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LIBERTY

A MAGAZINE OF RELIGIOUS FREEDOM



COURTESY OF TRANSCONTINENTAL AND WESTERN AIR, INC.

SEA AND AIR TRAVEL AROUND NEW YORK CITY

**New England Theocracy, by Doctor Johns—Earning Our
Heritage, by Doctor Muzzey—President's Representative to the
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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.
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A MAGAZINE OF RELIGIOUS FREEDOM

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CONTENTS

The New England Theocracy	5
On Earning Our Heritage	9
A Trojan Horse Invades Public Schools	11
Puritanism in Its Heyday in 1682	13
"Libertad"—The Fight for Freedom in Cuba	14
The President's Representative to the Vatican	16
Why Protestants Care	19
Methodists Protest Taylor Appointment	24
Holding the Citadel of Freedom	25
An Open Appeal to the Ministers of Boise	26
Supreme Court Unanimously Upholds Religious Freedom	27
Maryland's Ridiculous Sunday Laws	27
The Fundamental Law of the Land	28
Are the Courts or the Constitution Supreme?	29
Sunday—A "Civil Institution"	30
"Blue-Law Blues"	30
Sparks From the Editor's Anvil	31

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COURTESY, THE BOSTON HERALD, OWNERS OF THE COPYRIGHT

F. C. YOHN, ARTIST

The Trial of Wenlock Christian, the Quaker, Before Governor Endicott and "Bench and Jury"



WE live in a day when the individual convictions and personal liberties of men and women are again being assailed. Reaction and absolutism are in the ascendancy. Freedom and democracy are being attacked on many sides. Will the liberty-loving people of this land find themselves overwhelmed by the onslaught now being waged against the rights of man? That the spirit of intolerance and persecution still prevails in America is clearly evident by the attempts to curb certain zealous sects, and by appeals to blue laws which still find a place on the statute books of certain States. Even today men are being haled before the courts to stand trial for breaking some religious law. While this practice is not prevalent because of respect for the Federal Constitution, yet there is sufficient evidence to show that, given opportunity, the fires of persecution would again break out, even in this fair land. How carefully we should watch our ramparts of liberty and not allow any attack upon them to go unchallenged.

The New England Theocracy

by VARNER J. JOHNS, J.D.

"'Twas theirs to plant in tears fair freedom's shoot;
'Tis ours in peace to reap the precious fruit.
By them the bulwark of our faith was built—
Our faith cemented by the blood they spilt.
In freedom's cause they gave all man could give;
And died its martyrs, that liberty might live."

THE STORY OF HISTORY, when rightly told, is the story of freedom. Conflicts there have been between the nations—battles to the death in their struggle for supremacy. The historian fails signally in his mission who stresses these incidents while he forgets or ignores the essential warfare of the ages. Behind the plots, the intrigues, the wars, plays and counterplays upon the checkerboard of history, is the struggle supreme, the battle of humanity for freedom and against intolerance. Through battlefields and martyrs' scaffolds the world fought for freedom. In America the victory was won.

Freedom—for Themselves

On the wild New England shore our Pilgrim Fathers found a refuge from Old World oppression. Brave souls were they who sailed across the uncharted Atlantic and into the wilderness of the Western World, that they might have freedom to worship God. They found freedom—and yet, even in New England, the conflict that had shaken old England and the rest of the Old World must needs be fought anew. Intolerance, like sin, thrives in any clime and among every people. Other colonists followed the Pilgrims, and many of them were bigoted, fanatical, and intolerant of the rights of others. Thus a new front in the battle line of freedom, the wilderness frontier, was established.

We glorify our New England ancestors, and would fain erase the dark stain of intolerance from the pages of New England history. It may be well, however, that we do not forget the darker side of the picture. The past is a lesson book for the present. The trend of our times is so ominous that we would do well to turn over and read again the forgotten pages in American history.

They came to America, these ancestors of ours, in search of freedom—for themselves! They had separated from the Established Church of England, they

had "endured a great fight of affliction," but they were unwilling that any should separate from them. Now they stood on the other side of the fence of freedom. They demanded conformity and uniformity. The Old World had taught them how to enforce their demands. They persecuted even unto death, and sought to justify their bitter intolerance with the timeworn inconsistency: "Persecution is not wrong in itself. It is wicked for falsehood to persecute truth, but it is the sacred duty of truth to persecute falsehood." Thus contended minister John Cotton of the New England Puritans—and thus had contended the pagan priests and prelates of the Papacy, the ministers of the Inquisition; thus had contended John Calvin when he sent Servetus to the stake; thus had contended the Established Church of old England as it kindled the fire for dissenters.

Persecutors Defend Their Actions

The party in power *always* has the truth. Who ever heard of anyone, at any time or anywhere, who



PUBLISHERS PHOTO

Pilgrim Monument, Old Provincetown, Massachusetts

would admit for a moment that he was in error? It is only human for men to regard themselves as the sole custodians of truth. The persecutors are *always* defending truth and righteousness; the persecuted are *always* guilty of heresy. How could it be otherwise? The most remorseless tyrant calls himself a liberal. The zealous fanatic boasts of his breadth of vision.

"That I am right and always right I know,
Because my own convictions tell me so."

Every man who reads these lines holds the safest and sanest political views; the surest, truest, religious opinions. We are all the custodians of orthodoxy. And why not? Confidence in our own wisdom begets success. But the test of real worth is our regard for the opinions of others. Not mere toleration, but freedom, freedom to think, to talk, to write our convictions—we seek this for ourselves; we must grant this same freedom to our fellow men.

This the early New Englanders did not do. They were as rigid in their tests of orthodoxy as ever the Established Church of England had been. They were as intolerant of dissenters as ever the Roman church had been. Not all partook of the spirit of

intolerance, else the story of freedom in America would never have been written. There were brave souls who contended for religious freedom, for others as well as for themselves. But the battle was as bitterly fought in America as it had been in Europe.

The "Christian State" Idea

The "Christian state" idea had long dazzled the imagination and shaped the policies of ecclesiastical leaders. A universal church, with one visible head, one rigid faith, one inflexible doctrine, and the state the guardian of the church—such was the dream of the ages. This dream became a dread reality during the Dark Ages. During the times of the Reformation, many of the Protestant leaders, while protesting against the hierarchical spirit in Rome, coveted this universal and absolute sovereignty for themselves. According to John Calvin, sixteenth-century Reformer, the state had no reason to exist if not to be the servant of the church. At Geneva, in Switzerland, was established a most rigid theocracy.

"Calvin took the Jewish theocracy as his model when he set to work to frame, or rather to complete, the Geneva Republic. That which was established on the banks of Lake Leman was a theocracy; Jehovah was its head, the Bible was its supreme code, and the government exercised a presiding and paternal guardianship over all interests and causes, civil and spiritual."

Thus Calvin became a miniature pope, and Geneva, a duplicate of Rome. Apparently, Jehovah was the head and the Bible was the code, but in very fact John Calvin was the head, and the Bible, as interpreted by Calvin, was the code. So great was the power of this man that the death penalty was exacted of those who dared to differ from his theological opinions.

In England the same unlimited power was vested in the king. By the Act of Supremacy passed by Parliament in the year 1534, the king was given "full power to visit, repress, redress, reform, and amend all such errors, heresies, abuses, contempts, and enormities which by any manner of spiritual authority or jurisdiction may be lawfully reformed." Did the king exercise his powers to their fullest extent? That he did, and dissenters had a "sorry" time in "merrie" England. The Established Church persecuted the Puritans; they in turn joined with the Established Church in persecuting the Separatists. Persecution was the "established" mode of ensuring a "Christian state" in England.

No New Order

Into New England was carried the same hierarchical spirit, with its fines and imprisonments, its trials and its banishments, and finally its death, for dissenters. Early New England dealt in *stocks* and



ORIGINALLY PUBLISHED IN HARPERS MAGAZINE, FEBRUARY, 1901 HOWARD PYLE, ARTIST
Anne Hutchinson, Who Was Arrested for Preaching in Her Home, and Later Banished From the Massachusetts Colony Because of Her Religious Views



COURTESY, THE BOSTON HERALD. OWNERS OF THE COPYRIGHT

Old Boston Town House Square About 1657

F. C. YOHN. ARTIST

bonds! The state became the jealous guardian of his spouse, the church. All men were regimented by the state into the church—all but those who were willing to fight, and to die, for their freedom. All men in the church were forced to think and speak and act as the church dictated. John Calvin's fondest dreams for an ideal theocracy found expression in Puritan New England.

