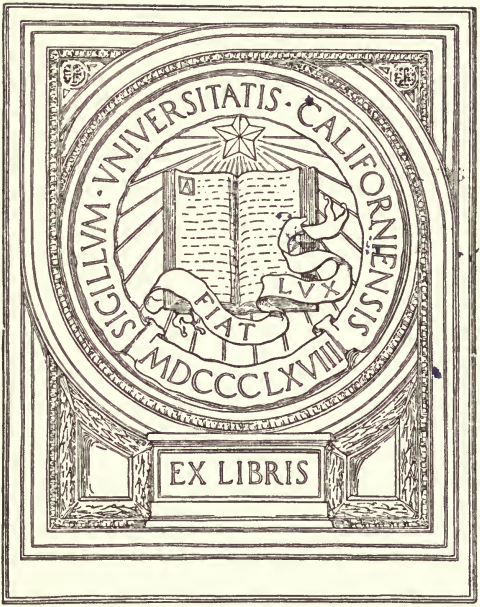
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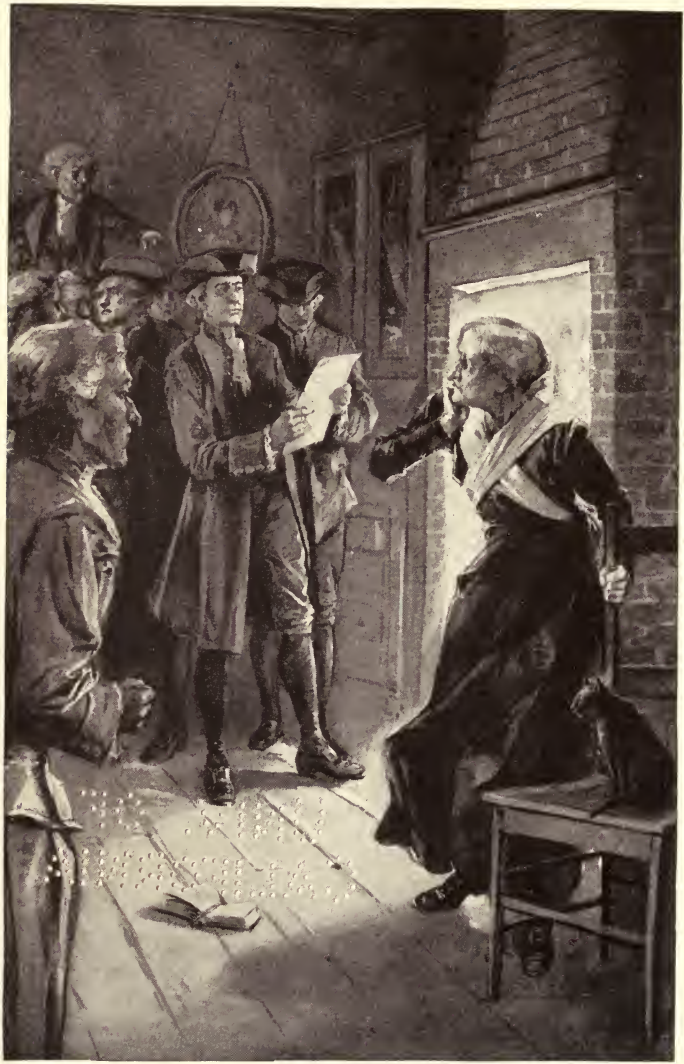

Courtesy of P. F. Collier & Son.

Arresting a Woman Charged with Witchcraft

YE OLDEN BLUE LAWS

YE OLDEN BLUE LAWS

BY

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PREFACE

For the reader's convenience it has been thought desirable to omit the multitude of footnotes that would have cluttered these pages had references been given in the case of each fact related. All of the vital facts herein described are taken from official or other authentic documents, a list of which is presented at the end of this book. It will be noted that the laws, court records, and other annals of various colonies were copied from original manuscript volumes by experts of historical societies acting under order of legislatures, and that publication was done under legislative sanction. Other compilations of laws were prepared either by direction of Provincial or State legislative bodies or by legal authorities the exactness of whose works has never been questioned.

Great care has been taken throughout this book to adhere to accuracy of fact and to avoid overdrawing of narrative. Strong as the facts

are in many chapters, they do not by any means include all of those set forth in the records. Had these been added, they would have compelled a far more elaborate account than it is the purpose to give here; and moreover some are of such a nature that it better served the interests of propriety to generalize rather than to go into details.

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CHAPTER I

A SMOKED-OUT EXPERIMENT

WHEN, during the thrilling days of the World War, the constitutional amendment decreeing abolition of the liquor traffic was adopted, the supposition prevailed that there was nothing left to legislate out of existence, at least nothing concerning habits, tastes, and customs. Undeniably there was a wide-spread belief in immunity from further agitations.

However the amendment pleased or shocked individual sensibilities, the era of summary revolutionary changes seemed to have reached a climax. An institution, almost as old as written history itself, had been abolished. That having been done, each prepared to adjust himself accordingly, either by obeying or surreptitiously

violating the law, as suited his fancy, inclinations, convictions, or interests.

But to the great surprise of the generality of people, it was soon discovered that, instead of being a culmination, the overthrow of the liquor traffic was the beginning of a series of assaults. They had fondly assured themselves that the Militant Moralist would do nothing more because there remained nothing for him to do, and had pictured him retiring gracefully into obscurity, well content with the remembrance of great deeds accomplished. They did not know that the Militia of Morals had its divisions of forces, and that while one section was on the front lines, attacking liquor, others were in reserve, preparing for energetic combat. Its organizations had long since been formed, and were only awaiting the strategic time when they could project themselves into the fight with their bill of demands.

To many people the announcement of these facts was bewildering. Long propagandizing had accustomed them to associating the word prohibition entirely with the anti-liquor campaign. They did not foresee that its significance

would be extended to include numerous other prohibitions. It was represented with such positiveness that the exclusion of liquor would cure moral, social, political, and economic evils that the assurance was tolerated even in quarters where these large promises met with doubt or disbelief. People at least wished to see how liquor prohibition would work; yet without giving them adequate opportunity, a number of self-constituted organizations have come forward with a list of what they say are other evils to be prohibited. Their demands include:

The abolition of tobacco.
No Sunday sports.
No Sunday concerts or entertainments.
No Sunday newspapers.
No Sunday opening of any kind of stores.
No Sunday motion pictures.
Drastic restriction of Sunday travel.
Stricter regulation of marriage and divorce.
A single standard of morality.

Added to the foregoing are three proposals which are still in an incipient state. They have not reached the point of peremptory demands

but are more in the form of suggestive agitation. These are the regulation of women's dress, the censorship of publications, and the protection of ministers against caustic criticism.

The program is a formidable one. But unlike the liquor prohibitory movement, which was long treated with levity or ignored, its successor movements have been taken seriously. Started by American clergymen in 1826, the liquor prohibitory movement was popularly regarded as futile. It was ridiculed and derided, and the newspapers gave scant attention to it. But it throve on the very lack of publicity which would have been fatal to any other kind of movement. It developed its own missionary methods of gradually arousing and shaping a compact element of public opinion, and it created an efficient machine for influencing legislative action. Persistently working upon lawmakers, it finally attained the success which the large opposition had thought impossible.

Its triumph has had a double effect. With its methods and victory so fresh in the public mind, there is no general disposition to slight the potentialities of similar movements, no matter

how extravagant their demands may seem. On the other hand, the leaders of the other prohibitory movements are imbued with a radiant self-confidence. The active leaders of the Lord's Day Alliance of the United States, the Women's National Sabbath Alliance, the International Reform Bureau, the National Women's Christian Temperance Union, the National Anti-Divorce League, and other such bodies are either ministers or groups influenced by ministers chiefly of two leading Protestant denominations.

Filled with the spirit and zeal of crusaders, they are sanguine that as liquor prohibition was legally accomplished, any reform is attainable, and that the success of that movement has given them the right to speak with a tone of authority. They are convinced that they can effect a complete social and moral transformation, and it does not seem to them a far-fetched belief that in the very exercise of their power they will restore the ancient prestige of church and clergy, which admittedly has long been diminishing.

The state that it is their aim to establish they officially hail as "The New Era." This sounds like the promise of something transcendently

novel and glorious in the annals of American life. But there is nothing new about their motive, the means they purpose to use, or the laws they demand. America once had a long and trying experience with precisely the same kind of experiment. There is not one of the fundamentals of the proposed list of demands that has not been tried before, and tried during a period when conditions were most propitious for success. But the protracted experiment failed badly, and was discarded by the American people as intolerant and impracticable.

The exact parallel between the impetus and development of the Puritan blue-law régime and the aims of the present movement is striking.

Leading Massachusetts settlers, both Puritans and Pilgrims, believed in the feasibility of the establishment of the kingdom of heaven on earth. They were always rapturously talking and writing about this, and about the "beautiful city" which they were sure they could create and maintain. The present crusading movements in their quest of the "New Era" have the same exalted ideal. The Puritans, and indeed some other sects, were convinced that laws could change

human ways and mold mankind in any form desired. Therefore it was necessary only to enact laws and ever more laws; the stricter and sterner the laws, they believed, the more compelling their effect in the ingraining of standards.

The movements of to-day have inherited this theory. They assume that Puritan inhibitive laws must necessarily have been successful, and forthwith adopt the Puritan method as their model. With the scope of those laws and their consequences the clerical chiefs of the present Sabbatarian movements may not be and often are not familiar. But they do know the commanding position ministers and other church functionaries held in colonial days, dominating law as well as directing religion; and they believe that in a like way the responsibility devolves upon them to undertake the moral guardianship of the people.

The parallel goes further. The Puritans began with certain summary repressive laws, and followed them with a succession of other repressive laws, pyramiding constantly. The movements of the present day began with prohibition as the great goal. But scarcely had that been

achieved when the American public was informed that a multitude of other restrictions were to be imposed. The Puritans found their sanction in the Bible and religion; so do the various interjoined crusading organizations of our time.

Conventional history represents the Puritans as coming to this continent to establish the principles of religious freedom. So they did,—but for themselves and for nobody else. And only for such of themselves as were a part of their theocratic machine and were subservient to their decrees and obedient to their laws.

Suppression was the fixed policy from the very inception of the Puritan colony. The First General Letter of April 17, 1629, from the officials of the New England Company to the settlers in Massachusetts ordered them "to suppress vain disputes that busy persons may beget as to religion." This was to be done to promote "peace and unity," but the elysium of peace and unity that ensued was one promoted by the bitter persecution of all other sects. At the same time the settlers were assured that the company

had been careful "to make plentiful provision of godly ministers."

This letter of instructions contained the first summary law. The planting of tobacco was prohibited, unless in small quantity for physic to preserve health. Its use was to be rigidly confined to medicinal purposes only. No tobacco was to be laden upon any ships leaving the colony.

The tobacco decree was the beginning of the whole code of inhibitive laws. It bore the same relation to the colonial period that liquor prohibition does to ours. The General Court of Massachusetts, which made the laws, followed up the decree by enacting severe statutes. The idea that they would be violated never occurred to it. Care had been taken to get rid of undesirable settlers. The New England Company had expressly ordered that any incorrigible drones, libertines, or profligates be shipped back to England. Those settlers allowed to stay were supposed to be of guaranteed virtue and piety, and zealous and dependable in support of church and ministerial edicts. The established Puritan church not merely swayed but controlled

politics. No one not a full member was allowed to vote. The laws were made by ministers or church elders, who constituted a special ruling class. At different times they exempted themselves in law from taxation. Laws were enforced by magistrates who necessarily belonged to the church.

But it was soon found that when law, even church-made law, interfered with personal tastes and habits, it ignominiously suffered. The average Puritan liked tobacco so well that he not only smoked but drank it. Of the nature of the concoction made from it the records do not tell. The ministers indignantly declaimed against tobacco, and the courts sternly inflicted punishment. Still the tobacco habit grew. It spread so fast that in a moment of despair the General Court repealed all of the laws against it. But this lapse was temporary; the court soon recovered its belief in the invincibility of law, and began to pass new prohibitory statutes.

Its law of September 6, 1638, was not based upon moral objections as were the previous laws. By this time both masters and menials had become infected with the tobacco habit. Masters

did not take kindly to any law classing themselves as immoral. The lawmakers were obliging; they put necessity for the law of 1638 on other grounds. One declared purpose was to prevent fires. Tobacco pipes were then often kindled from gunpowder ignition. As they felled the forests, tilled the fields, and reaped the harvests, the Puritan stalwarts occasionally indulged in a smoke. This law severely fined any one smoking in barns, fields, or forests, and also forbade the use of tobacco in any inn or other public house except in a private room, "so as neither the master of the same house, nor any other guests there shall take offense thereat; which if they do, then such person is forthwith to forbear upon pain of two shillings, sixpence fine for every offense."

Puritan lawmakers are supposed to have been inflexible in their conceptions of impartial law for all, but they never lacked generosity to the influential and powerful. Indirectly, in this law they gave the masters the full privilege of smoking as much as they pleased. But if servants or workmen smoked in or anywhere near a house, barn, or other building, or in the fields or forests,

the master was empowered to deduct from their wages the amount of the prescribed fine and turn it into the town treasury. In the absence of proof to the contrary, we must assume that he did hand in the money to the public treasury, although there was no way provided of compelling him to do so, and no penalty for his not doing it.

Constantly seeing masters indulging in the use of the much-prized weed, servants and artisans were disgruntled. True, the law did not utterly forbid tobacco to those working for wages, but it placed restrictions on its use that amounted to complete denial. The servant of that time was not the same as the domestic servant of to-day; he not only was one who gave personal service, but was often a skilled workman bonded to perform many kinds of tasks for merchants, shippers and plantation owners. Seldom could a servant go anywhere except with the master's formal permission; he could not leave a master until his term of indenture had expired; and if he ran away it was provided by the law of 1630 that the magistrate and two chief inhabitants were "to press men and boats or pinnaces, at the public charge, to pursue such persons by sea and land,

and bring them back by force of arms." Only when the master was cruel was the servant held justified in fleeing, and in such a case the master's testimony was usually accepted. By the law of 1634 no servant might have any land allotted to him "till he hath approved his faithfulness to his master during his time of service," and the act of 1636 made servants ineligible for any office.

The effect of the law restraining servants from smoking was to goad them to a clandestine use of tobacco. When the master was not on the scene, the workman would take advantage of the occasion by smoking in some place where he thought himself tolerably safe. Occasional detection did not prevent the practice from becoming wide-spread. In 1646 the General Court enacted a new law, decreeing that smoking was lawful only when done on a journey, five miles remote from any town. Ostensibly this law was of general application, but it was particularly intended to bear upon servants, few of whom ever had opportunity to go any long distance from a house. The records of the times are fragmentary, but it is evident that so general was

the spirit of resentment and defiance that a law had to be passed late in 1646 forbidding the bringing of pipes and tobacco into the austere precincts of the court, and providing that any person using tobacco in the room where the court was sitting was to forfeit sixpence for every pipe taken, and double that fine for the second offense.

That was the last law passed against the use of tobacco in Massachusetts Colony. In their contest with tobacco, the authorities were utterly defeated. Laws regarding it remained in the official tomes, but they were ignored. Jurymen themselves smoked, and found ways of conveniently interpreting the law. A case came before the General Court, on October 13, 1680, concerning a parcel of tobacco seized by one Edward Randolph. The legal trial decided that the law could not be construed to condemn the possession of tobacco, and therefore declared that the parcel "ought not longer to be detained in the custody of the law" but was to be returned to the owners. The significance of the precedent established was clear: what was tobacco for if not to be used?

Plymouth Colony, settled by the Pilgrims, had somewhat the same experience with tobacco. For smoking on the streets, a law of 1638 imposed a fine of ten shillings for every offense. Formal history may not say so, but nevertheless many Pilgrims loved to smoke while deliberating, —a fact that called forth a law in 1639 to stop jurymen from smoking, which fined them five shillings for every time they were caught. As smoking everywhere increased, the ministers decided that they would put an end to it by a sweeping interdiction. They caused a law to be passed in 1641 prohibiting the importation of tobacco. Their logic was good enough; how could people smoke if they could not get tobacco? But the people proved that they could get it by smuggling. The ministers were pained that so many of their church members should turn smugglers, and the best way of retrieving an embarrassing situation they had that law repealed the very next year.

The law of 1638 did not stop smoking on the streets. Themselves relishing a puff, constables could be afflicted with poor eyesight when the occasion arose. The ministers had a new law with

severer penalties passed in 1646, and later in the same year another law with still heavier penalties. But some sardonic lawmaker inserted in one of these laws what we should now term "a little joker." It exempted "soldiers in time of their training" from the act's provisions. Now, as virtually the whole male population in those days was required to be in more or less constant training to fight Indians, this meant that many were exempted.

Pilgrims smoked not only on week-days but on the holy Sabbath and even on their way to church. The remedy was a new law in 1669. Any person, it proclaimed, found smoking tobacco on a Sabbath, going or coming, within two miles of a meeting-house (church) was to be fined twelvepence for every offense.

That was the final instance in the Plymouth Colony records of a law being passed against tobacco. Use of the weed had grown to be an institution, and no procession of laws could abolish it.

Connecticut, like some other colonies, was usually influenced by Massachusetts, and imitated its laws. In regard to tobacco there was

an exception; it was never outlawed. Concerning many other habits the moral code of the Connecticut theocracy was searching and severe; in theory it did not approve of tobacco any more than that of Massachusetts, but in practice it was susceptible of statesmanlike adaptations.

Tobacco raising throve in the Connecticut River valley. There, as in Virginia and Maryland, tobacco often passed as currency, although in Connecticut ministers were not paid salaries in tobacco as was long the case in Maryland and Virginia. A Maryland law levied a tax of thirty pounds of tobacco upon all parish tithables for the support of the clergy, and in Virginia the amount of tobacco to be paid to ministers was gradually increased until in 1696 it was made sixteen thousand pounds of tobacco a year, besides perquisites for each minister.

"A competent and sufficient provision for the clergy," the Virginia law said, "will be the only means to supply this dominion with able and faithful ministers whereby the glory of God may be advanced, the church propagated, and the people edified." Church wardens collected the tobacco payments, and clerks of vestries were

allowed by law to demand five pounds of tobacco for every birth, burial, and marriage recorded. It was not until 1755 that, because the tobacco crop had failed, the Virginia legislature allowed payments to be made to ministers in either money or tobacco, at the option of the taxpayer.

It was by indirect means that tobacco contributed to the support of church and clergy in Connecticut. Sometimes there would be a shortage of the home product, and Virginia tobacco was imported. This made Connecticut lawmakers uneasy lest their people acquire too much of a taste for the Virginia product, and thus injure a local industry which was so promising a source of ready wealth. An accommodating Connecticut law of June 11, 1640, was in substance a sort of protective tariff and the first legislation of its kind in American history. It ordered that any one who, after September, 1641, drank any tobacco other than that grown in Connecticut be fined five shillings for every pound in money so spent. After five years' operation this law was repealed in 1646, because Connecticut tobacco raising spread so rapidly that the

fear of competition subsided. "We have no need of Virginia trade, most people planting so much tobacco as they spend," later reported the colony authorities in reply to a questionnaire sent from London by the Committee for Trade and Foreign Plantations.

In Connecticut the use of tobacco became a general habit; men smoked and chewed, as did boys, but indulgence by women is not mentioned in the records. Gathered in social parties, men would find the attractions of companionship enhanced by the pipe—and also by rum. Rum they had, and plenty of it. Shipping staves, peas, pork, and flour to Barbados, Jamaica, and elsewhere, they received in exchange rum, sugar, and other products, "and some money."

The ministers and church elders decided that it was time to do some salutary regulating. Their mandate called forth a new law in 1647. The first part of this act was rational and reasonable enough, although curiously affected by the prevalent notion that tobacco had virtue as a medicine. No person under twenty years of age, nor any other person unaccustomed to its

use was to use any tobacco unless he had a physician's certificate and a license from the court.

So far the act had all the appearance of a purely disinterested measure, the purpose of which was to preserve youth and innocence from contamination. Other provisions followed. In forbidding the use of tobacco on the streets the necessity was urged of protecting non-smokers from inhalations, and in prohibiting smoking in fields and woods unless on a journey of ten miles the justification advanced was the necessity of preventing fires near towns and settlements.

But another portion of the law was aimed at something about which the ministers were personally and theologically alarmed. To them pleasure was an invention of Satan. When a man smoked alone, there was not the inducement to linger and succumb to conviviality that there was when he smoked in company. Smoking in solitude was not inconsistent with meditation and decorum, whereas when done with others it gave unseemly pleasure and caused waste of time. This was their belief. They further held that loitering of any kind tended to breed a sacrilegious disregard for the many church duties imposed

by law, and that the attractions of pleasure inclined to undermine their own drawing-power and lead to a disputing of their authority.

To crush this increasing love of pleasure the Connecticut law of 1647 sternly decreed that only the solitary smoke should be permitted. Only once a day, at dinner or otherwise, might tobacco be used, "and then not in company with any other." No one might use tobacco in any other house than his own in the town where he lived "with and in company of more than one who useth and drinketh the same weed, with him at that time." For violating any item of the law the penalty was sixpence, and only one witness was required.

The tradition that the New England settlers were a law-abiding people is one of our cherished inheritances. So they were when the laws suited them. When they disliked laws they simply evaded, circumvented, or defied them. That is what they did by various devices in this case. No laws nor any amount of preaching could convince them that they did wrong in inviting a few boon companions to take part in a smoker. They fastened doors, used cellars for

tobacco parties, and did homage to Lady Nicotine in secluded woodland spots or in boats anchored at a safe distance from shore. Within three years this law fell into such disrepute that when the Connecticut Code of Laws of 1650 was drafted, only the sections forbidding youths to use tobacco and prohibiting smoking on the streets were repeated. The first of these had a certain effectiveness, while the other was increasingly dishonored.

The crusading elements of this unregenerate year 1921 exalt Pilgrim and Puritan times as the great model. They delight in tracing their inspiration to the heroic virtues and irreproachable conduct and standards of their Puritan forebears. "They knew what they were about and thus laid the foundation for the moral and national progress which we are profiting by today," the "Lord's Day Leader," the organ of the Lord's Day Alliance of the United States, quotes one of its ministers as saying in an address.

The organization foremost in demanding the abolition of tobacco is the National Women's Christian Temperance Union. It is now carrying on the same campaign against tobacco that it

formerly waged against alcohol. The first outbreak of the anti-tobacco crusade some years ago was against the cigarette. A number of States passed laws against the cigarette, but some States have modified or repealed them. The Iowa legislature, in 1919, came near repealing its law; Nebraska did repeal its statute against cigarettes; and early in 1921 Tennessee also repealed its act forbidding the sale of cigarettes. In Kansas the American Legion has been agitating for the repeal of such parts of the anti-cigarette law as prohibit the sale of cigarettes to adults. Arkansas recently repealed an old anti-cigarette law, and licensed the sale of cigarettes except to minors. On the other hand, Utah, in 1921, adopted a law prohibiting the sale of cigarettes and forbidding smoking in public places.

But the demand of the Women's Christian Temperance Union is for the eradication of all forms of tobacco. Its many leaflets unreservedly condemn nicotine. Reading these leaflets, one is tempted to believe that some genius of economy has taken over the entire body of the original propaganda against liquor by the simple substitution of the words tobacco and nicotine for

liquor and alcohol. These are some selected specimens:

Tobacco not only robs life, but it hinders advancement.

Nicotine is not only an enemy to life, scholarship and attainment, but it is hostile to nearly every avenue of thought.

Tobacco robs families of food and other necessities. The cigarette fiend will steal money from his mother's purse, rob his father's till or pawn books from the family library in order to secure cigarettes. The tobacco sot will buy tobacco to feed his degraded appetite while the bread bin is depleted, the sugar bowl empty, the milk supply inadequate, the cookie jar desolate and the children suffer for sweets.

The use of tobacco may or may not be a vice. That is a debatable question which is not being considered here; all that I am doing is narrating cogent facts. But speculation cannot be avoided as to how, if tobacco has all of the baleful effects thus represented, Puritan and other New England and American civilization in general managed to evolve. The very Pilgrims and Puritans whose works are idealized by our modern crusaders were such inveterate smokers that every

law passed against smoking was ineffective. Yet it was those very men who replaced a wilderness with farms, villages, and cities, resisted savages, and erected commonwealths. They created school systems and developed a manly sense of independence which was later effectual in overthrowing both ecclesiastical tyranny at home and monarchical tyranny abroad.

The Puritan blue laws did not emanate from the Puritan people at large. They were the mandates imposed by a ministerial oligarchy controlling law, and both privileged and fortified in law. To-day we are witnessing a gradual effort to reproduce that phenomenon.

CHAPTER II

THE BAN ON FASHION

ADORNMENT of all kinds was abhorrent to the original custodians of the Puritan faith. Their opposition was particularly directed against elegant clothes and other embellishment of person. They believed in severely restrained apparel; gladsome expression, whether of feeling or raiment, was regarded as a triviality unworthy of a God-fearing people. Their frequent proclamations called for days of fasting and humiliation. Festivities were discouraged; the ministerial conception of life was of one prolonged, solemn, prayerful function. Clothes were considered an important part of this requisite attitude, inasmuch as they were taken to betoken the state of mind and spirit.

Tradition pictures New England settlers as people of simple wants, clad in plain garments of home-made materials. To a considerable

extent this is fictitious portraiture, though faithful to the folk of secluded rural and frontier regions. In the growing towns the love of finery manifested itself within a few years after their settlement. The first to bedeck themselves were the sons and daughters of those who were making money by shipping timber, furs, and fish to Europe or elsewhere.

When the pastors and elders saw that some of their own flocks were arraying themselves in gorgeous fashion they were much perturbed, for they thought that they had firmly instilled principles of serious ways and sober costume. Yet here were maidens actually making themselves attractive in silks and laces and jewelry!

Even mature women were showing a decided leaning in the same direction. Young men and older ones, too, were abandoning dullness for display, setting off their clothes with gold and silver lace and other showy decoration. Most grievous of all offenses, young men were refusing to crop their hair, and were cultivating long tresses.

Far from seeing either reason or romance in these ways, the ministers saw only irreverence

and iniquity. Fashion—the jade, the despoiler of faith, the diabolical prompter of vanity, and the sustainer of pride,—was held responsible. That people should ever have a natural longing for novelty was something that the parsons either scouted or insisted should be repressed. They were sure that the following of fashion was due either to wicked disposition or innate rebelliousness against church tenets. Self-evidently it signified a terrifying growth of the love of worldly sensation that any one could find satisfaction in pagan display. To them self-indulgence was the deadly enemy of profound religious feeling, the nurture of corruption, the sure provoker of the wrath of God.

The word went forth from the ministers that these evil fashions must be swept away, and the summary law of September 6, 1634, was passed by the General Court of Massachusetts. In the drafting of the law care was taken not to offend susceptibilities by stigmatizing as depraved those wearing adornment. Had that been done it would have borne too close an application to many church households.

The stated grounds for the law were the need

of strict economy and the immodesty of the new fashions. Costly apparel, the law said, entailed "great, superfluous and unnecessary expenses." The common wearing of silver or gold girdles, silk laces, hatbands, and other such adornment was a folly. It was therefore decreed that no man or woman was thereafter to make or buy any apparel, whether woolen, silk, or linen, with any lace on it. Neither should it contain any silver, gold, or silk thread. If any person presumed to appear in clothes of that kind, the clothes were to be confiscated.

But the law of 1634 did not end with this general prohibition. It went on to regulate specifically just what could and should be worn. The making and buying of slashed clothes were allowed only when there was "one slash in the sleeve and another in the back." Just why only one slash fore and aft was permitted was not explained, and it must ever remain one of the inscrutable mysteries of Puritan legislation. The law went on to enumerate more prohibited items. All cut-work, embroidered or needle caps, bands, and rails, were outlawed. They could neither be made nor be worn. The same

prohibition extended to gold and silver girdles, hat-bands, belts, ruffs, and beaver hats. If any of these articles were seen, they were to be confiscated without ceremony.

