistory and Community in the Nineteenth Century* (Hanover, N.H.: University Press of New England for Brandeis University Press, 1977), 66–77.



modern rabbinical school. Several vocal extremists chastised the consistories for their limited program for modernization and called for radical religious reforms, such as the abolition of circumcision and the transfer of the Sabbath to Sunday. The consistories, however, did not heed these calls.<sup>31</sup> During the course of the nineteenth century, they nevertheless adopted moderate reforms.

Several factors explain why French Jewry, as opposed to much of German Jewry, was slow to adopt religious reforms. As already noted, the granting of citizenship to French Jews *prior* to their attempts to modernize Judaism removed the impetus to make radical changes. Napoleon recognized the Sanhedrin's relatively conservative decisions and centralized the rabbinate to implement those decisions. As the official representatives of Judaism in France, the members of the consistories served all French Jews, and they avoided extremist religious measures that would alienate the majority. Additionally, because of the lengthy course of study required by the French rabbinical school and the wide availability of scholarly and other careers to emancipated French Jewry, those with intellectual and professional ambitions tended to attend universities and shun the low-paying rabbinate.<sup>32</sup>

While the consistories were reluctant to promote religious reforms during the first few decades of their existence, they did address the thorny issue of marriage. During the Revolution, the state introduced civil marriage and civil divorce. Louis XVIII abolished civil divorce but not civil marriage. Marriage was both a civil institution, which fell under the jurisdiction of the state, and a religious ritual, which fell under the jurisdiction of the rabbinate. French law mandated that civil marriage precede any subsequent (and optional) religious ceremony, and the 1808 decree organizing the consistories granted the consistorial rabbis the sole authority to perform religious marriages for civilly married couples.<sup>33</sup> A problem, however, arose when a couple secretly married religiously without the knowledge of the consistorial authorities and before obtaining a civil marriage. Many such marriages took place among some traditional Jews who did not respect the government-appointed consistorial authorities. According to Jewish law, such marriages were valid. According to French

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31. Phyllis Cohen Albert, "Nonorthodox Attitudes in Nineteenth-Century French Judaism," in *Essays in Modern Jewish History*, ed. Frances Malino and Phyllis Cohen Albert (Rutherford, N.J.: Fairleigh Dickinson University Press, 1982), 2; Benbassa, *Jews of France*, 92–93.

32. Albert, *Modernization of French Jewry*, 255–56; Jay Berkovitz, *The Shaping of Jewish Identity in Nineteenth-Century France* (Detroit: Wayne State University Press, 1988), 19, 209–10.

33. Décret impérial qui ordonne l'exécution d'un règlement du 10 décembre 1806, concernant les Juifs. A copy of the decree can be found in Berg, *Histoire du rabbinat*, 211–14.

law, they were not. These marriages made the conflict between Jewish religious law and French civil law readily apparent. French rabbis, who eschewed radical reforms, were obviously not prepared to do away with religious marriage. To resolve this tension between Jewish law and French civil law, they had to resort to halakhic ingenuity.

The halakhic problem posed by the conflict between civil and Jewish law in the area of marriage was not new.<sup>34</sup> In the late eighteenth century, rabbis in the Habsburg monarchy faced a similar problem when Habsburg rulers introduced a civil definition of marriage even before the French revolutionaries did. Unlike the French civil marriage law, the 1783 Habsburg Marriage Patent and the Civil Code of 1786 did not create civil ceremonies. Rather, they left marriages in the hands of the respective clergy but subjected all marriages to new civil conditions, including the obligation for children under the age of twenty-four to obtain parental consent to marry and the requirement that a rabbi officiate at Jewish weddings. In effect, like the later decree organizing the consistories in France, the Habsburg Marriage Patent prohibited clandestine marriages. Because clandestine marriages were technically valid according to Jewish law, however, it was only a matter of time before the contradictions between the civil and the religious definitions of marriage created practical problems. Such a case arose in the Habsburg port city of Trieste.<sup>35</sup>

In 1796, the teenage daughter of Elia Moise Luzzatto, a prominent Jewish merchant, married a poor clerk secretly and thus violated the requirement to marry before clergy as well as the requirement to seek parental consent. The chief rabbi of Trieste, Raffael Natan Tedesco, was then faced with a serious challenge to his authority. The father of the bride appealed to the civil authorities to compel him to annul the marriage contract

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34. This work is not concerned with the problem of clandestine marriages from the perspective of their challenge to parental authority but rather with the conflict such marriages presented between Jewish law and French civil law in modern France. For a discussion of the attempts of rabbinic and communal authorities in premodern France to prevent clandestine marriages because of the challenge such marriages posed to parental authority, see Jay R. Berkovitz, *Rites and Passages*, 51–53.

35. Lois C. Dubin, *The Port Jews of Trieste: Absolutist Politics and Enlightenment Culture* (Stanford: Stanford University Press, 1999), 175–76; Dubin's chapter titled "The Habsburg Marriage Reforms: Challenges to Religious-Communal Authority" (174–97) draws substantially on her earlier article, "Les liaisons dangereuses: Mariage juif et état moderne à Trieste au XVIIIe siècle," *Annales. Histoire, Sciences Sociales* 149, no. 5 (1994): 1139–70. For an extensive halakhic analysis of the issues raised by the Habsburg Marriage Patent and their contemporary relevance, see J. David Bleich, "A 19th Century Agunah Problem and a 20th Century Application," *Tradition* 38, no. 2 (Summer 2004): 15–48. For more on the issue of Jewish marriage, civil marriage, and rabbinic efforts to harmonize them, see ChaeRan Y. Freeze, *Jewish Marriage and Divorce in Imperial Russia* (Hanover, N.H.: Brandeis University Press, 2002).

because the couple had violated the civil conditions imposed on religious marriage. Tedesco, at first, refused, arguing that a religious divorce, a *get*, was necessary because the marriage was halakhically binding. The rabbinate no longer had sole jurisdiction over marriage, however, and, under pressure from the civil authorities, Tedesco eventually agreed to marry Luzzatto's daughter to another man without her first obtaining a *get* from the first husband. In the end, Luzzatto succumbed to community pressure, and his daughter accepted a religious divorce before remarrying.<sup>36</sup>

Despite the apparent victory for the authority of the Triestine chief rabbi in this case, Tedesco and his successor, Abraham Eliezer Levi, understood that the problem of conflicting jurisdictions in the area of marriage had not been resolved. The fact that Luzzatto had bent under pressure did not erase the inconsistencies between the civil and the religious definitions of marriage. They therefore sought to devise a halakhic solution that would harmonize the two definitions. In 1805, after consulting with other rabbinic authorities (including Rabbi Moses Sofer, then chief rabbi of Mattersdorf),<sup>37</sup> Levi, together with the official lay leaders of the community, came up with a complicated solution to the problem of clandestine marriages that combined several halakhic constructs, including a *takanah* (rabbinic ordinance) and a *neder* (religious vow). The new ordinance, which was to be announced in the synagogue on a yearly basis, required every father (or guardian) to instruct his daughter to take a vow that would halakhically transform any object of value received for the purposes of a marriage without paternal consent and rabbinic supervision into an object from which one may not derive benefit. In Jewish law, the groom must give the bride an object of value to contract a marriage. If the woman cannot derive benefit from the object given, it is as if it has no value at all, and the marriage is null and void.<sup>38</sup>

The implementation of civil marriage in France posed to the French rabbinate problems similar to those that arose in Trieste. The Central Consistory of France, understandably, wanted to harmonize the Jewish and the civil laws of marriage. In its letter to the regional consistories, dated December 1, 1833, the Central Consistory asked them to help to find a halakhic solution to the problem of illegal marriages in France. Specifically, it asked each regional consistory to establish a commission to

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36. Dubin, *Port Jews of Trieste*, 176–83.

37. Sofer (1762–1839), who would become recognized as the leading authority of Hungarian Orthodoxy, was chief rabbi of Mattersdorf from 1797 to 1806 and chief rabbi of Pressburg from 1806 until his death.

38. Dubin, *Port Jews of Trieste*, 184; *Tshuvot Hatam Sofer, Even Ha-Ezer* I, nos. 108–9. Levi did not fully follow Sofer's suggestions (no. 108), and in later correspondence (no. 109), Sofer expressed some concern with Levi's remedy. For a thorough analysis of these two *tshuvot* (*responsa*), see Bleich "A 19th Century Agunah Problem."

examine whether a clandestine marriage, which was illegal according to French civil law, was religiously valid, and, if so, what were the acceptable halakhic methods of harmonizing religious and civil marriages.<sup>39</sup>

The commission of the Consistory of Paris took a halakhically stringent position and refused to consider annulment of illegally contracted religious marriages. Nonetheless, it asserted that such marriages lacked the sanctity of legal marriages, that they were detrimental to morality and religion, and that those who entered into them could be compared to those who cohabited together without being married. These marriages, however, were still technically valid halakhically and could be dissolved only through a religious divorce. Unable or unwilling to find a halakhic solution to the problem, the commission suggested that, as a deterrent to prevent clandestine marriages, regional consistories report those who facilitated them, for example, the witnesses, to the authorities.<sup>40</sup>

The decision of the commission of the Consistory of Nancy was even more muddled than that of the commission of the Consistory of Paris. It proposed that the rabbis decree that religious marriages in violation of French law were illicit and lacked any sanctity, creating neither mutual obligations nor marital rights. In this regard, the commission of the Consistory of Nancy described such marriages similarly to the commission of the Consistory of Paris. Whereas the commission of the Consistory of Paris did not offer any halakhic solution to the problem, however, the commission of the Consistory of Nancy seems to have implied one. The proposed rabbinic decree also stated that parties who enter into illegal marriages live in a state of cohabitation and that “the act of consummation unites [the couple] only in [the sense] that it obliges them to separate with a religious divorce,” which implies that prior to the act of consummation such marriages may be annulled. The proposed decree offered no solution for those, presumably the majority, who had consummated their marriages.<sup>41</sup>

Unlike the members of the commission of the Consistory of Paris, the members of the commission of the Consistory of Marseilles could not

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39. A copy of the questions posed can be found in the records of several regional consistories, including those of the Consistory of Nancy. See *Deliberations of the Consistory of Nancy*, January 9, 1834, CC (Archives of the Central Consistory) 1 A 10a. (In her discussion of clandestine marriages in *Modernization of French Jewry*, 146–48, Albert cites these questions. At the time she wrote her book, however, she was unable to locate any of the reports from the various commissions. I was fortunate enough to locate a few of these reports in the Archives of the Central Consistory, three of which I examine below.)

40. Letter from the Consistory of Paris to the Central Consistory, March–April 1834, CC 1 A 10a.

41. *Deliberations of the Consistory of Nancy*, January 9, 1834, CC 1 A 10a.

agree on a proposal to prevent illegal marriages. Several members of the commission proposed a rabbinic decree that would annul future illegal marriages.<sup>42</sup> The annulment of clandestine marriages through a rabbinic decree, a *takanah*, arguably had a strong halakhic basis. It is true that Rabbi Moses Sofer had asserted in his correspondence with Rabbi Levi that only a vow in conjunction with an ordinance could suffice to annul illegally contracted marriages,<sup>43</sup> but in the *Beit Yosef*, his commentary on the fourteenth-century code *Arbaah Turim*, Rabbi Joseph Karo (1488–1575) cited several leading medieval Sephardi halakhic authorities who had permitted, though not enthusiastically endorsed, the issuance of rabbinic ordinances to prevent clandestine marriages.<sup>44</sup> That members of a commission in a predominantly Sephardi region of France would choose to refer to and rely on the lenient positions cited by Karo is not surprising. It is surprising, however, that several members of the commission of the Consistory of Marseilles actually chose to adhere to the ruling of the more stringent position cited by Karo in his commentary on the *Arbaah Turim* and that of Rabbi Moses Isserles (1525–1572). In his authoritative Ashkenazi gloss on the *Shulhan Arukh*, Karo's own legal code, Isserles effectively ruled that an ordinance against clandestine marriages would not render them null and void. As Isserles stated, "If a community ordained and made an agreement among themselves that whoever married not in the presence of ten (a quorum) or [made] a similar enactment, and someone ignored it and married, [the marriage] is viewed as a [halakhic] marriage, and a *get* is required."<sup>45</sup> Thus, according to Isserles, a couple who married clandestinely would still require a religious divorce regardless of any ordinance prohibiting clandestine marriages.

According to the more restrictive view, which Sofer had endorsed in his correspondence with Levi, an ordinance against clandestine marriages in and of itself was insufficient for the annulment of clandestine marriages. Rather, as described above, the rabbis were to decree that every father instruct his daughter to take a vow that would halakhically transform any object of value received for the purposes of a marriage without paternal consent and rabbinic supervision into an object from which one may not derive benefit.<sup>46</sup> Only a decree in conjunction with this vow, these members of the commission argued, would allow the rabbis to dissolve a clandestine marriage. In adhering to the ruling of Isserles and to the more

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42. Unlike the decree proposed by commission of the Consistory of Nancy, this proposed decree did not distinguish between consummated and nonconsummated marriages.

43. Tshuvot Hatam Sofer, *Even Ha-Ezer* I, nos. 108–9.

44. Joseph Karo, *Beit Yosef* on *Arbaah Turim*, *Even Ha-Ezer* 28.

45. Moses Isserles on *Shulhan Arukh*, *Even Ha-Ezer* 28:21.

46. Karo, *Beit Yosef* on *Arbaah Turim*, *Even Ha-Ezer* 28.

stringent position cited by Karo, they thus devised a solution to the problem of illegal marriages in France that was strictly in consonance with the normative halakhic decision-making process.<sup>47</sup>

The decision of a few commission members of the Consistory of Marseilles to adhere to the ruling of the Ashkenazi Isserles foreshadowed the attempts of the Central Consistory to fuse Ashkenazi and Sephardi practices and to create a unique French rite. Despite the various proposals, however, the Central Consistory did not successfully resolve the problem of illegal marriages.<sup>48</sup> Eventually, a declaration was issued that warned of the absence of French legal protections for those who married religiously but not civilly and proclaimed that the Central Consistory, the Consistory of Paris, and the French rabbinate would not recognize such marriages. Nonetheless, it did not go so far as to declare that a rabbi would remarry without a religious divorce someone who had entered into an illegal marriage, implying that the marriages were still halakhically valid.<sup>49</sup>

If during the reign of the July Monarchy, the Jewish and Protestant consistories attempted to fulfill the obligations imposed on them by their contract with the state, a group of liberal Catholics led by the priest Félicité Robert de Lamennais called for a reevaluation of the relationship between church and state. During the Restoration era, Lamennais was recognized as a distinguished apologist for antirevolutionary ultramontane Catholicism, which proclaimed the sovereignty of the pope and promoted the authority of Rome over the national churches and state. During the reign of Louis XVIII and Charles X, Lamennais had hoped for a true union between the restored Bourbon monarchy and the Catholic Church. Despite the sympathy expressed by the two monarchs for the Catholic Church, Lamennais soon realized that they had no intention of reversing the French Revolution. While the Charter of 1814 symbolically recognized Catholicism as the religion of the state, it did not revoke the legal status of Judaism or Protestantism. Worse yet, in the opinion of Lamennais,

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47. Deliberations of the (Marseilles) Commission, April 2, 1834, Letter to the Grand Rabbi of Marseilles by Hananel Crémieux, April 7, 1834, and Letter of the Consistory of Marseilles to the Central Consistory, April 8, 1834, CC 1 A 10a. The proposed vow substituted the more relevant condition of marrying civilly before religiously for the condition to marry with paternal consent. The vow proposed by Sofer to Levi included a similar substitution. See *Tshuvot Hatam Sofer, Even Ha-Ezer* I, nos. 108–9; and Bleich, “A 19th Century Agunah Problem,” 23–26.

48. As Albert documents in *Modernization of French Jewry*, 147–48, the consistories sometimes reported illegal marriages to the authorities and sometimes chose not to intervene.

49. See the French and Yiddish broadsides in the Yeshiva University Archives, French Consistorial Collection, Box 8/1, that begin with “Avis important aux familles” and “le-takonas b’nos yisroel.” Although the broadsides are undated, based on certain references they appear to be from the late nineteenth or early twentieth century.

nais, under the rule of both Louis XVIII and Charles X, the church had remained a government bureaucracy, a tool of the state. By the end of the reign of Charles X, Lamennais had begun to advocate a reconsideration of the alliance between ultramontanistism and the forces of monarchism.<sup>50</sup> In 1831, shortly following the Revolution of 1830 and the final downfall of the Bourbon monarchy, Lamennais founded the Catholic newspaper *L'Avenir*.

Acknowledging the irreversibility of the French Revolution, *L'Avenir* promoted the separation of church and state. There was no more hope for an exclusively Catholic state obedient to Rome; and the church, the paper argued, could not function freely as a government bureaucracy. It would be better for the church to sever its relations with the state and to operate independently. The church, *L'Avenir* believed, could win the hearts and minds of Frenchmen through the power of persuasion. Hence, *L'Avenir* called for freedom of the press and freedom of education. The church did not need the government's official recognition, which merely transformed the church into an arm of whichever government was in power.<sup>51</sup>

While some Catholics agreed with the politically liberal ideas expressed in *L'Avenir*, many members of the Catholic hierarchy vehemently disagreed with them. Led by the pope, they refused to entertain the possibility of any political or ideological alliance with the prorevolutionary forces of liberalism, which they associated with the brutal persecution of the church during the Revolution. Condemned by the pope, *L'Avenir* was forced to suspend publication shortly after its founding, and a disillusioned Lamennais broke with the church.<sup>52</sup> His prominent disciple, however, Charles de Montalembert, who had contributed to *L'Avenir*, submitted to the authority of the pope. As a member of the legislature, Montalembert decided to work within the system to strengthen the influence of the church in the realm of public education, clashing, as we will see, with representatives from the Jewish community on more than one occasion.<sup>53</sup>

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50. Dansette, *Religious History of Modern France*, 1:211–16; Jeremy D. Popkin, *A History of Modern France*, 3rd ed. (New York: Prentice Hall, 2006), 89, 97–98; Joseph N. Moody, "French Liberal Catholics, 1840–75," in *French Society and Culture Since the Old Regime*, ed. Evelyn M. Acomb and Marvin L. Brown Jr. (New York: Holt, Rinehart, & Winston, 1966), 151.

51. Dansette, *Religious History of Modern France*, 216–19; Thomas Bokenkotter, *Church and Revolution: Catholics in the Struggle for Democracy and Social Justice* (New York: Doubleday, 1998), 44–53.

52. Nonetheless, as I discuss in chapter four, the church gradually absorbed some of the ideas expressed in *L'Avenir*, and, by 1892, Pope Leo XIII sought an accommodation with republicanism.

53. Dansette, 220–24; Bokenkotter, *Church and Revolution*, 54–67.

In this chapter, we have demonstrated how profoundly the status of Judaism changed in the years following the French Revolution. Without revoking their citizenship, Napoleon organized French Jews with the consistorial system and legally recognized Judaism as an official religion. Louis-Philippe later agreed to subsidize the clergy who served the centralized Jewish community. Though the rabbinate had assumed the obligation of modernizing French Jewry, most Jews welcomed the new contract with the state. Those Jews who did not, during the Revolution of 1848, would join together with many non-Jews, such as Lamennais, to challenge the official relationship between religion and state.



## Jews and the Church-State Question during the Second Republic: 1848–1851

The Revolution of 1848 led to an unprecedented debate among Jewish communal leaders and in the French Jewish press on the relationship between religion and state. In contrast to the era of the Sanhedrin, when Jews revisited the issue of the relationship between religion and state during the Second Republic, they felt that they could express their sentiments more freely. This chapter examines the positions of Jews on the church–state questions that dominated the political discourse of the Second Republic. It sheds light on the extent to which positions stemmed from practical, political, and social considerations and the extent to which they stemmed from religious and ideological beliefs.

While the laissez-faire attitude of the July Monarchy had led to growing discontent with the regime among the working classes, it was the banning of a major banquet that triggered the Revolution of 1848. During the winter of 1847–48, members of the opposition in the legislature sponsored country-wide banquets to promote electoral reforms. A final banquet was scheduled to take place in Paris on February 22, 1848. Prime Minister François Guizot, who was opposed to electoral reforms, chose to ban this banquet. By February 23, popular demonstrations against the government had spread throughout Paris, and the government summoned both the army and the National Guard to quell the protests. The National Guard refused to follow orders, and regiments of the National Guard even chose to join the protesters, who were mostly workers and students. In a desperate attempt to hold on to power, Louis-Philippe agreed to remove Guizot from office. However, it was too late. The revolt continued, and the king abdicated and withdrew to England. A provisional government replaced the regime and proclaimed the Second Republic.<sup>1</sup>

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1. François Furet, *Revolutionary France: 1770–1880*, trans. Antonia Nevill (Oxford: Blackwell, 1992), 381–84.

Although many members of the working class participated in the Revolution of 1848, the republican government that emerged charted a moderate course. No radical received a ministry, not even Louis Blanc, a prominent utopian socialist writer and journalist who had helped to organize the banquets in support of electoral reform. The government chose to emphasize political reform over social reform. It introduced universal male suffrage on March 4, 1848, but it refused to guarantee work for the unemployed. It did, however, establish National Workshops, which created work projects and provided jobs for some of the unemployed. The establishment of the workshops did little to appease members of the working class who felt betrayed by the new regime.<sup>2</sup>

While most representatives of the National Assembly were committed to universal suffrage, there was no consensus on the proper relationship between religion and state. Should the republican state honor Napoleon's Concordat with the Catholic Church and his official recognition of Protestantism and Judaism? No one realistically expected the government to pursue the antireligious policies of the First Republic and to actively persecute the church. In the eyes of many, however, severing the link between religion and state could hardly be characterized as persecution, and some deputies called for an end to government recognition and financial support of religion. Among the most prominent was the lawyer and defender of Jewish rights, Adolphe Crémieux, one of two Jewish ministers appointed to the provisional government in the wake of the 1848 revolution.<sup>3</sup>

During the July Monarchy, Crémieux, who in 1845 resigned his position as president of the Central Consistory after his wife had their children baptized, had served as a member of the liberal opposition in the Chamber of Deputies and had promoted the banquets that had helped to bring down the regime. As the minister of justice of the fledgling Republic, Crémieux not only advocated the separation of church and state, but, on May 26, 1848, he personally proposed on the floor of the legislature that the government reinstitute civil divorce, which Louis XVIII had abolished. The records of the National Assembly indicate that this proposition was met with laughter, and that the president of the chamber had to ask for calm.<sup>4</sup> Clearly, for most deputies, conservative and liberal, civil

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2. Furet, *Revolutionary France*, 397–400; John M. Merriman, "Contested Freedoms in the French Revolutions, 1830–1871," in *Revolution and the Meanings of Freedom in the Nineteenth Century*, ed. Isser Woloch (Stanford: Stanford University Press, 1996), 188–91.

3. The other Jewish minister was Michel Goudchaux, minister of finance (see Esther Benbassa, *The Jews of France*, trans. M. B. DeBevoise [Princeton, N.J.: Princeton University Press, 1999], 118).

4. *Comptes-rendu des séances de l'Assemblée nationale*, May 26, 1848, 169.

divorce was not a viable option. If the question of separation involved the legal status of an institution, the church, the question of divorce directly impinged on the marital status of French Catholics. Even many moderate republicans felt they could not support this measure at this time. They worried that the reinstitution of civil divorce just months after the republican revolution would place the Republic in jeopardy. It was, after all, the anti-Catholic excesses of the First Republic that had weakened the support of Frenchmen for the first revolutionary regime and led Napoleon to compromise with the church.

The exceptionally negative reaction to Crémieux's divorce proposal might lead one to question his judgment. Did he act rashly when he advocated that the new regime reinstitute civil divorce? Was he not aware that his proposal had little chance for success and could have weakened support for the fledgling Republic? Could his Jewish background or perhaps his Freemasonry have clouded his judgment? Judaism permitted divorce. Freemasons had an anticlerical agenda, and during the late nineteenth century, they helped to create the Radical Party, which would successfully institute the separation of church and state in 1905.<sup>5</sup> While these questions have some validity, it is necessary to first examine the nature of Crémieux's divorce proposal in the context of the history of French divorce legislation before jumping to any simplistic conclusions.

In 1792, the National Assembly enacted the most radical divorce law in Europe. It not only allowed for divorce by mutual consent or for matrimonial fault, but even unilaterally on the ground of incompatibility of temperament. The law did not even demand any specific proof for a unilateral claim of incompatibility of temperament but merely required a six-month waiting period. The leap from the prohibition of divorce in the Old Regime to the recognition of unilateral divorces reflected the fervent desire of the revolutionary regime to overthrow traditional institutions and to loosen the grip of the Catholic Church. The new regime went so far as to abolish legal separation, which the Old Regime had permitted, leaving practicing Catholics with no remedy for marriage breakdown. The divorce law led to a rash of divorces, a majority initiated by women. Some of these women were victims of desertion who wanted to legalize their single status. Not surprisingly, the divorce law and its effects were hotly debated in French society.<sup>6</sup>

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5. On the relationship between the Radical Party and Freemasonry, see Avner Halpern, "Freemasonry and Party Building in Late Nineteenth Century France," *Modern & Contemporary France* 10, no. 2 (2002): 197–210.

6. Roderick Phillips, *Putting Asunder: A History of Divorce in Western Society* (New York: Cambridge University Press, 1988), 178–85, 256–62.

In 1803, Napoleon amended the divorce law. The amendments reflected the spirit of compromise of the Concordat and its recognition that Catholicism was the religion of the majority. The new law eliminated unilateral divorces on the ground of incompatibility of temperament. Evidence of a matrimonial offense, for example, cruelty, was necessary to obtain a unilateral divorce. The Napoleonic divorce law also placed limitations on divorce by mutual consent. A couple married less than two years or more than twenty years could not divorce even if both parties consented.<sup>7</sup> Thus, in the spirit of compromise that guided his dealings with the Catholic Church, Napoleon chose to restrict divorce rather than to abolish it. In 1816, the restored Catholic monarch, Louis XVIII, whose Charter recognized Catholicism as the religion of the state, abolished divorce in "the interest of religion, of morality, of the monarchy, of families."<sup>8</sup> The new law did, however, permit legal separation on the same fault grounds as the Napoleonic divorce law.

Although Crémieux's proposal for the reinstitution of divorce was met with ridicule, it was not completely unrealistic nor was it necessarily the product of an extremist anticlerical instinct. Divorce had been legal in France from 1792 until 1816. Furthermore, Crémieux specifically called for the reinstitution of the restricted Napoleonic divorce law, not the radical divorce law of the First Republic. Was it unrealistic to expect a republican regime that ostensibly respected the rights of the individual and had instituted universal male suffrage to pass a moderate divorce law? Was not divorce substantially about respect for the rights of the individual and human autonomy?

As for any possible connection between Crémieux's divorce proposal and his Jewish background, one must tread cautiously. Although patterns may emerge among deputies of different religious groups, one must be wary of connecting any particular piece of legislation to any specific religious belief when an alternative explanation exists for a person's support or opposition. While it is true that Judaism permits divorce and that Crémieux had served as president of the Central Consistory, he neither referred to nor alluded to his religion when he called for the reinstitution of divorce. Of course, there were cases of opponents to a specific law who, in an accusatory tone, associated that law with the religious backgrounds of its proponents. Indeed, in condemning Crémieux's divorce proposal, the Catholic press alluded to his religion.<sup>9</sup> However, just because people attribute a person's support or opposition to a law to a person's religious background does not necessarily make it so. How the organized Jewish

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7. *Ibid.*, 185.

8. *Archives parlementaires*, 2<sup>e</sup> série, 15, 611, cited in Phillips, *Putting Asunder*, 189.

9. S. Posener, *Adolphe Crémieux: A Biography*, trans. Eugene Golob (Philadelphia: Jewish Publication Society, 1940), 154.

community reacted to Crémieux's positions is far more important than whether his Judaism played a role in his decision to call for the reinstitution of divorce or for the separation of church and state.