Under such governors as John Endicott and John Winthrop, the "Christian state" idea was given its fairest trial. Every citizen must needs be a member of the church, and none could become members of the church "except they be first allowed by the elders." The law of 1631 reads: "To the end this body of the commons may be preserved by honest and good men, it is ordered and agreed that, for the time to come, no man shall be admitted to the freedom of this body politic but such as are members of some of the churches within the limits of the same." Orthodoxy was enforced with a vengeance. Said Deputy Governor Thomas Dudley:

"Let men of God in *courts* and churches watch
O'er such as do a toleration hatch,
Lest that ill egg bring forth a cockatrice
To poison all with heresy and vice."

THIRD QUARTER

Strange anomaly—decrying persecution for conscience' sake in England, and then relentlessly persecuting others in the new land of freedom! Rigid laws, many of them as "blue" as the chill New England winter, were passed—and enforced. With a vengeance "heresy" was sought out and rooted out. A flippant remark by Anne Hutchinson to the effect that some of the ministers did not have "the seal of the Spirit," brought her to trial and banishment by an ecclesiastical court. She had no jury to which she could appeal, and Governor Winthrop, "to his lasting shame," was to persecute her from the judgment seat. When we read the proceedings of this trial we are reminded of the Spanish Inquisition.

Dealing With "Heresy"

Under the New England reign of terror, "heresy" was summarily dealt with. The law of Massachusetts declared that any "of the cursed sect of the Quakers . . . shall be sentenced to be banished upon pain of death." Two of these good people, the aged Lawrence and Cassandra Southwick, are examples of church-and-state tyranny in America. The sentence of banishment was pronounced upon them. "The aged couple were sent to Shelter Island, but their



PHOTO BY CY LA TOUR

**He Who Stands at the Helm of State in These Stormy Days
Should Beware of the Shoals of Intolerance and Oppression**

misery was well-nigh done; they perished within a few days of each other, tortured to death by flogging and starvation." Baptists were treated with no greater tenderness by their Christian brethren—the Puritans.

Thus it was when "the saints by calling" . . . were, by the fundamental law of the colony, constituted the oracle of the divine will, . . . the Calvinists of Massachusetts . . . established the reign of the visible church, a commonwealth of the chosen people in covenant with God." And thus shall it ever be when the right to control the conscience is usurped by any men or group of men, however wise and democratic they profess to be. "The power of the state ends where that of conscience begins." The tendency of man toward intolerance in 1940 differs little from that of 1640. Europe of this "enlightened" age is a tragic example of the sad fact that intolerance still reigns and rules with a rod of steel.

The martyrs to intolerance in early New England suffered that the spirit of freedom might find birth in the New America. To Roger Williams, more than

to any other American, we are indebted for our measure of religious freedom. From his lips came these words of enduring truth:

"Magistrates are but the agents of the people or its trustees, on whom no spiritual power in matters of worship can ever be conferred, since conscience belongs to the individual, and is not the property of the body politic."

Have We Learned the Lesson?

By such men as Roger Williams the bulwarks of our faith were built. They suffered, not for themselves, but for us. That liberty might live, they gave their all. We honor the Pilgrims for their faith; we forgive the Puritans for their failure. Their vision was clouded with the darkness of the Old World. The leaven of intolerance was not yet purged from their hearts. But while we forgive, we have no desire to forget. The perils of our own time are too real, too apparent, for us to cover up the lesson book of the past. There are those who still contend for the theocracy in government. There are insidious movements that would commit our government to the perilous policy of legislating on religious questions. We need to restate and reemphasize the principles that Roger Williams proclaimed. We must frown upon our modern John Endicotts and John Winthrops and John Cottons.

When God was in direct personal control in ancient Israel, there was no danger of injustice in the punishment of sin and crime. The theology experiment ended in failure because of the imperfections of men. With men in control of a pseudo-theocracy, hatred is on the throne, and oppression and injustice are the ministers of state. The principle of a theocracy is basically false. Render to Caesar the loyalty and devotion that belong to Caesar; render to Christ and the church the devotion and loyalty that belong to Him. Keep the state separate from the church—this is the lesson to be learned from the New England theocracy. Their intentions were good; their ideas were bad. Bigotry, intolerance, oppression, are the logical results of the zealous but misguided effort to enthrone Christ as king of this world. His kingdom comes not with coercion. It is a kingdom of grace and not of human government. No man can convert a sinner. Men and women cannot be legislated into the kingdom of God.

Shall the buried corpse of the theocracy be resurrected and reestablished in this land of liberty? Shall America be coerced by powerful religious blocs into the passing of religious laws? If such a thing should happen, the sun of glory would forever set upon America, the world's liberty would be lost, and European darkness would enshroud the Western World.

On Earning Our Heritage

by **DAVID SAVILLE MUZZEY, Ph.D.**

Department of History, Columbia University

WHAT THOU HAST RECEIVED from thy fathers, that must thou daily earn in order to possess it." Thus wrote the wise Goethe. Never more than today was the warning counsel needed that our American heritage is not a boon to be enjoyed in passive complacency and irresponsible self-gratulation, but rather a stern challenge to shape our institutions and policies, our thoughts and actions, to the patterns of liberty (political, religious, educational, economic, cultural), which alone can support and nourish a sound democracy. That we are living in an age of rapid change, with its accompanying trials of political confusion, economic maladjustments, social insecurity, religious equivocation, and international chaos is a trite observation; but it is nevertheless a distressing truth and an inevitable "frame of reference" for the serious thinker—whether he be optimistically or pessimistically inclined—who seeks for explanation, clarification, and justification of his hope or his despair.

A Gloomy Outlook

If we may judge by the tone of the remarks passed from friend to friend on the street, the conversation at the dinner tables, the debates in our assemblies, the trend of editorials and articles in our journals, the outlook is gloomy. Men shake their heads and wonder what the world is coming to. Are the small nations to fall one by one under the iron heel of tyranny? Is democracy doomed? Can civilization itself survive the ruthless destruction of war? Is America to be drawn again into the European maelstrom? Can the hope of peace, now so cruelly deceived, be revived? Even the semicourageous who declare that things must be worse before they can get better are much more certain that they will presently be worse than that they will eventually be better. There is no use in closing our eyes to the dangers which confront us. They are real and they are awful. The great question is, In what spirit and with what resources shall we attempt to meet these dangers?

Varied Opinions

With us in America there seems to be three fairly well-defined schools of thought as to the proper attitude toward the world crisis. Each of these schools contains able and patriotic men who are convinced that their doctrine comports with the best interests

of our country, though in each group there is a great variation in intensity of conviction and detail of program.

The bewildered citizen listens to the voices and reads the pleas of the prophets of these various schools of American opinion, now inclining to one side and now to another. He wants to do his bit in thought and action toward making America safe for democracy and liberty. It is not so often apathy that makes him throw up his hands in despair as it is confusion of counsels which even in their contradictions seem to have a measure of truth in them, and which are urged upon him, each one of them, as the only true way to America's welfare and security.

It is not the purpose of the present article to call attention to any one of the three schools of American opinion on the proper attitude of our country in the present world crisis. That would be but to add another plea of confusion to the thousands that are now soliciting the support of the American people. Rather would I call the attention of the reader to a question which is too little discussed in the hurly-burly of our policies of immediacy, but which lies at



PHOTO BY H. M. LAMBERT

Many Today Are Discussing the Affairs of the World, but Few Appreciate the Dangers That Loom Ahead



PHOTO BY RESETTLEMENT ADMINISTRATION, ROTHSTEIN

Soil Erosion May Reduce a Family to Poverty,
but Soul Erosion Spells the Doom of Nations

the bottom of a truly patriotic decision. That is the question of our individual and inescapable responsibility for fidelity to the heritage bequeathed to us by the founders of our country.

Our Greatest Danger

The greatest danger that we face today is not, I believe, the threat of a foreign foe at our gates or a small group within our gates who would betray our democracy. The danger lies in the alarming growth of the class of people who are indifferent to (largely because they are ignorant of) the American heritage. Anthropologists, sociologists, and historians—at least those whose interest goes beyond the mere tabulation of statistics to the consequences of their findings for the welfare of human society—are constantly and rightfully deploring the superficiality, the frivolity, the irresponsibility of increasing numbers of our people. They see a weakening of fiber, a pettiness of character, an allergy to ethical stimuli, a greediness for unearned benefits, spreading into a great mass movement.

