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“That it might be fulfilled which was spoken by the prophet, . . .  
He shall not strive, nor cry.”

O Freedom! \* \* \* \*

Thy birthright was not given by human hands :  
Thou wert twin-born with man. \* \*  
\* \* \* \* *Tyranny himself,*  
Thy enemy, although of reverend look,  
Hoary with many years, and far obeyed,  
*Is later born than thou ;* and as he meets  
The grave defiance of *thine elder eye,*  
The usurper trembles in his fastnesses.

Thou shalt wax stronger with the lapse of years,  
But he shall fade into a feeblèr age ;  
Feebler, yet subtler. *He shall weave his snares,*  
And spring them on thy careless steps, and clap  
His withered hands, and *from their ambush* call  
His hordes to fall upon thee. He shall send  
Quaint maskers, wearing fair and gallant forms,  
To catch thy gaze, and uttering graceful words  
To charm thy ear ; while his sly imps, *by stealth,*  
Twine round thee threads of steel, light thread on thread  
That grow to fetters ; or bind down thy arms  
With chains concealed in chaplets. Oh ! not yet  
Mayst thou unbrace thy corslet, nor lay by  
Thy sword ; nor yet, O Freedom ! close thy lids  
In slumber ; *for thine enemy never sleeps,*  
*And thou must watch and combat till the day*  
*Of the new earth and heaven.* \* \* \*

William Cullen Bryant.



LF5083

# CHURCH AND STATE

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BY JAMES T. RINGGOLD

OF THE BALTIMORE BAR

Author of "Law of Sunday;" "The Theory of Culpability;" "Fallacy  
of the Civil Service Act;" Etc

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THE NATIONAL RELIGIOUS LIBERTY ASSOCIATION

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## PREFACE.

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NOTWITHSTANDING the controversial tone of this paper, it is designed to be descriptive, rather than argumentative — to point out the traces of the union of Church and State which persist in American jurisprudence, and to identify them as just what they are.

It is only incidentally that it is made to appear how undesirable a thing this union is. For its undesirability is a postulate of American political thought and needs no demonstration. And if this union survives among us or is intensified, it will only be through our apathy or blindness.

It is important that we should expel what is left of this old pagan idea in our law, because it is not in the nature of such ideas to remain stationary. We have lopped off the branches, but the roots remain, and have of late shown an alarming tendency to sprout afresh.

This, then, is an humble attempt to lay bare some of these roots. The work of extirpation must be left to others.

*Baltimore, November, 1892.*

J. T. R.



## CHURCH AND STATE.

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It is a mistake very frequently made to suppose that the idea of basing all government on the consent of the governed is a modern conception. This really involves nothing but a "recurrence to fundamental principles," as Mr. Jefferson would have phrased it. The earliest forms of government could have originated in no other way whatever than in the free and voluntary consent of the governed. The first object of social organization was war, conservative or aggressive, with man or beasts. It was a necessity, and a fighting necessity, that drove men to band together in the origin of nations. The same necessity compelled them to submit to the authority of one of themselves while active fighting was going on. It is preposterous to suppose that this one obtained his place as leader in any other way than by the open and untrammelled choice of his fellows. Moreover, his office was a specified and definite one, like that of the Roman dictator. It was to direct the war. And, as with the dictator, when the war was over, and the occasion for his services ceased, his place was vacant, and at the next outbreak he might or might not be re-elected. There was no government at all in the accepted sense of an organized society, in time of comparative tranquillity, for the simple reason that there was nothing for government to do, social intercourse being practically unknown and private injuries privately avenged.

The advantages of co-operation in fighting having been perceived, the advantages of maintaining an organization in

readiness for fighting at any moment were of course suggested ; and friendship between the warriors grew out of the common interests and perils they had shared. Hence, families began to remain together after the actual fighting which had given occasion for their concentration was over ; and thus the permanent tribe began to be formed.

But the tribe being a social organization for peace as well as war, there must be a ruler for it under both conditions ; and this ruler could never have become such, any more than the ruler for war alone, except through his selection by the tribe. The selection at first was rather in the nature of acquiescence. It was natural that an ambitious man should want to retain power after the occasion was past which had induced the rest to bestow it on him. And it was natural that the rest should concede this ambition of a successful general, seeing that they must have somebody to govern them if they proposed to remain in their closer connection. But that he was liable to be deposed at any time for unfitness, and that his position was vacant at his death, cannot for a moment be doubted.

Personal ambition develops easily into race or family ambition. After being king himself, the warrior longed to know that his son would also be king when he was gone. This is not the place to investigate the origin of the idea of hereditary right. Suffice it to say that being familiarly applied to property, it was easy to extend it to office. But the elective principle could never have been eliminated by this means alone. From attachment to the father and presumed fitness in his son, the people might have tacitly assented to the latter's attempt to fill the place of the former. But they were no more familiar with the principle of the inheritance of property than they were with the principle of confiscation ; and they would have promptly confiscated the kingly office and bestowed it on a deserving third person when a king's son had proven himself unfit to reign, had it not been for the invention of the doctrine of "divine right," and this doctrine



resulted and could only result from the union of Church and State.<sup>1</sup>

Hence, government had always existed by reason of the consent of the governed, until the union of Church and State. The denial of the divine right of the king, made by our American forefathers, was simply the re-assertion of the original separation of the two. It is a logical necessity that the advocates of this union should deny that the consent of the governed is to be any longer regarded as the basis of government.

How did the union of Church and State come about?— In this very obvious way. It owed its birth to the spirit of usurpation which it afterward served so well. As long as the king kept within the limits of his powers either as to manner or time, he needed no artificial terrors to sustain him. It was only when he wanted to retain his place after his time had expired, or his incompetency was recognized; or when he wanted to exercise some unconstitutional prerogative; or when he wished to transmit his honors to his heir without reference to the popular will; or to do some other wrong,— then alone it was that he found it expedient to appeal to the priest to aid him in terrifying the people into submission. And the priest, too, sometimes wanted his tithes more promptly paid, or some questioner of his position, some introducer of strange gods and rival priesthoods, punished, when he would naturally appeal to the State. And thus the two ruling influences were drawn closer and closer together.

To one who studies the genesis of the religious feeling, apart altogether from the question of revelation, the persistence of the idea of the union of Church and State is easily intelligible. The authority of one man over his fellows

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<sup>1</sup> Strictly speaking, it was Religion and State, as at that time, of course, there was no organized Church any more than there was an organized State. But the principle and the practice are the same throughout, in all its phases; from origin to end it is properly and fitly described as the union of Church and State.

rested at first on his power, real or assumed. The one who was strongest or most cunning, or both, naturally took the lead, and commanded the allegiance of the rest, since fighting wild beasts or men was the principal business of primitive society. This man was the State. But this man was the guide and protector of the others only in the affairs of the external and visible world.

But there was also an invisible world. Here is a tree cut down; some man has been here. Here is a tree riven by lightning; some magnified man has surely hurled the bolt. So the sailor feared the deity which might shipwreck him, and was grateful to that which saved him from the storm. The magnified man who sent the lightning against the tree, the uplifter of the waves, were evidently to be dreaded. Here, then, was a want of human nature to be satisfied. And just as soon as society began to take on organized forms, it was inevitable that a class should be evolved whose members should especially charge themselves with satisfying the spiritual wants of the rest. This class was that of the priests.

Now, just as the chief held his position because of his ability to control the physical forces which might assail the community, so the authority of the priest was based on his assumed acquaintance with the spiritual forces which were also full of capacity for evil, though at times beneficent in their dealings with the people. Thus the Church came into power along with the State. And the source of the power of each was the belief of the masses that each had behind it a power which it could turn as it willed.

Now, the ordinary man regarded the king with the same mingled feelings of fear and affection which he felt for the "spirits"—with fear, not only because the king was individually his superior, but also because behind the king was the force of community, which he could turn at will against internal resistance to his authority as well as against external foes of the State; with affection, because if the subject

obeyed and served the king, the king's superior abilities and the force of the community which was at the king's command, might at any time be invoked for the protection and behoof of the subject, as against foreign aggression or the trespass of a fellow-citizen.

As the people dreaded in general the supernatural punishments wielded by the priest rather more than they did the temporal penalties which alone were at the command of the king, it followed that the king had more frequently to appeal to the Church than the Church to the king. And it is safe to say that every such appeal was made the occasion of a fresh encroachment on the kingly "preserve," until the Church not only substituted her sanction for the will of the people as the basis of the king's right to rule, but also asserted a discretionary authority over his actions, even to the extent of removing him for contumacy. Thus was "divine right" fully established, and the king now ruled "by the grace of God," without any reference whatever to the will of the people. But if the union of Church and State thus originated in a felt necessity by each for the support of the other, it remains a fact for no other reason. Neither dares to let go of the other's hand for fear that it cannot stand alone.

Men may affirm or deny as they please whether it would not have been better upon the whole for the race if the supposed necessity for the union of Church and State had never been recognized. But the recognition is a fact, and the question of its past expediency is immaterial, as *the point is* that with religion, as the Founder of our religion taught it, such a union is utterly inconsistent. To grasp fully the significance of this last proposition, we may divide religious systems into three great groups, pagan, Hebrew, and Christian. And first we may note some of the results which followed under the pagan system of alliance between Church and State.

Two etymologies of the word *religio* have been suggested. The first derives it from *re*, "back," and *ligo*, "to bind."

This attaches to the word the sense of something which binds, restrains, holds a man back from doing certain things. The other derivation makes it out a compound of *re*, in the sense of "again," and *lego*, "to read," originally, "to collect," thus understanding by *religio* the frequent repetition of some particular act or acts. The first involves the idea of conduct, the second, the idea of ritual as the true domain of *religio*. Neither gives the complete idea of the English "religion," as it is now often understood, as comprising three distinct things: 1. Faith, or a certain belief on abstract subjects; 2. Conduct; 3. Conformity to a certain ritual.

### PAGANISM.

Under the influence of its union with the State, pagan religion either formulated no profession of faith or attached little value to its avowed acceptance. In many ancient systems, indeed, the faith or creed in its entirety was not taught to the people at all, but was reserved for the privileged few who were initiated into the "mysteries." In others, again, the beliefs on which the practices were based could be defined only in the vaguest terms by the priests themselves. As to civil conduct (except so far as obedience to the king was concerned) the pagan church practically disregarded it. This resulted from the predisposition of the king, the priest, and the people. The king having been originally selected as a regulator of conduct, was keen to maintain and extend his control over the daily lives of his subjects. The priest, while his dignity was recognized and his support provided for, was normally content to leave the king's province unmolested. Where faith and conduct are ignored, but one thing remains for religion to do; namely, to require and superintend the performance of certain rites and ceremonies — to become a mere purveyor of exhibitions. And into this degeneracy sooner or later every form of paganism has fallen. This is true likewise of every State religion — professedly Christian as well as pagan. Whatever the theory, in practice

the second etymology of *religio* mentioned above was universally adopted, and the priest was little more than a theatrical manager.