So far the law prescribed no penalty other than that of forfeiture. The provisions of the final paragraph, however, were chiefly depended upon to strike terror into the minds of ungodly belles and gallants. It curiously read: "Moreover it is agreed, if any man shall judge the wearing of any of the forenamed particulars, new fashions, or long hair, or anything of the like nature to be uncomely or prejudiced to the public good, and the party offending reform not the same upon notice given him," he or she was to be subject to a summons from the court and condign punishment.

This opened up a pleasant prospect for overzealous busybodies, trouble-makers, and the spiteful. All that a parson or a church elder had to do, if he were offended by the splendor of any one's clothes, was to order the finery to be cast away, and if it was not, he could apply for an order for the wearer's arrest. If a short-haired suitor wished to get rid of a long-haired rival,

he need only complain of the other as an "uncomely" coxcomb, harmful to society, to have him haled to court; and should some prim spinster, outclassed in the race for love, be overshadowed by a finely clad maiden, retaliation was easy. The opportunities for mischief-making were various and many. Whether or not they were seized is something that the court records of the times do not disclose. It is probable that charges made under this law were classed under a head not formally identifying them with violations of the apparel law.

There was a feeling akin to consternation in the ministerial group when it was discovered that something had been omitted from the law of 1634. Bone lace (so called because the bobbins were originally of bone) and some other kinds of lace had not been specifically forbidden. People hastened to make them and tailors to put them on clothes. To allow such a practice to go on was not to be thought of, and forth came the law of October 28, 1636, providing that no person be allowed to make or sell bone lace or any other kind of lace. For so doing the penalty was five shillings the yard for every yard worn

or put on clothes. If any tailor affixed lace to a garment, the penalty was ten shillings for every offense.

But this law generously made a concession; it did allow binding and small edging laces. Thus, of some dozens of different kinds of dainty laces of most appealing design, only a few inconspicuous ones were permitted.

The passion for lace in the seventeenth century was widespread. In places such as Boston the wearing of thread lace or of gold or silver lace for men's clothes was a common craving and could not be suppressed. Law or no law, those who had the dexterity to make it or the money to buy it, wore it. Sadly the General Court of Massachusetts admitted that there was little compliance with its laws. A law of September 9, 1639, began, "Whereas, there is much complaint of the excessive wearing of lace and other superfluities tending to little use or benefit, but to the nourishing of pride and also of evil example to others. . . ." No person, this new law reiterated, was to have the presumption to make, buy, or sell any manner of lace; no tailor

was to set it, and no clothes were to be ornamented with it.

A new scandal had arisen which engaged the shocked attention of the Puritan lawmakers. Women had actually gone to the flagrant extent of wearing a dress that exposed part of their arms. In this heinous excess even members of the church participated, declared the law of 1639 in telling how grieved some persons were that this should be so. No garment, the law ordered, should be made with short sleeves, "whereby the nakedness of the arm may be discovered." The law proceeded to prescribe the exact length of sleeves that might be worn. But in respect to punishment for breaking the law, it dealt with transgressors, especially church-followers, with marked tenderness. The General Court had confidence, said the law, in the ability of the churches to take care of their own members, thereby evidently suggesting church discipline. It therefore named no punishment, contenting itself with the warning that any wearers of lace ruffles, cuffs, and other interdicted adornment who obstinately persisted in

their course would be brought before the grand jury for criminal action.

Instead of diminishing, the general desire for exquisite and showy costume increased, and both men and women ignored the laws openly. Furthermore, the fashion for display spread to the lower ranks of society; and for nearly twelve years the guardians of the faith despairingly watched this growth. In 1651 they again bestirred themselves and on October 14th they had the General Court pass a new law.

It was very different from the previous sumptuary laws. It opened with a note of sad astonishment that laws had proved powerless, and confessed that the ruling of the court "hath not yet taken that effect which were to be desired." Moreover, the court shifted its ground, and mainly expended its grief on the fact "that untolerable excess and bravery hath crept in upon us, and especially among people of mean condition, to the dishonor of God, the scandal of our profession, the consumption of estates, and altogether unsuitable to our poverty."

It is evident that the pursuit that we now expressively term "keeping up with the proces-

sion" was comparatively as keenly followed in Puritan times as in ours. To the masters and their families disporting themselves in brilliant raiment there was still an appearance of ministerial objection. The formal attitude of the ministers was that of not justifying "excess" on the part of any person of whatever condition, though actually the lawmakers directed their prohibitions mainly against those working for wages. The period was one of sharp class divisions. The masters resented any aping of their dress by their inferiors, with its tendency to break down obvious social barriers. Nor did they like to see artisans ambitiously striving to give themselves a tone that might at any time lead to a demand for higher pay to help sustain their more expensive style of living.

It would not have been politic to single out one class alone for condemnation and in its law of 1651 the General Court declared:

We acknowledge it to be a matter of much difficulty, in regard of the blindness of men's minds and the stubbornness of their wills, to set down exact rules to confine all sorts of persons, yet we cannot but accompt it a

duty to commend unto all sorts of persons a sober and moderate use of those blessings which, beyond our expectations, the Lord hath been pleased to afford us in this wilderness.

Having acknowledged this qualified disapproval of display by the wealthy, the court proceeded at once to matters concerning which it felt it could speak freely:

We declare our utter detestation and dislike that men and women of mean condition, education and callings should take upon themselves the garb of gentlemen by the wearing of gold or silver lace, or buttons, or points at their knees, to walk in great boots; or women to wear silk or tiffany hoods or scarfs, which, though allowable to persons of greater estates, or more liberal education, yet we cannot but judge it intolerable in persons of such like condition.

Thereupon the law ordered that no person in Massachusetts whose "visible estate real and personal shall not exceed the true and indifferent value of £200," or any relative dependent upon that person, wear any gold or silver lace or gold or silver buttons. Also that no person of that rank should wear any bone lace costing more

Courtesy of Duffield & Co.

than two shillings a yard, or silk hoods or scarfs. The penalty for violations was ten shillings for every offense, and arraignment before the grand jury was to follow every infraction.

But in what way was it to be determined just who was and who was not entitled to the privileges of finery? This, the General Court explained in the law, was not simple, "forasmuch as distinct and particular rules in this case, suitable to the estate and quality of each person cannot easily be given." The expedient was adopted of making the selectmen of each town arbiters, and they were authorized to pay special attention to the clothes worn by every inhabitant. They were particularly instructed to watch for wearers of ribbons and great boots (leather then being scarce in the colony). In all cases where any person appeared to go beyond his or her station in display, the selectmen were empowered to assess each at a ratable taxation of two hundred pounds, "according to that proportion that such men use to pay to whom such apparel is suitable and allowed."

Dissatisfaction on the part of various persons who were members of the political and theo-

logical machine, or adherents of it, would have been sure to break out had the law stopped here; for some public officials were poor, as were many teachers and soldiers. The law, however, was drawn in so discriminating a fashion that it gave full privileges to all these. Its last few lines were the epitome of generosity. They distinctly declared that restraints as to apparel should not extend to any magistrate or other public officer or to their wives or children, "who are left to their discretion in the wearing of apparel."

Furthermore, the law allowed the right of showy apparel to any military officer or soldier in time of military service. It also extended it to "any other whose education and employment have been above the ordinary degree, or whose estates have been considerable though now decayed."

The meaner sort were not pleased with this arbitrary discrimination, but their wishes or feelings did not have to be considered. The Puritan fathers were deep in politics as well as in religion, and few menials had any vote or other means of expression. Even men of some property

were denied suffrage if they were not church members. It strains our reverence somewhat to learn that the pillars of the Puritan church had their peculiar system of manipulating elections. In 1666 the king's commissioners, in their report on Massachusetts, touched upon this subject. Of the Puritans they stated:

> To elude his Majesty's desire, of their admitting men of civil and of competent estates to be freemen, they have made an Act whereby he that is twenty-four years old, a housekeeper, and brings one certificate of his civil life, another of his being orthodox in matters of faith, a third of his paying ten shillings (besides head money) at a single rate, may then have the liberty to make his desire known to the Court and it shall be put to the vote.

As the years passed, the ministers felt with intense chagrin that the law of 1651 was a failure. Perhaps their indignation was increased by the expostulations of the wealthy, into whose families many of them had married. "They will not admit any who is not a member of their church to their Communion, yet they will marry their children to those whom they will not admit to

baptism, if they be rich," reported the king's commissioners in 1666.

Yet maid-servants continued to rebel against restriction to garments of plain linen, linsey, calico, to heavy shoes, and homespun-thread and yarn stockings. Men-servants, too, objected to a constant apparel of leather, serge, fustian, or other plain stuffs. They liked to convert themselves into gentlemen by the simple process of donning their masters' ornamented clothes,—if these were not too gross a misfit. So appreciative an attachment did they form for such apparel that they frequently disappeared with it, and would turn up in some other community all shiningly arrayed as persons of quality.

The law of May 7, 1662, supplied an addition to former laws. Declaring that there was "excess in apparel amongst us," it asserted that "the rising generation are in danger to be corrupted and effeminated." Then the law went on to tell precisely who were subject to that demoralizing process. They were persons of inferior station. Who could asperse the higher classes by insinuating that corruption and effeminacy could ever attack them?

Tersely the law said that no child or servants in families should wear any apparel "exceeding the quality and condition of their persons and estate." If convicted in court, they were to be admonished for the first offense. Twenty shillings were to be mulcted for the second offense, forty shillings for the third; and thereafter, as their offenses multiplied, they were to pay forty shillings at a time to the treasury of the county. Any tailor making garments for such persons, unless he had the permission of parents or masters, was to receive a reprimand for the first offense, and for the second he was to forfeit double the value of the garments.

It took thirteen years more for the Puritan lawmakers to acknowledge that law had lost the contest with fashion. The gentleman was now topped with wig and goldlaced hat, and his cloth or camlet suit was gay with buttons, braid, and buckles. He wore an embroidered waistcoat, lace ruffles, cravat, and silk stockings. A small sword often dangled at his side. The wardrobe of ladies was of brilliant variety. Their stomachers and corsages were long and stiff; the finest of cambric fichus modestly crossed their

bosom, sometimes exposing a V of bare neck. There was a plenitude of gimp, ribbon, and galloon. Their petticoats were of silk or satin, and dainty stockings and shoes set off their feet.

Not so much a law as a fulmination was the act passed on November 3, 1675, by the Massachusetts General Court. God, it said, had caused the Indians to rise in warfare because of Puritan sins, and among those sins, the court averred, was the "manifest pride openly appearing amongst us in that long hair, like women's hair, is worn by some men, either their own or others' hair made into periwigs." Also, women were wearing borders of hair and affecting "cutting, curling and immodest laying out of their hair, which practice doth prevail and increase, especially among the younger sort." The court pronounced this "ill custom as offensive to them and divers sober Christians amongst us," and all persons were exhorted to use moderation in dress.

Then followed a further confession of futility, mingled with something of a note of melancholy resignation. Notwithstanding the wholesome laws already made for restraining excess in ap-

parel, yet because of "corruption in many, and neglect of due execution of those laws," the General Court declared that the effort had failed. The evil of pride in apparel had grown. This was shown not only in the desire of the "poorer sort" for costliness, but in the eagerness of both poor and rich to take up vain, new, and strange fashions "with naked breasts and arms, or, as it were, pinioned with the addition of superstitious ribbons both on hair and apparel."

Evidently, the lawmakers believed that they had exhausted the entire list of possible penalties, for they inflicted no new ones. All they did was to order the grand jury to fine offenders, and if that failed to bring betterment, the county court was to act.

It was the last law the Puritans ever proclaimed against fashion. For more than forty years they had sermonized, inveighed, and legislated against it, but all to no effect. The more stringent their attempts at repression, the more Fashion snapped her bejeweled fingers and multiplied her votaries.

Similar assaults were made by the Connecticut theocratic lawmakers. Following the ex-

ample of Massachusetts, they early legislated against fine clothes. A second law was made on April 9, 1641, subjecting to censure any one who wore attire of a kind and quality above his or her station. Thirty-five years later there was another effort at repression. This law was substantially a copy of the Massachusetts laws of 1651 and 1662. The Connecticut ministers and church elders seem to have had an exalted opinion of their power, thinking to succeed where those in Massachusetts had failed; but their laws fared no better, and they, too, became mute on the subject.

So supreme did fashion rise that the period came when people chose the churches themselves as the best of all places to display their extravagance and finery. The Abbé Robin, who visited Boston in the time of the French Revolution, told how the principal churches were attended by women dressed in the finest silks. After the fashion of French aristocrats, their hair was raised and supported upon cushions to a lofty height, and their hats were adorned with superb plumes.

CHAPTER III

GAG RULE

IN the present attempt to resurrect blue laws some ministers of certain denominations deeply resent criticism.

Recently the Public Morals Board of one of these sects announced that it would begin a campaign to stop strictures by writers and unfavorable representations by cartoonists and actors. Its declaration did not go so far as to say that all criticism should be suppressed. It confined its demand to the cessation of what it termed "contemptuous treatment." The implied suggestion was that if protest were unavailing, relief would be sought in the pressure of law. But if such laws were adopted, they might conceivably be so drawn or construed or gradually amended as to include all kinds of criticism, even the most inoffensively legitimate.

If this were to happen it would not be for the

first time in our national life. In bygone centuries the American people had a long, onerous application of this kind of blue laws. The principle being invoked now is in essence the same as was the core of those statutes. For religion itself profound respect has never been wanting; the objection was to the things that were often done in the name of religion.

Back to the bliss of olden days! This is the cry of some pastors venerating the conditions of whilom times, when, as they like to think, creed and clergy were treated with heartfelt reverence. Other ministers to whom the past and its methods are apparently unknown seem to think that criticism of their profession is wholly a startling outbreak of our own reckless age.

From the dawn of American life the clergy did not invite respect; they demanded it and they insisted upon it by all the force of law. By the same terrors of law they forbade criticism of themselves, their dogmas, and their personal conduct. Much in the way of suppressive methods can justly be laid to the Puritans. But it was not the Puritans who started this particular kind of repression, although they did

early use it and long stretched it to extremes.

Virginia, so often conventionally portrayed as the land of the easy-going and soft-tempered, was the region from which first issued stern decrees.

Here the Church of England was the established state church. The law of 1623 and successive laws demanded obedience to its canons, doctrines, and discipline. The ancient Hebrew custom of tithes (signifying the tenth part of the products of land, stock, and industry) had been revived by Charlemagne in the ninth century for the benefit of ecclesiasticism. It pervaded Europe and with the glebe system was transported to America. Every one who worked the land in Virginia had to pay tithes to the ministers. These tithes were tobacco, calves, pigs, goats, or other produce or stock.

Accustomed to standards of comfort in England, few of the ministers there cared to go to the Virginia wilds. Most of the first arrivals were anything but satisfactory. Whereupon as a writer of that time tells of the Virginia officials: "They then began to provide, and sent home for gospel ministers; but Virginia, savoring not

handsomely in England, very few of good conversation would adventure thither (or thinking it a place where surely the fear of God was not), yet many came such as wore black coats, and could babble in a pulpit, roar in a tavern, exact from their parishioners, and rather by their dissoluteness destroy than feed their flocks." Indeed, they would often extort marriage fees from the poor by breaking off in the middle of the service and refusing to go on until they were paid.

Then there were counterfeit ministers. At least one specific example is preserved of these adventurers. He boldly presented forged letters of his ordination as a doctor of divinity, and long successfully preserved his imposture.

Fox hunting was a favorite pastime of the Virginia ministers. This they brought over from England, where it was customary among the clergy. But the Virginia clergymen reveled in other amusements. Some joined with the planters in every kind of looseness and dissipation, especially gambling and drinking-bouts, and often sheer immorality. So far did they

carry these excesses that frequently they failed to appear at church for service on Sunday.

The governing officials were loath to take any action against ministers. But in such a case as this they had to do something, or at least make a show of doing something. The Virginia General Assembly early in 1624 passed a punitive law. Any minister absenting himself from his church more than two months in all the year was to forfeit half of "his means"—meaning his revenue. If he were absent more than four months in the whole year he was to be deprived of his "whole means and cure," or in modern language, both revenue and ministry.

Naturally, no set of ministers could conduct themselves as did many of those of Virginia without creating much scandal. Gossip grew hot. The ministers arrogated to themselves the right to do what they pleased, but objected to other people having the right to talk as they pleased. They demanded that a stop be put to the flow of talk which, they protested, was damaging to the holy church and its missionaries.

Always solicitous for the church, the General Assembly readily complied. In 1624—at about

the time it passed the act compelling ministers to attend church—it decreed a law prohibiting the defamation of ministers. Whoever, said this law, disparaged a minister without bringing sufficient proof to justify his accusations, "whereby the minds of his parishioners may be alienated, and his ministry prove the less effectual for their prejudication" was to be punished. Not only must a fine of fifty pounds of tobacco be paid, but the culprit must also "ask the minister so wronged for forgiveness publicly in the congregation."

On its face this law seemed fair enough. Yet in reality it gave the ministers substantial protection, for, in most instances, the circumstances and nature of their misdeeds were such that proof was hard to get. Many of them felt so secure on this point that they continued their licentious careers. There were constant squabbles between them and the people.

So scandalous grew the doings of the clergy that the Virginia General Assembly was driven to enacting more law. By one law of 1632 ministers were required to preach one sermon every Sunday. Another law of the same year pro-

claimed that "ministers shall not give themselves to excess in drinking or riot, spending their time idly by day or night, playing at dice, or other unlawful game." They were required "to hear or read somewhat of the holy scriptures," or to "occupy themselves with some other honest study or exercise." The law further instructed them that it was their duty to set an example to the people to live well and Christianly.

At the same time the law of 1624 prohibiting defamation of ministers was substantially reënacted. More and more this law was construed to shield ministers from all kinds of criticism,—even deserved criticism.

The clergy increasingly became privileged characters. They and the church wardens and vestries were censors of morals and inquisitors of public and private life; they were registers of births, marriages, and deaths; and if they were not paid for recording in any case, the law clothed them with state powers to collect. The vestries were empowered by law to have charge of the poor, vagrants, orphans, and neglected and other unfortunate children, whom they could bind out at will for a term of servitude to the planters.

In time the church wardens and vestries became the real powers, and the ministers for a while were reduced almost to nonentities. The wardens and members of the vestries were self-perpetuating, and usually were rich landed proprietors who had obtained or were further getting land grants by fraud. Many of them were also profligates.

But it was dangerous to criticize them. Taking the law forbidding defamation of ministers as a precedent, they had another law passed in 1646. The church wardens were actually given the powers and more of a grand jury. The wardens of every parish were authorized to make a presentment of any one found "profaning God's name and his holy Sabbath, abusing his holy words and commandments."

Under such a law it was possible for them to frame a charge of blasphemy against any one criticizing them. They were judges as well; the law gave them the power to impose fines and inflict other punishments. Blasphemy (which often might be the merest chance remark) was inhumanly punished. The stocks, pillory, whipping-post and ducking-stool came much

later in Virginia than in New England, but they were set up in every county court-house. Any one, either drunk or sober,—so ordered the Virginia army regulations of 1676,—who blasphemed the name of God "should, for every offence, run the gauntlet through one hundred men or thereabouts." And if the blasphemer persisted in his wickedness he was "to be bored through the tongue with a hot iron."

Several authorities on the practices of those times relate that a minister in Virginia had to be very careful not to preach against the vices of the rich. Vestries would hire a minister by the sermon or by the year instead of for life, so as to know if he were properly disposed. A number of outspoken clergymen, however, did denounce the dissipation of the rich; they were instantly discharged, even where contracts existed, without a charge being made or a reason given. Bacon's Rebellion, in 1676, put an end to the vestrymen's power, and the ministers again became ascendent.

There was no necessity for passing any new laws specifically providing for punishing defamers of ministers. The old laws silencing

those talking about what ministers did were still in force. What the clergy now wanted was a means of punishing critics of what the ministers said, and they attained their object.

Ostensibly the enactment of April, 1699, was aimed at atheists. But anybody expressing the least doubt of accepted dogma was then branded an atheist. Under this law any person brought up in the Christian religion who denied the being of a God or the Holy Trinity was penalized. Likewise, any one asserting that there were more gods than one, or who denied the Christian religion to be true, or who refused to accept the whole Bible, every book of it, as of divine authority. The ministers' sermons were based upon these declared premises. Inferentially, therefore, any critic of the ministers' postulates was avowing the abominable doctrines of atheism. These were the punishments:

For the first offense the convicted was disqualified from holding any office, ecclesiastical, civil or military; if he held any office he was to be removed. The second offense disabled him from suing in any court; he was disqualified to act as guardian, or executor; he could not take

any gift or legacy, and could hold no office. Furthermore, he was to suffer three years' imprisonment. But—the law considerately provided—he could be freed from these penalties if, within six months, he renounced the forbidden opinions.

We shall now turn to the Puritans of Massachusetts. The theocracies of both Plymouth Colony and Massachusetts Colony insisted that their ministers be inviolate from criticism.

His honor was demanded for them. This was exacted because, as the instructions of the New England Company in 1629 explained, "their doctrine will hardly be well esteemed whose persons are not reverenced." Everybody was required to conform to what the ministers taught and commanded. Doctrine was the all-important thing: its purity and sanctity were to be maintained at all hazards. As for character, it was believed that the pastors were all men of exemplary virtue and that, therefore, no right-minded person could think of criticism on that score.

Puritan ministers were, indeed, of a far different type from those in Virginia. Religion was

their life, but it was a religion of intolerance. They acclaimed intolerance of all other creeds and sects as a prime necessity to keep their own creed from corrupt and demoralizing contact.

From the original idea of protection of doctrine it was a quick process to arrive at the point of proscribing all manner of criticism.

The ministers and church elders grew big with power. One of their very first acts in Massachusetts Colony was to have a law passed in 1631 confining civil rights to church members. They followed this with another law three years later establishing the strictest discipline in the churches. By this law the magistrates were ordered to consult the church elders as to what punishment should be wreaked upon offenders. Houses of correction had already been established, and now came the setting up of stocks and whipping-post in every township both in Massachusetts and Plymouth colonies.

At first the Puritan ministers resorted to excommunicating all those classed as unworthy. This term might mean that the person cast out of the church was of wayward character, or it might mean that he had audaciously ventured

to dispute some church rule or theological dogma.

Outcasts took their sentences most disrespectfully. They "do profanely condemn the same sacred and dreadful ordinance, by presenting themselves overboldly in other assemblies and speaking lightly of their censures," lamented a Massachusetts law of September 6, 1638. The ministers were determined that they and their words should be regarded with awe. The law, therefore, commanded further punishment. Whoever stood excommunicated for six months without full repentance should be arraigned in court and punished by fine, imprisonment, banishment, "or further" as his contempt and obstinacy deserved. But for some reason not clear this law was repealed just about a year later. Perhaps in the view of some influential church members, the excommunication fiat smacked too much of the ways of another church, to which Puritanism was bitterly hostile.

It may be said in passing, however, that the Puritans were not the only Protestant sect that practised excommunication. Lord Bellomont, Captain-General of New York and Massachusetts Bay, complained to the Lords of Trade,

April 13, 1696, that the Rev. Mr. Dellius, pastor of the Dutch Reformed Church at Albany, New York, threatened the mayor of that place and others with excommunication. Bellomont described Pastor Dellius as something of a toper. It may be that those threatened with excommunication made some uncharitable remarks about the minister's propensities. Lord Bellomont did not succeed in having the antagonistic parties reconciled; Dellius sent word it was vain.

Differences of opinion on theological matters were incessantly coming up in Massachusetts. To strengthen their hold the Puritan ministers decided to go to extremes. The law of November 4, 1646, made death the punishment for any persistently obstinate adult Christian who denied the Holy Scriptures to be the word of God, "or not to be attended to by illuminated Christians." No one would now, it was thought, dare to question the majestic authority of the ministry.

But Dr. Robert Child and some others did have the temerity to do that very thing. On a charge of "slandering the people of God," and other charges Child and his accomplices in blas-

phemy were haled to court. There was a long trial. The court did not, however, inflict the death sentence. On May 26, 1647, it fined Child two hundred pounds, and upon the others imposed varying fines of from fifty to two hundred pounds.

Now came the production by the Massachusetts General Court of the law of May 27, 1652. Any professed Christian more than sixteen years old who by word or writing denied any of the books of the Old or New Testament to be the written and infallible word of God was to be severely punished. First he was to be committed without bail to prison at Boston. After conviction he was (unless he publicly recanted) to pay a fine of not more than fifty pounds or he was to be publicly whipped not more than forty strokes by the executioner. If after recantation he persisted "in maintaining his wicked opinion" he was, as the court could decide, to be banished or put to death.

A few weak places still remained in the Puritan ministerial stronghold. The election of church officers and the calling of ministers sometimes provoked bitter controversy and threat-

ened authority. The better to curb the possibility of such turbulence and establish a harmony insuring an incontestable berth, a new law was asked and granted.

A member not in full communion presuming to raise any question was declared by the Massachusetts Colony law of October 4, 1668, to be a disturber of the peace. Unless in full communion no one was allowed to vote, or challenge or criticize the calling or election of any church minister or officer. But by what reasoning did the doing of any of those things make him a disturber of the peace? The law explained. The Christian magistrate, it said, was "bound by the word of God to preserve the peace, order or liberty of the Churches of Christ, and by all due means to promote religion in doctrine and discipline, according to the will of God." Therefore it was his duty to punish any one introducing discord into the church. Those convicted of disturbing the peace were to be punished either by admonition, security for good behavior, fine or imprisonment "according to the quality of the offense."

One thing more was needed to give the ministers complete immunity from criticism; that was censorship of the press under their own supervision.

The law of October 8, 1662, passed by the Massachusetts General Court, supplied this. No copy of any publication was to be printed except by permission of a specified committee of two ministerial censors called "overseers of the press." The friends of liberty of the press raised a storm that caused the law to be repealed the next year. But the ministerial cohorts rallied to the attack, and in 1664 had the censorship law restored. By the law of October 19th, no printing-press was allowed in any town but Cambridge, and this was under constant surveillance of the censors. The Rev. Thomas Thatcher and the Rev. Increase Mather were, by the law of May 27, 1674, added to the committee of censors. When in 1675 the Rev. John Oxenbridge, one of the committee, died, the Rev. James Alin was, by the law of May 12th of that year, appointed in his place.

No word even indirectly reflecting upon min-

isters or questioning their doctrines could now get into print. One thing they lavishly encouraged was the publication of their own voluminous sermons.

CHAPTER IV

TONGUES UNTIED

IT was some years before this that the Pilgrim lawmakers of Plymouth Colony began to make their first distinct enactment against criticism of the ministry.

Explanation of what most influenced them to do so unfolds an interesting tale. Church members in Massachusetts were both exceedingly devout and intensely practical. In some of their extant personal memoranda entries of pounds, shillings, and pence taken or owing in trading operations may be found quaintly mixed with pious reflections and scriptural citations. They believed that the Divine will had placed them in their positions to reap the fruits thereof, and they took it for granted that true-blue church members were first entitled to benefits distributed.

One of these benefits was the granting or sale

of land in various towns. By both common understanding and law church members were to be the chief recipients. Church society by no means included all who went to service; many had to attend who were never admitted to membership. The select inner circle, forming a sort of close corporation, composed what was eulogized as church society. Like our modern clubs, churches had their waiting lists, and to be passed upon favorably was a certificate of high standing.

Great was the arising scandal when the church committees of the town of Sandwich admitted into their fold "divers persons unfit for church society" and gave them a prominent share in the disposal of lands. Upon which the General Court, in 1639, at New Plymouth sternly rebuked the Sandwich church for its presumption in breaking down the rules of exclusiveness. When land was to be disposed of, the court's orders always were that ministers and church members should have precedence in the award of choice lots.