To an anthropologist like Professor Hooton of Harvard ("The Twilight of Man"), the trouble is that man's control of nature has far outstripped his control of self; our machines are getting better and better, while our people are getting worse and worse; and if we continue to breed morons, who are mere parasites on the culture which a past age has handed down to us, we shall inevitably reap the disastrous consequences: "The wages of [biological] sin is [evolutionary] death."

The social scientist perhaps has no more roseate view of the run of his fellow men, but he is likely to attribute more of the blame to defective social institutions than to Professor Hooton's "biological sin." In the eyes of the historian the failure of perspective in the common man blurs his sense of values in the present scene and makes him a victim of designing demagogues and crackpot messiahs. The outlook, from the factual evidence, is decidedly not promising. And the evil social conditions which weigh upon us

so heavily stem in the last analysis, I believe, from a growing indifference to the value of the heritage of idealism with which our forefathers endowed us.

Different Forms of Government

Liberty cannot endure among a people who can be tempted to sacrifice it for material gain or martial glory. Democracy, however long its forms may linger (as they did among the Romans for generations after the state had fallen under the absolute sway of the Caesars), must be constantly nurtured by a democratically minded people or it will degenerate into a caricature of itself, an ochlocracy, the rule of the mob swayed by the demagogue.

It was Aristotle, the father of political science, who first gave us the terms "monarchy," "tyranny," "aristocracy," "oligarchy," and "democracy." These terms he set over against one another in pairs, each pair representing a wholesome form of government and its counterfeit. The rule of the one for the benefit of the state was monarchy; for his own selfish ends, tyranny. The rule of the few who used their superior knowledge and gifts for the advancement of the public weal was aristocracy; for the enhancement of their own wealth and power, oligarchy.

It is interesting to note that for Aristotle democracy was on the bad side of the line. His term for the beneficent rule of the many was community, which meant a people with a sense of social responsibility, whereas the "demos" in his eyes was an agglomeration of narrow-minded, shortsighted individuals whose untutored and uncurbed emotions were at the mercy of the glib agitator like Cleon or the brilliant impostor like Alcibiades. There are some today who are constantly reiterating that the democracies of Great Britain, France, and the United States are nothing but the corrupt, impotent, and ignorant rule of the Aristotelian "demos." God forbid that we in America should furnish justification of their gibes!

Precious Liberties Purchased at Great Cost

That courageous and rather acrimonious earliest champion of religious freedom in America, Roger Williams, once wrote: "Having bought truth deare, we must not sell it cheape, not the least grain of it for the whole world." Williams was thinking primarily of religious liberty; but his homely counsel applies as well to political, economic, and social freedom. When we think of the price that countless generations have paid in wars, persecutions, and martyrdoms for the liberties we now enjoy; when we reckon the cost to a Washington, a Lincoln, a Garrison, a Nathan Hale, a Mary Dyer, of American freedom, our petty concerns with dollar chasing, social rivalries, ego inflation, and servant problems should shrink into merited insignificance.

The ingrained conservatism and habitism of most people make the fear of change and the resistance to innovation almost universal. It is true that revolutions, even of the mildest sort, are destructive of some cherished customs. But stagnation is a greater danger than revolution or evolution. The whole parade of life on this planet is filled with examples of the degeneracy of stagnation. It is not otherwise in the realm of social evolution. The health of a community depends upon the active cooperation of each generation in preserving and improving the legacy of the past. Democracy will not save itself by any magical inherent potency. Our heritage comes to us as a trust to be administered by "men of present valor," not as a gift to be enjoyed passively; as a living plant to be watered and tended, not as a talent to be wrapped in a napkin.

Are We Earning Our Heritage?

It is of little use to boast that we have a Washington and a Lincoln to our fathers if we have not the effective urge within ourselves of the spirit which made them "grandly dare for freedom." Our part in the great adventure may be small; that is a matter of our individual gifts, so incalculably and variously distributed among the children of men. If those who should be leaders fail, it is certainly unfortu-

nate; but an even greater misfortune is for the leaders to find no response among the people. Milton excoriated the bishops for not feeding their flocks: "The hungry sheep look up and are not fed." Much worse is it if the flock itself, sunk in the lethargy of trivial concerns, have no hunger and thirst for ideals.

"What do I owe to posterity?" is the cynical remark of the man who is out to get as much and give as little as he can. It is the doctrine of the social *saboteur*, of the parasite which lives on the life of others. We owe everything to posterity just because we ourselves are the posterity of the creators of our heritage. We are moved to just indignation by the havoc wrought by the selfish despoilers of our natural heritage, resulting in floods and dust storms and misery for millions. Are we to add soul erosion to soil erosion by our shortsighted indifference to the conservation of the blessings of liberty and democracy which are our spiritual heritage? Are we tending to become a nation of parasites? Are we living on the social capital amassed by the fathers, without responsibility for adding the increment of our own effort? Are we, in short, earning our heritage? These are serious questions—the most serious questions that confront us today. Let the wise Goethe have the last word as he had the first: "Only he deserves freedom, like life, who daily wins it."

A Trojan Horse Invades Public Schools

by **HEBER H. VOTAW**

IN SOUTHWEST INDIANA are to be found some churches and schools that have a history which extends back to about three decades before the American Revolution, and the schools "are among the oldest church schools to be found anywhere in the States that formerly made up the Northwest Territory."

In July, 1933, three priests representing three different parishes informed the board of school trustees of the school city of Vincennes that the church could no longer maintain certain schools, and that "they would leave the education of the parish children to such board."



By action taken on July 28, 1933, the board authorized the superintendent of public schools to work out a plan of administrative detail to incorporate these parochial schools into the public-school system. Beginning with the school year 1933-34, the board of trustees of the school city of Vincennes assumed the "administrative and instructional obligation for

the Catholic parochial schools included within the limits of said school city," but did not assume any "outstanding, existing or future financial obligations, either bonded temporary loans or other evidences of indebtedness or the operation, maintenance, and

capital outlay costs for buildings and grounds belonging to the Catholic parochial schools."

In March of 1935 the action of July 28, 1933, was rescinded, and on August 25, 1935, a new resolution was passed to the effect that the action of July 28, 1933, should be reconsidered and amended. Evidently what was then passed was not satisfactory, because on October 2, 1935, another resolution was passed. In this one three Catholic schools were mentioned by name, and it was said that "because of lack of funds" these were not to open for the school year 1935-36. The resolution further said: "It was deemed advisable and necessary to take over and make a part of the public schools and the school system of this school city the St. Francis Xavier School, St. John School, and Sacred Heart School of Vincennes up to and including the sixth grade, . . . and they are hereby made a part of the public schools and the public school system of the school city of Vincennes. . . ."

"Be it further resolved that no sectarian instruction shall be permitted during school hours in said schools; be it also further resolved that the buildings and equipment formerly used by the said St. Francis Xavier, St. John, and Sacred Heart Schools shall be used by this school city, but it shall pay no rent for such use."

Only Catholic Teachers Hired

Under the plan of operation provided by these resolutions the board of trustees hired only Catholic teachers. When new teachers were needed, "the school superintendent, acting by authority of the board of school trustees, applied only to three Roman Catholic institutions for teachers to be recommended for these schools. In every instance the teachers recommended were Roman Catholic sisters and Roman Catholic brothers." "During the five years the school city . . . assumed and paid the 'administrative and instructional obligation for the Catholic parochial schools included within the limits of said school city,' and not one teacher other than a sister or brother has ever been regularly employed in any of said schools, and not one sister or brother so employed was ever assigned for service to any other school within the city."

The Case Taken to Court

Eventually Joseph M. and Sarah E. Johnson sought an injunction against the school authorities. The case was taken by change of venue from Knox County, in which Vincennes is located, to Daviess County, and was tried before Judge Frank E. Gilkison, who granted the injunction sought by the plaintiffs to prevent further such operation of the Catholic schools as had been carried on for a number of years. The opinion of the circuit court is too long to be given

in full here, but rather extensive quotations from Judge Gilkison's decision will set forth all the pertinent facts. Said he:

"There are two major questions . . . in this case. . . ."