Rather than speculating on the connection between Crémieux's divorce proposal and his religious background, it is more useful to examine the proposal within the context of Crémieux's liberal legislative agenda. As minister of justice, Crémieux successfully abolished the death penalty for political offenses, laws that restricted freedom of the press, and the political oath of loyalty to the regime in power required of all officials.<sup>10</sup> His opposition to the complete prohibition of divorce and support for separation are yet two more examples of his concern for personal freedom and the rights of the individual. And if, in the end, the government decided neither to dissolve the official relationship between religion and state nor to tamper with divorce, Crémieux and others had raised questions about the proper place of religion in the public sphere. These questions would continue to plague France until the final separation of church and state in 1905.

In general, in the debate over the economic and religious policies of the new Republic, the right to work, and the church–state question, the official representatives of French Jewry steered clear of political extremes. Caution dictated moderation. In a lecture at the Sorbonne, days after the Revolution of 1848, Adolphe Franck, vice president of the Central Consistory, expressed his support for the new regime. He defended the democratic character of the fledgling republic and warned against the dangers posed to democracy by both socialism and monarchism. Both ideologies, he declared, hindered economic mobility.<sup>11</sup> In a circular he later distributed, he spoke of the Republic as the “most complete realization of the religious principle of human fraternity.” While he expressed his support for measures to help the poor and to alleviate their suffering, he warned that the quest for equality must not lead to the lowering of all men to an equal level of poverty and ignorance.<sup>12</sup> Franck thus positioned himself as a centrist in a battle between socialists and reactionary Catholic monarchists. Both socialism and monarchism threatened the sacred values of the Republic.

The two main Jewish journals echoed the sentiments expressed by Franck. Both *Les Archives israélites de France*, a liberal periodical founded in 1840 by the French Bible translator Samuel Cahen to promote religious reforms, and its rival, the conservative periodical *L'Univers israélite*, founded in 1844 in opposition to the reformist stance of the *Archives*

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10. Posener, *Adolphe Crémieux*, 150–54; *Comptes-rendu des séances de l'Assemblée nationale*, May 6, 1848, 39.

11. *Les Archives israélites de France* (hereinafter *A.I.*) 9 (1848): 143–48.

12. *Ibid.*, 202–4.

*israélites*, presented French Judaism as a middle ground between radical and reactionary forces and fully in consonance with the ideals of the French state. In 1849, in an editorial titled "Catholicism and Socialism," the *Archives israélites* sought to dispel the notion that no choice existed between the state regulation of wealth, which it described as the sacrifice of liberty in the name of equality, and Catholic domination in the public domain. It called on Jews to persuade their fellow non-Jewish citizens that a religious monopoly was not the answer to the socialist threat. The editorial concluded by calling on Jews to turn to Judaism, a religion that rejected both utopian socialism and religious absolutism.<sup>13</sup>

In 1850, the *Univers israélite*, in a three-part series titled "Judaism and Socialism," also sought to portray Judaism, which it coined "the supreme realization . . . of all liberty" as the happy medium between socialism and Catholicism. Judaism rejected the Catholic idea of "original sin," which, according to the *Univers israélite*, was responsible for the intimate alliance between Catholicism and absolutism. Because Catholics believed that they were born in sin, so claimed the *Univers israélite*, they tolerated religious coercion and the restriction of liberty, believing that they deserved to suffer. Referring to Genesis 4:7, "Sin couches at the door; its urge is toward you, yet you can be its master," and Exodus 19:6, "You shall be to Me a kingdom of priests and a holy nation,"<sup>14</sup> the *Univers israélite* argued that, in contrast to Catholicism, Judaism emphasized man's potential. By uplifting rather than downgrading man, argued the *Univers israélite*, Judaism encouraged humanity to resist oppression and thus provided a link between religion and freedom. Furthermore, proclaimed the *Univers israélite*, Judaism relied on the power of persuasion rather than on temporal power to enforce religious law. At the same time, Judaism did not confuse liberty with socialist anarchy.<sup>15</sup> Citing various biblical verses, the *Univers israélite* argued that Judaism respected the traditional values of property, family, and, of course, religion.<sup>16</sup> Judaism, thus argued the *Univers israélite*, represented a harmonious balance between anarchy and absolutism, a balance in sync with the values of the French Republic.

The attempt of the Jewish periodicals to align Judaism with the values of their state was not unique. Both in the past and today, Jews have commonly asserted the consonance of their interests and values and the interests and values of the country where they reside. What is important to understand is not that French Jews proclaimed the compatibility of their faith with the values of the Republic, but how that proclamation shaped their positions on specific church-state questions.

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13. *Ibid.*, 10 (1849): 5–7.

14. NJPS translation.

15. *L'Univers israélite* (hereinafter *U.I.*) 5 (1850): 345–58.

16. *Ibid.*, 489–95.

The *Archives israélites* addressed several problems associated with state subsidies for religion even prior to the outbreak of revolution and Crémieux's call for the separation of church and state. In an editorial, Isidore Cahen, son of the editor, Samuel Cahen, noted that the *Archives israélites* was grateful for government support of Judaism. He criticized, however, the excessive entanglement of the state in religious affairs and proclaimed that the state's official relationship with the major religions led to a humiliating dependence of their adherents on the government. Yet, despite his criticisms, Cahen did not call for the separation of church and state. Rather, he proposed that the government extend legal recognition to religious groups that were not officially recognized and provide them with subsidies. He nonetheless implied that separation was the only true solution to what he described as a burning question. Declaring that "the nature of our publication forbids us to treat [this subject] in detail," he concluded by advocating the defense of freedom of religion without defining what it meant.<sup>17</sup> Cahen left it to the reader to infer whether he believed that religious freedom required that all religious denominations enjoy the same level of government support or whether it required separation of church and state. While Crémieux, in the capacity of government minister, was open about his position, Cahen, in the capacity of a Jewish journalist, was not.

The ambiguity and nuance of Cahen's piece were not atypical of Jewish periodicals and the consistories at this time. As a spokesperson for Judaism, a minority religion in France, it was prudent to avoid the thorny question of separation. Interestingly enough, however, in a book that he published around the same time as his editorial, Cahen was more forthcoming. Identifying himself as a member of the intellectual left, and invoking the concepts of truth and justice, he openly called for separation of church and state. Government support for religion, he argued, actually corroded religion by encouraging passivity among worshipers and weakening the resolve of the clergy. In the end, separation would benefit both the state and the major religions, freeing the former of a financial burden and the latter of state control. Separation would energize the masses and clergy alike.<sup>18</sup>

Cahen's overt and principled support for separation was reflected neither in the editorials of the *Archives israélites* nor in the agenda of the consistories. The recognition of Judaism as one of three official religions enabled the consistories to proclaim their religious activities, including education, Jewish charitable works, and rabbinic training, to be patriotic duties. The *Archives israélites* and the consistories reveled in the interconfessional unity displayed at a procession celebrating the emergence of a republic. Marchand Ennery, grand rabbi of France, had marched together

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17. A.I. 9 (1848): 115–18.

18. Isidore Cahen, *Deux libertés en une* (Paris, 1848).

with leaders of the Catholic and Protestant denominations behind a banner proclaiming “union des cultes, fraternité universelle.”<sup>19</sup> In their eyes, a wonderful equilibrium had been achieved, the liberties of a Republic combined with recognition of Judaism by both the government and the Catholic and Protestant clergy as a religion on par with Christianity. Both Lazare Isidor, grand rabbi of Paris, and Ennery had expressed their devotion to the Republic to members of the new regime, and the president of the Constituent Assembly, Philippe-Joseph-Benjamin Buchez, a republican who was both vaguely socialist and a committed Catholic,<sup>20</sup> had responded on behalf of the government. Buchez had declared, “You [can] count on the fullest protection on our part, whether in your capacity as French citizens, whether in our capacity as sons of the Catholic Church; because we cannot forget that the Israelites are our brothers and were our fathers.”<sup>21</sup> Of course, regardless of how content the consistories and the *Archives israélites* may have been with the status quo and the attitude of the new regime, they had to address the question of separation once it became a real possibility.

In the spring of 1848, as members of the government debated the question of separation, the Central Consistory voiced its opinion in a memo to the regional consistories. The Central Consistory expressed its hope that the state would continue to recognize and financially support Judaism. Because separation was a possibility, however, it asked the regional consistories to provide ideas for maintaining religious unity and uniformity in the event that the government withdrew its recognition and support. Without an authoritative centralized leadership, disparate Jewish groups could pursue their own agendas. The memo suggested that, in the event of the withdrawal of the consistories’ legal status, they should cooperate and show a unified front. That way they could continue to exert influence even without official recognition.<sup>22</sup>

In its memo, the Central Consistory appeared much more concerned about the threat to Jewish unity and uniformity than to the financial repercussions of separation. French Judaism had its roots in centralization. The gap between the withdrawal of autonomy during the course of the French Revolution and the creation of the consistorial system under Napoleon had been relatively brief. In effect, consistorial Judaism was French Judaism. The consistories, basing themselves on the decisions of the Napoleonic Sanhedrin, and vested with the authority of the French

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19. *A.I.* 9 (1848): 188.

20. Maurice Agulhon, *The Republican Experiment: 1848–1852*, trans. Janet Lloyd (New York: Cambridge University Press, 1983), 50–51.

21. *Ibid.*, 289–90.

22. Letter from the Central Consistory to the Consistory of Bordeaux, June 12, 1848, CB (Archives of the Consistory of Bordeaux) 7 C 2.



state, developed a unique form of Judaism that blended tradition and fidelity to Jewish law with modern French values. Centralization helped to prevent the division of the community into denominations. The consistories even attempted to fuse the Ashkenazi and Sephardi liturgies to create a unified French rite.<sup>23</sup> Because the consistories represented all factions, Judaism in France was neither radically reformed nor stagnant. The threatened loss of centralization, the Central Consistory feared, would inevitably lead to the split of Jews into different denominations, a division that existed across the border in the German states.

The editorial board of the *Archives israélites*, whose views were associated with the more liberal elements in the consistories, expressed its concerns about separation more bluntly. Editor Samuel Cahen worried that separation would lead to the growth of an independent Orthodoxy among the Ashkenazi Jews of Alsace-Lorraine. Although many years had elapsed since Napoleon had convened the Assembly of Notables and Sanhedrin primarily to compel the Jews of Alsace-Lorraine to modernize their economic and religious practices, many still clung to their traditional ways of life.<sup>24</sup> Even the consistories in Alsace had continuously resisted the modest reforms proposed by the Central Consistory. Cahen feared that, without the authority of the state, the Central Consistory could not succeed in modernizing the economic and religious practices of thousands of Jews in Alsace-Lorraine.<sup>25</sup> In a similar vein, his son Isidore, writing in the *Archives israélites*, expressed concern that separation would temporarily lead to an outbreak of Catholic fervor once the clergy, free from state control, would attempt to consolidate their power.<sup>26</sup>

Though Samuel Cahen worried about separation and pushed for the rapid modernization of Orthodox Jews,<sup>27</sup> many of them had no desire to modify their religious practices, even if only aesthetically, to conform to consistorial demands. If the centralization of religious authority served as a check on radical reform, it also served as a check on ultraconservatism. For example, no consistorial official would have dared to propose the abolition of circumcision, but, at the same time, the grand rabbi himself, Marchand Ennery, openly supported the suppression of the custom of *mezizah*<sup>28</sup> for

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23. Because of strong opposition from traditionalist rabbis in Alsace, fusion was not achieved. See Jay Berkovitz, *The Shaping of Jewish Identity in Nineteenth-Century France* (Detroit: Wayne State University Press, 1989), 250.

24. On the slow pace of acculturation of Alsatian Jewry, see Paula Hyman, *The Emancipation of the Jews of Alsace: Acculturation and Tradition* (New Haven: Yale University Press, 1991).

25. *A.I.* 9 (1848): 250.

26. *Ibid.*, 293–97.

27. Although I use the term “Orthodox,” it should be understood that there were no formal denominational classifications in France during this period.

28. *Mezizah* is the oral suction of the blood resulting from circumcision.

hygienic reasons.<sup>29</sup> In their attempt to create a dignified and unified Franco-Judaism, the consistories threatened the Orthodox way of life.

The Orthodox, therefore, did not share Cahen's affinity for the consistorial system and did not fear its possible demise. In Paris in 1848, Alexandre ben-Baruch Créhange, a leader of Orthodox circles in Paris, organized the Club démocratique des fidèles (Democratic Club of the Faithful), which he modeled after the other political clubs that had appeared in the wake of the recent revolution and which promoted republicanism and civic responsibility.<sup>30</sup> At the same time, he started his own weekly journal, *La Vérité*, which was more conservative than the *Univers israélite*, which, in any event, had temporarily ceased publication during this period of political instability. While the *Univers israélite* had been associated with the conservative elements within the consistories, Créhange had little faith in the existing institutions, which he believed were fundamentally antagonistic to Orthodoxy. In *La Vérité*, he employed republican language to defend the rights of the Orthodox. Outlining the principles of his new club, Créhange writes, "Faithful to our country, faithful to our Republic, faithful to the principles of our religion, faithful to the motto 'liberty, equality, fraternity' . . . faithful to our (religious) duties, we demand energetically the enjoyment of our rights."<sup>31</sup>

Basing himself on the underlying principles of his club, Créhange challenged the status quo of organized Jewish life. The members of the consistories, he noted, were elected by a select group of notables and not by the masses. These electors were from the wealthier classes. Their views and the views of the consistorial representatives whom they elected did not reflect, in Créhange's opinion, those of the more traditional masses. The religious monopoly of an elitist group, asserted Créhange, led to an abuse of power. He cited the heavy taxes imposed by the Consistory of Paris on meat sold by butchers that it authorized as kosher. Moreover, Lazare Isidor, grand rabbi of Paris, had publicly announced in synagogue that anyone who bought meat from nonauthorized butchers ate *treifa* (non-kosher food). This decision to automatically brand the nontaxed meat in nonconsistorial establishments as nonkosher, regardless of the halakhic status of the meat, constituted an example, according to Créhange, of the unjust practices of the undemocratically elected Jewish authorities.<sup>32</sup>

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29. Berkovitz, *Shaping of Jewish Identity*, 222.

30. Although a bookkeeper by trade, Créhange was known for his publications, in which he espoused his religious and republican views. On Créhange and his club, see Zosa Szajkowski, "Internal Conflicts in French Jewry at the Time of the Revolution of 1848," in *Jews and the French Revolutions of 1789, 1830, 1848* (New York: Ktav, 1970), 1063–71.

31. *La Vérité* 1 (1848): 2.

32. *Ibid.*, 13.

Although he employed some of the arguments of the proponents of separation, such as the corruption of the consistorial body, Créhange did not call for an end to the legal recognition of religion in France. Rather, he focused on the republican virtue of universal suffrage. Like the provisional government, he too emphasized political reform rather than changes to the status of religion in France. However, he promoted political reforms as a means of effecting religious changes. Thus, touting his commitment to republican values, he demanded compatibility between the general electoral process and the process for electing representatives of the Jewish community. He called for the immediate dissolution of the Consistory of Paris and the reelection of its members by universal male suffrage. Because the masses were more traditional than the notables who had served as electors, he expected that the new consistory would have a more conservative makeup. The members of the existing consistories, Créhange asserted, ought to follow the example of the members of the republican provisional government, who were ready to accept universal suffrage.<sup>33</sup>

In support of his position on universal suffrage, Créhange cited the biblical commandment “love your neighbor as yourself.” That religious obligation, asserted Créhange, was the basis of the republican motto “liberty, equality, fraternity.” And, he explained, true love and true freedom could be achieved only in a society where all men were equal before the law and had an equal right to vote for their representatives, whether political or religious.<sup>34</sup>

Both the *Archives israélites* and its rival, the *Univers israélite*, when it resumed publication in 1849, challenged Créhange’s call for the election of a new consistory by universal male suffrage. The liberal *Archives israélites* opposed universal suffrage because it feared that the masses would elect a conservative consistorial body.<sup>35</sup> Although the *Univers israélite* had strong reservations about the liberal policies of the existing consistories, it too advised against universal suffrage. Universal suffrage would extend the franchise to Jews who had no connection to their Judaism. Instead, it promoted the establishment of religious criteria for the notables who served as electors.<sup>36</sup>

In their debate over separation, the centrist Central Consistory, the liberal *Archives israélites*, and the unofficial spokesperson for Orthodoxy in Paris, Créhange, all sought to portray Judaism as the embodiment

33. *La Vérité* 2 (1848), 14–16.

34. *Ibid.*, 3–5.

35. *A.I.* 9 (1848): 259; Jonathan Helfand, “French Jewry during the Second Republic and Second Empire (1848–1870)” (Ph.D. diss., Yeshiva University, 1979), 97–100. (Helfand’s dissertation provides a solid global history of French Jewry during the Second Republic and Second Empire.)

36. *U.I.* 5 (1849): 55–61, 97–111; Helfand, “French Jewry,” 99–100.

of republicanism. Each rejected the attacks on the Republic emanating from the socialist left and the monarchist right. The Central Consistory and the *Archives israélites* were in favor of maintaining the existing relationship between religion and state for tactical reasons. The Central Consistory argued in favor of the status quo because separation would threaten religious uniformity. The *Archives israélites* argued in favor of the status quo because separation would impede the modernization of the economic and religious practices of the masses and would lead to an outbreak of Catholic fervor. Neither the Central Consistory nor the *Archives israélites* asserted that Judaism inherently demanded any official relationship between the government and religion. Their pragmatic arguments against the separation of church and state reflected the moderate republican face that they sought to convey to the public. They were neither socialist nor monarchist, neither anticlerical nor fervently clerical. By expressing their positions in timely practical, rather than ideological, terms, they left room for flexibility on the thorny subject of the church–state relationship.

While the Central Consistory and the *Archives israélites* asserted that the existing consistorial organization served the interests of Franco-Judaism, Créhange argued that the consistories abused their powers and did not reflect the will of the masses. He did not shy away from heavily charged rhetoric, but that rhetoric involved the question of universal suffrage, not the relationship between church and state. And, while republicans were divided about the question of separation, almost all agreed that universal suffrage was a republican value. Créhange cleverly focused on the politically less divisive issue of universal suffrage, which he skillfully employed to undermine the existing consistories. Invoking his strong republican commitment to the principle of universal suffrage, he argued for the dissolution of the consistories and for reelection based on that principle. In that way, he was able to promote a change in the status quo without specifically addressing the church–state question. In the end, the government heeded Créhange's call for greater harmony between the general and consistorial electoral processes.<sup>37</sup> It imposed universal suffrage for consistorial elections.<sup>38</sup>

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37. There was one distinction. The minimum voting age for consistorial elections remained twenty-five though the minimum voting age for general elections was twenty-one. (See letter from the Central Consistory to the Consistory of Bordeaux, June 12, 1848, CB 7 C 2; and Helfand, "French Jewry," 76.)

38. In 1862, the government revoked universal suffrage for consistorial elections. It restricted the vote to men who participated in consistorial institutions and expenses. See Phyllis Cohen Albert, *The Modernization of French Jewry* (Hanover, N.H.: University Press of New England, 1977), 92–93, 116–17.

By aligning Judaism with moderate republicanism, both the official and unofficial leadership of French Jewry successfully avoided entering the frays of the deep ideological clashes that permeated French society. For them, the relationship between church and state did not evoke the emotions that it did for socialists and supporters of the Catholic Church alike. Notwithstanding the more principled, ideological stance of Adolphe Crémieux in his capacity as politician and Isidore Cahen as a man of the intellectual left, French Jewry, as a whole, possessed a relatively ethnocentric attitude on the church–state question. For the consistories and their supporters, the status quo served French Jewry well. For the religious opponents of the consistories, the status quo had to be revised slightly to allow for greater representation of the traditional masses.

The two official Protestant Churches adopted an approach toward the church–state question that resembled that of these Jewish representatives. They acted cautiously and pragmatically.<sup>39</sup> On the whole, Protestants were grateful for the 1802 law that granted official recognition to the Reformed and Lutheran Churches and provided for subsidies. Many, however, objected to the specifics of the law. As it may be recalled, the law did not respect the traditional organizing principles of the two churches, and it strictly regulated them in all areas, including dogma. After the Revolution of 1848, many Calvinists seized on the new right of assembly<sup>40</sup> to reestablish a national synod, whose authority was not recognized by the Organic Articles of 1802, to address the church–state issue. To avoid unnecessary confrontation with the regime, they named it a “general assembly.” The General Assembly, however, did not address the question of separation but rather emphasized the inequities of the 1802 law. In order to revive the democratic traditions of the Reformed Church, the General Assembly called for the implementation of universal suffrage in consistorial elections and for the full restoration of the synodal system. The government, for reasons that remain unclear,<sup>41</sup> chose not to heed these demands.<sup>42</sup>

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39. There were, however, several independent Protestant revivalist congregations that the government had refused to officially recognize and who fervently lobbied for separation. See D. Robert, A. Encrevé, J. Baubérot, and P. Bolle, “L’Etat, l’opinion et les Protestants, depuis le début du XIXe siècle,” in *Histoire des Protestants en France*, ed. Robert Mandrou et al. (Toulouse: Privat, 1977), 350; Steven C. Hause, “French Protestants, Laicization, and the Separation of the Churches and the State, 1802–1905,” in *Religious Differences in France: Past and Present*, ed. Kathleen Perry Long (Kirkville, MO: Truman University Press, 2006), 144–46.

40. Within months, however, the new Republic began to curtail the rights of assembly and association. See Merriman, “Contested Freedoms,” 191–92, 196–97.

41. Perhaps, the government’s distaste for Protestant proselytism led it to be unsympathetic to the demands of the Reformed Church.

42. D. Robert, A. Encrevé, J. Baubérot, and P. Bolle, “Les Réveils et la vie interne

The decision of the General Assembly to circumvent the specific question of separation and to promote changes in the organizational structure of the Reformed Church through universal suffrage mirrored Cr  hange's tactics. He too avoided the question of separation, and he too called for universal suffrage as a way of changing the existing consistorial body. Although the *Archives isra  lites* and the Central Consistory did address the question of separation, they did so in a practical manner, without taking a strong ideological stand. Thus, representatives of Judaism and Protestantism chose to tread lightly in the debate over separation or to skirt the issue altogether.

If the leaders of the two minority religions took a cautious approach to the church-state question, the representatives of ultramontane Catholicism chose a radically different course. They saw separation as a direct challenge to France's eternal status as the eldest daughter of the church. They opposed separation on religious and moral grounds, and they pushed for a stronger Catholic presence in the public sphere. In its decision to introduce universal suffrage and to hold elections in April 1848, the provisional government unwittingly strengthened the hands of the Catholic Church. It had simply not governed for a long enough time to either provide for stability or to educate the rural masses in the values of republicanism. Prodded by their clergy, rural voters elected local notables, rather than unknown and inexperienced republican candidates. Orl  anists, Legitimists, and Bonapartists made up over half of the new assembly. They merged to form the Party of Order. The other half of the legislature was comprised of radicals, socialists, and moderate republicans, the latter the most numerous. Many of the conservatives elected were openly committed to promoting the interests of the Catholic Church. These included Montalembert, who had broken with his master Lamennais, and Fr  d  ric Falloux, who had long served as the church's ambassador in the political world.<sup>43</sup>

In contrast to the Catholic Church, the Jewish consistories and the *Archives isra  lites* did not approve of candidates who campaigned on specifically religious platforms.<sup>44</sup> French Jews, as a whole, supported moderate republican candidates of all faiths. Their leaders had taught them that Judaism and republicanism were compatible and that both represented the middle ground between reactionary Catholic monarchism and socialist anarchy. But for the deputies representing the church, as Montalembert stated before the legislature, "There is no middle ground." One had

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du monde protestant," in *Histoire des Protestants en France*, 285–88.

43. Furet, *Revolutionary France*, 402, 412; Merriman, "Contested Freedoms," 191; Jeremy D. Popkin, *A History of Modern France*, 3rd ed. (New York: Prentice Hall, 2006), 119–20.

44. *A.I.* 9 (1848): 199–200.

to “choose between Catholicism and socialism.”<sup>45</sup> And although the new assembly again proclaimed the Republic, the legislature, prodded by the Party of Order, began to repress socialist agitators and to promote Catholicism in the public sphere ostensibly in response to a series of unruly demonstrations.

On May 15, 1848, a group of radicals tried to forcibly dissolve the legislature and proclaim a social republic of the people. The government began to arrest radical leaders and, in June, it voted to close the National Workshops. Outraged workers took to the streets in Paris to revolt. The revolt was quickly repressed, and many workers lost their lives. The National Assembly installed General Louis Eugène Cavaignac, the minister of war who had crushed the revolt, as provisional leader of the Republic, and the Party of Order forced him to appoint an education minister sympathetic to the church. After the workers’ uprising, the Party of Order began to assert even more firmly the promotion of religion, which, it argued, served as a stabilizing force.<sup>46</sup> The debate in the National Assembly was no longer about whether to separate church from state but whether to strengthen the influence of religion in the public sphere.

The Jewish consistories and the *Archives israélites* were initially content with the government’s decision to abandon the separation debate. They agreed that the reestablishment of order was the priority,<sup>47</sup> and, in any event, they benefited from the official recognition of religion. They would soon learn that while the Party of Order may have desired the promotion of religion in general, it specifically had in mind the promotion of Catholicism. As Montalembert had declared, the only alternative to Catholicism was socialism. While the new constitution, proclaimed in the fall of 1848, continued to recognize all three religions, the official public celebration at the Place de la Concorde included a Catholic rather than a civil or interdenominational ceremony. The *Archives israélites* vehemently protested the “baptizing” of a republican constitution in Catholicism. The Constitution, it pointed out, belonged to all groups, not just to Catholics.<sup>48</sup>

Notwithstanding the slights noted by the *Archives israélites*, the National Assembly did not ignore the Jewish community. For example, government subsidies to Judaism, originally guaranteed in an 1831 law, were now enshrined in the new constitution. Additionally, the minister of religion wrote to the presidents of the consistories to invite them and their constituents to take part in a day of prayer in honor of the Constitution.

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45. Cited in Michael Graetz, *The Jews of Nineteenth-Century France: From the French Revolution to the Alliance Israélite Universelle* trans. Jane Marie Todd (Stanford: Stanford University Press, 1996), 203.

46. Popkin, *History of Modern France*, 120–21.

47. *A.I.* 9 (1848): 484.

48. *Ibid.*, 605–7.

The minister stated that “having decided that the intercession of religion is needed for the consecration of its work, the National Assembly desires that the faithful of the diverse religious communities . . . offer to God . . . their prayers for the Republic.” He then asked for the chanting of Jewish benedictions in synagogues for the Republic.<sup>49</sup> And although French Jewish leaders disapproved of the promotion of Catholicism in the public sphere, they were nevertheless satisfied that Judaism retained its legal status. If the Party of Order advocated legislation that would strengthen the influence of Catholicism and inadvertently weaken Judaism, it did not call for the dismantling of the consistorial system and the withdrawal of recognition for the Jewish religion. On a day-to-day basis, the operations between the state and the consistories functioned smoothly. This is not to deny the existence of irritants that evoked strong protests from the representatives of the Jewish community and that led them to begin to question the existing association between religion and state.

After the election of Louis-Napoleon to the presidency in December 1848, the relationship between the organized Jewish community and the government took a turn for the worse. In his campaign, Louis-Napoleon had promised to strengthen the influence of the church in the realm of education and to restore the sovereignty of the pope in Rome, where Italian revolutionaries had established the Roman Republic.<sup>50</sup> In turn, he received strong support from the Catholic Church and the backing of most French Catholics, which allowed him to defeat General Cavaignac. Louis-Napoleon’s victory was followed several months later by a strong conservative showing in the elections for the French legislature.<sup>51</sup> Frightened by socialism and by the events in Italy, many voters turned to candidates who had run as Catholics and who had argued that Catholicism was the only defense against socialist anarchy. And, while socialism, not Judaism, was the target, every ideology but Catholicism was suspect.