As for the people, we have seen that their submission to human as well as spiritual authority rested alike on the two motives of fear and affection. It was inevitable that they should deem the same means of propitiation available with the powers represented by the priest that were found effective with the king. The king had his tribute, in consideration for which he extended his favor and protection. So they brought their offerings to the priest, and he burnt their cattle to conciliate the gods, whose representative he was. The priest, in this aspect, was the tax-collector for the monarch of the spiritual world; and like many another tax-collector, he not infrequently appropriated a goodly share of the payment to his private emolument.

#### HEBRAISM.

Into a world which had developed no higher conception of the function of religion than this, came the Hebraic dispensation. Whatever theory any one may adopt as to the nature or the fact of what is known as "revelation," it cannot be denied that the doctrine of Moses as to Church and State was a revelation, at the very least in the sense that it was derived from nothing which preceded it, and that it assigned to religion an entirely new meaning and mission among men.

The time having come for this work, the way of doing it was also "supernatural." It was the very reverse of the way in which the profoundest philosopher of that time or any other would have been likely to set about it. In order to make of religion something more than a mere system of formalities, it would seem natural to begin by proclaiming that formalities have nothing to do with religion in its true sense. But Moses did not begin in that way. He began by providing for religion a system of formalities without a parallel for ex-

tent and minuteness. In order to purify religion of the contamination incurred by its connection with the State, it would seem natural to announce an absolute separation between the two. But Moses made no such announcement. Not only did he fail to separate them, but he actually merged the one into the other, and produced a perfect and complete identity between them. Of this identification the government of the Hebrews in Canaan presents the sole instance known to history. It is the only pure theocracy ever instituted. Nor was this accomplished by sinking the Church in the State. It was accomplished by abolishing the State as such altogether, and setting up the Church in its place. Every ordinance, every law, no matter what its scope or purpose, began, "Thus saith the Lord."

Two results followed: The minds of men whom experience and hereditary tendencies had rendered unable to dissociate religion from ritual, were satisfied with a ritual as magnificent and elaborate as they could desire; and minds long accustomed to look upon the State as the only power which took cognizance of their daily life and conduct, were brought to acknowledge a responsibility in this regard to the Ruler of the Universe. Literally, men's hearts were turned to God. And though sacrifices were provided by way of atonement for breaches of the law, yet repentance was not lost sight of. The one was only valuable as the emblem and attestation of the other. The people were taught, not only that the unseen power which ruled the universe was watching and judging their conduct, but also that He was not to be bought off from His judgments, like a threatening invader in this world, by the tribute of wealth, gifts of gold or frankincense or myrrh.

Then, with the message that man's responsibility for his conduct was not to other men alone, and that the penalties for misbehavior were not only those defined in the statutes of legislatures or the proclamations of kings, but lay in Jehovah's wrath, the mission of Israel ended; and a Man came

into the world preaching a strange and wonderful doctrine as far removed from that of Hebraism as Hebraism was removed from paganism in its highest forms.

### CHRISTIANITY.

Christianity is its own miracle. Considered with reference to its origin and the means adopted for its promulgation ; with reference to the startling novelty of its principles, the severity of its standards, the entirely new function which it assigned to religion ; above all, with reference to the hard soil of the human soul in which the seed was sown, it cannot be denied that its survival and its still prevailing influence over the dominating races of men, are phenomena without a parallel, and without adequate philosophical explanation.

And the Founder of Christianity is His own miracle, too. By the time He came on earth, men had forgotten that they had ever elected their rulers ; and force alone was understood as the basis of permanency in Church or State. He asserted His right to submission, while having no earthly force at His command, and disdaining to appeal to those who had.

When a conquered king was beheaded, no man did him honor. But this Man by His death drew all men to Him. The Star of Bethlehem still shines. The shadow of Calvary reaches us across the ages.

The disciple of the Tübingen school is as busy with this mysterious Individuality as the priest—perhaps more so. The denier of Deity pays higher tribute to Christ in claiming that he behaves as well as Christians ought to behave. And that dispute which began in the temple about the Father's business with his children here, continued with Julian and Voltaire, and is still going on with the wise men of to-day.

Moreover, the question most earnestly debated by the most profound thinkers of our time is not the authority of Christ, but His teaching. The effort is not to get away from Him, but to get at Him. Before we can "come to Him" in any true sense, it is plain that we must find out where He is.

If we wish to enter into His kingdom we must begin by realizing, at the sacrifice of any prejudice, the subjugation of any impulse, exactly where that kingdom lies. According to His own statement, it is "not of this world," but is "within you."

The new religion which Christ founded thus became in one sense destructive of the Mosaic system, and in another sense supplemental to it; *destructive*, in that it discarded all formalities and proclaimed the total separation of Church and State, which that system made identical; and *supplemental*, in that it insisted on the jurisdiction of the Church over the conduct of men.

But if the Church and State were to be totally separated, would not the State insist, and rightly insist, that the regulation of conduct must be left exclusively to her? Had the State not been born of the necessity for regulating conduct in war, and endured because of necessity for such regulation, even in peace?—Certainly. And here was the great, "revelation" of the Master. He and He alone divided conduct into two kinds, the conduct of *the mind* and the conduct of *the body*. The last, the true, and obviously the only possible concern of the State, Christ consigned to her exclusive jurisdiction. Over the first, lying in a domain where no State, or legislature, or governor, or police, or soldier, could ever penetrate, He asserted His authority, and there was His kingdom set up.

Shakespeare and an idiot might eat the same amount of substantially the same kind of food, and one sit down and write a scene of Hamlet, while the other babbled to the birds and trees. The integration and the disintegration of cells, the destruction and reconstruction of tissue, the evolution of heat and carbonic acid,—everything that we could feel and see and test with litmus paper, and weigh with most delicate scales, might be just the same; and yet how different the result for all mankind! The secret of this difference is the individuality, the mind, the soul, the spirit—whatever you



may choose to call it — of the man. It is that which makes him one and the same from infancy to the grave, albeit the physical atoms of which his visible shape is composed are not the same for any two successive instants. Over that spiritual individuality and its conduct, the Master claims to rule. The Great Spirit of the Universe asserts its imperious dominion not over the bodies and the bodily movements alone, but over the very minds and hearts, in other words, the spirits of mankind.

If anybody will compare the work of religion as understood by even its immediate servants under any other cult than the Christian, with this "hard saying," he will cease to wonder that the Master's mission has so slowly and painfully made the little way it has thus far won into the hearts and minds of men. Consider a moment how the case lies. Here is the king; he demands obedience to certain laws made known to us all; he exacts certain tribute which we are notified in advance that we must pay. Very well. Here is also the priest, who demands our tithes; well, we know what they are in advance, and can prepare for them. But lo! Hebraism comes upon us. And the priest or the prophet wants the tithes still, and then says they are not enough. He wants mercy as well as sacrifice, forsooth. He has taken to himself the dominion of the State. He is undertaking to make laws for us like a king. He demands that we shall behave in a certain way toward each other under penalty of vengeance of the deity whom he represents. Surely the test is abundantly close as it is. To have the collective vengeance of the community invoked against one in the name of Jehovah, to feel His hand in the punishment of the outraged law — this identification of Church and State in matters of external behavior is surely serious and searching enough for poor, weak human nature.

Not so. The test is to be made yet more searching. Responsibility for *actions* is not only now to be extended, but we are to be arraigned for our very *thoughts*, before a Judge "unto

whom all hearts are open, all desires known, and from whom no secrets are hid." A hard saying enough, in all conscience, and no wonder that the cry has gone up in all the ages, "Who then shall be saved?" No wonder that frantic efforts are forever being made, in some way to evade a requirement apparently so impossible of fulfillment, and to substitute some other kind of service for that never-ending cleansing of the heart which He has demanded of men.

And the commonest kind of futile endeavor in this direction is, as it has always been, *to set up for Him a kingdom in this world*, where He has expressly declared that His kingdom is not and cannot be; or in other words, to effect and maintain that union of His Church with the State, which He expressly and in most emphatic language proclaimed could never exist.

Nor is it necessary, or indeed just, to insist too much in this connection on financial motives. It is not only fair but essential that they who attend on the altar should live by the altar. No satisfactory priestly service can be expected of any man who is not at rest in his mind so far as his maintenance is concerned. And besides, the most strenuous efforts in favor of a union of Church and State are often made by persons without any pecuniary interest whatever in the result. The constant disposition of many who sincerely believe in the Master, and really want to follow Him, to establish for Him a kingdom in this world, grows, more or less unconsciously, out of a sense of weakness. His saying *was* a hard one. Amid all the temptations of active life it is difficult enough to be decent in action. Respectability is hard to maintain, with avarice, and ambition, and lust, and laziness, forever dragging our hearts toward the pit. But if we are to be held accountable for the very visions of the mind; if neither the chamber, the office, nor the darkness of midnight in forest or field, can for one moment hide us from the eye of a Judge who is looking not only *at* but *through* us, who indeed may be saved? And so, the impulse to find some

way of getting around this close-testing proclamation of His is natural enough. If Christ is going to charge up all our wicked thoughts against us, and if it really is quite too serious an undertaking to keep our minds and hearts always clean and pure, may it not happen that He will set off against our delinquencies in this respect, the good works that we do? If I have lusted after a woman, may I not plead in extenuation that I never work on Sunday? If I wish that my competing neighbor might be ruined in his business, may I not atone for it by fasting on Good Friday? But even easier and therefore more tempting than this scheme for "getting even" on the Eternal Books, is the idea of atoning for not only our thoughts but our wicked actions by preventing wickedness *in other people*.

And here another deeply-rooted principle of human nature steps in. It has been said that in every situation the first desire of a woman is to know what is going on, and the second is "to boss the job." The same remark applies in great degree to men. The "desire to boss" is only a slang expression for the lust of power, which through all the ages has so bitterly cursed humanity. Patriotism, philanthropy, and religion have all served their turn as excuses and cloaks for the gratification of this passion. The prostitution of religion to its evil work is what concerns us here.