"1. Were these schools, in 1933 and thereafter, changed from Roman Catholic parochial schools to common or public schools, by the action of their owners and the school authorities of the school city of Vincennes?"

"2. If they were not so changed, could the school city of Vincennes or other authorities of the State expend common or public school funds in the payment of teachers for teaching in the Roman Catholic parochial schools and in providing some administrative supplies for such schools?"

"The first question is one of fact to be determined from the evidence. The second is a question of law to be determined solely from the constitution and statutes of our State. I shall consider these two questions in inverse order." After quoting from the constitution of Indiana, the judge said:

"There is no mention of private, parochial, or other church schools in our constitution, but its terms are sufficiently explicit, to lead unerringly to the conclusion that it contemplates the use of public funds for the purpose of maintaining common or public schools only—to the exclusion of all others. . . ."

"Under these several constitutional provisions it is clear that the common-school funds of this State may not be lawfully expended in support of church, parochial, or private schools of any kind, either in whole or in part. They may be lawfully expended only in supporting common or public schools."

"The second question being thus eliminated, the first must be answered largely from the evidence in the case. Are the schools in question common public schools of the State or parochial schools of the Roman Catholic Church?"

Schools Still Catholic in Nature

After defining a parochial school, Judge Gilkison states that prior to the close of the school year 1932-33, the schools mentioned in this suit "were Catholic Church parochial schools." The plaintiffs contended that these schools had remained such, and because of that fact they could not lawfully be operated in whole or in part from the school funds of the State. The defendants answered that the schools were not parochial schools, but common schools, and therefore entitled to support from public funds. After referring to the actions of the board of trustees of the school city of Vincennes in assuming administrative and instructional obligation, and referring to the procedure followed in securing teachers for these schools, Judge Gilkison continues:

(Continued on page 22)

Puritanism in Its Heyday in 1682

by A. R. BELL

TO YE AGED AND BELOVED, MR. JOHN HIGGINSON:

There be now at sea a ship called "Welcome," which has on board 100 or more of the heretics and malignants called Quakers, with W. Penn, who is the chief scamp, at the head of them. The General Court has accordingly given sacred orders to Master Malachi Huscott, of the brig "Porpoise," to waylay the said "Welcome" slyly as near the Cape of Cod as may be, and make captive of the said Penn and his ungodly crew, so that the Lord may be glorified and not mocked on the soil of this new country with the heathen worship of these people. Much spoil can be made of selling the whole lot to Barbadoes, where slaves fetch good prices in rum and sugar and we shall not only do the Lord great good by punishing the

wicked, but we shall make great good for His Minister and people.

Yours in the bowels of Christ,
COTTON MATHER.

This was the religious liberty of the seventeenth century as taught in the Massachusetts Bay Colony. This was the religious liberty of a "right conscience" as held by the Puritans, a liberty that says:

"Let sink the drowning man, if he'll not swim
Upon the plank that I throw out to him;
Let starve the famishing if he'll not eat
My kind and quantity of bread and meat;
Let freeze the naked, too, if he'll not be
Supplied with garments such as made by me."

It was not the Cotton Mather tribe that made America. These were the people, who, freed from persecution, knew no better than to persecute. They fled from a tyranny that sought to bind their consciences to dogmas and decrees that they could not tolerate; and in seeking and finding a refuge from that terrible evil, they themselves became morbidly dominated with the idea that meant the same thing to others not of their faith that all the tyranny of the Old World had meant to them; and to escape from which they had fled to the New World. The persecuted became the persecutor, to the great shame and disgrace of the history of the Massachusetts Bay Colony.

The question was once asked of Theodore Roosevelt: "Who was the greatest American?" He immediately answered, "Roger Williams."

Regarding Cotton Mather, who was of the Puritans' clan, and not of the Pilgrims, it is said, "He was ready to sacrifice the population of Massachusetts rather than confess that the deeds for which he was responsible were based on what, in his secret soul, he unquestionably felt was a delusion."—*History of the United States*, Hawthorne, Vol. I, p. 256.

The position of Cotton Mather was that of a blatant deceiver, unparalleled in colonial religious history. He was the leader of a class of men who were strangers to the privileges they enjoyed, and untrue to the gospel truths they professed to exemplify.

What a contrast between the two men—Roger Wil-

(Continued on page 23)



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J. L. G. FERRIS, ARTIST

William Penn and His Quaker Companions on
the Ship "Welcome" Seeking a Land of Liberty



Modern Highways Stretch Through the Picturesque Republic of Cuba

“Libertad”

The Fight for Freedom in Cuba

by H. M. BLUNDEN

THE ISLAND OF CUBA was discovered by Columbus in 1492 on his first voyage of discovery. It is called “The Pearl of the Antilles.” This island was the last bulwark of the magnificent empire which old Spain built in the New World, and its loss in 1898 was a crushing blow to the “Imperial Spanish Empire.”

In common with all Spanish-American countries, Cuba was for centuries under the domination of the Spanish clergy, who exploited the country for the aggrandizement of the church. On the Spanish Main and in these Spanish islands of the West Indies the sword and the cross went hand in hand in both conquest and government, and the flag of old Spain stood for either or both. In these lands there was an absolute union of church and state.

It was the Spanish-American War at the dawn of the present century that brought to Cuba its first taste of the sweets of freedom as we know it in the United States of America.

For many decades the people of this little country were mightily agitated over the question of human



rights and liberties. During the last half of the nineteenth century many patriots arose and led the people in their clamor for freedom from the intolerable burdens which had been imposed upon them.

Bloody battles were fought in this campaign for liberty, and the names of these leaders are immortalized in the history of the island. The mention of names such as Céspedes, Martí, Salvador Cisneros Betancourt, Maceo, Agramonte, Aguilera, and half a score of others almost as renowned, brings applause from any Cuban audience, for these seekers of liberty are justly held in reverence as Cuba’s outstanding men of history.

Around the city of Old Havana may be seen many evidences of the conflict which was waged during these stormy times. Here is the “Laurel Ditch” at La Cabana Fortress, where many liberty-loving Cubans, including Cuba’s sweet poet, Juan Clemente Zevea, fell before the firing squads of Spain.

Here is the historic and stately Morro Castle guarding the entrance to the harbor, with its dark and gloomy dungeons hiding the secrets of the dia-

bolical atrocities committed in the days when civil and religious freedom were unknown in this lovely island. In these dungeons may still be seen the old instruments of torture, the garrote and the stocks, and from these dungeons, too, political prisoners were thrown alive to the sharks which infested the waters that lap the feet of these forbidding old rocks.

The unspeakable cruelty of those times is recorded in Cuban history. The terrible struggles and sufferings of the ten years' war under Céspedes, beginning in 1868 and ending in "The Pact of Zanjón," wrung some concessions from the ruling powers. But on account of the failure by Spain to fulfill the terms of this treaty, revolution burst forth again in 1895 and never ceased until the liberation.

A Bitter Struggle

It was during this last struggle for liberty that Spain's governor general went so far in his efforts to crush the rebellion that he conceived the diabolical plan of defeating the Cuban people by their utter extermination. He issued a decree ordering all the rural people to be herded together like cattle into certain designated centers. This was perhaps the origin of the concentration camp of more modern times. They were given neither food nor occupation, and thus were condemned to slow death by starvation and disease. Families were broken and scattered, and all were completely dependent upon public charity for food and medicines. As a result, hundreds of thousands died of hunger, misery, and disease.

In writing of this period of Cuban history, Stewart L. Woodford, the American minister to Spain, addressed President McKinley, of the United States, in these words, "When the present rebellion broke out in February, 1895, there were about 1,600,000 people in Cuba. Two hundred thousand Spanish soldiers have been sent there. Today, from the best information I have been able to get, there are not a million souls on the island; these awful figures must explain why the people of the United States cannot look with indifference upon such a state of affairs, existing one hundred miles off our own shores."

But the Cuban patriots fought on against tremendous odds. Their motto was, "Liberty, or Death," and death it was to these multitudes; but ultimate liberty to the nation.

In the midst of these unequal struggles by the Cuban people came the fateful night of February 15, 1898, when a terrific and mysterious explosion sent the U.S.S. "Maine" to the bottom of the Havana harbor. Then it was that the Congress of the United States sent American forces to Cuba in response to a joint resolution announcing to the world that "the people of Cuba, is and of right should be free and independent."