Both the *Archives israélites* and the *Univers israélite* protested the increasing tendency of the government to sanction Catholic intolerance. The two periodicals, as noted earlier, vehemently denied that no choice existed between socialism and Catholicism or, as the *Archives israélites* put it, between “communist dreams” and the “adoration of the pope.”<sup>52</sup> They consistently promoted moderate republicanism, which they associated with Judaism. Judaism and moderate republicanism balanced respect for

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49. Letter of November 8, 1848, in Hebrew Union College Archives, Sephardic Jews of France Collection, 3/5.

50. Louis-Napoleon kept his promise. French troops crushed the Roman Republic and restored the pope to power.

51. Adrien Dansette, *Religious History of Modern France*, vol. 1, *From the Revolution to the Third Republic*, trans. John Dingle (New York: Herder & Herder, 1961), 261–62.

52. *A.I.* 10 (1849): 5.



order and respect for liberty, respect for organized religion and respect for freedom of conscience. As they began to suspect that the French masses did not share their commitment to liberty and religious tolerance, they began to reassess their views regarding the relationship between religion and state. Thus, both periodicals, regardless of their religious outlooks, primarily addressed the church–state question from a practical perspective. When the official recognition of religion fostered religious tolerance, it served the Jews well. When it fostered religious discord, it did not.

While it is true that the Catholic Church portrayed Catholicism as a shield against socialism, its opposition to the separation of the temporal and spiritual spheres ran deeper. France, it believed, was eternally the eldest daughter of the Catholic Church, and the governing authorities, whether monarchist or republican, had a religious duty to promote Catholicism. For the church and its representatives in the government, the true battle for religion lay in the realm of education. The organized Jewish community and the government clashed repeatedly over the church's attempt to exclude Jewish teachers from schools and to teach Catholicism in the classroom.

In 1849–50, Jewish periodicals reported widely on the successful attempt of the local bishop to revoke the appointment of Isidore Cahen, a graduate of the prestigious *Ecole Normale Supérieure*, as instructor of philosophy at the *Lycée Napoléon-Vendée* in Luçon.<sup>53</sup> Luçon was located in the department of Vendée, a staunchly Catholic region that had resisted the French Revolution. For the Catholic Church, philosophy was a particularly sensitive subject because it addressed questions about the meaning of existence. Only a practicing Catholic could be trusted to teach philosophy without impinging on the Christian faith of the students. The church could not have chosen a better test case than Isidore Cahen because he was a Jew who identified with the intellectual left and who had promoted the separation of the temporal and spiritual spheres. The church, correctly as it turned out, did not believe that a government committed to the values of religion and order would intervene to help such an individual.

Cahen's dismissal led to an outcry from all corners of the Jewish community. The *Archives israélites* noted that in a country where a Jew had served as finance minister in 1848, a reference to Michel Goudchaux, it was odd that a Jew could not serve as a philosophy instructor. It dismissed the church's concern that Cahen's religious beliefs would lead him to teach philosophy in a manner that offended the Catholic religion. Philosophy, by definition, argued the *Archives israélites* was not an expression of any one particular religion but an expression of all religions. It was a religiously neutral subject that provided intelligible methods to better understand

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53. On the Cahen Affair, see Graetz, *Jews of Nineteenth-Century France*, 204–6.

God. The journal pointed out that a non-Jew taught philosophy in the rabbinical school. It concluded that the church and its representatives in the government apparently objected to Jewish teachers in general, and that they had focused on the subject of philosophy only as a smokescreen.<sup>54</sup> In light of the campaign of the ultra-Catholic press against Cahen's appointment and its past defense of the ritual murder accusation against Jews during the Damascus Affair of 1840, the *Archives israélites'* suspicion was understandable.<sup>55</sup> Yet, its conclusion was unwarranted. While it may be true that a few Jews could not obtain teaching jobs,<sup>56</sup> there was no widespread dismissal of Jews in the school system or a call for such dismissals by the Party of Order. Nonetheless, the *Archives israélites'* conviction, even if ill-founded, led it to slowly and gradually reconsider its earlier opposition to the separation of church and state.

Taking stock of the events of 1849, the *Archives israélites* concluded the year on a militant note. In a thinly disguised appeal to President Louis-Napoleon, it warned against relying on the Catholic clergy in the fight against socialism. They would be the first to abandon the government, as they did Napoleon I, when the time suited them. Logic and reason, not Catholicism and clerical power, were the appropriate tools in the battle against socialism. The paper proclaimed that, together with enlightened non-Jews, it would combat the clerical enemies of liberty whose views, it argued, did not reflect the majority of Frenchmen.<sup>57</sup> In its battle against clerical intolerance, the *Archives israélites* found an ally in the *Univers israélite*. The conservative periodical, which had also extensively covered the Cahen Affair,<sup>58</sup> lambasted the government for conceding too much to the church. In its quest for political stability and order, the government, prodded by Montalembert, had restored the influence of the Jesuits. The *Univers israélite* bemoaned that "Rome is no longer in Rome, but [has found a home] in Paris!"<sup>59</sup>

Both the *Univers israélite* and *Archives israélites* openly criticized the government for betraying the values of the Republic in refusing to reverse the dismissal of Cahen. As the official legal body representing Judaism in France, the Central Consistory felt compelled to restrain its criticism of the regime, but it too acted boldly in the Cahen Affair. On December

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54. A.I. 10 (1849): 558–59, 621–27.

55. On the Damascus Affair and the role of the church and Catholic press, see Jonathan Frankel, *The Damascus Affair: "Ritual Murder," Politics, and the Jews in 1840* (New York: Cambridge University Press, 1997).

56. A.I. 10 (1849): 557–60 discusses the case of one institution that refused to employ a Jewish math teacher.

57. Ibid., 670–71.

58. U.I. 5 (1849): 119–27.

59. U.I. 5 (1850): 300.

27, 1849, shortly after they received a letter from Cahen asking them to intervene on his behalf,<sup>60</sup> the lay members of the Central Consistory collectively resigned. In their official letter of resignation to the minister of religion, which he eventually rejected,<sup>61</sup> they did not specifically address the dismissal of Cahen or anybody else. They referred to “many events, which it would not be worthy to recall here.” In their letter to the regional consistories informing them of their resignation, they also declined to provide a reason for their decision.<sup>62</sup> The *Archives israélites* applauded the collective resignation of the lay officials of the Central Consistory and requested that the specific reasons be made known to the government. Eventually, after a thorough investigation, the paper itself enumerated the various grievances that had led to the resignation. And, as it turned out, the Cahen Affair was only one of them. Among the other grievances were the refusal of the government to provide more funding for the rabbinical school, to prevent converts to Christianity from reburying Jewish relatives in Christian cemeteries, to prohibit the religious identification of Jews in legal proceedings, and to dissolve the Consistory of Colmar in Alsace, which was unwilling to promote the modernization of its very traditional constituents.<sup>63</sup>

Even a cursory examination of these alleged reasons for their collective resignation sheds light on the tensions inherent in the relationship that existed between religion and state in France at the time. While the Constitution guaranteed freedom of conscience, the government was also bound by the Concordat, which recognized that Catholicism was the religion of the majority. In the Cahen Affair, these two principles arguably clashed. To deny Cahen the opportunity to teach in a public institution because of his religion or liberal views was a clear violation of his right to freedom of conscience. However, if the government insisted that he be allowed to teach philosophy, a sensitive subject, to impressionable Catholic students, it would risk offending those who subscribed to the religion of the majority. It is true that the recognition of Catholicism as the religion of the majority did not make it the religion of the state; rather it was an official recognition of a reality. But it was a reality with which the government had to contend.

The grievances of the Central Consistory regarding the amount of government funding for the rabbinical school is another good example of the difficulties that stemmed from the entanglement of state and religion in France. The state’s official recognition of Judaism and its subsidies

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60. A copy of Cahen’s letter is printed in *A.I.* 11 (1850): 9–12.

61. *A.I.* 11 (1850): 113.

62. Copies of both letters are printed in *U.I.* 5 (1850): 201–3.

63. *A.I.* 11 (1850): 57–63.

to the consistorial rabbinical school resulted in repeated clashes between consistorial and government officials over the seminary's curriculum and the level of financial support.<sup>64</sup> Finally, the dispute between the Central Consistory and the administration regarding the Consistory of Colmar demonstrates the problem of centralization and artificial unity.<sup>65</sup> In creating the consistorial system, the state had compelled rabbis and lay leaders from different localities to work together. Because these rabbis and lay leaders had divergent views and constituents, their consistories continuously fought with one another over questions of religious reform, modernization, and Jewish education. In this case, the Central Consistory appealed to a secular authority, the government, to force a regional consistory in Colmar to promote a particular brand of Judaism.

Although most of the grievances enumerated by the *Archives israélites* serve to highlight the complexities in state-recognized religion, it was the Cahen Affair that led the paper to begin to reconsider its opposition to separation. If it did not focus on the quarrel over the level of financial support for the seminary, it was precisely because budgetary disputes were common. Which government-supported institution did not seek more funding? The *Archives israélites*, in all likelihood, regarded the conflict over subsidies for the rabbinical school as just another bureaucratic squabble. It did not emphasize the refusal of the government to dissolve the Consistory of Colmar because it probably viewed the matter as a technical legal issue regarding the authority of the minister of religion to dismiss regional consistorial officials. Ironically, because the grievances regarding the rabbinical seminary and the Consistory of Colmar reflected systematic problems in the relationship between the Jewish religion and the state, they more easily could be overlooked. Furthermore, from the perspective of the *Archives israélites*, the separation of church and state would redress neither of them. Separation would mean an end to government funding of the rabbinical school altogether. True, it would no longer have a say in the curriculum, but the *Archives israélites* actually appreciated the government's input. It was the government that pushed the school to produce modern French rabbis with a reasonable secular education. Separation would also free the traditional rabbinate and lay leadership of Alsace from the influence of a Central Consistory

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64. On the history of the relationship between the French state and the rabbinical school, see Jeffrey Haus, "The Practical Dimensions of Ideology: French Judaism, Jewish Education and State in the Nineteenth Century" (Ph.D. diss., Brandeis University, 1997); and idem, "How Much Latin Should a Rabbi Know? State Finance and Rabbinical Education in Nineteenth-Century France," *Jewish History* 15, no. 1 (2001): 59–86.

65. On the continuous power struggle between the regional and central consistories and the myth of unity, see Albert, *Modernization of French Jewry*, 193–96, 263–64, and Hyman, *Emancipation of the Jews of Alsace*, 144–54.

that promoted modernization, and there would no longer be a check on Alsatian Orthodox extremism.

Unlike the conflict between the Central Consistory and the government over the Consistory of Colmar, the Cahen Affair neither stemmed from an internal Jewish dispute between liberals and conservatives nor from a technical legal question regarding the dissolution of regional consistories. Nor was it a simple budgetary matter. By choosing to appease the church and refusing to reinstate a Jewish instructor in a public institution, the dangers posed to Jews from the entanglement of religion and state became readily apparent. It was these practical dangers, rather than an inherent ideological problem with government-recognized religion, that led the Jewish press to begin to reconsider their opposition to separation. For the *Archives israélites*, “fear” of the traditionalism of Alsatian Jewry slowly began to give way to fear of the church. The *Univers israélite* had never “feared” the traditionalism of Alsatian Jewry, but, like its rival, it certainly feared the church. That fear would grow when the Party of Order made a strong push to increase the influence of Catholicism in the school system.

After his election to the presidency, Louis-Napoleon appointed the prominent ultramontane Frédéric Falloux minister of education. The minister of education at that time also served as minister of religion, and Falloux, backed by Montalembert, attempted to combine his two roles. Montalembert, as a disciple of Lamennais, had argued for the separation of religion and state, and he proposed that the state allow the church to create its own school system. Schools, not the power of the state, would win the hearts and minds of Frenchmen. After breaking with his master and submitting to the authority of the pope, who opposed separation, Montalembert continued his crusade for what he called “liberty of education.” He no longer maintained that liberty of education was contingent on separation. Indeed, the Constitution of 1848, which the Party of Order had helped to shape, both preserved the relationship between church and state and recognized the right to liberty of education, without defining it. Montalembert promoted not only the unrestricted right of the church to establish its own primary and secondary schools, which the Guizot education law had not recognized, but the right of the church to promote Catholicism in the public school system.

In 1849, in his capacity as minister of education, Falloux established a commission to draft a new education law aimed at strengthening the influence of the church. The commission made several recommendations. It proposed liberalizing the requirements for opening private primary and secondary schools and lowering the standards of certification for members of religious orders devoted to teaching. Furthermore, it recommended compulsory religious education in the public schools. Finally, the commission proposed the creation of departmental Academic Councils

and a central administrative council in Paris, the Superior Council, to supervise the educational system.<sup>66</sup>

In its initial proposal, the commission recommended that academics, representatives from private schools, government functionaries, and Catholic and Protestant clergy form the councils. The exclusion of Jewish clergy from the councils immediately drew protests from the regional and central consistories and the Jewish press.<sup>67</sup> Members of the Central Consistory met with Falloux regarding the matter. He claimed that the proposal's omission of Jewish clergy in the councils was an unfortunate oversight. At the same time, he expressed doubts that a Jewish clergyman should have a place on the Superior Council. He noted that, according to the proposal, the Superior Council would include only one Protestant pastor, and that Protestants were more numerous than Jews. Both Falloux and later the president of the commission, Adolphe Thiers, argued that the small number of Jews in France did not warrant a place for a rabbi on the Superior Council.<sup>68</sup> In the end, the commission relented. It amended the proposal to include Jewish representatives on both the departmental and central councils,<sup>69</sup> though not necessarily clergymen. The *Archives israélites* suggested that the commission's new recommendation only required Jewish representatives rather than Jewish clergy because some Catholics did not want their clergy to sit with Jewish clergy as equals.<sup>70</sup> This amendment still did not satisfy the *Univers israélite*, which argued that the law should specifically designate a grand rabbi to serve on the national Superior Council. A lay member, it feared, would not effectively represent the Jewish religion on this important council.<sup>71</sup>

In addition to addressing the question of Jewish representation on the councils, the administration also responded to Jewish concerns regarding compulsory Christian religious instruction in state schools. During the hours designated for such instruction, Jewish students of all the lycées in Paris would be taught religion by a Jewish chaplain.<sup>72</sup>

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66. Joseph N. Moody, *French Education Since Napoleon* (Syracuse: Syracuse University Press, 1978), 53–55; Helfand, "French Jewry," 77–78.

67. Letter from the Central Consistory to the Commission on the Education Law, July 4, 1849, the Jewish Theological Seminary Archives, Consistoire Central Israélite de France Records, Box 7; *A.I.* 10 (1849): 322, 369–73.

68. Letter to the Consistory of Bordeaux, July 13, 1849, CB 7 C 2; and Letter from the Central Consistory to the Consistories of Nancy, Strasbourg, and Metz, July 5, 1849, the Jewish Theological Seminary Archives, Consistoire Central Israélite de France Records, Box 7.

69. The number of Protestant clergy was increased to two.

70. *A.I.* 11 (1850): 293.

71. *U.I.* 5 (1849): 39.

72. Helfand, "French Jewry," 80.

After a debate in the National Assembly, the new education law was passed in two stages during the early months of 1850. Before the voting took place, Montalembert skillfully defended the bill. While he defended the right of the church to maintain its own schools, he focused on the question of order. Directing his appeal to moderate republicans, he argued that socialists dominated the existing educational system and that they were disloyal to the Republic. He reminded his peers that in the months following the Revolution of 1848, socialist activists had sought to undermine the republican government and replace the tricolor flag with the red flag of revolution.<sup>73</sup> What they could not achieve themselves, they hoped to achieve through others. In the socialist-controlled school system, proclaimed Montalembert, instructors were breeding a new generation of rebels who would one day rise up against the Republic. The clergy, he asserted, represented order, and their influence in the educational system would actually lead to more stability for the Republic.<sup>74</sup>

In his passionate response to Montalembert, Adolphe Crémieux, a leading opponent of the education bill, argued that the underlying purpose of the law was to promote one religion, Catholicism. Otherwise, asserted Crémieux, Montalembert himself would never have supported it. As Crémieux proclaimed, “I understand why Monsieur de Montalembert wants this law, but he ought to understand why I do not want it. I am a citizen, just as he is. . . . He represents the Catholic principle; I represent another principle, which was thirty-five hundred years old at a time when yours did not yet exist.” The specific context in which Crémieux invoked “another principle,” his Judaism, is unclear. In the context of his remarks regarding the promotion of Catholicism in schools, Crémieux simply seems to have stated that, as a Jew, he would not support a bill that promoted only Catholicism in the public school system. However, after invoking his “principle,” Crémieux called for the separation of the religious and secular spheres. He explained that, while he was all in favor of religious instruction, it was the task of schools to educate students in secular subjects and the task of religious institutions to educate the faithful in religious matters.<sup>75</sup> In this context, Crémieux was apparently saying that Judaism required the complete separation of the religious and secular spheres. Back in 1848, when he promoted the separation of church and state and the reintroduction of divorce, he had not invoked his religion.

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73. On the flag debate of 1848, see Mona Ozouf, “Liberty, Equality, Fraternity,” in *Realms of Memory*, vol. 3, *Symbols*, ed. Pierre Nora; trans. Arthur Goldhammer (New York: Columbia University Press, 1998), 97–98.

74. *Comptes-rendu des séances de l'Assemblée nationale*, January 17, 1850, 30–32.

75. *Comptes-rendu des séances de l'Assemblée nationale*, January 18, 1850, 48 (translation of citation by Arthur Goldhammer, in Pierre Birnbaum, *Jewish Destinies: Citizenship, State, and Community in Modern France* [New York: Hill & Wang, 2000], 195–96).

If in the education debate, Crémieux implied that his Judaism required him to support the separation of religious and secular spheres, one can legitimately tie his support for the separation of church and state to his Judaism.

Unlike Crémieux, the consistories, the *Archives israélites*, and the *Univers israélite* did not frame their opposition to the education bill in ideological terms. They opposed those aspects of the proposed law that discriminated against Jews. They did not demand in principle the complete separation of the secular and religious spheres. Indeed, the *Univers israélite* explicitly recognized the unlimited right of religious institutions to establish their own schools. It did suggest, however, that within these schools the clergy should teach religious classes and the lay instructors should teach secular subjects, but it did not advocate that the law require this condition. Like the question of separation itself, the consistories and the Jewish press approached the education bill pragmatically. As the *Archives israélites* stated in its discussion of the commission's original proposal, "Politics is not in the domain of the *Archives israélites*, and we persist in only considering government acts . . . from the perspective of how they affect the Jews."<sup>76</sup>

The consistories and the Jewish periodicals did not outright reject the commission's proposal, as did virtually all radicals and socialists. Rather, in their moderate and practical fashion, they called for changes that would respect the official status of Judaism in France. If for Crémieux and others on the left, freedom of religion required the absence of religion in the public sphere, for the consistories and the Jewish press, freedom of religion merely required an equal presence for all religions in the public sphere. Unlike most radicals and socialists, the consistories and the Jewish papers were not ideologically committed to separation; and unlike the Party of Order, they were not ideologically committed to the preservation of the existing relationship between state and religion. They believed that Judaism, which they portrayed as being in harmony with moderate republicanism, allowed for flexibility on the church-state question. That flexibility was visible in the slow and gradual shift of the organized Jewish community toward support for separation.

Even though Falloux had responded favorably to Jewish requests for amendments to his education bill, the rise of the Party of Order, the performance of Catholic ceremonies at civil functions, including the celebration of the Constitution, the Cahen Affair, and the church's attempt to promote Catholicism in the public sphere, took their toll on the Jewish community. While many Jewish leaders had staunchly opposed separation in the months following the Revolution in 1848, they were no longer as sure of their position in 1850. They had to weigh the practical advan-

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76. *A.I.* 10 (1849): 435.



tages of the relationship between church and state, the official recognition and funding of Judaism, against the practical disadvantages, the domination of Catholicism. When one examines both Jewish periodicals in 1850, the shift toward a more ambiguous stance on the church–state question becomes apparent. For example, the *Univers israélite* asserted that too many Jews believed that the fate of Judaism depended on government recognition, and the *Archives israélites* even published Isidore Cahen's separatist views.<sup>77</sup> It was that type of ambiguity, as we shall see, that would help the representatives of French Jewry to navigate the clerical and anticlerical vicissitudes of the Second Empire and Third Republic.

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77. See, for example, *U.I.* 5 (1850): 305–6; and *A.I.* 11 (1850): 390–91.



## Between Clericalism and Anticlericalism: French Jewry, 1852–1882

The Second Empire witnessed the entrenchment of clerical and anticlerical positions in France. During the Second Republic, the Catholic Church engaged in a war against socialism. Its weapon, the promotion of Catholicism in the public sphere, affected Jews, but did not generally target them directly. The church neither denounced the right to freedom of conscience nor demanded the withdrawal of the official recognition of Judaism. During the Second Empire, a new battlefield emerged. The church became embroiled in a spiritual struggle against both Judaism and free thought. It openly rejected the value of religious pluralism and sought to reestablish the bond between French and Catholic identity. Frightened by the growing intolerance of the church, republican leaders, who assumed power with the establishment of the Third Republic, launched a campaign of radical secularization. During the years of the Second Empire and the Third Republic, the Jewish community was caught between the two extremes.

In the early years of the Second Republic, conservative candidates benefited significantly from the implementation of universal male suffrage.<sup>1</sup> Within time, however, support for radical republicanism began

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1. On the Second Empire and the early years of the Third Republic, see Alain Plessis, *The Rise and Fall of the Second Empire: 1852–1871*, trans. Jonathan Mandelbaum (New York: Cambridge University Press, 1985); Jean-Marie Mayeur and Madeleine Rebérioux, *The Third Republic from Its Origins to the Great War: 1871–1914*, trans. J. R. Foster (New York: Cambridge University Press, 1984); François Furet, *Revolutionary France: 1770–1880*, trans. Antonia Nevill (Oxford: Blackwell, 1992); and Maurice Agulhon, *The French Republic: 1879–1992*, trans. Antonia Nevill (Oxford: Blackwell, 1993).

to spread to rural areas and among the lower classes. In 1850, frightened by the electoral gains of radical republican candidates, the Party of Order passed a law that restricted the franchise to registered taxpayers, reducing the electorate from 9.6 million to 6.8 million. This tactic merely led to an increase of support for radical republicans among those members of the working and less-affluent classes still eligible to vote. The Party of Order faced the possibility of heavy losses in the upcoming national elections in 1852. Louis-Napoleon, who was barred by the Constitution from seeking a second term in office, skillfully took advantage of the precarious state of the Party of Order. Because a coup d'état would indeterminately delay national elections and because he enjoyed a positive relationship with the church, Louis-Napoleon knew that he could count on the support of the Party of Order. And, as he had hoped, the Party of Order did indeed support both his coup d'état in 1851 and his proclamation as emperor one year later. Echoing his earlier statement regarding the choice between socialism and Catholicism, Montalembert declared, "The choice is between [Louis-Napoleon] and the complete ruin of France. . . . I believe that . . . I am once more on the side of Catholics against the Revolution."<sup>2</sup>

Although he enjoyed the backing of the Party of Order and the Catholic Church, the new emperor did not believe that he had to choose between Catholicism and the French Revolution. He invited the grand rabbi of Paris to a reception at the Tuileries in honor of the proclamation of the empire's Constitution.<sup>3</sup> More substantively, Article I of the Constitution of 1852 explicitly "recognize[ed], confirm[ed], and guarantee[d] the great principles proclaimed in 1789, which are the basis of the public law of the French people," including freedom of conscience. The new constitution neither recognized Catholicism as the religion of the state nor deprived Judaism and Protestantism of their legal status. The emperor even sponsored legislation that recognized the authority of local Reformed churches, which the 1802 decree organizing Protestantism had ignored. Under the new legislation, the consistories could no longer choose whomever they wanted to serve as pastors for the local churches. Rather, local churches would now submit a list of three candidates for pastor from which the consistory would select one. Additionally, the emperor refused the Catholic Church's demand to make religious marriages compulsory and to declare Sunday an obligatory day of rest. At the same time, however, he refrained from interfering in the relationship between the pope and the French church, which, under the Organic Articles, was his prerogative. Furthermore, he included the Catholic clergy in all civil

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2. Cited in Adrien Dansette, *Religious History of Modern France*, vol. 1, *From the Revolution to the Third Republic*, trans. John Dingle (New York: Herder & Herder, 1961), 275.

3. Deliberations of the Central Consistory, December 1852, CC 1 B 5.

functions and bestowed on them generous gifts.<sup>4</sup> Most important, he continued to protect the temporal authority of the pope in Rome.

During the prosperous years of Emperor Louis-Napoleon's early reign, the rift between traditionalist and liberal-minded Jewish clergy over the implementation of religious reforms continued to widen, and the Jewish consistories and periodicals were preoccupied with internal affairs. While they did not ignore the church-state question, it was not paramount. In refusing to submit to many of the demands of his conservative Catholic supporters, the emperor had manifested his goodwill toward religious minorities. It would have been foolhardy for Jewish leaders to squander that goodwill by publicly promoting separation. Nonetheless, in their internal religious debates, the Jewish journals occasionally reflected on impact of the association of religion and state on Judaism.

Though they had not advocated separation, the Orthodox, under the leadership of Alexandre Créhange, had challenged the specific relationship between Judaism and the state in 1848 and had called for the dismantling of the existing consistories. Similarly, in its editorials in the early 1850s, the religiously conservative *Univers israélite* noted the risks that the existing relationship between religion and state posed to Judaism but refrained from promoting separation. As the editor Simon Bloch explained in 1852, legal recognition of and government subsidies to Judaism had led to Jewish passivity. While state support was most certainly appreciated, it was not the state that would ensure the survival of Judaism but the fidelity of Jews to their religion. In Bloch's opinion, French Jews had become too lax in their practices, believing that temporal authority could substitute for religious commitment. Christianity, claimed Bloch, thrived on temporal authority and ornaments, but Judaism thrived on the actions of individual Jews. Government subsidies, lamented Bloch, did not do much good when many Jews attended neither the synagogues nor the Jewish schools built with those subsidies. At the same time, he complained that the subsidies were insufficient to support the Jewish institutions and clergy and that Jews had failed to make up the difference with their pockets.<sup>5</sup>

Bloch's editorial fell in line with the general approach of the organized French Jewish community with regard to the relationship between church and state during the preceding years. He addressed the church-state question in ethnocentric terms. He did not criticize the legal recognition of and subsidies to religion per se; he even complained that the subsidies were too low. Rather, he expressed concern about some of the negative consequences of the subsidies. In his view, Jews had become too dependent on the government. Instead of regarding the subsidies as a foundation on

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4. Alain Plessis, *The Rise and Fall of the Second Empire*, 12, 135–36; André Encrevé, *Les Protestants en France de 1800 à nos jours* (Paris: Stock, 1985), 109.

5. *U.I.* 8 (1852): 97–106.

which to build, too many Jews regarded them as the be-all and end-all of Judaism. Bloch, like other representatives of French Jewry, believed that Judaism, unlike Christianity, was flexible on the church–state question and consistent with a moderate republican approach. The church, claimed Bloch, only invoked the principle of liberty when it served its own interests, for example, the right to establish Catholic schools.<sup>6</sup> Judaism, however, demanded true liberty for all.

As proof of Judaism's commitment to liberty, Bloch cited his own paper's opposition to compulsory religious marriage. Marriage, the church had argued, was the foundation of society and thus required religious consecration. The *Univers israélite* rejected that argument. While the traditionalist periodical believed in the importance of religious marriage, it could not condone any restriction on religious liberty. Freedom of conscience, asserted Bloch, was a fundamental right. If the church successfully pressured the state to yield on one lifecycle event, marriage, it would then attempt to persuade the state to yield on others. And the next time, predicted Bloch, the church would demand that the state specifically require Catholic ceremonies.<sup>7</sup> Marriage, Bloch feared, was only the church's first battle in its war for the Christianization of French public life in the Second Empire.<sup>8</sup>

Bloch's concern about the slippery slope effect of compulsory religious marriage is telling. Although only a cynic would argue that the *Univers israélite*, the *Archives israélites*, and the consistories associated the principles of Judaism with liberty only out of self-interest, the precarious position of Jews as religious minority, no doubt, strengthened this association. Jews and Protestants benefited most from liberty and freedom of conscience. As Bloch noted, he feared that compulsory religion would eventually mean compulsory Catholicism. Promoting liberty was pragmatic. Despite their strong disagreements about religious reforms, both the liberal *Archives israélites* and the conservative *Univers israélite* proclaimed that Judaism supported maximum freedom of conscience. The fact that Jews from all sides of the religious spectrum feared the Catholic Church and benefited from religious tolerance helps to explain why the Jewish left and the Jewish right interpreted Judaism in a manner consistent with liberty. During the Second Empire, as during the Second Republic, practical considerations contributed to the portrayal of Judaism as a religion compatible with religious freedom and opposed to religious coercion.

