

LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM



© J. L. G. FERRIS, PHILADELPHIA

LIBERTY'S PULPIT, PLYMOUTH ROCK, 1775 (See page 128).

JUDGE SCORES THE POLITICAL PREACHERS — Page 112

TWENTY CENTS A COPY

WASHINGTON, D. C.

Religious Liberty Association

DECLARATION OF PRINCIPLES

1. We believe in God, in the Bible as the word of God, and in the separation of church and state as taught by Jesus Christ.

2. We believe that the ten commandments are the law of God, and that they comprehend man's whole duty to God and man.

3. We believe that the religion of Jesus Christ is founded in the law of love of God, and needs no human power to support or enforce it. Love cannot be forced.

4. We believe in civil government as divinely ordained to protect men in the enjoyment of their natural rights and to rule in civil things, and that in this realm it is entitled to the respectful obedience of all.

5. We believe it is the right, and should be the privilege, of every individual to worship or not to worship, according to the dictates of his own conscience, provided that in the exercise of this right he respects the equal rights of others.

6. We believe that all religious legislation tends to unite church and state, is subversive of human rights, persecuting in character, and opposed to the best interests of both church and state.

7. We believe, therefore, that it is not within the province of civil government to legislate on religious questions.

8. We believe it to be our duty to use every lawful and honorable means to prevent religious legislation, and oppose all movements tending to unite church and state, that all may enjoy the inestimable blessings of civil and religious liberty.

9. We believe in the inalienable and constitutional right of free speech, free press, peaceable assembly, and petition.

10. We also believe in temperance, and regard the liquor traffic as a curse to society.

For further information regarding the principles of this association, address the Religious Liberty Association, Takoma Park, Washington, D. C. (secretary, C. S. Longacre; associate, H. H. Votaw), or any of the affiliated organizations given below:

AFFILIATED ORGANIZATIONS

Atlantic Religious Liberty Association (affiliated organizations in Maine, Vermont, Massachusetts, New Hampshire, New York, Connecticut, and Rhode Island): Office, South Lancaster, Mass.; secretary, E. K. Slade.

Eastern Canadian Religious Liberty Association (affiliated organizations in New Brunswick, Nova Scotia, Quebec, Ontario, and Newfoundland); Office, Oshawa, Ontario; secretary, W. C. Moffett.

Central States Religious Liberty Association (affiliated organizations in Kansas, Nebraska, Missouri, Colorado, and Wyoming): Office, 303 W. Seventh St., College View, Nebr.; secretary, J. J. Nethery.

Columbia Religious Liberty Association (affiliated organizations in Pennsylvania, Ohio, New Jersey, Virginia, West Virginia, Delaware, and Maryland): Office, 507 Flower Ave., Takoma Park, D. C.; secretary, A. J. Clark; associate, B. G. Wilkinson.

Northern Religious Liberty Association (affiliated organizations in Minnesota, Iowa, North Dakota, and South Dakota): Office, 2718 Third Ave., South, Minneapolis, Minn.; secretary, Charles Thompson.

North Pacific Religious Liberty Association (affiliated organizations in Oregon, Washington, Idaho, Montana, and Alaska): Secretary, Morris Lukens, 202 South Pelouse St., Walla Walla, Wash.

Pacific Religious Liberty Association (affiliated organizations in California, Nevada, Utah, and Arizona): Secretary, W. M. Adams, Bin 7, Lodi, Calif.

Southeastern Religious Liberty Association (affiliated organizations in Florida, Georgia, North Carolina, and South Carolina): Office, 202-216 First National Bank Bldg., Chattanooga, Tenn.; secretary, W. H. Heckman.

Southern Religious Liberty Association (affiliated organizations in Alabama, Kentucky, Tennessee, Louisiana, and Mississippi): Office, 2001 24th Ave. N., Nashville, Tenn.; secretary, O. F. Frank.

Southwestern Religious Liberty Association (affiliated organizations in Arkansas, Oklahoma, Texas, and New Mexico): Office, 518-519 Terminal Bldg., Oklahoma City, Okla.; secretary, M. B. Van Kirk.

Western Canadian Religious Liberty Association (affiliated organizations in Alberta, British Columbia, Manitoba, and Saskatchewan): Office, Lacombe, Alberta; secretary, S. A. Ruskjer.

LIBERTY

"Proclaim liberty throughout all the land unto all the inhabitants thereof." Leviticus 25:10.

Published Quarterly by the
REVIEW AND HERALD PUBLISHING ASSN., TAKOMA PARK, WASHINGTON, D. C.

VOL. XXIII

FOURTH QUARTER, 1928

NO. 4

CHARLES S. LONGACRE, Editor CALVIN P. BOLLMAN, Managing Editor
HEBER H. VOTAW and WILLIAM F. MARTIN, Associate Editors

CONTENTS

THE MAJESTY OF LAW	Frontispiece
GEORGE WASHINGTON AND SUNDAY LAWS	99
A SUNDAY LAW FALLACY	102
"JUSTICE STANDETH AFAR OFF" IN ALABAMA	104
"COMMERCIALIZING SUNDAY"	105
THE STATE SHOULD NOT PUNISH FOR SIN	107
INTOLERANCE OF SUNDAY LAWS	108
"WHERE INTOLERANCE MAY LEAD"	109
PENNSYLVANIA STATE GRANGE AGAINST THE SUNDAY OBSERVANCE BILL.....	110
MISSOURI LUTHERAN SYNOD STRAIGHT ON RELIGIOUS LIBERTY	111
JUDGE SCORES THE POLITICAL PREACHERS	112
"'BLUE LAWS' REMAIN TO FRIGHTEN US"	115
SHOULD STATUTE LAW AND POLICE POWER SUPERSede CONSTITUTIONAL RIGHTS?.....	117
PENNSYLVANIA SUPREME COURT JUSTICE KEPHART'S ADDRESS ON LIBERTY.....	120
METHODISTS FAVOR RELIGIOUS LEGISLATION	122
JURY REFUSES TO CONVICT UNDER BLUE LAWS	124
BLUE LAWS SUBVERT LIBERTY	126
SPARKS FROM THE EDITOR'S ANVIL	127
ANENT OUR COVER DESIGN	128

Entered as second-class matter May 1, 1906, at the Post Office at Washington, D. C., under the Act of Congress of March 3, 1879.

Acceptance for mailing at special rate of postage provided for in Sec. 1103, Act of Oct. 3, 1917, authorized on June 22, 1918.

SUBSCRIPTION RATES.—One year, 35 cents; three years (or 3 subscriptions, 1 year), \$1.00; five or more copies, mailed by publishers to five addresses or to one address, postpaid, each 9 cents. No subscriptions for less than one year received. Remit by Post Office Money Order (payable at Washington, D. C., post office), Express Order, or Draft on New York. Cash should be sent in Registered Letter. When a change of address is desired, both old and new addresses must be given. No extra charge to foreign countries.



The Majesty of Law. A Detail of a Painting by Frederick Dielman

LIBERTY

"Proclaim liberty throughout all the land unto all the inhabitants thereof." Leviticus 25:10.

VOL. XXIII

FOURTH QUARTER, 1928

NO. 4

George Washington and Sunday

REPRESENTATIVE LANKFORD, of Georgia, has introduced a bill in our national Congress (H. R. 78), proposing compulsory Sunday observance in the District of Columbia.

In advocacy of this measure he is franking out, at public expense, thousands of copies of three leaflets largely composed of arguments attempting to uphold Sunday as a religious day and giving it special protection by law.

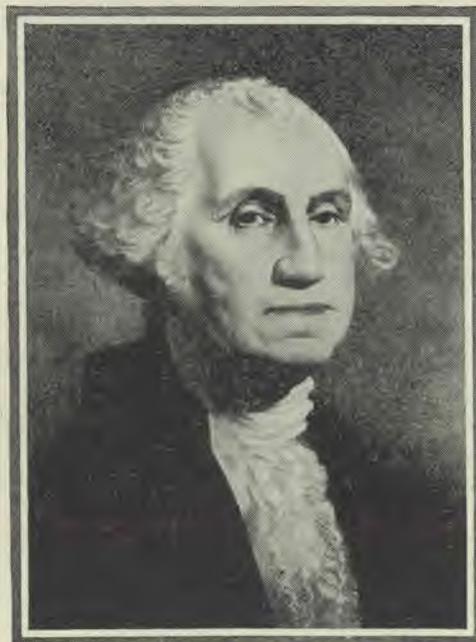
In one of these documents, "Our Nation Should Have a Sunday Law," the statement is made that "our Presidents almost uniformly, from George Washington to Calvin Coolidge, have stood foursquare for the Christian Sabbath."

—Page 9.

Inasmuch as Mr. Lankford has referred to the religious beliefs and

Laws

By the
Secretary of the Progressive
Civic League of Oak Park,
Illinois



G. STUART, ARTIST
George Washington

practices of our Presidents as a justification for his Sunday bill, it might be profitable to examine this claim.

How about George Washington, our first President? Did he observe the Sunday laws? Some of the same laws were on the statute books of his day as are to be found there now. Did the Father of Our Country urge the enforcement of blue laws upon his dissenting fellow citizens of Virginia? Did he lobby around the State legislature, demanding the enactment of laws interfering with the Sunday activities of his fellow men?

Washington was the outstanding man of his day. His attitude toward Sunday and its observance will give a cross-section of the religious feelings at that time, when the great struggle for liberty was strongest. His character and influence

have been well summed up by President Coolidge:

"His was the directing spirit without which there would have been no independence, no Union, no Constitution, and no Republic. His ways were the ways of truth. He built for eternity. His influence grows. His stature increases with the increasing years. In wisdom of action, in purity of character, he stands alone."

Washington Broke the Virginia Sunday Laws

Washington kept a careful diary of his personal doings for years. From this record it is possible to learn just what he did on Sunday, and how much respect he had for the existing Sunday laws.

His home State, Virginia, was the first to have a law of this kind. It was passed in 1610. In the days of Washington it was unlawful on Sunday to be found "absent from divine service," or to be found working at any "labor of their ordinary calling," or to employ any servant or slave except in work of necessity or charity.

Washington's diary indicates that he failed to attend church services many times. As an illustration: In 1762 he attended one service; "one the next, two in 1766, five in 1767; one in 1768; two in 1769; two in 1771; one in 1772; two in 1774."—*George Washington*, by Rupert Hughes, p. 470.

While disregarding the law by remaining away from church, he was also breaking it at home by laboring. He tells us that one Sunday was spent grafting and planting "Spanish pears, Butler pears, Winter Boon cherries, Bergamot pears, New Town pippins, and Maryland

Red Strick" apples.—*Id.*, page 469.

Again, he "sent four yews and lambs to the mill to be fattened." He traveled, surveyed, hunted, and went to the theater on Sunday. In fact, as stated by Mr.

Hughes, "Washington ignored the ordinance against travel and toil on Sunday all his life."—*Page 498.*

Two items will suffice:

"Sunday, 11th. Proposed a purchase of some lands which Col. F[airfa]x, has at the mouth of the Warm Spring join'g Borkwick's bottom."

"Sunday, 20th. My wagon, after leaving 2 hogsheads of Tobo. at Alexandria, arrived here with 3 sides of soleleather and 4 of upper leather, 2 kegs of butter, one of which for Col. Fairfax and 15 bushels of salt which she took in at Alexandria."—*Dia-*

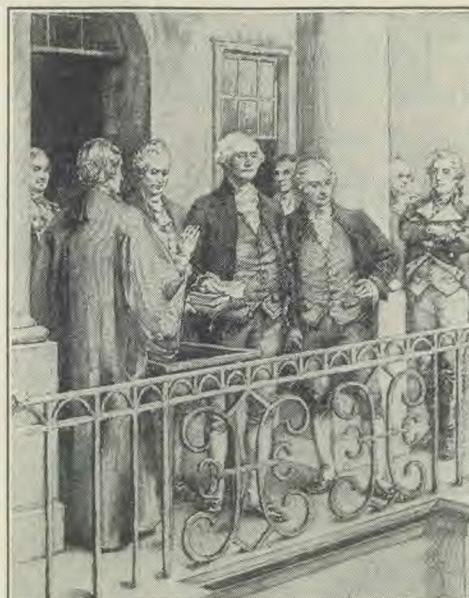
ries of George Washington, by John C. Fitzpatrick.