Thus was brought to its culmination this conflict of a generation. The occupation period followed, and then the country was turned over to the Cuban people, who set up their own government. With the guidance by American diplomats, a constitution was written which guaranteed the rights and the liberties of the individual—made education free from clerical dominance and marriage a civil institution.

In recent years revolution and counterrevolution brought changes in government, but through all these vicissitudes the freedom of worship and of education have remained inviolate. There is an innate love of liberty in the hearts of these people. However, in this enlightened twentieth century, yes, even during the last decade, the horrors of persecution and oppression were revived in the dungeons of Altares Castle, in Havana, when those who indulged in free speech were "tested" for their political opposition to a tyrant who had usurped control of the government. The Principe Castle, Cuba's Bastille, the medieval fortress erected during Spain's days of colonial splendor, was also, it is averred, during this particularly hectic period in recent Cuban history, the scene of untold tortures and atrocities—students of the university of Havana and other schools being the victims and martyrs in the cause of liberty.

A New Crisis

And now we have reached a new crisis in Cuba, and once again the people are on the *qui vive*. A con-

(Continued on page 24)



The Capitol of Cuba, Where the Struggle for Liberty Still Continues



PHOTO BY EWING GALLOWAY, N. Y.

St. Peter's Cathedral and Square, Where Pope Pius XII Was Publicly Crowned Before a Vast Throng Who Hailed Him as Father of Princes and Vicar of Christ

The President's Representative to the Vatican

by C. S. LONGACRE

PRESIDENT ROOSEVELT HAS DONE NOTHING during his incumbency in office which has provoked more uneasiness in religious circles than his appointment of a representative to the Vatican. What causes this uneasiness, especially among Protestants, is the fact that though the President claims that he appointed Mr. Myron C. Taylor to act only temporarily as his "personal representative," without pay from the Government, solely on a peace mission to the Pope of the Roman church and not to establish diplomatic relations with the Vatican State as such, a dispatch from Rome on February 13, 1940, reports that the legal department of the Vatican, after a careful study of the status of Mr. Taylor, decided that he is "just as much an ambassador to the Holy See as the representatives of other nations," and so far as Mr. Taylor's legal status with the Vatican is concerned, he "could remain accredited to the Holy See even after Mr. Roosevelt ceased to be President."

Churches Aroused Over Appointment

It is apparent that the Vatican authorities regard Mr. Taylor's appointment to be a permanent estab-

lishment of diplomatic relations between the United States Government and the Vatican as a temporal power—at least it is their wish to have it so. This attitude plainly contradicts the interpretation the President has placed upon this appointment, and has caused many Protestant denominations to make official protests to the President and to request him to recall Mr. Taylor because the Holy See has placed upon this appointment a construction different from that placed upon it by our President. In fact, the Protestant denominations are so thoroughly aroused over the Roman hierarchy's move to place this appointment of Mr. Taylor upon a permanent legal status that they are organizing a national movement to awaken public sentiment against this un-American proposal. These Protestant bodies believe that such a church-and-state alliance between our government and the hierarchy of the Vatican is in violation of the American principle of a total separation of church and state, and will eventually lead to dire consequences both for the church and for the state. Unless this present "illegal ambassadorship," as the *Christian Century* calls it, is disestablished in the very near

future, there will be some forty million militant Protestants who will voice a protest to a responsible government that will force Senators and Congressmen to take notice of an issue which is repugnant to the ideals and the consciences of American citizens who believe in a separation of church and state.

An Embarrassing Dilemma

Archbishop Spellman, whom President Roosevelt chose as his emissary to convey his letter of the appointment of Mr. Taylor to Pope Pius XII, declares that the establishment of diplomatic relations with the Vatican ought to be made permanent and that "twenty-one million Catholics who gratefully approve this action by our President," will take it as "an insult" to them if Mr. Taylor is recalled. The President has placed himself in a dilemma. On the one hand he will "insult" twenty-one million Catholics if he recalls Mr. Taylor, and on the other, "insult" will be felt by forty million Protestants if he gives no heed to their protests.

Facts now brought to light show that the Catholic hierarchy has artfully maneuvered for years to secure diplomatic recognition for the Vatican on the part of our government, in order to gain advantage and prestige over all other religious organizations. The Catholic press itself has disclosed the aims of the Papacy to regain its former influence and prestige in the political arena, by securing the recognition of the temporal power of the Pope in all the governments of the earth. The aims and desires have not been concealed; only the means and methods to secure this recognition have been devious. All the actions which have been taken by governments to restore diplomatic relations with the Vatican since the Pope lost his temporal power, have been taken as the result of political pressure on the part of the Roman hierarchy. President Roosevelt was not immune to this pressure when Cardinal Pacelli visited him in 1936, just before his second election to the Presidency. It is now well known that this religio-political "cockatrice egg" was laid at that time and hatched out on the day before Christmas.

For a number of years, the Catholic press declared Protestantism to be dead; if not dead, at least sleeping. Undoubtedly President Roosevelt believed Protestantism was hibernating, or had lost its militant spirit and primitive convictions, and as a consequence would quietly acquiesce, or he would not have ventured so hazardous an undertaking as to appoint an official ambassador to the Vatican. In his attempt to please the Catholics by giving them this political recognition, he has displeased twice as many Protestants. If Protestants were hibernating, the President certainly has administered a stimulant as effective as a stick of dynamite to wake them up.

THIRD QUARTER



PHOTO BY HERBERT PHOTOS, INC., N.Y.

A Corridor in One of the Vatican Buildings

Progress Toward Amity Stalled

Politicians no longer feared Protestantism as a vital living force to protest in political circles against Catholic political policies. The Catholics, the Protestants, and the Jews formed an interfaith organization the ostensible objective of which was to break down Protestant prejudice against Jews and Catholics and to create a spirit of tolerance generally. Thus far, the Protestants have made all the compromises in favor of the Catholics for the sake of amity, and the surrenders have been costly ones involving fundamental ideals of religious liberty and the separation of church and state. But when the President took advantage of this Protestant indifference and sentimental tolerance and appointed a representative to the Vatican, thus placing the Protestants in an inferior position before the law and the government, giving the Catholics a political advantage in prestige, the inert Protestant worm turned, and all the progress that has been made during the past century toward Catholic and Protestant amity and cooperation is in danger of being dissipated.

The Bill of Rights in our matchless Constitution, setting forth the inalienable rights of the individual, the equality of all religions before the law, the total separation of church and state, and the free exercise of the conscience in religious matters, as well as the democratic processes in government, was the gift of Protestantism to the world. In countries where political Catholicism is dominant, this gift is unknown. This is a historic fact which cannot be denied. Anyone who proclaims this fact, however, is bound to be dubbed a fanatic and a bigot. But we believe that we

ought to escape this charge because we have ardently defended the right of the Catholic to enjoy the full and equal liberties guaranteed to him under our Constitution. When the Ku Klux Klan attempted to close up all parochial schools and compel the Catholic to send his children to the public schools, we took to the public forum and the press and vigorously defended the Catholic's right to educate his children in his own schools so long as he did it at his own expense and measured up to the intellectual standards of the state. It is only when the Catholic seeks state patronage and political preference and recognition through the government that we oppose his political machinations.

The *LIBERTY* magazine stands for the equality of all religions before the law, with special privileges to none. It makes no difference what religion it may be, whether it is our own or some other, whenever it seeks to gain special favors at the hands of the government through legal processes, we expect to smite it and smite it with all our might.

A Representative to the Church

Archbishop Spellman holds that what President Roosevelt did in sending a representative to the Vatican is exactly the same as sending a representative to the king of England or to the emperor of Japan—that in each case the head of the government is also the head of the state religion. But Archbishop Spellman failed to note that President Roosevelt expressly stated that he did not put this appointment upon the same legal status as that of other ambassadors and that he did not intend to establish diplomatic relations with the Vatican as a temporal power, but that Mr. Taylor was sent to the church as such and not to the state. This, of course, was a blunder on the part of Mr. Roosevelt, and in violation of the American principle of a separation between church and state. All other American ambassadors are sent to be representatives to a civil government and not to a church organization.