To the beneficiaries such a rule was comfortably satisfying. But the excluded believed that they had the best of reasons for thinking it dis-

criminatory and oppressive. They knew the peril of openly expressing their smoldering indignation against ministers and church set; some, however, were so incautious or courageous as to protest.

Their resentment was increased when the General Court turned out successive laws compelling all, irrespective of religious belief, to contribute, according to their means, to the support of the established ministry.

It was a criminal offense to fail to pay taxes for the support of the ministry. There were frequent cases of refusals. The refractory were dragged to court and heavily fined. In other cases, where the tax was paid under protest, the payers would sometimes find relief in later expressing their opinions. If overheard by some one ill disposed, trouble was sure to follow.

Lieutenant Matthew Fuller was unusually emphatic. His crime lay in saying that a law enacted about ministers' maintenance was "a wicked and devilish law" and that the devil stood at the stern when it was enacted. The court, at New Plymouth, on October 2, 1658, promptly decided that nothing less than the weightiest kind

of fine would be meet punishment for such iniquity; he was mulcted fifty shillings.

To safeguard ministers from criticism the law of June 10, 1650, was passed by the General Court of New Plymouth. Any one, that law declared, convicted of villifying "by opprobrious terms or speeches any church or ministry or ordinance" was to be fined ten shillings for each offense.

Before the bar of the court at New Plymouth, on February 3, 1657, Nicholas Upsiall, Richard Kerbey, Mistress John Newland, and others were haled. What were their high crimes and misdemeanors? They were Quakers, but the charge against them was not formally based upon that fact. These criminals, the accusation ran, did frequently meet together in the house of William Allen, at Sandwich, "at which meetings they used to inveigh against ministers and magistrates to the dishonor of God and the contempt of Government." Upsiall was banished from the colony; the others were thrown in prison until they paid their fines.

Robert Bartlett committed the enormity "of speaking contemptuously of the ordinance of

singing of psalms." Convicted, Robert was let off by the court, on May 1, 1660, only upon his solemn promise not to do it again. Later, Josiah Palmer was arraigned "for speaking contemptuously of the word of God and of the ministry"; he was fined twenty shillings, which, the sentence specified, had to be paid "in silver money." Christopher Gifford also had to face the court "for contemptuously speaking against the dispensers of the word of God"; his fine was ten shillings. Elizabeth Snow, wife of Jabez Snow, of Eastham, spoke her mind freely to the Rev. Mr. Samuel Treat; for so doing Elizabeth was charged with having used "railing expressions" to a minister, and had to pay ten shillings to the court. These are a few of the criminal court cases at New Plymouth of persons found guilty "of reviling ministers."

After Massachusetts and Plymouth colonies became merged in the Province of Massachusetts the old laws against blasphemy were repeated—with additions. Any denier of the divine nature of the books of both Old and New Testaments was classed by the Provincial law of October, 1697, as an atheist and blasphemer.

Conviction was (at the judge's discretion) to entail either six months' imprisonment, confinement in the pillory, whipping, boring through the tongue with a hot iron, or being forced to sit upon the gallows with a rope around the neck.

Blasphemy statutes were common in various colonies. Like a contagion the example of Puritan blue laws spread. "I do not know," wrote Governor Sir Edmund Andros to the British Council of Trade, in 1678, "that there is any superiority of one colony over another, but all are independent, though generally give place to and are most influenced by the Massachusetts, both in State and Religion."

Death was long the punishment for blasphemy according to one of Connecticut's twelve capital laws based upon the Mosaic code. But there seems to be no case recorded where death was inflicted. In Maryland the two divisions of the Christian faith vied with each other in severe laws against blasphemy. Under Roman Catholic control, an act of 1639 made idolatry (defined as the worship of a false God) blasphemy and felony. Hanging was prescribed as the fate of any one found guilty of blasphemy and sorcery; later,

burning was substituted. When the Protestants came into control of Maryland about ten years later, they at first punished blasphemy with boring of the tongue and branding of the forehead. An act of 1649 decreed death and confiscation of property for blasphemy.

There was, however, such a conglomeration of sects in Maryland that it was hardly possible to determine who were or were not blasphemers. There were Episcopalians, Roman Catholics, Puritans, Presbyterians, Lutherans, Calvinists, Anabaptists, Brownists, Schismatics, and others. To placate them all the law of 1649 provided that whoever stigmatized any in a manner reproachful to religion, was to pay a fine. If the fine could not be paid, he was to be publicly whipped and imprisoned without bail. He was, furthermore, to stay in prison until he publicly apologized and asked forgiveness for each offense.

Later, in their laws against blasphemy, the Protestant rulers of Maryland took lessons from the Puritans of Massachusetts. The Maryland law of July 22, 1699, was one of terror. He who cursed God, or would not acknowledge

Christ to be the son of God, or denied the Holy Trinity, was declared a blasphemer. For the first offense he was to be bored through the tongue and fined twenty pounds sterling; and if unable to pay, he was to be put in prison for six months without benefit of bail. Should he offend a second time he was to be branded on the forehead with the letter B and fined forty pounds. If he could not pay this, a year's imprisonment without bail was to be the alternative. The third offense was to be punished by death and confiscation of property.

To get back to Massachusetts: There were towns that either could not or would not pay taxes enough to support the established state ministers. Despite long persecution, or perhaps because of it, new sects had increased, and they did not see the justice of being forced to pay for the support of pastors who did not represent their opinions. The ministers and church elders easily overcame this obstinacy. They had a law passed by the General Assembly, November 14, 1706, that where a town failed to pay, the specific sums needed for ministerial support were to be paid from public tax collections.

These methods, together with the host of repressive laws of many varieties, bred a spirit of deep-seated opposition often cynically contemptuous. Clergymen found that they could not control censorship. Broadsides and pamphlets lampooning them and their practices would suddenly appear from mysterious sources. This very anonymity made some people eager to read such attacks; and as ministers denounced instead of ignoring them, general curiosity was only the more aroused concerning their contents. Songs directed at clerical foibles would come from somewhere and spread with astonishing speed. To a ministry which had taken every pains to shield itself from criticism, these productions were disconcerting; if some were indelicate, others were of a witty nature provocative of mirth. Of all things, the ministers naturally most objected to being laughed at, but they could not bring themselves to inquire why ridicule had broken loose. They could see nothing but ribald blasphemy in their being made the butt.

From the General Assembly they procured, on March 19, 1712, a new law. It interdicted

the "composing, printing, writing or publishing any filthy, obscene or profane song, pamphlet, libel or mock sermon, in imitation of or in mimicking of preaching, or any other part of divine service." Any one found guilty was to be fined not more than twenty pounds, or, if the judge so decided, the convicted was "to stand in the pillory, once or oftener, with an inscription of his crime, in capital letters, affixed over his head."

Alert minds did not fail to note that in the very act of suppressing criticism of themselves, the ministers adopted the guise of suppressing indecency. Their chief concern was impersonally represented as not so much to protect themselves as to put down immorality.

This transparent device imposed so little upon many people that they murmured all the more against the tyranny of ministers, church elders, and their retinue. Unfortunately for the ecclesiastics, a new agency had come into aggressive being. This was the newspaper. Often the editors of newspapers were outspoken men who would not and could not be kept in order. James Franklin (elder brother of Benjamin

Franklin, who assisted him), the editor of the "New England Courant," published at Boston, was one of these. He seems to have delighted in exposing shams. And so, in his issue of January 14, 1722, he delivered his honest opinion of certain men "full of pious pretensions." He trenchantly wrote:

> But yet, these very men are often found to be the greatest cheats imaginable; they will *dissemble and lie and snuffle and whiffle;* and, if it be possible, they will overreach and defraud all who deal with them. Indeed, all their fine pretenses to religion are only to qualify them to act the more securely: For when once they have gained a great reputation for piety, and are cried up by their neighbors for eminent saints, everyone will be ready to trust to their honesty in any affair whatsoever; they though seldom fail to *trick* and *bite* them as a reward for their credulity and good opinion. . . . It is far worse dealing with such *religious hypocrites* than with the most arrant knave in the world; and if a man is *nicked* by a notorious rogue, it does not vex him half so much as to be cheated under the pretense of religion.

These animadversions have so genuine a ring of feeling that one wonders whether James

Franklin did not write from actual personal experience. There were those who took religion as a reality, to be lived in action. But there were also many others to whom the institutional church, all-powerful as it was, was a convenient means of self-aggrandizement.

That was a time when those seeking distinction and power professionally, socially, and politically, went into the church. This was a general condition. According to Article 101 of the "Fundamental Constitutions" of the Carolinas, no person more than seventeen years old, not a member of some church or religious profession, was allowed any benefit or protection of law, or could attain any place or honor. No one, by the Carolinas' law of 1704, could become a legislator until he had taken an oath of conformity to the doctrine and discipline of the Church of England. The stated justification for this exaction was that although the Church of England was opposed to persecution for conscience' sake, yet religious contentions and animosities had greatly obstructed the public business. This act was repealed two years later, but another law made the Church of England the

established church to be supported by a tax on furs and skins.

The power of the clergy everywhere was mighty. They could thunder against any person, holding him up to odium, yet no reply was allowed. They could pry into the most private of people's affairs and dictate what should or should not be done.

If, for example, a man in Maryland associated with a woman of whom the minister or vestry did not approve, the minister and church officials by the law of September 28, 1704, could order that he discontinue his affair. If he did not obey, the offender was haled to court. Conviction brought a fine of thirty shillings or six hundred pounds of tobacco; and in the case of inability to pay, whipping was inflicted on the bare body by enough stripes to cause the blood to flow, although most benevolently the law limited the lashing to thirty-nine stripes.

For ministers to descend in person upon public officials, berate them for some real or fancied dereliction of duty or other fault, and arrogantly give them orders, was not an unusual occurrence. An illustration of this practice was the

case of the Rev. George Whitefield, one of the original missionaries of Methodism.

Now, Whitefield did not, like so many ministers of the established denominations, cringe to the rich and denounce the poor. Methodism was then making its appeal to the very underlings of society that Puritanism and some other sects slighted. When, on one occasion, Whitefield preached at Moorfields, Massachusetts, a Boston newspaper slurringly said that he discoursed "not to the Rich and Noble, but to the small contemptible rabble." The lowly were stirred by his powerful tirades against "ecclesiastical fooleries."

But Whitefield believed, as did many others of his calling, that ministers were privileged functionaries, quite over and beyond the restraints of mere civil law. When in Savannah, he stalked into the court-room and unceremoniously and peremptorily harangued the grand jury. He loftily laid down the course it should follow and demanded that measures be taken to remove the "barefaced wickedness" that he said existed.

Of all the colonies, Georgia had been one of

the most liberal-minded in its attitude toward religion. How did the grand jury regard this presumption?

Colonel William Stephens, a high Georgia official, made at once a note of the incident. His narrative is set forth in the Colonial Records of Georgia, Vol. IV (1737–40), pages 495–496. He commented that many who agreed that wickedness should be effaced "seemed not well pleased at his taking upon himself to harangue the Grand Jury with what more properly would have come from the pulpit. I myself feared it would have a different Effect upon the Grand Jury from what was hoped and expected." And it did; in its presentment the grand jury ignored Whitefield's pleas.

Censorship of all kinds, whether ministerial or official, became increasingly irksome to the people. Church bodies were so compactly organized that it was hard to obtain repeal of laws. In Pennsylvania a board of censors long prevailed. Yet what avail were these laws if juries failed to convict? In 1735 John Peter Zenger, editor of the "New York Weekly Journal," was brought to trial in New York City

on a charge of seditiously libeling the governor. Andrew Hamilton, eighty years old, was his lawyer. In a speech of extraordinary power Hamilton told the jury that the real issue was the according of the full right to speak and write the truth. Zenger was acquitted. With this notable precedent, the American press, for the first time, now felt that it was really free. There were later prosecutions, but no jury would convict. Liberty of the press was the passionate watchword of the times.

Many ministers now adopted the tactic of trying to prejudice their followers against such of the secular press as they did not favor, denouncing it as sensational and blasphemous. Any church member found with such reading-matter was subjected to a grilling, and perhaps outright expulsion. The "Boston Evening Post" of December, 1742, said:

We are credibly informed that an eminent minister of this town has lately warned his people against reading of pamphlets and newspapers, wherein are contained religious controversies. This seems a bold stroke, and a considerable step (if the advice be re-

garded) towards that state of ignorance in which, it seems, some folk would willingly see the body of this people enveloped. The next stroke may probably be at the *Liberty of the Press.*

The censoring power that ecclesiastics sought to use after this was not so much the invocation of laws as that of the boycotting of disapproved publications and the ostracism of editors.

In these respects the power of the ministers remained for a considerable time a thing to be reckoned with. It awed some of the editors; as, for instance, the owner of the "New Hampshire Gazette" who, on October 7, 1756, gave editorial assurance that although his paper would reflect the freedom of the press, yet "no Encouragement will be given by the Publisher to any Thing which is apparently to foment Divisions in Church or State, nor to any thing profane, or tending to Encourage Immorality, nor to such Writings as are produced by private Pique and filled with personal Reflections and insolent scurrilous Language."

For laws that they argued would preserve the essentials of religion from assault, the ministers

did not cease to ask. Either for form's sake, or in order not to antagonize church congregations, or for both reasons, legislatures would allow old laws to remain or pass new laws. Thus, on July 3, 1782,—at a time when everywhere in the United States the alliance of church and state was being sundered,—the Massachusetts legislature enacted a new blasphemy law. The offender, it was provided, was to be punished "according to the aggravation of the offense" with imprisonment not exceeding twelve months, or by being placed in the pillory, or by being whipped, or by being forced to sit on the gallows with a rope around his neck.

But such a law as this virtually died a-borning. Public opinion would not tolerate its being enforced. It might long remain on the statute books, but it was in effect an excrescence.

Down to our own era, however, certain ministerial usages derived from extensive powers of old have more or less evidenced themselves from time to time. The occasional practice of pastors inveighing from the pulpit against this or that political party or city government or of their directing public officials what to do, is a relic of

the period when ecclesiasticism was enthroned. But while in those times the ministers' wide disciplinary power was fixed in custom or cemented in law, it has in modern times been exercised only morally as incidental to the preaching of religion itself. Now some aggregations of ministers are endeavoring to have restored the manifold powers their predecessors wielded in times when the parson's word was commanding in civil as well as supreme in religious matters.

CHAPTER V

PENNING THE FLOCK

ONE perfervid advocate of strict Sunday laws expressed the hope that the day would come when policemen could be requisitioned to compel church members to attend services regularly.

This may seem the fantastic thought of an overwrought individual. But, in point of fact, there was a time when force was used in America to make delinquents go to church. That force, moreover, was not only the coercion of law but military force under constant orders to see that the law was carried out.

The favorite and ever-welling theme of the spokesmen of the Lord's Day Alliance of the United States is the sublime wisdom of the Puritan fathers. "Nothing but a return to the Puritan conscience will ever save this generation," says a reverend eulogist of Puritan meth-

ods of Sabbath observance. His address, published in the "Lord's Day Leader," is sprinkled with defiance of opponents. He says:

> Such a pestilential phrase as "Blue Laws" is quite the vogue among the Philistines to-day, forgetting [sic] apparently that blue is the color of steadfastness and that the American flag carries a big patch of the color right up in the place of honor, at the top of the flag pole. Then there is the fiery shaft that stamps the friends of the Sabbath with that ominous epithet, "puritanic" just as if the etymology of the word itself does not bear testimony that the root quality of these sturdy progenitors of ours was "purity."

If the much-abused Puritan fathers could become reanimated no one would be more astonished than they at having received the exclusive credit or discredit for originating Sabbath blue laws. One fancies that they would not be slow in reproaching their descendants for having so slight a knowledge of the times that these reformers so ecstatically exalt.

The first statute laws were those of the Virginia ecclesiastics of the Church of England. Unlike the original aim of the Pilgrims and

Puritans, the purpose of the Virginia ministers was not that of establishing a celestial order on earth. From the start, the object of the Virginia ministers was that of church power and personal aggrandizement.

William Waller Hening, who in 1809 prepared a "Collection of the Laws of Virginia" (published in 1823), wrote of that colony in his preface:

> The first pages of our statute book, of the acts of each of the early sessions, and of every revisal prior to the American Revolution, are devoted to the cause of religion and church government; not that religion which every one might think proper to profess, or that liberal system which permitted every individual to worship his God according to the dictates of his conscience; but the religion of the *Church* was the ruling party in the State, and none other was tolerated.

Compulsory church attendance was one of the initial Virginia laws. The Virginia General Assembly act of 1624 declared that any one absenting himself from divine service on Sunday without allowable excuse was to be fined a pound of tobacco. He that stayed away for a month was

Courtesy of D. Appleton Co.

The Pillory

to be fined fifty pounds of tobacco. There should be, the law ordered, a house or a room for worship on every plantation.

But often, as we have seen, some ministers would not recover from the effects of their revels in time to be in the pulpit. If others appeared, their condition more than occasionally was such that they discreetly refrained from giving sermons. Such irregular conduct did not, of course, conduce either to inspire respect for pastors or to quicken desire to attend services.

The unwilling were persistent in their refusals. The General Assembly decided that if fines would not make them go to church, force should. Military commanders were ordered, by a law of 1629, to see to it that people did attend church on the Sabbath. The penalties of the act of 1624 also were repeated by this law. Against the solitaries living in outlying, remote parts the law could not be summarily enforced. It could be and was enforced against people clustered in settlements or grouped about plantations.

Transgressors were, however, variously treated by the soldiers. Those considered superior in station could count upon a deferen-

tial summons or upon their dereliction being overlooked. In all directions the laws discriminated sharply in their favor. By one act of 1624 "persons of quality" who committed any breach of the law were not subjected to the indignity of corporal punishment; they were not "fit" for that kind of handling, it said, meaning that their natures were too delicate to warrant it. Absolute obedience to superiors was decreed by another law of the same year and reënacted in 1632; menials "at their uttermost peril" had to give it.

Under these regulations ordinary people had no choice. Such as were disinclined to go to church were commanded by the soldiers to do so. A winsome maid-servant could get gallant escort, and perhaps the soldier would vouchsafe the favor of forgetting orders. But boys were chased to church and men drudges dragooned there if they showed any tendency to resist. Yet there were ameliorating circumstances. Some gift or other judiciously bestowed would often blind commander or soldier.

The force law was disappointing to its authors. It proved to have an effect the very reverse of

what was expected. Folks could be thrust bodily into church, but once there they had means of reprisal. There was nothing in the law to prevent people from going to sleep or feigning sleep or from taking on unpleasant attitudes. This is what many of them did for a while, causing as much trouble to the beadles as they could. Then, tiring of their manœuvers, they began to stay away, simulating sickness or using other subterfuges when the Sabbath came.

The Virginia General Assembly found it necessary, in 1632, to pass another compulsory church-attendance law. Also an act inflicting the penalty of censure on parents and masters for not sending their children to church and on children for refusing to learn sacred lessons. That the regularly ordained minister was not in church was held to be no excuse. The vestry would put a lay minister (then called a clerk) in his place temporarily. Meanwhile the minister suffered no worldly loss; the State provided him with everything he needed. At first rather poor and mean, ministers' dwellings gradually became mansions. Almost if not always each had a glebe or two hundred and fifty acres

stocked with cattle and with slaves and servants.

Church-attendance laws in Virginia long remained in force. But never did they equal in stern scope those of the Puritans.

The Puritan Sabbath did not merely mean Sunday. It virtually began at three o'clock on Saturday afternoon throughout the year. By orders of the New England Company, in 1629, all inhabitants were to surcease labor at that hour, "that they may spend the rest of that day in catechizing and preparation for the Sabbath as the minister shall direct."

It was expected that none of the Puritan band would be so lacking in holiness as not to be zealous in attending church. Yet very soon after the settlement of Massachusetts Colony voids began to appear in the congregation. Faces that should have been there were not. The General Court of Massachusetts Colony, on March 4, 1634, felt it incumbent to pass a law. "Whereas complaint hath been made to this Court that divers persons within this jurisdiction do usually absent themselves from church meetings on the Lord's Day," the preamble read. Non-attendance at church services was made a misdemeanor,

punishable by a fine of not more than five shillings for each offense or imprisonment if the fines were not paid.

Here, by the way, it may be casually mentioned that in choosing its name the Lord's Day Alliance of the United States has not, as might be supposed, strained a point to convert Sunday into the Lord's Day. "Lord's Day" was literally the term generally used in Puritan times, though sometimes the day was referred to as the Sabbath.

For twelve years the law of 1634 was depended upon to insure church attendance. It turned out to be woefully insufficient. Puritan stamina in the case of many was not equal to the terrific ordeal to which it was subjected. The morning sermon often occupied two hours or more, and was filled with indigestible theological subtleties. After a few hours came the evening sermon which, although shorter, was altogether too long for anything but the most stalwart spiritual endurance. The result was that some of the people either went to church infrequently or stayed away entirely.

"Contempt of public worship" was what a new

law of November 4, 1646, branded non-attendance at church. It put a fine of five shillings upon any one absent from church services on the Lord's Day, on public fast days, and on Thanksgiving days. Starting out simply enough, this law elaborated into a series of fine-spun constructions. It asserted that the constant keeping away from church amounted to a renouncing of church connections. This, in turn, was held to be an assault on the church's integrity. Again, in turn, a renouncer was construed to be one "who thus goes about disturbing or destroying the church ordinances." Upon conviction, the culprit was to be mulcted forty shillings for every month that he continued obstinate.

Many-barbed as this law was, it by no means stopped at this point. The open contempt of God's word and messengers thereof, it averred, was the desolating sin of civil states and of churches. Preaching by ministers was the chief means God ordained for the converting, edifying, and saving of the souls of the elect. Therefore if any "so-called" Christian should contemptuously behave in or out of church toward the word preached or toward God's ministers he was sub-

ject to punishment. It was specified that there was to be no interruption of preachers, no false charging of errors in their discourses, no reflections upon the true doctrine, no reproaching of the ministers in any way. He who was guilty of any of these offenses made "God's ways contemptible and ridiculous."

For the first "scandal" the offender was to be reproved openly by the magistrate and held under bonds for good behavior. If for the second time the violator broke into "the like contemptuous carriages," he either had to pay five pounds to the public treasury "or stand two hours openly upon a block four feet high, on a lecture day, with a paper fixed on his breast with A WANTON GOSPELLER written in capital letters, that others may fear and be ashamed of breaking into the like wickedness."

Laws were one thing and life was another. Most certainly a truism, yet one that Puritan theocratic legislators never could understand. Theirs was a world in which the human being was to be made to fit the rigid formulas.

Such adults as were involuntarily in church could for the most part control themselves to

wear appropriately serious faces—provided they kept awake. But with the youthful of both sexes it was different. Instead of lulling them into somnolence, dry sermonizing either turned them into images or provoked their hilarity. They sought relief in stealthy juvenile pranks, fidgeted, and shuffled; and some would at last slip through the door.

Shocking conduct of this kind had to be suppressed. The Massachusetts General Court, on October 18, 1654, produced the law that the ministers expected would do it. Its preamble set forth how in the several congregations there was much disorder "through the irreverent carriage and behavior of divers young persons." Proceeding to business, the act instructed town selectmen to nominate committees to admonish the transgressors, either in the congregation or elsewhere. If solemn reproof failed, the magistrates were required to take a hand.

Then this law went on to make a suggestion that the ministers must have thought extraordinary. Seldom could any law objectionable to the theocratic coterie be passed. However, in this case the provision was merely a proposal and

nothing more. It was a hope expressed in the end of the act that "the reverend elders of the several congregations, according to their wisdom, will so order the time of their public exercise, that none shall be ordinarily occasioned to break off from the congregation before the full conclusion of the public exercise."

Here was an intimation that shorter sermons would no doubt be more effectual in holding flocks intact. But if there was anything that ministers believed their divinely bestowed and inalienable right, it was the expounding of the word in long-drawn sermons. It was their great opportunity to shine effulgently. They would not give it up, and the "twentieth and lastly," "thirtieth and lastly" remained as fixed an institution as it was before.

In the ensuing years the habit of leaving service aforetimes spread. Grown-ups contracted it as well as the young. The General Court tried to stop Sabbath abuses with the law of August 1, 1665, which dolefully complained of the wicked practices of many persons who profaned God's holy day and contemned the worship of his house; these enormities, said the law, had to

cease. Corporal punishment was now ordered in every case where fines were not paid. Beating and lashing were no more effective than were previous methods. Bolting from church services developed into an acute issue.

An heroic remedy was needed to stop the impious practice. In passing its law of May 3, 1675, the General Court believed that it had hit upon the sovereign cure. "There is so much profaneness amongst us in persons turning their backs upon the public worship before it be finished and the blessing pronounced," declared that law's preamble—as though everybody did not know it well. What concerned popular interest was what the lawmakers were going to do about it. The law satisfied this curiosity. During services the church doors were to be shut and kept locked. The church officers or town selectmen were authorized to appoint men to see that this was done, act as guards, and allow no one out until the right time.

Good students of human nature would have known that the effect of such a law would be the very opposite of that intended. Even some of those who had valiantly stood the dreary,

prolix sermons resented the idea of virtually being imprisoned. To stay away from church upon one pretext or another became the expedient of considerable numbers of persons proportionate to the population.

It was now that the flowering of Puritan laws came into exuberance.

The stated object of the law of May 24, 1677, was to suppress profanation of the Sabbath. The act began with the self comforting assumption that people were merely forgetful of all the laws on the subject. Inferentially, that was the reason they did not live up to them.

Ministers were ordered to read publicly on the Sabbath all of the Lord's Day laws and impressively caution people to heed them. This was assuredly a formidable undertaking. The list of laws was appallingly long, including not only church-attendance laws but a staggering array of others. For two years the ministers performed the imposed task. Wearying of it, they had the law amended so as to shift the burden upon constables and town clerks. These were dismayed, but they had no choice; probably foreseeing their reluctance, the law was ex-

pressly drafted to penalize them if they failed.

The establishment of spying committees was, however, the supreme creation of the law of 1677. There had always been a certain amount of spying, often encouraged and abetted by parsons and church elders. This law legalized and systematized it. Town selectmen were authorized to see to it that one man was appointed to inspect ten families among his neighbors. These inquisitors were invested with more than the right to pry at will. In the absence of the constable they had the power to arrest any Sabbath violator of any kind, haul him before a magistrate, and have him locked up. The law decreed that in the market-places in Boston and other towns cages were to be built, and all offenders kept in them until the magistrate passed sentence.

Nothing, it was confidently supposed, could escape the drag-net of this aggregation of prying searchers. There seemed to be no resource left to transgressors. But there was. Unless he had a grudge against a neighbor, no inquisitor cared to make serious trouble for those living near him. If he did they had telling ways

of striking back; unpopularity with neighbors was not a thing to be courted.

It quickly became evident that the part of the law prescribing spying on neighboring families did not work. Less than five months after its enactment, the General Court hastened to alter it. Greater inquisitorial powers were given the spies (they were sweetly designated as "inspectors") by not only allowing them to enter any house, private and public, but authorizing them to go into one another's precincts. This roaming commission would, the lawmakers believed, bring the spies more in contact with strangers and do away with favoritism to neighbors.

Yet no matter where they went, the inquisitors were unfailingly tender toward any one having the least influence or power.

CHAPTER VI

RELIEF IN ERUPTION

THE original band of Pilgrims in Plymouth Colony was liberally tolerant compared with the Puritans of Massachusetts Colony. Its laws were not severe nor its spirit fanatical. To a number of religious dissenters such as Mrs. Hutchinson and Roger Williams, banished from Massachusetts Colony, it gave shelter. But as the years rolled on, it was overborne by the dominating influence of the Puritans to the north, and it surrendered its individuality. Discords also broke out, and there came an infiltration of new-comers to whom it was thought needful to apply disciplining. The Pilgrims began to imitate many of the harsh laws and standardizing methods of the Massachusetts Colony Puritans.

They first copied a chain of regulations compelling a rigorously devotional Sabbath.