If people are prone to attempt to "make up" for vile thoughts and actions by good deeds of their own, how incorrigible is the propensity to try the same experiment by forcing what they consider good deeds upon others! Smith reasons to himself—deliberately or not is no matter, since he *acts* upon the reasoning—somewhat as follows: "O, I cannot think straight myself; my wicked ideas are too strong for me: I cannot even go straight for any length of time without taking altogether too much trouble; I know what I will do—I will get up a society to make Brown, Jones, and Robinson go straight by act of the legislature. Then if I do get crooked myself in thought or deed, I shall

have something wherewith to balance my account 'up there' anyway. And how easy, in fact, how delightful, it will be to get to heaven by setting other people straight! In this way I can have my name printed in the newspapers, and order Brown and Jones and Robinson around, too; and make them do what I want them to do; and have them understand and acknowledge that I am better and wiser and greater than they are."

Now this setting of others straight, this being a busybody in the world, does answer the great purpose of many lives in our day: and does get one's name printed in the papers very often. Nor can it be denied that it affords a sort of substitute for the old orders of nobility, and tends to divide society into two great classes,—the leaders, and the led,—like the barons and vassals of the Middle Ages.

But here again comes in the "hard saying" of the Master. Setting others straight by act of the legislature is conduct without merit in His eyes. If it were possible for Smith to save his own soul by such means, however mixed his motives, or however uncomfortable his proceedings might render Brown and the rest, no one could reasonably blame him. But observe the fallacies which, according to the Master, underlie the assumption that such a thing is possible. In the first place, what He demands of Smith is not that he shall attempt to control either the minds or the bodies of *other people*, but that he shall exercise unceasing vigilance over *his own*. In the second place, the kind of merit which the activity of Smith produces in the others by his legislation, is not recognized by the Master as any merit at all, and therefore Smith's work, so far as the Master is concerned, is simply thrown away.

There is a homely anecdote which is apposite just here. An inebriated gentleman being indignantly asked by his wife why he came home at so late an hour, is said to have replied, in some astonishment at the simplicity of the question, "Why, of course I came home because all the other places

were shut up." To any true wife this excuse would be worse than none at all. But to the policeman, who represents the State, the only object is to have the drunkard housed; whether he sneaks into his dwelling under the influence of a fear of arrest, and when every other "resort" is closed to him, or whether he enters it as the temple where his heart is enshrined, the officer cannot know and does not care. It is just so in the case of Brown and Jones and Robinson. If they are only prevented from doing evil by the legislation which Smith has had enacted, then they may be better citizens, more desirable men to have in the community, but so far as the Master and His kingdom are concerned, Brown, Jones, and Robinson are just where they were before. The man who would get drunk if he could, the man who would rape, rob, and murder if he dared, is as far from that kingdom as is the man who has done one and all of these things. So Smith's work is, as has been said, in vain, and the items which he fondly imagines are entered to his credit "up there" are all wanting.

It is one of the most pleasing results of the study of the Master's life and teaching, that whatever the standpoint from which He is approached, there is found the same unerring balance, the same "sweet reasonableness," in His message to men. Our present business is with Him as a practical man of the world rather than as the apostle of a revelation. With no irreverence we may study Him, not as a preacher or a redeemer, but as a statesman. What application to the welfare of society has His confinement of the religious life to thoughts and voluntary actions alone? No one else ever dreamed of such a thing. We have seen how the conception of religious authority was evolved along the same lines as the idea of secular authority. We have seen how in the Hebraic economy the relation of the Church to humanity was to identify it absolutely with the State. Moreover, this religion which the Master was founding, was destined to be taught among nations where a different religion altogether

was already strongly entrenched in the minds of the people — the organization of a priesthood and the support of the State. And against all these forces it was to win its way by spiritual means alone, and to survive because it was the fittest. If its standard had been as low as theirs and its ways like theirs, no reason could have been given for its acceptance, no possibility of success have awaited it.

In proclaiming that there should be no identification of the Church with the State, the Master went far beyond all precedent. In insisting that there should never be the slightest alliance or connection whatever between the two, He defied the wisdom of the ages. All the great thinkers of old regarded the one as a necessary adjunct of the other. Egyptians, Greeks, Romans, considered that the two must be united if order was to be preserved. *The bargain was that the Church was to frighten the people into obeying the State, and the State was to compel the people to support the Church.*

Unquestionably, as long as the bargain was kept, the Church was performing to a certain extent a useful service in the world. She had a mission, such as it was. She earned, after a fashion, the bread and butter with which the State fed her. But so far as the work of developing the inner nature, of elevating the standard of conduct, of purifying the hearts and expanding the souls of men, of regenerating and exalting humanity was concerned, she was utterly worthless. She was merely an agent of police. Her standard was a police standard only.

As a *restraining* influence she might have a value. As a *progressive* influence she was valueless. But in the moral, no less than in the physical world, that which pauses, retrogrades. Hence, even as a police power, religion had practically ceased to be of any account when the Master came. Its union with the State had destroyed its vitality. As a matter of fact it was no longer capable of exercising that moderating influence which was the consideration supposed to be rendered for the State's support, so that it was obtain-

ing that support under false pretenses. The masses, so far as they paid any attention to it at all, handed over their tithes, and made their sacrifices, and refrained from nothing on its account, because they understood that they could break any law they pleased without fear of the Church if they paid the Church for the indulgence.

Philosophy, as distinguished from religion, alone undertook cognizance of the real conduct of men. And philosophy had resolved itself into the utmost possible isolation from active life and from intercourse with one's fellow-creatures. Thus such of the community as still had a standard of behavior disassociated from the penalties of the State, withdrew more and more from affairs; religion fraudulently took gifts from the rest, giving them in return a free license in the matter of conduct, though professing herself the State's ally in its regulation. And the State was left alone to deal with the froward and the law-defying.

To appreciate the state-craft of the Master at this crisis, we must revert to one or two "fundamental principles." So far as the relation between the State and its citizens is concerned, good may be defined as that which tends to the conservation and strengthening of the social organism, and evil as that which tends to its destruction or disintegration. The function of the State is police. The true American idea is that the *only* function of the State is police. But whatever theory or form of government we may adopt, it must always happen that the largest and costliest part of the State's activity toward its citizens must be a police activity.

With State, as with all machinery, the great object is to accomplish the most work with the least expenditure. And with State machinery, as with all other, when the work to be done exceeds the strength of the machinery, the latter breaks down. It follows, then, that the State is strongest wherein its chief function, that of police, is performed with the smallest expenditure. The expenditure involved in discharge of this function is in direct ratio to the number of citizens

whose disposition makes a police necessary. When that number becomes so large in proportion to the rest as to be practically the whole population, then the work becomes too heavy, the State machinery breaks down, and anarchy supervenes.

The Church having proved a total failure as a direct adjunct of the police power of the State, and having, in fact, degenerated so low as to sell that very influence to the criminal classes, which the State paid it to exercise against their destructive energies, the utility of the Church was plainly ended. The question was, How could that utility be restored? The only practicable way was plainly to dissociate the Church from the State altogether, to assert her claims to the spiritual mastery of men, and to disclaim any direct jurisdiction over their bodies, to set up a standard of conduct altogether higher than that of the State, and enforce it by penalties of altogether a different kind.

The result of this was to transfer the work of the Church from a police of punishment, if we choose, to a police of *prevention*. For every one who heard and understood and received the Master's message, one was added to the group of citizens who would do no wrong though no police existed. And to that extent the burden of its police machinery was lifted from the shoulders of the State. Here was a practical result of inestimable value. Probably one who considers the gospels altogether mythical would not dispute that in a community where the Christian standard of conduct was uniformly acted upon, no police whatever would be required.

Is the incompatibility between the Master's kingdom and Cæsar's a mere question of degree as many seem to think? May the Church, consistently with her Master's teaching, in any wise or to any extent whatever, ally herself with the civil power, and trade influences with it, as did the pagan religions of the olden time? May she even acquiesce in the State's offer to enforce her ordinances in the form of statutes?

If she does so little as this, she sells her birthright, and



surrenders the liberty with which she was made free. She defies the very law of the Master, and turns her back upon Him, and owns another for her Lord. Not only did He announce in the most distinct terms that He desired no union between His Church and any State, but He plainly taught that such a union was from the very nature of His religion an utter impossibility. Let there be no question on this point. It is not merely true of the Church which will *ask*, it is true as well of the Church which will *allow* the State to come into her domain and thrust her ordinances by police power down the throats of unwilling citizens. In either case it is true of her that she has betrayed her trust, and made the Master a liar; and whatever else she may be, she is an unchristian Church, *totally* and not in degree.

But the Master had no caprices. That will which He announced as dissolving forever altogether the union of Church and State, was in this, as in all other things, guided by the "sweet reasonableness" that was all His own. The union was not forbidden and denounced for other than the best and most practical reasons. It was forbidden and denounced because in the development of humanity the time had come when it could not exist consistently with the highest interests of the race and its moral progress. Moreover, the old order of things was doomed, and out of the ruins a new order was to be created. Pagan religion could never survive the approaching wreck of the institutions with which it was inseparably intertwined. It was doomed alike by its principles and its practices. The standard of the new faith was the only one around which the race could rally for the work of bringing order out of the approaching chaos.

Such is the will of the Master. But the Church turned from His counsel, and in a dark intrigue with the Emperor Constantine entered into a union with the State. But again, instead of society's being bettered or reformed, its deep-dyed corruption was given a yet deeper dye, its "dark-damnation" was only the more darkened, and its ruin the more hastened.

And so the storm burst from the steppes of Asia and swept over the continent of Europe. And when the fury of the waves was spent, the Neo-paganism of the South, which the conquerors did not know, had gone down forever; the paganism of the North, which they believed in and brought with them, was lost in the tempest. And only His form walked upon the surface of the waters.

And then the Church still further ignored His warnings and took possession of the kingdom that had been Cæsar's, in His name; and in their zeal they well-nigh returned to the Hebrew identification of Church and State, which had long since done its work and fulfilled its time. Micah 4:8; Eze. 21:25-27. But the end was as the Master had foreseen and prophesied, and His own kingdom, the only one He cared at all about—His rule over the minds and hearts of men—was lost to Him.

It has been observed that the Church which connives in the smallest degree at the State's intrusion upon her domain, has abandoned *in toto* her claim to be called a Christian Church. But though her unchristianity is an absolute quantity, and not affected at all by the extent to which her dalliance with the power of the sword may go, yet the measure of the evil result to mankind, of the union of the Church and State, is in exact proportion to their intimacy. The first evil is of course that the Church ceases altogether to be Christian; the second is that she ceases to be a Church in any true sense of the word. She sinks at once to a mere bureau of government. Her bishops degenerate into ward and district managers, and her clergymen into detectives on special duty. The divine right *to govern wrong* is preached from her pulpits, and the threats of hell are merely the brandishings of the policeman's baton.