A Legal Fiction

When Archbishop Spellman says that the king of England is the head of the Church of England as well as the head of the civil government, he is dealing with a legal fiction and not a reality. A "fiction in law" is defined in "*Corpus Juris*" as being "a legal assumption that a thing is true which is either not true, or which is as probably false as true, . . . an allegation in legal proceedings that does not accord with the actual facts of the case." The king of England in reality exercises no more power and authority in ecclesiastical matters than does the humble layman. Recently, when the king of England wanted to marry a divorcee not of royal descent, the real head

of the Church of England said to the king: If you marry that woman, you cannot be king of England. He did marry her, and he had to abdicate the throne. Who was the head of the Church of England—the Archbishop of Canterbury, or the king?

The same is true about the pope of Rome being a temporal king over a civil government. That is a legal fiction and not a fact in reality. The granting of enough land in the city of Rome to the Vatican possessions to make a small-sized farm with a thousand priests and nuns on it, does not warrant its having a legal status in international jurisprudence, as it is not of sufficient size and population to constitute a temporal kingdom or a nation among the family of nations. The League of Nations, in defining the status of nations to be represented at the assembly of the League of Nations, completely ignored the Vatican as having the status of a nation or a temporal kingdom, and so the United States Government has done to the present day. Our government as such has not sent any ambassador to the Vatican on the same basis as other ambassadors are sent to civil governments. It does send an ambassador to Rome, to the kingdom of Italy. It would be highly improper and unnecessary to send two ambassadors of equal standing to the same country and city to deal with its commerce, its trade, and the rights of American citizens in that same locality.

Pope Not a World Ruler

The papal claim to temporal power and political rulership over all the world is another legal fiction and not a fact in reality. Today, there are no universal world rulers in temporal affairs, and any man who assumes the title of "ruler of the world" in temporal things over all nations, not only insults the legitimate heads of civil government, but is a usurper. When such a claim by a mere man is made in the name of God and religion, as the pope makes when he is crowned, it is not only arrogant, but blasphemous. The popes since the days of Gregory the Great have assumed the title of "King of kings and Lord of lords" over all rulers and lords of earth, and claimed to be supreme over all and subject to none. The Catholic Dictionary in defining the significance of the triple tiara of the pope, says: "The first circlet symbolizes the pope's universal episcopate, the second his supremacy of jurisdiction, and the third his temporal supremacy. It is placed on his head at his coronation by the second cardinal deacon, with the words: 'Receive the tiara adorned with three crowns and know that thou art father of princes and kings, ruler of the world, vicar of our Saviour Jesus Christ.'"

This formula, says the *Christian Century*, March 15, 1939, "is blasphemous arrogance."

The Game of Politics

If the Papacy is a political institution, and the Pope a temporal "ruler of the world," as he claims, then the Catholic Church is a political organization as well as an ecclesiastical body, and we will be compelled to deal with it as we do with all other political organizations. If popes and cardinals are politicians as well as priests, and are rulers in temporal affairs as well as spiritual, then we will be compelled to treat them as we do all other politicians who seek public patronage. When a man enters the political arena, he must accept all the rules and methods of the political arena, the same as a prize fighter does when he enters the prize fighter's ring. He must expect to take all the political cuffs and mud slinging that go with the playing of the political game, and if he does not stand the cuffing and the barbs thrown, without wincing, he is likely to be called "yellow." Surely no religious leader should lay himself open to such a charge.

Is the Catholic hierarchy prepared to take the political rebuffs, setbacks, and humiliations that go with the playing of the political game? If not, the

Papacy had better confine its endeavors to the spiritual realm and leave politics alone. This, in fact, is the only safe road for any religious body.

Warning Sounded

In saying this, the *LIBERTY* magazine makes no special plea for Protestants. We have no hatred for Catholics. We stand ready to defend the legitimate rights of all faiths and of those of no religious persuasion. With Americans, a separation of church and state is fundamental. In most other governments it is not recognized as essential. Whenever a church organization seeks to gain special privileges and a preferential legal status and government favors by legal processes, we are in duty bound to raise our voices in protest against these un-American encroachments. They are repugnant to the ideals and fundamental principles of our American system of government. A church-and-state alliance should be nipped in its very inception because it has couched in it the potentialities of a veritable inferno, and instead of leading to peace and amity among contending factions, is bound to lead in the future, as it has in the past, to an Inquisition.

Why Protestants Care

This editorial by Dr. Charles Clayton Morrison, published in the *Christian Century* of April 24, 1940, deserves a wide publicity, as it goes to the root of a matter that is widely discussed today, and the *LIBERTY* magazine is glad to give its readers the benefit of the discussion of this vital issue, fraught with grave eventualities.—EDITORS.

THE PRESIDENT'S APPOINTMENT of an ambassador to the Vatican has been finally disengaged from the verbalism and sentimentalism which at the outset concealed its true nature from the public. Three facts are now clear. (1) It is clear that the illegal investment of Mr. Taylor with the rank of ambassador had nothing whatever to do with "peace" or "the alleviation of human suffering." There is no imaginable service or function which Ambassador Taylor can perform for peace or humanity which Mr. Taylor as the unofficial personal representative of the President could not perform. (2) It is clear that the President's inclusion of Protestantism and Jewry with the Holy See in alleged "parallel efforts" for peace was totally unreal, and is, because it is unreal, a deception and an affront to both Protestantism and Jewry. (3) It is now clear that the declaration, first by the State Department and later by the President, that the appointment of Mr. Taylor "does not constitute the inauguration of formal diplomatic relations with the Vatican," is belied by

objective and indisputable fact. Mr. Taylor claims to be an ambassador; he was constituted an ambassador by the President, who also defined his functions as an ambassador; he was received by the Vatican as an ambassador; and he acts as an ambassador. The Government of the United States now has "formal," "official," "diplomatic" relations with the Vatican. That this relationship is illegal only adds flagrancy to the fact that it exists.

The Larger Question

A larger question now demands consideration: Why should anyone care about it? Why should American citizens care? Why, especially, should Protestants care? The discussion has proceeded up to this point on the assumption that the issue which it raises is important—that it is important for all American citizens—Jews, liberal Catholics, Protestants, and those who do not classify as adherents of any faith. This assumption, however, cannot be taken for granted. Those who would condone the

President's action and who deplore the increasing demand that it be annulled, do so on the ground that Mr. Taylor's ambassadorial status and his official diplomatic functioning at the Vatican are quite innocuous. Why, after all, should we not have an ambassador there? The Pope is a great personage, the head of a great church whose adherents and interests extend into every land. He is the custodian of vast power, both spiritual and political. Why should not a great power like the United States have formal diplomatic relations with him and his church?

Contrary to American Constitution

The immediate and obvious answer is that such relations are contrary to the American Constitution. A diplomatic relation with any foreign power, through an ambassador or minister, requires the advice and consent of the Senate in approval of the ambassador nominated by the President. Mr. Roosevelt did not secure the advice and consent of the Senate in appointing an ambassador to the Vatican. He is reported by certain visitors who called to protest against the Taylor appointment as saying that he knew he could not secure the Senate's consent. In announcing the appointment, the President made a distinction between the Pope as a temporal sovereign and the Pope as the head of the Roman Catholic Church. It was to the Pope in his latter capacity that he said he was sending an ambassador. This distinction, it should be noted, was entirely off the record, does not appear in any official document, and is not recognized by the Vatican either in principle or in the status accorded to Mr. Taylor.

But the distinction only makes more flagrant the President's defiance of the Constitution. In assuming that, without the Senate's consent, he can create an ambassadorship to the head of a church, he violates the Constitution not at one point only, but at two: first, by ignoring the Senate, and second, by creating an official relationship between the government and a particular church. The first article of the Bill of Rights provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This provision has been consistently and repeatedly held to be the American Magna Charta of religious liberty, religious equality, and the political impartiality of the law and its administration toward all religious bodies. It denies to the government the power to give any religious organization a privileged position in the national life. It is the constitutional expression of the principle of the absolute separation of church and state.

Forbids Laws Favoring Any Church

What is meant by the separation of church and state? It means that the official processes of churches

and the official processes of the state shall be kept apart, that the church shall not participate in the functioning of the state, and that the state shall not participate in the functioning of the church—either by prohibiting the free exercise of religion as held by any church, or by favorable partiality to one church above another. The Constitution does not merely forbid the *establishment* of any religion; it forbids the making of law *respecting* the establishment of religion—that is, pointing in the direction of such establishment, or containing implications that might develop into such establishment. Any law or any action in the administration of the law which tends toward the establishment of religion, or recognizes a particular religious organization as having a claim to a special relationship to the state, is a violation of the constitutional provision that there shall be no law respecting the establishment of religion.