Church attendance was made the great test of piety and character; to this all else was secondary. Almost every motion of people was so ordered and circumscribed that it was thought they, perforce, had to go to church, having nothing else that they were allowed to do and nowhere else to go.

Punishments for infractions of the Lord's-Day laws began at a comparatively early stage. For some trivial act of Sabbath breaking, John Barnes was sentenced by the court at New Plymouth, on October 5, 1636, to a fine of thirty shillings and to sit an hour in the stocks. On the same day Edward Holman was let off with a fine of twenty shillings; he, it seems, was "not guilty in so high a degree."

Webb Adey was a baffling problem to Pilgrim magistrates. He had his own way of spending Sunday and he could not be broken of it. First Webb was given a taste of the stocks. He was not convinced. Shortly after he was seen imperturbably working in his garden on Sunday. A constable pounced upon him and put him in jail, and he was brought up before the court at New Plymouth, on June 5, 1638,

to answer for his unpardonable act. Witnesses to it were duly there in the persons of Josias Cooke and Ralph Smyth. The marginal note on the court record reads: "Censured and whipt."

Lashing did not change Webb's ways. That garden of his had fascination for him and he continued his attentions to it on Sunday, which was the only time he had for working in it. Again he was haled before the court, this time on July 7, 1638, and "was censured to be severely whipt at the post, which was accordingly performed." Of Webb Adey's career after this the court records do not tell. He was merely one of a number of transgressors, although few others were as pertinacious.

There was, however, a way of evading Sunday laws. Either the legislators had not expected that it would be availed of or they had quite overlooked its possibilities. It was simple enough. Folks not wishing to go to church would forget to awake or if they did awake would get a flash of the prospect before them, roll over, and go to sleep again.

This iniquity had to be extirpated. Two laws

coined on June 6, 1651, were relied upon to do it. The mandate of one law was that no one should be permitted to neglect public worship on the Lord's Day. But the real menace of this law was intended for the Quakers, who were compelled to go to the established church or pay individually a fine of ten shillings. It was the other law that struck at the sleepers. Any one, it was ordered, who in any way was given to lazy, slothful, or profane habits, thereby neglecting church attendance, was to be fined ten shillings for every offense or be publicly whipped. For some reason not now discoverable, both of these laws were later repealed.

But other laws took their place. One of these was an enactment of June 5, 1655, decreeing that anybody denying the Scriptures to be a rule of life was to be punished as the magistrates decided "so it shall not extend to life or limb." The meaning of this act was that a whole series of regulations taken from the Mosaic books were made the absolute code for Plymouth Colony. From time to time other laws were enacted requiring church attendance.

In trying to enforce all of these laws the

authorities encountered many a case of what they called perverseness.

Elizabeth Eeddy of New Plymouth wrung and hung out clothes "on the Lord's Day in time of church services." Perhaps she had been indisposed, her wash had accumulated, and it had to be disposed of. Her offense noted, she was arrested and arraigned before the court on October 7, 1651. She was fined ten shillings, but later the fine was graciously remitted.

Whether Abraham Peirse of the town of Duxbarrow was a toiler who needed to rest upon the Sunday, the records do not reveal. But he did commit the crime of sleeping on the sacred day. So, on March 2, 1652, when he was arraigned in court charged with "slothful and negligent expending the Sabbath," he had to listen to a racking lecture rounded out by a stern warning to amend.

Other offenders had to suffer something more than censure. Nathaniel Bassett and Joseph Prior were brought up in court, on March 2, 1652, charged with disturbing the church at Duxbarrow on the Lord's Day. This was a general accusation. But what specifically did they do?

Did they venture to controvert the minister? Did they make grimaces or obnoxious remarks? Or was their disturbance—shall we suggest it? —that of a volley of snores? On these points the court records are tantalizingly silent. But whatever they did do, it was considered to call for condign punishment. Each of them was sentenced to pay a fine of twenty shillings or be bound to a post in a public place for two hours, "with a paper on their heads on which their capital crime shall be written perspicuously, so as may be read."

Ralph Jones's crime in "not repairing to the public worship of God" cost him, on October 6, 1657, a fine of ten shillings. Other similar violators were on different occasions likewise fined. Lieutenant James Wyatt wrote a note on business matters on Sunday when he should have been in church; some tell-tale quickly informed on him; he was arrested, arraigned in court on October 2, 1658, and sharply reproved for his writing on the Lord's Day "at least in the evening somewhat too soon." Under a law prohibiting any kind of work on Sunday, Samuel Howland of Duxbarrow was haled to court

charged with having carried grist from the mill on the Lord's Day; his sentence, on October 3, 1662, was that he should pay ten shillings fine or be whipped. These are a random few of numerous cases of the kind.

What happened to many who, for fear of being fined, did go to church? Whether it was the almost interminable sermons that induced the need for a restorative cannot be positively said. But certain it was that between morning and evening services the "ordinaries" dispensing liquor were immoderately patronized.

The General Court of Plymouth Colony did not relish the mortification of admitting such a sorry state of affairs. Yet even that body had to come to the point of openly recognizing what the sophisticated all knew. In a law of June, 1662, it bemoaned that persons imbibed all too freely between church services, and it thereupon forbade keepers of ordinaries under pain of ten shillings' fine for each offense to draw any wine or liquor on the Lord's Day except for the faint and sick.

After the passage of this law there was a surprising assortment of persons who of a sud-

den would be taken with some kind of ailment necessitating liquid treatment. Before long, however, they discarded all pretexts; and the ordinaries resumed an undisguised rushing business on the Lord's Day. Finally, in 1674, the ministers caused another and similar law to be passed, although why it is not easy to understand, seeing that the first was so ineffective.

But this was not the only trouble agitating all good souls who wished to see the Lord's Day kept pure and undefiled. Sleeping on the Sabbath had become rather epidemic. Boys and youths would stand outside the church doors and —oh, most nefarious conduct!—would jest with one another. Jesting is the very word mentioned in the law of 1665, designed to put an end both to that and to sleeping in sundry towns where there was "complaint of great abuse" in these enormities. The guilty—so read the law—were first to be admonished; if they persisted they were to be set in stocks; and if this did not reclaim them they were to be arraigned before the court for harsher punishment.

Jesters could be caught red-handed. But how were sleepy-heads, protected as they were by

the privacy of their homes, to be detected in the act? For five years parsons and church elders and lawmakers wrestled hard with this problem.

At last, in June, 1670, came their solution. It was a law empowering the town selectmen to requisition a constable and send him into any house or place the inmates of which were suspected of neglecting public worship on the Lord's Day. The constables were even authorized to "get together in companies" for the purpose. They were required to take note of all that they saw and report the facts to the court.

In executing this law it was tacitly expected by the lawmakers that the constables would not be so lacking in judgment as to intrude upon the well-placed. The "inferior sort" knew well enough what was in store for them, and whenever they could conveniently arrange the plan, they—or at least such as wished to spend Sunday in their own way—would have a sentinel on the lookout. But numbers were caught unawares. The court records from 1670 on are full of breach-of-Sabbath cases and their sentences of punishment, which often was whipping.

Perhaps it was in the course of a poking ex-

pedition that the constable came upon Edward Cottle and his wife belaboring each other with hard words. In court, on March 5, 1678, they were jointly fined forty shillings "for quarrelling on the Lord's Day and thus profaning it." On the same day and for the same offense Mrs. Nathaniel Covell was given the alternative of paying a like fine or being whipped.

John Arthur, Matthew Bloomer, and John Leyton were a companionable trio of bachelors; one morning they were raided and routed out, lugged to court on June 1, 1675, charged with not attending the public worship of God and also with "living lonely and in a heathenish way from good society." They were told they must go regularly to church or they would have to quit the colony.

There was George Russell of Duxbarrow. He neglected to go to church on the Lord's Day, was bundled to court, on March 9, 1683, and only by promising reformation could get conditional release; "but in case he does not reform," the court entry reads, "he remains liable to punishment for this and for that also." George was not by any means the only probationer. As

I am not a genealogist, I cannot tell how many noted persons to-day could, if they would, trace their ancestry to George and other notorious lawbreakers like him.

Not only were there those who failed to go to church on the Sabbath, but card playing on Sunday was a not-unknown pastime, as frequent court cases attest. Also, there were too-eager souls who never would let the Sabbath stand in the way of their making a good bargain. John Reed, of Freetown, bought a beaver skin on the Lord's Day, but it turned out to be a bad bargain, for the court, on July 11, 1685, fined him forty shillings, which must have left John with a deep grudge against the babbler who had informed on him.

Laws compelling church attendance were continued after the uniting of Massachusetts and Plymouth colonies in the Province of Massachusetts. Whenever the disregard of them became too conspicuous the lawmakers would respond to ministerial demands by enacting new laws. On November 26, 1717, a law was passed in Massachusetts declaring that persons who for one month neglected to attend public worship should

be indicted and, upon conviction, fined twenty shillings, or be placed in the cage or stocks for not more than three hours. The act of 1746 reiterated this law, and there were further laws in Massachusetts to the same purport.

At the behest of the ministerial hierarchy the Connecticut General Court repeatedly issued laws making church attendance compulsory.

A Connecticut law of May 20, 1668, insisted that "the sanctification of the Sabbath is a matter of great concernment to the weal of a people, and the profanation thereof is that pulls down the Judgments of God upon that place or people that suffer the same." Those staying away from church unnecessarily were each, it was decreed, to be fined five shillings for every offense or be set in the stocks for an hour. But church going did not remain the only requirement. Under a law of May 13, 1680, ministers were to give lectures every Thursday in each county. This, the law announced, was to be done in order "that people may have opportunity to partake of the variety of ministerial gifts"—a high privilege that failed to call forth enthusiastic reception

from a people that willy-nilly had to endure the impact of two sermons every Sunday.

The catechizing of youths under twenty years of age by ministers on the Sabbath day was a recommendation of this same Connecticut law of May 13, 1680; it was essential "for the better preservation and propagation of religion to posterity." Masters of families also were required by law to instruct and catechize their children and servants on the Sabbath. Exhaustion soon seized many of the masters and they dropped the undertaking.

CHAPTER VII

HARRIED TO DESPERATION

MONOTONOUS drilling, heaping of wearisome obligations, and the weight of other repressions signalized Sunday in the minds of many as a fearsome day. Its approach was regarded with dread.

The same results came in Connecticut as were evidenced all along in Massachusetts, as well as in other colonies having drastic regulatory laws. All times are characterized by a certain degree of crime. But it was then excessive, measured by the expectation of ministers and legislators that the severity of their disciplining would efface it. The reverse was the effect. No one who studies the proofs of those times can escape being impressed by the long, continuous roster of crimes, abnormal as well as ordinary.

For some share of these crimes unstable characters arriving constantly were responsible. But

that does not explain the outbreak of vice and crime among residents, not excepting church elders and ministers.

Drunkenness persisted notwithstanding the fact that the drunkard could be and was disfranchised and also "must wear about his neck and so as to hang about his outward garment a D made of red cloth and set upon white and to continue this for a year, and not to leave it off when he comes among company," under heavy penalty for disobedience. Such sentences were actually carried out, as the Massachusetts court records show. Gambling, lying, swearing, cursing, quarreling, horse stealing, forgery, arson, swindling Indians, and corrupting public officers were common charges. Frequent laws were passed in the attempt to stop these crimes.

A more sinister aspect, however, was that of a diversity of crimes flowing from sheer immorality. Vicious assaults and illicit intimacy were not occasional. Convictions for certain unnameable offenses were anything but rarities. Lack of chastity and disregard of marital ties was all too frequent, and bigamy on the part of some whose wives or husbands were in England

or elsewhere became such a scandal that a Massachusetts Colony law, of November 11, 1647, ordered all such married persons to return by the first ship to their relatives.

No thought ever occurred to law devisers that the pressure of their multifarious inhibitions might itself be a main precipitant of these explosions. This was a principle they neither perceived nor cared to perceive. To them the sole cause was inherent depravity. But, as a matter of fact, many of these evil-doers were innately well disposed and in act hard workers. It was the throttling at every turn of normal expression, cooped as it was in narrow, set channels not even admitting of the most innocent and harmless manifestations, that impelled an outlet for pent-up nature. The recoil was correspondingly violent.

For both men and women convicted of the scarlet sin death was fixed as the penalty by the Massachusetts Colony law of October 18, 1631, and confirmed by laws of 1638, 1640, and other years. It was not inflicted, but other punishments were. Both there and in Plymouth Colony the guilty were whipped, put in stocks,

jailed, or subjected to worse ignominy. Upon conviction, Mary Mendame was sentenced at New Plymouth, on September 3, 1639, to undergo this punishment: She was whipped at a cart-tail through the town streets and had to wear a badge of infamy on her left sleeve; if found without it she was to be burned in the face with a hot iron. As she was adjudged the more at fault, the other party, an Indian, was given what was considered the mild sentence of a sound whipping at the post with a halter around his neck.

Law piled upon law only added to the combustion. Everywhere was an atmosphere of backbiting and strangling suspicion. To such a pass did matters come that, on May 27, 1674, the Massachusetts General Court delivered itself of this climacteric law:

This Court, accounting it their duty by all due means to prevent appearance of sin and wickedness of any kind, do order that henceforth it shall not be lawful for any single woman or wife in the absence of her husband to entertain or lodge any inmate or sojourner with the dislike of the selectmen of the town, or magistrate, or commissioners who may have cognizance

thereof, upon penalty of £5 per week, on conviction thereof before any court or magistrate, or be corporally punished, not exceeding ten stripes; and all constables are to take cognizance hereof for information of such cases.

This was followed by a later law empowering magistrates and commissioners to search suspected premises.

Similarly in Connecticut a race of lawbreakers was created by the laws themselves. The lamentation of the General Court, on May 8, 1684, was that "provoking evils" persisted. The Sabbath was profaned. There was neglect of the catechizing of children and servants and of family prayer and church attendance. Tippling and drinking were rife. Uncleanness (meaning immorality) prevailed. But it was not the laws, asseverated the General Court, which were responsible. No, it was the "want of due prosecution of offenders that are guilty of breach of them." This was the reason why these laws had "not answered that expectation of reformation which this Court aimed at." The mandate went forth that selectmen, constables, and grand jurymen must take special care to

discover lawbreakers and present them once a month at court. If sin were not eradicated the Lord would again show displeasure as in the last Indian war.

But reform did not come. Vice and corruption of manners increased and abounded, the General Court affirmed in May, 1690, it found to its sorrow, and it called upon ministers to forward the work of reformation. Its decrees, however, seemed to be much like those of King Canute to the ocean. In May, 1704, it was still plaintively dwelling upon a list of crying evils and directing the reverend ministers "to excite and stir up their good people to particular societies in order to endeavor a reformation." The ministers must have had scant success, for, in 1712, another Connecticut law to enforce church attendance was passed.

Something was wrong somewhere. What was it? The legislature, in 1714, gave the Connecticut General Association of Churches power to make an inquiry. A typical report was turned in the next year. That there might be an overdose of religious exaction, a surplusage of laws,

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was a concept that did not even remotely occur to the ministerial investigators. Their minds ran in one immutable direction; this was that there never could be enough of enforced religion or of repressive laws.

However, we shall give their findings and in their own language exactly as they are set forth in the official records. These were the prevalent conditions reported:

1 A want of Bibles in particular families.
2 Remissness and great neglect of attendance on the public worship of God upon Sabbath days and other seasons.
3 Catechizing being too much neglected in sundry places.
4 Great deficiency in domestical or family government.
5 Irregularity in commutative justice upon several accounts.
6 Talebearing and defamation.
7 Calumniating and contempt of authority and order, both civil and ecclesiastical.
8 And intemperance: with several other things therein mentioned.

The uppermost question was what to do about these evils. The answer was the usual one—

more laws, more scrutinizing. "Decays in religion" had to be prevented, the Connecticut General Assembly (as the legislative body was now named) resolved.

A law was thereupon passed that selectmen should go from domicile to domicile and make diligent inquiry of householders "how they are stored with Bibles." If not provided with at least one Bible, the householder was to procure it. In cases where a family had numerous members and could afford to buy a considerable number of Bibles, it had to do so. In addition, all families were required to have a suitable supply of orthodox catechisms "and other good books of practical godliness."

The concrete results of this measure were singular. With the law plenty of families had to comply. But that was as far as many went. Not a word did the law say as to these books having to be read and studied; the supposition of lawmakers was that the possession of them would, of course, mean perusal, but that result did not at all follow. The books were ostentatiously placed on a parlor table as sureties for the household's piety, and there they remained

as the most useful of all testimonials. Seeing them there, could any pry successfully assert that the household having them was not the abode of righteousness? Many a piece of mischief or rascality was now done with all the greater assurance and feeling of security.

Hot from the legislative mills proceeded another law on October 13, 1719. It compelled the town clerk, under penalty of heavy fine for not obeying, to read publicly at stated times the full text of the act of 1715. This law, it may be remarked, was entitled "An Act for the Effectual Suppression of Immorality." It virtually classed all persons not strictly regular and orthodox in church and other religious performance as of immoral character.

Another lugubrious wail and two new laws came in May, 1721, from the Connecticut General Assembly.

Notwithstanding, said the preamble, the laws already provided for the sanctification of the Lord's Day, "many disorderly persons in abuse of that liberty regardless of the laws neglect the public worship of God and profane the day by their rude and unlawful behavior." Anybody

who did not duly attend some lawful congregation, unless he had a satisfactory excuse, was to be fined five shillings for every offense. The other law ordered grand jurymen, tithing-men, and constables to inspect carefully the behavior of all persons on the Lord's Day or other worship days, especially between church services. Any person, whether adult or child, not measuring to correct deportment, was to be fined five shillings, and the offender or parent was to pay to the grand jurymen and other inquisitors two shillings for each day spent in the prosecution.

To enumerate the further attempts to compel church attendance would be tiresome repetition. To a certain degree they were effective because, as one British official wrote, of the fear of being fined. Church congregations were really composed of two classes,—those who willingly went to service and such as were driven there by the laws.

This was so not only in New England but in other colonies where there were stringent church-attendance laws. To such an extent did Puritan influence sway the colonies everywhere that as late as March, 1762, the Georgia legislature

enacted a law compelling all persons "to observe the Lord's Day and frequent some place of public worship." At no time and at no place did these laws succeed for any appreciable length of time. Each increasingly aroused popular resentment so greatly that irreligion (then called atheism) was mentioned in many a law as a growing menace. Incessantly in New York, New Jersey, and other colonies the ministers were complaining of inordinate drinking, gambling, swearing, immorality, and other vices and breaches on the Lord's Day as well as on other days.

Decade after decade went by, but the ministers tenaciously adhered to their long-drawn prayers and voluminous sermons. The longer they could make these the more their pulpit power was extolled in ecclesiastical circles. "He greatly excelled in devotional exercises. He would sometimes occupy forty minutes in prayer. His public services usually lasted two full hours." Thus did Sprague, in his "Annals of the American Pulpit," admiringly write of the Rev. Nathaniel Porter, D.D., pastor of the Congregational Church at New Durham, New

Hampshire, in 1773. Of the reverence ministers received, this sketch, written by Josiah Quincy of the Rev. Jonathan French, of Andover, Massachusetts, furnishes a vivid illustration:

The whole space before the meeting-house [church] was filled with a waiting, respectful and expecting multitude. At the moment of service, the pastor issued from his mansion, with Bible and manuscript sermon under his arm, with his wife leaning on one arm, flanked by his negro man on his side, as his wife was by her negro woman, the little negroes being distributed, according to their sex, by the side of their respective parents. Then followed every member of the family, according to age and rank, making often with family visitants, somewhat of a formidable procession.

As soon as it appeared, the congregation, as if moved by one spirit, began to move towards the door of the church; and before the procession reached it, all were in their places. As soon as the pastor entered the church, the whole congregation stood until the pastor was in the pulpit and his family were seated—until which was done, the whole assembly continued standing. At the close of the service the congregation stood until he and his family had left the church, before any one moved towards the door. Forenoon and afternoon the same course of proceeding was had, expressive of the rever-

ential relation in which the people acknowledged that they stood towards their clergymen.

A picturesque account, this, showing the pomp surrounding ministers and the authority with which they are invested. But, in truth, obeisance to them was far from being wholly voluntary. Some of the congregation to whom forms were as precious as feeling rendered it spontaneously. But in many a case it was an affectation, a mask, an unavoidable convention. Beneath the outward display and profession was a deep-seated fear of the consequences of lack of compliance, and the knowledge that ministers could, in one way or another, invoke the severity of a host of laws against any one not yielding due reverence.

CHAPTER VIII

A PALL UPON JOY

AMUSEMENTS and recreations on Sunday are among the list of doings that the Lord's Day Alliance of the United States aims to have prohibited.

"When Sunday is spent in play, there is no gain, but rather loss," says one of its members, whose outline of the program is published in the "Lord's Day Leader." "Our fathers were wise after a worldly fashion as well as morally and religiously, when they placed the Sunday laws on the statute books. They knew well enough that games, picnics and such things not only violated God's will, but weakened human usefulness and capacity for healthy toil, even as they knew that mind and spirit as well as body demanded worship."

It is such avowals before the assenting inner circle that lucidly indicate the lengths to which

professional Sabbatarians are prepared to go. In newspaper interviews spokesmen of the Lord's Day Alliance and similar organizations may disclaim being too extreme. Appeasingly they may say that their assault is mostly against Sunday amusements from which profit is derived.

They do not overlook the fact that it is those very amusements which are popular with vast numbers of the American people; it is precisely because of that widespread patronization that they aim to have them abolished. Toward the favored classes they adopt a complaisant attitude. As though already possessed of the power of controlling lawmaking, they avouch that they will not be disposed to interfere with such recreations as golf and automobile riding.

Of the whole population comparatively few play golf, but those few are, generally speaking, of the prominent and influential. In a wider sense this is true of automobile users; and, besides, many a rural church-goer finds recreation for himself and his family in an automobile jaunt on Sunday afternoon. To attempt to banish the automobile on Sunday would antag-

onize much support in the rural districts, which in general are the mainstay of the Lord's Day movement. To the city dweller a motion picture show, a concert, a baseball game or a seaside excursion on a Sunday afternoon or evening has the same recreational value that an automobile drive has to the rural resident. In the one case the Lord's Day Alliance advocates would prohibit, and in the other permit.

Up to the present this discrimination stands out strongly. But it may not remain so. Organizations such as the Lord's Day Alliance do not lack a sense of political strategy. It is good tactics, they know, not to demand everything at once but to try eventually to achieve their whole program by a gradual approach.

Beginning with attacking amusements provided for profit they may proceed to the point of pronouncing immoral and impious all kinds of play and enjoyments on Sunday, whether paid for or not. The views of the reformer just quoted significantly point in that direction; and those views are shared half-openly or covertly by many other leaders. They believe that play on Sunday is a demoralizing distraction from

the solemnity with which they hold that day ought to be religiously observed.

For a supreme model they hark back to the example of "the fathers." By these they of course mean the Puritans. Aglow with homage of Puritan ways, they take it for granted that the results of those ways were all that they like to think them. Conjuring a beauteous picture of those times, they assume that the Puritan people did not wish to play on Sunday because they were enwrapped in a piety that admitted of no diverting. The church was the great magnetic attraction the voice and teaching of which suffused the multitude! This is the retrospective vision of our modern Sabbatarians and they rejoice in it. They think they see what glories a playless Sunday then brought; how, among other wonders, it enspirited and invigorated and sent people back to their tasks on Monday filled with a light-hearted alacrity. They wish to believe that this was so, and hence in their minds it forthwith becomes so.

But dreams are not facts. Of what the actual conditions were we have already given some en-

lightening details. We shall now present some more equally authentic.

Between the Puritan theocracy and the generality of the people there was a great gap. The one was continuously making rules for conduct and trying to enforce obedience; in the other was a spirit of insubordination clearly showing the revolt of human nature against excessive efforts to constrict it.

Of the value of relaxation and its benefits to mind and body the Puritan rulers had no conception. Church attendance, catechism, and prayer, they believed, were relaxation and all that was necessary.

One of their very first laws was one against idleness. This did not mean merely shiftlessness. A couple of women exchanging gossip (which was then the sole vehicle of news); a youth sitting on a stump and contemplating landscape beauties; a group of men in expansive social converse—all these and many others came under the ban of idleness. The Massachusetts Colony law of 1633 ordered that "no person, householder or other, shall spend his time idly or unprofitably, under pain of such punishment as the Court

shall think meet to inflict." A Watts lying before a fireside watching the steam lift the pot lid; a Burns pausing spell-bound at his plow to behold the charms of a sunset or the actions of a mouse; an Abraham Lincoln outstretched in the woods in deep meditation—these would, under Puritan law, have been condemned as sheer idlers because they seemed to spend their time unprofitably. Just as religion had to take the form of religiosity, proving itself by the outward display, so activity of mind had visibly to show itself in vigorous application, else it was not work but inanity.

In proscribing idleness, there was in that Puritan statute the kernel of an ideal which has powerfully influenced American life. This is that work is the order of life and that it bestows the dignity of usefulness. But as in so many other things, the Puritan hierarchy carried the idea to an impossible extreme. All work and no play was its demand.

This formula was applied to adults as well as to all such children as were thought old enough to be put to work. Men had their own way of mingling socially after a hard day's work. They

would foregather at the inns, and amid friendly converse would treat and drink to one another's health. It was a species of mature play, or at least an ebullition of good feeling. But to the General Court "the common custom of drinking to one another is a mere useless ceremony, and draweth on the abominable practice of drinking healths." This is how the Massachusetts Colony law of September 4, 1639, denounced the practice and then forbade it under penalty of fines. Those against whom the law was aimed could not bring themselves to see how a custom which they thought promoted good fellowship could be either useless or abominable. They kept it up and with such gusto that the thwarted legislators could do nothing else than repeal that particular law in 1645.

Women liked to have their little pleasurable parties at which cakes and buns were served. Of course they exchanged gossip; what would such affairs have been without it? Quite naturally they enjoyed it and one another's company. To the ministers all this was utter frivolity. Evidently the lawmakers were of the opinion that if cakes and buns were prohibited, there

would be nothing left to attract. A law was passed putting a fine of ten shillings upon any one selling cakes or buns except for some special occasion as marriage and burial parties. The circumventing of this law was outrageously easy. The women but made the more buns and cakes and pies. Overcoming all original legal obstacles, New England pies and doughnuts rose to lasting celebrity. The very law designed to lessen their consumption led to the housewives' becoming the greater adepts in making them.

To a liberal age the intense opposition of the Puritan ministers and church elders to mirth and leisure seems incomprehensible. But when the peculiar tenets of their faith are explained it becomes clear. One of their most firmly rooted beliefs was that Satan found his readiest prey in the idle. Hence, to baffle his malevolent designs, every one, children as well as adults, had to be kept busy at work, devotion, or some other duty occupying the mind.

With the increase of children in Massachusetts and Plymouth colonies came a new problem. How keep them from the clutches of lurking Satan? To the people of our day the spectacle

of children playing and romping and performing numberless antics and committing perhaps little depredations seems the most natural thing in the world. Not so to the Puritan parsons. These ways, especially on the part of children in their teens, excited growing disapproval and solicitude. Where could these outbreaks lead but to perdition? Such ebullience imperiling the soul and threatening the State had to be held down.

At the ministerial prompting laws were passed to regulate child life. Plymouth Colony, in 1641, ordered all poor children to be put a fitting employment. The Puritan lawmakers of Massachusetts Colony on June 14, 1642, adopted a far more sweeping law. It might have been appropriately entitled, "An Act to Frustrate Satan."

It opened with a scolding of parents and masters for their great neglect; they were not properly training their children "in learning and labor and other employments" which might be "profitable to the commonwealth." This was an evil, and the authorities of every town were commanded to eradicate it. If they failed they were

to be indicted by the grand jury and fined upon conviction.