As for the State, the evils need not be enumerated. The foul depths of hypocrisy to which men descend; the dragging of holy things through the mire of politics; the blasphemy ever rising to the lips of the scoffers; the vile bigotry, the

not beastly (no beasts have ever understood the union of Church and State) but *fiendish* cruelty, the malignant rancor, the envy, hatred, malice, and all uncharitableness which have had their birth, and writhed their loathsome way among men under the sheltering wing of an established religion,—are familiar to us all. It is enough for us that this union, in any degree whatever, is contrary to the Master's teaching. But it is also important for us to root it up, leaving not the smallest fiber in the ground, lest the ill weed grow and stretch over us as over our ancestors, converting the green fields of happiness in this world into a foul and treacherous morass, and cutting us off from the sight and hope of the blue heaven above.

That this incestuous union between the Church and the State — true sister and brother as they are — exists in America to a greater extent than most persons appreciate, and that an effort is constantly being made to strengthen the union, is evident enough.

A few instances in which we find dogma incorporated in our law — and therefore a union of Church and State — will now be mentioned : —

#### I.

The most important illustration of the union with which we have to deal we discover in what are known as "Sunday Laws." These are statutes which require of the citizen a certain line of conduct on the first day of the week, different from that which is required from him on any other day — which establish the "special peace" of Sunday. It is true that this special conduct consists in abstention and not in action; the citizen is not required to do anything on that day which he is not required to do on any other day; but he is forbidden to do a number of things on that day which he may do on any other day not only with impunity but with the highest approval. His personal liberty is restrained to a greater extent on that day by the State than it is on any other day.

The controlling principle of our government is that though government be a necessity, yet it is always to be kept within the narrowest possible bounds,— that for every encroachment it may make on individual liberty it must demonstrate the absolute and overweening necessity, and must prove that the encroachment has been made because it would be absolutely impossible to preserve the social order without it. The least possible government, the cheapest possible government—practically one and the same thing—is the demand of the age. Let us bring Sunday laws before the tribunal of reason, and see if they can be sustained on any such principles as these.

It must be conceded that a certain amount of restriction upon the liberty of occupation and of locomotion is necessary if men are to live together at all. The necessity is sufficient justification for the restriction. It is also its limitation. And necessity limits the restriction absolutely to such conduct as interferes with the equal liberty of another. Except in Sunday laws, it is an axiom of universal acceptance that the conduct of one citizen cannot so interfere with another at one time as to call for the exercise of the police power of the State, unless it be such conduct as would so interfere at any and all times. That is to say, that *time* alone cannot be made to affect the legality or illegality of an act, all other conditions remaining the same. Where, by the general consent, a portion of time is “set apart” for certain things, then conduct which interferes with those things may be prohibited at such times, though allowed at others. Thus an act may be a nuisance at night which would not be a nuisance in the daytime, etc. But an act cannot be a nuisance on one day which is not a nuisance on every other day.

In what respect does the conduct of the average citizen differ on Sunday from his conduct on other days? What is the change in his own occupation on the ground of which he demands that the police power of the State shall lay special

inhibitions on the conduct of the citizen who is not of the average? There can be but one answer to this question. The duties of public devotion are assumed by the majority on that day, and they abstain, in form at least, from the duties of their regular business. If, then, the minority are to be compelled by the police power of the State to observe a special peace on Sunday and to abstain from anything permitted to them on any other day, it can only be because this special peace of Sunday and this special abstention are necessary, in order that the rest may be idle and attend their public devotions.

How far the State may be justified in compelling one man to be idle because another man wishes to be so, will be considered later. The question now is, Do the duties of public devotion require that the persons who do not care to perform them shall behave themselves differently on Sunday from the way in which they behave themselves on other days? The utter falsehood of the pretense that any such requirements exist, is patent. There is not a single sect of believers in this land, which does not perform the duties of public devotion on other days than Sunday, or that has ever claimed that the pursuit of its regular occupations by the rest of the community, in any way whatever interferes with their proper and satisfactory performance on such other days.

There is the Jew, who seeks his synagogue on Saturday; there is the Seventh-day Baptist and the Seventh-day Adventist, who agree with him in regarding Saturday as the proper day for weekly religious service; not one of these has ever thought of suggesting that a special peace of Saturday is necessary or even desirable for the religious observance of that day. There are the Roman Catholics, the Episcopalians, etc., who consider services appropriate to Christmas, to Good Friday, to Ascension Day, to the forty days of Lent, to many Saints' Days and the like; from not one of them has ever come an application for the exercise of the police power of the State to compel others to abandon their regular

avocations in order that any of these days may be adequately observed.

Finally, there are the very people who are the most bent on the maintenance and extension of Sunday laws—the so-called evangelical denominations. They have their Monday night, their Wednesday night, and their Friday night religious services; they have great “revivals” lasting week after week, and consisting of services every day and night in the week. That their meetings on the last six days of the week are not to the full as satisfactory to those who conduct them, and are not to the full as productive of results in the way of “conversions” as are their meetings on the first day, has never been claimed by any one. The falsehood of the pretense that a special peace is necessary for the proper performance of the duties of public devotion is, then, a simple fact of daily experience, like the law of gravitation or the shining of the sun.

When a fallacy has been exposed, it is perhaps superfluous to go further and show that if it were a truth, it has no application whatever to the controversy in which it has been invoked. But error has such a wonderful vitality and reappears in so many forms to blight the lives of men after it has, to all appearance, been destroyed, that it may be as well to add that even if this palpable falsehood about Sunday laws were a fact, it would not excuse or justify them in any manner whatever.

Unless we concede the union of Church and State, the State can compel no man to stop his work in order that another man may pray or preach to his own satisfaction. No suit for damages, nor yet injunction, will lie on any such ground in America, because where Sunday laws are not involved, the courts are reasonable enough in this matter, and justly say that all such damage, if there be any, is *damnum absque injuria* (a loss without an injury). The reason is plain. A damage cognizable in the courts of a secular State must be one which is of a secular character, and

which can be measured and compensated for in money. How is any man to put into money, to reduce to dollars and cents, the injury done him by interference with his communications with the Creator?

Again, there is no such general *consensus* as to the value of religious devotions in general, or the devotions of any particular sect, or of any particular person, as would render it possible to get a jury to put a valuation on their interruption. Many consider that any form of religious devotion is a mere waste of time; many regard particular forms as rather worse; others, knowing the man who had been interrupted, might say that in his case such devotions were presumptuous and more likely to get him into trouble than to do him any good; and so on.

But if the spiritual injury of an interrupted devotion cannot be prevented or recovered for in a court of law, it constitutes no ground whatever for legislative prevention. In undertaking to prevent it, the legislature not only undertakes to decide a purely abstract religious question as between the religious and irreligious, but in undertaking to prevent it on the sacred day of a particular set of religionists, and neglecting to prevent it on days held equally sacred by other religionists, it sets itself up as a judge between orthodoxy and heterodoxy, or in other words sets itself up as an ecclesiastical body. And what is this but the union of Church and State?

And not only must the legislature, unless it is a religious council of a sect, establish this special peace on every *day* deemed sacred by anybody, but it must establish the same for any *hour* so deemed; consequently, if any sect should take it into their heads that they would like to have a church service between twelve and one o'clock every day in the week, the legislature must pass a law stopping the wheels of traffic and compelling the complete cessation of all effort to earn a living, by the rest of the community, during that hour every day. If it declines to do so, it sets itself up as an authority

on points of dogma, and exemplifies the union of Church and State.

With the demonstration that Sunday laws are evidence and part of a union of Church and State among us, their consideration might be dropped consistently with the title of this little book. But in addition to all this, these statutes are utterly detestable. They are a shameful and a heavy burden on a people that fancies itself free. They are altogether inconsistent with everything that Americans hold to in the theory of government. They afford constant opportunities and incentives for the venting of low spleen, the gratification of vile malice, the infliction of injuries, sometimes petty, sometimes serious, under the guise of "public service." Every reason, sincere or otherwise, on which they can be defended and their deserved abolition delayed, ought therefore to be examined and exposed in a work devoted to the theory that the union of Church and State is no less blasphemous, than it is pernicious to the body politic. It remains, then, briefly to examine what is commonly called "the secular aspect" of Sunday laws.

It has been said that the only difference in the conduct of the average citizen on Sunday from his conduct on other days consists in his performance of public devotions, and his abstinence, in form at least, from his ordinary occupations. It has been shown that the first is not a sufficient reason for the State's compelling the non-average citizen to make any change in his mode of life. As to the second, is it possible that because one man chooses to be idle, he has the right to call on the State to force idleness upon another? Well, there is a good deal of talk in these days which tends in that direction.

We hear much about the necessity of restraining the eager, unhealthy competition of modern life; and in other than Sunday laws we find traces of the idea that it is a part of the mission of the State to foster idleness to the utmost among the people. We shall return to this aspect of the



subject hereafter. For the present it is sufficient to observe that American law cannot admit the proposition that interference by competition alone, of one citizen with another is ground for the invocation of the police power. If this power is available at all on such grounds, it must be available to destroy competition altogether. If the State may close A's store one day in the week because B wishes to close his, it may close A's store for all time because it competes with B's. Moreover, it is a pet claim of the Sunday-law people that he who neglects his business on one day in seven, will accomplish more in a year than he who works every day. If this be true, what injury is done him by the competition of the steady worker, which he would have the State redress?

Thus far, in considering the object and effect of Sunday laws, we have been only concerned with their relation to other persons than the unwilling idler. The effort has been to show that there is no tenable ground upon which the combined abstinence from work and play can be made compulsory for the sake of those who voluntarily abstain from such things. It remains to meet the argument that Sunday idleness and Sunday cheerlessness may be, and in fact are, made compulsory for the sake of the man who wishes neither to be idle nor to be cheerless on that day.

This argument is the one most used at present in defense of Sunday laws. It is most used at present because the popular mind in America is fast awakening to the fact that an established Sunday is an established Church, and nothing more or less. And the Sunday-law people, who know this perfectly well, and have always known it, have, in very desperation, invented the phrase "a secular Sunday," and promulgated the "holiday theory" of Sunday laws, in order to deceive and to preserve under false pretenses, the union of the Church with the State.