Pennsylvania Sunday Law Broken When Constitution Was Framed

In 1787 Washington was a delegate to the Federal Convention which was convened in Philadelphia to frame a constitution. At the first regular meeting he was unanimously elected president. He attended every session until the work was completed.

"The convention sat under a law exacting a cessation from labor on Sunday (1 Edwards Compilation, 302)," says the Missouri Supreme Court (20 Missouri, 214). "The journal of the convention will show that this law was obeyed by its members as such, by adjournments from Saturday until Monday."—*Id.*

Whether the convention adjourned over Sunday because of the law, might be questioned. Our national Congress



© BROWN BROS., N. Y.

Washington's Inauguration

at the present time generally discontinues business on Sunday, unless in the rush of the closing days. This is done out of respect for the religious feeling of Congressmen, as well as for those who desire a rest from the duties which devolve upon them during the week. There is no law requiring them to adjourn. Probably the activities of many of the Congressmen on Sunday outside of the legislative chamber would be unlawful in the light of present Sunday laws.

The convention of 1787 was somewhat in the same position. Whether or not it adjourned because of the Sunday law, the members broke the statute just the same. Committees carried on the work of the convention, which of course was just as unlawful as if the convention itself had labored. This fact is also revealed by Washington's diary. After the convention closed its work, he wrote:

"The business being thus closed, the members adjourned to the City Tavern, dined together, and took a cordial leave of each other. After which I returned to my lodgings—did some business with, and received the papers from the secretary of the convention, and retired to meditate on the momentous work which had been executed, after not less than five, for a large part of the time six, and sometimes seven hours *sitting every day, Sundays and the ten days adjournment* to give a committee opportunity and time to arrange the business for more than four months."—"The Constitution of the United States," by Beck, p. 171.

Arrested for Riding on Sunday

After Washington was elected President of the United States, he made a

tour through the New England States. In order to reach a certain town by Sunday, he was obliged to ride a few hours on that day. A snooper was on hand to apprehend him for this heinous (?) crime. And we have the disgraceful picture of the President of our great nation being annoyed and hampered by an obsolete blue law. (See "The Sabbath in Puritan New England," by Earle, p. 75.)

It is not difficult to understand why Washington showed so little respect for Sunday laws. They are contrary to the natural rights of man to move about freely, and engage in legitimate acts without interference from others; they are opposed to the fundamental principles of freedom for which the statesmen of that time were fighting. They savored too much of the union of church and state from which they were trying to escape.

Sunday laws were on the downgrade, and the Constitution, then just framed, gave them another shove which was intended to push them into oblivion. With one bold stroke our forefathers cut the Gordian knot that had tied church and state together for centuries. The wide prairies, the towering mountains, and the trackless forests all breathed a spirit of freedom that was not conducive to restriction and intolerance. Liberty was in the air, and from thankfulness for it men expanded their hearts as well as their lungs.

(Concluded on page 123)



LEET BROS., WASH., D. C.

A View of Washington's Home at Mt. Vernon, Va.



The Sabbath has to do with man's relation to God. Its observance is a recognition of the sovereignty of the Creator. Its observance is, therefore, primarily an act of worship, and the State can by no possibility assume any jurisdiction whatever over it without violating that principle of American law embodied in the First Amendment to the Constitution in the words, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

C. S. PEARCE, ARTIST

A Sunday Law Fallacy

A COMMON and dangerous Sunday law fallacy is that Sunday laws and anti-polygamy statutes—the one "protecting the 'Sabbath,' the other safeguarding the family"—rest upon the same principle, and are equally defensible as being within the legitimate powers of civil government.

Even courts of justice have held that the State has the same right to prohibit Sunday labor and business that it has to forbid plural marriages. In support of this view of the question, it is urged that the Sabbath and marriage are equally divine institutions, and if it is proper to protect one of them by civil law, it is equally legitimate, and even necessary, to throw over the other, also, the aegis of the State.

Essentially Different in Nature

Even a cursory examination, however, of these two institutions, the Sabbath and marriage, will make it very clear that though they have a common origin, they are essentially different in nature.

The Sabbath is a divine institution; not only in the sense that it was sanctified by the Creator, but also in the sense

By
C. P. Bollman

that it is dependent solely upon divine revelation for its existence. Without revelation, man could know nothing of the weekly Sabbath; and this revelation is something with which civil government can, of right, have nothing to do. The government of a State, of the United States, has no more right to decide that the writings of Moses are of divine authority than Mohammedan rulers have to decide that the laws of the Koran are divine, and therefore to be obeyed.

The Sabbath has to do with man's relation to God. Its observance is a recognition of the sovereignty of the Creator. Its observance is, therefore, primarily an act of worship, and the State can by no possibility assume any jurisdiction whatever over it without violating that principle of American law embodied in the First Amendment to the Constitution in the words, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

The So-Called Christian Sabbath

The so-called Christian Sabbath is nothing more nor less than a religious

Sabbath enforced by civil law. Statutes forbidding labor upon the first day of the week would have no existence, were it not for the fact that a large part of the population of countries where such laws exist regard Sunday as a sacred day. Any real demands that exist for frequent periods of rest could be met in some other way.

The fact that we do not find governments requiring that men shall rest any certain number of hours during the twenty-four, shows that Sunday laws are not for the protection of men, but for the protection of a religious institution. It is true that we sometimes find statutes providing that men shall not be required to labor more than a certain number of hours per day, but the men themselves are not forbidden to labor voluntarily a greater number of hours. Such laws are for the protection of *men*, but, as previously stated, the primary object of Sunday laws is to protect the *day* or the *institution*. Did space permit, this might

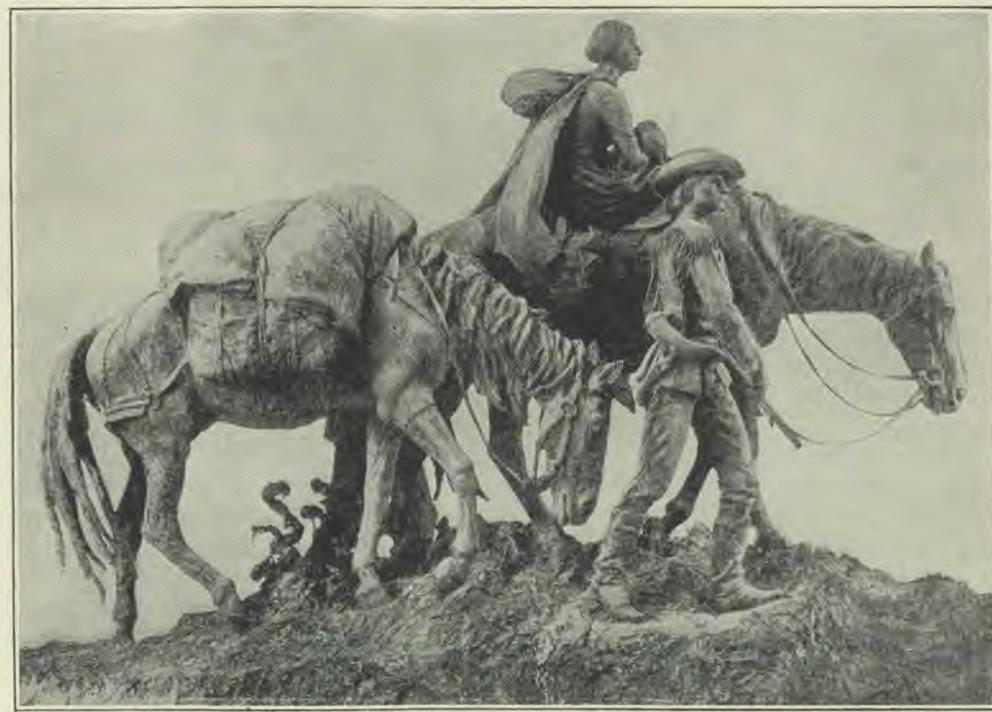
be shown to be true by quotations from many statutes and judicial decisions.

The Marriage Relation

But when we turn to marriage and its legal protection, we find an entirely different state of affairs. However sacredly the church or the individual may regard marriage, from the standpoint of the State it is simply a civil contract entered into voluntarily; and it is the bounden duty of the State to throw around it at least some of the safeguards thrown around other contracts. This is done, first, for the protection of the contracting parties themselves; secondly, of their offspring; and thirdly, of society at large.

All men (and in this sense the term is generic and includes women) are endowed by their Creator with certain inalienable rights. An inalienable right is a natural right; the right that, even though it may not be exercised for a

(Continued on page 123)



KEYSTONE

This forceful work of the noted sculptor, A. P. Proctor, stands in Memorial Park, Kansas City, Mo., and is the gift of H. Vanderslice. It depicts a typical pioneer family on their westward trek.

"Justice Standeth Afar Off" in Alabama

THE Court of Appeals of Alabama confirmed the judgment of the lower court in the case of Major Hudgins who was convicted for giving his children permission to work on Sunday after they had observed the seventh day of the week as their Sabbath. At the trial, no jury having been demanded, the cause was heard and determined by the court upon the following agreed statement of facts:

"It is agreed in this case that the facts are as follows: In this county, and within twelve months before the finding of this indictment, the defendant compelled his children, who are minors, to labor on the farm in his crop on Sunday. The defendant belongs to a religious organization that believes in keeping Saturday as the Sabbath and not Sunday. He gave his children the option to work on Saturday or Sunday, as they preferred, and they prepared to keep Saturday and work on Sunday, which they did as above set out. And defendant is a farmer."

The reason and the only reason the court gave for sustaining the conviction of this Sabbatarian, who observed another day than Sunday as holy time, was

this: "Any law which would give to one religious denomination a privilege which is not enjoyed equally by all other denominations would be invalid and repugnant to the fundamental law of the land. It has been well said," quoted the court, "Christianity is a part of the common law of the State in a qualified sense, that is, its divine origin and birth are admitted; and therefore it is not to be maliciously and openly reviled and

blasphemed against, to the annoyance of believers and injury of public."

The only inference one can draw from this decision and the reason for the decision is that Major Hudgins and his children, who observe the seventh day of the week as their Sabbath day, have "maliciously and openly reviled and blasphemed" the Christian religion, which is the legally established religion of the State of Alabama, according to the Court of Appeals.

Any Christian who does not observe Sunday has "reviled and blasphemed" the Christian religion, even though he has conscientiously observed the seventh day of the week as his Sabbath. While the Alabama Court of Ap-

(Concluded on page 124)



© F. DIELMAN

Justice



A Beautiful Conception of Thrift and Tranquillity, by Frederick Dielman

"Commercializing Sunday"

THE *Sunday School Times*, of July 7, 1928, printed an article under the above caption, from the pen of David Wylie, D. D., president of the Lord's Day Alliance of the United States, in which he referred to the disposition in America "to commercialize amusements, sports, and pastimes on Sunday."

Dr. Wylie fails to point out why it is more harmful for "amusements, sports, and pastimes" to be commercialized on Sunday than it is for the Lord's Day Alliance to commercialize the same day. For many weeks and months the Lord's Day Alliance has been guilty of commercializing Sunday in raising a special fund on that day in the churches in behalf of what they call a "secular bill" now pending in Congress. They have been carrying on a campaign of "secular propaganda," they say, in behalf of this "secular bill," known as the Lankford Sunday Observance Bill, H. R. 78, in the churches on Sunday, and they have doubled their financial budget recently, and hope to raise a million dollar endow-

By
C. S. Longacre

ment fund in order to put their "secular propaganda" literature in the hands of the American people, and thus stir up sentiment in favor of this "secular bill" relative to compulsory Sunday observance in the District of Columbia.

Instead of selling tickets ranging in price from 25 cents to \$1, the Lord's Day Alliance calls for cash and checks ranging from \$2 to \$500 or more. The sky, they say, is the limit. All this financing is done on Sunday in behalf of a "secular" program they are carrying forward to bring about the passage of their so-called "civil bill," pending before Congress. This certainly is commercializing Sunday on a gigantic scale relative to "secular business" on Sunday, which their Sunday observance bill expressly forbids. They boast that they have raised hundreds of thousands of dollars by this method on Sunday in the churches.