These officials were directed to examine all parents and masters from time to time and find out how the children were occupied. They were especially instructed to inquire into the children's "ability to read and understand the principles of religion and the capital laws of the country." Anticipating that many parents or masters would object to this prying, the lawmakers were careful to provide a fine for refusal to furnish information. The town authorities were given the power of seizure; they could take away children the parents or masters of whom they judged "not to be fit" to do the rearing. These children were then to be bound out as apprentices.

Then came a section of the law showing the extraordinary length to which repression of children was carried.

All apprenticed children were to be trained to some useful trade. But their intercourse was to be so controlled "that boys and girls be not suffered to converse together as may occasion any wanton, dishonest or immodest behavior." Talk that in our age would be dismissed as the

inconsequential effervescence of youth was then scowled upon as ominous, a probable enough prelude to evil deeds. But as Satan was an invisible fiend, suspicion had to be fastened upon corporeal beings, and it therefore was fixed upon every motion and gesture of boys and girls.

To make sure that boys and girls would be kept at work and punctiliously observe regulations, selectmen were ordered to apportion towns into districts. Each selectman was to keep sharp watch over a certain number of assigned families. That no family or tradesman could plead lack of equipment for not putting the children at work, the law authorized the town officials in necessary cases to provide tools, and materials such as hemp and flax. "And if," the finale of the law read, "they [the officials] meet with any difficulty or opposition that they cannot well master, they can have recourse to any magistrate."

Child life was an endless round of duties. But toil, sermons, prayer, catechizing, and lectures were by no means all that had to be uncomplainingly endured. Boys and youths from ten to sixteen years old had to undergo military train-

ing in bow-and-arrow and pike practice as well as in that of small guns. A Massachusetts Colony law of May 14, 1645, compelled this.

In addition, there was another duty which, however, should be placed in a somewhat different category. It was that of education. The original educational motives and methods of the Puritans were not those of broad general development. The preëminent aim was to recruit students for the ministry; this was distinctly stated in the Massachusetts law of 1646. When that same law urged "the necessity and singular use of good literature in managing the things of the greatest concernment in the Commonwealth" it meant Scriptures and sermons. These were the good literature the Puritan leaders had in mind.

This purpose was amplified in the act of 1647. The provisions of this law made it an indictable offense for townships not to establish and maintain schools. "It being one chief project of Satan to keep men from the knowledge of the Scripture," the preamble of this law began, ". . . and to the end that learning may not be buried in the graves of our forefathers"—every

township having fifty householders was requisitioned to appoint one of their number to teach such children "as shall resort to him" to read and write. But no teachers who manifested themselves "unsound in the faith" were permitted. This meant that only those of orthodox church membership were licensed to teach, and this for a considerable time remained so. Teacher's wages were paid either by the parents or the masters, or by the inhabitants in general in supplies.

Even although educational facilities were later extended both in Massachusetts and Plymouth colonies and their aims broadened, schools were long virtually extensions of the established church. They were not public schools in the modern sense. Teachers were auxiliaries of the ministers; they carried into the schools the church atmosphere and the strict overseership that the church demanded. They were privileged functionaries of the State, which further subsidized them by exemptions from taxation. Generally their students were only those whose parents could afford to contribute.

Every channel of action was filled with aggres-

sive ministerial influence. In the effort to enforce the complexity of laws the well-to-do were not much disturbed; the assumption was that they had the virtue and intelligence to guide their children properly. It was the poorer parents whom the inquisitors unsparingly quizzed, nagged, and worried.

Under this irritating pressure many parents sought to make their children conform to the set trammels. But the irresponsible impulses of youth would often rebel against the crushing grind and constraint. Of the joy of play, the higher freedom of initiative, they were deprived —almost entirely. Any rational society might have confidently expected what happened. Boys and girls would often get into towering quarrels with parents; sometimes the one would begin, sometimes the other.

The Puritan clerical mind was both naïve and solidified. Its surprise was enormous that laws did not answer expectations, yet never did it think of either questioning the wisdom of laws or of analyzing their palpable effects. Laws, laws, laws were its perpetual demand.

Death for cursing or striking parents was de-

creed by the Massachusetts Colony law of November 4, 1646. This was to be the fate of any boy or girl more than sixteen years old and of sufficient understanding. There was no ambiguity in this law. Whatever child of that age, it said, who "shall curse or smite their natural father or mother, he or she shall be put to death." The only allowances for mitigation of this sentence were proofs that "the parents have been very unchristianly negligent in their education of such children, or so provoked them by extreme and cruel correction, that they have been forced thereunto to preserve themselves from death or maiming."

As it stood the law was drastic enough. But there was more death-dealing in it.

The laws themselves, which were so many conspiracies against the legitimate needs of youth, drove many a juvenile into escapades or misdeeds of one sort or another. These might be tippling, or card-playing and dice-throwing in barns or in the woods, or they might be defiance of the moral code. Any youth transgressing overmuch was stamped by this law of 1646 as "a stubborn and rebellious son." To us of the present age

a boy of sixteen is regarded as an undeveloped stripling. But that law classed the sixteen-year-old as being "of sufficient age and understanding." He was supposed to be endowed with adult qualities, and virtually expected to act with the sense and gravity of maturity.

In the case of any son, the law went on, "which will not obey the voice of his father or the voice of his mother, and when they have chastened him will not hearken unto them, then shall his father and mother being his natural parents, lay hold on him and bring him to the magistrates assembled in the Court." Upon their producing sufficient testimony "that their son is stubborn and rebellious, and will not obey their voice and chastisement, but lives in sundry notorious crimes, such a son shall be put to death."

This law was meant in stern earnestness. In fact, its substance was copied in a Connecticut law of 1650. Yet although it was long a live law, in neither colony did officials dare enforce the extremity; no record is extant of a single child executed.

Did such affrighting laws deter all youths? They did not. Upon adventurous youths of

strong will the frequent effect was only to enkindle a furious dare-devil spirit. The embargo on normal self-assertion turned their thoughts toward illegal enterprises, and gave these a distinctive flavor because of the very dangers involved. Some youths shirked work; others both did that and took to tippling. The lawmakers could not bethink themselves that in their own laws were salient provocative causes; characteristically, they cast the blame upon "enticers." Their law of October 14, 1651, ordered that youths be kept from idleness and dissipation, and subjected "enticers" to fine.

Our generation, which has put into force enlightened practices and laws as to the treatment and development of children, does not have to be told what would happen if youth were denied adequate play and amusement. But the Puritan legislators were astonished that children would not pattern themselves according to a set of rigid laws.

From the ceaseless foundry of laws another act issued on August 22, 1654. It lamented that "divers children and servants do behave themselves too disrepectfully, disobediently and dis-

orderly toward their parents, masters and governors." Whenever legislators in general of that period could not think of any other remedy, or did not wish to, there was always the easy and inexpensive resource of whipping. That was what this law decreed. Any child or servant (they were often one and the same) convicted of such unruly conduct was to be corporally punished by as many as ten stripes "or otherwise" for each offense.

These punishments, however, were rarely inflicted upon children in public. What this law did was virtually to sanction severe chastisement at the hands of masters, overseers, or parents. It was not an uncommon procedure of the Puritan and Pilgrim courts to sentence even women to a castigation from their husbands. For instance: Joane, wife of Obadiah Miller, of Taunton, was arraigned in court, on March 6, 1655, "for beating and reviling her husband, and egging her children to help her, bidding them knock him in the head, and wishing his victuals might choke him." The court record detailing the case concludes laconically, "Punished at home."

CHAPTER IX

YOUTH A HIGH CRIME

PLAYING on Sunday had hitherto been considered unbecoming and was ranked as a sin. The reproof and flogging depended upon to correct recalcitrants had not met with the hoped-for success. Abuses were numerous, the General Court of Massachusetts Colony set forth when, on August 30, 1653, it created a new law. To play, saunter, or sport on Sunday was now made a positive misdemeanor, and greater responsibility was put upon masters and parents by making them subject to fine or indictment.

As its justification, this law ruefully itemized the list of transgressions on the Lord's Day. Children played in the streets and other places; youths, maidens, and other persons went about "uncivilly walking the streets and fields," or took to sports, drink, or other practices. In those or other ways "they misspend that precious time

which things tend much to the dishonor of God, the reproach of religion, grieving the souls of God's servants." In stern terms the law gave notice that no children, youths, maids, or others should continue these transgressions "on penalty of being reputed great provokers of the high displeasure of Almighty God."

All parents and governors of children more than seven years old ("not," the law explained, "that we approve younger children in evil") were to be admonished for the first offense committed by their children. For the second offense they were to be fined five shillings; for the third, ten shillings; and they were to be indicted for the fourth. In the case of all offending youths and maids more than fourteen years old and of older persons a similar grading of punishments was decreed and they were all, youths and maids as well as adults, to pay their own fines. If unable or unwilling to do so, they were to be whipped by the constable, not more than five stripes for ten shillings fine. Copies of this law were to be posted conspicuously on all church doors for a month at least.

The strictly pious were highly gratified. Min-

isters and church elders were now confident that they had an effective law. Among those who saw nothing evil in playing on Sunday the first feeling was one of depression.

But when the provisions of the law were carefully examined, the gladsome word was passed around that there was a way—a partial way, it was true, but still a way—of evading it. In unmistakable language the law read that the punishments named were to be incurred for violations during only the *daytime* of the Lord's Day. It was a standing enjoinment of the Puritan church that Saturday afternoon and night should be given to studious preparation for the morrow and that Sunday night was an integral part of the Sabbath. Why the law of 1656 omitted including them is something that cannot be ascertained. Possibly it was assumed that with the young compelled to stay indoors at night and sent to bed early there was slight danger of frolics abroad.

This law was passed at a time in the summer when the sun is tolerably high. Evidently, the lawmakers overlooked the patent fact that seasons come when the sun sinks early, leaving a

considerable margin of daytime. But the law specified daylight, not daytime. This was a most important and welcome distinction to those hankering for play. Obeying the letter of the law, they would impatiently watch for the sun to set, and then feeling secure would exhilaratingly betake themselves to diversions.

Just why the Puritan lawmakers waited five years before launching another law is inexplicable. The General Court, however, came to it on October 19, 1658. The law opened:

> Whereas by too sad experience it is observed, the sun being set, both every Saturday and on the Lord's Day, young people take liberty to walk and sport themselves in the streets and fields in the several towns of this jurisdiction . . . and too frequently repair to public houses of entertainment and there sit drinking, all of which tends not only to the hindering of due preparation for the Sabbath, but inasmuch as in them lies renders the ordinances of God altogether unprofitable, and threatens rooting out of the power of godliness, and procuring the wrath and judgments of God upon us and our posterity.

It was ordered that every one found sporting in the streets and fields either on Saturday night

or after sunset on the Lord's Day was to be fined five shillings or whipped. Likewise, anybody (except strangers or sojourners) drinking or even being in any house of entertainment on those nights.

In ensuing years further laws to prevent profanation of the Lord's Day were enacted, but all proved ineffectual.

Distaste for liquor had never been a general Puritan trait. Objections of lawmakers had not been to liquor but to the prices charged, as laws forcing a lower schedule showed. With constables and other church members on the alert to detect those playing on Sunday, more and more young people felt themselves driven to the seclusion of inns and other resorts and haunts. To cope with this condition, the General Court, on October 15, 1679, created a series of fresh inquisitorial commissions, composed of the tithingmen of each town. More than ordinary spying commissions, they were invested not only with search and seizure powers but with magisterial functions to proceed criminally against offenders.

They were required to inspect all houses, licensed and unlicensed, where they had reason to suspect illicit liquor selling or tippling, gambling, or other evil conduct. They had to inspect the manners of all disorderly persons, and to report to the grand jury "the names of stubborn and disorderly children and servants, night walkers, tipplers, Sabbath breakers, and such as absent themselves from the Church." Also they were required "to inspect the course or practice of any person whatsoever tending to debauchery, irreligion, profaneness and atheism amongst us wherein by omission of family government, nurture and religious duties and instruction of children or servants, or idleness, profligate, uncivil or rude practices of any sort." All such culprits were to be fined or imprisoned. Cumbrous and involved as was the phraseology of this statute, its meaning was not obscure.

Did weight of law and prying inquisitors abolish play and sports? Not in the long run. Forth came another onslaught of law on October 22, 1692, after the combining of Massachusetts and Plymouth colonies. All persons were solemnly warned carefully to apply themselves, publicly

and privately, to duties of religion and piety on the Lord's Day. Old laws were repeated forbidding tradesmen, artificers, laborers, and others, on land or water, from doing any business or work, except that of charity and necessity, on that day. No game, sport, play, or recreation was allowed on the Lord's Day "or any part thereof." Swimming was prohibited, as also was "all unnecessary and unseasonable walking in the streets and fields." The penalty was a fine.

With the passing years the ministerial group found that not only did play persist but new, strange, exotic amusements came in. If there was anything to which Puritan church upholders were averse, it was art and music. Their churches were built in severe style, with the barest interiors. To stringed instruments and the organ they had the strongest objection. One powerful reason for this opposition was their associating decoration and melody with the cathedrals of Roman Catholicism, every suggestion of which they repudiated.

The vogue for music, singing, and dancing began among the families and intimates of the royal officials in New England. Then it spread

Courtesy of Duffield & Co.

among the rich. So long as it was confined to these classes, the lawmakers did not venture to interfere. But when it spread farther and became a popular passion the parsons were highly alarmed. In vain did they denounce it as a poisonous evil which no upright person should tolerate. Some of the very youths and misses listening to their exhortations would, when occasion offered, enthusiastically yield themselves to the whirl enlivened by the stirring notes of the violin or pipe.

Suppression by mandate of law was finally determined upon. The act of March 19, 1712, aiming to do this was typically entitled, "An Act against Intemperance, Immorality and Profaneness." By this slurring wording it at the outset threw the onus upon singing, dancing, and music as being hostile to morality. The taverns of that time were not merely eating- and drinking-places but resorts for general amusements. It was to them that what were called ordinary people went. This law prohibited at all times fiddling, piping, or any other kind of music in taverns or other public houses. It equally forbade singing, dancing, or reveling in those places. For viola-

tion the master of the house had to pay ten shillings fine, and every person present five shillings.

To root out the same amusements elsewhere, the law prohibited them at night in any part of any town. No one, either singly or in company, was to presume to sing, dance, fiddle, pipe, "or make any rout or other disturbance, to the disquiet and distress of the inhabitants." This solicitude for mental comfort had no connection with the quality of the music. To the orthodox all music, singing, and dancing, whether good or bad, was repugnant. The offender was liable to one of four varieties of punishment: Five shillings fine, whipping, imprisonment, or a session in the stocks or cage.

Without the slightest realization that every new statute on the subject was a virtual admission of the lack of success of Sunday laws, the General Court of Massachusetts included in the act of 1712 provisions "for the more religious observance of the Lord's Day." No one was allowed to play, sport, or loiter in the streets and fields, or about the wharves. Whoever was convicted was to pay five shillings fine, or suffer

twelve hours' imprisonment or two hours in the stocks.

This law had no more effect than previous laws. Five years later—on November 26, 1717—it was held necessary to pass another Lord's Day law. Any one working, doing business, or indulging in any game, sport, or recreation was to be fined ten shillings for the first offense, and twenty shillings for the second and to give bonds for good behavior. Persons that for a month neglected to attend church were open to indictment and a fine of twenty shillings. The alternative of non-payment in all cases was three hours' confinement in the stocks or cage.

The enumeration of successive laws may be a tax on patience, but it is important as showing how indomitably the ministers tried to bring about a perfect Sabbath, and how as often their efforts failed. The Puritan legislators could see neither the moral nor the humor of their frequent acknowledgments of failure; they clung to the delusion that by increasing fines and other punishments they could somehow attain their object.

So another law was added on December 27, 1728. This date, as is evident, was two days

after Christmas. To moderns this may seem a singular time to have passed a law. But to orthodox Puritans Christmas celebrations were objectionable as savoring too much of the practices of "Papists." In fact, the General Court of Massachusetts had, in 1659, made the observance of Christmas a punishable offense. Although in the next generation there was a growing disposition to celebrate it, the pillars of the church adhered to the old opposition. This prejudice against Christmas as a festival long survived in certain parts of New England.

"Notwithstanding the many good and wholesome laws made to prevent the profanation of the Lord's Day, some wicked and evil-disposed persons do yet presume to do unnecessary work." Thus a Massachusetts law of 1728 introduced itself. "For the more effectual preventing such vile and unlawful practices," it increased the fine for working, doing business, playing, etcetera, to fifteen shillings for the first offense, and thirty shillings for the second, with bonds required for good behavior. Failure to pay the fine meant four hours in the cage or stocks or five days in jail.

To circumvent former laws against swimming on Sunday, many lads and a goodly number of men had taken to swimming in the dusk of Saturday and Sunday, when they could not easily be seen. The law of 1728 specifically prohibited swimming, not only on Sunday but also on Saturday evening. It forbade funerals on Sunday except those specifically licensed. Needless to say, it reiterated, with heavier penalties, former laws against walking, promenading, or riding in streets, lanes, roads, and fields.

By a Massachusetts law of 1746 all precedent Lord's Day laws were declared in full force. Arrests and convictions had been made all along; yet numbers of people refused to be made pious by law, and infractions of the Sabbath continued. The church element prodded the legislature for still another law, and obtained in 1761 what it wanted. This law did more than repeat the inhibitions of previous laws. It established inquisitorial commissions in every town. We shall give a description of these in a more appropriate place later.

Connecticut had much the same Lord's Day laws. In that colony even Indians were pro-

hibited from playing on Sunday. A law of May, 1667, decreed this. Walking the streets on Sunday evening, and singing and dancing in houses of public entertainment at all times, were forbidden by a Connecticut law of May 13, 1686, which ordered the authorities "to put on a spirit of courage in receiving the complaints" and executing the laws "with such severity that others may hear and fear."

Young folks decided that they would not be cheated of diversion. Evening social parties became their mode of enjoyment. The Connecticut General Court pursued them with a new law in October, 1709. It prohibited all such gatherings on Sunday evenings, fast days, and Thursday lecture days. Comminglings that in our time are regarded as proper and natural were then held by ministers and lawmakers to be "disorderly parties."

By threatening each offender with a fine of five shillings or two hours in the stocks, the lawmakers thought that these social parties would be broken up. The young people, however, contrived to outwit the law. It clearly read "that this act shall not be taken or construed to hinder

the meetings of such single and young persons upon any religious occasion." What, then, was to prevent young men and women from meeting and with solemn faces opening what seemed to be a gathering solely for piety's sake? Having complied nominally, at least, with the law's requirements, they would then unbend and immerse themselves in subdued mirth, exchanging pretty compliments, indulging in gay sallies, and giving smiles free play.

For a time the ministers were deceived. When they realized just what the import of those "religious parties" was, they were enraged. They demanded a severer law, and obtained in October, 1715, "An Act to Prevent Unseasonable Meetings of Young People in the Evening after the Sabbath Day and at other Times." It directed constables and grand jurymen in the various towns to walk the streets and search all places suspected of harboring or entertaining illegal parties. These officials were not always anxious to carry out instructions too literally; they might at any time be confronted by their own sons and daughters or nephews and nieces participating in sequestered social parties.

How ineffective all of the Connecticut Lord's Day laws were, may be judged by the irate contents of a new law passed in 1721. It read:

That whatsoever person shall be guilty of any rude and unlawful behavior on the Lord's Day, either in word or action, by clamorous discourse, or by shouting, hollowing, screaming, running, riding, singing, dancing, jumping, winding horns or the like, in any house or place so near to any public meeting house for divine worship that those who do meet there may be disturbed by such rude and profane behavior, and being thereof convicted, shall incur the penalty of forty shillings, money, for each offense.

Whatsoever person shall be present at any unlawful meeting, or be guilty of going from the place of his or her abode, and unlawful behavior on the Lord's Day contrary to this act, and being convicted and fined shall refuse to pay within the space of a week after conviction shall be sent to a house of correction to lie at his or her own charge and be employed in labor not more than a month for any one offense. The profit of labor goes to the town treasury and the sheriff of the county.

No delinquent convict shall have any review or appeal but charges must be brought and accused prosecuted within a week after commission of the breach.

A formidable law; yet it, too, was barren of permanent results.

The Lord's Day laws of other colonies came later than those of the Puritans, and in a measure were patterned after them. In its law of 1673 prohibiting games, work, and other recreations and occupations on Sunday, the Rhode Island General Assembly expressly declared that it did this not to oppose or propagate any worship but as a preventive of debaseness. Another Rhode Island law followed on May 7, 1679, inflicting a punishment of three hours in the stocks or a fine of five shillings upon any person presuming to sport, game or play, shoot, or tipple on Sunday.

New York and New Jersey began in 1675 specifically to prohibit play, recreations, and servile work on Sunday. In both colonies the law was largely resented and ignored. The New York General Assembly, on November 3, 1685, set forth how the Lord's Day was neglected and profaned, and in the act that it passed on that day prohibited everything which clerical zealots believed interfered with Sabbath observance. Pastimes were forbidden as well as worldly labor, hunting, shooting, horse-racing, and other acts. A fine or a public sitting of two hours in the

stocks for every offense was prescribed. These prohibitions were repeated in a law of October 22, 1695, increasing the stocks treatment to three hours, and providing that an Indian or Negro slave or servant receive thirteen lashes across the bare back for each offense: This was the last Lord's Day law passed in New York for a long time. Neither the officials nor the upper classes of New York took such laws too seriously, and the same was then generally true of those of New Jersey.

Pennsylvania's first Sunday laws were of a liberality that the Puritan sticklers would not have tolerated. "That looseness, irreligion and atheism may not creep in under pretense of conscience," the law of November 27, 1700, simply decreed that people should spend the day at home, reading "the scriptures of truth," or attend whatever church suited them. The law of January 12, 1706, was even more generous. It allowed dressing of victuals of families, cook-shops, or victualing-houses; it legalized the landing of passengers by watermen on Sunday; it permitted butchers to kill animals and sell meat and fishermen to sell fish on Sunday mornings during June, July,

and August; milk venders could cry forth their presence before nine in the morning and after five in the afternoon on Sundays. The Quakers no doubt thought that good Sunday meals were a strong prop to piety.

During the latter part of the eighteenth century, cock-fighting, horse-racing and shooting-matches, with other such sports became Sunday indulgences in the realm of the Quakers. Whipping up influential public sentiment against these practices, church leaders took advantage of the occasion to have a law enacted, on March 30, 1779, forbidding play, games, sport, or any other kind of diversion on Sunday. Milk could still be sold before and after certain hours, victuals dressed, and passengers landed from boats, but almost everything else was prohibited. Violations meant a heavy fine or a stay in the workhouse. Further Lord's Day laws were passed in 1786 and 1794. Under the 1794 act the buyer of articles on Sunday could be convicted as well as the seller.

The Georgia law of 1762 forbade play and games, and other colonies had similar laws.

After the Revolution the clergy were shorn

of their political power; yet by means of their compact associations and their agitational force they at times succeeded in influencing some legislatures. Many of the old blue laws were continued, or new ones enacted.

The New Jersey law of April 15, 1846, is a vivid example. Under the guise of "An Act for Suppressing Vice and Immorality" it prohibited nearly every human activity on Sunday except breathing, dressing, eating, and church going. Driving, sledding, singing, "fiddling or other music for the sake of merriment," games and sports of all kinds, and fishing were among a host of amusements that were not allowed. Policemen took a lenient view of the situation—a view often enlarged by the proffer of a suitable consideration.

In Pennsylvania, where public opinion was comfortably sluggish, the law of 1794 long was retained. For nearly a century thereafter there were intermittent convictions under it. The courts there decided in 1852 that a barber broke the law by shaving a customer on Sunday. Frequently ministers would raise outcries about breaches of the Lord's Day, and officials would

make a show of bestirring themselves. Barbers, cigar sellers, and other Sunday violators were often arrested and sent to prison even in the early eighties. Although in a state of quiescence, some of the musty old laws still hold good as unrepealed statutes.

The most trivial infraction of old blue laws in Massachusetts was long proceeded against criminally. A typical case was that of James and Gamaliel Simpson, farmers near Scituate. On November 25, 1864, there was a storm which threw up on the beach a large quantity of seaweed. Needing this for manuring land, the Simpson brothers, armed with a license from the shore owner, went to the beach when the tide was low, loaded the seaweed into a cart drawn by oxen, and took it to their farm. They were arrested, charged with working on the Sabbath, and convicted, although the court recognized the fact that "the seaweed might have been floated away or injured unless removed at the time in question." To the great delight of the ministerial forces, the conviction was upheld by the Supreme Judicial Court of Massachusetts in October, 1867.

Another illuminative case was that of Charles S. Josselyn, convicted in 1866 of "hoeing a field on the Lord's Day." He was a shoemaker, and had a garden back of his house which badly needed hoeing. The judge admitted that Josselyn possibly had no time to complete the hoeing on week-days; yet it was enough, the judge instructed, to prove that he worked on Sunday and that it was not "a case of charity or necessity." Convicted, Josselyn appealed to the Massachusetts Supreme Judicial Court, which body sustained the conviction on the impressive ground "that there was nothing to show any necessity for the defendant's labor on that day."

As cities grew larger, the population became diversified, and liberalizing influences spread, in many States it became increasingly difficult to enforce the old laws. Yet antiquated laws themselves, like so many moldy legacies of the past, remained on the statute books. It was not until very recent years that baseball playing on Sunday afternoons was legalized in the cities, towns, and villages of New York State, provided that consent of local authorities be given.

CHAPTER X

WOE TO WOOERS

NOW rises the president of the National Anti-Divorce League of the United States with a program that doubtless satisfies him and his organization as original and epochal. One of its features, according to published reports, is the demand for laws providing for the advertising of marriage applications sixty days before the wedding.

A clergyman with all the tokens of a militant reformer may at once be acquitted of any ulterior aim to swell advertising revenue. This one hails, 'tis said, from Henrietta, Oklahoma. Obscure though such a town may be, it must be mentioned with the deference born of experience, for it is in such out-of-the-way spots that crusades often originated which later swept cities, States, and even the nation. No doubt Henrietta is as good a place as any to sprout an idea. It happens,

however, that this idea is a very old one—something that reform promoters may not know but nevertheless is a fact.

Back to the fountain head—at least in America—we go again. Need it be said that the Puritan master spirits with their inexhaustible zeal for regulating did not overlook marriage? Not they! Problems that baffled the wisest of many a generation they thought they could solve by the simple stroke of passing a law or two. So they went even farther. They established their control—or tried to—over the jealously guarded domain of wooing itself.

One of their earliest fiats was against clandestine marriages. It might be supposed that in a sparsely settled country, greedy for population, they would have welcomed any kind of marriages, secret or not. But principles counted more than population. Puritan churchmen thought only of faith and form. Conduct not squaring itself in every detail with formulas was utterly wrong.

A fixed canon of theirs was that God had entrusted to parents the power of disposing of children. Hence it was a divinely endowed right

of parents to make or unmake matches. If attachments met with parental approval, they were right and blessed of Heaven; if vetoed, they were bad and accursed. To act counter to the will of parents was set down as one of the wickedest of sins.

Now, these dogmas did not mean that children were regarded as chattel property. Their welfare was an item of consideration. They were supposed to be reckless by the mere fact of youth, and unable to steer themselves properly in the hazardous waters of matrimony. In all other actions, as we have seen, youths more than sixteen years old were more or less credited with a mature understanding and held strictly accountable. But in matters matrimonial youths and misses were viewed as green and tender sprigs to be sheltered from the raw blasts of mischance.

However well intentioned this guardianship, life beckoned otherwise. It taught the offspring of unhappy unions that they could not do worse and perhaps would do much better by voluntary, independent choice of mates. The incendiary Cupid was ever playing strange pranks. He often assorted couples in his own way, careless

of their differences of standing and circumstances. In the grand design of nature it was an excellent method of leavening. But it aroused unphilosophical ire in the higher classes keen to maintain their order intact. No actual legal restrictions existed to prevent lovers from marrying and then at their leisure heralding the event.