Cato wondered that one augur could look another in the face without laughing. It is difficult to imagine how one ad-

vocate of Sunday laws can hear this holiday argument used to bolster up his hobby without blushing with shame at the insincerity of its use. For every true Sunday observer knows perfectly well not only that Sunday laws cannot for an instant be defended under the holiday theory, but that absolutely not one single person who cares either for their existence or their enforcement takes at heart the slightest interest in this view of the subject.

The holiday theory of Sunday is hypocrisy of the most unadulterated and brazen kind. Its serious adoption by the Sunday observers is the best illustration that could be imagined of the base depths of self-recognized degradation, into which the union of Church and State will beguile the souls of mankind. It is a selling of the soul, far wickeder than any sale of another's body into slavery. It is an intellectual prostitution infinitely worse than any prostitution of the person. It is a crime against the Master, committed in His domain of the spirit, as much surpassing in infamy any possible crime against the State, as His majesty surpasses that of the civil judge.

Of this exceeding and transcendent wickedness is every observer of Sunday guilty who resorts to this holiday argument in favor of Sunday laws. That the argument is baseless is a small matter, so far as his ignominy is concerned. The point is, that he pretends to others that he is acting under a conviction that it is sound, and that it is this consideration which gives him his interest in these laws; that it is in fact with him the reason and the only reason for supporting them, when all the while he knows it to be baseless and irrelevant so far as he is concerned. And thus he is not only lying to men when he makes use of it, but he is consciously lying to his own conscience, and to the Maker and Ruler of all.

It is enough for the Sunday observer to tell him that he lies and knows perfectly that he lies when he claims to favor Sunday laws as holiday regulations. But for others it may

be worth while briefly to expose the untenability of this position, irrespective of the insincerity of those who seek to defend it.

Much learning of a certain kind has been expended in this connection over the difference between a holiday and a holy-day. Nevertheless, the fact remains that they were originally one and the same, and that holiday is the later and modified spelling of the word holy-day. This "setting apart" of days, this calling of men away from their regular and normal pursuits at certain periods, is in its origin an ecclesiastical proceeding altogether. It is an assertion of the Church's right to a portion of their time, which they are to take from the service of the State or the earning of their living. Thus, among the nations of antiquity and among the lower civilizations of our time, we find no conception of a holiday except as connected with some religious festival. The notion of a State holiday, and therefore the necessity of a word to designate it, is a very recent development, which will be examined on its merits presently.

Meantime, let us consider what is this State holiday of which we hear so much, and of which the tendency of modern legislation in America seems to be to multiply occasions indefinitely. A State holiday is a day on which the State suspends some portion of its functions, and permits its immediate employees to dispose of their time as they will.

Not one step beyond this can the State go without transcending its functions. It may close its offices; but it cannot compel its employees to refrain from work elsewhere. Far less is it within its legitimate powers to compel any other citizen to remain idle against his will. The absurdity, indeed, of compelling anything in connection with a holiday is so palpable, it is so clearly of the very nature of a holiday that the holiday maker shall be left absolutely to his own devices as to his manner of spending it, that nobody would dream of attaching penalties to a holiday law.

Only one philosopher, so far as the writer is aware, has deliberately acted upon the assumption that the enjoyment, which is the fundamental idea of a holiday, may be compelled by force. It must be confessed that he is no less a man than that immortal "educator of youth," Mr. Wackford Squeers, of Dotheboys Hall, Yorkshire, England. He had a pupil by the name of Mobbs. Mobbs's stepmother wrote that she was sorry to find that he was discontented with the school, and hoped Mr. Squeers would flog him into a happier state of mind. "A sulky state of feeling," said Mr. Squeers, after a terrible pause, during which he moistened the palm of his right hand, "won't do; cheerfulness and contentment must be kept up; Mobbs, come to me."

So the State, under the holiday theory of Sunday laws, says to the citizen, "You must be cheerful on Sunday under the penalty of ——— dollars for each and every offense." It is true that the State does not altogether follow Mr. Squeers in its manner of contributing to the general happiness by these laws. It does not actually require the citizen to present himself at the station house and be flogged every Sunday morning, by way of bringing home to his mind the inestimable advantages of the "institution." But it does, in its paternal anxiety to produce in his mind that joyous and light-hearted feeling which is fitted to a holiday season, carefully cut him off from all opportunity to enjoy himself in any rational and honest way common to holidays; and it does take him to the station house and fine him if he undertakes to do so.

In short, an unanswerable proof that Sunday laws are not holiday laws in any sense whatever, lies in the fact that their interference with play is quite as excessive and arbitrary as their interference with work. And this brings us to the consideration of these laws as a whole, and leads us from the proposition that they are ecclesiastical dogmas and that only, which is sufficient to condemn them, to the further proposition that they are ordinances of diabolical cruelty, and are not only

futile as reforming agencies, but directly and actively contribute to the moral degeneration of the people. It is not enough that we should recognize them as silly and ineffective laws; as defiances of the Master's express injunction: we are now to see them in their totality, as an absolute and unmitigated evil.

It may be doubted if Satan himself could devise a surer and more effective means of demoralizing men than at one and the same time to forbid them to work and forbid them to play. This double requirement puts the average man to a test of self-control and to a draft on his internal resources, to which the nature of an angel could alone respond. That it should result in illicit actions of every conceivable sort, is as inevitable as sunrise. No one who knows human nature, and how almost impossible it is even for the most highly cultured to employ leisure to advantage, under even the most favorable conditions, can doubt the disastrous effect of Sunday loafing by law established.

But there is yet another respect in which the demoralization of Sunday laws works its evil way. By such laws the sanction of the State is given to the false assumption that the time of an act has anything to do with its moral aspects, when all other conditions remain the same: that emotions or desires which are all right on any other day are all wrong on Sunday.

More or less consciously, the Sunday loafer grasps the silliness and the falsehood of these assumptions. He knows, assertions of Sunday-law advocates to the contrary notwithstanding, that nature keeps no Sabbath,— that his own appetites and impulses are the same on Sunday as at any other time. He sees plainly enough that the State is deceiving him and bullying him under the shadow of a deception, when it makes and enforces a Sunday law: and his respect for the State and its other laws is weakened accordingly, on the principle (on which he acts, though he may not know Latin) of *stultus in uno stultus in omnibus*.

Finally, Sunday laws have this demoralizing quality in common with those laws for the establishment of State holidays which our legislatures of late seem to have a sort of mania for passing; namely, they constitute a State indorsement of the pernicious and false notion that idleness is a good thing in itself, while work is a bad thing, and industry a vice. This is a reversal of the doctrine of Horace Mann and his school which forty years ago voiced the views of American workers. The burden of their song was incessant, that labor and not idleness was dignified and good for men—some even going so far as to claim beyond the scriptural command that “if any would not work, neither should he eat” (2 Thess. 3: 10), that those who did not work should not live. Surely it is a remarkable thing that now we should be forever legislating on the assumption that idleness is what human nature needs for its highest happiness and development, and constantly establishing State holidays, by way of encouraging the idea that loafing is the true end of man.

And this is the only idea on which the establishment of a State holiday can proceed. When holiday and holy-day were synonymous, there was occupation for the day “set apart,” different only in kind from the ordinary occupations of other days. The people were not only required to abstain from their regular work, but to work in the services of the gods. Sacrifices were demanded, and there was occupation enough in preparing for them and taking part in the ceremonies which accompanied them, so that idleness formed no part of the idea of a holy-day. But when the State no longer confined itself to “recognizing” the holy-days of the Church, but began to “set apart” days professedly on its own account and not for the sake of the Church, there was nothing for the citizen to do but to “honor” the day by being idle. All such laws are passed through the influence of the strange and wonderful “Apotheosis of Idleness” under which we are living, and under which such books as “Looking Backward” are written. To the thoughtful mind it is perfectly clear that

when this idea once becomes dominant, it will destroy an industrial civilization.

The lesson that work is, like pain, an evil to be avoided, instead of the developer and test of character and the destiny of man on earth, cannot be safely taught in such a cult. It means the lowest standard of life instead of the highest. It means the destruction of all good qualities and of those who possess them, and the survival of the unfittest. If we are really to use the police power to compel A to close his store because B wants to close his, we are on the road back to the state of things which existed before men learned to live in tribes, and character began to win its way to the fore.

So much for the moral aspect of Sunday laws with reference to the reluctant loafer. A word may be added on their physical aspect. It is constantly assumed as an axiom of thought by Sunday law economists that idleness on one day in seven is directly connected with health and longevity,—that is to say, not merely that every man needs some rest, but that precisely the same amount is needed at precisely the same intervals by every man.

It is not necessary to dispute the first of these propositions. The second, so far from being self-evident, as the Sunday law advocates pretend, is as unlikely on its face as anything which could well be put into words. How much rest a man requires to get the best work out of himself of which his nature is capable, is the product of three factors—the man himself, the work, and the conditions under which it is prosecuted. It is as preposterous to suppose that the requirement is the same for all, without regard to these considerations, as to assume that all men need a bed of the same length. It is as silly to legislate on such an assumption as it would be to fix by law a statutory bed, and then invoke the police power of the State to stretch the legs of the too short, and cut off the legs of the too long, to fit it.

But if this assumption is fallacious on its face, history and experience as conclusively refute it. Millions live hap-

pily and long who know nothing of a weekly rest day. The Romans, the most wonderful people of all time, accomplished all that was notable and great in their history before they got the idea of the weekly division of time. Among ourselves, preachers distinguish Sunday only by working harder than on other days, yet they are not conspicuously short-lived; doctors, who from the very nature of their occupation cannot escape work with certainty on any day, are notoriously a long-lived set; whereas the farmer, who conscientiously neglects his worldly duties to the utmost on Sunday, is one of the shortest-lived of men.

It has been shown that Sunday laws are religious ordinances; that they are unnecessary religious ordinances for those who demand them; and that even if they were necessary for such persons in their own opinion, no American legislature would have the right to pass such laws.

It has been shown that these laws are worse than unnecessary, in that they are actually pernicious, and more than failures as moral agencies for the benefit of those who do not desire them; and finally, that they are of no physical advantage to anybody.

It remains only to point out the fact that even if they were indeed morally and physically beneficial, they are still beyond the domain of legislation in a free country.

We Americans have nominally accepted the doctrine that the powers of government are limited, and that there are certain things which no government can do. Yet to-day nothing is more common than to find Americans urging the passage of laws to constrain people to this line of conduct, and restrain them from that line of conduct, for no better reason than that the constriction or the restriction is a good thing to have in force.