But if they reply that their propaganda is not "secular," and that their Sunday bill is not "civil" but religious and spiritual, then they confess them-

selves in the wrong in introducing a religious measure into Congress, designed to require the civil magistrate to enforce a religious law in America, where we are supposed to have a separation of church and state. Whichever horn of the dilemma they decide to seize as an alternative, they stand convicted before the bar of justice as either commercializing Sunday in behalf of "secular business," or advocating a religious measure before Congress.

Another Inconsistency

Dr. Wylie points out in his article that the Massachusetts Legislature passed the "Rosh Hashonah," or "Day of Atonement," Jewish bill over the governor's veto, because Dr. M. D. Kneeland, general secretary of the Lord's Day League of New England, was unable to marshal sufficient opposition to the bill after the governor vetoed it, to prevent its passage over the governor's veto, and so it became a law. This bill which is now a law, gives the Jews in Massachusetts the privilege of purchasing food products on Sunday whenever "the day of atonement" comes on Thursday or Friday, and three Jewish sacred days precede Sunday.

The Lord's Day League of New England fought this bill with all its might, which again shows the inconsistency of these Sunday law advocates, who claim they are perfectly satisfied if a man works six days and rests one day out of every seven of each week, and it makes no difference whether he rests on Sunday or some other day of the week. Why, then, deny the Jews the right to work and to purchase food products on Sunday when they have religiously rested and punctiliously observed the three preceding days as sacred and holy days? Why require them to rest four days a week when only one is necessary, according to their own argument?

In this, the Lord's Day League again makes manifest in unmistakable conduct, what is already evident to the great majority of the American people, that they are not seeking legislation in behalf of

the protection of man, but for the protection of a day, and that their objective is to compel all divergent sects to bow down in reverent obedience to the mandates of certain political churches which are obsessed with the idea that Christianity is going to perish from the earth if the state does not require all men alike to observe Sunday as a sacred day under the penal codes.

Certainly the Lord's Day League cannot say that their attitude toward the Jewish people is one of Christian charity and forbearance. If the Jews were in the majority and should compel the Sunday observer to observe also Saturday, these reformers who want every one to observe Sunday, by law, would be among the first to raise the cry that such a proposal was sectarian legislation, and in violation of the guaranties of liberty of conscience in religious affairs under our Constitution.

If it is a crime to commercialize Sunday, why is it not a crime to commercialize Saturday, or any other day of the week? What is criminal and immoral on one day of the week is equally so on every day of the week. What is civil on Monday is civil on Sunday. The civil government is supposed to foster and encourage the spirit of commercialism among its citizens, and it can rightfully punish its citizens, under our penal codes, only for fraud and dishonesty in commercial dealings between man and man, and not for doing "secular business" which in and of itself is perfectly honorable and legitimate on all days of the week. To prohibit honorable "secular business" on Sunday and allow it to operate on all other days, does not rest on civil but on purely religious and spiritual reasons. But the civil government, when it exercises its legitimate powers under our Constitution, can deal only with civil affairs and with man's relationship with man. In the realm of religion the conscience of the individual is absolutely supreme, so long as it respects the equal rights of all men. The state

(Concluded on page 125)

Crime is any violation of civil law, either by the omission of a duty commanded, or the commission of an act forbidden by lawful authority.



Sin is any transgression of the divine law. As such it can be dealt with only by the Author of the only perfect moral code, the ten commandments.

The State Should Not Punish for Sin

By

C. S. Longacre

MANY of the States in the Union still follow the old notion that the civil magistrate can punish a man for committing sin, and many of the churches still entertain the idea that the state should aid the churches in getting sin out of the hearts of the people through legislation. Dr. Clarence True Wilson, of Washington, admits that the church — his own church, the Methodist Episcopal — "united its efforts with the efforts of the State to get sin out of people's hearts and homes, out of our institutions, and off our streets."

The church and religion alone can deal with sin; the state deals with crime. Any civil law that deals with sin enters the religious realm, and virtually forms a union of church and state through the administration and operation of the law, just the same as such laws united church and state in olden times.

When the state deals with sin through the administration of the law, searching out and punishing sin, where is our boast that church and state are separate, and that our citizens enjoy religious freedom?

The American government was expressly founded upon the idea of church and state separation, guaranteeing religious freedom to each citizen; but when

the church and state associate together in punishing sin, the objective of the founders of the American government is forgotten.

Hon. Clarence Manion, professor of law at Notre Dame University, in the South Bend (Ind.) *News-Times* of June 22, deals clearly with the question, in his usually incisive style, in making the following comments upon Dr. Wilson's contention that the state should intrude itself into the spiritual realm by assuming to punish sin:

"Let us see. A assaults B, and injures him. Is not a government charged with the duty of protecting the rights of B justified in punishing A in such a case? The same justification likewise applies to punishments for larceny, murder, rape, and various types of trespass. But may a government charged with the sole duty of protecting rights punish A for 'sin'? Clearly not, unless it so happens that A's sin violates some right of a fellow citizen; and in such a case the injured citizen, and not the grand jury nor the local minister, should bring the charge. The state does not — or should not — take any cognizance of 'sin' as such, but it does take a solemn cognizance of an injury to a citizen or his property.

"While this distinction was borne in mind, church and state remained separate in America. For his sins the citizen was left to be punished hereafter; for the injuries he inflicted upon his fellows he was punished in jail. But the government has bulged out of its revolutionary garments precisely because Jeffersons are no

(Concluded on page 126)

Intolerance of Sunday Laws

By

W. F. Martin

THE question of Sunday legislation is not one of difference between two opposing religious sects. It is true that the religious world are not agreed on the Sabbath question. The majority, nominally at least, regard Sunday, the first day of the week, as a sacred day. It is not too much to say, however, that their observance of Sunday lacks much of being up to the mark of what would be expected for a truly sacred day. In many places, while common business affairs are to an extent stopped, the day is more or less given over to social affairs. It is also true that in most communities there are those who feel that Sunday is a sacred day, and who give its hours up to devotion and church attendance.

Set over against these classes are a respectable minority who look upon Saturday, the seventh day of the week, as having retained its sacredness from the beginning. These people take literally the reading of the fourth commandment of the decalogue. In harmony with its teachings they devote the seventh day to worship.

Both of these classes are actuated by religious motives. It is not with them a question of citizenship, but of religion. It is a matter of the soul. Both classes are entitled to the fullest freedom in the exercise of their religion. "He that

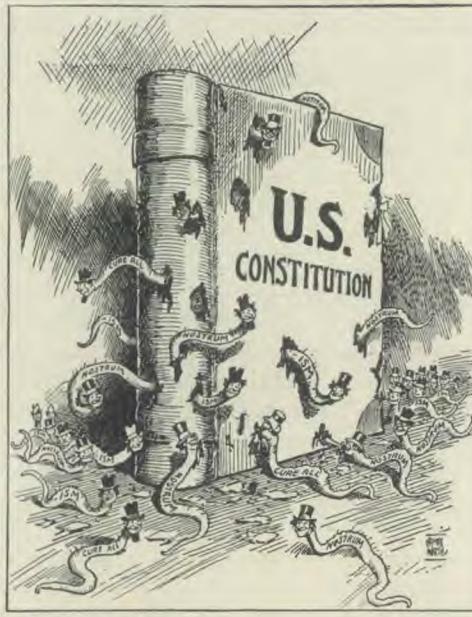
regardeth the day, regardeth it unto the Lord." This is a service he renders to God. It is outside the realm of civil government. As has already been stated, it belongs entirely to the sacred realm, the realm of conscience.

Those who regard Sunday as a holy day should not be forced by civil law to observe Saturday as in any way sacred. They have met what is to them a sacred duty, and that should suffice. They have a right to work the other six days of the week. After all, the right to work is as sacred as the right to rest. To refuse them this right would be an act of tyranny. To forbid honest work to be done, is just as tyrannical as it would be to forbid one to rest on a chosen day.

It does not take a profound philosopher to conclude that this same reasoning applies on both sides of the question. Those who keep the seventh-day Sabbath have in all due justice equal rights with those who keep the first day. It would be an act of supreme

injustice to compel them to render homage to a religious institution in which they do not believe. Both classes stand on an equality. The matter should not be taken to the civil courts. It is purely a personal matter. "Let every man be fully persuaded in his own mind."

(Concluded on page 127)



WASHINGTON "POST"

There are bookworms and bookworms. The bookworm that devours books by reading them, is likely to be at least harmless, and may be very useful. The bookworm who devours to break down and to destroy American principles is an enemy of liberty.

“Where Intolerance May Lead”

UNDER the above caption the Pittsburgh (Pa.) *Press*

of May 8, takes the Pittsburgh Sabbath Association to task for its intolerant spirit and course of legal action against the Pittsburgh Symphony Orchestra for playing good classical music on Sunday afternoons, because a membership fee is charged its members, so these concerts may be made possible on Sunday afternoons in Pittsburgh. The Sabbath Association lost its case twice in the lower courts, and now is appealing it to the supreme court of the State of Pennsylvania. The editorial from the Pittsburgh *Press* is as follows, in part:

“The wisdom of experience should teach the Sabbath Association that its course of expanding opposition to Sunday pleasure and recreation, while it may be momentarily successful, eventually will, from its very rigidity of intolerance, cause a swing in public sentiment to the opposite pole, and make probable a Sunday observance without any restrictions. That is a penalty of complete revolt which has been paid in the past when laws have been too onerous for the majority of the people.

“It is intimated that Sunday band concerts may next be the target of the Sabbath Association. These summer Sunday evening entertainments in the public parks have been a source of pleasure to thousands of honest, orderly, and law-abiding persons. It is a free enjoyment, which is to some their only such opportunity during the week. It is usually the poorer class who suffer from such law enforcement. The

An Editorial From
the Pittsburgh “Press”

more prosperous and fortunate have their clubs and halls wherein even movies are shown on Sunday night.

“The contention is made that the band concerts (and Sunday organ recitals as well) come within the realm of ‘worldly employment,’ because the musicians are paid. For that matter, so is the church organist on Sunday morning, and so usually are the majority of choir singers. Yet those who wish a more liberalized Sunday do not demand that these shall cease to function, as they should legitimately expect if there was to be a uniform and non-preferential adherence to the blue laws. . . .

“There is a growing sentiment for greater relaxation of archaic statutes, to permit certain forms of amusement and entertainment which are not prejudicial to good order. Common sense and a human appreciation of values will distinguish what comes under such a head.

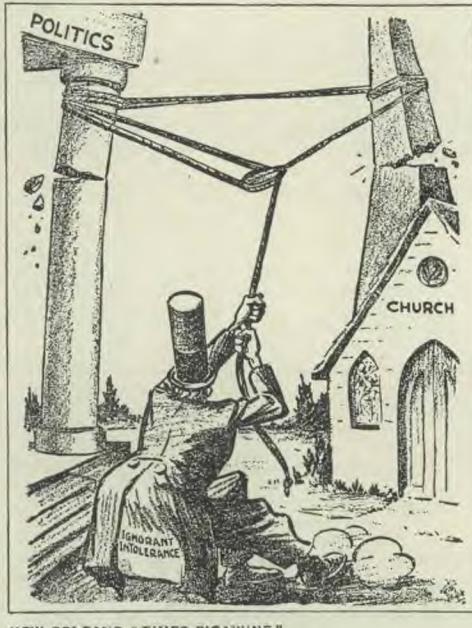
“And as the growth of that desire finds opposition from the Sabbath Association, in a demand for even less liberality than we now have lies the danger that the whole question will get out of hand, and eventually sentiment will become so antagonized that all restrictions will break down.

“Those who seek a relaxation of the blue laws wish it brought about in an orderly manner. They do not desire to take their pleasures furtively, and as lawbreakers. These ancient statutes

should be amended by the State assembly, bringing about the opportunity of change through legal means.

“The sensible thing would be to permit local option in such things, that each city, borough, or township might decide for itself the course it would pursue on Sunday. Then Pittsburgh, for instance, should it wish to enjoy certain

(Concluded on page 125)



Intolerance is due to ignorance of the true relation of the individual soul to the Creator. The bigot in his mistaken zeal for that which to him seems right, is in danger of wrecking both church and state. He is an enemy of soul liberty.