Repetitions of these surprise parties moved Puritan legislators to action. A Massachusetts Colony law of September 9, 1639, ordered that notice must be published fourteen days before marriage.

The idea was not a Puritan invention. The publishing of banns had been an ancient custom in Europe, dating from ecclesiastical legislation in the year 1215 A. D. Its purpose was to allow opportunity to those having objections to a marriage to state them to the proper authorities.

Connecticut, the almost invariable echo of Massachusetts, followed suit the next year. "Many persons entangle themselves by rash and inconsiderate contracts for their future joining in marriage covenant, to the great trouble and grief of their friends," asserted its law of April 10, 1640. To avoid that evil, the law said, all

marriage contracts had to be published in some public place and announced at some public meeting in the town where the parties dwelt, at least eight days before their engagement, and there had to be another interval of eight days before the wedding.

Obediently as such laws had been accepted in Europe, where the castes and divisions of society were rigidly fixed, their effect was not the same in America, the primitive settlement of which bred a passion for adventure and a sense of independent position. Confronted by the marriage laws, many lovers, despairing of parental sanction, resorted to secret meetings. Clandestine courtship spread.

To Puritan disciplinarians this irregular kind of wooing signified deep evil. To be proper, all attentions to damsels had to be formal, restrained, ceremonious, and safeguarded by witnesses. Indeed, lovemaking in all circumstances was codified by Puritan theologians as one of the sinuous, ingratiating ways by which Satan achieved foul possession. Romance, as one of Satan's prime instruments, had no place among

a God-fearing people. It was associated in the Puritan mind with original sin.

The Massachusetts law of November 11, 1647, prohibiting clandestine courtship was a typical product of the Puritan theocratic blinkards. There was no recognition of the fact that some courtship might be artless and innocent. There was no trace of suggestion that perhaps young ladies might in some cases initiate sentiment and in general reciprocate it. No; the young men were a set of wily despoilers, playing upon impressionable hearts for their own base aims. The law did not intimate this; it plainly said so. It was a common practice in divers places, the law declared, for young men to watch all advantages for their evil purposes, and to insinuate themselves into the affections of young maids "by coming to them in places and seasons unknown to their parents for such ends, whereby much evil has grown among us to ye dishonor of God and damage of ye parties."

Clandestine courtship was penalized. This law ordered that upon conviction a five-pound fine was to be paid for the first offense, and ten

pounds for the second; and for the third a prison sentence was to be inflicted.

In Plymouth there were similar laws. Neither there nor in Massachusetts Colony were they allowed to be inert. Parents would frequently invoke them to get rid of suitors that did not please them either personally or because of failure to meet the requirements of family calculation or ambition.

Such a case was that of Arthur Howland, junior. He was brought before the court, on March 5, 1666, charged with courting Elizabeth Prence against her parents' will. The presiding judge was named Prence, but what relation he was to Elizabeth is uncertain. The court record reads:

> Arthur Howland, Jr., for inveigling Mistress Elizabeth Prence and making motion of marriage to her and prosecuting same contrary to her parents' liking and without their consent, and directly contrary to their mind and will, was sentenced to pay £5 and to find sureties for his good behavior, and in special that he desist from the use of any means to obtain or retain her affections as aforesaid.

Arthur was not released from bonds until July, 1667. Of the final outcome of this shattered romance no hint is given.

Did these laws against secret wooings and secret marriages ensure superior morality? An examination of the court records shows most emphatically that they did not. The aftermath of frailties was large and continuous—a statement which is no exaggeration. The vice of excessive legislation tended to expand the very evils it sought to avert.

This was also true in other colonies imitating Puritan laws. Maryland was one of these. By a law of September 20, 1704, Maryland required three weeks' publication before marriage, and the affianced then had to get a license from a minister or the court. Any person violating this act was liable to a fine of one thousand pounds of tobacco, and any minister or magistrate performing a marriage ceremony without previous publication and license was liable to a fine of five thousand pounds of tobacco. Here, too, as in New England, many lovers could not brook delays, and had to answer in court for the results of their impatience.

There was, however, a singular kind of courtship in New England which neither ministerial denunciations nor bombardment of laws could overcome. It was called "bundling," and was supposed to have come about as a necessity in the frontier regions of Massachusetts and Connecticut. Cabins had only a room and a loft. The family usually slept in the lower room, the temperature of which was more endurable in extremes of hot or cold weather.

After working hard all day, a young man would often tramp a long distance in the evening to pay court to one of the daughters of such a family. Naturally, parents would not be so inconsiderate as to expect him to trudge back home that night. It was the understood thing that he should stay.

In winter parents went to bed early or, lacking a bed, lay on the floor and covered themselves with blankets or skins. To keep warm the sweethearts while talking would drape themselves with blankets and skins. The custom gradually spread, and was accepted as a commonplace of life in many places. It was thought by backwoods and fishing-village people appropriate to

the circumstances and an innocent expedient. Sometimes, it is related, matters would go awry, but not as much so as in the upper social ranks, where very dissimilar methods of courtship obtained. In the communities where "bundling" went on, no young woman, whatever the results, ever lost social standing; if she were known to have committed a mistake, it was palliated, and it did not interfere with her marrying later and retaining general local esteem.

"Bundling" continued until about the advent of the nineteenth century. Cape Cod folk, it is narrated, were the last to abandon it.

CHAPTER XI

CLOSED TO TRAVEL

UNTIL recently the majority of our population was rural. The 1920 census showed that for the first time in the nation's history the urban population surpassed that of the country districts. Persons living in cities and towns of more than 2,500 numbered more than 51 per cent. of the total inhabitants. In States such as Massachusetts, New York, Pennsylvania, New Jersey, Ohio, Illinois, Michigan and California the population is overwhelmingly or largely urban.

With this increase of city population has grown the custom of out-of-town jaunts on week ends or Sundays. Formerly this journeying was limited mainly to the well-to-do and restricted chiefly to the clement months. But the custom has spread until now all classes, as opportunity offers, are habituated to it. When cities

were smaller it was the summer heat that drove people to country or seashore; the rest of the year was endurable. Such is the prodigious expansion of cities and the multiplication of their activities, with the consequent strain upon nerves, that working people as well as the wealthier element find an escape between business weeks highly refreshing. There is no longer a dependence wholly upon summer vacations. Trolleys, electric railroads, and automobiles, affording easy and speedy means of traveling, have powerfully stimulated the general zest for frequent relief from city confinement.

Is it possible that a state of affairs can be brought about whereby railroad, trolley, and boat transportation will be drastically restricted on Sunday? Some organizations intent upon establishing by law a closed Sunday believe that this can be done.

Representatives of one of these organizations recently drafted a Sunday-observance bill (the Temple Rest Bill) for introduction in Congress applying to the District of Columbia. It provided that under the authority of the interstate

commerce clause of the Constitution of the United States no railroad should operate any train on the first day of the week in the carrying of interstate traffic, nor should any corporation engaged in interstate commerce or carrying on business under the laws of the United States engage in any form of business on Sunday. Application to the District of Columbia was regarded as merely a first step, to be followed by endeavors in various States. In fact, in January, 1921, a bill was introduced in the Tennessee Senate to bar the operation of all passenger and freight trains in that State on Sunday, and this was reported to be the forerunner of a series of bills aimed to prohibit Sunday newspapers, the opening of stores on Sunday, and all forms of Sunday amusement.

The Lord's Day Alliance of the United States denies that it proposes a total abolition of Sunday transportation. It has not, it says, asked Congress to forbid Sunday railway trains. It has gone only so far, it appeasingly assures, as to favor reducing Sunday transportation to the point of what necessity requires. But to just

what kind of Sunday travel it is opposed it makes plain in an official statement which says:

> Congress has ample interstate power to forbid unnecessary railroad traffic. We have, however, frequently urged the illegality and injustice of the running of excursion trains upon the Lord's Day at a price lower than that of week days as unfair to Christians who have conscientious objections against using this holy day as a holiday, and also as contrary to public policy, because it interferes with the observance of a day on the preservation of which the morals and political permanency of our Nation are based.

The Lord's Day Alliance thus evidences that it is especially against popular methods of traveling.

Although disavowing any present intention of restoring the Puritanical Sabbath, the alliance nevertheless "would recognize and seek to preserve the true Puritan heritage." It therefore becomes of pressing interest to inquire further into the precise character of that heritage.

It was not until many years after settlement that the Puritan theocracy ventured to forbid Sunday travel. The first Massachusetts Colony law was that of August 30, 1653, a sweeping pro-

hibition of romping, playing, walking the streets, and sporting on Sunday. It also forbade traveling from town to town and going on shipboard. The obvious aim was to leave people no choice but to go to the established church.

This law was at first evaded by means of nocturnal pilgrimages. On Saturday night youths, men, and sometimes women would make forced marches or quick rides, contrive to be back the same night, and next day would show themselves with sanctimonious promptitude at church services. But when the Quaker creed began to take hold, its adherents simply ignored the law. Their minds were bent upon worshiping in their own way, and go they would whither they would.

To stop them another law was passed. Opening by forbidding servile work (except that of piety, charity, or necessity) on Sunday under heavy penalties, the law of October 14, 1668, specified:

> Any persons traveling upon the Lord's Day, either on horseback or on foot, or by boats in or out of their own town to any unlawful assembly or meeting not allowed by law, are hereby declared to be profaners of

the Sabbath and shall be proceeded against as the persons that profane the Lord's Day by doing servile work.

Yet the Quakers were not more resistant to such laws than were the Puritans themselves. Tradesmen chafed under them; lovers scorned them. What happened may be judged from the law of October 15, 1679. It recited how the Sabbath was profaned and "disorders" created on Saturday night by horses and carts passing late out of the town of Boston. To prevent this weekly exodus it was ordered that a corps of watchmen should be kept at their posts from sunset to nine o'clock. No footman, horseman, or cart driver was to be allowed to leave town without first giving a good account of the necessity of his business. Any one traveling after sunset on Saturday and not giving this satisfaction was to be arrested and proceeded against as a Sabbath breaker. All towns in Massachusetts Colony were empowered to act likewise.

Watchmen were of varied fiber. Some were grim and inapproachable, others easily thawed into congeniality by amicable tenders. There

were those sympathetic to the law and those secretly unsympathetic. Other considerations came in. How could a watchman be severe on a tradesman to whom he or some member of his family was in debt? Could he have the heart to turn back a traveler to whom he was under obligation or with whom he was friendly? Moreover, every traveler primed himself with plausible justifications for his journey. All that he need to do when held up and questioned was to tell a touching story of some commission of piety, charity, or necessity on which he was bent. Puritans are portrayed as a stiff, unimaginative people. But they were quick-witted enough when occasion demanded.

In Plymouth Colony, too, avoidable travel on Sunday was a serious transgression. The effect here, also, was to breed fibbers. Often, however, good reasons existed which by their nature could not be disguised. Mariners Josias Hallett and Thomas Gage found one Sunday morning that the favorable wind they had been waiting for had come, and they sailed out of Sandwich Harbor. Upon their return they were arrested, and

on March 7, 1654, fined for traveling on the Lord's Day.

Vainly did the parsons fulminate against Sunday travelers. In 1658 they plied the legislative forge, and forth came a law which they were sanguine would terrify these Sabbath breakers.

"Complaint," the law declared, "is made of great abuses in sundry places of this Government of profaning the Lord's Day by travelers, both horse and foot, by bearing of burdens, carrying of packages, etc., upon the Lord's Day to the great offense of the Godly welafected amongst us." All offenders, it was ordered, should be arrested on sight and fined twenty shillings or else be put in the stocks for four hours "unless they can give a sufficient reason."

No Puritan joke has come down to us, but many a joke must have been cracked over this reservation. Who of ready wit and nimble tongue could not "give a sufficient reason"? There were, however, some who because of enmity incurred were not exempted even when they told the truth. Such a case was Elizabeth Eeddy, who seems to have had a propensity for getting into trouble with the authorities. She was ar-

Courtesy of D. Appleton Co.

The Ducking Stool

rested on the charge of traveling on Sunday from Plymouth to Boston. Her reason, given in court on May 1, 1660, was that "she was necessitated to go on that day, in regard that Mistress Saffin was very weak and sent for her, with an earnest desire to see her in her weakness." The court told her that the excuse was not sufficient, but let her off with a lecture.

Kanelme Winslow, junior, went on horseback to some place on Sunday—where is not stated. He did not conceal the fact that the errand was personal and that he had been disappointed. His futile ride cost him ten shillings fine in court on October 3, 1662. There were similar other cases.

Lawmakers seem never to have been so happy as when making other people unhappy. This did not come from a cantankerous spirit or from a malicious desire to make life dismal. It was a cult with them, instilled by the theocracy, that their main business was to use the whole power of law to overcome Satan's machinations. Laws which favored the rich and pressed upon the poor were justified on the ground that persons of property and standing were responsible and therefore less in need of supervision.

Further laws enacted in 1662 and 1668 against Sunday traveling did not stop it. Convicted of "unnecessary traveling on the Sabbath," John Cooke was fined ten shillings on October 29, 1670. For sailing from Yarmouth to Boston on Sunday, Samuel Matthews, on June 5, 1671, was fined thirty shillings. These are typical of other such cases. But continuously men and women, boys and girls, would manage to avoid detection by the use of bypaths and unfrequented trails.

The Plymouth guardians pondered over what deterrent should next be tried. They finally hit upon the idea of allowing no one to travel on Sunday without a permit. A law to this effect was passed on July 7, 1682.

All the laws of both Massachusetts and Plymouth colonies against Sunday traveling failed of their purpose. When these colonies fused, a new law was enacted by the Massachusetts General Assembly, on October 22, 1692. It forbade all manner of traveling on Sunday except where the traveler was forced to lodge in the woods the night before, and even in such case he was permitted to travel no further than the next inn.

Whatever else they lacked, Puritan legislators

certainly had persistence. Seemingly they never bethought themselves that people in general had as much ingenuity as they—and much more. Every species of ruse and subterfuge was used to circumvent the law, and so successfully that the General Assembly, on November 26, 1717, enacted a new law with heavier penalties. All Sunday travelers were to be fined twenty shillings for the first offense, and for the second offense double that amount, and were also to be bound for good behavior. Failure to pay meant three hours in the cage or stocks. The results of this law were so unsatisfactory that still another was enacted on December 27, 1728, increasing the fines for Sunday travel to thirty shillings for the first offense and three pounds for the second. Non-payment entailed five days in jail or four hours in the cage or stocks.

We shall here interrupt the narrative of Massachusetts laws in order to give attention to similar laws at the same time in other colonies.

CHAPTER XII

AN OPEN ROUTE FOUND

THE Connecticut theocracy disapproved of Sunday travel, but as its church regulations were increasingly violated it caused the General Court to pass the law of May 20, 1668, forbidding all unnecessary travel as well as prohibiting play on that day. The threat of five shillings fine or an hour in the stocks did somewhat deter the timid, but in the following years the habit of promenading on Sunday night became popular. The law of May 13, 1686, largely intended to put a stop to this illegal practice, ordered magistrates to use severe methods against "those that walk the night after the Sabbath." This law could be better enforced than that against travel, for promenaders could be easily detected in the streets of cities and towns, whereas the traveler might avoid espionage by using obscure roads and paths.

By an odd oversight lawmakers had not legislated specifically against captains plying ships on Sunday. The results of this omission were stated in the law of October, 1715:

Whereas, in the *printed law book*, in the law entitled Sabbath, p. 104, no provision is made to prevent vessels sailing up and down the great river of Connecticut on the Sabbath day, *which the masters of vessels taking advantage of*, do frequently and without restraint pass up and down on said day, Be it enacted.

That if any vessel shall sail or pass by any town of the parish lying on the river, where the publick worship of God is maintained, or shall weigh anchor within two miles of said place, *unless to get nearer thereto on the Sabbath day*, any time betwixt the morning light and the sun setting, the master of such vessel shall be liable to the like penalty as if he had departed out of a harbor, any former usage or custom to the contrary notwithstanding.

Ministerial demand for stricter laws against Sunday travel was so urgent that in May, 1721, a law was passed providing that no person should go from his or her abode, unless to and from the public worship of God, except on some indispensable work; the penalty for violation was five shillings in money, for each offense.

Laws were proclaimed in New York and New Jersey, in 1675, forbidding unnecessary travel on Sunday, and making it punishable by fine, imprisonment or corporal punishment. The New York act of November 3, 1685, complaining of the Lord's Day being neglected "by unlawful journeying or traveling" and other practices, decreed that any one convicted should pay a fine of six shillings, eightpence for each offense, or failing to pay be set publicly in the stocks for two hours. The New York law of October 22, 1695, declared that traveling upon the Lord's Day was lawful only when it meant going to church or was required by necessity such as errands of physicians and midwives; and even then the journey was not to be more than twenty miles thence and return. The law, however, liberally explained that its provisions did not extend to any native or free Indian not professing the Christian religion.

In the second quarter of the eighteenth century there seems to have been a general disinclination on the part of legislators to pass more laws against traveling on Sunday. Colonial commerce was rapidly growing; shipping was

increasing; new roads were constantly opened; and the number of vehicles was yearly being augmented. These facts gave a decided spur to travel at all times, Sunday not excepted. Many officials had mercantile connections of some kind and viewed with acquiescence Saturday and Sunday travel as often necessary.

The ministerial forces became alarmed by the rising power of the commercial class which seemed likely to challenge their own. They believed that they should again aggressively assert themselves, and with great energy they campaigned in various colonies for the enactment of new Sabbatarian laws, securing at different times the regulations they desired.

In Connecticut a law of October, 1751, declared that notwithstanding former laws, "yet unnecessary traveling on said day is a growing evil." It was ordered that when any justice of the peace or constable personally saw or knew of any one unnecessarily traveling on Sunday, arrest could be made with or without a warrant. If required, any person or persons could be commanded to give help in arresting the traveler or travelers, and if any one refused to give this

assistance he was subject to punishment. In 1762 the Philadelphia magistrates served notice that the Bordentown boats must no longer sail on Sunday, as had been usual, and at the same time prohibition was put on the Bordentown stage-coach; the proprietors inserted advertisements in the newspapers changing their dates to week-days.

The Georgia act of March, 1762, provided that no person was to travel on Sunday by land or water, except to some place of public worship or to visit the sick.

The sweeping Massachusetts law of 1761 against playing, sporting, and traveling on Sunday created a new inquisitorial commission. It gave the wardens in each town power to enter inns and houses of public entertainment on the Lord's Day, and also "to examine all persons suspected of unnecessarily traveling on the Lord's Day, and to demand of all such persons the cause thereof, together with their names and places of abode." And if such persons should "refuse to make answer to such demands," or should not "give satisfaction to such warden or war-

dens," they were to be reported to a justice of the peace or the grand jury.

Section eleven of this law required the wardens of Boston to go on Sunday through the streets, lanes, and other parts of the wards, and authorized them to demand the names and addresses of any persons whom they should "suppose and suspect to be unnecessarily abroad, and the cause and reason thereof." In case of unsatisfactory answers, or if the saunterers refused, when ordered, to go home by the most direct route, they were to be reported to the court the next day for fine or imprisonment. Likely enough, many of those not personally known to wardens gave fictitious names and addresses.

In 1782 all prior laws against Sunday travel were repealed, and a new law enacted which, it was expected, would effectively overcome this obstacle. The section of the previous law relating to Boston was omitted, and wardens of any Massachusetts town were authorized not only to examine but forcibly to detain all persons not satisfactorily explaining their traveling on Sunday, and put them in jail until a regular trial could be held.

The ministerial forces went a little too far in demanding this law. The arbitrary powers it gave the wardens made it generally obnoxious. Wardens were not always tactful or perceptive, and it happened that legislators bent on some mission on Sunday in quarters where they were not well known were sometimes held up and subjected to unpleasant examination, and their relatives and friends not infrequently had the same experience.

The Massachusetts legislature, on March 8, 1792, repealed the unpopular law, and passed a new act against Sunday travel. It gave to tithingmen instead of wardens the power of examining suspects, and eliminated provisions for forcible detention and arbitrary restraining of "unnecessary walking" in the streets or elsewhere. Sunday travel, except in cases of charity or necessity, was still forbidden; even for walking on Sunday the fine was ten dollars. But violations had to be proceeded against by ordinary processes of law. For many decades the law of 1792 remained in force. An amendment of March, 1797, increased the fines, and ordered that the owner or driver of any hackney coach in Boston

who drove it on Sunday without first obtaining a certificate of permission from a justice of the peace "for himself and each and every passenger so carried" forfeited his license for three years.

Ministerial bodies tried hard to have such statutes rigidly enforced, but by gradual constructions the courts made laws conform to the necessities and liberal sentiment of the age.

In December, 1808, James Knox was indicted for violating the act of 1792 in driving a stage-coach on Sunday through the town of Newburyport. The prosecution charged that his act was not one of charity or necessity. When the case came before the Massachusetts Supreme Judicial Court, a different set of facts was disclosed. The court found that Josiah Paine had made a contract with the Postmaster General to carry public mail between Portland and Boston on each day of the week, and that Knox was a driver for Paine. In his decision Chief Justice Parsons held that under the Federal Constitution the Postmaster General had the power to contract for mail transportation; that the Federal Constitution was binding on all States; and that therefore it was not an indictable offense

for any mail carrier under contract with the Postmaster General to carry mail on any day, Sunday included.

In making this decision the court evidently did not wish to be considered as giving too much latitude, for it added:

> But let it be remembered, that our opinion does not protect travelers in the stage coach, or the carrier of the mail, in driving about any town to discharge or receive passengers; and much less in blowing his horn, to the disturbance of serious people, either at public worship or in their own houses. The carrier may proceed on the Lord's Day to the post office; he may go to any public house to refresh himself and his horses; and he may take the mail from the post office, and proceed on his route. Any other liberties on the Lord's Day our opinion does not warrant.

The important fact established in the decision was that mail could be transported on Sunday. As all classes of people, not excepting churchgoers, were interested in receiving the very latest mail on Monday morning, this decision gave satisfaction to all but the extreme clerics.

The general revolt against ministerial attempts to fasten the old laws upon the people was shown

by an incident in New York City a little later.

In July, 1821, clergymen of various denominations (except the Episcopal and Roman Catholic) formed an organization in New York City to attempt the restoration of the old blue laws. They demanded that every form of recreation be prohibited and urged the necessity for Sabbatarian laws. They also indirectly aimed at making church attendance compulsory. They declared that the people were, because of engrossment in worldly pleasures on Sunday, fast going to perdition, and that this not only affected them individually but equally threatened the welfare of the State and undermined law and order.

But they did not get very far. The American people had only recently thrown off the yoke of the alliance of church and State after centuries of ecclesiastical bondage. The popular attitude was then one of extreme sensitiveness to any attempt at encroachments upon their dearly won liberties.

A large protest meeting was held in the City Hall. It was attended by Protestants of certain denominations. There were then few

Roman Catholics and fewer Jews in New York City. The clergymen were denounced for their interference with the liberties and recreations of a free and enlightened people, and were vehemently branded as "Puritan, persecuting, hypercritical and intolerant presumers." Even louder was the outcry against what was looked upon as a flagrant attempt to restore the old alliance of church and State with its clerical tyranny.

Popular opposition was too strong. The project for a blue-law Sunday had to be abandoned, and so great was the discredit attached to it that some of the very clergymen who had participated hastened to give smooth explanations disclaiming any real share in the movement and declaring that they had been led into it through misunderstanding of its purpose.

Further court decisions either directly or indirectly validated Sunday travel. One of these was in Pennsylvania in 1855. An employe, one Murray, of the Schuylkill Navigation Company, had been summarily convicted for opening locks for the passage of boats on Sunday. Upon ap-

peal, the Supreme Court of that State reversed the verdict, holding

> The Schuylkill river is a public highway, and as people are not forbidden by law, and therefore have a right, for some purposes, to pass along it even on the Lord's Day, the Navigation Company must keep it open, and for this purpose must have lock keepers to act for them. There may, indeed, be unlawful travel on Sunday, and for such travel there can be no right to have the locks opened; but the criminality of the lock keeper is not proved by the criminality of the travel, because as agent of the company he is bound to keep the navigation open for travel, and is not the judge of its rightness.

The Massachusetts law of 1792 against Sunday travel was curiously invoked as late as 1865. This gave the Supreme Judicial Court an opportunity to interpret it liberally.

On Sunday, December 3, 1865, James A. Hamilton of Boston felt somewhat unwell. Early in the evening a young friend called at his home, and persuaded him to take a walk. While strolling, they met other friends; and in the course of the walk Hamilton slipped on a defective part of the road and was injured. When

he sued, the city of Boston advanced the defense that, under the law of 1792, Hamilton should prove that he was traveling from necessity or charity, and if he could not, his action had no standing. The judge refused to charge the jury that Hamilton's walk was unlawful, and the jury returned a verdict in Hamilton's favor. The city of Boston appealed. In giving the decision of the Supreme Judicial Court in January, 1867, Judge Gray ridiculed the contention that it was unlawful for any one to go a few steps on Sunday to visit a friend, or to take a short or long walk for recreation. It was no crime, he said, to walk for open air and gentle exercise.

In another case, however, Judge Gray decided that, under the law of 1792, it was unlawful to travel on Sunday from one city to another for the purpose of visiting a stranger if no occasion of necessity or charity existed. Because of this decision Patrick Stanton could recover no damages from the Metropolitan Railroad Company for injuries received while en route.

Enumeration of successive court decisions would be tedious. Many of the judges after the

Civil War had been railroad attorneys and knew the necessities of that and other lines of transportation. Judged by the needs of modern civilization, they regarded old laws as impediments and virtually so construed them. The increasing system of electing judges by popular vote also brought the court into more intimate relations with the life of the people and made them more responsive to the popular will.

Sabbatarian organizations are putting forth the argument that the fever of modern life must be moderated by one compulsory day of relaxation. Sunday amusements and diversions, newspapers and journeys, they contend, distract the minds of the people from that meditative and religious calm which they hold is essential to well-being. They declare also that the operation of transportation lines and other of our modern facilities deprives great numbers of workers of what should be a day of complete rest and is a tempting inducement to large numbers of other people to avail themselves of opportunities to leave the city and spend Sunday in restless wanderings.

The emphasis of the blue-law movement is

therefore upon the extraordinary character of modern life, which, it holds, demands extraordinary remedies. And the remedies proposed demand the total cessation of every activity inconsistent with the Puritan Sabbatarian idea.

Yet it is to be noted that the same demands were made a century and more ago, when there were, of course, no railways, interurban trolleys, or street cars. No Sunday newspaper existed. No theaters were open on Sunday, and, it is needless to say, the most extravagant imagination did not dream of automobiles or motion-picture shows. The only relaxations possible on Sunday were of the simplest kind.

CHAPTER XIII

DARK TIMES FOR THE STAGE

AGITATION of various organizations against theatrical, operatic, motion-picture, and other performances is a distinct legacy of the conceptions, prejudices, and prohibitions of former centuries. This recrudescence has so far been limited to demands for the closing of all exhibitions on Sunday, and the extension of censorship over motion picture and theatrical productions. These two activities signify that the point has been reached where the opposition is not merely against Sunday amusements but is concerning itself with determining what the people should or should not be allowed to see. The grounds given are that certain exhibitions are corrupting and demoralizing. This was the very justification used indiscriminately at one time in America when all theatrical performances were at all times prohibited.

Organizations assaulting Sunday amusements put forward what seems to them convincing arguments. One of these bodies says that five million persons in the United States now labor seven days a week, and that counting all who read newspapers, use trains, buy or sell, and go to amusements on Sunday, "there are, by reasonable estimate, over one-half our people openly desecrating the holy Sabbath day." Where these figures were obtained, or upon what investigation they are based, is not explained; and the assumption that follows is one that will not be kindly received by millions of people who do the very things mentioned and yet are good churchgoers. The statement of this organization, describing its efforts to stop Sunday trains, mails, and newspapers, goes on:

Legislatures and city officials of all States are being asked to enact laws to stop all theaters, shows, baseball games and ordinary labor, trade and traffic on Sunday, excepting always instances of charity and necessity.