By inaugurating formal diplomatic relations with the Vatican, President Roosevelt has violated the Constitution at these two points. He has arrogated to himself the power to create an ambassador without the advice and consent of the Senate. And he has appointed this ambassador to the court of a church, thereby investing that church with a special status in its relation to the Government of the United States. This clearly is an action *respecting* the establishment of a particular religion. In the ambassadorship to the Vatican, the official processes of the state are meshed with the official processes of a church in violation of the American principle that these processes must be kept separate. The Roman Catholic Church is given a position in the government, an access to the government, a power over the government and, through the government, over the cultural life of the nation, including other religious faiths and institutions, which no other church enjoys.

It is not claimed that this is the *full* establishment of the Roman church as the religion of the American state; but it obviously contains the principle of such an establishment. It therefore violates the constitutional provision which prohibits any legislation respecting the establishment of a particular religion.

Why Should Protestants Protest?

We will fail to grasp the full strength of these constitutional considerations until we ask, Why does the Constitution provide for such a complete separation of church and state? Is anything of importance involved in the violation of this principle? Does Protestantism have any substantial stake in its maintenance? Is it not a mere legalism which we can safely enough disregard in an emergency such as that which the war presents? Will not Protestantism be put in a bad light "if it should find itself, at some future time, in the situation of having blocked a

movement that was able to contribute to the ending of the war and to the saving of the lives of countless men"?

Concerning the last question, it is now clear as the day that Protestantism has not been asked to participate in any "movement" whatever looking toward the ending of the war and the saving of lives. It received a communication from the President purporting to invite such participation, but under examination the communication has been found to be a sheer fabrication of fine words, with no substantive meaning whatever. There is no movement for peace which Protestantism can "block" by facing squarely and sternly the issue raised by the President's action in drawing the Roman Catholic Church into the orbit of this government's official processes. There is absolutely nothing on the horizon—war, peace, humanity, or any other "emergency"—which justifies Protestant inertia, or caution, or the repression of convictions, in dealing with the issue which the President has created.

We are thus not only free, but in duty bound, to ask why Protestants should care that the constitutional provision for the separation of church and state has been illegally compromised. Merely to say that it is unconstitutional should be enough to light up the imagination of every American. For the Constitution is the charter of our liberties as well as the form of our government. In severing organized religion from the official processes of the state, the purpose of the Constitution was to set all forms of religion free, to stand them upon their own feet, to let them flourish or perish in accordance with their own inherent genius, unaided by political or other extraneous or artificial supports. None of them was to be hindered by the state. None of them, on the other hand, was to be favored. None was to be established. None was to receive special privilege or recognition. With none were there to be official political relations.

Desire for Privileged Recognition Challenged

In a word, the Constitution places religion in that broad area where the democratic process operates without constraint of law or authority or privilege, in that area in which the Constitution itself provides that the Government shall not interfere, the area where freedom reigns—freedom of thought, freedom of speech, freedom of assembly, freedom of the press. This, after centuries of religious persecution and subordination to state churches, and after some experimentation with state churches on its own account, was precisely where Protestantism wanted religion to be.

It was also precisely where the Roman Catholic

Church, in the period when it was a small minority church, wanted religion to be. As a minority church, it could not hope to make an effective claim for a special relationship with the state. It was content with and grateful for the freedom which, through the Protestant majority, the state accorded to all forms of religion. But the situation has changed. Though still a minority as compared with the whole of Protestantism, Catholicism has become a strong and formidable minority. It is now asserting its claim, long held in abeyance, for a privileged recognition.

Protestantism cannot, without resistance, allow the Government of the United States to yield to this claim—not even "temporarily." To do so is to consent to the curbing of Protestantism's own liberty. By as much as the Catholic Church is given a special position in the processes of the government, Protestantism will find itself in a subordinate position in American life. By as much as the Catholic Church is accorded a special access to the ear of the Government, Protestantism's access will be restricted and prejudiced. By as much as the Catholic Church uses its special position and its unique access to the ear of the Government to achieve its own ends in American society, Protestantism will awake to find that its influence in American society is being undermined. To consent to the official relationship which the President has established with the Roman church, is to consent to a principle the development of which spells ultimately the Catholicizing of American culture.

Is There to Be a Political Issue?

If Protestantism passively tolerates any compromise of the principle of the equality of all religious faiths before the American state—a principle which is made effective by the absolute separation of church and state—it dooms itself to become, at best, a minority sect existing on the margins of American life whose main cultural stream flows in the channel fashioned by the particular religious faith which has entrenched itself in the favor and prestige of the Government.

For Protestantism, this spells political action. There is no reason to mince words or to speak shrinkingly. Protestantism faces a political battle in defense of the freedom upon which its life depends. The lines of this political conflict have been appearing, a segment at a time, for many years. But no segment seemed formidable enough to invite concerted action. Now, in the official recognition of the Vatican, these segments are joined together by one clear act worthy to command the total political vigor of unified Protestantism. It must speak to its politicians and its statesmen. They must be made aware of the presence of Protestantism as they have been

made aware of the insistent presence of the Roman church. The President must be made aware of the intolerable implications of his action in impairing the political balance of religious liberty. Protestantism is lost when religious liberty is lost. And religious liberty is lost, not when it is lost in external fact, but when it is impaired in principle.

The future of Protestantism depends upon its own vigilance in maintaining the religious liberty and equality which it caused to be written into the organic law of this nation. In this forum of freedom it is content to declare its faith and let the national community reach a verdict by the unhindered and unfavored operation of the democratic process. It will defend other forms of religion in the exercise of their right to declare their faith in the same forum, provided they are content to abide by the verdict of the same democratic process. But when the state invades this forum of freedom and places a *political* weapon in the hands of one of the contenders, then Protestantism's cause shifts instantly from conference and controversy with other faiths to the political arena in defense of the open forum of religious liberty.

A Trojan Horse Invades Public Schools

(Continued from page 12)

"The school buildings and furniture are owned by the Roman Catholic Church. . . .

"The schoolrooms have a picture of Christ, a picture of the Holy Family, a picture of George Washington, and a crucifix. They have other art pictures. They also have a holy-water font in which 'holy water' is kept and may be used by the pupils—if they wish. The teaching sisters wear the robes characterizing the particular orders to which they belong—always including the Roman Catholic rosary and crucifix. Each morning before school the pupils assemble at the school and march to the near-by parish Roman Catholic church—the teaching sister in the rear—where religious instruction is given by a Roman Catholic priest. They return to the school building in the same manner—the teaching sister in the rear. This service is said to be voluntary, but so far as the evidence discloses, no one remained at the school buildings during this religious service. Prior to 1933-1934 this service was held in the schoolroom. . . .

"The children attending these schools come from the church parish and not from particular school districts within the city. Occasionally a child other than a Roman Catholic child attends them. The teaching sisters live in a sisters' home belonging to

the church and located on the premises while they are engaged in teaching. . . .

Judge Gilkison's Opinion

"It is my opinion it was the duty of the board of school trustees at the beginning of the school year 1933-34 to take the children of school age, who had theretofore attended the several Catholic parochial schools within the school city of Vincennes, and provide for their education at public expense. That these children should have been assigned to the public schools of the districts within which they lived. If, because of the increased number of pupils, it became necessary to procure additional buildings to properly house the school children of the city, this board could, if it thought best, buy, lease, or rent the buildings known as the Catholic parochial school buildings to house properly the school children of the school city, and children assigned to these buildings for the school year should be assigned without regard to their religious affiliations or that of their parents. They may not lawfully be governed by the religious affiliations of the school children or of the teachers employed for the schools in making such assignments. . . .

"If public-school pupils are assembled in public schools only on the basis of their religious affiliations and for convenience in giving sectarian religious instructions, and teachers are selected because of their religious affiliations and recommendations, and are assigned work only among pupils of their church, then the state is engaged in religious propaganda, and maintains its schools for two purposes; first, to afford the pupils a secular education, and second, to afford them a sectarian religious education. Under such conditions every church maintaining an organization or parish within the school city, town, or township would have the right to have the pupils of its organization assembled in a separate school or room and to have as teachers only those belonging to and recommended by the church authorities plus the qualifications required by law. As a result of this we would have as many kinds of public schools as there are church organizations within the boundaries of the school unit, with all the possibilities of rivalries, disharmony, and chaos resulting from such a situation. The traditions of American government and the constitutions and laws of our State and nation forbid the occurrence of such a situation.