This conception lies at the root of "Nationalism," and Nationalism is an exotic on our soil, as un-American every whit as is the empire and the established Church. But many, born and raised under our free system of government, appear



to imagine that it is an all-sufficient reason why the legislature should do a thing, that the thing ought to be done. They ignore altogether the fact that our system of government is a machine designed and constructed exclusively for well-defined and understood purposes, and that it is not to be used for the accomplishment of any other purposes, however desirable and laudable these last may be in themselves.

When, then, we ask of an American legislature the enactment of a law that its citizens shall do or not do certain things, it is by no means sufficient for us to show that it would be well for them to so do or refrain. We must go further and show that the legislature has the right to enforce upon them the doing or non-doing.

Whatever view any one may take of government, its proper scope and purpose, nobody can dispute that its keeping of the peace is the due and legitimate exercise of its "police powers." Now does or can this function apply to its keeping of the "special peace" of Sunday, as truly and as fully as to its keeping the general peace of ordinary days?

What are the limitations of this police power, as understood in free America? A high authority has justly observed that they are "hard to define." But nevertheless, they *are* limited, or else there is no practical distinction between the political condition of the United States and that of Russia; and they are unquestionably limited *to the prevention of interference by one man with another*. The fact that a man's conduct, his behavior, or his manner of living, may be unwise, in view of his own position, or his health, and may result in injury to himself alone, physically or morally, affords no ground whatever for the interference of the "police power" with his proceedings.

It is settled that the State may compel an unwilling citizen to be vaccinated. But on what ground? Not because if he remains unvaccinated, he would be liable to catch the small-pox; nor yet because if he did catch it, he would probably die; but solely because his unvaccinated condition renders him

specially liable to become a source of contagion to others. This is an extreme case. But beyond this the police power certainly could not go in this country. It could not, for example, compel a man with a weak back to wear a porous plaster, a man with *caries* to submit to amputation, a man with dyspepsia to take exercise, *or a tired man to rest*, because the suggested proceeding may be an advisable one in each case for the individual's own interest.

Let us apply this to the case in hand. By reason of their combined prohibition of work and play, it is the function of Sunday laws to inflict on the community the Sunday loafer. We have seen that if he were allowed either to work or play on Sunday, he could not thereby interfere with any right of others, real or assumed. No matter, then, if the false assumption that his Sunday loafing is good for him, morally or physically, were true, it is still no justification for its being forced upon him by an American legislature.

The *reductio ad absurdum* was never more useful than just at this point. The eating of three meals a day being generally considered as essential to health, the same authority which compels a man to loaf for his own good, may not only compel him to eat that many meals, but may determine precisely what they shall consist of and their size. It may likewise prescribe the kind and variety of clothing he shall wear in all the seasons. It may require him to walk a certain number of miles every day; to sleep (which is rest in its true sense) either all day Sunday or for any given number of hours in each twenty-four; and so on without limit.

The power to do one and all of these things, is the power to pass Sunday laws. And any legislative body which may enact a Sunday law on the ground that weekly loafing is healthy for the loafer, may do every one of the others on precisely the same ground.

## II.

A second illustration of the union of Church and State in our country is the exemption of church property from taxation.

It is evident that there is no logical distinction between the exemption of Church property from taxation, and the taxation of other property for the support of the Church. Given a certain population and a certain number of square miles of territory to be governed, there must be collected for governmental purposes a certain amount of money. This must be distributed among the inhabitants, that is to say, in the last resort, apportioned upon the property of the given area. So soon as any portion of that property is withdrawn from the taxable basis, the sum to be raised remaining the same, the proportion previously paid by the withdrawn property must evidently be exacted from the property remaining. It follows, therefore, that the latter is supporting, *pro tanto*, the property withdrawn so far as governmental expenses are concerned.

This plain proposition cannot be denied, and but two attempts worthy of consideration have been made to defeat its force in this connection. The first consists in claiming that the presence of a church in a neighborhood increases the value of other real estate, so that the burden of taxation falls more lightly on the owners of the latter than it would if the church were absent. It is believed that this is a fact, and it must be taken for all that it is worth in the argument. The conclusive objection to it as an argument, is that it proves too much. The erection of a handsome row of dwelling houses in a neighborhood will increase the value of all other real estate therein. It would be a startling proposition that the result would justify the exemption of the dwellings from the payment of taxes. Yet the result would be as fair and as reasonable in the one case as in the other.

The second position which has been taken in defense of church exemption, is that this should be conceded because of the moral influence exerted by the churches upon the community, which, in brief, amounts to basing the privilege upon their function as an agency of police. But, in the first place, this agency is disputed as to any churches, by a large and possibly growing class of thinkers. Yet while the majority accord such recognition to one class of churches or another, there are certainly very few who so regard all churches indiscriminately; the fact being that a sincere belief in churches of one denomination, as conducive to moral improvement, is usually accompanied by a no less sincere belief in the essential injuriousness of churches which represent any other denomination. It follows that there is no general *consensus* regarding the value of churches in the capacity of police agencies sufficient to justify the State in formally recognizing them as such.

And this brings us to a second and conclusive objection to this view of the matter. For the State to adopt any or all of the Church organizations as agencies of police, as it does under this theory when it taxes its citizens for their support, it is necessary that those organizations should be regarded in the light of State institutions and, in fact, as part of the State government; that is to say, as churches by law established, in the true and strict sense of that term. It is unnecessary to point out that this reasoning demonstrates the utter incompatibility of church exemption from taxation, with the American theory of government.

We have thus far been concerned merely with the political or worldly side of this question. But the religious or moral side is at least as important. It is a true saying that "Example preaches better than precept." Now, if we assume that the mission of the Church is to teach men to do their duty in this world by way of preparation for the next, plainly to set them an example of duty done, is much more

effective in the working out of that mission, than mere verbal exhortation however zealous or eloquent.

We must remember that a church, considered in its "militant aspect," which is that occupied by it, so far as its relation to this world is concerned, is a corporation — that is to say, a citizen. Now it is admitted on all hands that the prompt payment of one's taxes is the first active duty of good citizenship in time of peace: that is to say, it is the expression in its highest form of the citizen's fidelity to the State and his acquiescence in the operations of its government. Any citizen, whether individual or corporate, whether viewed in his private or his official character, who evades the payment of his taxes, is therefore committing a civil fault, and setting an evil example to all his fellow-citizens which many hundreds of sermons cannot offset. What is the use of such a citizen urging all others to be just and honest, when he himself exults in the fact that he is getting something for nothing; that he is being protected by the State, and is throwing upon the shoulders of others the cost of his protection?

There is probably no chapter in the code of vital morality which cannot be made up of citations from the New Testament. Civilization has become extremely complex in the course of the last thousand years. But no occasion has yet arisen in the dealings of men with one another to which the touch-stone of the Master's teaching cannot be applied with the inevitable results of separating the right from the wrong. This matter of tax-evading was submitted to Him with the view of entrapping Him, and with the consequence that a doctrine was enunciated, which, like many other of His teachings, has been forgotten, or at least ignored, by His alleged followers, in their organized capacity, ever since the union of the Church with the State was consummated by the so-called "conversion of Constantine." "Master, is it lawful to pay tribute unto Cæsar or not?" "Show me a penny; whose image and superscription is this?" — "Cæsar's."

“Render therefore unto Cæsar the things which are Cæsar’s, and to God the things which are God’s.” It is true that the “Vestries,” who are the managers of our church corporations, are, in name at any rate, Christian men, and therefore it is to be presumed that in their private and personal capacities they pay Cæsar his taxes promptly and fully. That they should be willing to evade this duty in their corporate capacity, as the constituent members of a corporation for the spread and enforcement of Christian doctrine, is perhaps rather surprising. But it is only one of many illustrations of that curious weakness of human nature, which allows a man to vote at a meeting of a “Board,” when he is acting with a number of others, in favor of proceedings which nothing could induce him to undertake or bear any part in as a private individual.

Allusion has been made to the evil example which is set by the churches in their evasion of taxes. Experience shows that, like all other evil examples, this bears a rich and most pernicious fruit. From the exemption of a church itself and of the ground on which it stands, the exemption of “schools,” “hospitals,” “homes,” and the like which are controlled by the same corporation that controls the church proper, follows almost inevitably. Upon the heels of these as tax evaders, naturally come hospitals of every kind, even though they are conducted like hotels as the means of private gain. Then come also all “homes” which are run by “charitable organizations,” whose members are chiefly influenced, in many instances, by a perfectly intelligible ambition to see their names in print and to order other people around. Then we have scores of *quasi* charitable bodies whose existence and popularity is not altogether unconnected with their usefulness as excuses for staying down town late at night—the “secret orders” with which our country abounds. All these fall in behind the churches and rival them in their zeal to evade the payment of their corporate taxes. Of course nothing better could be expected of such innately depraved

bodies as railroad corporations than that they should follow this practical example of the churches, while neglecting in almost every conceivable respect to act upon their preaching. And so the evil influence spreads far and wide, and the church corporations are followed in this respect, if in no other, by nearly all their brethren.

One more aspect of the subject may be briefly noted. There are those who fear that if the churches were to undertake to do their duty in the payment of their taxes, their resources might be so impaired as to interfere with their increase and usefulness. Of course, when it comes to a question of duty, it is far better, on religious and moral grounds alone, to have one church in the community which sets the example of duty performed, than to have any number which simply stand as monuments of duty evaded. Nor should it be material to a Christian what consequences may follow from obedience to the doctrines laid down by the Founder of Christianity.

But independent of all this, the apprehension under consideration is wholly baseless, and shows a want of appreciation of the true nature of the religious impulse. Persons who devote their means to the maintenance of church organizations do not calculate so closely as this idea presupposes. Giving out of mere bounty, they will have that of which they feel in need for their spiritual gratification, without gauging the cost of it, as men do when they buy and sell in the way of business. To those who understand the feeling which lies at the basis of all religious activity, it is inconceivable that any existing churches would be abandoned, or that the rate of their increase would be diminished, if they were taxed like other property. As a matter of fact, the additional burden would amount to almost nothing, so far as individual pew-holders and contributors are concerned.

Moreover, it could hardly fail to give a great impetus to those moral sentiments out of which all useful religious zeal must spring, for men to know that the religious corporation

with which they are affiliated is setting them a perfect example of good citizenship as defined by the Master.