We do not ask too much. God never asks too much. We are only obeying God. Our forefathers in nearly every colony enforced laws requiring all men to abstain from their labor on Sunday. They kept the Sabbath

holy and God helped them establish our great nation. Curses will overtake us if we depart from this honored precedent; yea, are overtaking us. We ask no radical step; nothing fanatical; only what God asks.

We have laid great emphasis on not stealing, not killing, and not lying; and we anathematize the thief, the murderer, and the liar. But we are near the place where we will be accepting the Sabbath-breaker as good as the best.

One hundred and twenty years ago ninety to ninety-five per cent. of our people kept the Sabbath strictly. Now it appears that scarcely fifty per cent. are strictly keeping the Sabbath.

In that decline is dreadful danger.

Let us get back to God and to the godly habits of our pioneer forefathers.

We beg your endorsement of the laws we have proposed, and your aid for public sentiment to enact and enforce these laws.

In this case the emphasis is again upon the ways of the forefathers,—just what "pioneer forefathers," whether the body of the colonists or particular groups is not elucidated. The reference is undoubtedly to the leaders and the stanch adherents of certain sects. What were their views and methods that some ministers of to-

day would transpose, either partly or wholly, into modern life?

One of their most violent prejudices was against actors and acting. This was not original with them. It was imported from England, where with few exceptions acting was long despised by the aristocracy as ignoble and debasing, and the actor as a vulgar, irresponsible person entitled to no respect or recognition. Act 39 of the laws of Queen Elizabeth's reign treated unlicensed players or actors as vagrants. One probable purpose of this law was to suppress "common players of interludes" exhibiting throughout the country at wakes or in alehouses. Whatever the full reasons, the fact remained that English law long decreed that *any man* who was unlicensed, performing a play for gain or hire, should be dealt with as a vagrant. Nor was this ostracism confined to England: in some parts of Europe, down to about the nineteenth century, the remains of a player were refused burial in the churchyard,—an ignominy not visited even upon the assassin.

But while perpetuating this prejudice, some ministerial groups in America transformed it

into an unrelenting opposition which they thought their creed demanded.

Until the closing years of the seventeenth century they were not seriously confronted with the question; their implacable hostility to amusements, music, and other arts in general had deterred the development of native players, and had frightened away those abroad from venturing into such an inhospitable country. But just before the dawn of the next century, plays of one kind or another given in private made their appearance, perhaps encouraged by royal officials wishing to be amused and seconded by the rich, who closely followed fashionable tendencies.

When city people in general began to show an interest in plays, the antagonism of the Puritan clergy was immediately manifested. They used English social proscriptions and reinforced them with their own bigoted ideas. In classing actors as vagabonds English law was but reflecting the aristocratic attitude which looked haughtily down upon those having no settled domicile as shiftless characters; and strolling players seemed, by the circumstances of their life, to come within that definition.

Without tolerating the English idea of allowing licenses to some actors, Puritan ministers unreservedly denounced all actors, good, bad, or indifferent, as a crew of rogues and vagabonds. To this condemnation they added other pronouncements of their own invention. Anything, they believed, that contributed to amusement was unnecessary and therefore had no place in the economy of a people; by the same rules, stage performers were not industrious persons but sheer triflers and idlers who by some mode or other extracted money from people's pockets. That good acting was an art, a born faculty cultivated by the most assiduous application and untiring industry, was a conception impossible to Puritan ministers; in their scheme of life art did not exist. Nor could they see in plays anything that might instruct, enlighten, or convey a good moral. To them plays were without exception breeders of immorality (as if immorality did not prevail before their coming!), promoters of impiety, and inciters of contempt of religion.

The Massachusetts law of June 29, 1700, prohibiting actors and plays, was accordingly en-

titled "An Act for the Suppressing and Punishing of Rogues, Common Beggars and Other Lewd, Idle and Disorderly Persons." An elaborate law, it began by providing that, in every county, houses of correction be established to which it should be lawful to send

> all rogues, vagabonds and idle persons going about in any town or county begging, or persons using any subtle craft, juggling or unlawful games or plays, or feigning to have knowledge in physiognomy, palmistry, or pretending that they can tell destinies, fortunes or discover where lost or stolen goods may be found, common pipers, fiddlers, runaways, stubborn servants or children, common drunkards, common nightwalkers, pilferers, wanton or lascivious persons either in speech or behavior, common railers or brawlers, such as neglect their callings, misspend what they earn, and do not provide for themselves or the support of their families.

Not reflecting that this section perpetuated a self-indictment of conditions in a land where an accumulation of laws was supposed to insure piety and morality, the lawmakers went on to order severe penalties. Upon conviction the able-bodied were to be set to work in the houses of correction, and further punished by the putting

of "fetters or shackles upon them, and by moderate whipping, not exceeding ten stripes at once, which (unless the warrant of commitment shall otherwise direct) shall be inflicted upon their first coming in, and from time to time in case they be stubborn, disorderly or idle, and do not perform their task." The law further required that their food was to be "abridged."

Pennsylvania took its cue from Massachusetts, and on November 27, 1700, its legislature passed a similar act, though with somewhat of a different justification. The Quaker view of plays was that, being energetically spoken, they were noisy and therefore riotous or likely to cause noisy demonstrations in their audiences. Philadelphia ministers could not endure loud speech; among the many proofs of this were the regulations of Pastor Hassellius forbidding folk "singing" when calling cows, and ordering persons with harsh voices to "sing softly" or be mute.

"An Act against Riots, Rioters and Riotous Sports, Plays and Games," was what the Pennsylvania law was entitled. It declared that whoever introduced into the province "any rude or

riotous sports, as prizes, stage plays, masks, revels," and other such entertainments should, if convicted, pay for every offense twenty shillings fine or undergo ten days' imprisonment at hard labor in the house of correction. These provisions were repeated in a law of January 12, 1706, which not only forbade shows of all kinds, but also cards, dice, billiards, quoits, ninepins, shovel-board, roly-poly, and other favorite games of the times.

It was at this period that, considerably after their spread in Europe, tea, coffee, and chocolate houses were established in the colonies. As in England, they were the resort of men of different professions and lines of business. They had once been closed in England during the reign of Charles II, in 1675, on the ground of their being a rendezvous for politicians. When in 1712 the Massachusetts legislature passed a law to regulate them, a different justification was used. Such places were popularly regarded in the nature of clubs, where folk could sit, talk, argue, read, and on occasion be entertained by recitation or music. To accommodate those desiring strong beverages, supplies of liquors were

kept on hand. Tea, coffee, and chocolate houses were an important factor in the social life of those who could afford to frequent them; and it was often in them that people found some of the amusement that was denied them in the prohibition of theaters. But to Puritan clericals these houses were menaces to morals; and in enacting a further regulatory law, in 1716, the lawmakers entitled it, "An Act against Intemperance, Immorality, Profaneness, and for the Reformation of Manners."

In forbidding acting and plays, Connecticut followed the lead of Massachusetts in classifying actors as vagabonds. The opening paragraph of the act of October, 1718, seemed to indicate that the law was aimed at idlers and roving beggars; but this was simply a way of fixing prejudicial onus at the outset to link acting and vagabondage, which was done in the second paragraph. The composition of the law gives a clear idea of how legislatures could contrive to connect the two things:

Whereas, idle persons, vagabonds and sturdy beggars have been of late, and still are much increasing

within this government, *and likely more to increase* if timely remedy be not provided; and for the more effectual punishment and prevention:

That from the publication of this act if any idle person, vagabond or sturdy beggar shall be found wandering up and down in any town or parish in this colony begging, idling away his or her time, or that practice unlawful games, set up and practise *common plays, interludes, or other crafty science,* etc., such person or persons shall be taken, adjudged and deemed rogues and shall,

Be stripped naked from the waist upward and shall be openly whipped upon the naked body not exceeding fifteen stripes, ordered to leave the place, and if found there more than twenty-four hours after orders to depart, to be whipped again.

Toward the middle of the eighteenth century, Massachusetts clergymen were agitated over reports that despite the severe law against them, plays of various kinds were clandestinely being given. In his chapter on "The Drama in Boston," in Winsor's "Memorial History of Boston," William W. Clapp, telling of occurrences at that time, wrote: "Plays were performed in private, and no doubt even the more austere citizens derived gratification from what appeared

to be a harmless method of passing a weary hour." When, however, two Englishmen, aided by some Bostonians, gave a semi-public amateur performance of Otway's "Orphan, or The Unhappy Marriage" in a State Street coffee-house, the news soon reached the ministers, and they took instant action.

On April 11, 1750, they obtained from the legislature "An Act for Preventing Stage Plays and Other Theatrical Entertainments." The preamble explained that the law was passed "for preventing and avoiding the many and great mischiefs which arise from public stage plays, interludes and other theatrical entertainments, which not only encourage great and unnecessary expenses, and discourage industry and frugality, but likewise tend generally to increase immorality, impiety and a contempt of religion." The law's provisions were drastic; a twenty-pound fine was exacted from any owner who let a house, place, or room for theatrical entertainments; and at all such exhibitions where more than twenty persons should be present, actors and spectators were each to be subjected to a fine of five pounds. The provision limiting

the audience to twenty persons was intended to make the public production of plays altogether unprofitable.

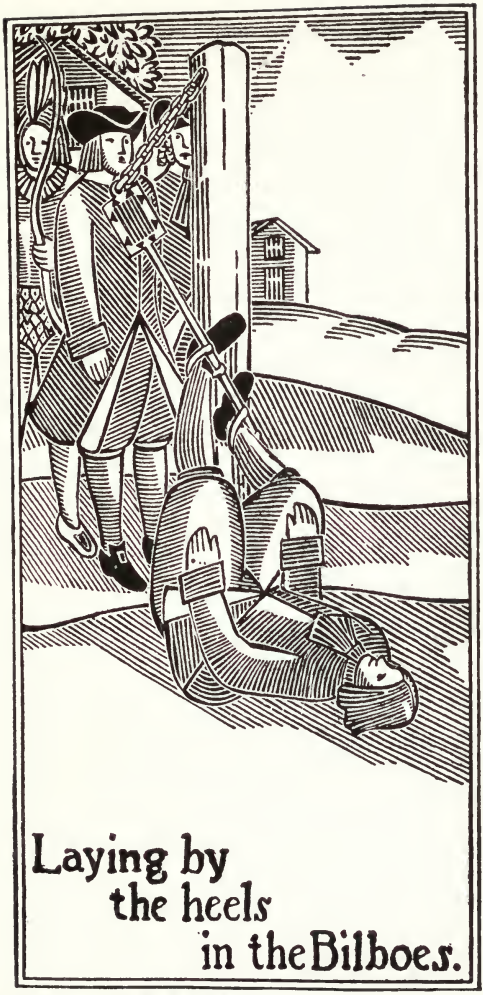
As the law stood, however, it allowed a small group of rich to derive pleasure from plays given in their own houses, while totally denying the right to all others. This led to considerable popular indignation, which, however, was ineffective, for the law was reënacted in 1756 and 1761.

Thereafter there were frequent attempts to secure its repeal. The growing travel to New York enlightened many a Boston resident. Although clergymen in New York made the same objections to plays as did those of Boston, nevertheless the theater was an established institution of the former city, and many a Boston churchgoer when in New York found delight in seeing theatrical performances. The outspoken and liberal of the visitors returned to Boston to urge the founding there of a theater which, they said, could be conducted in a manner that would obviate objections. But the extreme Puritan element in control refused permission, holding that stage plays were the means "of

disseminating licentious maxims and tending to immorality of conduct." For many decades the law of 1750 remained in full force.

After the enactment of the Pennsylvania law of 1700, no theatrical performances were known in that province for a long time, but enterprising managers supplied Philadelphia with such amusements as tight-rope walking, lion shows, and exhibitions of marionettes in "Joseph's Dream" and other representations having a religious savor. In 1749, Murray and Kean's company of players did venture into Philadelphia. But the ministerial group, who had long successfully prevented the "frivolous amusement" of dancing, was even more opposed to the drama; and they soon caused the city officials to order the company out of the city. Murray and Kean went to New York, where they were welcomed; and for five years no play was produced in Philadelphia. A narrative of that day says:

During this time, however, the population had increased, and the ruling influence was divided. A very large proportion of the citizens, among whom were not



Courtesy of Duffield & Co.

a few men of wealth and position, advocated more liberal ideas as regarded public amusements. They could not admit that it was sinful to laugh at a good farce, or even to weep over the tragic fate of the virtuous hero or heroine.

After performing for a year in various places in Virginia and Maryland, Lewis Hallam's able "Company of Comedians from London" went, in 1753, to New York, where they opened a theater. Philadelphians who saw them there brought back enthusiastic reports of their great success, and the demand spread that the company play in Philadelphia. Governor Hamilton of Pennsylvania was liberal-minded, and upon application from a number of influential Philadelphians granted Hallam's company a license for twenty-four nights. Ministers vigorously protested, but the governor would not cancel it.

The opening performance, in a large brick warehouse temporarily fitted as a theater, was the tragedy of "The Fair Penitent," followed by the farce "Miss in Her Teens." A prologue was delivered by Mr. Rigby, one of the

actors, to a crowded house. An account of the performance says:

> The audience was in the best of spirits, but an unpleasant disturbance occurred when it was discovered that one of the unfriendly opponents [sic] occupied a seat in the pit. Instead of being allowed to sit the play through, with the chance of being converted to a more liberal course, he was summarily ejected.

In an epilogue Mrs. Hallam with great spirit defended the stage, showing that there was no basis for the charge that it was sinful. Then referring to the tragedy's touching effect upon the audience, she asked:

> If then the soul in Virtue's cause we move
> Why should the friends of Virtue disapprove?

The company's performances made such a hit that Governor Hamilton extended the license for another week.

In 1759, Governor Denny granted permission to Hallam's company to build a permanent theater in Philadelphia; the site chosen was in Southwark, just outside the city limits. While construction work was going on, the combined

ministerial groups raised a great outcry, and went to the legislature with a petition for a law prohibiting the building of the theater. Thereupon an act was passed to suppress plays and lotteries, and under great clerical pressure the governor signed it. Whether he or an influential committee of citizens privately sent remonstrances to England against the law being sanctioned is not known; but the king and council vetoed it.

Ministerial opposition then concentrated its efforts upon ferociously attacking theater supporters, trying in every possible way to discredit them. Hallam's theater, opened on June 25, 1759, had a poor season, and he and his company left Philadelphia, not to return until November, 1766, when they built a larger house and named themselves "The American Company." It is related that it was at this Southwark Theater and by this company that the first play by an American author acted on any regular stage was presented on April 24, 1767; it was "The Prince of Parthia," by Thomas Godfrey, junior, of Philadelphia. Various plays were performed here until 1772.

During the Revolution, Hallam's company went to the West Indies. Now that there was a government independent of Great Britain, the ministers again pressed the legislature for a law prohibiting theaters, and obtained it on March 30, 1779. It was entitled "An Act for the Suppression of Vice and Immorality." Section ten read:

> That every person or persons whatsoever, that shall from and after the publication of this act, build or cause to be erected or built any play house, theater, stage or scaffold for acting, showing or exhibiting any tragedy, comedy, farce, interlude or other play or any part of a play whatsoever, or that shall act, show or exhibit them or any of them, or be in any wise concerned therein, or in selling any tickets for that purpose in any city, town or place in this commonwealth, and be thereof legally convicted in any court of quarter sessions in this commonwealth, shall forfeit and pay the sum of £500.

This law was reënacted on September 25, 1786, but the penalty was reduced to two hundred pounds. The clerical and other opponents of theaters were now sure that they had the situation under complete control.

CHAPTER XIV

FOOTLIGHTS ABLAZE

HALLAM soon demonstrated his ability to outwit opponents of the theater. Ingenious and persevering, he was rich in expedients, and he showed a sense of ironical humor in using them.

When, after performing in New York, he and his company returned to Philadelphia, his first move was to take the curse out of his Southwark Theater on South Street by styling it the "Opera House, Southwark." This seemed to indicate that he had abandoned all ideas of giving plays, and that he would confine himself to concerts. Music and singing had always been objectionable to Quaker leaders, but those of other denominations favoring sacred music were tolerant of music in general. On the whole, the clergy were satisfied at what they thought their success in at least banishing plays.

Next announcing that he would give a charitable performance, Hallam advertised that the opera house would open with a "Concert, Vocal and Instrumental," in which would be introduced "The Grateful Ward, or the Pupil in Love," and the musical entertainment "The Poor Soldier." These were really plays accompanied by music, but care was taken to present them in a way not bringing them within the specific prohibitions of the law.

For a time Hallam's tactics deceived most of the opposition. By constantly petitioning the legislature for a repeal of the law against theaters, he and John Henry, now his partner, succeeded in spreading the impression that the law was an effectual bar to presenting plays. Their main object in asking for the repeal was, of course, a genuine desire to have effected, but they also knew that by making many indignant complaints they could lull the opposing forces into a belief that a law arousing such outcries must perforce be succeeding. Meanwhile, however, Hallam and Henry produced opera and musical selections, skilfully interspersing them with plays billed under the sober guise of "Lec-

tures," the true nature of which advertisements was readily enough understood by the initiated. A Philadelphia historian says:

> Thus the "Gamester" was announced as a serious and moral lecture in five parts, on the vice of gaming, while "Hamlet" was introduced as a moral and instructive tale called "Filial Piety Exemplified in the History of the Prince of Denmark."

These subterfuges at first appealed to the humor of many Philadelphians, and Hallam's notices were enjoyed as the richest of jokes. But when certain ministers awoke to what was going on, and threatened to invoke the law, Philadelphia liberals determined to make a strong effort to do away with a statute that made such evasions necessary.

In 1789 a petition signed by nineteen hundred citizens asked the legislature to repeal the law. That so considerable a number of persons (compared with the city's population) should put themselves on record as favoring the theater, was an alarming revelation to the generality of the clergy. Forming an alliance, the latter busied themselves with a counter petition. They

thundered from the pulpit against theaters, predicting a reign of iniquity and dire calamities if playhouses were allowed. They exhorted people individually to make a firm stand against the powers of sin that were seeking to destroy the moral supports of the community. In obtaining nearly four thousand names for their petition the ministerial groups were exultant, feeling certain that the victory was theirs.

But theater supporters set about appealing to intelligence instead of prejudice. Organizing "The Dramatic Association," they carried on a spirited campaign, holding meetings, publishing letters and articles in newspapers, and interviewing all classes of people. There was great anxiety to know what the result would be, and greater excitement when it was announced. Nearly six thousand names were on the petition for a repeal of the law, whereat there was much jubilation among those favoring the theater.

The legislature had no longer any valid excuse for not repealing the law, and it passed the repealing act on March 2, 1789. The tone of the act showed the effects of the educational propaganda. Like a proclamation of emancipa-

tion from long-prevailing bigoted notions the preamble read:

WHEREAS, a great number of the citizens of Philadelphia and the neighborhood thereof have petitioned this house for a repeal of so much of a certain law of this commonwealth as prohibits theatrical exhibitions, and this assembly being desirous of promoting the interests of genius and literature by permitting such theatrical exhibitions as are capable of advancing morality and virtue and polishing the manners and habits of society, and it being contrary to the principles of a free government to deprive any of its citizens of a rational and innocent entertainment, which at the same time that it affords a necessary relaxation from the fatigues of business is calculated to inform the mind and improve the heart.

To conciliate opponents of the theater a modifying clause was added. It provided for licenses on the ground that "many respectable citizens" were "apprehensive that theatrical representations" might be "abused by indecent, vicious and immoral performances being exhibited on the stage, to the scandal of religion and virtue, and the destruction of good order and decency in society, and the corruption of morals." The

president of the Supreme Executive Council, the chief justice of the Supreme Court, or the president of the Court of Common Pleas of Philadelphia was authorized within three years after the passing of the act to license such performances as, in their opinion, were "unexceptionable." Any one without a license exhibiting a play was to be fined two hundred pounds and imprisoned.

With the adoption of this law the proscription of plays and acting ceased in Philadelphia; in later years all remaining legal restrictions were removed, and freedom to establish theaters extended throughout the State. In 1790 Hallam and Henry produced "The Rivals," "The Critic," and other plays. They could now proudly point to the fact that the foremost man of the age, the head of the nation, the great George Washington himself, was a patron of the theater. As Philadelphia was then the capital of the nation, many members of Congress also regularly went to the theater. In his "History of the Philadelphia Stage," Charles Durang wrote:

The east stage box in the South Street Theater was fitted up expressly for the reception of General Washington. Over the front of the box was the United States coat of arms. Red drapery was gracefully festooned in the interior and about the exterior. The seats and front were cushioned. Mr. Wignell [a member of the company] in a full dress of black, hair powdered and adjusted to the formal fashion of the day, with two silver and wax candles, would thus await the general's arrival at the box door entrance, and, with great refinement of address and courtly manners, conduct the best of public men and suite to his box. A soldier was generally posted at each stage door, and four were posted in the gallery, assisted by the high constable of the city and other police officers, to preserve something like decorum among the sons of social liberty, who, as Lingo says in speaking of American notions of independence, "The very babes musing on their mothers' laps are fed with liberty—and pap."

Hallam and Henry had theaters in New York and Providence as well as in Philadelphia. Hitherto ministers and church elders had succeeded in excluding all theatrical entertainments from Massachusetts. But with Hallam and Henry's arrival in Boston, in 1790, matters began to change. On June 5th of that year they petitioned the Massachusetts legislature for

leave "to open a theater under proper regulations," making a strong point of the fact that other cities allowed theaters. A meeting of citizens in the Town Hall in 1791 approved the petition, and instructed Boston members of the legislature to obtain a repeal of the anti-theater law. The resolutions urged:

. . . a theater where actions of great and virtuous men are represented, under every possible embellishment which genius and eloquence can give, will not only afford a rational amusement, but essentially advance the interests of private and political virtue; will have a tendency to polish the manners and habits of society, to disseminate the social affections, and to improve and refine the literary taste of our rising Republic.

When in 1792, a repealing bill was introduced, the legislature appointed a committee to consider it. Appearing before this committee, John Gardiner denounced the law, saying:

The illiberal, unmanly and despotic act which prohibits theatrical exhibitions appears to me to be the brutal, monstrous spawn of a sour, envious, morose, malignant and truly benighted superstition which, with her impenetrable fogs, hath too long disgraced this rising country.

But delegations of ministers and leading church members argued against a repeal, insisting that the theater was a breeder of licentiousness and irreligion, and, if allowed, would be a legalized disgrace to the city. They lobbied among legislators individually, using every possible influence, especially upon rural members, most of whom were indisposed to favor cities. The legislative committee rejected the petition. When a reconsideration was carried, the ministers again marshaled their forces, and on final vote the repealing bill was defeated by a vote of ninety-nine to forty-four.

Thereupon Hallam and Henry resorted to the same evasive tactics they had so successfully used in Philadelphia. They hired premises said to have been a stable in Broad Alley, built a stage, and on August 1, 1792, opened what they christened a "New Exhibition Room." It was put under the direction of Joseph Harper, a prominent member of their company.

In order to test the law and prepare the way for other productions, they opened with what would now be called vaudeville; it consisted of such features as tight-rope dancing, singing,

recitations, and ballet. Inasmuch as a considerable number of Boston's inhabitants approved of entertainments, as did most of the local officials, there was no interference. Clapp says:

> The drama was after this introduced to the expectant Bostonians in the disguise of a moral lecture. Garrick's farce of "Lethe" was produced as a satirical lecture called "Lethe, or Esop in the Shades," by Mr. Watts and Mr. and Mrs. Solomon. Otway's "Venice Preserved" was announced as a moral lecture in five parts, "in which the dreadful effects of conspiracy will be exemplified"; and "Romeo and Juliet," "Hamlet," etc., were masked under the same catching and hypocritical phraseology. On October 5 was produced a moral lecture in five parts, "wherein the pernicious tendency of libertinism will be exemplified in the tragical history of George Barnwell, or the London Merchant."

An attempt was made at ministerial instigation to have the grand jury indict Harper, but it failed. A warrant, however, was obtained for his arrest, and served after the first act on the night of December 5, 1792. This caused great excitement among the audience, composed chiefly of young men. They hooted, stamped, shouted protests, and tore down the portrait

of Governor Hancock, who was supposed to be a strong opponent of the theater. Obtaining bail, Harper returned, and asked the audience to withdraw quietly. The court later discharged him on the ground "of a legal defect in issuing the warrant." The law became a dead letter; and the "New Exhibition Room" was superseded in 1794 by the Federal Street Theater.

It was not until March 13, 1806, that the Massachusetts legislature could be induced to repeal the law forbidding theaters. The title of the repealing act was so curiously worded as to make it appear that the lawmakers were still forbidding instead of allowing plays. It read: "An Act for Preventing Public Stage Plays, Interludes and other Theatrical Entertainments in Certain Cases"! The law provided that to build a theater for plays, the approval of the town selectmen had to be obtained, and then a license, good for a year, from the court of general sessions; the penalty for not obtaining these was two thousand dollars. Any person not having such a license who rented a house or other building for theatrical performances, was to pay a fine of five hundred dollars for every time he

did it. Any one who, without a license, assisted in acting or carrying on any stage play, interlude or other theatrical performance for profit was to be fined four hundred dollars.

Progressive Bostonians took the adoption of this law calmly; it was but a belated recognition of an institution that they had already succeeded in establishing.

CHAPTER XV

THE TRAIL OF PREJUDICE

LEGAL restrictions of the theater were now ended, but not prejudice against actors and actresses. Two sections of society did their utmost to keep this virulently alive—fashionable society and the clergy.

Goaded by sneers and bitter criticism, John Fullerton, an actor, committed suicide. Thereupon Matthew Carey, a Philadelphia author of some distinction, wrote and published, in 1802, a pamphlet entitled: "Desultory Reflections Excited by the Recent Calamitous Fate of John Fullerton, Addressed to Those Who Frequent the Theater and to the Dramatic Critics."

The attempt, Carey began, to plead the cause of the actors, that villified class of men, might by the illiberal be highly reprobated. True, Fullerton was not a first-rate player, but he was always correct and eager to give satisfaction.

The pit or boxes were often filled with ferocious critics who were personal enemies of the performer. Men who united in such combinations as sacrificed Fullerton would revolt at the idea of doing injustice to or outraging the feelings of any class of men but players. These they considered fair game, out of the protection of those rules of justice, humanity, and decency which were universally understood to regulate the intercourse between man and man.

Why this extraordinary inconsistency? Carey went on to ask. He pointed out that in times of deplorable ignorance the profession of a player fell into a most unfounded degree of disrepute. "Many of us in our early days imbibed these illiberal prejudices, and they retain over us an unreasonable and lasting influence."

But, Carey continued, it required but a very moderate exercise of the reasoning faculties to see that there was nothing disreputable or dishonorable in the profession of a player. Properly conducted, it was not only harmless but laudable. Its objects were, by an exhibition of natural and probable events, to create abhorrence of vice and love of virtue. The making of

a perfect player required a rare combination of talents, which fell to the lot of so very few that there were not many more first-rate poets, painters, or historians. This view of the subject ought to rescue the profession from the undeserved obloquy under which it had labored. Carey then gave this conclusion:

The chief part of the censure due in this case, lies at the door of the people of fashion, who loll away their time in the boxes. They think it would be derogatory to their state and dignity to join with the vulgar herd in the pit and gallery in clapping a performer. With the most disgusting affectation many of them sit with the most composed countenance during the most ludicrous as well as the most affecting scenes. They appear to think it requisite for them to be superior to the feelings which influence and move the *ignoble vulgus*. Has not this contemptible and absurd folly been carried so far as to induce fine ladies in the front boxes, by their indecorous behavior, to attract the eyes of the spectators away from the players? Have we not beheld them laughing and chattering aloud, during the exquisite scene in which Mrs. Marshall, in "Every One Has His Fault," hesitates in choosing between Lady Eleanor Irwin and Lord Norland . . . and during other scenes as sublime and grand? . . .