Pennsylvania State Grange Against the Sunday Observance Bill

THE Pennsylvania *Grange News*, June, 1928, under the caption, "Lankford Sunday Bill," printed the following interesting news article and resolution by the State Grange at a recent session, denouncing the compulsory Sunday observance bill now pending before Congress:

"A bill to secure Sunday as a day of rest in the District of Columbia and for other purposes, was presented for passage at the Erie session of the State Grange, and promptly disapproved.

"Efforts have been made to pass Sunday laws for more than sixty years, and the pressure is greater to-day than ever before.

"It must be remembered that the First Amendment to the Federal Constitution reads, 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof,' and to pass a law compelling every one to observe Sunday in a certain way, as is prescribed by the Lankford bill, would virtually establish religion, for observing Sunday is distinctly a religious custom. The State has no right to interfere in the

Constitutional right of the individual citizen, and this matter is actually the forerunner of a 'union of church and state,' as claimed by many authorities.

"The policy of the State Grange is summed up in the substance of the Erie resolution:

"That the observance of a religious institution is a form of worship, and that all "labor, worldly business, and legitimate recreation" can only be forbidden for religious reasons; and that any such legislation is dangerous, and should be opposed by every lover of liberty of conscience and voluntary exercise of religion."

"Passage of the bill would open the way for the intolerant and fanatical spirit of medieval days, for any spirit of tolerance could not be allowed without another defied act of Congress. Those observing a different day as sacred to their belief and others would easily be subjected to 'Sunday observance,' and what is now a day of rest would become a day of gloom. This attempt to force upon us a remnant of the Dark Ages must meet unanimous defeat, for it is contrary to one's Constitutional rights."

The editor of the LIBERTY magazine was born on a farm near Valley Forge,



"HARPER'S MAGAZINE"

Washington's Headquarters at Valley Forge

Pa., where George Washington and the Army of the American Revolution encamped during the terrible winter of 1777-78, and where the cause of freedom trembled in the balance while the American patriots received their baptism of suffering and starvation. There the embattled farmers and American patriots learned something of the value of our priceless heritage of freedom, and the writer is glad he gathered strength and inspiration during the twenty-five years he spent on the farm in Pennsylvania, and from the sacred memories that clus-

ter around Valley Forge, to fight the battles yet unwon in the struggle for religious freedom, not only in the good old Keystone State of Pennsylvania, but in forty-five States in the Union. It is refreshing to see the Grangers of Pennsylvania rally to the cause of religious freedom which is endangered by the Lankford Sunday bill. We hope other State Grange organizations will pass similar clear-cut declarations, disapproving of the compulsory Sunday bill now before Congress, and will apprise their Congressmen of such actions.

DR. R. KRETZ-SCHMAR, president of the Evangelical Lutheran Synod of Missouri, in an address delivered at the opening of the convention of the Western District, recently held in St. Louis, according to the *Lutheran Witness* of July 10, made the following pertinent remarks, which we wish all other church conventions might prayerfully consider, relative to the separating line that ought to be drawn between church and state functions:

"The real business of the church and of a church convention is clearly defined at the close of the book of Acts in these words: 'Preaching the kingdom of God, and teaching those things which concern the Lord Jesus Christ with all confidence.'

"To this business we here want to apply and confine ourselves. We note that the few closing words are added: 'Nobody forbidding him.' That indicates how the civil government may assist the church and every church worker, not by pushing the work by means of laws and police force, but simply by granting protection to every citizen and permitting him to perform his religious duties. 'Not forbidding,' that's all. . . .

Missouri Lutheran Synod Straight on Religious Liberty

"The State has the right to regulate matters within its own province by legislation, prompted and directed thereto by the consideration for the common welfare. The church is regulated entirely by the word of God, the Bible. As church members we uphold the Bible in every respect; as citizens, the constitution of the country and the laws made by it. There should never be a conflict here. The State should demand nothing that militates against our conscience. A good church member certainly should be a loyal citizen.

"Our government and our political conventions, true to the Stars and Stripes displayed on this national Flag Day throughout our country, must uphold, in accord with the American Constitution, the clean-cut separation of church and state, the basic principle of our liberty, and not take a hand in religion. If religion is ever placed on the order of business, it must be done only to affirm and reaffirm the stand that political parties and the government must consider the religion of citizens as none of their business. May our country never sponsor any type of religion, never try to make citizens more religious by laws and the police club, never undertake to teach its religion in State institutions and public schools. May the individual States as well as our entire country never get administrations which will not stand pat on these vital American principles.

(Continued on page 125)

Judge Scores the Political Preachers

THE Montgomery (Ala.) *Journal and Times* of July 10 gives a very illuminating report of the charge that Judge Walter B. Jones delivered to the Montgomery County Grand Jury on July 9, in which the judge declared himself as unequivocally opposed to the church's mixing in political affairs and surrendering the gospel message for a political religion, assuming ecclesiastical guardianship by means of the penal codes and intimidation over the morals and political beliefs of the people.

Judge Jones said in part:

"Separation of Church and State"

"If you will turn to the Constitution of the United States and look at the Bill of Rights, you will note that the First Amendment to the Federal Constitution declares that 'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.' And you will find in Article VI of the Constitution the declaration that 'no religious test shall ever be required as a qualification to any office or public trust under the United States.'

"These provisions of the Federal Constitution effectively guarantee the religious liberty of the individual against any infringement by the United States government. Those who framed the constitution of Alabama, realizing that these provisions of the Federal Constitution did not protect the citizen of Alabama from State action, put in the constitution of Alabama the following plain and sweeping declaration:

"That no religion shall be established by law; that no preference shall be given by law to any religious sect, society, denomination, or mode of worship; that no one shall be compelled by law to attend any place of worship, nor to

pay any tithes, taxes, or other rate for building or repairing any place of worship, or for maintaining any minister or ministry; that no religious test shall be required as a qualification to any office or public trust under this State; and that the civil rights, privileges, and capacities of any citizen shall not be in any manner affected by his religious principles."

"Religious Equality Established"

"Some people, ignorant of Constitutional history, refer to these provisions of our State and Federal Constitutions as a toleration of religious beliefs. But such an idea is far from the real truth, for we know that it is not by mere toleration that the individual is protected in his belief or disbelief. The individual citizen reposes, 'not upon the leniency of the government, or the liberality of any class or sect of men, but upon his natural indefeasible rights of conscience, which, in the language of the Constitution, are beyond the control or interference of any human authority.'

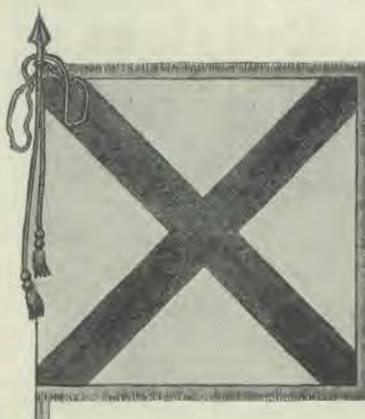
"Why Religious Freedom Protected by Constitution"

"Let us pause and ask ourselves these questions:

"Why do the words which I have read appear in the United States Constitution, in the constitution of the State of Alabama, and the constitution of every other American State?

"Why did the authors of our constitutions so clearly express themselves and show such a marked determination to preserve and continue forever religious liberty, and to guard against any approach whatever toward the establishment of any want of equality in the civil and political rights of citizens, which inequality should have for its foundation only differences in the religious beliefs of the people?

"The answer to these questions is not hard to find. The founders of the United States had carefully studied the history of all the nations



State Flag of Alabama

of the world, and many of them had experienced some things which had forcibly taught them the utter futility of every attempt to propagate religious opinions 'by the rewards, penalties, or terrors of human laws.'

"They knew that any union of church and state was utterly destructive of all the rights of conscience. They knew that for centuries the world had listened to the clanking of chains and had heard the shrieks of martyrs from many burning stakes. They were familiar with religious persecutions and massacres, and they knew the inhuman cruelties that had been done during the ages in the name of God and of the State.

"Religious Persecutions Described

"The fathers of our country had seen the Pilgrims, fleeing from religious persecution, land on Plymouth Rock, fall on their knees, and then upon the aborigines.

"They had seen people taxed, against their will, for the support of religion, and oftentimes for the support of particular denominations to whose beliefs they could not and did not subscribe.

"They had seen people herded together like flocks of sheep, and marched off by the military to attend some church service against their will. They had seen men and women fined and jailed because they did not attend public worship and listen to long-winded sermons.

"They had seen the stocks, the pillories, the whipping posts, and the ducking stools used to rob men of their liberty to worship God according to the dictates of their own conscience.

"They knew that in some of the colonies any person who denied the Trinity could be sent to jail for three years, and that in other places it was a criminal offense for a parent to refuse to have his child baptized.

"They had seen laws which made it a crime for Quakers to hold religious meetings, or to sell books explaining their teachings.

"They knew that in some of the colonies if a man denied the divine authority of the Scriptures he could not hold any office, and that in other of the colonies for the same denial he was severely whipped and roasted for a while.

"They had seen the ears of a man cut off and his tongue bored with a red-hot iron for blasphemy.

"They had seen laws passed which sent a man to jail if he criticized the Christian religion or its ministers.

"In the mother country they had seen a foreigner, who said he had no theological beliefs, denied justice against a thief who said he believed in God.

"They knew that men of unexceptionable conduct in all the relations of life were rejected for jury duty, and sometimes grossly insulted by the judges, because they honestly declared they did not subscribe to religious dogma.

"They had seen men denied the right to testify in court as witnesses because they did not believe in a future state of rewards and punishments.

"They knew that in Connecticut as late as 1642 a man was put to death if he worshipped any other God but the Lord God.

"They knew that at one time England burned heretics at the stake, and that there was a similar law in force in one of the colonies.

"Constitution Makers Belonged to Many Faiths

"The framers of the Constitution, and the people who adopted it, had their varied individual sentiments upon religious questions; they were of all sorts of religious beliefs, but they had seen, as Judge Story noted, 'the dangers of ecclesiastical ambition, the bigotry of spiritual pride, and the intolerance of sects, exemplified in our domestic as well as in foreign annals,' and with one voice they declared that persons of every religious persuasion should be made equal before the law, and that the



Detail of History by Frederick Dielman

"Some people, ignorant of Constitutional history, refer to these provisions of our State and Federal Constitutions as a toleration of religious beliefs. But such an idea is far from the real truth, for we know that it is not by mere toleration that the individual is protected in his belief or disbelief."

souls of men should 'be in the keeping of their God and themselves, and not of their neighbors.'

"Thomas Jefferson Speaks

"One of the founders of this country, perhaps the greatest of them all, Thomas Jefferson, said:

"'Almighty God hath created the mind free; all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Author of our religion, who, being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in His almighty power to do.'

"What the Constitution Forbids

"So the framers of our organic laws placed it in our constitutions that there should never be any law respecting an establishment of religion; that no man should be compelled by taxation to support any church or minister; that no person should be compelled to attend religious worship; that there should be no restraints upon the free exercise of religion according to the dictates of conscience, and that there should be no restraints upon the free expression of religious belief.

"Religious Freedom Must Be Preserved

"As we consider the recent history of our nation, and as we look about us to-day, are we not justified in the belief that now as never before in the life of our country there is need for a closer attachment to the great principle of religious freedom, a principle which has kept our people contented and happy during the years? I think we are justified in the belief.

"Those of our people who advocate State and national 'blue laws,' who seek the assistance of the civil power to compel in various ways attendance upon religious worship on Sunday, and who insist that the religious forces of the nation shall enter the political arena, are advocating and striving to bring back the very things that the best blood and the wisest brains of America have fought so long and so hard to keep out of our government and our country.

"Civil Power Should Not Support Religion

"One of the wisest and kindest of the patriot fathers, Benjamin Franklin, gave utterance to a profound truth when he said: 'When religion is good, it will take care of itself; when it is not able to take care of itself, and God does not see fit to take care of it, so that it has to appeal to the civil power for support, it is evidence to my mind that its cause is a bad one.'