The consensus regarding Judaism's opposition to religious coercion, however, did not extend to internal questions of Jewish law. In 1856,

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6. Ibid., 186–87.

7. *U.I.* 8 (1853): 404.

8. As noted above, in the end, the emperor refused to make religious marriages compulsory.

in an attempt to heal the growing rift between traditionalist and liberal clergy, Salomon Ulmann, grand rabbi of France, organized a rabbinic conference to discuss the propriety of religious reforms.<sup>9</sup> Under his guidance, the conference only sanctioned a few moderate reforms, such as the reduction or elimination of *piyyutim* (religious poetry added to the fixed prayer services), the playing of an organ by a non-Jew in the synagogue on the Sabbath, and the adoption of a new ceremony for the naming of babies, including girls. Furthermore, the conference ruled that no synagogue could implement even these minor innovations without the consent of the regional grand rabbi. Nonetheless, the grand rabbi of the Consistory of Colmar in Alsace, Salomon Klein, who was a leader of Orthodoxy in France and a contributor to the conservative *Univers israélite*, argued that the consistories were duty bound to uphold Jewish customs and to refuse to bow to social pressure for change.<sup>10</sup> He even appealed to the government, albeit unsuccessfully, to prevent the consistories from instituting the reforms sanctioned by the conference.<sup>11</sup> In other words, the principle of liberty of conscience had to yield to the needs of tradition.

While the participants at the conference of 1856 did not specifically address the church–state question, the whole episode illustrates the complexities of the centralization of Judaism in France. Because only the consistories had the legal authority to represent Judaism in France, no synagogue could independently introduce reforms; and because of the need of the consistories to maintain uniformity, radical reforms were rarely sanctioned. Even when a consistorial majority decided in favor of moderate reforms, as in 1856, the losing side could attempt to hinder their implementation by calling on the non-Jewish government, which legally supervised the consistories, to intervene.

There is an interesting case where a Jewish consistorial official actually asked a Protestant consistorial official to appeal to the government to intervene in an internal Jewish matter. In 1854, the religiously conservative Isaac Libermann was elected grand rabbi of Nancy. A liberal member of the Consistory of Nancy was unhappy with the results of the election. On his

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9. On the 1856 rabbinic conference, see Phyllis Cohen Albert, *The Modernization of French Jewry: Consistory and Community in the Nineteenth Century* (Hanover, N.H.: University Press of New England, 1977), 264; Jonathan Helfand, “French Jewry during the Second Republic and Second Empire (1848–1870)” (Ph.D. diss., Yeshiva University, 1979), 183–86; and Jay R. Berkovitz, *Rites and Passages: The Beginnings of Modern Jewish Culture in France* (Philadelphia: University of Pennsylvania Press, 2004), 209–11.

10. On Salomon Klein, see Paula Hyman, *The Emancipation of the Jews of Alsace: Acculturation and Tradition in the Nineteenth Century* (New Haven: Yale University Press, 1991), 80–85, 112–13, 144–53.

11. Letter of the Central Consistory to the minister of religion in April 1857 in the Jewish Theological Seminary Archives, Consistoire Central Israélite de France Records, Box 9; Hyman, *Emancipation of Jews*, 147–48.

behalf, an official of the (Protestant) Reformed Consistory of Nancy wrote to the director-general of religion<sup>12</sup> to complain about Libermann's victory.<sup>13</sup> Thus, even as Jews on the religious left and right eloquently preached Judaism's commitment to liberty of conscience, the official status and legal centralization of the Jewish religion in France restricted internal religious freedom and obstructed the development of denominational Judaism.

In the midst of the acrimonious debate over the implementation of the 1856 conference's decisions, several crises broke out that overshadowed the internal religious disputes and put the church-state question back on the agenda. In 1858, papal authorities removed Edgardo Mortara, a six-year-old Jewish child, from his home in Bologna. The Mortaras's domestic had clandestinely baptized the boy when he had fallen gravely ill several years earlier. Under canon law, the child's conversion was valid even though his parents had not consented to it. The seizure of Edgardo aroused protests from many corners, including Emperor Louis-Napoleon. Although he enjoyed a good relationship with the Catholic Church in France, he could not condone the abduction of a child from his parents for any reason, no matter how exalted. His plea to the pope to return the child to his family was unsuccessful, and the whole affair created serious tensions between him and the church. Some French Catholics accused him of bowing to Jewish pressure and attempting to undermine the sovereignty of the pope.<sup>14</sup> Not surprisingly, the Mortara Affair also aroused tensions between French Jews and the church. While Jewish leaders, in the past, had clashed with the Party of Order over its promotion of Christianity in the public sphere, the tone of debate, for the most part, had been civil. The Party of Order had tacitly acknowledged the constitutional right to liberty of conscience and had refrained from openly criticizing Jews or Judaism. It was not composed of religious extremists, at least not from the perspective of the church, but rather moderate ultramontanes, such as former liberal Catholic Montalembert. Its members worked within the system.

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12. Although the letter is simply addressed to "Monsieur," based on its content and location within the archives, it appears to be to the director-general of religion.

13. As this official explained in his letter, "Mr. Libermann, whom I do not know, has been represented to me as narrow-minded . . . backwards, and intolerant. . . . In Nancy, the Israelite Party called Orthodox is not in the majority . . . and the nomination of Mr. Libermann might create difficulties and obstacles for the administration." Although he proclaimed that he did not seek to influence the director-general's decision, he implied that it would be wise for the director-general to prevent Libermann from assuming his position to avoid future conflicts in the Jewish consistory, which would inevitably draw in the government. In the end, the director-general did not intervene, and Libermann became the grand rabbi of Nancy. See Letter of March 20, 1854, F19 11063 j, Archives Nationales, Paris.

14. For an account of the Mortara Affair, see David Kertzer, *The Kidnapping of Edgardo Mortara* (New York: Alfred A. Knopf, 1997).



Unlike the Party of Order, however, Louis Veuillot, editor of the ultramontane Catholic *L'Univers*, which had defended the ritual murder accusation during the Damascus Affair, was not bound by the constraints of a political party.<sup>15</sup> Veuillot not only repeatedly attacked the Jews in his journal; he even clashed with the Party of Order on several occasions. For example, because the Falloux education law had mandated state inspection of Catholic schools, Veuillot asserted that the Party of Order had conceded too much to its republican opponents.<sup>16</sup> In the wake of the Mortara Affair, his attacks on Jews grew bolder. *L'Univers* once again accused them of killing Christian children in order to use their blood for ritual purposes. The revival of the old blood-libel charge in the ultramontane paper combined with the refusal of the pope and most of the French Catholic clergy to condemn it exacerbated the already heightened tensions between French Jews and the Catholic Church. As the relationship between the two sides worsened, French Jews became increasingly wary of the association between the state and Catholicism.<sup>17</sup>

The consistories challenged Veuillot's assertions and appealed to the French government to silence him. On their behalf, Elie Aristide Astruc, then an assistant to the grand rabbi of Paris and later grand rabbi of Belgium, wrote a twenty-eight page rebuttal to Veuillot's overarching accusation that Judaism preaches hate against non-Jews.<sup>18</sup> In his pamphlet, Astruc argued that Veuillot had either misinterpreted the Jewish sources he cited or exaggerated their significance. Rather than promoting hostility toward non-Jews, Judaism, asserted Astruc, was the paradigm of a tolerant religion. It mandated respect for one's co-citizens, regardless of creed, and loyalty toward the fatherland, that is, France. Thus, Astruc, like other Jewish leaders and journalists, portrayed Judaism as a religion whose values were most compatible with the values of the French state. Judaism, like Emperor Louis-Napoleon and in contrast to the ultramontanes, believed in the sanctity of liberty of conscience.

While Astruc's rebuttal did not persuade Veuillot to stop publishing anti-Jewish articles, the government eventually silenced him. It was not so much Veuillot's anti-Jewish writings that led the government to shut down *L'Univers* as much as Veuillot's criticism of the emperor's Italian campaign. Louis-Napoleon's stance during the Mortara Affair had weakened his alliance with the church and had led him to turn to republicans for support.

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15. On Veuillot and the Jews, see Helfand, "French Jewry," 211–13, and Albert, *Modernization of French Jewry*, 162–65.

16. Alec R. Vidler, *The Church in an Age of Revolution* (New York: Penguin, 1990), 76.

17. On the Catholic press and the Mortara Affair, see Natalie Isser, *Antisemitism during the French Second Empire* (New York: Peter Lang, 1991), 33–35.

18. Elie Aristide Astruc, *Les Juifs et Louis Veuillot* (Paris, 1859).

Propelled by France's traditional rivalry with Austria, which ruled many Italian lands, and by his personal revulsion for the papal abduction of a Jewish child, the emperor decided to support the Italian revolutionary campaign for unification, which threatened the temporal authority of the pope. In the end, the Papal States were dissolved, and the pope was left with only Rome and the surrounding areas.<sup>19</sup> Veuillot attacked Louis-Napoleon's new foreign policy adventure and accused him of betraying the Catholic Church. In 1860, the emperor lost his patience with Veuillot and ordered his journal shut down.

Consistorial support for the emperor's Italian campaign further polarized French Jews and the Catholic Church. In a letter to the grand rabbis of the regional consistories, Salomon Ulmann, grand rabbi of France, described French military support for Italian unification as "a battle . . . to assure the triumph of principles that are the safeguard of our most precious liberties."<sup>20</sup> For Ulmann and his followers, the revolution in Italy mirrored the French Revolution. The French Revolution had led to the emancipation of the Jews in France, and the revolution and establishment of a unified Italy would lead to the granting of rights to all Jews on Italian soil. Deprived of most of his temporal power, the pope could no longer order the abduction on Jewish children. In the case of the battle for unification, a Montalembert-styled dichotomy was appropriate. One had to choose between the principles of the church or the principles of the Revolution. In the wake of the Mortara Affair, not surprisingly, Jews chose the latter. And, the emperor, supported by Jews in particular and republicans in general, drifted politically to the left while the church moved further to the right.

The assault on the temporal authority of the pope in the unified Italian states, supported by the French government, hardened the pope's opposition to liberalism and the modern state. While, in the past, Pius IX had allowed the Party of Order to compromise with French republicans, he would not allow it to do so in the future. It was time for Catholic deputies to stop working within the system and to start openly condemning it. In this regard, in 1864, the pope issued the *Syllabus of Errors*, which represented the church's greatest assault on the values of the modern world to date, one that rejected any reconciliation between the church and progress, liberalism, and modern civilization. The *Syllabus* identified eighty errors in belief that undermined Catholicism. Among them were several regarding liberty of conscience and the relationship between church and state:

55. That the church ought to be separated from the state, and the state from the church.

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19. In 1870, Italian forces occupied Rome, and the pope was left with only the Vatican and several other buildings.

20. CB 7 C 3.

77. That in the present day it is no longer expedient that the Catholic religion should be held as the only religion of the state, to the exclusion of all other forms of worship.

78. That hence it has been wisely decided by law, in some Catholic countries, that persons coming to reside therein shall enjoy the public exercise of their own peculiar worship.<sup>21</sup>

By implicitly denouncing the French regime, which officially recognized religions other than Catholicism and which permitted the public exercise of non-Catholic forms of worship, the pope shattered any illusions of a possible reconciliation between the church and the Second Empire. Moreover, by propagating the dogma of papal infallibility on matters of faith and morals, which presumably included the *Syllabus*, the First Vatican Council, convened by Pius IX in 1869, made it all the more difficult for French Catholics to balance their commitment to Catholicism with their loyalty to the French state.

There were committed Catholics, of course, who rejected both the *Syllabus* and the doctrine of infallibility. For example, in 1879, with the republicans in power, the minister of religion granted Father Hyacinthe Loyson permission to open a chapel in Paris for his newly founded independent Gallican Catholic Church. Père Hyacinthe, as Loyson was known, dismissed what he called the "erroneous and disastrous" doctrine of infallibility as a modern innovation and declared that his followers had recognized the need for religion that was free of superstition and fanaticism.<sup>22</sup> In 1891, he gave a speech celebrating the centenary of the emancipation of the Jews, which was published in the *Univers israélite*.<sup>23</sup>

The pope's explicit rejections of religious pluralism and separation did not faze the Jewish consistories and periodicals. For years, they had struggled with the Catholic Church over its attempt to dominate the public sphere in France, over the Mortara abduction, and over Veuillot's writings. The *Syllabus* merely confirmed their suspicions of the Catholic Church. Simon Bloch, editor of the *Univers israélite*, described the *Syllabus* as a "very natural" and "very logical" step for an institution that, as he saw it, had kidnapped Jewish children. It did not frighten him. In fact, he and

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21. <http://academic.brooklyn.cuny.edu/history/dfg/amrl/syl-err.htm> (compiled from the following sources: (a) J. H. Hexter, *The Traditions of the Western World* [Chicago: Rand McNally, 1967], 723–27; (b) Brooklyn College History 2.1 Sourcebook, 222–23; (c) Henry Bettenson, ed., *Documents of the Christian Church* [London and New York: Oxford University Press, 1963], 272–73).

22. See letter of January 28, 1880, to the prefect of Seine in DV 66, Archives de la Seine, Paris.

23. *U.I.* 47 (1891): 131–36.

other Jewish spokespersons were actually pleased with the publication of the *Syllabus* because it highlighted, in their view, the inability of the church to come to terms with the modern world. Unlike the Catholicism of the *Syllabus*, argued Bloch, the values of Judaism were fully in consonance with the values of modern France. Judaism, he claimed, had always promoted the right of each person to liberty and justice. As he stated, "The Encyclical condemns 'modern errors.' How ridiculous! These 'errors' date from the patriarchs and Moses and appear in the [Jewish] holy books as inviolable divine laws."<sup>24</sup> As Bloch cleverly implied, the *Syllabus's* attack on the rights of the individual constituted, in effect, an attack on Judaism. Any future attack on Judaism would, therefore, constitute an attack on the rights of the individual.

For years, official and unofficial representatives of French Jewry had associated Judaism with the individual rights guaranteed by the French Revolution and subsequent constitutions. Bloch, however, went further than his predecessors. As he bluntly put it, a Catholic who accepted the *Syllabus* could not be a good French citizen, but a practicing Jew could.<sup>25</sup> And yet, despite this derision of the *Syllabus*, for obvious reasons, neither the *Univers israélite* nor the *Archives israélites* nor the consistories sought an immediate end to the legal recognition of Catholicism in France. They recognized that if the government chose to deprive Catholicism of its legal status, it would, no doubt, also deprive Judaism and Protestantism of their legal status as well. Despite growing concern regarding the actions of the Catholic Church, the consistories and Jewish periodicals continued to tread softly on the church-state question. Unlike many republicans, they did not turn to positivism or other ideologies that were hostile to the church and to state-recognized religion. When, many years later, consistorial officials, the *Archives israélites*, and the *Univers israélite* would decide to support the full separation of church and state, it would not be with glee, but with reluctance.

If during the earlier years of the Second Republic, both the liberal *Archives israélites* and the conservative *Univers israélite* characterized Judaism as a moderating force between reactionary Catholic monarchism and socialism, during the late Second Empire and Third Republic, they began to portray their religion as a moderating force between ultramontane Catholicism and the ideologies of scientific positivism and free thought. As the church, midway through the reign of Louis-Napoleon, became more openly hostile to the liberal values of the modern French state, some republicans, influenced by August Comte, Ernest Renan, and others, grew skeptical of the tenets of the Catholic faith and sought to strip the church of its powers.

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24. *U.I.* 20 (1864): 241–42.

25. *Ibid.*, 243.

Although Comte, a disciple of utopian socialist Henri de Saint-Simon, had already elaborated his theory for the development of human thought during the period of the July Monarchy, his positivist doctrine was popularized by his student, the lexicographer and philosopher Emile Littré, during the 1850s and 1860s. Comte asserted that human thought had progressed through three stages, the theological, the metaphysical, and the positivist or scientific. During the first stage, he argued, people had believed in the direct intervention of the gods or God in human affairs. Gradually, people had begun to attribute phenomena to abstract metaphysical causes rather than to religious causes. Finally, during the nineteenth century, proclaimed Comte, more and more people had begun to explain natural and social phenomena scientifically, without reference to forces beyond the grasp of reason. In other words, during the positivist stage of human thought, all claims had to be subject to empirical verification. Needless to say, most religious claims did not meet this criterion. Faith, not science, governed organized religion. Thus, positivist thought effectively undermined Catholicism at the very time that the church was fervently proclaiming the supremacy and eternity of its doctrines. In particular, Ernest Renan's *Vie de Jésus* (*Life of Jesus*), which was grounded in scientific research rather than traditional religious methodology, denied the miraculous birth, resurrection, and divinity of the Christian messiah.<sup>26</sup>

Although Simon Bloch, editor of the *Univers israélite*, did publish a summary of Renan's arguments against the traditional Christian conception of Jesus, he claimed that he would not take sides in the debate between the freethinking Renan and the Catholic Church.<sup>27</sup> Implicitly contrasting Judaism with Catholicism, Bloch claimed that his religion was wholly unconcerned with the beliefs and practices of other religions. Jewish clergy, he asserted, never engaged in polemics against other faiths. The state, he continued, did not officially recognize and subsidize Judaism so that Jews could criticize Christianity but so that they could spread the divine laws of morality, justice, love, charity, tolerance, and fraternity.<sup>28</sup> In other words, Bloch implied, the leaders of French Jewry, unlike the Catholic Church, did not abuse their legal status. They did not use their powers to preach against liberty of conscience. Judaism, while

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26. Gordon Wright, *France in Modern Times*, 5th ed. (New York: Norton, 1995), 225–26, 279–80.

27. *U.I.* 19 (1863): 55–74.

28. *Ibid.*, 5–6. While it is true that French rabbis refrained from criticizing the tenets of Christianity, Bloch's statement about Judaism's nonchalant approach to Christianity was inaccurate. There are many rabbinic sources that address the status of Christianity and Christians according to Jewish law. For a comprehensive treatment of medieval Jewish sources on Christianity, see Jacob Katz, *Exclusiveness and Tolerance* (West Orange, N.J.: Behrman House, 1961).

enjoying the legal recognition of the state, respected the constitutional right of all Frenchmen to freedom of religion. It was precisely because of Judaism's tolerant character, Bloch claimed, that he had decided not to dwell on Renan's arguments for the nondivinity of Jesus. Rather, as a Jew, his interest lay in defending Judaism against its portrayal by Renan as an intolerant, rigid, and narrow-minded religion.<sup>29</sup>

Had the writers for the *Univers israélite* and the *Archives israélites* and members of the consistories chosen to side with Renan, they would have not only antagonized French Catholics, but they would have also undermined their own claims regarding Judaism's moderate and tolerant nature. Furthermore, positivism arguably posed as much of a danger to traditional Jewish beliefs as it did to the tenets of Catholicism. The rabbinic and lay representatives of French Jewry steered away from positivism just as they had steered away from socialism. Judaism, they contended, rejected both radical ideologies.

The attempt of the consistorial leadership, the *Archives israélites*, and the *Univers israélite* to portray Judaism as a religion of moderation, of course, did not mean that all Jews assumed moderate positions on the church-state question. Many Jews, especially during the Third Republic, whether as Freemasons, as deputies or senators, as members of the League of the Rights of Man and the Citizen or as private citizens, strongly supported the secularization of the public sphere and the separation of church and state. It was, after all, Adolphe Crémieux who originally promoted the abrogation of the Concordat in 1848, and it was Ernest Hendlé, a Jewish prefect in Rouen, who dared to propose it again in 1869, despite his political appointment. In his book *La séparation de l'église et de l'état* (*The Separation of Church and State*), Hendlé called on the government, which he himself represented as prefect, to end the relationship between church and state. Separation and the full secularization of all state-funded schools, he argued, were the most appropriate responses to the papal syllabus. As he proclaimed, "It is fitting for a militant democracy to struggle without respite for the definitive triumph of all that the church considers and condemns as a heresy."<sup>30</sup>

While Hendlé and other Jews vocally promoted the secularization of the public sphere and the separation of church and state, most, with the notable exception of Crémieux, were not spokesmen for the Jewish community. Politicians, government appointees, Freemasons, and members of the various leagues, who were Jewish, rarely spoke for French

29. U.I. 19 (1863): 55–74; On Renan and the Jews, see Jacob Katz, *From Prejudice to Destruction* (Cambridge, Mass.: Harvard University Press, 1980), 133–38.

30. Ernest Hendlé, *La séparation de l'église et de l'état* (Paris, 1869), 24–25; for a portrait of Hendlé and his family, see Pierre Birnbaum, *The Jews of the Republic*, trans. Jane Marie Todd (Stanford: Stanford University Press, 1996), 20–31.

Jewry or French Judaism. One can also, if one wishes to do so, question the extent to which many Jewish proponents of secularization and separation and their relations were "good Jews." For example, as Pierre Birnbaum notes, Mrs. Hendlé placed her daughters in a convent.<sup>31</sup> Nonetheless, such facts, titillating as they may be, are not relevant with regard to the question of the relationship between the Jewish religion and anticlericalism. Regardless of the extent to which a person affiliated with the Jewish community, his thoughts about separation do not necessarily represent French Judaism. And, during the Second Empire, the representatives of French Jewry, unlike Hendlé, did not promote separation. As Simon Bloch wrote in his review of Hendlé's book, "[Speaking] as a Jew, only taking into account the true interests of Judaism, we are not at all the adversaries of the intervention of the state in the affairs of our religion."<sup>32</sup> Although this was an overstatement, as Bloch himself had complained on more than one occasion about the excessive entanglement between Judaism and the state, Bloch's remarks, not Hendlé's, more accurately reflected the position of the organized French Jewish community on separation.

The attitude of Jewish leaders and Jewish publicists toward positivism, secularization, and separation during the Second Empire echoed the attitude of the regime. During his reign as emperor, Louis-Napoleon's relationship with the Catholic Church progressively deteriorated, and yet, he never considered repealing the official status of Catholicism. His repeated clashes with the pope did not lead him to undermine Catholicism in France as did his republican successors in power. Indeed, when ecclesiastical pressure forced Renan to resign his position at the Collège de France in 1864, shortly after publication of his *Life of Jesus*, the regime refused to rise to his defense. The emperor did not want French Catholics to associate him with the freethinking opponents of the Catholic Church. Similarly, though the relationship between French Jewry and the Catholic Church worsened during the reign of Louis-Napoleon, the official leadership and the Jewish journals did not call for an end to state-subsidized religion. They did not side with the anticlerical and positivist opponents of the Catholic Church. Just as they had associated with moderate republicanism during the Second Republic, they associated with the moderation of Louis-Napoleon during the Second Empire. While they certainly possessed some doubts about the long-term viability of the relationship between church and state, they were not yet prepared to call for its abolition. Indeed, when the Second Empire fell and positivist-leaning republicans assumed power, the consistories and Jewish periodicals would reassert the importance of government recognition for religion.

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31. Birnbaum, *Jews of the Republic*, 31.

32. *U.I.* 25 (1870): 335.

The Franco-Prussian War led to the collapse of the Second Empire. On September 4, 1870, days after the crushing French defeat and capture of the emperor at Sedan, northwest of Metz, republican deputies proclaimed the Third Republic in Paris and established a provisional government. In many ways, political events unfolded much as they had after the Revolution of 1848. Like the provisional government of 1848, the provisional government of 1870 included many liberal republicans, such as Adolphe Crémieux, again minister of justice, and others, such as Léon Gambetta, minister of the interior. Crémieux, Gambetta, and the other liberal republicans who proclaimed the Third Republic believed in the power of science and rejected clericalism wholeheartedly.<sup>33</sup> It was Gambetta who would later coin the slogan “Le cléricalisme, voilà l’ennemi” (Clericalism—that is the enemy). In February 1870, shortly after the proclamation of the Third Republic, as had transpired after the proclamation of the Second Republic, the voters elected a conservative (monarchist) assembly, which then stymied many of the reforms that the new republic’s founders had hoped to implement.

The monarchists had campaigned on a platform of peace and received the support of most rural voters. The new conservative legislature, however, began to pursue a conservative economic agenda that harmed members of the working class. By early March 1871, the National Assembly passed legislation ending the moratorium on rents and debts owed during the war and canceled the pay of the National Guard. These actions led to a revolt among the working and lower-middle classes in Paris and to the proclamation of a radical Commune on March 28. The Communards, who adopted the revolutionary red flag, reinstituted the suspension of rents and debts and abolished night work in Parisian bakeries. Moreover, they separated church from state, required churches to open their doors to political clubs, harassed the clergy, removed religious symbols from public places such as hospitals, and publicly mocked religious rituals. Since the Commune had no authority beyond Paris, and was, in any event, soon crushed by the troops of the National Assembly, it was impossible to implement these proposals.<sup>34</sup>

Throughout the Second Republic and during the early years of the Second Empire, the consistories and Jewish periodicals felt threatened by legislation that promoted the interests of the Catholic Church. For example,

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33. Many of them, including Gambetta and Crémieux, were also Freemasons. The Freemasons became positivism’s unofficial organization. On the relationship between Freemasonry and the Third Republic, see Philip Nord, *The Republican Moment* (Cambridge, Mass.: Harvard University Press), 15–30.

34. On the Paris Commune, see Robert Tombs, *The Paris Commune, 1871* (New York: Longman, 1999); and David A. Shafer, *The Paris Commune: The Paris Commune: French Politics, Culture, and Society at the Crossroads of the Revolutionary Tradition and Revolutionary Socialism* (New York: Palgrave Macmillan, 2005).



they initially challenged Falloux's proposed education law because it originally excluded Jewish representatives from the departmental and central administrative councils, and it would have subjected Jewish children to compulsory Christian instruction in state schools. During the rule of the radical Commune, however, the organized Jewish community began to worry about anticlerical legislation.

The Commune truly terrified the Jewish leadership and alerted them to the dangers of a regime where God and religion would play no role at all. Even Isidore Cahen, editor of the *Archives israélites*, who identified himself as a member of the intellectual left and had argued in his 1848 book *Deux libertés en une* for the separation of church and state, condemned the radical anticlericalism of the Commune. As a liberal, he denounced the anarchic, demagogic, and blasphemous actions of the "miserable" Communards. Unlike those who believed in true liberty, the Communards had no sense of limits.<sup>35</sup>

Despite its defeat, some of the anticlerical policies of the Paris Commune were adopted by successive governments of the Third Republic after the republicans regained control of the National Assembly (renamed Chamber of Deputies) in 1876 and the Senate in 1879. Although the source of the perceived threat to Jewish religious interests changed during Third Republic, the nature of the Jewish response did not. Just as Jewish leaders had refused to align themselves with socialists and other extremist anticlerical elements in the battle against clerical legislation during the Second Republic and the Second Empire, they refused to align themselves with extremist clerical elements in the battle against the anticlerical legislation of the liberal republicans who ruled during the Third Republic. The representatives of organized French Jewry continued to chart a centrist course and to seek accommodation to Jewish religious interests rather than to call for the complete abolition of laws that they perceived as harmful to Judaism.

When liberal republican deputies established the Third Republic during the course of the Franco-Prussian War, both Jewish positivists and the nonpositivist consistorial officials and writers for the two main Jewish periodicals welcomed the regime change. Although, as the legally recognized representatives for a minority religion, the members of the consistories would not have risked offending the provisional government even if it had not approved of the establishment of the new republic, there is every reason to believe that they were sincere. Both rabbinic and lay consistorial officials, conservative and liberal, and their supporters in the *Archives israélites* and *Univers israélite*, had traditionally portrayed their religion as the embodiment of moderate republicanism. During the Second Empire, they emphasized their moderation rather than their

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35. A.I. 32 (1871): 68–69

republicanism, and they manifested the compatibility of Judaism with the emperor's moderate approach to the church-state issue. With the collapse of the empire and the establishment of the Third Republic, they were ready to emphasize their republicanism once again. Indeed, when the positivist-leaning liberal republicans first came to power in 1870, the *Univers israélite*, if only for a moment, seemed to forget about Judaism's moderation altogether.