### III.

The mode of swearing witnesses is yet another element of the established Church in America. The strictness of the Common Law in this respect grew out of the old form of indictments for perjury. These always contained the statement that the witness had taken the oath which was alleged to be false "*sacrosanctis tactis evangelis;*" that is to say, "touching the Holy Evangelist." It was supposed that if it could be shown in defense that the oath in question had not been taken with that particular formality, then the indicted party must be acquitted.

It would be hard to exaggerate the debt which modern civilization owes to the Jew. But if he had never accomplished anything in the domain of literature, of art, of music, of politics, or of finance, he would be entitled to the everlasting gratitude of humanity, because it is to his presence among us and to his almost unlimited capacity for the endurance of obloquy and persecution, that Christians owe their still slowly dawning conception of religious equality — not that very different and altogether odious thing, religious toleration. In spite of the rack, the thumb-screw, the slow fire, and the tooth-pulling, by which the professed followers of Him who "should not strive nor cry" sought to convince other people of the sweetness and light of His religion, the Jew insisted on making money, and generally rendering himself an essential factor in the progress of civilization. It followed that in many cases he became an indispensable witness when the courts were concerned with commercial transactions. The Jew refused to be sworn upon the "Holy Evangelist," the fact being that neither he nor the "Christian" judge had any more idea than a pagan as to what that "Holy Evangelist" really was. The Jew did know, however, what the five books of Moses were, and he insisted on



being sworn upon them or not being sworn at all. It was thus painfully borne in upon the minds of the "Christian" bench that it was possible to take a judicial oath upon which an indictment for perjury might be framed, although the witness when taking the oath had his hand upon something which they did not regard as the "Holy Evangelist." This was a great step forward.

After the Jew came the Quaker. This stiff-necked gentleman refused to touch anything whatever when he was about to give his testimony. He insisted upon going through the preliminary ceremony with his hand up in the air; moreover he flatly refused to be sworn at all, and would only "affirm." Thus we owe to him another great discovery in the wonderful science of jurisprudence; namely, that the penalties of perjury may be incurred by one who has made false statements in a judicial proceeding, even though he did not first touch *something* with his hand, and though he never swore to any of the statements in question.

Much of the cloud of nonsense which for centuries enveloped this subject was dissipated by the business relations which the conquest of India brought about between the English and the Hindus. But though in most of the States of the Union we have, in practice at any rate, arrived at the sensible conclusion that the proper way to "swear" a witness is the way which he acknowledges to be binding on his own conscience, we have not yet fully grasped the vital truth that a man who will tell a lie will swear to it, unless he associates in his own mind some penalty with swearing which he does not associate with the mere statement. Now, though it is nowhere laid down as a dogma by any church so far as the writer is aware, that any severer penalties will be incurred "hereafter" by swearing to a lie than will be inflicted for the telling of it, yet some such theory must at an early date have crept into the Common Law, and it is certain that it pervades the common mind to-day. Acting upon this hypothesis, which is thus fastened in the hearts of its citizens, the law

sought to bring to its aid for the elucidation of the truth the extra punishments supposed to be provided in the next world for an oath-sanctioned lie. Of course thus to employ a conception essentially theological as an aid to its investigations, is to effect a union of Church and State.

Where there is a religious qualification for a witness, and the point is raised that he does not possess it, the singular absurdity of the *voir dire* ensues. This consists in interrogating the man as to his religious belief. If he admits certain constituents therein, he is sworn and his testimony is admitted. But if he denies that these constituents enter into his religious belief, then he is rejected as a witness. Of course he is only rejected on the ground that, as the future perils which the State, acting as an established Church, attaches to perjury have no terrors for him, therefore he cannot be depended upon to tell the truth. Yet the whole theory of the *voir dire* is that he will tell the truth, and all his answers therein are accepted as absolutely true, and his competency as a witness is determined on that assumption alone. That is to say, the theory in the case of a rejected witness, is that he cannot be depended upon to tell the truth in a matter in which he has no interest whatever, *because he has told the truth* in a case where the telling of it caused the law to set a brand upon him, and has exposed him to a certain amount of ignominy, and prejudiced him in the eyes of the great mass of the community in which he happens to reside. In other words, as he steadily persists in telling the truth, he cannot be accepted as a competent witness: whereas if he could only be led on to commit perjury, he would be accepted as a competent witness in a court which inflicts penalties for perjury.

Absurd as all this is, it is the outcome of a way of thinking on abstract questions which has come straight down to us from the oldest form of paganism and from the neopaganism of Constantine. Mahomet spread his religion by means of offering the vanquished nation their choice between death and conversion. A large portion of the North of

Europe was brought under the influence of "the Church" by the same means. Quite recently the chaplain of a British regiment is said to have complained to the colonel that the men were not showing sufficient interest in the matter of religion, whereupon, we are told, the colonel ordered a detail from each company to be baptized on the following Sunday. All these proceedings are like the *voir dire*, and are based upon fallacies to which ecclesiasticism in every age is peculiarly prone. And not the least of these is that a man's word is conclusive of his belief even at the time that he utters it, it being self-evident that if he thinks sufficiently to have any belief which is worth anything at all, his belief must be always liable to modification.

#### IV.

Another class of unconstitutional requirements which seem to receive less attention than they deserve, embodies the union of Church and State in America. It is remarkable that while we have no religious tests for those who vote for candidates for public office, yet for the offices themselves many States set up the requirements of a certain religious belief. Perhaps these provisions have attracted so little attention because they are seldom if ever applied in practice. They are, however, full of practical danger to the country, and may at any time be invoked in order to defeat the will of the people in the choice of their executives. The average politician, if appealed to, would probably find upon examination of his conscience that there was nothing in the State religion which was not included in his personal creed. But it needs no argument to show that the man who would be capable of openly avowing that he did not believe what the State-established Church required to constitute eligibility to the office for which he had been chosen, would thereby demonstrate that he was possessed of qualities most desirable in a public official, while the State would be deprived of the benefit of his manliness and integrity for no better reason

than that he had demonstrated his possession of those attributes.

## V.

Another trace of the established Church remaining in American law is the law of "Blasphemy." When about to deal with this subject in his own way, the author had the pleasure of reading some remarks upon it by Alonzo T. Jones, Esq., published in his paper, the *American Sentinel* (New York). These seemed to cover the ground so thoroughly and well as to make it more desirable to reproduce them here, substantially as first written, than to attempt to improve on them. By Mr. Jones's courteous permission, they are reprinted below :

## FIRST PAPER.

According to Judge Cooley's definition (Constitutional Limitations, pp. 585-587) blasphemy is an attempt to lessen men's reverence not only for the Deity, but for "the accepted religion" as well. This in itself implies an established religion, a union of Church and State; a religion set up by the State to be defended from attack or detraction in any way. But any man in this wide world has the right to lessen men's reverence for the accepted religion, if he thinks that religion to be wrong. Any man who preaches the gospel of Jesus Christ in any heathen or Mohammedan country commits blasphemy under this definition. He does make a wilful attempt to lessen men's reverence for the accepted religion, and for the deities recognized in that religion. He *has* to do so, if he is ever to get them to believe in Christ and the religion of Christ. He has to bring them where they will have no reverence for their deities or for the accepted religion, before they ever can accept the religion of Jesus Christ. Wherever the gospel of Jesus Christ is preached in any heathen country, it is blasphemy under this definition, because its sole object is not only to lessen men's reverence

for their deities and for the accepted religion, but to turn them wholly from it.

It is so likewise in Russia. Anybody there who speaks against the accepted religion, or against the saints, or their images, is subject to the penalty of blasphemy, which is banishment for life to Siberia.

But if blasphemy be a proper subject of legislation by civil government, if it be right for a government to make itself the "defender of the faith," then it is perfectly proper for the law of China to prohibit, under whatever penalty it pleases, the preaching of the gospel of Jesus Christ within the Chinese dominions, because its effect is to lessen men's reverence for the deities recognized by China, and for the accepted religion of the country. And in that case there is no such thing as persecution on account of religion. The only persecutions that have ever been, were because of men's speaking against the accepted religion. If this principle be correct, then the Roman empire did perfectly right in prohibiting under penalty of death the preaching of the religion of Jesus Christ. Whenever Paul or any of his brethren preached in the Roman empire, they blasphemed, according to the Roman law. They were held as blasphemers, and were put to death under the very principle of this definition, which is the principle of the American statutes on the subject of blasphemy. The Christians had to tell the Romans that the Roman gods were no gods. And they did it with the express purpose of destroying reverence for them and for the accepted religion. Rome put them to death. And we repeat, if the principle of the American statutes against blasphemy is correct, then Rome did right.

To make this clearer, we quote a passage from the Supreme Court of Pennsylvania in defence of this principle, in a decision upon this very subject, which says: "To prohibit the open, public, and explicit denial of the popular religion of a country, is a necessary measure to preserve the tranquillity of a government." That is precisely what the Roman empire

did. Christianity did openly, publicly, and explicitly deny the popular religion of the country. It did it with intent to destroy men's reverence for the deities and religion of that country. Rome prohibited it; and upon the principle of the decision of the Supreme Court of Pennsylvania, which is the principle of American law on blasphemy, Rome did right, and Christianity was a blaspheming religion. The principle of this decision seems to be that those who represent the popular religion of the country have so little of the real virtue of the religion which they profess, that if anybody speaks against it, it is sure to rouse their combativeness to such a degree as to endanger the public tranquillity. Therefore, in order to keep civil those who represent the popular religion, the State must forbid anybody to deny that religion!

This decision of the Supreme Court of Pennsylvania is one of the grand precedents that have been followed in all the later decisions upon this subject in the younger States; but this decision itself followed one by Chief Justice Kent of the Supreme Court of New York, in 1811, in which he embodies the same principles. He defends the right of the State to punish such offenses against what he calls a Christian people, and not equally to punish like offenses against the religion of other people in this country, by the following argument:—

“Nor are we bound by any expression in the Constitution, as some have strangely supposed, either not to punish at all, or to punish indiscriminately the like attacks upon the religion of Mohammed, or of the Grand Llama, and for this plain reason: that the case assumes that we are a Christian people, and the morality of the country is deeply engrafted upon Christianity, and not upon the doctrines or worship of those imposters.”

This is only to argue that if the morality of the country were engrafted upon the religion of Mohammed or the Grand Llama, and Christians were to speak against and deny that accepted religion, it would be proper that the State should

punish those Christians for so doing. If that principle be correct, then a Mohammedan country has the right to prohibit the preaching of the gospel of Jesus Christ within its limits.