To no profession whatever is there less justice or

impartiality observed than to players. A few of them have by accident or by the advantage of particular patronage, as often perhaps as by real talents, crept into public favor . . . while the remainder, be their exertions, industry or judicious performance what they may, are treated with chilling neglect, or even grossly abused. . . .

The old aristocratic prejudice against actors and actresses weakened when the landholding families in America were disintegrated by laws abolishing entail and primogeniture. A new upper set, composed of the commercial class, gradually became dominant, and although some parts of it adhered to old social ideas, other portions were receptive to new views. But ministerial opposition to theaters and prejudice against players remained, and was preached and otherwise disseminated.

One of many illustrations of this clerical influence is found in a book written in 1836 by William A. Brewer, of Philadelphia, and entitled "Recreations of a Merchant, or the Christian Sketch Book." After fervently saying that he would never induce his kind reader to enter

the polluted walls of the theater, he thus expressed himself:

No—no. As soon would I urge him to enter one of those revolting pits in the cemetery at Naples, where the fastidious devotee of fashion and luxury who has not lived half his days, and the poor, filthy habitant of the lazaretto are, without distinction of rank or sex, thrown into one common heap to moulder into one common mass of putrefaction. But I would have him [the reader] view it [the theater] through the testimony of those who have been unfortunately lured within its doors during a night scene, and who have as fortunately been rescued from its enchantments, like birds that have been extricated from the snare of the fowler. I have been there—I have friends who have been there. Will you take our testimony?

He went on to describe how "on the critical night" of their "invitation," he and his friends hurried away from the hearth of their fathers to be introduced "to the feverish novelties of the theater." Just when this visit was made he did not tell; evidently it was some years before the book was written.

We arrived at the theater. There was the same beauty manifest upon the exterior that I have described; for

there was a profuse glare of artificial light that beamed from a row of lamps that stood like sentinels in front of the doors, to designate far away the spot of its location, when the beams of Heaven had refused to shine upon it. We alighted among a motley crowd, and hesitated for a moment which door we would enter at, as we had been told that a *box* ticket would admit us to any part of the house. Quite young—as we were —and inexperienced in theater etiquette, we followed a train of young men (some of whom we recognized as children of respectable and genteel families), to a narrow side-door. Fatal entrance! How my heart beats with indignation, when I reflect upon the conduct of *men*, who, for the paltry consideration of dollars and cents, will contrive and execute such diabolical plans as were developed by our accidental *entree* at that door.

What did the explorers find when they entered? They were surprised to find "a large number of females, apparently without protection." Also, "a multitude of young men flowed through the passages, and took their seats very familiarly among the females already mentioned." And who were the "females"? They were "daughters of the devil."

Having become disgusted with the company that surrounded us (which fact we attribute to the blessing

of a kind providence upon the education we had received) we retired from the house soon after the play commenced, and entered there no more, nor shall we—we trust—forever. It was enough for us that the theater embraced such a diabolical trap wherein to ensnare the unwary who might chance to enter there. And we trust we shall ever thank God that we were not overcome by the seductive speeches that were directed to ourselves.

We have not the heart to close this citation without recounting the great discovery that this pious inquirer made. He told how he began to study the theater and kept it up for years. "I have questioned and cross-questioned that I might learn the truth. The result is a settled conviction that the theater is a *money-making establishment.*"

His fine indignation against the theater needed only one thing to supplement it; and that was a description of the practices of many commercial concerns which, as official reports of the period show, used the most unscrupulous methods in reaping fortunes.

The chapter on the theater concluded with this illuminative observation:

Ay, it requires no prophetic vision to see that the gain in such a case would be the abolition of scenic exhibitions, and the substitution of the lyceum and the scientific lecture for the blandishments of the drama within the walls of the theater.

It might be supposed that these were the aberrations of an isolated bigot. Not so. Such ideas were spread in sermons and lectures by many a minister, and contained in many an exhortatory pamphlet or book. A typical example was that of the Rev. Henry Ward Beecher, who later rose to great distinction in ministerial ranks. He gave a series of talks at Indianapolis which, in 1846, were published in a book entitled "Lectures to Young Men on Various Important Subjects." It contained a long philippic against the theater, actors, and actresses.

"Desperate efforts," he said of the theater, "are made, year by year, to resuscitate this expiring evil. Its claims are put forth with vehemence." He denied that the drama cultivated taste and that it was a school of morals, and declared that "it is not congenial to our age or necessities." He went on to assert that:

"Those who defend theaters would scorn to admit actors into society. It is within the knowledge of all that men who thus cater for public pleasure are excluded from respectable society." He admitted that there were exceptions; the purposes of his diatribe safely allowed him to do this, for most of the very few he cited, such as Garrick and Sheridan, were dead, and he could not dispute the fame that posterity had given them. Then, referring to the respectable ranks, he proceeded:

> How many hundred actresses are there who dare not venture within this modest society? How many thousand wretches are there whose acting is but a means of sensual indulgence? In the support of gamblers, circus-riders, actors and racing jockeys, a Christian and industrious people are guilty of supporting mere mischief makers—men whose very heart is diseased, and whose sores exhale contagion to all around them. We pay moral assassins to stab the purity of our children. . . . If to this strong language you answer that these men are generous and jovial, that their very business is to please, that they do not mean to do harm—I reply that I do not charge them with *trying* to produce immorality, but with pursuing a course which produces it, whether they try or not.

After describing those who entertained and gave pleasure to people as "corrupters of youth," who belonged to "demoralizing professions," Beecher went on:

> To the theater, the ball, the circus, the race course, the gaming table, resort all the idle, the dissipated, the rogues, the licentious, the epicures, the gluttons, the artful jades, the immodest prudes, the joyous, the worthless, the refuse.
>
> Putting together in one class all gamblers, circus riders, actors and racing jockeys, I pronounce them to be men who live off society without returning any useful equivalent for their support. At the most lenient sentence they are a band of gay idlers. They do not throw one cent into the stock of public good. They do not make shoes or hats or houses or harness or anything else that is useful.

It is unnecessary to make any comments upon such invective. But some elucidating remarks may pertinently be added.

If there was any one outstanding characteristic of the American people it was that they were essentially imaginative. In her travels here in 1834–38 Harriet Martineau was greatly impressed by this. "The Americans," she wrote

in her "Retrospect of Western Travel," "appear to me to be an eminently imaginative people. The unprejudiced traveler can hardly spend a week among them without being struck by this every day." She predicted that when Americans got over their imitativeness in the arts they would develop great originality.

One of the strongest obstacles to the free development of this imaginative faculty was the surviving influence of Puritan bigotry opposing the decorative, musical, dramatic, and other arts. In denouncing actors as immoral idlers, Beecher was but repeating what Puritan ministers had long preached; and a host of his successors to-day privately have much the same idea. Beecher's tirade against actors as moral assassins stabbing the purity of children is now being repeated in the declamations of ministers of certain sects against motion-picture producers.

Few ministers of Beecher's time understood the ardent love of large numbers of the American people for entertainment. Not only amusements and novels were denounced but also sports. The colleges and schools of that day were filled with anemic, narrow-chested students

many of whom became early victims to tuberculosis. Architecture was in its ugliest stage. A hideous utilitarian atmosphere enveloped society. The commercial class was occupied solely with money-making. Just as ministers (with some notable exceptions) had been subservient to the interests of the monarchy and aristocracy when they were in power, so now they became spokesmen for the utilitarian standards of the commercial class. Unlike the rich of to-day, who so often have given lavishly to encourage the arts and who demand artistic surroundings for themselves, the rich of that time scorned the arts and instinctively resented the incoming of a new order based exclusively upon talent.

Although the standards of the wealthy have so greatly changed, those of certain schools of ministers do not seem to have been affected in a like degree. Long before the middle of the nineteenth century, theaters were so widely established that ministerial efforts against them proved powerless. But ministers did succeed in keeping alive in statutory law the idea that they were immoral resorts. This was exemplified in the New Jersey law of 1846, "An Act for Sup-

pressing Vice and Immorality," forbidding plays, shows, and other exhibitions and amusements on Sunday. Laws more or less similarly entitled were passed elsewhere.

When legislatures did the ministerial bidding they were acclaimed as the moral safeguards of the community. Now that, however, legislatures are showing increasing disposition to consult popular wishes, they are denounced. Under the heading "Watch Your Legislators" an article in a recent number of the "Lord's Day Leader" said in part:

> The elections indeed are over,—our legislators are chosen, and within a month or two they will begin their duties as the lawmakers of our States and Nation. A few of these senators and representatives in the State or National legislatures are thoroughly good and trustworthy; a few others are as thoroughly bad and vicious in their purposes and actions; but the great majority are neither very good nor very bad. They are simply weak in morals and incapable in mind, the easily led followers of whoever seems to them at the moment to promise that which will be for their personal or political advantage.

The present efforts of ministerial organizations to censor amusements began several years

ago with the enactment of laws in some places establishing censorship of motion pictures. In at least one State the board of censors understood the wishes of its sponsors so well that it refused pictures of a coal miners' strike, no doubt fearing that the pictures would have an immoral effect in creating a public opinion favorable to a body of workers that had the presumption to strike.

Much as certain phases of moving picture exhibitions may need improvement, there can be no guarantee that any set of political appointees acting as censors will bring about the results expected. Since motion pictures were started public taste has demanded better and better productions, and an increasing number of newspapers have in recent years made a feature of criticism, warning the public against poor or otherwise unworthy motion pictures.

More recently bills to censor moving pictures have been introduced in other States, and in a number of cities the solicitous activity of ministerial groups has extended to the point of demanding a censorship over theaters.

CHAPTER XVI

REAPERS OF WRATH

ONE of the most significant but little-known facts in the annals of the American people was the decisive way in which they disposed of ministerial hierarchies and put an end to clerical pretensions and dominance.

Of this event, so instructive in view of present tendencies, either nothing is said in the usual histories, or if any reference is made it is so scant as to convey no sense of its importance. Yet in its time the relegation of ministers to political impotence was considered a notable triumph of progress by the mass of Americans, including most of the founders of our republic, and was hailed as one of the greatest steps toward liberty.

The ministerial heads of organizations now calling for repressive laws either do not know of the happenings of that epoch, or if they do,

choose to ignore its lessons. Judging from their declarations, it is a blank to them. Their view entirely skips the intervening period from that time to this, and fixes itself upon the antique era when the Puritan régime was in its somber glory.

Oblivious of the factors that deposed their predecessors, they are openly, vociferously reaching out for political power. They have not come to the point of demanding it on the same direct grounds as did ministers of old,—that of divine decree. Their justification is more in the nature of a suggestion that they are being forced into the arena of active politics. Who, it may be asked, is forcing them? This question brings unpleasantly to the surface a thing generally accepted as having no place in American life and wholly foreign to its spirit.

To incite religious animosities for any purpose, especially a political one, has long met with the severe condemnation of most Americans. Several movements in the last century tried it, and after brief careers were buried in obloquy. One of the most prominent of the blue-law organizations does not hesitate to face the charge of reviving it by attacking two speci-

fied religious bodies as well as what it styles non-believers. These, it says, are working to obtain legislation for an open Sunday. "And," explains the circular (which is headed by the names of thirty-two ministers), "this carries us into the realm of political activity, where the Church, as such, cannot and will not enter." That is to say, organizations controlled by groups of ministers can ambitiously set out to acquire a dominating political power which the church, as an institution, cannot well afford to attempt and is prohibited by organic law from exercising.

Between the basic ideas held by such organizations and those of Puritans there is a marked similarity. Creeds like the Puritan persecuted because those who followed them held theirs to be the only true faith and claimed the right to preëmpt an area as exclusively their own in which dissenters were trespassers. The professional Sabbatarian movements hold that theirs is the only true conception of the Sabbath; that it is their right to fix it in law; and that all opposing it are enemies of true religion and morality. They insist that their formula

for Sabbath observance is incontestable, and even go so far as to brand as non-believers and infidels large numbers of their own faith who prefer to spend Sunday in their own way. The Puritan ministers and those of some other sects believed that to preserve their faith from inroads, have their church well supported, and enforce their tenets, political power was necessary. Movements of to-day reviving Puritan ideas contend that they must have political power to write their demands into law and enforce them, and as a result of this they expect that the authority and power of their church will be correspondingly increased.

How did this theory work out in former times? Having from the outset intrenched themselves in political power, Puritan ministers quickly set about forcing intolerance to its conclusion.

With their many other repressions came the most unrelenting religious persecution. By a Massachusetts Colony law of May 26, 1647, no Jesuit or any other Roman Catholic priest or missionary was henceforth to be allowed in territory under Puritan jurisdiction; if any who

was suspected could not clear himself he was to be banished, and if taken the second time he was to be tried and, upon conviction, put to death.

Beginning in 1656, law after law was passed against the Quakers. They were branded "a cursed set of heretics," imprisoned, whipped and banished. A law of October 14, 1657, ordered that any one bringing in directly or indirectly, a known Quaker "or other blasphemous heretics" was to be fined one hundred pounds, and put in prison until the fine was paid. Any one entertaining a known Quaker was to be fined forty shillings for every hour that he or she entertained or concealed such outlaws, and be imprisoned until the fine was paid. The law further ordered,

> that if any Quaker or Quakers shall presume, after they have once suffered what the law requireth, to come into this jurisdiction, every such male Quaker shall for the first offense have one of his ears cut off, and be kept at work in the house of correction till he can be sent away at his own charge, and for the second offense shall have his other ear cut off, and kept at the house of correction as aforesaid. Every woman Quaker pre-

suming, etc., shall be severely whipped, and kept at the house of correction at work till she shall be sent away at her own charge. If she comes again she is to be like used. And for every Quaker he or she that shall a third time herein again offend, they shall have their tongues bored through with a hot iron, and kept at the house of correction, close to work, till they be sent away at their own charge. And it is further ordered that all and every Quaker arising from amongst ourselves shall be dealt with and suffer the like punishment, as the law provides against foreign Quakers.

On May 19, 1658, another law was passed against Puritan converts to Quaker doctrines that they might be "dealt with according to their deserts," and that "their pestilent errors and practices" might "speedily be prevented." The law ordered that any one professing the Quaker "diabolical doctrine" by speaking, by writing, or by meeting was to pay various specified fines, and was also to be scourged and whipped as provided by previous laws.

Five months later—on October 19th—still another law was passed, denouncing Quakers as "stirrers of mutiny, sedition and rebellion" and as people whose actions tended "to under-

mine the authority of civil government, as also to destroy the order of the churches by denying all established forms of worship." Any Quaker not an inhabitant was to be arrested and, if convicted, sentenced to banishment upon pain of death. The law further condemned "the tenets and practices of the Quakers" that were "opposite to the orthodox received opinions and practices of the godly," and charged them with "the design to overthrow the order established in church and commonwealth." Every inhabitant belonging to the Quakers or assisting them was to be kept in solitary imprisonment for a month, unless he or she voluntarily left the colony; those, however, who persisted in Quakerism were to be sentenced to banishment upon pain of death.

This persecution of Quakers caused a great outcry in England, and King Charles II commanded an inquiry. The Puritan defense was that Quakers were open enemies to government, "malignant and assiduous promoters of doctrines directly tending to subvert both our churches and State," and that they were guilty of "dangerous, impetuous and desperate turbu-

lency." For a time Puritan ministers did relax in their persecution so far as to allow Quakers to be released from prison on condition that they solemnly engaged to go to England or elsewhere.

But on May 22, 1661, they resumed the passing of laws against Quakers. By the act of that date incoming Quakers were classed as vagabonds, and ordered arrested.

If found guilty of being a wandering Quaker, he or she is to be stripped naked from the middle upwards, and tied to a cart's tail, and whipped through the town, and from thence immediately conveyed from town constable to town constable until out of our jurisdiction. Any returning Quaker is to be like treated. If three times convicted, he or she shall be sent to the house of correction. If the county judge does not release them they shall be branded with the letter R on the left shoulder and be severely whipped and sent away as before. If he or she again return, they shall be proceeded against as incorrigible rogues and enemies to the common peace, and brought to trial for their banishment on pain of death. In the case of Quakers arising from among ourselves they shall be proceeded against according to the law of 1658 and banished, and if they return to be treated as vagabond Quakers.

On May 28, 1661, a law ordered that Quakers in prison be discharged and sent from town constable to town constable. Some were taken out of prison, and for "standing mute" were stripped from the girdle upward, tied to a cart's tail, and whipped through three towns, twenty stripes each time.

An order from King Charles, on November 27, 1661, suspended execution of laws against the Quakers. But the Puritan lawmakers suspended only those laws regarding death; laws providing for the whipping of Quakers through three towns were declared still in force, and the next year it was proclaimed that all laws against Quakers were in full force. A law of October 21, 1663, disfranchised Quakers.

Persecution of Quakers continued unabated. In their report of 1666 the king's commissioners related how the Puritan officials had banished many Quakers, and then executed them for returning. "They have beaten some to jelly, and been (in other ways) exceeding cruel to others. . . . They yet pray constantly for their persecuted brethren in England."

Further severe laws against Quakers were passed by the Massachusetts General Court in 1675 and other years. By a law of May 28, 1679, no church was to be built without formal official consent; "these new churches," said the law, "lay a foundation (if not for schism and seduction to error and heresies) for perpetuating divisions and weakening the ability of towns for the comfortable support of the established ministry."

Anabaptists and other sects were long and bitterly persecuted by the Puritan theocracy; time after time they were fined, imprisoned, or exiled.

The Pilgrims of Plymouth Colony were not nearly so intolerant as the Puritans, and although they repeatedly passed laws against Quakers they did so only after Puritan urging, and were not so harsh in executing them.

But both colonies, when consolidated, enacted drastic laws against Roman Catholic priests and missionaries. The Massachusetts act of June 17, 1700, gave them less than three months to quit the province; any of that faith remaining after that time was to "be deemed and accounted

an incendiary and disturber of the public peace and safety and an enemy to the true Christian religion." He was to be adjudged to suffer perpetual imprisonment, and if he escaped after conviction he was to be put to death. Furthermore, any one knowingly harboring or concealing a Roman Catholic priest or missionary was to be fined two hundred pounds, one-half to go to the informer, and the harborer was also to be set in the pillory on three days and to be put under bonds for good behavior. Justices of the peace were empowered to arrest any one suspected of being a Roman Catholic priest or missionary, and any person was given the right to arrest the proscribed without a warrant. Only those of the "Romish clergy" who were shipwrecked were excepted.

As for Episcopalians, it was not until the eighteenth century that they were able to establish their churches, and it was not until 1755 that the law allowed the wardens of the Episcopal Church to take grants or donations.

The Connecticut theocracy virtually copied the Puritan laws against Quakers. No one could take a seat in the Connecticut legislature until

he made "a declaration against popery." The Connecticut act of May, 1725, prohibited all independent ministers or churches; any minister not of the established church who should "presume to profane the holy sacraments by making a show of administering them" should "incur penalty of *ten pounds* or whipping not exceeding *thirty stripes* for each offense." By the law of October, 1742, only graduates of Yale, Harvard, "or some other allowed foreign protestant college or university," were allowed the benefits of ministry. On June 3, 1766, Joseph Meachem, a Baptist minister, was tried and found guilty "of solemnizing a marriage contract contrary to statute law," and was fined twenty-six pounds; he memorialized the legislature for a remission of his fine and his petition was granted. Episcopalians were allowed in Connecticut after 1708, but they were long barred from voting at elections; it was not until 1752 that the legislature began to grant them the privilege in certain towns.

Rhode Island was always noted for its liberality in religious matters. New York was less so, although far more tolerant generally than

the Puritans. A curious fact, in the light of present affairs, is that when, in 1655, three Spanish Jews arrived at New Amsterdam (now New York City) with permission from the Lords Directors of the West India Company to trade, Director-General Peter Stuyvesant and two other members of the council voted against their permanent settlement, but Stuyvesant and his council were overruled by the Dutch West India Company. To-day there are more than 1,500,000 Jews in New York City.

In New York there was a brief period of persecution of Baptists and Quakers, but it ceased upon orders in 1663 from the Dutch West India Company to allow full religious liberty. After the English conquest of New York Roman Catholic priests only were excluded; the act of August 9, 1700, banished such as were in the province, and prohibited all others, under severe penalties, from coming in. Quakers obtained the right to vote in 1735, but until the Revolution Roman Catholics were disfranchised in New York. In New Jersey, Quakers secured the franchise in 1713. In Pennsylvania Roman Catholics were completely

enfranchised by the act of 1682, but later, upon orders from William and Mary, they were deprived of the right to the vote, and they were not allowed it until the Revolution.

Maryland laws against Roman Catholics were severe; its lawmakers, at ministerial instigation, even went to the point by a law of December 5, 1704, of putting an immigrant tax of twenty shillings per head on Irish servants "to prevent the importing too great a number of Irish Papists into this Province"; this law was continued in force by act of December 15, 1708, for three years more. Maryland laws against Roman Catholics having the right to vote in general elections continued until the Revolution, although members of that faith met with no opposition when, in 1763, they built their first church in Baltimore. Virginia ecclesiastics, until the Revolution, persecuted Baptists and persistently discriminated against Presbyterians.

Early in the Revolution the long-smoldering antagonism of the people in general to the clergy burst into action. The causes of this intense popular feeling were various.

First, by their incessant religious persecutions

ministers had discredited themselves and their professions of a religion teaching kindness and charity.

Secondly, they had long irritated and oppressed the people by their domination of politics and by forcing laws regardless of popular wishes or welfare. Not only had ministers employed law to compel obedience to church dictation, but time after time they had shamelessly used it to aggrandize themselves and their institutions. One of a number of instances was the way in which a Connecticut law of 1733 was manipulated. As originally passed, this law provided for the distribution of money received from the sale to parishes and towns of public lands, in the western part of the province, to be used for school purposes. The ministers in 1737 obtained an amendment allowing towns and parishes to turn over the money to the support of the established gospel ministry. This act, which in our day would be called "a grab," caused such an uproar among the people that the legislature—in October, 1740—had to repeal it. Such was the power of the church offices that candidates would not scruple at using cor-

rupt methods to win elections; in Virginia these practices became so scandalous that Virginia lawmakers were finally driven to enacting a law in 1772 forbidding any candidate for the office of vestryman from "directly or indirectly giving money, presents or gifts, or to treat or entertain for election purposes."

The third cause of popular hostility to ministers in general was the fact that many clergymen were subservient to the aristocracy and sneered at the idea that the ordinary man was fit to be entrusted with political power. A fourth cause was the open or secret adherence of many clergymen to the British monarchy. Ministers true to the Revolution were not molested, but those who were not loyal were harshly handled. In Virginia, where three fourths of the population were said to have been outside of the established church, a law was passed prohibiting prayers for the king. A few ministers complied; others fled; still others at first resisted but later reluctantly obeyed. Patriotic feeling was inflamed. Some churches were converted into barracks, stables, or internment

places for prisoners of war; others were dismantled by enraged patriots.

In many of the States a strong popular demand insisted that the era of political domination by ministers be done away with by prohibiting them from holding office. The demand was further for abolition of all ecclesiastical privileges and the complete separation of church and State.

One of Virginia's first acts was a provision in the constitution of 1777 excluding all ministers from membership in the legislature and privy council. On motion of Patrick Henry the Virginia Bill of Rights, in 1776, declared that all men should enjoy the fullest toleration in the exercise of religion. When, in 1779, certain ministers, unmindful of the signs of the times, appealed to the Virginia legislature for a law making a general assessment for the support of religion, their request was voted down.

Further Virginia legislative acts in 1779 and 1780 repealed all laws guaranteeing ministers' salaries; abolished vestrymen's powers; allowed all ministers, no matter of what creed, to perform marriages without license or publication

of the banns; and permitted Methodist, Baptist, and men of other creeds to serve in the army under officers of like faith. A bill for establishing and assuring complete religious freedom, prepared by Thomas Jefferson some years before, was enacted in 1785. It denounced presumptuous ecclesiastical and other legislators who had "assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others."

Determined to efface ecclesiastical tyranny, the people of other States acted likewise. Article XXI of the North Carolina constitution of 1776 declared:

> That no Clergyman or Preacher of the Gospel, of any denomination, shall be capable of being a member either of the Senate, House of Commons, or Council of State, while he continues in the Exercise of the Pastoral Function.

This provision was repeated in the North Carolina Constitution of 1778.

When Georgia, in its constitution of 1777, decreed the separation of church from State,

Courtesy of P. F. Collier & Son.

A Quaker in the Stocks

abolished tithes and taxes for church support, and otherwise gave complete religious liberty, it also prohibited clergymen of any denomination from being allowed a seat in the legislature, and these provisions were reaffirmed in the Georgia constitution of 1789. The Maryland and South Carolina constitutions had similar provisions excluding clergymen from holding public office.

Likewise New York, the constitution of which, in 1777, gave full religious freedom and prohibited clergymen from holding public office. A section of the Delaware constitution of 1792 read:

> No clergyman of any denomination shall be capable of holding a civil office in this State while he continues to exercise pastoral or clerical functions.

It was not until subsequent years when it was generally felt that the danger of ministerial aggression was over that various States omitted in later constitutions provisions barring clergymen from public office.

In New England dying ecclesiasticism fought hardest in resisting the sweep of progress.

Tithes were not finally abolished in Vermont until 1807. New Hampshire, in 1819, arrived at a point of formally recognizing the freedom of all religious sects, and although its constitution allowed only Protestants to hold office, that provision increasingly lost public support. In Connecticut it was not until 1818, and in Massachusetts not until 1833, that the legalized hold of ecclesiasticism could at last be overcome. In those years the final vestiges of the tithe system were abolished.

The feeling of large parts of the American people toward ministers was extremely bitter. Although ministers still exercised an indirect moral influence upon legislators and laws, yet the popular attitude was one of vigilance against clerical encroachments. Even after the Revolution ministers were still declaiming against democracy. A characteristic sermon was that of the Rev. Ezra Stiles, president of Yale College, on May 8, 1783, before Governor Jonathan Trumbull and the Connecticut legislature. He argued for a government by aristocracy, declaring: "An unsystematical democracy and an absolute monarchy are equally detestable. An

elective aristocracy is preferable for America." When the Middle West was being settled a prominent New England clergyman represented these regions "as a grand reservoir for the scum of the Atlantic States." It was such a continuing attitude, coupled with the ministerial insistence upon repressive laws, that made clergymen odious to many of a people that were glowing with youth and energy.

Ministers knew of this public hostility, but made no attempt to inquire into its causes. Year after year at church conventions they bewailed the cold public bearing toward them personally and "the low estate" to which church and clergy had fallen. Such was the intensity of popular feeling in Virginia that when, in 1802, a legislative act ordered the sale of all vacant glebe lands for the benefit of the poor, not only were these lands sold but also church buildings and even the communion plate. Blind to the public temper, the Virginia clergy resisted the sale of glebe lands, going from one court to another, until finally defeated by a court of appeals decision in 1840.

In opposing laws abolishing their power ministers dolefully predicted that religion would be irretrievably injured. The contrary was the result. With ministers held to their proper place, that of purely spiritual functions, public interest in religion increased. This was commented upon by many observers in the second quarter of the nineteenth century. Side by side with this religious feeling there was also noticed the strong characteristic of the American people for the full and free expression of normal impulses. This impressed European investigators as a love of excitement. One of the most perceptive and sympathetic of these visitors, Adam G. DeGurowski, in his book "America and Europe," published in 1857, thus explained its probable cause:

The uniformity of the ancient colonial life, the rigidity of the Puritans and of their imitators, might have contributed to form it. Human imaginative nature revolts against uniformity, compression, against turning in one and the same circle. In the gloom of colonial times isolation was cheered only by arrivals from Europe. And for the honor of human nature, below the

froth and excitement, lies in the American breast the deepest enthusiasm for all that is grand, generous and noble. Enthusiasm generated their history, enthusiasm inaugurated their political existence; and among all the nations they alone emerged from such a sacred source.

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