In November 1870, shortly after the liberal republicans assumed power, the *Univers israélite* predicted the imminent separation of church and state in France.<sup>36</sup> After all, the new minister of justice, Adolphe Crémieux, had already expressed his support for separation back in 1848, and many of his new colleagues, like Gambetta, were staunchly anticlerical. And, as the journal pointed out, the new government had not yet even appointed a minister of religion even though it had already made key ministerial appointments. After making the prediction about separation, Simon Bloch, the editor, wrote that Jews could now look forward to true religious freedom because no external power could interfere in the internal religious affairs of French Jewry.<sup>37</sup> Yet, only months earlier, before the collapse of the empire, he had stated that "we are not at all the adversaries of the intervention of the state in the affairs of our religion." In reversing his position, Bloch appears to have been trying to curry favor with the new liberal regime. By the time the positivist-leaning liberal republicans, who lost control of the legislature in 1871, returned to power in the late 1870s and actually began to implement their anticlerical agenda, the *Univers israélite* was again a voice for moderation.

Although Bloch, in an attempt to demonstrate his community's loyalty to the provisional government of 1870, had declared French Jewry's commitment to an anticlerical agenda, the reality was quite different. Most French Jews presumably resented the church's efforts to dominate the civil sphere and approved of the liberal republican commitment to weakening its public role. In this respect, almost all Jews, including the Jewish clergy, were "anticlerical." At the same time, many Jews did not share the anticlerical feelings of Gambetta and his cohorts. Gambetta, Jules Ferry, who served as minister of education from 1879 to 1883, and other prominent positivist republicans were agnostics who did not believe in a future for any religious denominations.<sup>38</sup> To them, "anticlericalism" was not simply a political program to weaken the influence of the Catholic Church but an expression of their agnosticism and complete devotion

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36. *U.I.* 26 (1870): 77.

37. *Ibid.*

38. Jean-Marie Mayeur, "Laïcité et idée laïque au début de la Troisième République," in *Les opportunistes: Les débuts de la République aux républicains*, ed. Léo Hamon (Paris: Fondation de la Maison des sciences de l'homme, 1991), 111–12.

to positivism and science. Of course, some Jews were positivists, but the representatives of French Jewry, as a whole, were not positivists. Neither the liberal *Archives israélites* nor the conservative *Univers israélite* nor the centrist consistories, regardless of their positions on the church-state question, subscribed to positivist doctrine. Though they may have disagreed about the question of religious reform, they certainly believed in a future for French Judaism, and they were all committed to strengthening it. Indeed, their leader, Lazare Isidor, grand rabbi of France, declared in his Rosh Hashanah address of September 15, 1870, just days after the proclamation of the Third Republic, "Return sincerely to God, to religion, which alone . . . sanctifies work, devotion [and] patriotism."<sup>39</sup> Though the grand rabbi, like the two periodicals, welcomed the assumption to power of anticlerical liberal republicans, he, nonetheless, believed that only a return to religion, which he called "regeneration," would help France survive the perils of war. For Isidor and his followers, religion, when it did not seek to usurp the authority of the state, was not only fully compatible with patriotism but also "sanctified" it. For Gambetta and his followers, patriotism needed no religious sanctification. It was sacred in its own right, and religion could only undermine it.

In many respects, the Lutheran and Calvinist communities and the Jewish community had similar attitudes toward the liberal republicans. During the Third Republic, the majority of Protestants, like the majority of Jews, voted for liberal or radical candidates; and some Protestant politicians, like some Jewish politicians, vocally promoted the secularization of the public sphere. Yet, Protestant voting patterns and the agendas of Protestant politicians did not translate into unqualified Protestant support for republican anticlericalism. Most Protestants, like most Jews, believed they had no choice but to support candidates from the left because those on the right represented the interests of the Catholic Church in the political sphere, and the church, they believed, was antagonistic to their interests. Although both the restored Bourbon monarchs and succeeding monarchist-dominated legislatures had consistently preserved the official status of Protestantism and Judaism and the right to freedom of religion, which the *Syllabus of Errors* had denounced, many Jews and Protestants believed that monarchists ultimately hoped to abolish or to limit their rights. Protestants remembered the revocation of the Edict of Nantes by Louis XIV and the White Terror conducted by royalists in 1815. As for the presence of Protestants in the anticlerical camp, Protestant politicians did not speak for Protestantism anymore than Jewish politicians spoke for Judaism. The lay and clerical representatives of two organized Protestant communities, like the lay and clerical representatives of the organized Jewish community, supported liberal republicans but advocated moderation on church-state questions.

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39. Pastoral letter addressed to French Jewry, September 15, 1870, CB 2 C 4.

Despite their moderation, the far right spoke of a Judeo-Protestant mission to undermine religion in France.<sup>40</sup>

While the ascension of liberal republicans to power in 1870 led both the organized Jewish and Protestant communities in France to address the republican anticlerical agenda, the French rabbinate had a more pressing matter to confront. On October 24, 1870, just weeks after the proclamation of the Third Republic, the new regime issued a decree granting French citizenship to Algerian Jewry. Known by the name of its initiator, the Crémieux Decree, signed by Crémieux, Gambetta, and two others, established that "all indigenous Israelites in the departments of Algeria are declared French citizens: Consequently, their . . . personal status, from the promulgation of the present decree, is regulated by French law."<sup>41</sup> The collective naturalization of approximately thirty-five thousand Algerian Jews raised both old and new problems for Jewish clergy regarding the institution of marriage, which, as explained in chapter 1, fell under the jurisdiction of both the state and the rabbinate.

Although France had occupied Algeria in 1830 and had established three Algerian consistories in 1845, suppressing the authority of the indigenous rabbinic institutions, it did not apply French law to questions of personal status until the Crémieux Decree. The decree, as cited above, stated that from that point forward French law was to govern the personal status of the new Jewish French citizens of Algeria. From their early years of existence, the consistories had to regularly address the halakhic status of clandestine religious marriages performed in violation of French law, a problem that had occurred among Alsatian Jewry. France lost Alsace-Lorraine to Germany during the Franco-Prussian War. Most of the Jews living there remained in Alsace-Lorraine and were thus outside the control of the French rabbinate. The ten thousand Alsatian Jews who fled for the French interior had already gone through a process of modernization promoted by the consistories since their inception in 1808, and few still married clandestinely.

With the collective naturalization of Algerian Jewry, the problem of clandestine marriages reemerged, however. Unlike both the Ashkenazim and the Sephardim of France, the Jews of Algeria did not exclusively practice monogamy.<sup>42</sup> By applying French law to matters of personal status,

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40. See Encrevé, *Les Protestants en France de 1800 à nos jours*, 202–7; D. Robert, A. Encrevé, J. Baubérot, and P. Bolle, "L'Etat, l'opinion et les Protestants, depuis le début du XIXe siècle," in *Histoire des Protestants en France*, ed. Robert Mandrou et al. (Toulouse: Privat, 1977); Steven C. Hause, "French Protestants, Laicization, and the Separation of the Churches and the State, 1802–1905," in *Religious Differences in France: Past and Present*, ed. Kathleen Perry Long (Kirkville, MO: Truman State University Press, 2006), 152–57.

41. The complete text of the decree is cited in Joëlle Allouche-Benayoun and Doris Bensimon, *Les Juifs d'Algérie* (Paris: Stavit, 1998), 42.

42. See, for example, the discussion about polygamy in the *U.I.* 19 (1864): 484,

the Crémieux Decree made bigamy illegal. As lengthy correspondence among the minister of religion, the minister of justice, and the grand rabbi of the Consistory of Oran, Mayer Charleville, reveals, some Algerian Jews tried to evade the law by marrying their second wives clandestinely. The rabbinate and the civil authorities, as discussed in chapter 1, did not recognize monogamous clandestine marriages, let alone bigamous ones, and had devised solutions to address the problem.<sup>43</sup>

The naturalization of Algerian Jews presented a new test case in the realm of marital law for the rabbinic leadership of France. Although the French rabbinate had already devised solutions for the problem of clandestine marriages, it now had to address the new problem of brothers-in-law who refused to perform the ceremony of *halitsah*. According to biblical law, when a man dies childless, his brother must either marry the widow (that is, perform his leviratic duty) or release her through the ceremony of *halitsah* (removal). If the brother-in-law does not wish to marry his brother's widow and desires to release her, he must proclaim in front of the rabbinate, "I do not want to marry her," and the widow must then remove his sandal, spit in his face, and proclaim, "Thus shall be done to the man who will not build up his brother's house!"<sup>44</sup> In Algeria, where French law did not apply to questions of personal status until 1870, levirate marriage, which French law had prohibited since at least 1804,<sup>45</sup> was performed on rare occasions. Levirate marriage, in theory, could even take place when brothers of the deceased were already married because the Jews of Algeria did not exclusively practice monogamy. Thus, though *halitsah* was the norm in Algeria, it was not a mere formality; and some Algerian Jews refused to perform the ceremony even after 1870 when levirate marriage was no longer an option. French rabbis now had to address the problem of men who refused to release their brothers' widows through the ceremony of *halitsah*. These women, who were single according to French law, were prohibited from marrying according to Jewish law, creating an inconsistency between Jewish and French marital law.

In May 1873, the minister of the interior brought to the attention of the minister of religion a problem associated with *halitsah*. As the minister of the interior explained in his letter, his office had received complaints

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532. Concerning polygamy in Algeria, see Joshua Schreier, "Napoléon's Long Shadow: Morality, Civilization, and Jews in France and Algeria, 1808–1870," *French Historical Studies* 30, no. 1 (2007): 77–103.

43. Because the Crémieux Decree did not apply retroactively, some lawbreakers predated their Jewish marriages contracts (*ketubot*) to avoid prosecution and the nullification of their second clandestine marriages. See F19 11146 in Archives Nationales, Paris.

44. Deuteronomy 25:5–10 (NJPS).

45. Roger Berg and Marianne Urbah-Bornstein, *Les Juifs devant le droit français: Législation et jurisprudence fin 19<sup>e</sup> à nos jours* (Paris: Les Belles-Lettres, 1984), 171.

from two childless Algerian widows whose brothers-in-law had refused to release them through *halitsah*. Because religious matters fell under the purview of the minister of religion, the minister of the interior asked him if he could look into the matter.<sup>46</sup> The minister of religion then contacted members of the Central Consistory in Paris and asked if they could assist those widows. In response, the members of the Central Consistory forwarded to him a long internal report by Grand Rabbi Lazare Isidor on the problem of *halitsah* refusal.<sup>47</sup>

As Isidor recounted in his report, the problem of *halitsah* refusal did not manifest itself in Algeria until France eliminated the local Jewish tribunals and applied French law to matters of personal status. In the past, when levirate marriage in Algeria was legal, if the brother-in-law chose not to marry his brother's widow, the Algerian Jewish courts had the legal authority to compel him to release her through *halitsah*. Now, Isidor pointed out, only *halitsah* was available, and the Algerian consistories, unlike the preceding Jewish courts, had no authority to coerce an individual to perform a religious ceremony.<sup>48</sup>

Although he expressed his sympathies for the victims of recalcitrant brothers-in-law, Isidor claimed that he could not resolve their plight through internal halakhic methods. It is true, he acknowledged, that the Napoleonic Sanhedrin had proclaimed the supremacy of civil law in cases of conflict between the Jewish and the French legal systems. For example, as he noted, the Sanhedrin had exempted Jewish conscripts from all halakhic obligations that interfered with their military service. The civil obligation to serve overrode any conflicting Jewish laws. As Isidor explained, however, the case of conscription differed fundamentally from the case of *halitsah* refusal. Any ritual law that impinged on a conscript's ability to fight directly violated French law, and the Sanhedrin, acting on the principle *dina de-malkhuta dina* — "the law of the state is the law" — had exempted Jews from Jewish laws that violated the laws of the state.<sup>49</sup> The refusal of a man to release his brother's widow through *halitsah*, unlike the performance of ritual laws that interfered with military service, did not involve the violation of any civil law. It only restricted the ability of a widow to remarry in accordance with Jewish law. Since the state did not impose a civil obligation for remarriage, the decision, for religious reasons,

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46. Letter from the minister of the interior to the minister of religion, May 7, 1873, F19 11146 m, Archives Nationales, Paris.

47. Letter from the members of the Central Consistory to the minister of religion, August 18, 1873, in Archives Nationales, Paris; Report of Lazare Isidor on *halitsah* to the members of the Central Consistory, July 2, 1873, F19 11146 m, Archives Nationales, Paris, and CC 2 E 6.

48. Report of Isidor on *halitsah* (see n. 47).

49. See chapter 1 n. 20.

of a widow not to remarry did not violate French law. Because the refusal to perform *halitsah* did not directly or indirectly conflict with French law, the rabbinate, asserted Isidor, did not have the halakhic authority to abolish the ritual.<sup>50</sup>

Isidor's distinction between *halitsah* and military service would also apply to clandestine religious marriages. It was illegal to marry without obtaining a civil license. Clandestine religious marriages, therefore, directly violated French law. Because the Napoleonic Sanhedrin had declared the supremacy of French civil law, some French rabbis believed that they had the authority, under certain circumstances, to nullify such marriages. However, where no contradiction between Jewish and French law existed, as in the case of *halistah* refusal, claimed Isidor, the rabbis did not possess the authority to nullify or abolish rituals. According to Isidor, then, the Sanhedrin had demanded not harmony between the Jewish and French legal systems but the avoidance of direct legal conflict. The childless widow whose brother-in-law refused to release her through *halitsah* had one status civilly (free to marry) and another status religiously (prohibited from marrying), but because this inconsistency of statuses violated no French law, it did not, as far as Isidor was concerned, warrant the abrogation of a Jewish law. All the rabbis could do was to attempt to persuade mean-spirited brothers-in-law to release the childless widows of their late brothers.<sup>51</sup>

Although the phenomenon of *halitsah* refusal in Algeria, an internal halakhic issue, demanded the attention of the grand rabbi, the Jewish periodicals were more interested in the anticlerical agenda of the liberal republicans and its potential impact on French Jewry. Among the first targets of the liberal republicans was education, just as it had been among the first targets of the Party of Order back in 1849. Though the liberal republicans were not in power long enough in 1871 to make changes to Falloux's 1850 education law, they made it clear where they stood on the question of religious education in state schools. In 1872, after their electoral defeat, Gambetta gave an important address in which he laid out his vision for the "regeneration" of France in the wake of its military defeat. His concept of "regeneration" was very different from that of Isidor. The grand rabbi had spoken of the need to return to religion, whereas Gambetta spoke of the need to laicize education. "We need," Gambetta exclaimed, "an education that will be *laïque* . . . dependant not on religious dogmas but on self-respect . . . an education . . . through which [the child] will know that there is but one master that rules: science!"<sup>52</sup>

Although one can translate the word *laïque* as either "secular" or

50. Report of Isidor on *halitsah* (n. 47).

51. Ibid.

52. This citation appears in A.I. 33 (1872): 503.

"laicized," the two are not equivalent. In the French context, "laïcisation" refers specifically to the active efforts of the French government to suppress religion in the public sphere.<sup>53</sup> It has a stronger connotation of active government involvement than "secularization." The secularization of society may evolve over time with limited government interference. In English, at least in the context of education, "laicized" generally refers to people whereas "secular" generally refers to content. Thus, a "laicized education" would mean an education, regardless of content, by lay instructors whereas a "secular education" would mean an education with no religious content, regardless of who does the teaching.

While Gambetta and most liberal republicans favored an education that was both lay taught and fully secular, the consistories and Jewish journals only approved of the former. As the *Archives israélites* had already proclaimed in 1871, "We would be very upset if, under the pretext of *laïcité*, the idea of God were banished from the schools."<sup>54</sup> In its comments on Gambetta's remarks, the journal stated that while no particular faith ought to dominate in the state school system, there was the need for the predomination of "the religious idea."<sup>55</sup> It was impossible, the *Archives israélites* declared, to teach morality and ethics to children without invoking God and neutral religious principles.

During the Third Republic, the representatives of French Jewry who had approached Falloux's proposals in 1849 in the spirit of compromise again manifested their moderation on the education question. In 1849, they had agreed to support the Falloux proposals if they included exemptions for Jewish students from compulsory Christian education and the inclusion of Jews on the educational councils, and in the 1870s, they agreed to support the liberal republican proposals if they did not exclude God from the classroom. They again placed themselves in the center, between conservative Catholics, on the one hand, and liberal republicans and radicals, on the other hand.

Even after the French Revolution, the Catholic Church continued to promote what has been called "ideological" or "closed" nationalism. Unlike the inclusive "political" or "open" nationalism of the republicans that regarded all those committed to the democratic values of France as good citizens, the "ideological" or "closed" nationalism of the church asserted the fundamental connection between French identity and

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53. For a deeper analysis of the significance of this term in the context of the republican camp's battle against clericalism, which the republicans proclaimed to be counterrevolutionary, see Claude Langlois, "Catholics and Seculars," in *Realms of Memory*, vol. 1, *Conflicts and Divisions*, ed. Pierre Nora; trans. Arthur Goldhammer (New York: Columbia University Press, 1998), 109–43.

54. *A.I.* 32 (1871): 429.

55. *A.I.* 33 (1872): 503.



Catholicism. Only those who believed in the tenets of Catholicism were true Frenchmen, and the more a person asserted his Catholic identity, the better person and the better Frenchman he became. Thus, Catholic instruction in state schools was not only justified but necessary for breeding good French citizens. For the church, there existed no distinction between a civic and moral education and a Catholic one. Liberal republicans, like Gambetta, denied the existence of any connection between Catholicism and French identity and believed that religious instruction would only corrupt the minds of the young. It would turn children into superstitious religious automatons, unable to comprehend the values of liberty and individualism, which were the core of republicanism.<sup>56</sup> In between the positivist-leaning liberal republicans and the conservative Catholics stood the moderate republican representatives of French Jewry who rejected the association between Catholicism and French identity but affirmed the relationship between good citizenship and religious principles.

The extent to which consistorial officials and the Jewish periodicals steered clear of clerical and anticlerical extremes is exemplified by the position of Isidore Cahen, editor of the *Archives israélites*. Although he had once argued for the separation of church and state, he, too, rejected the liberal republic stance on education. Writing in the *Archives israélites*, perhaps remembering the excesses of the Commune, he warned that the “partisans [of separation] do not limit themselves to the pursuit of the separation of church and state, but they aspire to eliminate from the civil sphere, from schools, from legislation any [religious] idea or, at the very least, religious affirmation.”<sup>57</sup>

Cahen’s opposition to the liberal republican position on education even led him to reconsider his stance on the association of church and state. Though he had once supported separation, he now feared that it could lead to the complete elimination of the divine in the civil sphere. He rejected both the attempt of the right to promote ultramontane Catholicism and the attempt of the left to create what he described as a “tabula rasa in favor of pure science.” He believed that only the existing relationship between church and state, with its guarantee of liberty of conscience, could protect France from the two extremes.<sup>58</sup>

As it turned out, Cahen’s concerns regarding separation were

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56. For a thorough analysis of the division between the left and right on the school question during the Third Republic, see Yves Déloye, *Ecole et citoyenneté: l’individualisme républicain de Jules Ferry à Vichy* (Paris: Presses de la fondation nationale des sciences politiques, 1994). For a discussion of the distinctions between “open” and “closed” nationalism, see Michel Winock, *Nationalism, Anti-Semitism, and Fascism in France*, trans. Jane Marie Todd (Stanford: Stanford University Press, 1998), 5–26.

57. *A.I.* 37 (1876): 100–101.

58. *Ibid.*

premature. Once they reassumed control of the upper and lower chambers in the late 1870s, liberal republicans actually adopted a moderate position on the church–state question similar to French Jewry. They decided to move slowly on the secularization front and not to push for the separation of church and state. This decision, of course, was not made to appease France’s small Jewish community but rather to avoid alienating the French Catholic majority and disturbing social peace. The church had explicitly condemned separation, and if the liberal republicans, on assuming office, had immediately pushed for the abrogation of the Concordat, they would then have been perceived by the population as anti-Catholic. Even Gambetta, who in 1877 labeled clericalism “the enemy,” called for preservation of the relationship between church and state, to the dismay of both radical republicans and socialists. Gambetta and his liberal republican colleagues adopted the name “Opportunists,” which reflected their opinion that each reform would have to wait for its opportune moment. Because they believed that the opportune moment for separation had not yet arrived, the Opportunists decided to take incremental steps toward ending the association between church and state.

Consistent with their policy of incremental change, the Opportunists did not pursue any extreme anticlerical measures during their first years in power. Then, following the suppression of unauthorized religious orders in 1880, the Opportunists took several important steps toward the realization of the separation of religion and state. After barring both clergy and people not involved in teaching from serving on the Superior and Academic Councils, the Opportunists instituted the Ferry laws, which radically reformed public education in France. These laws, named for Jules Ferry, the minister of education who had proposed them, and designed to win the allegiance of young minds to the republican cause, had several components. The laws of June 16, 1881, and March 28, 1882, made primary education compulsory and, in an effort to compete with parochial schools, eliminated tuition for public elementary schools. Moreover, they abolished confessional religious instruction in state schools. An 1886 law, passed during the tenure of a different minister of education, required the gradual laicization of the teaching staff. These laws evoked protests from both the left and the right. Conservatives protested the removal of the influence of the church from the realm of public education. Radical republicans and socialists complained that the educational reforms neither closed parochial schools nor prohibited the teaching of neutral religious principles in public schools.<sup>59</sup>

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59. Jean-Marie Mayeur, *La question laïque: XIX<sup>e</sup>-XX<sup>e</sup> siècle* (Paris: Fayard, 1997), 57–63; John McManners, *Church and State in France, 1870–1914* (New York: Harper & Row, 1972), 45–54.

The public debate between 1879 and 1881 over Ferry's propositions presented an important test case for the representatives of French Jewry. During the Second Republic and Second Empire, they were compelled to grapple with clerical legislation, and during the very early years of the Third Republic, they had to grapple with the possibility of anticlerical legislation. Now they finally had to grapple with the reality of the Opportunists' anticlerical agenda. Unlike the suppression of unauthorized religious orders, the separation of education and religion would actually adversely affect French Jewry. Jewish religious instruction, like Catholic religious instruction, was to be banned in state schools. The consistories and the Jewish periodicals had to decide whether to challenge Ferry's bill, which, as they realized, was designed specifically to weaken the Catholic Church, not French Judaism. It had been one thing to criticize Gambetta's theoretical proposals back in 1872 when the liberal republicans were not even in power. It was another thing to openly challenge the actual republican educational proposals, which the Opportunists regarded as their most significant pieces of legislation yet. After all, the republicans had consistently defended French Jewry against attacks from the church and had earned overwhelming support from Jews at the polls.

The representatives of French Jewry responded to the Ferry proposals in the same pragmatic and moderate fashion with which they had responded to the clerical Falloux proposals. While they accepted, in principle, the secularization of the public school system, the Jewish periodicals expressed concern with some of the specifics of Ferry's proposals. For example, after describing the secularization of the schools as "an excellent principle, laudable intention," the *Univers israélite* argued that any moral instruction would have to include the notion of God and possibly the Bible. Furthermore, it expressed its deepest concern that the proposals would require schools to close on Sunday and Thursday but not on Saturday. As much they strongly disagreed with some of the components, however, the Jewish periodicals did not side with the laws' vocal opponents on the left or the right. Rather, as they had done in the past, they requested several changes to the proposals so that the final law would more justly balance the principles of secularization and freedom of religion and would be more palatable for the Jewish community.<sup>60</sup>

The moderate stance of the relatively small Jewish community did not go unnoticed. As Isidore Cahen asserted, some radicals had pejoratively and unjustly labeled Jews and Protestants, including those who were progressive republicans, "clericalists" for their refusal to support extreme secular measures or to regard Catholicism as the enemy.<sup>61</sup> At the same

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60. *U.I.* 36 (1881): 524–25.

61. *A.I.* 42 (1881): 347–48.

time, the *Archives israélites* specifically criticized those Jewish clergymen who, not wishing to be associated with clericalists, refused to say anything negative about the education bills.<sup>62</sup>

In the end, the Opportunists demonstrated their sensitivity toward religion, and the final version of the Ferry laws reflected the moderate form of laicization promoted by the representatives of French Jewry. The Law Establishing Compulsory and Neutral Primary Education of March 28, 1882, required primary schools to give off a day a week, apart from Sunday, so that parents could provide for the religious instruction of their children outside the school. It did not mandate that that day be Thursday. Furthermore, the Ferry laws did not ban the teaching of neutral religious principles. Article I of the Law Establishing Compulsory and Neutral Primary Education required moral and civic instruction. While the law did not specifically address the teaching of neutral religious principles, the Superior Council's syllabus on moral and civic instruction included a paragraph on duties toward God; and such duties were promoted by various official circulars.<sup>63</sup> Government-approved textbooks, including one by Adolphe Franck, former vice-president of the Central Consistory and professor of natural and international law at the Collège de France, provided proofs for the existence of God and discussed the moral obligations that God imposed on humanity, which made for better citizens.<sup>64</sup> To compensate for the absence of specifically Jewish education in the public schools, the consistories organized special supplementary classes during nonschool hours.<sup>65</sup>

The decision of Jewish leaders and other moderate republicans to steer clear of the clerical and anticlerical opponents of Ferry and to support revisions to the bills rather than to oppose them succeeded. The Ferry laws weakened the influence of the Catholic Church in the public schools without seriously undermining religion. The minister of education and his liberal republican colleagues, to the relief of the leaders of French Jewry, had chosen to position themselves in the center, between the anticlerical and clerical extremes. As the Opportunists began to abandon their moderate course and to drift further to the left, French Jews would face new challenges that would force them to speak out more vociferously against their republican allies.

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62. A.I. 42 (1881): 36–38.

63. Mayeur and Reberieux, *Third Republic*, 89; Maurice Larkin, "Religion, Anticlericalism, and Secularization," in *Modern France: 1880–2002*, ed. James McMillan (New York: Oxford University Press, 2003), 207.

64. Adolphe Franck, *La morale pour tous* (Paris, 1882).

65. Deliberations of the Central Consistory, October 1, 1881, CC 1 B 6.

## Confronting Radical Anticlericalism and Separation: French Jewry, 1882–1905

During the Restoration, the July Monarchy, the Second Republic, and the Second Empire, French Jewry grappled with clerical legislation that sought to establish the hegemony of the Catholic Church in the civil sphere. When the threat of clerical legislation dissipated with the ascension to power of the liberal republicans during the Third Republic, some Jewish leaders began to express concern regarding the anticlerical platform of the new regime. As it turned out, the Opportunists initially decided to exercise moderation, and the anticlerical legislation they passed did not seriously undermine the vitality of Judaism in France. If the decision of the Opportunists in the 1880s to pursue a more radical course led the representatives of French Jewry to challenge their anticlerical agenda more assertively, the expression of anti-Jewish hostility by the French right during the period surrounding the Dreyfus Affair led them to reconsider their opposition to the secularist policies of the republican regime.

By refusing to appease the radical republican camp and to ban God from the classroom, Ferry had mollified his critics in the Jewish community and in the moderate republican camp. While Catholic “hard clericalists” had strongly protested Ferry’s education laws, which excluded confessional religious instruction in state schools, Jewish “soft clericalists” had accepted them. Although they had initially complained about some of the original components of Ferry’s proposals, the “soft clerical” representatives of French Jewry were relieved that the Ferry laws did not fully secularize public education. Their relief, however, was short-lived. The secularization of the schools was immediately followed by the secularization of cemeteries, which not only posed a direct challenge to Jewish law but also offended Jews who were only nominally affiliated with the Jewish community.