According to these decisions, Luther and the Reformers of his day were blasphemers. And, as a matter of fact, Luther was outlawed for "blasphemy" of this very kind. The reformers did hold up to ridicule and contempt the popular religion of all Europe. They did right, too, for it was ridiculous and contemptible; and when the State punished them, it was but carrying out the principles upheld by Chief Justice Kent and the Supreme Court of Pennsylvania, and all the other States that have legislated on the subject of religion. As we have already stated, it was upon this principle precisely that the Roman empire forbade the preaching of the gospel of Christ. It only forbade an open, public, and explicit denial of the popular religion of the country. Yet in forbidding that, it forbade the preaching of the gospel of Jesus Christ. But Christ sent forth his disciples to preach the gospel to every creature, and they did it in the face of the Roman law, and in opposition to the whole power of the Roman empire; and everybody in all the world has an undeniable right to make an open, public, and explicit denial of the popular religion of this country, or any other, if he thinks that religion to be wrong.

The principle of these decisions and of the civil statutes against blasphemy, is essentially a pagan principle, and not a Christian principle. It is inseparable from a union of Church and State. It is peculiarly appropriate, therefore, that Chief Justice Kent not only cited the precedents of the Church-and-State principles of the colonies and of the British government, but appealed to the pagan governments of antiquity and the ecclesiastical institutions of modern Europe as the basis of his decision. It is true that all these nations have set themselves up as the special guardians of their deities, and have prohibited the denial of the popular

religion; and it is equally true that all these nations have resisted every step in enlightenment and progress that has ever been made in the march of time. Every step forward in religion and in enlightenment has of necessity been taken in the face of all the opposition which these states and empires could bring to bear. But the principles of American institutions are not like theirs. The principles of the American Constitution, which forbid legislation on the subject of religion, are Christian principles. And it is strictly in order for Supreme Courts in making decisions in behalf of what they boast of as the "Christian religion," to base their decisions upon something else than the course of the pagan governments of antiquity, and the similar institutions of modern Europe. Upon such a subject one would naturally expect them to refer to the teachings of the Author of Christianity, but they have never done so, and for the very good reason that the teachings of Jesus Christ are directly against their theory.

His word forbids civil government to have anything to do with what pertains to God. And instead of teaching his disciples to prosecute, to fine, and to punish by civil law those who speak against them or their religion, he says, "Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you and persecute you; that ye may be the children of your Father which is in heaven."

How can men be brought to respect God or Jesus Christ by civil penalties upon their bodies and goods? How can they respect the religion of men who are ready to prosecute and imprison them? Every principle of the thing is contrary both to the spirit and the letter of Christianity. The religion of Jesus Christ properly exemplified in the daily lives of those who profess it, is the best argument and the strongest defense against blasphemy, both as defined by the Scriptures and by the civil statutes.



## SECOND PAPER.

A National Reform friend takes us to task for printing the article a short time ago on the States' forbidding "blasphemy." He says :

"Your editorial under this head was wrong, because it is all based upon a wrong definition of blasphemy. You follow the writings of civilians who know no more than you should know—and not so much. Watson says, 'There can be no blasphemy where there is not an impious purpose to derogate from the divine Majesty and to alienate the minds of others from the love of God. The blasphemer is no other than the calumniator of almighty God.' Such an act is a most heinous sin against God and against man, against government and against its divine Author, and therefore should not be tolerated, but punished."

We knew all the time that the full definition of blasphemy was not given. The object of the article was to expose the evil of that part of the definition which makes blasphemy consist of speaking against the accepted religion. For that reason we did not quote the definition in full, reserving that part of it for another article, which this communication demands, but which would have appeared soon even though he had not written. We quote it from the same authority from which we quoted the other, that is, "Cooley's Constitutional Limitations." He says :—

"Blasphemy has been defined as consisting in speaking evil of the Deity with an impious purpose to derogate from the divine Majesty, and to alienate the minds of others from the love of God."

It is seen that this definition is in substance the same as that quoted by our correspondent from Watson, and therefore the distinction which he would make between the writings of civilians and those of theologians on this point, is not valid. In fact the civilians get the definition from the theologians. And they could get it from no other place because the subject is wholly theological and ecclesiastical. The latter part of the definition involves the speaking against the accepted religion, because when a government forbids any-

body from speaking so as to alienate the minds of others from the love and reverence of God, it has to set up in some form a governmental idea of God, and so to create a national god. Such governmental idea can be only that which is held by the majority in the government; and of course all the majesty it can possibly have is such only as those people can give it. And for anybody to speak in such a way as to alienate the minds of those people from the governmental idea of God, is necessarily held by such government to be blasphemy.

The Russian system is a case in point in which this principle appears in its perfect baldness. As it prohibits the speaking in any such way as to turn anybody's mind from the accepted religion, whoever does so is guilty of blasphemy and incurs the penalty of forfeiture of all civil rights, and banishment to the most remote part of Siberia. Any such system as that is as wicked as blasphemy itself.

Our object in this article, however, is not to defend the previous article, but to examine the merits of the other part of the definition of blasphemy not noticed in that, and that is, of its consisting in "speaking with an impious purpose to derogate from the divine Majesty." We would like our correspondent or anybody else to explain how any man's speaking against God can derogate from the divine Majesty. The majesty of Jehovah does not consist in what men give to Him. He is the eternal God, and is eternal and infinite in majesty as well as in every other attribute. Then what men may or may not do, cannot affect His majesty to the slightest possible degree. If all men on the earth were, to-day, to break out in the most hideous possible reviling of the Lord, that could not affect His majesty in the least. It would cause the further degradation of the men themselves and lessen their own dignity: but it *could not* affect the dignity of God nor degrade Him. Before there ever was a man or intelligent creature, God had all the majesty that He has now and all

that He ever will have, and He would have had that majesty had man never been created.

The creation of all intelligent creatures was not with the proud, selfish purpose of building Himself up, or of increasing His dignity ; but it was out of love to them, that they might have the joy of eternal joy in His presence. And all these intelligences ever can do is either in gratitude to Him to enjoy eternally the blessedness of that joy, or by sin to rob themselves of it. If any choose to rob themselves of it, as many have chosen, that does not in the least derogate from the divine majesty. If any choose to enjoy it, as untold myriads have chosen, that does not add any to His majesty. He is the self-existing One. Complete in Himself, in every perfection, nothing ever can derogate from His divine majesty. Therefore such a definition of blasphemy expressing such an idea of the Deity as that He can be robbed of His divine majesty, is in itself blasphemy.

The truth is, that the idea expressed in these definitions of blasphemy is wholly pagan. It is becoming only to man-made gods, as all but Jehovah have ever been. The gods of the heathen have always been only such as the heathen themselves made. When men make a god, it is evident on the face of it that all the majesty which that god can ever have, is such as those men can give to him. Therefore the more worshipers that god has the more majesty he has ; the fewer worshipers, the less majesty : consequently, when anybody speaks against those gods in a way to lessen men's reverence for them, this is to derogate from their majesty.

If, for instance, one of these gods had fifty thousand worshipers, he had, comparatively, a good deal of majesty ; but if twenty-five thousand of these worshipers should turn against him, he would have only half as much majesty as he had before ; and if *all* his worshipers should desert him, he would have no majesty at all.

This legal definition of blasphemy, and those who defend it, do, therefore, put Jehovah, the self-existent One, the God and Father of our Lord Jesus Christ,—they do put Him upon a level with all the heathen gods, as One who derives His majesty from men, and One from whose majesty the words and actions of men can derogate. And as real blasphemy is to attribute to God that which is contrary to His nature, and does not belong to Him; or to deny what does belong to Him; and as the legal definition of blasphemy does both of these; it is demonstrated that the legal definition of blasphemy is in itself blasphemous.

But it is asked, Did not Jehovah Himself forbid blasphemy and punish it? Yes, He did and He does yet. But He never did forbid it because He was afraid He would lose some of his majesty. Not at all. He forbids it because it is sin; because it is wickedness; because it is rebellion against divine authority and ruinous to the individual. And this is why it is that when civil governments undertake to punish it, they usurp the authority of God.

Again, in all the statute books on this subject, it is treated as an offense against God, which only argues that the Lord is not capable of dealing with offenses against Himself, and that therefore the government must take it upon itself to help Him. This is only again to come down to the pagan idea, and to put the true God upon a level with all the man-made gods, which, of course, are incapable of dealing with offenders.

There is an old lesson upon this subject which we would sincerely commend to the careful study of judges, jurists, lawyers, and National Reformers. It is recorded in the sixth chapter of Judges. Israel had fallen into idolatry and was overrun by the Midianites. Gideon was called of the Lord to save Israel from the hand of the Midianites. The great majority of the people of his own city, and even his own father, were worshippers of Baal. Gideon was directed to throw down the altar of Baal and cut down the Asherah that

was by it, and build an altar unto the Lord, and take a young bullock, and offer it for a burnt offering, and to burn it with the wood of the Baalim which he had dethroned. And because there were so many of the idol worshipers there, he did not dare to do it in the day-time and did it at night. When the people arose the next morning, and went out to worship, they found their gods were destroyed.

Somebody had "derogated" immensely from the "majesty" of Baal. Such a thing as that could not be suffered. They set on foot a diligent investigation to discover the one who had so wickedly "blasphemed." "And when they inquired and asked, they said, Gideon the son of Joash hath done this thing. Then the men of the city said unto Joash, bring out thy son, that he may die; because he hath cast down the altar of Baal, and because he hath cut down the grove that was by it. And Joash said unto all that stood against him, Will ye plead for Baal? Will ye save him? . . . *If he be a god let him plead for himself*, because one hath cast down his altar."

Joash was wise. That decision is sound. It would be well if the legislators and the judges of the different States and of the United States were up to the same level and would allow that when offenses are committed against the Lord, He is capable of dealing with those offenses himself. Let them leave such questions entirely to the Lord, and thus show that they really believe Him to be what they profess to believe He is.

Civil laws against blasphemy are becoming only to pagan and neo-pagan systems; the one, having only such gods as they make to themselves, whose gods only derive their majesty from men and have only such as men give them; the other, recognizing a living and self-existent God, yet usurping His authority and His prerogative.

The government of the United States, as its Constitution declares, and its framers and makers intended, is distinct from both these; and by its Constitution's absolutely for-

bidding religious tests and religious legislation, stands in harmony with the word of Jehovah, the living and true God, the God and Father of our Lord Jesus Christ, the Saviour of sinners, whose majesty is His own, eternal and infinite, and never can be derogated from ; and who is abundantly able to deal with offenders without any of the meddling mediumship of earthly governments.