"If the greater number of the church pews are vacant on Sunday because many people feel that they cannot worship the Lord in the beauty of holiness when clownish performances, jazzed hymns, religious vaudeville, and political clap-

trap are permitted and encouraged in God's fair house, then the remedy is not for the civil power to pass harsh and severe laws closing innocent amusements on Sunday, prohibiting clean and healthful athletics, making people keep their cars in the garage, stopping the publication and sale of Sunday newspapers, taking a man's golf sticks away from him, and making Sunday a hard, uninteresting day—no, the remedy does not take that form. Such a course would tend rather to drive religion out of the hearts of the people than draw them toward it.

"Return to Simple Objectives of Religion

"The common-sense remedy is a return to the simple objectives of religion; to keep the church devoted to its sacred purposes; to daily expound by precept and example the old-fashioned religion; to quit 'fussing about all sorts of trivial accompaniments of religion that do not really matter'; to let the church grow in its intellectual sympathies with the scientific advances of the day; for the Christian church to quit going beyond the demands of Jesus in creed, and stopping far short of His demands in deeds; to keep the door to intellectual progress wide open; to teach men and women to look out upon the world and life and see, as Charles Wagner saw, only one thing,—'man in search of God, God in search of man.' And what does God require of man but to do justly, and to love mercy, and to walk humbly with God?

"Keep Religion Free of Politics

"And in the great political struggle now engaging the interest of the voters of America, may we hope that the churches of our country will not surrender the gospel for a political platform, and that the Lord's house of prayer will not be converted into a political meeting hall.

"Religion and polities have never mixed together with any good to either; and if the preachers and churches of this country, as such, take part in the present political campaign, (I care not on what side), immeasurable harm will be done the cause of religion, and thousands of good men and women will be driven from their spiritual homes by the lash of political autocracy.

"Church Members Tire of Dictation

"Those who sit in the pews are not minded to exchange the gospel for polities. The pew feels that it does not need the ecclesiastical guardianship of the pulpit over its political beliefs. On political questions the layman is perhaps to-day better informed than the pulpit. He is fully capable of arriving at his own conclusions. He is red-blooded enough to resent efforts to keep him from thinking for himself. Preachers who seek to take advantage of their sacred position to deceive men and women into believing that they speak in the name of God,

and that God would have them vote thus and so, do the pews a grave injustice, and will find the pews resenting the effort to deny them intellectual freedom and liberty of political belief.

"The pew does not believe for a moment that God Almighty, whose kingdom is not of this world, has conferred any authority whatsoever on His ministers to dictate the political beliefs of His children; and God's ministers who, forgetful of their holy duties, seek to force their own political beliefs upon their congregations, will do so without His blessing."

Here is a judge who has a clear vision of American ideals and of fundamental principles, so little understood by many clergymen and reformers in America.

If our courts were presided over by this type, our Federal and State Constitutions would not be overridden so frequently by decisions which belong to medieval times. Our Constitutional guaranties of civil and religious liberty are safe in the hands of such jurists as Mr. Jones. The greatest menace to the cause of freedom and the progress of true religion is the church in polities.

The church should not dictate in temporal affairs, and the State should play the part of a neutral on all questions of religion.

“‘Blue Laws’ Remain to Frighten Us”

THE New York City *Times* of June 24, under the above caption, gives an interesting account by Waldo Walker of how the ancient and antiquated Sunday blue laws are quickly brought to life, as illustrated in a recent experience in a New Jersey town. Since the article gives a brief review of the blue laws as still existent in a few of the States, we know our readers will be interested to read it, as follows:

"A Westwood (N. J.) moving-picture exhibitor was recently ordered to close his theater on Sundays under a State blue law of 1798. He protested. Other worldly enterprises, similarly barred from Sunday operation under the code of more than a century ago, were being allowed to continue—why not he? If a blue law was to be enforced against one, why not against all?

"But his protest did him no good. His cinema was shut, and stayed shut, on Sunday. The film exhibitor, however, was also a justice of the peace. Seeking to retaliate for what he considered discrimination, he swore in deputies, and the next Sunday proceeded to see that the blue law invoked against him was enforced in full. Deputies went over Westwood with the proverbial fine-tooth comb. Not a shop, not a store, not a place of business, did they leave open. Not a bottle of milk, not a spoonful of ice cream, not a stamp, was to be had. Not even a prescription could be filled.

"The deputies also closed garages and closed gasoline filling stations. They even halted passing automobiles and intercity busses, and

bade them compose themselves along the curb. All was congestion, stagnation, peace. Westwood observed Sunday, for was it not thus that the old law provided?

Old Measures Recalled

"The mayor of Westwood returned posthaste from a Sunday baseball game. The theater owner-justice was placed under arrest. The blockade was lifted. Westwood began to breathe again.

"Westwood's embarrassed hour illustrates anew the continued existence of obsolete blue laws in some of the older commonwealths of the Union. It also illustrates the public inconvenience that would be caused if all were enforced in the spirit in which they were originally conceived.

"Blue laws in New Jersey have intermittently been an issue for a decade. The increasing popularity of moving pictures has perhaps helped bring it to the fore. The theater owners and the Sunday-closing advocates have been at odds for a long time. It was these theaters that first developed the 'reprisal' strategy employed by the justice of the peace at Westwood. They have contended that if one group must bow to blue laws, all must bow.

"This contention has been indorsed by the courts. Four years ago, in Hudson County, a blue law drive was made by county and city police simultaneously in thirteen communities. Twenty thousand cases were reported. Citations were received by managers of light and power plants and other public utilities, telegraph officials, shopkeepers by the hundreds, theater owners, barbers, *restaurateurs*, lunch-wagon men, and even undertakers. Boys playing marbles on sidewalks, girls rolling hoops,

radio listeners, and people playing pianos, phonographs, saxophones,—all these were liable as well, but the authorities ignored them for lack of time.

"Throughout this drive, on express instruction from the court, the grand jury was not to indict one violator without indicting all. From reports available the tempest was largely political, and it eventually spent itself through the convenient and tolerant safety valves of the trial juries.

"Blue law procedure sometimes appears to be a solemn matter. A proclamation was read by flash lamp in a darkened movie house at Hackensack last December, in course of announcing to the Sunday audience that the mayor deemed the performance a violation of the code. It said in part:

"By virtue of an act of this State entitled, 'An act to prevent riots and tumultuous assemblies,' I am directed to charge and command all persons being here assembled immediately to disperse themselves and peaceably to depart to their habitations, or to their lawful business, upon the pains and penalties contained in the said act. God save the State!"

"The New Jersey blue law of 1798 forbade, among other things, 'travel, worldly employment or business,' also 'ordinary or servile work,' all manner of 'playing, sports, pastimes, or diversions,' these being itemized in turn to specify 'sporting, plays, dancing, singing, music for the sake of merriment, football, ninepins, bowls, long bullets, and quoits.'

"Exceptions were made for churchgoing, delivering mails, going for a doctor or midwife, meals, and running passenger coaches once a day in each direction. The law was amended in 1804 to permit police arrests on Sunday; in 1893 to permit riding or walking for pleasure on Sundays; and in 1920 to permit games and plays in county parks on Sundays.

"Massachusetts places all moving pictures under control of the State blue law on Sunday. Regardless of what license local localities may allow through the week, films must be deleted on the Sabbath of aught, in State opinion, 'tending to incite crime.' The inference seems to be that criminal incitation is particularly culpable on the first day of the week. A special State body actually convenes to pass films in such review, at last reports.

"Exploiters of 'The Covered Wagon' are quoted as saying they 'got by' in the Bay State because 'on Sundays we killed fewer Indians.'

"Pennsylvania's blue laws, dating back to 1794, prohibit all 'worldly occupations and diversions' except a few necessary employments. The State supreme court, in its last ruling against Sunday professional baseball, affirmed the vitality the old statute continued to have at the present time. The Philadelphia Sesquicentennial had to settle Sunday differences with

this law in court. Only last January the Pittsburgh Symphony Orchestra had to secure court exemption from these blue laws before it could hold Sunday concerts.

"South Carolina, in the person of Governor Richards, once made determined efforts to bring Sunday golfers at Aiken and other resorts within the blue law jurisdiction. One set of constables sent to apprehend a foursome met with embarrassing delay because the automobile ran out of gasoline. Under the blue laws, they themselves had to get a special permit before they could purchase more fuel.

"Tennessee has a blue law enacted in 1803. Nashville officials were moved to enforce this to a special extent in 1926, and haled newspaper publishers, city railway officials, bootblacks, shopkeepers, and the like to court.

Drastic Connecticut Statutes

"Connecticut once had probably the most widely discussed blue laws in the country. Since then it has toned them down. In 1917 a new act first allowed the sale there on Sunday of foods, confectionery, fruits, and cigars. 'A deathblow at the blue laws,' some called it. Some of these laws traced to as far back as the original New Haven Colony. At one time they were so extreme that, at least they so stated, intractable children of more than sixteen years old could be put to death. . . .

"New York may suffer only mildly from a blue law heritage, but its code shows enough miscellaneous curiosities in laws to make tolerance toward other communities seemly. The quiet Sunday here is officially sacrosanct from 10 A. M. until 1 P. M. After one o'clock, music is permitted outside churches if 'in connection with a religious rally.' At two o'clock a ball game may start at Polo Grounds or Yankee Stadium. At four, one's delicatessen is allowed to provide one with the forgotten sugar, butter, or cream necessary to 'get through' until Monday. . . . Section 2145 forbids 'playing' on Sunday, along with 'shooting, hunting, horse racing, gaming, shows,' and the like, but fails to define what 'playing' is!"

The New Jersey blue laws were originally enacted by the Puritans in 1750, when the State was governed by its ecclesiastical leaders. All the ancient Sunday laws were church laws enforced by the civil magistrates, and to call such statutes civil laws because the legislature enacts them and the civil magistrate enforces them, is merely camouflaging the issue. They are as much church law now as they ever have been, and they have no rightful place upon the civil statute books of American jurisprudence,

where a separation of church and state exists, at least, in the constitutions of most of our States. These ecclesiastical statutes are in conflict with the Constitutional guaranties of civil and religious freedom vouchsafed to each individual in

the realm of religion and conscience. Ultimately either these un-American blue laws must be repealed, or our constitutions will be destroyed. Americans must some day choose as to which of these two shall be retained.

Should Statute Law and Police Power Supersede Constitutional Rights?

BY M. C. TAFT
Attorney at Law

THE doctrine that there are certain natural as well as inalienable rights of man which no government ought to, and ours cannot rightfully, take away, is the belief of all who claim protection under the Constitution of the United States and the constitution of the State of which they may be inhabitants.

What are these rights? They are the rights guaranteed under the law to each individual. These natural rights are guaranteed as even against the United States by the Ninth and Tenth Amendments, which say:

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

One of the greatest natural rights is the right of conscience—the right to the free exercise of one's own religion, with the corresponding right not to be compelled to adopt or support any religion, submit to any sectarian education, or pay taxes for any church, and the right not to be deprived of any privilege or office on account of one's religious sentiments. All this is, we think, clearly guaranteed by our national Constitution.

There seems, however, to be a growing sentiment among some of our judiciary, legislators, and enforcement officers, that the Constitution has become obsolete, and that its provisions, and especially those

guaranteeing life, liberty, or property, and the free exercise of religion, stand in the way of reforms which are demanded by a certain class of people.

A great many of us believe that the Constitution has not been outworn, or that it has not become a dead wall in the path of progress, to be assaulted and overthrown. Its principles are living forces, and are as vital now as when they were adopted.

It is not unfair to say, because investigation will show, that many of the statutes enacted in the last few years have been enacted under the so-called "police power," which power, in the minds of many of the legislators, seems to have no limit. Most of the law under this power has been a growth of the nineteenth century.

What Is Police Power?

It is true that the term "police power" is a very broad one, and susceptible of wide interpretation; but nevertheless some of our courts have said there is a limit to this power, while others are unable to define its limits. It has been defined by some courts to be:

"The power vested in the legislature by the Constitution to make, ordain, and establish all manner of wholesome and *reasonable laws*, statutes, and ordinances, either with penalty or without, *not repugnant to the Constitution*, as they shall judge to be for the good and welfare of the commonwealth and of the subjects of the same."