In 1804, Napoleon issued a decree that, for reasons of sanitation and health, banned further burials in the interior of towns and cities. Article 2

of the Imperial Decree on Burial required every municipality to maintain a burial ground on its outskirts. Article 15 decreed that when a municipality included adherents of more than one religion, it had to either maintain a cemetery for members of each faith or to divide cemeteries, with walls or hedges, into separate religious sections.<sup>1</sup> Although the Napoleonic decree did not address civil burials, local authorities usually permitted the Catholic Church to create separate unconsecrated burial grounds for the internment of those deemed ineligible for Catholic burial. These people included infants who died before undergoing baptism, suicides, and those who had declined to receive last rites. The refusal of the clergy to bury certain categories of people in consecrated lands, especially unbaptized infants, generated resentment among the relatives of the deceased. It also evoked strong criticism among republicans, who regarded the church's policy of segregating the dead as divisive and contrary to the principle of equality.

Some republicans took their criticism one step further. They not only condemned the creation of separate unconsecrated burial grounds for those deemed ineligible to receive a Catholic burial; they objected to the entire system of separate confessional cemeteries. While the Opportunist republicans had shown their reluctance to abolish the Concordat and to weaken the religious ties that bound the living, they did not hesitate to destroy the ties that bound the dead. On November 14, 1881, in the midst of the implementation of the Ferry laws, the Opportunists revoked article 15 of the imperial decree.

The rescission of article 15 immediately evoked an outcry, not only from right-wing Catholic circles but also from the moderate leaders of French Jewry. If in the past the organized Jewish community had refused to vocally criticize the government and to associate with either clerical or anticlerical extremists, its reaction to the republican proposal on burial proved to be the exception to the rule. Even though the Napoleonic Sanhedrin had declared the supremacy of civil law, the Jewish community as a whole simply could not brook the regime's attempt to abolish confessional burial plots. Regardless of their levels of observance and levels of affiliation, most Jews desired a final resting place among their coreligionists. Though devout Jews could justify the necessity to violate Jewish law to protect the sanctity of human life, for example, in the army, even the less devout could not condone the republican regime's provocative assault on the sanctity of the dead.

Throughout the debate in the Chamber and Senate on the burial question, the liberal *Archives israélites* openly sided with the right-wing

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1. Copy of the Décret impérial sur les sépultures in CC 6 G; Thomas Kselman, "Funeral Conflicts in Nineteenth-Century France," *Comparative Studies in Society and History* 30, no. 2 (1988): 314.

deputies opposed to the abrogation of article 15 of the Napoleonic decree. As the journal described it, by attempting to eliminate confessional cemeteries, the republicans were moving well beyond the confines of anticlericalism and into the dangerous territory of restricting religious freedom. The *Archives israélites* was particularly disappointed that republican legislators appeared unwilling to even consider amendments to the cemetery bill. As the periodical recounted, one senator on the right, the prominent Catholic spokesman Pierre Charles Chesnelong, had proposed that rather than prohibit confessional plots, the Senate should vote to mandate the creation of new nondenominational cemeteries for those who did not desire religious burials. Another senator, Marie de Lacroix de Ravignan, had proposed that the burial law should, at least, permit the Catholic Church and the Jewish and Protestant consistories to acquire grounds, on their own, for burial of their dead. In response to the defeat of both amendments, the *Archives israélites* lamented, "The secularization of cemeteries, which offends so violently our Jewish sentiments, is going to be adopted despite the efforts of members of the right, who have defended our cause with theirs."<sup>2</sup>

The decision to vocally oppose the republican bill on the secularization of the cemeteries and to portray it as a restriction of freedom of religion reveals much about the attitudes of the representatives of French Jewry. The secularization of municipal burial grounds was an extension of the secularization policies of the republican regime, policies which, to a significant extent, the Jewish community had supported. When the republicans secularized the schools, which affected the living, Jewish leaders did not side with the clerical opponents of the regime. And yet, when republicans secularized the cemeteries, which affected the dead, Jewish leaders described it as an assault on liberty of conscience. What led them to view the Ferry laws as reasonable anticlerical measures and the bill concerning burial as religiously intolerant?

In reality, there was no inconsistency. The representatives of French Jewry consistently acted in a manner that they believed best served the interests of their constituents. On matters of social policy, practical considerations rather than ideological ones generally took precedence. When they opposed the abolition of the relationship between church and state back in 1848, it was not because Judaism prohibited separation, but rather because, among other reasons, separation could have led to the division of the community into denominations and impeded the modernization of Alsatian Jewry. When gradually they became more open to the idea of separation, it was because they felt threatened by the Catholic Church. Although the representatives of French Jewry sometimes invoked Jewish sources for their positions on church-state questions,

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2. *A.I.* 42 (1881): 257.

they never proclaimed that Judaism had an official position on laicization or separation. As they understood it, Judaism had no equivalent to the *Syllabus of Errors*. While they chose to side with antirepublican forces in the legislature against the republican proposal on the secularization of the cemeteries, that position did not reflect a new ideological stance but rather a continuation of their old practical stance on church–state issues. Burial was a more sensitive issue than schooling. In general, even Jews who did not particularly care whether or not their children received Jewish instruction in state schools wanted to be buried among their coreligionists. In the case of burial, unlike the case of schooling, both religious and practical considerations demanded a stronger clerical position. And, because the Opportunist regime so vehemently opposed the influence of Catholicism, Jewish leaders knew that they could protest some of the government’s anticlerical policies without fearing that their opposition would inadvertently lead to Catholic domination of the public sphere.

Practical and religious considerations dictated a sharp Jewish response to the burial proposal; its actual passage into law, however, prompted Jewish leaders to take a more nuanced stance. Once the bill became law, they concluded that they had nothing to gain in further antagonizing their republican allies and that they would be better off seeking a compromise. In March 1882, just months after passage of the burial law, the Jewish communities of Rouen and Boulogne informed their regional consistory, the Consistory of Paris, that their municipalities had ordered the immediate secularization of Jewish cemeteries. The Consistory of Paris turned the matter over to the members of the Central Consistory, who wrote a letter to the minister of religion. The members of the Central Consistory expressed their concern about the situation in Boulogne and Rouen and their apprehension that other municipalities, including the municipality of Paris, would soon abolish their Jewish cemeteries. Although they repeated some of the problems associated with the secularization of confessional cemeteries that Jewish leaders had raised before passage of the burial law, such as its incompatibility with Judaism, they did not call for the law’s abrogation. Unlike many clericalists who continued to clamor for the full repeal of the law, the members of the Central Consistory skillfully sought to reinterpret the law and to minimize its effect on the Jewish communities of France. During the debate over burial in the legislature they had warned that the proposed law would require the abolition of Jewish cemeteries; now they claimed that the very same law did not require their abolition. As they noted in their letter to the minister of religion, the burial law had merely revoked article 15 of the Napoleonic decree, which had compelled municipalities to establish confessional cemeteries. However, they claimed, the burial law neither prevented municipalities from voluntarily creating new confessional cemeteries nor required them to secularize existing ones. After presenting their (new) interpretation of the law, they



asked the minister of religion to contact the minister of the interior, who had jurisdiction over burial, and request that he instruct his subordinates to encourage municipalities to apply the law as flexibly as possible.<sup>3</sup>

The decision of the Central Consistory to temper its criticism of the law and to seek a compromise was relatively successful. In his letter of reply to the members of the Central Consistory, the minister of religion informed the Central Consistory that he had shown their letter to the minister of the interior who told him that he had already instructed the prefect of the department of the Seine, which included the city of Paris, where most French Jews resided, to leave existing cemeteries alone.<sup>4</sup> He did not, however, make any guarantees regarding existing cemeteries elsewhere or new cemeteries in the Seine or in other departments. Nonetheless, one month later, the prefect of the Seine informed the Consistory of Paris that his department had reserved new burial space exclusively for members of the Jewish faith. The new Jewish burial grounds, however, unlike the existing ones, would be surrounded by non-Jewish burial grounds without any distinct marker between them. After careful consideration, the consistories decided to let the matter of burial rest. Although they would have liked to have seen even more flexibility in the application of the burial law, they believed that the government had demonstrated its goodwill toward the Jewish community and that they could not realistically expect more from an anticlerical regime.<sup>5</sup>

Despite an initial outburst of criticism during the debate over the proposal to secularize the cemeteries, in the end the representatives of French Jewry dealt with the burial law the same way they had dealt with other difficult legislation on religion. Rather than firmly planting themselves in the clerical or anticlerical camp, they chose to occupy the middle ground. And, grateful to the government for having removed most of the religious obstacles posed by the law on cemeteries, community leaders were more willing to cooperate with the newest anticlerical measure, the reintroduction of civil divorce.

In 1876, Alfred Naquet proposed the reintroduction of civil divorce. Naquet, who was Jewish, was among the most extreme anticlerical deputies in the legislature. In his book *Religion, propriété, famille*, published in 1869, he had called for the abolition of private property, marriage, and the Concordat.

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3. Deliberations of the Central Consistory, May 2, 1881, CC 1 B 6; Letter from the Central Consistory to the minister of religion, May 5, 1882, Hebrew Union College Archives, Consistoire Central Collection, 2/10.

4. Deliberations of the Central Consistory, October 17, 1882, CC 1 B 6.

5. Deliberations of the Consistory of Paris, November 16, 1882, CP (Archives of the Consistory of Paris) AA 7. On the French administration's continuing flexible application of the cemetery law, see Isabelle Meidinger, "Laïcisation and the Jewish Cemeteries in France: The Survival of Traditional Jewish Funeral Practices," *Journal of Modern Jewish Studies* 1, no. 1 (2002): 36–48.

He had argued that the institution of marriage restricted the liberty of the individual and that even the option to divorce would not remedy its evils. Divorce, he claimed, wherever it was applied, always carried a stigma and rarely was administered justly. The only solution, in his opinion, was to abolish marriage and for mothers to raise their children with the help of society. The “reconstitution of the family,” he had asserted, “[was] the point of departure for the future reconstruction of society” along secular, egalitarian, socialist lines.<sup>6</sup> By 1876, he had moderated his stance, and rather than propose the abolition of marriage, he called on the legislature to reintroduce civil divorce. His proposal, like Crémieux’s back in 1848, was rejected.<sup>7</sup> Even most anticlerical republicans were not yet ready to push for divorce. They did not want to expend their political capital on either reintroduction of divorce or the abolition of the Concordat. However, once they had successfully implemented the Ferry and burial laws, they were ready to act on divorce, although even then only with caution.

In his call for the reintroduction of divorce, Naquet went much further than Crémieux had gone back in 1848. Crémieux had pushed for the reintroduction of the more restricted Napoleonic divorce law, whereas Naquet promoted the reintroduction of the French Revolutionary law, which had even allowed for unilateral divorce on the grounds of incompatibility of temperament. After the Opportunist-dominated legislatures repeatedly rejected his proposal, he finally introduced a more restricted bill based on the Napoleonic divorce law. The revised bill, like the old Napoleonic divorce law, would have permitted divorce by mutual consent and unilateral divorce for matrimonial offenses. Nonetheless, the Senate rejected even the watered down version of the Naquet bill. It amended it and removed the clause permitting divorce by mutual consent. This amendment, in effect, undermined the entire underpinning of Naquet’s bill, which was to promote the individual liberty of married people. If spouses could divorce each other only for matrimonial offenses, their individual sense of freedom was severely curtailed. The Senate’s amendment did little to appease clerical Catholics, who opposed the concept of divorce altogether. It did, however, draw the support of enough republicans to enable passage of the law in the summer of 1884.<sup>8</sup>

The attitude of the organized Jewish community toward the campaign to reintroduce divorce in France was mixed. In 1880, the *Univers israélite*

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6. Alfred Naquet, *Religion, propriété, famille* (Paris, 1869), 310.

7. *Journal officiel* (Chambre), June 7, 1876.

8. *Journal officiel* (Chambre), May, 28, 1879, July 20, 1884; (Sénat), May 27/28, 1884; Roderick Phillips, *Putting Asunder: A History of Divorce in Western Society* (New York: Cambridge University Press, 1988), 424; Adrien Dansette, *Religious History of Modern France*, vol. 2, *Under the Third Republic*, trans. John Dingle (New York: Herder & Herder, 1961), 57.

expressed its support for Naquet's efforts. Judaism, it proclaimed, had a very positive approach to marriage, although it regarded divorce as a necessary evil. Unlike Catholicism, it openly allowed couples to terminate their marriages instead of hiding behind the veil of annulment, which the *Univers israélite* described as divorce in disguise. Instead of permitting only legal separation, which had all the social liabilities of divorce without the benefits, it was better, asserted the *Univers israélite*, for the government to simply institute divorce. Despite its support for the efforts of Naquet to reestablish divorce, however, the *Univers israélite*, well aware of his reputation as an extremist, attempted to distance itself from the man personally. It described Naquet as a man of politics and science and not of Judaism, a man who barely practiced his religion.<sup>9</sup> Even though Naquet had never claimed to speak on behalf of Judaism, the *Univers israélite* felt it necessary to comment on his level of observance because the journal feared any association with his overall radical socialist and anticlerical agenda. Not surprisingly, to those on the extreme right, Naquet's level of observance was irrelevant, and they cited his law to demonstrate Judaism's destructive effect on marriage.<sup>10</sup>

The *Archives israélites* was more skeptical about the issue of civil divorce than the *Univers israélite*. It too noted that Judaism permitted divorce but expressed concern that its reintroduction in the civil arena could threaten social peace. It questioned, in light of recent controversial anticlerical legislation, whether now was an appropriate time for new radical measures. Nonetheless, it emphasized that it was raising these questions not in its capacity as a Jewish periodical but rather in its capacity as a journal committed to the welfare of the French state.<sup>11</sup>

Although the *Archives israélites* expressed concern that the reintroduction of civil divorce would disturb social peace, it did not support clerical efforts to repeal the divorce law once it passed. Because the divorce law, unlike the law on burial, did not seem to threaten the integrity of Jewish law, and because a fight for the abrogation of the law would have only further disturbed social peace, the *Archives israélites* decided to let the matter rest. While in the cases of the education and burial laws, the representatives of French Jewry had sought concessions from the regime, in the case of divorce, no such concessions were needed. Instead of appealing to the government for leniency in the application of the civil divorce law, some, as discussed below, sought a lenient halakhic standard for the termination of Jewish marriages.

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9. *U.I.* 35 (1880): 259–69.

10. Pierre Birnbaum, *The Jews of the Republic: A Political History of State Jews in France from Gambetta to Vichy*, trans. Jane Marie Todd (Stanford: Stanford University Press, 1996), 235–41.

11. *A.I.* 24 (1884): 122, 189.

Despite the rather nonchalant attitude of French Jewry toward passage of the divorce law in France, the reintroduction of divorce actually presented a challenge for the Jewish community. True, Judaism permitted divorce. For a Jewish divorce to be valid, however, a religious, not merely a civil, divorce was required. In 1806–1807, before Louis XVIII abolished civil divorce, the Assembly of Jewish Notables and the Napoleonic Sanhedrin had attempted to harmonize Jewish and French divorce laws. They had prescribed that rabbis were not to proclaim a religious divorce until a civil one had been obtained. Despite their efforts, however, an inconsistency between Jewish and French civil law remained. The decision of the Assembly of Jewish Notables and Sanhedrin dealt with the timing of religious divorces. There was nothing the rabbinate could do, however, to compel religious divorces. And when a man refused to give a *get* (bill of religious divorce) or, for reasons of mental incompetence, was unable to deliver to his wife a *get*, she remained married to him according to Jewish law even after she obtained a civil divorce.

The problem of recalcitrant husbands who refused to grant their wives a religious divorce, like the problem of the recalcitrant brothers-in-law who refused to perform *halitsah*, did not represent a direct challenge to French law. French law did not require the removal of impediments to the religious remarriage of one's spouse. The representatives of French Jewry could not have expected the anticlerical regime to pass laws mandating religious ceremonies. Yet, despite the absence of any civil violation, the refusal of husbands to free their wives after a civil divorce presented an ethical dilemma and illuminated the lack of harmony between the Jewish and the French legal systems. The French rabbinate had refused to tamper with Jewish law to free childless widows in 1873, but now, a decade later, it was ready to do so to free civilly divorced spouses.

It is not surprising that the French rabbinate would do more to address the problem of divorce refusal than *halitsah* refusal. Because most married men do not die childless, most widows do not require their brothers-in-law to release them through *halitsah*. In the rare cases where *halitsah* is necessary, few brothers-in-law refuse to perform the ceremony. Divorce is different. It is more common for an embittered spouse to refuse to grant his wife a religious divorce—either to extract payment from her or to prevent her from marrying someone else. Finally, sometimes a husband's physical or mental condition prevents him from granting his wife a religious divorce.

The Ministry for Religion received complaints from women regarding the refusal or inability of their husbands to grant them religious divorces. Although the complaints that I found came from Jewish women in Algeria, there is no reason to assume that non-Algerian Jewish women never suffered from the same predicament. In each case, the ministry expressed its sympathy for the woman's plight, claimed it had no jurisdiction, and

directed or redirected her to the rabbinic authorities. It refused to intervene in an internal religious matter.<sup>12</sup> Nonetheless, the public embarrassment that divorce refusal caused the Jewish community propelled the French rabbinate to find a solution.

After passage of the divorce law, Michel Weill, who had served as a grand rabbi of Algiers, proposed to Grand Rabbi Lazare Isidor that, in cases where a husband was unwilling or was unable to grant his spouse a religious divorce, a civil divorce, combined with rabbinic annulment of the marriage, should suffice to free the wife.<sup>13</sup> Weill's radical proposal was based on the juxtaposition of several halakhic sources. Even though it is a cardinal feature of Jewish divorce law that a husband must consent to grant his wife a religious divorce, Weill proclaimed that the rabbis had ruled that a religious divorce granted under duress was valid<sup>14</sup> and pointed to views expressed in the Mishnah and in the Talmud validating *gittin* (plural of *get*) "entered into the records of non-Jewish courts."<sup>15</sup> From these and other sources, he concluded that even a divorce issued by a non-Jewish court against the will of the husband was valid. Perhaps most important, he pointed to a talmudic passage granting authority to the rabbis to annul marriages.<sup>16</sup> Thus, the rabbis could always choose to annul a marriage when the husband refused to grant his civilly divorced wife a *get*. After reading Weill's proposal, Isidor decided to seek the advice of rabbinic authorities throughout Europe regarding the halakhic validity of civil divorces in cases where husbands were unwilling or unable to grant religious divorces.<sup>17</sup> Reaction to Weill's proposal was swift. Distinguished rabbis throughout Europe, including Rabbi Naftali Zvi Yehudah Berlin of the prestigious Volozhin Yeshiva and Rabbi Azriel Hildesheimer, leader of German modern Orthodoxy, denounced his proposal.

The rabbis opposed to Weill's proposal argued that fundamental differences existed between the cases in the mishnaic and talmudic

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12. See, e.g., F19 11146 k, Archives Nationales, Paris; In a recent article, Lois Dubin describes the streamlined Habsburg approach to the divorce of Jews, which unlike the French approach, required a simultaneous application for divorce from both civil and religious authorities. See Lois Dubin, "Jewish Women, Marriage Law, and Emancipation: A Civil Divorce in Late-Eighteenth-Century Trieste," *Jewish Social Studies* 13, no. 2 (2007): 65–92.

13. Weill's proposal, which first appeared in the *Univers israélite*, was published as a pamphlet, *Le Divorce au point de vue israélite* (Paris: Jouaust et Sigaux, 1886), and also in abridged form in Hebrew in *Ha-Magid* 30, no. 23 (June 18, 1886): 186–88.

14. *M. Ketubot* 7:9–10; Maimonides, *Mishneh Torah* "Laws of Divorce" 2:20; *Shulhan Arukh*, *Even Ha-Ezer* 154.

15. *M. Gittin* 1:5; *B. Gittin* 10b–11a.

16. *B. Gittin* 33a.

17. A copy of Isidor's letter appears in *Ha-Magid* 30, no. 23 (June 18, 1886): 188, reprinted in Judah Lubetzky, *Ein Tnai Be-Nisuin* (Warsaw: Krines-Kubelski, 1930), 2.

passages cited by Weill and the situation in France. In the duress case cited by Weill, the husband, though under duress, had proclaimed that he agreed to grant his wife a divorce, whereas in France the court could issue a divorce without the husband's formal consent. Moreover, the Mishnah and the Talmud had certainly never proclaimed that a civil divorce could substitute for a religious one. They had merely established the validity of a religious divorce signed by non-Jewish witnesses and delivered to the spouse in front of Jewish witnesses. As for Weill's annulment proposal, his critics, citing talmudic and medieval sources, asserted that the authority of the rabbis to annul marriages was very limited in scope—for example, it extended to cases in which a man who had already sent a *get* to his wife attempted to cancel it in front of a rabbinic court before she had received it. However, when a marriage had been performed strictly according to Jewish law and the husband refused to grant a *get*, the rabbis could not annul it even when the couple was divorced civilly.<sup>18</sup>

Although the vociferous reaction of the leading European rabbinic authorities to Weill's proposal led Isidor to reject it, French rabbis continued to seek methods of harmonizing French and Jewish divorce law. The next proposal came in 1893 from Zadoc Kahn, the former grand rabbi of Paris, who succeeded Isidor as grand rabbi of France in 1889. Kahn, unlike Weill, did not propose a halakhic solution for freeing women who had already married and whose husbands had denied them a *get*. Rather, he sought a solution that would prevent the problem of *get* refusal in the future. He proposed the introduction of conditional marriage. The bridegroom would marry the bride with the condition that if, in the event of a civil divorce, he refused to grant his wife a religious divorce, the marriage would be retroactively void.<sup>19</sup>

Before proceeding with his solution to the problem of *get* refusal, Kahn, like Isidor, sought the approval of the leading rabbis of Europe, and he, too, did not receive it. In a letter to Kahn, Rabbi Isaac Elchanan Spektor of Kovno, who was known for his efforts to help women denied religious divorces, warned him not to go ahead with his plan for conditional marriages.<sup>20</sup> He did not, however, cite halakhic sources for his opposition to conditional marriages but simply stated that they were not permitted. Kahn persisted and sought the cooperation of Rabbi Judah

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18. See Hildesheimer's response to Weill's proposal in *Ha-Magid* 30, no. 28 (July 22, 1886): 226–27; *ibid.*, no. 29 (July 29, 1886): 236; *ibid.*, no. 30 (August 6, 1886): 244–45; and Berlin's *responsum* in his *Tshuvot Meshiv Davar* 4, no. 49; see also *Tshuvot Ha-Rashba* I, 1:162. For a summary of the grounds for the opposition to Weill's proposal, see Lubetzky, *Ein Tnai Be-Nisuin*, 1–2.

19. Lubetzky, *Ein Tnai Be-Nisuin*, 4.

20. A copy of Spektor's 4 Sivan 5653 (May 19, 1893) letter to Kahn appears in Lubetzky, *Ein Tnai Be-Nisuin*, 4.

Lubetzky, the Russian-born rabbi of the Orthodox eastern European Jewish immigrant community in Paris, who had vocally opposed Weill's earlier proposal.<sup>21</sup> Lubetzky noted that such halakhic luminaries as Rabbi Ezekiel Landau and Rabbi Moses Sofer<sup>22</sup> had proposed halakhic formulas for conditional marriage in their *responsa*, but, he said, he could not accept Kahn's proposal. He explained that, in the past, the rabbis had employed conditional marriage very sparingly. In the few instances where rabbis had performed conditional marriages, the circumstances were totally different than those in France. Kahn wanted to introduce conditional marriage in France to prevent a potential problem associated with divorce; previously, the rabbis had performed conditional marriages only to prevent an unavoidable problem associated with childless widows. When, at the time of the marriage, the rabbis knew that the bridegroom's brother was either missing or an apostate and so could not perform levirate marriage or *halitsah*, the rabbis sometimes allowed the use of a conditional clause in the declaration of marriage. This clause would retroactively annul the marriage in the event that circumstances required levirate marriage/*halitsah* with an apostate or a missing brother-in-law. Kahn, however, wanted to introduce conditional marriages uniformly in order to prevent cases when a couple divorced and the husband refused to grant the wife a *get*.<sup>23</sup>

In the end, Kahn heeded Spektor and Lubetzky and dropped his proposal to introduce conditional marriages. Although Isidor and Kahn would have liked to harmonize French and Jewish divorce law, they did not want to delegitimize themselves or their marriages in the eyes of the eastern European rabbinate. The opponents of conditional marriage regarded a woman whose marriage was annulled through this means as still married. Therefore, when she remarried, she was technically committing adultery. And, according to Jewish law, the children born to a woman from an adulterous liaison are deemed illegitimate and may marry only other illegitimate Jews or converts to Judaism. Had Kahn implemented his proposal against the advice of the leading Orthodox authorities, Orthodox rabbis might have forbidden their constituents from marrying French Jews because of fear that too many were illegitimate. Although it was more sympathetic to the anticlerical measure of the Opportunist government than the Catholic Church, and it was open to moderate reforms, the French rabbinate was not prepared to violate Jewish law. Thus, the rabbinate

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21. See Lubetzky's comments on Weill's proposal in *Ha-Magid* 30, no. 23 (June 18, 1886): 186–88.

22. Ezekiel Landau, *Tshuvot Noda Bi-Yehudah, Even Ha-Ezer* I, nos. 54, 56; Moses Sofer, *Tshuvot Hatam Sofer, Even Ha-Ezer* I, nos. 110–11.

23. A copy of Lubetzky's 5 Tammuz 5655 (June 27, 1895) letter to Kahn can be found in the Jewish Theological Seminary Archives, Zadoc Kahn Papers, Box 3.

protested the law on cemeteries and abandoned its attempts to harmonize French and Jewish divorce law.

At the same time that French rabbis had to address the effects of the reintroduction of civil divorce, they found themselves facing a new crisis. Following the enactment of the law on cemeteries and shortly before passage of the law on divorce, the Opportunists began to push for a law that would end the monopoly of the consistories and churches on the funeral trade. Article 22 of the Napoleonic burial law had established the exclusive right of the Catholic parish councils and the consistories to supply the hearses, decorations, ornaments, and other provisions that were necessary for funeral services. This right provided revenue to the religious administrations of the three official religions. Anticlerical republicans resented the right of religious institutions to enrich themselves through the funeral trade. They argued that religious monopoly on the funeral trade conflicted with the right to liberty of conscience because parish councils would sometimes refuse to sell funeral provisions to nonbelievers. At the same time, some republicans feared that ending the religious monopoly would lead to the overcommercialization of funeral services, and they were reluctant to battle yet again the Catholic Church on the sensitive issue of death.

Although the Jewish consistories and periodicals had initially joined forces with Catholic clericalists to protest the law on cemeteries, their response to republican attempts to end the religious monopoly of the funeral trade was not as fierce. While they certainly appreciated the revenue from selling funeral provisions, they did not regard the republican attempts to end their monopoly as an assault on religion. The law on cemeteries, at least as they originally understood it, required mixed burials, which violated Jewish law. Republican proposals to grant municipalities or private entrepreneurs the right, or even the exclusive right, to sell provisions for funerals did not. And, as their reaction to the Ferry and Naquet laws demonstrates, the representatives of French Jewry did not vociferously oppose anticlerical legislation that did not pose a direct challenge to Jewish law. Indeed, in the case of divorce, they went out of their way to accommodate the new legislation by trying to harmonize civil and Jewish divorce law. Nonetheless, they did not sit idly by as some republicans sought to end the religious monopoly on the funeral trade, which would have deprived the consistories of much needed revenue, even if the Catholic Church was the main target of the legislation.

As early as November 1882, at a meeting of the Consistory of Paris focusing on the secularization of cemeteries, the members addressed the republican plans to cede to the municipalities the monopoly over the funeral trade. What is interesting is their reaction to a suggestion that they join together with representatives of other religions to protest the republican proposal. Although they agreed to consider the possibility of working together with all religious groups, they expressed a preference in



working in concert with Protestants. In contrast to the case of the law on cemeteries where the consistories had originally associated with Catholic clerical elements hostile to republicans, here, in the case of the proposal on funerals, they were more hesitant. Although the potential loss of revenue was severe, Jewish leaders apparently did not want to do battle with republicans over a proposal that did not affect Jewish law. And joining together yet again with Catholic clericalists to protest another law relating to death carried the risk of angering their republican allies. Instead, Jewish leaders preferred to work together with Protestants leaders, who like the leaders of the Jewish community, enjoyed a relatively positive relationship with the anticlerical regime. Indeed, it was suggested at a meeting in December 1883 that Jews specifically follow the example of Protestant leaders and meet with members of the Senate commission studying the issue to express their concerns.<sup>24</sup>

In the end, the Opportunist regime did not deprive the parish councils and consistories of their monopoly over the funeral trade. After much delay, in 1886, the Senate finally introduced a bill that would have extended to the municipalities the right to sell funeral provisions, but not to private entrepreneurs. The Chamber of Deputies, however, did not pass the Senate's bill, and the parish councils and consistories retained their monopoly for nearly two more decades. It was not until 1904 when, at the height of the church-state conflict, the Chamber and Senate, by then dominated by radical republicans and socialists, passed a law that granted municipalities a monopoly over the funeral trade. At that point, with the government moving rapidly toward separation, the Catholic Church and the Jewish and Protestant consistories had much more to worry about than the loss of revenue from the funeral trade.<sup>25</sup>

The defeat of the bill on the funeral trade in the republican-dominated Chamber in 1886 symbolized an unwillingness of the Opportunists to further pursue their anticlerical agenda. In suppressing unauthorized religious orders, reforming education, secularizing the cemeteries, and reinstituting civil divorce, the liberal republican regime had successfully secularized the civil sphere. At this point, it was not prepared to take additional steps toward secularization. As Ferry responded in 1889 to a socialist deputy's call for the abolition of state support for religion:

If I believed that the separation of church and state, the abolition of the subsidy, would serve public peace in this country, I would vote with

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24. Deliberations of the Consistory of Paris, November 16, 1882, November 20, 1883, and December 14, 1883, CP AA 7.

25. For a full account of the efforts of republicans to reform the funeral trade, see Thomas Kselman, *Death and the Afterlife in Modern France* (Princeton: Princeton University Press, 1993), 273–87.

[you]. But I am profoundly convinced that far from pacifying religious disputes, this abolition would spread them into the tiniest village. . . . I believe that far from strengthening the state, the abolition of the subsidy would weaken it and strengthen only passions.<sup>26</sup>

As Ferry acknowledged, the Opportunists did not object in principle to the separation of church and state, but ever faithful to their name, they intended to wait for the opportune moment. And, during a period when both radical republicans and monarchists were challenging the legitimacy of the republic, it was not the opportune moment.

In 1886, the Opportunists chose General Georges Boulanger to serve as minister of war. Although his attempts to improve the lot of the common soldier, end military exemptions for the wealthy and seminarians, promote republicanism in the army, and restrict the employment of the military in social conflicts gained him much support among radical republicans, the Opportunists soon grew concerned about his provocative stance toward Germany. Worried that his call for French revenge would severely damage Franco-German relations, they dismissed him in 1887, which only led to an increase in his popularity. Radical republicans, who were already upset with moderate republicans for their refusal to expand their anticlerical program, were outraged that the Opportunists had dismissed a dynamic republican general for fear of offending Germany. In an ironic twist, some radical republicans even spoke of establishing a constitutional monarchy led by Boulanger. They were supported by many conservatives who hoped to exploit popular resentment against Boulanger's treatment to overthrow the republican regime. In 1888, in response to threats from both the left and the right, the Opportunists removed Boulanger from the army on the grounds that he had illegally politicked while serving in the military. This move, which only made Boulanger even more popular, led him to run for office in a series of by-elections. Buoyed by his electoral successes, his supporters waited for him to overthrow the government. In an anticlimax, however, Boulanger, fearing arrest, fled the country, and the Opportunists enjoyed a strong victory at the polls in the subsequent election of 1889.<sup>27</sup>

At the same time that the Opportunists began to divert their attention from the church-state question to confront the threat emanating from both radical republicans and monarchists, the Jewish community was preoccupied with its own troubles. In 1886, journalist Edouard-Adolphe

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26. Jules Ferry, *Discours et opinions de Jules Ferry*, vol. 4 (Paris, A. Colin, 1896), 475–78 (translation of citation by Robert Gildea, *France 1870–1914* [New York, Longman, 1996], 93).

27. Maurice Agulhon, *The French Republic: 1879–1992*, trans. Antonia Nevill (Oxford: Blackwell, 1993), 35–38.

Drumont published *La France juive*, which, like Boulanger, appealed to elements on both the left and the right.<sup>28</sup> Drumont's book drew on a combination of traditional Catholic, socialist, and racial anti-Jewish prejudices. For example, he blamed the Jews for crucifying Jesus and using Christian blood for ritual purposes, proclaimed that Jewish capitalists ruled France, and spoke of Jews as an inferior race. The representatives of French Jewry worried about the growing popularity of Drumont and his attempt to organize a specifically anti-Semitic political movement.<sup>29</sup> Furthermore, as both moderate republicans and Jews, they were concerned in general about the Boulangist threat to the republic and in particular about the attitude of his nationalist supporters toward Jews.<sup>30</sup>

Drumont's fusion of clericalism and racial anti-Semitism led Jews to revisit the church-state question. Drumont's book found a favorable reception in Catholic quarters, and some Jewish spokesmen, such as author and religious polemicist Alexandre Weill, journalist Bernard Lazare, and archeologist Solomon Reinach, saw Drumont as representing a Catholic clerical movement.<sup>31</sup> As Albert Wolff noted in *Le Figaro*, Paris's leading newspaper, Drumont's anti-Semitic book was an expression of age-old religious fanaticism and hatred.<sup>32</sup> Indeed, *La Croix*, the popular clerical Catholic daily published by the Assumptionist religious order, gave *La France juive* a positive review shortly after it appeared. By August 1890, *La Croix* proclaimed itself "the most anti-Jewish journal in France."<sup>33</sup> Even the Chamber of Deputies was not immune from clerical expressions of hostility toward Jews. In 1891, in response to the proposal of Radical

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28. Edouard Drumont, *La France juive* (Paris: Marpon et Flammarion, 1886). On Drumont and modern French anti-Semitism, see Pierre Pierrard, *Juifs et Catholiques français: D'Edouard Drumont à Jacob Kaplan* (Paris: Cerf, 1997); Robert F. Byrnes, *Anti-Semitism in Modern France* (New York: Howard Fertig, 1969); Stephen Wilson, *Ideology and Experience: Anti-Semitism at the Time of the Dreyfus Affair* (Teaneck, N.J.: Fairleigh Dickinson University Press, 1982); and Michel Winock, *Nationalism, Anti-Semitism, and Fascism in France*, trans. Jane Marie Todd (Stanford: Stanford University Press, 1998).

29. In 1889, Drumont founded the Ligue Antisémétique de France, and, in 1898, he was elected to the Chamber of Deputies as a representative from Algiers.

30. Because Boulanger's chauvinist and militaristic nationalism appealed to some on the far right, it was not unreasonable to assume that he had supporters who did not like Jews. At the same time, one of his most prominent left-wing supporters was Alfred Naquet, who strongly denied any connection between Boulangism and anti-Semitism.

31. See Alexandre Weill, *La France catholique (réponse à "La France juive")* (Paris: Dentu, 1886) and *Epîtres cinglants à M. Drumont* (Paris: Dentu, 1888); Bernard Lazare, *Antisemitism: Its History and Causes*, trans. from French original (Lincoln: University of Nebraska Press, 1894), 115; and Solomon Reinach ('L'Archiviste, pseud.), *Drumont et Dreyfus: Etudes sur "La libre Parole" de 1894 à 1895* (Paris: P.-V. Stock, 1898).

32. Albert Wolff, "Courrier de Paris" *Le Figaro*, April 23, 1886.

33. Pierre Sorlin, *"La Croix" et les Juifs (1880-1899): Contribution à l'histoire de l'antisémitisme contemporain* (Paris: Grasset, 1967), 95-96.

(Jewish) deputy Camille Dreyfus for the separation of church and state, nationalist (Boulangist) deputy Paul Déroulède accused him of seeking to dechristianize France in order to judaize it.<sup>34</sup> That Dreyfus identified himself as a freethinker rather than as a Jew did not shield him from his colleague's outburst. Reacting to Déroulède's remark, the *Archives israélites* lamented that clerical forces had unnecessarily drawn Judaism into a debate where it had no relevance. And, as in the past, the journal continued to portray Judaism as a religion that could accommodate either an official relationship between religion and state or the separation of religion and state.<sup>35</sup>

Though some Catholic clericalists had expressed negative sentiments about Jews in the past, there was a noticeable increase in their intensity after publication of Drumont's book. In the past, few had adopted the type of language Drumont employed, which was not only vicious but could also appeal to individuals on both the left and the right. Even Zadoc Kahn, whose flowery sermons always presented France in the most positive light, felt compelled to comment on the "resurrection . . . of prejudices" in the Sabbath address he delivered in celebration of the hundredth anniversary of the French Revolution.<sup>36</sup> As explained below, in the opinion of the representatives of French Jewry, the danger emanating from rising Catholic anti-Semitism was compounded by the church's attempt to broaden its base and to reconcile itself to the republic.

Until the Boulangist crisis, the Opportunists had always assumed that the threat to the republic came from the Catholic right. Despite their ongoing debate with radical republicans and socialists regarding the preservation of the Concordat, the Opportunists had never suspected them of disloyalty toward the republic. That perception changed when some Radicals lent their support to Boulanger and spoke of the establishment of some form of new constitutional monarchy. Feeling betrayed by the left and having reached the limits of its anticlerical agenda, the Opportunist regime was ready to reach an accommodation with the Catholic Church. At the same time as the Opportunists began to reconsider their alliances, Leo XIII, who had succeeded Pope Pius IX, demonstrated his willingness to compromise with the social and political realities of the modern world.

In 1891, the pope published the encyclical *Rerum Novarum* (*On Capital and Labor* or *On the Condition of the Working Classes*), which questioned the existing social order. While it strongly defended the right to private property, it encouraged the state to promote social justice and to protect the rights of workers. As the encyclical noted:

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34. *Journal officiel* (Chambre), October 29, 1891. See also Birnbaum, *Jews of the Republic*, 119.

35. *A.I.* 51 (1891): 405–6.

36. Zadoc Kahn, *Sermons et allocutions*, vol. 3 (Paris, 1894), 180.

Now a state chiefly prospers and thrives through moral rule, well-regulated family life, respect for religion and justice, the moderation and fair imposing of public taxes . . . through everything, in fact, which makes the citizens better and happier. Hereby, then, it lies in the power of a ruler to benefit every class in the state, and amongst the rest to promote to the utmost the interests of the poor. . . . And the more that is done for the benefit of the working classes by the general laws of the country, the less need will there be to seek for special means to relieve them.<sup>37</sup>

Even prior to *Rerum Novarum*, French Catholics had begun to call for an improvement in the conditions of the working classes. During the July Monarchy, some Catholics had spoken out against Prime Minister Guizot's indifference toward the plight of the poor. In 1871, Albert de Mun, a Legitimist officer, formally organized the Social Catholic movement and founded the Catholic Workers' Circle. De Mun was elected to the Chamber of Deputies in 1876, where he promoted legislative measures to help the poor and the working classes. Although the Social Catholic movement's economic policies appealed to many Frenchmen, their political views did not. Social Catholics were ultramontane monarchists who supported the *Syllabus of Errors*. Many workers who otherwise might have supported Social Catholicism chose not to because they were uncomfortable with the movement's antirepublican image. Leo XIII, hoping to broaden support for the Catholic Church in France, was determined to cast off Catholicism's antidemocratic image. The time had come for the church to reconcile with the Republic.<sup>38</sup>

In 1892, one year after addressing the economic question, the pope published an encyclical that addressed the church's political position. The new encyclical, *Au Milieu des Sollicitudes* (*On the Church and State in France*), which was addressed specifically to the French, proclaimed that Catholics were duty bound to accept the established form of government in France. At the same time, however, they had not only the right, but also the obligation, to protest anticlerical legislation. By officially severing the connection between monarchism and Catholicism, the pope paved the way for Catholics to "rally" to the republic, a movement that became known as the *Ralliement*. Some, including de Mun and the Social Catholics, jumped at the opportunity to "rally" and formed political alliances with

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37. [http://www.vatican.va/holy\\_father/leo\\_xiii/encyclicals/documents/hf\\_l-xiii\\_enc\\_15051891\\_rerum-novarum\\_en.html](http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum_en.html).

38. On Social Catholicism, see Michael Burleigh, *Earthly Powers: The Clash of Religion and Politics in Europe, from the French revolution to the Great War* (New York: Harper Collins, 2005), 388–91, 396–403; Henri Rollet, *L'Action sociale des catholiques en France (1871–1901)* (Paris: Boivin, 1947); John McManners, *Church and State in France, 1870–1914* (New York: Harper & Row, 1972), 81–93; and Dansette, *Religious History of Modern France*, 2:112–37.

the Opportunists. Many others, while paying lip service to the wishes of the pope, did not. They could not truly reconcile with a republic that for years had sought to suppress the influence of Catholic Church.<sup>39</sup>

The reconciliation between the Catholic Church and the Opportunist republic did not please the representatives of French Jewry. While the consistorial leadership appreciated that the Opportunists had resisted calls from the Radicals for more extreme anticlerical measures, they did not approve of their new alliance with the right. Indeed, de Mun would later become an outspoken anti-Dreyfusard. In response to the two encyclicals, the *Archives israélites* expressed its grave disappointment that a pope who proclaimed his love for the poor and his tolerance of liberalism had remained silent in the face of growing Catholic anti-Semitism.<sup>40</sup>

The alliance between the right and the Opportunists undercut the alliance between the Opportunist regime and the Radicals. Like the representatives of the Jewish community, the Radicals, who unlike the Opportunists still clamored for the separation of church and state, expressed concern regarding the new relationship between republicans and the Catholic Church. They proclaimed that the church had not really abandoned its fundamental antagonism toward republican government but had merely changed its tactics to combat it. Recognizing that it could not destroy the Republic through verbal condemnations, such as the *Syllabus of Errors*, the church had decided to work within the system to undermine it. Radicals such as Georges Clemenceau warned their former Opportunist allies that the rallied Catholics would do everything in their power to repeal the anticlerical legislation that the republican regime had worked so hard to secure.<sup>41</sup> "Ultramontanism exerting itself in favor of the Republic," as *Le Temps* asserted, "[was] no less dangerous than Ultramontanism directed against it."<sup>42</sup>

Although the debate over the guilt of Alfred Dreyfus eventually shattered the alliance between rallied Catholics and Opportunists, the silence of the latter during the early stages of the Affair appeared to validate Jewish concerns regarding the *Ralliement*. The Dreyfus Affair both exacerbated the already-heightened tensions between Jews and the Catholic Church and pushed the organized Jewish community closer to the radical republican position on separation. And yet, despite their growing hostility toward the Catholic leadership and their disillusion with the moderate Opportunist republicans in power, French Jews, as a whole, did

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39. On the *Ralliement*, see Alexander Sedgwick *The Ralliement in French Politics* (Cambridge, Mass.: Harvard University Press, 1965).

40. *A.I.* 53 (1892): 249–50.

41. René Rémond, *L'Anticléricalisme en France* (Paris: Fayard, 1999), 197–200.

42. Cited in McManners, *Church and State in France*, 72.

not eagerly embrace the notion of ending the association between religion and state.

Although the consistories and Jewish periodicals initially did not regard the arrest of Dreyfus in 1894 as a Jewish issue and did not overly concern themselves with his fate, the outbreak of anti-Jewish verbal and physical attacks during the course of the Affair forced them to become more involved.<sup>43</sup> At the time of his arrest, most radicals and socialists did not express concern for the fate of the bourgeois army captain. Nevertheless, they were among the first to rise to his defense after his conviction and to join Mathieu Dreyfus's crusade to secure his brother's release. In 1898, together with some moderate republicans, they organized the League of the Rights of Man and the Citizen to defend Dreyfus and to counter the proliferation of anti-Jewish leagues, most of which had strong Catholic clerical leanings.<sup>44</sup> Even though Jewish leaders did not fully approve of the League of the Rights of Man's anticlerical stance, which was emphasized in its *Bulletin officiel de la Ligue des droits de l'homme*, they deeply appreciated its efforts to combat clericalist anti-Semitism. The representatives of French Jewry recognized that it was neither the rallied Catholics nor even the Opportunists but the staunchly anticlerical radicals who had come, if belatedly, to the defense of the Jewish community at its time of need. To cite one example, in December 1898, in response to anti-Semitic posters denouncing Dreyfus, Georges Clemenceau, then a Radical deputy and editor of *L'Aurore*, which had published Emile Zola's open letter in defense of Dreyfus the preceding January, and former and future socialist deputy Jean Jaurès signed a poster declaring Dreyfus's innocence. This poster was plastered throughout Paris.<sup>45</sup>

The effort of anticlerical radicals to exonerate Dreyfus and protect the Jewish community against verbal and physical attacks led the representatives of French Jewry to manifest greater tolerance for the separation of church and state. It did not, however, fundamentally alter their traditional moderate stance. At no point during the Affair did they express support for radicalism, socialism, or free thought. On the contrary, they continued to express their opposition to those ideologies, regardless of the efforts of radicals, socialists, and freethinkers to secure the release of Dreyfus.

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43. I will discuss the Dreyfus Affair only in the context of the church-state question. For a full account, see Jean-Denis Bredin *The Affair: The Case of Alfred Dreyfus*, trans. Jeffery Mehlman (New York: George Braziller, 1986).

44. For a brief discussion of the various leagues, see Pierre Birnbaum, *Jewish Destinies: Citizenship, State, and Community in Modern France*, trans. Arthur Goldhammer (New York: Hill & Wang, 2000), 116–40. For a more detailed discussion, see Wilson, *Ideology and Experience*.

45. A copy of the poster can be found in F7 12463, Archives Nationales, Paris.

In June 1899, following continuing agitation from the right and an attempted coup d'état by nationalist anti-Dreyfusard politician Paul Déroulède, who in 1891 had accused Jewish Radical Camille Dreyfus of seeking to dechristianize France, President Emile Loubet formed a government with a radical majority under the moderate but anticlerical republican René Waldeck-Rousseau. Prime Minister Waldeck-Rousseau urged Loubet to pardon Dreyfus, which he did on September 19, 1899. On October 27, 1899, just five weeks later, the *Univers israélite* published an editorial entitled "Between Clericalism and Free Thought," which expressed Judaism's opposition to radical anticlericalism.<sup>46</sup> The title of the editorial in the *Univers israélite* echoed the title of an editorial that had appeared two years earlier in the *Archives israélites*. What the *Univers israélite* positively described as "Between Clericalism and Free Thought," the *Archives israélites* had bitterly referred to as "Entre le Marteau et l'Enclume," between the devil and the deep blue sea. The title of the editorial in the *Archives israélites* was not intended as a criticism of the moderate stance of the organized Jewish community but rather as a criticism of those on the left and the right who either attacked French Judaism for being too clerical or too anticlerical.<sup>47</sup>

The editorial in the *Univers israélite* emphasized how, in the past, Jewish leaders had criticized some of the anticlerical measures implemented by the Opportunist regime. And the Republican Defense, as the radical governing coalition formed by Waldeck-Rousseau called itself, was even more anticlerical than the Opportunist party! Thus, despite the prime minister's successful effort to secure Dreyfus's release, the journal made it clear that it did not identify with his coalition's staunch anticlericalism. At the same time, the *Univers israélite* acknowledged that it was freethinkers and atheists who had come to the defense of the Jewish community during their time of peril even though Judaism, in many respects, had more in common with Catholicism than free thought. After once again portraying Judaism as the middle ground between Catholic absolutism and radical anticlericalism, the journal proclaimed that practical considerations would have to dominate its stance on the church-state question. As it concluded, "At the moment, it is, above all, clerical despotism that our religious leaders must denounce. Later, when the peril will have passed, we will turn against our allies of yesterday, and loyally and courteously, we will try to show them that, even in the defense of freedom of conscience, a religion, if it is tolerant, is more solid and powerful than irreligion."<sup>48</sup>

The title and the concluding paragraph of the editorial, in a nutshell, describe the approach of the representatives of French Jewry to the church-

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46. *U.I.*, 55 (1899): 165-68.

47. *A.I.* 58 (1897): 396.

48. *U.I.* 55 (1899): 165-68.



state question. On the one hand, they continuously promoted both the right to freedom of religion and the right to freedom from religion. On the other hand, they were flexible enough to accommodate any regime that stressed one right at the expense of the other. In the past, they had come to terms with both the clerical Falloux law and the anticlerical burial law; they could and would come to terms with the separation of church and state.

In the wake of the Dreyfus Affair, if not sooner, almost all Jewish leaders associated clericalism with anti-Semitism. For years, the representatives of French Jewry had wavered between clericalism and anticlericalism. While still not enthusiastically endorsing the notion of separation of church and state, they recognized that now, as the *Univers israélite* had proclaimed, was the time to combat Catholic clericalism, not radical anticlericalism and the ideologies of the left. They believed, perhaps naively,<sup>49</sup> that clerical anti-Semitism was in reality an assault against the Republic and that a republican victory over clericalism would vanquish anti-Semitism. As Isaïe Levaillant, editor of the *Univers israélite*, who as a former director of the Sûreté Générale had experienced firsthand the anti-Semitic wrath of the Catholic press,<sup>50</sup> later explained:

For a long time, [republicans] did not understand that anti-Semitism was only the mask donned by a discredited clericalism and that what was hiding behind the war against the Jews was the war against the Republic. But thanks to the lessons learned from the Dreyfus Affair . . . [they] . . . see clearly that anti-Semitism does not only threaten a religious minority, but it places in peril all the achievements of modern France. From the moment this long misconceived danger was understood, [republicans] returned to their principles and traditions against which anti-Semitism stood as the direct negation. . . . Now, the battle was no longer between anti-Semitism and the Jews, but between anti-Semitism and the principles of the Revolution. From that point on, it became inevitable . . . that anti-Semitism would be vanquished and repressed.<sup>51</sup>

Although most Jewish officials heeded the advice of the *Univers israélite* and downplayed Judaism's opposition to radicalism, some continued to speak out against left-wing ideologies, which did not go unnoticed in republican and radical circles. For example, in 1903, the radical newspaper *Réveil du Nord* strongly criticized Emile Cahen, grand rabbi of Lille, who, on the Day of Atonement, had attacked socialism,

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49. See David Vital, *A People Apart: The Jews in Europe 1789–1939* (New York: Oxford University Press, 1999), 540–66.

50. On Isaïe Levaillant, see Birnbaum, *Jews of the Republic*, 74–79, 301–9.

51. “La genèse de l’antisémitisme sous la Troisième République,” *Revue des études Juives* 53 (1907): c.

free thought, and Freemasonry. As the *Réveil du Nord* noted, it was the anticlerical movements espousing such ideologies that had defended the Jewish community during the Dreyfus Affair. It went on to describe Cahen's remarks as both an act of ingratitude and an act of Jesuitism.<sup>52</sup> Notwithstanding Cahen's remarks, however, the representatives of French Jewry expressed, with some reservations, their readiness to accommodate the legislative agenda of the radical regime.

Although the representatives of French Jewry were more sympathetic toward anticlericalism after the Dreyfus Affair, their support for the new radical regime was not unqualified. There was both genuine discomfort regarding the harshness of certain anticlerical measures and the practical concern that in its attempt to crush the Catholic Church, the anticlerical regime would inadvertently harm Judaism as well. While Jewish leaders approved of the regime's dissolution of the Assumptionist order in 1900, they were less supportive of the manner in which the government of Emile Combes, who had succeeded Waldeck-Rousseau after the latter's retirement in 1902, applied the law of associations. This law, passed in 1901, required that all authorized religious orders reapply for reauthorization.<sup>53</sup> Although Waldeck-Rousseau had intended to reauthorize all but the most troublesome orders, Combes, who was far more radical than his predecessor, applied the law as strictly as possible. As a result, many religious orders were dissolved along with their educational facilities and their hospitals. While the *Archives israélites*, which in the past had avoided church-state questions not directly related to Jews, praised Waldeck-Rousseau's law against the religious orders,<sup>54</sup> the *Univers israélite* criticized Combes for applying the law so inflexibly. The *Univers israélite* did, however, note that many Jews had responded favorably to Combes's measures. Subjected to clerical expressions of hostility, it was understandable that Jews would support the dissolution of religious orders and the closing of their educational institutions. At the same time, the *Univers israélite* pointed out, it did not behoove Jews to gloat at the restriction of the religious liberty of others.<sup>55</sup> Thus, despite its gratitude toward the new regime for securing the release of Dreyfus and despite its anger at clerical Catholics for their stance during the Affair, the *Univers israélite* did not join the radical anticlerical camp.

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52. A copy of the editorial can be found in the Jewish Theological Seminary Archives, Zadoc Kahn Papers, Box 2.

53. The Opportunists, as noted in chapter 3, had already suppressed nonauthorized religious orders in 1880. On the law of associations, see McManners, *Church and State in France*, 125–33.

54. *A.I.* 62 (1901): 33–35.

55. *U.I.* 57 (1902): 613–14.

While Combes's battle against the religious orders in and of itself did not affect the welfare of French Judaism, the Jewish periodicals recognized that it was a prelude to separation.<sup>56</sup> If, at first, they were not too concerned about the possible effects of separation, as they began to sense that the day of separation was near, they began to address the issue more fully. Until 1902, the *Archives israélites* could simply proclaim that should the state withdraw its financial support for religion, the Jewish community would not only rise to the occasion and compensate for the loss of government subsidies but would also reinvigorate itself.<sup>57</sup> Similarly, the *Univers israélite* could calmly suggest, as had some liberal Catholics, that separation could add "a little intensity to our religious life."<sup>58</sup> In other words, in the absence of state support for religion, individuals might take a greater initiative in promoting the welfare of Judaism. Once the government of Emile Combes began to prepare for the implementation of separation, however, nonchalance began to give way to concern, although not panic.

As noted, Combes, unlike his predecessor Waldeck-Rousseau, was an extreme anticlericalist, who wanted to suppress the Catholic Church in France. He deliberately antagonized the pope by nominating candidates for bishops without consulting the papal nuncio, as previous French leaders had done since Napoleon's Concordat. Furthermore, he refused to nominate candidates to fill new vacancies until the pope confirmed his earlier nominations. Finally, in the spring of 1904, after Jaurès leaked a document by the pope's secretary of state that both condemned France's relationship with the kingdom of Italy and implied that the nuncio had only remained in Paris because he expected Combes's government to fall, the French government terminated relations with the Vatican. On November 10, 1904, following the break with Rome, Combes officially presented his plan for ending the relationship between church and state.<sup>59</sup>

In reacting to the possibility of separation, Grand Rabbi Zadoc Kahn stated, "We do not demand the abrogation of the Concordat (i.e., the official relationship between religion and state) because we get along well with the state, but if it happens, we will not be reduced to despair."<sup>60</sup> Although Kahn did not believe that separation would seriously undermine the vitality of Judaism in France, he worried about its financial implications and its effect on the centralization of Jewish authority.<sup>61</sup> As it was, the consistories faced religious challenges both from the religious left and the right. Although most eastern European immigrants arrived in France

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56. *A.I.* 63 (1902): 337.

57. *Ibid.*, 338–39.

58. *U.I.* 55 (1899): 136.

59. McManners, *Church and State in France*, 136–39, 145.

60. *A.I.* 65 (1904): 226.

61. *Ibid.*

after the separation of church and state, there existed already an Orthodox eastern European Jewish community under the unofficial leadership of Rabbi Judah Lubetzky. In general, Lubetzky did not approve of even the mild reformist tendencies of the consistories, and, as it may be recalled, it was Lubetzky who opposed Kahn's proposal to retroactively void marriages when the husband refused to grant his wife a *get* following a civil divorce.