The supreme court of New York and other courts have said:

"Each law relating to the police power involves the questions: First, is there a threatened danger? Second, does the regulation involve a Constitutional right? Third, is the regulation reasonable?—See, *People vs. Smith*, 108 Mich., 527; 66 N. W., 382; 32 L. R. A., 853; 62 American St. Rep., 715; *Health Department vs. Church*, 145 N. Y., 32; 39 N. E. 833; 27 L. R. A. 710; 45 American St. Rep., 579."

Those of us who are not inclined to surrender our Constitutional rights to the hue and cry of the reformers, greatly appreciate the position taken by our highest judicial body, the Supreme Court of the United States (1905), in the so-called Bake-shop case, Joseph Lockner vs. N. Y., 198 U. S., 45, 49, law edition 937. If the supreme courts of our States would give the same analysis and interpretation as did the Supreme Court of the United States in the Lockner case, there would be less abuse of this power. The Supreme Court of the United States reversed the judgment of the supreme court of New York, and held that the labor law of New York limiting the hours of labor in bakeries, was not a proper exercise of the police power, and was therefore unconstitutional. The court held that there was no reasonable ground, on the score of health, for interfering with the liberty of a person or the right of free contract, by determining the hours of labor. . . . Nor can a law limiting such hours be justified as a health law to safeguard the public health or the health of the individuals following that occupation. Judge Peckham of the United States Supreme Court, speaking for the Court, said:

"We think the limit of the police power has been reached and passed in this case. There is, in our judgment, no reasonable foundation for holding this to be necessary or appropriate as a *health* law to safeguard the public health, or the health of the individuals who are following the trade of a baker. If this statute be valid, and if, therefore, a proper case is made out in which to deny the right of an individual, *sui juris*, as employer or employee, to make contracts for the labor of the latter under a protection of the provisions of the Federal Constitution, there would seem to be no length to which legislation of this nature might not go. . . .

"It is impossible for us to shut our eyes to the fact that many of the laws of this character,

while passed under what is claimed to be the police power for the purpose of protecting the public health or welfare, are, in reality, passed from other motives. We are justified in saying so when, from the character of the law and the subject upon which it legislates, it is apparent that the public health or welfare bears but the most remote relation to the law. The purpose of a statute must be determined from the natural and legal effect of the language employed; and whether it is or is not repugnant to the Constitution of the United States, must be determined from the natural effect of such statutes when put into operation, and not from their proclaimed purpose."

It was urged by the plaintiffs in this case that the law was for the interest of the State in that its population should be strong and robust, and therefore any legislation which might be said to tend to make people healthy must be valid as a health measure, and thereby come under the police power. In answer to this the court said:

"If this be a valid argument and a justification for this kind of legislation, it follows that the protection of the Federal Constitution from undue interference of liberty of person and from freedom of contract is visionary, wherever a law is sought to be justified as a valid exercise of the police power. Scarcely any law but might find shelter under such assumptions and conduct. . . . The act is not, within any fair meaning of the term, a *health law*, but it is an illegal interference with the rights of individuals."

The court further said in reference to such statutes, that they —

"Are mere meddlesome interferences with the rights of the individual, and they are not saved from condemnation by the claim that they are passed in the exercise of the police power and upon the subject of health of the individual whose rights are interfered with."

Justice Offutt of the court of appeals of Maryland, in 1925, when considering a certain building ordinance passed under the "police power," used these words:

"But the police power, even as thus defined, vague and vast as it is, has its limitations, and it cannot justify any act which violates the prohibitions, expressed or implied, of the State or Federal Constitutions. If this were not so, and if the police powers were superior to the Constitutions, and if it extended to all objects which could be embraced within the meaning of the words, 'general welfare,' as defined by

the lexicographers, the Constitution would be so much *waste paper*, because no right of the individual would be beyond its reach, and every property right and personal privilege and immunity of the citizen could be invaded at the will of the State, wherever in its judgment the convenience, prosperity, or mental or physical comfort of the public required."

An enactment cannot invade the right of persons and property under the guise of a police regulation when it is not such in fact. See:

- Eden vs. People, 161 Ill., 296.
- People vs. Marx, 99 N. Y., 377.
- Ritchie vs. People, 155 Ill., 98.
- Smith vs. Alabama, 124 U. S., 465.
- N. C. & St. L. Ry. vs. Ala., 128 U. S., 96.
- William vs. Arkansas, 217 U. S., 79.
- Watson vs. Maryland, 218 U. S., 173.
- C., B. & Q. R. R. Co. vs. Chicago, 166 U. S., 226.
- Lawton vs. Steele, 152 U. S., 137.
- Minnesota vs. Barber, 136 U. S., 319.
- Brimmer vs. Rebman, 138 U. S., 78.
- Hinderson vs. New York, 92 U. S., 259, 268.
- Eubank vs. Richmond, 226 U. S., 137.
- Allgeyer vs. Louisiana, 165 U. S., 578, 589.
- Butchers' Union vs. Crescent City Co., 111 U. S., 761.

What Is Liberty?

In the case of Smith vs. State of Texas, 233 U. S., 630 (1914), the Supreme Court of the United States said:

"Life, liberty, property, and the equal protection of the law, grouped together in the Constitution, are so related that the *deprivation of any one* of those separate and independent rights may lessen or extinguish the value of the other three. In so far as a man is deprived of the right to *labor*, his *liberty is restricted*, his capacity to earn wages and acquire property is lessened, and he is denied the protection which the law affords those who are permitted to work. Liberty means more than freedom from servitude, and the Constitutional guaranty is an assurance that the citizen shall be protected in the right to use his powers of mind and body in any lawful calling."

The supreme court of New York, in the case of People vs. Marx, Super, in defining the term "liberty," said:

"The term 'liberty,' as protected by the Constitution, is not cramped into a mere freedom from physical restraint of the person of the citizen, as by incarceration, but is deemed to embrace the right of man to be free in the enjoyment of the faculties with which he has been endowed by his Creator, subject only to such restraints as are necessary for the common welfare."

Again the supreme court of New York, in the case of *In re Jacobs*, 98 N. Y., 98, defined liberty as follows:

"Liberty in its broad sense, as understood in this country, means the right not only of freedom from servitude, imprisonment, or restraint, but the right of one to use his faculties in all lawful ways, to live and work where he will, to earn his livelihood in any lawful calling, and to pursue any lawful trade or avocation."

Much of our recent law attempts to achieve a purpose at the sacrifice of a principle; to obtain a relatively unimportant objective, many legislators repudiate the fundamentals that all liberty-loving men should hold sacred.

A law-surfeited citizenry knows not liberty, and without liberty, loyalty cannot express itself, it is stifled.

Sidney Smith, writing of justice, said:

"Truth is its handmaid; freedom is its child; peace is its companion; safety walks in its steps; victory follows in its train; it is the brightest emanation from the gospel; it is the attribute of God."



Editor Calls Blue Laws Idiotic

An editorial dealing with the antiquated Sunday blue laws of Pennsylvania enacted in 1751, which prohibit every "worldly" activity on Sunday, and which are occasionally enforced according to the religious predilection of the agitators, has the following to say about blue laws:

"Recently the police of Philadelphia called a halt to a baseball game that was being played on Sunday. That was all right in so far as the police were concerned. They were doing their duty in enforcing the law."

"It is the contention of this writer that these idiotic statutes should be repealed. Imagine our having to be governed by laws that were written into the books over a hundred years ago by a lot of pinheads whose zeal caused them to lose all sense of fairness."

"If the blue laws are to be enforced down to the last letter, then we shall not have the right to purchase a Sunday newspaper, nor shall some of our ritzy friends have the right to play golf. . . ."

"Think of the unfairness of a law that keeps the hard-working coal miner on his veranda all day Sunday with his hands folded. The miner on the six week days doesn't get an opportunity to witness a ball game, and it is only fair,

therefore, that he should be allowed to enjoy his favorite recreation on Sunday."

Our contention is that it is not the business of the state what a man does on Sunday, any more than what he does on Monday, so long as he conducts himself

civilly. He may or he may not observe religious duties, but whether he does or forbears is no concern of the civil government. The state has no business in the realm of religion, and the church has no prerogatives in the domain of politics.

Pennsylvania Supreme Court Justice Kephart's Address on Liberty

HON. JOHN W. KEPHART, justice of the supreme court of Pennsylvania, delivered a most interesting and instructive address on human rights and liberty at Independence Hall, Philadelphia, July 4, 1928. Since this address deals with the fundamental principles of our government, placing them in their historical setting, and pointing out some dangerous tendencies which are calculated to override the inalienable rights of the people as well as the remedy, we take pleasure in reproducing important excerpts from this address as follows:

"We meet to celebrate the birth of the nation. Here, on this historic spot 15¹/₂ years ago, America was born as one of the nations of the world. John Adams, second President of the United States, said, 'This day will be celebrated with every demonstration of joy to the end of time. I hope,' said he, 'it shall never be forgotten.' So it happens that we, in America, and our citizens wherever the Stars and Stripes are unfurled, meet joyously to acclaim our birthday.

"What more fitting place than this to acknowledge our obligation to the Declaration of Independence and the founders of the Republic! Here, where the first great expression of the eternal principles of man's rights in government went forth to the world; here, at the heart of American liberty, where within a few rods rests in eternal sleep a man who did much in the making of the nation; here, with the spires of divine guidance speaking to us for a century and a half in the words of the Master; here, where the temples of learning cast their shadow on the banks of the peaceful Delaware, this nation was born. Created from the impulses of dire necessity, from the unholy wedlock of the government of the mother country, with greed, injustice, tyranny, servitude, and vassalage! Like all great things of life, it was not brought

forth without pain, nor without suffering and much misgiving. A relentless government, without the support or sympathy of many of her people, had for years sought to enslave the American people through the colonial system of oppression by unjust laws as to commerce, internal development, tribute, and local self-government.

"The origin of the political philosophy of the Declaration of Independence may be traced to the common law of England, which inculcated the broad principles of the rights of mankind. The common law recognizes, but does not create, those principles. They are founded on rights common to all, and hark back to the days when government was evolved. No civilized nation has been without a common law, and every attempt at its suppression is followed by its immediate return.

"The principles underlying our country's structure, then, date back to a period long before the barons wrested from King John their charter of liberty; long before many nations on the European continent were known to exist. For years, as President Coolidge has observed, their virtues were preached from the pulpit; much of the highly forensic language employed in the Declaration consisted of time-honored expressions of the legislatures, and though many of the outstanding features were worn phrases, the great thing about the Declaration was that this document was the act which declared us a nation. It was a challenge to the mother country. It was itself the weapon that cut all ties. It was the concrete act of separation.

"Because it was a deed of separation, its signers took on themselves the responsibility for three million people, and faced death in so doing. It followed Lexington, Concord, and Bunker Hill, and was the beginning of many years of cruel, intense suffering and many sacrifices. The trail of blood, desolation, and death which led from Bunker Hill to Yorktown was the golden rainbow of hope that ended in peace and a nation. In the subsequent opinion of the world at large, the Declaration embodied the most advanced step in the history of nations

taken by a people in their struggle for political freedom. It was the first time any popular assemblage of the people ever dared to assert those rights as the sole foundation of government in the establishment of a nation. . . .

"In the test of war, we won and became an independent nation. We had defiantly claimed man's right to participate in government, but we found ourselves much at sea as to the character of government to give him that right. The States, jealous of their rights as sovereign powers, fearful that the creation of a central state would bring about the same condition of government that had existed under England, hesitated to yield any authority, fearing a virtual monarchy would be established. We adopted the Articles of Confederation, which carried us along for ten years, growing steadily worse, and finally we adopted the Constitution, the new model of government. Then we began the era of Constitutional government. On this rock we built, so as to work out our destiny as a nation within the lines of the Declaration of Independence.

"Was this infant to prosper in the great family of nations? Was it to live up to the teachings of the fathers who for more than a century had preached of the inalienable rights reserved to the people, and were they to be governed only by the consent of the people? Time alone would answer these questions. Daniel Webster, in 1806, said, 'America is the last of the little family of republics. She has survived all other efforts, and now exists, in the minds of the envious world, without the society of one nation with which she is associated, by similarity of government and character. Whether it be possible to preserve this Republic in unity and existence and in health, is the great question which fastens itself on the mind.'