At the same time that Kahn had to deal with Lubetzky and his Orthodox followers, he also had to address the petition of the newly founded Union libérale israélite to open a liberal synagogue in Paris. Among the reforms this group intended to introduce were a shorter Sabbath service, an additional Sabbath-style service, including a sermon, on Sunday, and the recitation of most of the prayers in French.<sup>62</sup> The Central Consistory, exercising its authority as the official body representing Judaism in France, rejected the petition of the Union and refused to allow the group to establish its own synagogue. However, separation, as Kahn knew, would end the consistorial monopoly on Judaism and would inevitably lead to the development of splinter groups and denominational Judaism in France.

Perhaps it was the fear of decentralization that led Kahn, five days after the prime minister presented his plan for separation, to propose the creation of a new traditional rabbinic court in Paris. Although he claimed that the purpose of the court would be to address halakhic questions regarding the personal status of foreign-born Jews, Kahn probably also wanted to establish a unifying religious Jewish body that would survive separation, which would explain his insistence that Lubetzky serve on the court.<sup>63</sup> Kahn knew that once separation freed Lubetzky's community from the control of the consistories, Lubetzky would attempt to create his own religious institutions. In coopting him on the religious court, Kahn hoped to prevent Lubetzky from setting up his own court and breaking with the remnants of the organized French Jewish community after the consistories lost their monopoly. Of course, Kahn must have also recognized that Lubetzky's halakhic expertise and his influence among foreign-born eastern European Jews made him a suitable candidate for the proposed tribunal. Whatever Kahn's motives, in early 1905, less than a year before the implementation of separation, the Consistory of Paris heeded the grand rabbi's proposal and established the *Beth Din* (rabbinic tribunal) of Paris.

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62. A copy of the correspondence between the Union libérale israélite and the Central Consistory can be found in the Brandeis University Archives, Consistoire Israélite Collection, I 2 C.

63. Letter from Zadoc Kahn to the president and members of the Central Consistory, November 15, 1904, CP B 74; Deliberations of the Consistory of Paris, November 17, 1904, CP AA 9.

While the preamble of the consistorial decree establishing the *Beth Din* spoke of the need to address the civil status of foreign-born Jews, the articles themselves granted the new tribunal authority not only over marriages, divorces, *halitsah*, and conversion but also over ritual baths and ritual slaughter. One could make the case that the decision to grant the tribunal, whose stated mission was to address questions regarding civil status, authority over ritual baths was logical because they were used, among other purposes, for conversions. However, it is difficult to establish a connection between questions of civil status and the dietary laws. If the consistories, in effect, ceded authority over ritual slaughter to a quasi-independent tribunal, it probably stemmed from their desire to create a unifying halakhic body not dependent on the specific relationship between religion and state. And designating the current grand rabbi of France to serve as president of the court would help to preserve his influence in the event that his official position was abolished.<sup>64</sup>

Although the *Archives israélites*, the *Univers israélite*, and the consistories shared Kahn's concerns regarding the possible effects of separation, they did not try to stymie its implementation. Rather, as they had done in the past, they sought amendments to Combes's specific proposal for ending the relationship between church and state. One particular grievance they had concerned the government's failure to distinguish among the different religions. As the Consistory of Paris noted, Combes's proposal to divest religious denominations of their properties within two years after separation and to lease them back for a ten-year-period with a possibility of renewal would unjustly penalize synagogues. Unlike most Catholic churches, they had been built with private funds. Thus, the proposed law would lead to the confiscation of property owned by the Jewish community but only to the repossession of the property owned by the Catholic Church.<sup>65</sup>

Even more disconcerting for the representatives of French Jewry than the financial inequities of Combes's proposed law were the limitations it placed on the creation of private religious institutions in the aftermath of separation. The 1808 Napoleonic decree organizing Judaism had created not only interdepartmental consistories in areas where the Jewish population was sparse but also a central consistory to serve all of French Jewry. The proposed separation law provided for the establishment of unsubsidized *associations cultuelles* (religious associations) to replace the existing official religious bodies but prohibited the establishment of a national religious

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64. Deliberations of the Consistory of Paris, January 31, 1905, CP AA 9. As it turns out, Kahn died on December 8, 1905, three days before the president officially promulgated the law on separation.

65. Letter from the members of the Consistory of Paris to the members of the Central Consistory, December 27, 1904, CP B 75.

body or even interdepartmental religious bodies. These restrictions, as the *Archives israélites* and *Univers israélite* noted, would especially harm Jews and Protestants. In some departments, there were not enough Jews or Protestants to establish associations, and the law would prevent associations in other departments from serving their needs. Furthermore, as the *Univers israélite* pointed out, the Catholic Church was inherently a federation regardless of state recognition or support. It had an organized structure that would remain after separation. Judaism, on the other hand, had no inherent structure. It had no parishes, no dioceses, and no real religious hierarchy. French Judaism was a product of the government-created consistorial system. Once that system fell, the Jewish community could find itself, even if only temporarily, in disarray.<sup>66</sup>

Both Jewish periodicals asserted that Jews should adopt the Protestant approach to separation. Although the Lutheran Church, which had already suffered a devastating blow with the German conquest of Alsace-Lorraine, opposed ending the association between religion and state, it, unlike the Catholic Church, promised to comply with the application of any separation law passed by the legislature. The Reformed Church, which represented the majority of Protestants in France, was sympathetic to separation. At the same time, it made clear its objections to specific elements of Combes's proposal. The *Archives israélites* and *Univers israélite* called on Jews in general and the Central Consistory in particular to follow the Protestant example and to vigorously defend their rights and to demand amendments. Like the representatives of the Reformed Church, they sympathized with the idea of separation but did not believe that Jews or Protestants should have to pay such a heavy price for the "misdeeds" of the Catholic Church. Combes's project, in their view, was unnecessarily harsh and threatened the very principle of liberty, which the prime minister had accused the Catholic Church of undermining.<sup>67</sup>

Whether the Jews and Protestants could have successfully persuaded a radical anticlerical like Combes to amend his separation proposal remains unknown. On January 18, 1905, Combes resigned in the wake of a scandal. It had come to the attention of the Chamber of Deputies that his minister of war had relied on secret dossiers compiled by the masonic movement on the political and religious orientation of army officers to make decisions about promotions. Catholics used this affair to prove that they were suffering from systematic discrimination regarding civil service posts. Combes was succeeded by Maurice Rouvier, who, by comparison,

66. *U.I.* 60, pt. 1 (1905): 741; *U.I.* 60, pt. 2 (1905): 294–97; *A.I.* 66 (1905): 1–3.

67. *U.I.* 60, pt. 1 (1904): 325–30; *A.I.* 65 (1905): 353; *A.I.* 66 (1905): 1–3, 33–34; André Encrevé, *Les Protestants en France de 1800 à nos jours* (Paris: Stock, 1985), 125–32.

was a moderate on the church–state issue.<sup>68</sup> While the new prime minister supported ending the association between church and state, he did not want to stir up unnecessary tension between the religious denominations and the government; nor did he wish to impose the law arbitrarily. In this regard, as the *Archives israélites* noted, Rouvier listened to the concerns of Jewish and Protestant representatives, and his administration made significant changes to Combes's project.<sup>69</sup>

The amended bill guaranteed the *associations cultuelles* the indefinite right to use the property of the former official religious organizations. Under the original project, as mentioned above, the associations would have had to reapply every ten years for the right to continue to occupy their premises. Furthermore, the new proposal expanded the number of clergy who remained eligible to receive state pensions and provided for higher payments.<sup>70</sup> Most important, however, from the perspective of the organized Jewish community, was the removal of the restriction on the establishment of interdepartmental and national associations. Though it acknowledged the theoretical possibility that local Jewish communities would refuse to submit to a national *association cultuelle*, the *Univers israélite* boldly proclaimed, "As a result of this decision, the Central Consistory will remain" and that "Judaism separated from the state could, thus, at least at the beginning, much resemble that which exists at present."<sup>71</sup>

After much debate, the Chamber and Senate adopted Rouvier's proposal for ending the relationship between church and state. On December 11, 1905, the president of the Republic officially promulgated the law of separation that ended the subsidization and legal recognition of religious bodies in France. And, although this law, the centerpiece of anticlerical legislation, would rock France in the years to come, French Judaism and the consistorial system, as the *Univers israélite* had predicted, emerged largely unscathed.

Although the law of separation dismantled the official body representing Judaism in France and deprived the organized Jewish community of government funding, the consistorial system did not disappear. The regional consistories reorganized themselves as departmental religious associations (*associations cultuelles*) and recognized the authority of the national Union des associations cultuelles israélites de France et d'Algérie. Despite the changes in name, French Jews continued to refer

68. McManners, *Church and State in France*, 145–46.

69. A.I. 66 (1905): 65–66, 185–86; U.I. 60, pt. 2 (1905): 5–6.

70. Obviously, the law only provided for pensions for those who had served as clergy before promulgation of the separation law. The amount varied by length of service.

71. McManners, *Church and State in France*, 148; U.I. 60, pt. 1 (1905): 741–42.

to the local bodies as consistories and the national body as the Central Consistory. Indeed, the new organizations merely saw themselves as the continuation of the legal institutions established by Napoleon in 1808. Despite the establishment of a few independent denominational religious associations, both liberal and Orthodox, the revamped consistories continued to exercise religious hegemony among French Jews, and even the French government continued to treat them as the official representatives of Judaism in France.



## Conclusion

In this work, I have argued that the leaders of French Jewry adopted a pragmatic flexible position on the church–state question and, contrary to the widely held view, were not ardent proponents of separation of religion and state. Throughout the nineteenth century, the consistories, which by law represented all of French Jewry, exercised moderation both religiously and politically. Because they were the sole legal representatives of French Jewry and tried to take into account the views of all French Jews, both left and right, they neither implemented radical religious reforms nor promoted extremist political positions. The stance of the organized French Jewish community on the church–state issue can be best summed up by the title of the 1899 editorial in the *Univers israélite*, “Between Clericalism and Free Thought.”

During the course of the nineteenth century, the French state faced challenges both from the radical left and the reactionary right. On the left, some of the French promoted socialism, and others called for the secularization of the public sphere and even for full separation. The Catholic right reacted bitterly to the twin perils of socialism and separation, and they pushed for the strengthening of Catholicism in the public sphere, particularly in the realm of education. Notwithstanding the presence of some radical Jewish members in government, as a whole, French Jewry avoided political extremes. For example, in the wake of the Revolution of 1848, Adolphe Franck, vice-president of the Central Consistory, warned against the dangers to democracy posed by socialism and monarchism. Both ideologies, he declared, hindered economic mobility and threatened the sacred values of the Republic. Similarly, the liberal journal *Les Archives israélites de France* and the conservative journal *L’Univers israélite*, which emerged in the 1840s and strongly disagreed on questions of religious reform, advocated moderation in the political sphere. They argued that French Judaism represented a middle ground between socialism and Catholicism and was fully in consonance with the ideals of the French state.

Throughout the long debate over secularization and separation, the *Archives israélites*, the *Univers israélite*, and the consistories were, more or less, satisfied with the religious status quo. The consistories appreciated

government subsidies for Judaism, and the recognition of Judaism as one of three official religions enabled them to proclaim their religious activities, which included education, Jewish charitable works, and rabbinic training, to be patriotic duties. Yet, at the same time, consistorial officials did not believe that an official relationship between Judaism and the Republic was imperative for the welfare of the Jewish religion. Unlike the highly influential ultramontane Catholicism, which regarded France as the eldest daughter of the church, Judaism allowed for debate on the issue of separation of church and state. It neither sanctioned a particular form of government nor did it advocate a particular relationship between church and state. French rabbis, unlike popes, did not have authority over matters of thought. In 1869, Pope Pius IX issued the *Syllabus of Errors*, which explicitly forbade Catholics from supporting the separation of church and state. The French rabbinate did not issue similar proclamations governing political or religious thought.

Unlike the ultramontanes, when Jewish leaders and the Jewish press chose to address particular church–state questions, they generally did so for practical reasons. In 1848, when consistorial officials faced the task of modernizing the economic and religious practices of thousands of Jews in Alsace-Lorraine, they worried that, without the authority of the state, they would succeed neither in implementing much-needed religious reforms nor in steering Jews toward more productive professions. They therefore supported the relationship between religion and state, although unlike the ultramontanes, not out of strong ideological convictions but for the tangible benefits it would yield. It was the relationship between religion and state that provided them with the power to modernize the traditionalists. Similarly, Alexandre Créhange's Club démocratique des fidèles (Democratic Club of the Faithful) in Paris, which had organized in 1848 to promote the dissolution of the consistories, had little affinity for socialism but had simply wanted an end to the consistorial monopoly over Judaism. In any event, both the consistories and the Club démocratique des fidèles soon abandoned their debate over separation when more pressing issues arose, which among other matters, included the 1850 Falloux law, which strengthened the influence of Catholicism in state schools.

The Jewish periodicals also approached the church–state question pragmatically rather than ideologically. For example, in 1848, the *Archives israélites* did not express its opposition to the call by revolutionaries for separation because of grandiose ideological reasons, but because it thought separation would make the implementation of Jewish religious reforms more difficult. In a similar vein, Créhange's *La Vérité* did not call for separation but rather promoted the dissolution of the existing consistories as a means of stymieing religious reforms. Thus, despite their diametrically opposite perspectives on questions of religious reforms,

both the *Archives israélites* and *La Vérité* adopted similar approaches to the church–state question. Not surprisingly, when the church attempted to dominate public education in 1850, both the *Archives israélites* and the religiously conservative *Univers israélite* opposed the new entanglement of religion and state.

During the Third Republic, the organized Jewish community continued to chart a pragmatic, moderate course. Following the reintroduction of civil divorce in 1884, Grand Rabbi Zadoc Kahn tried to harmonize religious divorce with civil divorce by advocating conditional marriage, which would retroactively void a marriage when a husband refused to grant his wife a *get* following a civil divorce. If Kahn was ultimately unsuccessful, it was because of the pressure exerted on him by the eastern European rabbinate, which was opposed to any tampering with the marriage ceremony. Although Kahn acquiesced to some of the new measures of the government, he and the consistories were far from proponents of radical secularization. During his tenure as grand rabbi of Paris, the consistories, the *Univers israélite*, and the *Archives israélites* openly opposed some of the more extreme secularist measures proposed by the Opportunist majority in the legislature. As we have seen, they opposed the complete removal of the idea of God from the public school curriculum and the secularization of burial plots.

Despite the attempts of the consistorial leadership and the two main Jewish journals to promote political moderation, during the late 1880s and 1890s, the period surrounding the rise of radical anti-Semitism and the Dreyfus Affair, Catholic clericalists portrayed Jews as both a threat to Catholic France and a menace to the social order. Ironically, it was precisely such attacks that reinforced the determination of the representatives of French Jewry to weaken the influence of Catholicism in France, to reassert the progressive values of the French Revolution, and to finally endorse the separation of church and state.

Although communal leaders were concerned about the loss of government recognition and financial support, most reluctantly concluded that only separation could protect the Republic from its Catholic and royalist enemies. They believed that the government had to take defensive measures against the Catholic Church and understood that the purpose of separation was to weaken the church's influence, not to weaken Judaism. After all, in the years before the separation law, the government dissolved most of the Catholic religious orders, some of which had fomented anti-Semitism, and broke relations with the Vatican. As the *Univers israélite's* 1899 editorial "Between Clericalism and Free-Thought" explained, in the end Catholic clericalism posed a greater threat to French Jews than secularization. When, however, the Dreyfus Affair passed, the editorial proclaimed, the *Univers israélite* would expend more energy challenging free-thinkers since

it believed that freedom of conscience was more secure in an environment that was tolerant of religious diversity than in an environment of irreligion. Thus, even at the height of the Dreyfus Affair, the *Univers israélite* promoted political and religious moderation in the belief that such moderation was most compatible with the interests of the French Republic.

In sum, throughout the nineteenth century, the organized French Jewish community, much like the Protestant Churches, strategically charted the political waters by steering clear of extremist political positions and by adopting what I have called a “soft clerical” approach to church–state issues. Although this approach subjected them to criticism from both anticlerical and clerical forces, thus placing them between the devil and the deep blue sea, the rabbinate, consistorial officials, the Jewish press, and presumably many French Jews believed that both French Judaism and French Jewry would thrive most in a climate of moderation. This is not to deny that consistories or Jewish periodicals took a position on the church–state issue. When they did so, however, their position was motivated more by pragmatic considerations than deeply held political convictions, and they seldom abandoned their tone of moderation, a tone they proclaimed to be the hallmark of Judaism. When Jewish communal leaders moderately opposed separation in 1848, it was because they worried that, without the authority of the state, they could not successfully modernize the practices of the Jews of Alsace-Lorraine. When they reluctantly endorsed it in 1905, it was only because French Jews had come under severe attack in right-wing Catholic circles, and the perceived enemies of French Jewry had to be disarmed. Thus, the shift in position on the church–state issue stemmed fundamentally from practical political and social considerations resulting from changing circumstances rather than deep-seated religious or ideological beliefs.

Although this book examines the positions of the organized French Jewish community on church–state questions, its conclusions reflect a broader trend regarding the attempts of Jewish communities to respond to the challenges posed by the quest for and aftereffects of emancipation. While the positions of British Jewry, German Jewry, and American Jewry on church–state issues did not mirror that of the organized French Jewish community, as we shall see in the examples below, they too responded in a pragmatic fashion.

The legal status of the Jews of nineteenth-century England differed from the Jews of France. France had three official religions, of which Judaism was one, whereas England had only one officially established church, the (Anglican) Church of England. The National Assembly emancipated French Jewry in 1790–91 in broad strokes, while the British parliament emancipated the Jews of England in stages, beginning in 1830, following the Catholic Relief Act of 1829, and ending in 1871. Despite their different

circumstances, in many respects, British Jews and French Jews followed a similar religious trajectory. Even though they were not fully emancipated until 1871, by the mid-nineteenth century most British Jews had little to gain from the removal of the few remaining political disabilities, and like French Jewry and contrary to much of German Jewry, they did not adopt radical reforms to demonstrate their ability to integrate into British society and to win over political supporters.<sup>1</sup>

Despite the absence of an official centralizing organizational structure, British Jewry, like French Jewry, had a chief rabbi starting in 1845 with the election of Nathan Adler by representatives from both the London and provincial communities.<sup>2</sup> Although Adler himself, not the state, issued the *Laws and Regulations for All Ashkenazi Synagogues in the United Kingdom*, most congregations recognized his authority. To consolidate his authority, Adler and several supporters persuaded Parliament to pass the United Synagogues Act of 1870. This act established the United Synagogue that united most of the larger Ashkenazi congregations in the London area under Adler's control. Although the statute did not formally proclaim Adler chief rabbi of Great Britain, as chief rabbi of the United Synagogue, he and his successors were recognized as such by Jews and non-Jews alike.<sup>3</sup> Similarly, the lay Board of Deputies, like the consistories, represented the interests of British Jewry and protested legislation it deemed threatening to Jewish interests.<sup>4</sup> Although the representatives of French Jewry, unlike the representatives of British Jewry, eventually supported the separation of church and state, that decision did not reflect a fundamental ideological difference between the two groups. In France, the Catholic right fomented anti-Semitism and opposed the revolutionary ideas of the Republic. In England, few liberals or conservatives expressed opposition to the political equality of the Jews or promoted radical anti-Semitism, and therefore the representatives of British Jewry had little reason to reevaluate the relationship between religion and state.<sup>5</sup>

Unlike the Jews of France and England, the Jews of the German territories, both before and after German unification in 1871, did not have any centralized organizational structure, and they were divided

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1. Todd M. Endelman, *The Jews of Britain, 1656–2000* (Berkeley: University of California Press, 2002), 101–15.

2. Although other rabbis had been called “chief rabbi,” they exercised limited authority. See Endelman, *Jews of Britain*, 51–52; and Geoffrey Alderman, *Modern British Jewry*, 2nd ed. (New York: Oxford University Press, 1998), 38–40.

3. Alderman, *Modern British Jewry*, 40–41, 87–89; Endelman, *Jews of Britain*, 115–17.

4. Endelman, *Jews of Britain*, 121–22.

5. Geoffrey Alderman, *The Jewish Community in British Politics* (New York: Oxford University Press, 1983), 16–46.

denominationally.<sup>6</sup> As a result, their representatives expressed a less-uniform position on church–state questions. Prior to 1871, some Jewish leaders called for an end to the relationship between religion and state while others promoted equal treatment for all religions. Both the proponents and opponents of separation addressed the question of separation from the perspective of the specific needs of the Jews in the German territories. Unlike French Jews, who had already received citizenship from the French revolutionaries in 1790–91, German Jews were still awaiting their complete emancipation. Those who sided with the liberal intellectual elite and advocated separation, such as the radical religious reformer Samuel Holdheim and lawyer Gabriel Riesser, believed that only a secular state would emancipate its Jews. The German Jewish proponents of separation believed that they did not have the luxury of promoting “soft clericalism.” Conversely, the more moderate reformer Abraham Geiger and other opponents of separation asserted that a “soft clerical” approach was exactly what was required. A call for separation, they argued, would alienate political conservatives and could hinder the pace of emancipation. Jews were more likely to achieve political equality if they promoted equal state protection and assistance for all denominations than if they called for the disestablishment of the Protestant or Catholic religion. Furthermore, separation could deprive Jewish institutions of much-needed governmental protection and support.<sup>7</sup> Thus, despite differing opinions regarding the proper relationship between church and state, the representatives of German Jewry, like the representatives of French Jewry, were guided by pragmatic considerations. However, because prior to 1871 the representatives of German Jews, unlike those of French Jews, were struggling to achieve what many believed to be a most important objective, emancipation, their pragmatism arguably had an even more strategic bent than that of French Jewry.

Once a unified Germany emancipated all of its Jews in 1871, the debate over separation assumed a new dimension. It was pointless, of course, for representatives of emancipated Jews to argue as to whether separation would lead to their emancipation. Their focus thus shifted from the question of separation of church and state to the question of whether a Jew

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6. They did attempt on a voluntary basis, with varying success, to organize inter-communally primarily for the purpose of defending their civil and political rights. See Ismar Schorsch, *Jewish Reactions to German Anti-Semitism, 1870–1914* (New York: Columbia University Press, 1972).

7. Salo W. Baron, “Church and State Debates in the Jewish Community of 1848,” in Mordecai M. Kaplan *Jubilee Volume*, ed. Moshe Davis (New York: Jewish Theological Seminary, 1953), 57–68; Uriel Tal, “German Jewish Social Thought in the Nineteenth Century,” in *Revolution and Evolution: 1848 in German-Jewish History*, ed. Werner E. Mosse, Arnold Paucker, and Reinhard Rürup (Tübingen: Mohr Siebeck, 1981), 309–11.

should have the right to separate from his community. Although there was no official government-supported centralized Jewish organization in Germany, the law had required compulsory membership of Jews in their local communities. In 1873, as part of its battle against the power of the Catholic Church (the *Kulturkampf*), the Prussian legislature passed a law that allowed Catholics and Protestants to withdraw from their religious communities. This law was designed to encourage liberal Catholics to withdraw from conservative Catholic communities and establish new liberal Catholic communities. Representatives of liberal Judaism, who both advocated freedom of conscience and sympathized with Bismarck's struggle against the Catholic Church, soon found themselves in a quandary when the Prussian legislature sought to apply this law to Jews. Allowing Jews to withdraw from their existing communities, they feared, would lead to an exodus of Orthodox Jews, undermining the communities' financial stability. On the other hand, the Neo-Orthodox, led by Rabbi Samson Raphael Hirsch, supported a secession law, which would enable them to secede from communities dominated by liberal Jews.<sup>8</sup>

The debate between Neo-Orthodox and Liberal leaders over *Austritt* (secession) resembled the 1848 debate in France between the more traditional Club démocratique des fidèles and the more liberal consistories in France over separation. The Neo-Orthodox, like the Club démocratique des fidèles, did not support the existing communal leadership, and they therefore made a strategic decision to support a law that would allow them to secede. At the same time, the representatives of the liberal German communities made a strategic decision to oppose a law that would have allowed the Orthodox to secede.<sup>9</sup> As both the debate over church–state separation and *Austritt* reveal, on questions of religion and state, German-Jewish leaders, like French Jewish leaders, did not hold inflexible ideological political positions but rather acted pragmatically to serve the specific religious needs of their constituents.

In the United States, as in Germany, the absence of religious centralization resulted in more fragmented attitudes among Jews on the church–state question than in France. Yet, as Naomi Cohen and Jonathan Sarna have noted, during much of the nineteenth century, American Jewish leaders generally promoted equal government aid to all religions rather than the strict separation of church and state, a position similar

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8. Robert Liberles, *The Resurgence of Orthodox Judaism in Frankfurt Am Main, 1838–1877* (Westport, Conn.: Greenwood Press, 1985), 189–226; Michael Meyer, ed., *German-Jewish History in Modern Times*, vol. 2, *Emancipation and Acculturation, 1780–1871* (New York, Columbia University Press, 1996), 114–17, 181.

9. Despite the opposition of the liberal Jewish communities, the Prussian legislature passed the Law of Secession (*Austrittsgesetz*) in 1876, which allowed the Neo-Orthodox to establish their own religious communities.

to that of the representatives of French Jewry. For example, rather than alienate many Christians and call for the abolition of Sunday "blue laws," a church-state issue that preoccupied them during the course of the nineteenth century, Jewish leaders, in general, pragmatically called for exemptions for Sabbath-observing Jews. When American Jews, in the late nineteenth century, began to adopt a separationist stance, they did so in response to the rise in calls for a "Christian America" that arose in reaction to a growing agnosticism in the decades following the Civil War. In 1892, the Supreme Court proclaimed the United States a "Christian nation," and the justice who wrote the decision, David Josiah Brewer, subsequently published a strong defense of this approach. While the court's decision was by no means equivalent to the anti-Semitism associated with the Dreyfus Affair, it was frightening enough to propel American Jews toward supporting the separation of church and state.<sup>10</sup>

Perhaps because American Jewry had less to lose than the centralized government-subsidized French Jewish community from a strong wall between religion and state and because such a wall was associated not with the violence of the French Revolution but rather with the theories of James Madison and Thomas Jefferson, most American Jews, with the notable exception of the Orthodox, embraced separation wholeheartedly.<sup>11</sup> And yet, most Jewish leaders and organizations did not promote extreme forms of separation, such as the abolition of court oaths and tax-exempt status for religious donations. To cite Sarna, "Fearing the persecutory potential of the Christian state, on the one hand, and the possible anti-religious animus of the secular state, on the other, many American Jews have sought a middle ground. . . ."<sup>12</sup> Although the label "soft separationists" rather than "soft clericalists" is more befitting, America's Jewish leaders, like those of France, demonstrated flexibility and moderation on the issue of church and state.

In the end, while the consistent "soft clerical" approach of French

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10. See Naomi W. Cohen, *Jews in Christian America: The Pursuit of Religious Equality* (New York: Oxford University Press, 1992), 11–122; Egar Feldman, *Dual Destinies: The Jewish Encounter with Protestant America* (Chicago: University of Illinois Press, 1990), 159–61; and Jonathan D. Sarna, "Introduction: American Jews and Church-State Relations: The Search for 'Equal Footing,'" in *Religion and State in the American Jewish Experience*, ed. Jonathan Sarna and David Dalin (Notre Dame, Ind.: University of Notre Dame Press, 1997), 1–38.

11. In particular, Orthodox Jews, who, as a rule, send their children to private Jewish schools, are more likely to support government aid to parochial schools than their secular counterparts. See Jonathan D. Sarna, "A Question of Priorities," in *Religion and State*, 246, 256, 259–61.

12. Sarna, "Introduction: American Jews and Church-State Relations," in *Religion and State*, 30.



Jewry that I have discerned may be unique to the Jews in France, the pragmatic and ethnocentric forces that drove that approach were shared by other Jewish communities. German Jewry, American Jewry, and other Western Jewries did not promote separation because they supported irreligion over religion, nor did they promote a relationship between the state and religion because they held fervently clerical beliefs. The struggle and achievement of emancipation may have reshaped the structure of Jewish communities, but it did not affect their dexterity in reformulating their positions in response to the challenges of their times.



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