"Let us take a retrospective view. Since the Declaration of Independence and the Constitution, America has become a great and powerful nation. She has risen through her position in the Western Hemisphere, the character of her climate, her great natural resources, the influx of divers races evolving a type of citizenship hitherto unknown; being unhampered by tradition, inspired and influenced by the spirit of a free country, she has united all these to give energy to labor, encouragement to dormant capital, and enlightenment to the searchers for new things. . . .

"But has the governing authority squared its conduct and action with the intent and spirit of the Declaration of Independence and the Federal Constitution that was built upon it? When its acts are submitted to the 'moral judgment of mankind,' will their verdict at this day be that they have kept the faith of the fathers? Are those truths still self-evident that all men are 'created equal,' with 'certain inalienable

rights,' and that the government derives its just powers from the consent of the governed? Or has there arisen a long train of usurpations, enacted with the design of reducing the States or a part of them to the absolute authority and control of the Federal government? Has the letter and spirit of the Constitution been fulfilled, or are we wandering? . . .

"Since the Civil War, the tendency toward centralization has become more and more manifest. The right of the States to control local affairs, their people, their life, liberty, and happiness, all is being subjected to Federal legislation and Federal control. Laws affecting labor, industry, health, food, manufacturing, education, and religion—all purely local affairs and the subject of State laws—find expression in the acts of Congress. . . .

"If this nation permits, through legislative, judicial, and regulatory authority, the spirit of the Constitution to be violated by sacrificing either State rights to centralized power or by favoring one section at the expense of another, then it so far transgresses the inalienable rights of the people as to call for a rededication of the spirit of the Declaration of Independence, a reaffirmation of its principles, and a re-establishment in the government of those fundamental rights. Constant protest and outcry from the States should not be necessary to establish rights sovereign to the States. Happily, on this day and age, all this may be secured peacefully through the sufferages of the people. They are in the final analysis the bulwark of the nation's peace.

"Daniel Webster more than 120 years ago made a strong appeal to the people for the solidarity of the nation under the Constitution. He said, 'If an angel should be winged from heaven on an errand of mercy to our country, the first accents from his lips would be, Beware, be cautious, be wise. You have everything to lose; you have nothing to gain. We live under the only government that ever existed, formed by the deliberate consultations of the people.' He pleaded for the preservation of the nation and the Constitution without a change of spirit. This change, he said, may begin at home at the extremities, and with swift and fatal progress approach the heart. A government may possess all the forms of a republic, but in action may be despotic. The best index of a successful republic is in the happiness and contentment of its people, untrammeled by unnecessary laws. We have no fear for the nation as such from external causes; our fear is from our internal affairs, and that coming from a change in the spirit of the Constitution. When you change the Constitution against the wishes of a substantial minority, so that it ceases to command universal respect and love, then you take from the Constitution that esteem that is so essential to its endurance.

"The American people have an abiding faith in the principles which underlie the Declaration of Independence. From early school days we have been taught the meaning of these principles; they have been our testament in government. Just as surely as 152 years ago, guided by the unseen hand, they were brought to a high place in government, through war and suffering, so they shall remain in peace and happiness, if we, the people, are ever vigilant in their preservation. But let us never forget that eternal vigilance is the price of liberty.

"Our dream for our country is that it may continue in dignity and honor the guiding star of nations, around which other nations may cluster; that it may still extend the hand of helpfulness and friendship to all the world; that we will continue to be the safe retreat for the oppressed, as well as the sturdy champion of the rights of mankind; that in this nation of equal rights to all, the principle of the right to worship God according to the dictates of one's conscience, unharassed and unhampered, shall continue to be one of America's chief virtues.

. . . Let us be faithful to our trust of government."

The right to worship or not to worship God in harmony with the dictates of the conscience is one of the Constitutional rights frequently overridden by local statutes in direct violation of both Federal and State Constitutions. That the individual possesses certain "inalienable rights" which no government has a right to abridge, is still a foreign idea to many lawmakers and judges. We are glad to see Justice Kephart lay stress upon these "rights" as "inalienable," and as being so sacred that they should forever remain the rights of the individual, to be enjoyed by him, "unharassed and unhampered" by the civil government as "one of America's chief virtues."

Methodists Favor Religious Legislation

THE Methodist *Clip-Sheet* of June 4 definitely commits the Methodist Church to the program of religious legislation, according to their own statement, which is as follows:

"Methodism owes to the world its zeal in behalf of the great moralities. A decent respect for the sanctity of the Lord's day is manifestly an objective to which we are committed. Its observance is inseparably related to the maintenance of religion. We may well address ourselves most vigorously to a defense of the day against the rampant commercialism of the times. . . .

"The church cannot sanction in the interest of Sunday amusement such disregard of the decalogue as will inevitably tend to the further secularizing of the Lord's day, when so many influences are at work to break down every safeguard of its sanctity."

We wish to call attention to the frank admission of the Methodist *Clip-Sheet* that Sunday "observance is inseparably related to the maintenance of religion." That being so, Sunday legislation on the part of the civil government in behalf of "its observance is inseparably related to the maintenance of religion." But

our Federal Constitution, as well as most of our State constitutions, expressly forbids our lawmaking bodies to enact any laws relating "to the maintenance of religion."

No one objects to the Methodist Church's preaching the sanctity of the Sunday institution from the pulpit and in their literature, or by any other means of moral persuasion; but what free-born American citizens disapprove of, is the attempt to compel all men to observe Sunday according to the Methodist notion under the penal codes. Whenever the Methodist Church makes its appeal to the policeman instead of to the conscience "to maintain religion," and calls "Sunday amusements" a "disregard of the decalogue," it is high time that somebody pointed out the solemn fact that it is contrary to American ideals of civil government for the church to make its appeal to the civil magistrate to give legal support for "the maintenance of religion," and also that "amusements on Sunday" are not prohibited in the deca-

logue. The decalogue gives no more sanctity to Sunday than it does to Wednesday. The day the decalogue sanctifies is "the seventh day," and not the first day of the week. But observance of neither of these day should be enforced by the state, because it is not within the province of the civil government to enforce any religious institution, whether its adherents are few or many.

George Washington and Sunday Laws

(Concluded from page 101)

Constitution Not Framed by Puritans

Our forefathers wrote into the Constitution guarantees of their newly acquired liberties, which were revealed to them through a knowledge of truth and justice secured from a profound study of sacred and profane history and a wisdom born of sad experience with heartless and tyrannical state-established churches.

"As a matter of fact, the real founders of the Republic, the makers of the Constitution, the men who did the constructive work, were all from States remote from the blighting Puritan influence. It was from the plans of Randolph of Virginia and Pinckney of South Carolina that the Constitution was drawn; and the men who took an active part in its framing were, with the exception of Franklin, all from the South. Washington of Virginia presided at the Convention, and was first President. Marshall of Virginia was the jurist who made the Constitution a workable machine. It remains the fact that it was these men, and not the burners^{*} of witches and framers of Sunday laws to whom we owe the Declaration of Independence and the Constitution."—Editorial in *Law Notes*, June, 1925, p. 42.

The spirit of the Constitution and the spirit of Puritanism are not compatible. True civil jurisprudence does not entangle itself with religion, while pure Christianity never persecutes nor seeks to intrude itself into the civil affairs of those who do not wish its help. The United States Supreme Court has well expressed it thus:

* Witches were hanged, not burned, in New England.—EDITOR.

"The structure of our government has for the preservation of civil liberty, rescued the temporal institutions from religious interference. On the other hand, it has secured religious liberty from the invasion of the civil authority."—80 U. S., 728.

Washington followed the dictates of his own conscience. He was willing to grant the same right to others. He wrote to Lafayette that he was quite willing to allow others to follow "that road to heaven which to them shall seem the most direct, and least liable to exception."—"Our Nation in the Building," p. 291.

If Mr. Lankford and the Lord's Day Alliance, for whom he introduced his Sunday measure, will follow "footsore" the example of the Founder of Christianity and the Father of Our Country, they will go no farther with their program of compulsory Sunday observance.



A Sunday Law Fallacy

(Continued from page 103)

time, or may be invaded by despotic power, must still be confirmed by justice, and guaranteed by just government.

Life, liberty, and the pursuit of happiness are inalienable rights. A man may throw away his life, or he may sell himself into slavery, or he may bind himself not to seek happiness; but the State can sanction none of these transactions. It must guard the liberty of its citizen, and whenever a man who has agreed to forego the pursuit of happiness, or who has sold himself into slavery, desires to resume the pursuit of happiness, or to assert his liberty as a free man, the State must guarantee him the right to do so. Any contract which he may have entered into, bartering his right to seek happiness or to function as a free man, must be held to be void.

A Contradiction of Terms

It is a contradiction of terms to say that a man is free not to be free. If such a right existed, as soon as it was exercised it would cease to be a right,

and become a condition forced upon him by his fellow men. There can be no liberty without freedom of choice.

Therefore the State must assume jurisdiction over marriage contracts. It must do this in order to protect the equal rights of all men; but no such reason exists for the enactment of laws requiring the observance of the Sabbath. Indeed, the State can enact no law to enforce a religious institution without thereby invading the natural rights of the citizens. These propositions are so plain as to be almost self-evident. They do not require the support of an argument, but need only to be stated in order to be seen by any one not blinded by the bigotry that denies, in the supposed interests of Christianity, the rights conferred by the Creator.



"Justice Standeth Afar Off" in Alabama

(Concluded from page 104)

peals declares that "Christianity is a part of the common law of the State," yet the common law itself does not make labor on Sunday an indictable offense. The great majority of the State supreme courts of the different States in the Union have expressly declared that "it is incorrect to say that Christianity is a part of the common law of the land, however it may be in England, where there is a union of church and state, which is forbidden here." (See North Carolina Reports, Vol. 134, pp. 508-515.)

The Court of Appeals of Alabama has gone a long way toward establishing a union of church and state in the State of Alabama, and has set itself at variance with American ideals of civil government and the greater weight of judicial decisions on this subject. If the supreme court of each State should take a similar attitude, the rights of a dissenter to the tenets of Sunday observance, or in fact to any church ordinance or creed, would be denied, and religious persecution would lift its venomous head and oppressive hand as verily as it ever did

in medieval times under a union of church and state. Fortunately, there is only one decision cited by the Alabama Court of Appeals in support of this decision, and that is a similar decision from the same court. Let us hope no other court in America will ever cite it in support of a similar decision.

L.



Jury Refuses to Convict Under Blue Laws

THE Tampa (Fla.) *Tribune* of June 15, in an editorial, makes the following comments relative to the playing of Sunday professional baseball as upheld by a jury in the Tampa Court of Crimes in a recent case of the South-eastern Baseball League:

"The five-minute verdict of a jury in the Court of Crimes, supplementing the verdict of the 4,000 citizens who attended the game which provoked the prosecution, ought to be somewhat convincing that the antiquated 'blue laws' cannot be enforced in this city, and that there is a demand for Sunday baseball which will be sustained, when brought to a test, by either the public or the courts. The lesson of the verdict ought to be specially impressive in the offices of the sheriff and the county solicitor.

"It was offensive to the public sense of fair play when the officers singled out the league game at Plant Field for the first attempt to enforce unpopular and discarded laws, after more than twenty years of noninterference with harmless sports on Sunday, and while at least three other baseball games were in progress in the city. This sudden zeal could not be satisfactorily explained to the curious populace. It was a foregone conclusion that no jury could be obtained to uphold with a conviction this manifestation of official inconsistency. . . .

"We indulge the hope that the sheriff will cease to worry about innocent and harmless recreations, and devote some of his valuable and rapidly passing time in office to the effort to apprehend ballot-box bandits, and a convicted and sentenced would-be murderer who conveniently 'jumped bail' when the time came to commit him to the penitentiary."

We do not hold a brief for Sunday baseball or Sunday movies. Our position is this: If baseball or the movies are civilly or morally bad in and of themselves, then they ought to be prohibited altogether on every day of the week. But if they are honorable and respectable, civil

and decent on Monday, then of necessity they must be the same on Sunday. What religion favors or forbids on Sunday or on any other church day, is not within the province of the civil government to recognize or regulate beyond the protection of undue interference of religious exercises, and the church deserves such protection on every day of the week. The state cannot rightfully sanction, support, and enforce the observance of any religious institution.

"Commercializing Sunday"

(Concluded from page 106)

must remain neutral on the subject of religion until religion interferes with political affairs, and then only must the state deny the church the right to interfere with temporal affairs and limit her to the spiritual realm in her operations.

C. S. L.



"Where Intolerance May Lead"

(Concluded from page 109)

recreations, would not be able through the weight of its larger citizenship to force its will on governmental divisions in Allegheny County which desired to maintain the present standards.

"That would be elementally fair. Certainly the Sabbath Association should not fear such a test. If it does, then it must admit that it somewhere lacks the appeal with which to compete for patrons on equal terms with what bigotry calls the 'ungodly.'

"This newspaper believes that many communities, given the opportunity, would vote for relaxation of the blue laws. And it believes that as a result there would be no diminution of church attendance or Christian spirit."

Many of the churches to-day which desire to be conscience for every one in religious matters, and by law to force their ideas of Sunday observance upon honest dissenters, are destroying their own future. They are driving more people out of the pews through the back door by their intolerant attitude of wanting to force their church discipline upon nonchurch members, than ever come into the church through the front door. It

seems that some churches still believe that they can catch more flies with vinegar than with molasses. Every age of ecclesiastical intolerance is followed by an age of reaction against all forms of religious belief. The spirit of persecution always dries up and drives out the spirit of charity and spirituality.

L.



Missouri Lutheran Synod Straight on Religious Liberty

(Continued from page 111)

"A church body, on the other hand, must not interfere with the business of the government. If it does go beyond its religious sphere, trespassing on the secular domain of the government, it should be told to mind its own business and to refrain from mingling church and state and from causing grave state-church entanglements. Political conventions will not be advised by our church convention as to which planks should be put into, or kept out of, their platform, or as to which candidates should or should not be nominated. We are not here as statesmen and politicians to find the best solution for the intricate political problems or to concoct and prescribe remedies for political and social reform, even though as citizens we all are vitally interested in these matters, and in the proper way want to be of assistance to our government to the best of our ability."

The Lutheran Synod of Missouri has always entertained very clear ideas on the question of the proper relationship of church and state, and has several times gone on record in a strong way against compulsory Sunday observance legislation under the penal codes of the State. In this they differ with other branches of the Lutheran Church which are still tinctured with the old church and state régime established by law in some of the European countries. We are glad to join our Lutheran friends of the Missouri Synod in their opposition to all forms and schemes of securing the endorsement and enforcement of religion by law.



A HYPOCRITE is a person who acts like a saint when he knows somebody is watching him, and like himself when he is alone.

The State Should Not Punish for Sin

(Concluded from page 107)

longer at the helm, and because the necessary 'eternal vigilance' is not eternal at all, but notoriously and disappointingly transient."

There are not a few people who still believe that the civil magistrate can deal with every offense of every description, whether it be civil or religious, whether it is a duty we owe to God or to men. They are unable to understand the American ideals of civil government. The old church-and-state régime is still permanent in their conception of civil government. They are unable to make any distinction between the duties we owe to God and religion and the obligations we owe to the state and our fellow men. They believe that the civil government can legislate upon and enforce all the ten commandments of the decalogue, those that were written on the first table as well as those written on the second table.

No religious persecution could ever occur if the state dealt only with crime, or civil affairs, in protecting the equal rights of all men under the civil law. God alone can rightly sit in judgment on sin, and punish the sinner righteously and justly.



Blue Laws Subvert Liberty

THE Rev. Martin Ferrey, pastor of the Unitarian church of Salem, Oreg., took a firm stand against the Sunday blue laws and church domination in civic affairs, according to the March 26 issue of the *Capital Journal* of Salem, Oreg. In part he said:

"Constitutional liberty is jeopardized by the aggressive encroachments of certain individuals and organizations who are obsessed with the erroneous notion that civil government must come under the domination of the church, a notion that is fostered by many Roman Catholics and Protestants alike, both of whom are wrong in that such a theory is in absolute conflict with the genius of American government, Rev. Martin Ferrey, pastor of the Unitarian church, declared in a sermon on 'The Blue Menace.'

"Efforts are being made to pass laws which will curb and stop people from enjoying any form of amusement on Sunday, and these efforts are simply the wedge which in time will widen the breach and encroach upon the freedom of speech, of the press, and the freedom to worship God according to the dictates of one's conscience,' Rev. Ferrey declared. 'All the evils of the present day are to be traced to the denial of the proposition that the United States is a Christian Protestant nation, and that only the Evangelical Christian churches can interpret the Bible, or in the case of the Roman Catholic Church, that the church alone can give valid interpretations.'

"Neither Christianity nor any other system of religion constitutes a part of the common law of the nation. Evidences of persecution are many. . . . Religion is not the business of government, and a connection between them is injurious to both."

"America need have no fear from without. It is the shadow of the dead hand which will blight it from within unless the pure breezes of freedom once awaken us from our lethargy," he said."

We are glad to report that we have actual knowledge that there are comparatively few Catholics and Protestants in America who favor a church and state régime and a legal program for Sunday observance. But these few are like the coyotes of our Western prairies. One of them makes enough noise when he howls at night to make you believe you are hearing fifty. The Sunday law reformer when he speaks, always endeavors to make you believe that he is speaking for thousands of his faith, when in reality he represents nobody but himself. It is this camouflage of public sentiment that makes "the blue law menace" a real danger.



RELATIVE to the teaching of Roger Williams on religious freedom, Julian Hawthorne, in his *History of the United States*, says:

"When John Adams wrote to his son, John Quincy Adams, 'Your conscience is the Minister Plenipotentiary of God Almighty - placed in your breast: see to it that this minister never negotiates in vain,' he [Adams] did but attire in the diplomatic phraseology which came naturally to him the thought which Williams had avouched and lived more than a century before."

— *Volume I*, p. 78.

Intolerance of Sunday Laws

(Continued from page 108)

The civil magistrate cannot settle the controversy without setting up a chair of infallibility. This, no one wants. It would rekindle the fires of persecution, which all our people have supposed were long since dead.

The most sacred rights are those of the individual. No government can afford to violate them. Sunday laws do intrude into the realm of the conscience, and therefore should not be found on the statute books of our land.



News and Comment

THE Sunday movie question in Tenafly, N. J., was submitted to the people on a referendum vote, and the movies won the fight against the opposition of the churches, by a large majority.



DR. H. L. BOWLBY, general secretary of the Lord's Day Alliance of the United States, claims that the membership of the Alliance is "fully one fifth of the country's population." In this claim he reckons in the total membership of nineteen Protestant denominations, the great majority of whom know absolutely nothing about the aims and purposes of the Lord's Day Alliance. The big convention rallies recently held in Washington in behalf of Sunday legislation were a hoax and a newspaper joke.



THE Northern Baptist Convention held in Detroit, Mich., rejected the Lord's Day Alliance proposal indorsing the Lankford Sunday Observance Bill now pending before Congress, and in so doing the convention report stated that it would be unwise to launch a strict Sunday observance in only one city while other large metropolitan centers were "wide open." The real reason why such laws should be opposed is because they are religious laws, and are in violation of Constitutional guarantees.

THE city council of Hammonton, N. J., on June 15, tabled the petitions from various churches requesting the council to enforce the Sunday closing law as applied to amusements. The issue is to be submitted to the people in the coming elections.



THE court of crimes of Tampa, Fla., in the recent baseball case dealt with in another part of this magazine, declared an old Sunday blue law, which was supposed to forbid Sunday baseball, null and void because it had not been enforced for more than twenty years, and never since it was enacted by the legislature. If all our courts took a similar course, a large number of inert and obsolete laws now on our statute books would be speedily eliminated, and our status as law-abiding citizens would be greatly improved.



Sparks From the Editor's Anvil

LIBERTY has no enemy greater than bigotry.

THERE is nothing more blind than prejudice.

NONINTERFERENCE with polities is a mark of true religion.

CHRISTIANITY had perished had not Love kissed it in the beginning.

YOU should not throw rocks at a hornets' nest, if you desire peace.

A RELIGION that cannot advance on the purity of its own virtues is not worth preserving.

No matter what your attainments, your biggest room will always be room for improvement.

A RELIGION that has to be subsidized by the state with legal sanctions in order to exist, deserves to perish.

A RELIGION that appeals to the policeman to enforce its tenets, admits that its creed is human instead of divine.

As you measure others, so they measure you.

THE bigot, like the fool, is always right, even when he is wrong.

FORCING the conscience is like trampling a snow-white lily underfoot.

A HYPOCRITE is one who quotes Scripture without making a personal application.

WHEN religion is enforced by the sword, the streets flow crimson with blood.

IT appears that the legal reformer's idea of heaven and of Sunday is that of coerced idleness.

A RELIGION of love and kindness never sets legal snares to bind the conscience of the dissenter.

THE meanest person in the world is the one who pries into everybody's business but his own.

No greater insult was ever offered to God than the proposal that His truth needs legal support.

THE best evidence that a man is in need of religion is when he attempts to force his creed upon others.

MEN who are brutal in the name of religion are brutes in their own homes, and should never be intrusted with legal authority.

RELIGION by law transforms men into brutes, and causes them to rejoice as they smell the stench of martyrs burning at the stake.

A LEGAL "reformer" who offers to make people good by law resembles the bald-headed barber offering to cure baldness with an enticing tonic.

THE best and noblest men who have ever lived have died martyrs at the hands of good and sincere men who were obsessed with the idea that the enforcement of law was greater than the maintenance of justice.

IN a personal letter to the editor of the LIBERTY magazine, Judge Walter B. Jones said:

"The more I read history, the longer I live and watch current events, the more I study men and women, the more firmly I am convinced that the happiness, yea, the very life, of our Republic depends upon a strict adherence to the principle of separation of church and state. And as I see the signs of the times, we are going to have to continue, perhaps harder than ever, the struggle for religious liberty in this country."



Anent Our Cover Design

OUR cover design, reproduced from the original painting by J. L. G. Ferris, which hangs in Independence Hall, Philadelphia, shows a patriot pleading for the independence of the American colonies.

The caption under the painting reads as follows:

"When ye Revolutionary Conflict was impending just before ye breaking out of ye war, ye Patriots of Plymouth undertook to remove Plymouth Rock, or a part of it, to ye Town Square to make there a Patriotick Rendezvous & Liberty Pulpit to Excite ye People against ye appressions, which they suffered — they split off a hugh part & with oxen dragged it to ye Square near ye old First Church of Plymouth & Made ye Rock one of ye stepping stones of American Independence.

"It remained there for half a Century or more — was again moved to a spot near ye Plymouth Museum & later to its original Resting Place, where it now lies."



WE are informed by a correspondent, that the illustration used on page 46 of the second quarter, 1928, issue of LIBERTY, was painted by Francis D. Millet.

The original painting is owned by the city of New Bedford, Mass., and is exhibited in the art room of the New Bedford Free Library.

We are glad to give this credit to Mr. Millet.

The Church in Politics

By CHARLES S. LONGACRE



TO every advocate of liberty we recommend this book, for just now, when we are facing a crisis in the nation, it will clearly give the meaning of Sunday legislation, and arouse public sentiment to a degree that such legislation cannot be enacted.

This is a real crisis. Strong lobbies, representing more than twenty religious denominations, have been established at Washington, D. C., whose special work is to influence all the activities of the Government in the supposed interests of Christianity. They plan to take away the liberties of the American people by passing strict Sunday Blue Laws that will compel people to be religious whether they are inclined that way or not.

And so "The Church in Politics" has been prepared and is being widely distributed. It clearly defines the issue. Here are the chapter headings:

- A Burning Issue
- Aims of the Lord's Day Alliance
- Origin, History, and Object of Sunday Laws
- Compulsory Church Attendance on Sunday
- Why Sunday Laws Are Wrong
- Religious Persecution Under Sunday Laws
- Aims of the Founding Fathers
- Government and Religion

128 pages, well illustrated, with striking cover design.
Price, 25 cents. Liberal discount to distributors.

Order of your Book and Bible House, or of the

REVIEW AND HERALD PUBLISHING ASSOCIATION
TAKOMA PARK, WASHINGTON, D. C.



© KITSON

The Pilgrim Maiden. A Bronze Statue by Henry H. Kitson