"Under all the facts shown to exist in this case, I am convinced that the schools in question are Roman Catholic parochial schools and not Indiana common schools, and that it is unlawful to expend the public-school funds in paying their administrative and instructional obligations, and that plaintiffs are entitled to an injunction prohibiting the same."

Forgetting the American Principle

It is too bad that such cases, because of conditions which exist, have to find their way into the civil courts. It is too bad that the supporters of institutions which have been in existence since before the founding of the American nation have such a poor conception of the need for complete separation of church and state as to seek to secure government funds for sectarian purposes.

We are advised, and we think well advised, that the defendants in this case considered an appeal from Judge Gilkison's decision, but were led to refrain from taking such action because it was feared that a good many similar situations might be brought to light, and that some privileges now allowed might be lost.

No church can afford to take money from a state. Sooner or later all funds received are paid for by the terrible price of state domination of religious things. We never cease to marvel that there are so many people who have failed to grasp the great principles upon which our Republic was founded—the separation of church and state, complete religious liberty—with every man enjoying before the law an equal status with every other man in matters of religion.

Puritanism in Its Heyday in 1682

(Continued from page 13)

liams and Cotton Mather! And what a progress between 1635 and 1940! And to the lasting credit of Roger Williams' position on civil and religious liberty, it is written, "He was not only in advance of his time; he was abreast of any times; nothing has ever been added to, or detracted from his argument."—*Id.*, p. 78.

The position of Roger Williams (so opposed in his day, and so wonderfully proved to be true in the history of our own country in regard to religious liberty), when he was asked regarding the liberties of the people under the charter that he applied for, was that "their aspirations be allowed to prove that the best civil results may be coincident with complete religious freedom."—*Id.*, pp. 198, 199.

Dangerous Program for Reform

Here we are, in 1940. How would we feel to have to go back to the 1635 regime? Yet there are organizations, strong in numbers, and religious in character, that would hark us back to that order of things. Note this statement from one of them:

"Our remedy for all these malefic influences is to have the government simply set up the moral law, and recognize God's authority behind it, and lay its hand on any religion that does not conform to it."—*Chris-*

tian Statesman (the official organ of the National Reform Association), Jan. 13, 1887.

Put this sort of proposition into action, and we would be back under the 1635 system of government, and every man would be a spy upon his fellow. And this same organization has for its avowed purpose:

"To secure such an amendment to the Constitution of the United States as will declare the nation's allegiance to Jesus Christ, and its acceptance of the moral laws of the Christian religion, and so indicate that this is a Christian nation, and place all the Christian laws, institutions, and usages of our government on an undeniable legal basis in the fundamental law of the land."—*Article 2, of National Reform Constitution.*

The *Christian Statesman* of March, 1938, states that "the National Reform Association stands today as the sole organization devoted entirely to the teaching of *political Christianity*."

Surely delusions are in the air these days. How contrary to the teachings of the Master they profess to follow, who said, "If any man hear My words, and believe not, I judge him not: for I came not to judge the world, but to save the world." John 12:47.

Now the strange and inconsistent position the National Reform Association takes in promoting "political Christianity," and in the matter of enforcing the moral law, is that its sponsors are in willful disobedience to this same moral law; and they have urged and coaxed and threatened for the passage of a law that is in direct conflict with the moral law. They have lobbied in every State legislature in the country, and in the national Congress for a law to enforce upon the people the religious observance of a day that was never mentioned by Christ or by any of the prophets or any of the apostles, and in positive opposition to the commandment of the moral law, "Remember the Sabbath day, to keep it holy. . . . The seventh day is the Sabbath of the Lord thy God."

They deny, as God's spokesmen to the state, the fundamental principle laid down by Christ in the matter of relationship between the church and state: "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's." Matt. 22:21.

They deny the principle of complete separation of church and state as laid down by the founders of our nation. Under a union of church and state the rights of conscience would be denied men, and fines and imprisonments would be the order of the day.

The Pretext of Holiness

How glad we ought to be that we live under a government bound about by our wonderful Constitution, and enjoy the liberties, civil and religious, that we have. And yet I think of the truth expressed in the

House Report on Sunday Mails, March 4, 5, 1830, which reads, "The rights of conscience cannot be so successfully assailed as under the pretext of holiness."

We need to watch the spirit of the times. It was Edmund Burke who said, "The people never give up their liberties, but under some delusion." Delusions are in the very air we breathe. Let us not barter away our liberties for a mess of emergency pottage, and sacrifice conscience at the behest of men who have a zeal, but not according to knowledge.

In both civil and religious life it would seem that we are at the parting of the ways. There is a pseudo recognition of God in human affairs today. The world is on the sharp lookout for some individual who will tell us what our religious privileges are. It is in this flux of religious concepts that we need, as Madison counseled, to "take alarm at the first experiment on our liberties."

We hear much about tolerance these days. It was Lord Stanhope, who, speaking in the British House of Lords in 1827, said, "The time was when toleration was craved by dissenters as a boon; it is now demanded as a right; but a time will come when it will be spurned as an insult." Let us ever remember that tolerance in religion means an established church.

God save us from the religio-political intrigues of the day.

"Libertad"—The Fight for Freedom in Cuba

(Continued from page 15)

stituent assembly has been elected, and a new constitution is being written. The elements are playing for advantage, and the members of the assembly are under pressure from various groups representing conflicting policies and principles.

The clergy of the old ecclesiastical system of Cuba have been active in producing petitions from "the people," demanding certain changes in the national program—amongst these petitions the first declares for the freedom of religion. No doubt this "freedom of religion" in the final analysis means the freedom of the Roman Catholic Church, as by interpretation this is the only "religion," all others being mere counterfeits! However, this petition is meant to disarm the populace.

Then follow three other petitions to the constituent assembly, one of which demands that religion be taught in the public schools of the country. It is pointed out in this demand that "ninety-five per cent of the people are Roman Catholic." Therefore one must assume that it is the Roman Catholic religion that is to be taught.

A great mass meeting by the proponents of these

demands was held in the city of Havana, and much publicity was given to their activities.

As a countermove, the evangelical denominations drew up a united petition to the constituent assembly demanding that the new constitution contain a clause guaranteeing the absolute separation of church and state, and assuring an educational system free from religious domination. A great rally of Protestants was held in the Baptist temple of Havana, and representatives of all Protestant denominations were seated on the platform. The addresses were given exclusively by Cubans, and it was heartening to listen to an exposition of the great principles of freedom by these patriotic men, as clearly and as strongly presented as one might hear in the United States of America.

Naturally, the history of the thrilling decades toward the close of the nineteenth century was made prominent in these eloquent perorations, and the impassioned appeals of these Cuban leaders found a responsive heart in the great audience present. There were some outstanding addresses, and it was made evident that if the freedom so dearly bought by the blood of martyrs and the intervention of friends goes into eclipse either partial or complete in Cuba, it will not be because no attempt was made to dissipate the shadow which threatened the light of liberty which has been shining brightly in this beautiful island for nearly half a century.

"Libertad" is still the watchword of the patriots of Cuba, and while the memory of the past remains with them, there will be an eternal vigilance "to retain this priceless possession."

Methodists Protest Taylor Appointment

THE NEW YORK *Times* of May 1, 1940, published a report of the proceedings of the Methodist General Conference, held in Atlantic City, during which the following report was adopted:

"The Bill of Rights, which guarantees freedom of religion, assembly, press, speech, and other liberties, is an essential part of the Constitution of the United States. Without it this Union of independent sovereign States could not have been formed. . . . These principles must ever be held sacred and inviolate by a liberty-loving people. It is our firm belief that their preservation can be accomplished only by maintaining the complete separation of church and state.

"Bishops' Views Endorsed

"On this matter we endorse the following statement contained in the address of the council of bishops:

"We are ready to join the Roman Catholic Church . . . to promote world peace, . . . but we do deplore and must firmly resist any union of church and state, and will be unalterably opposed to any establishment of diplomatic relations between the Vatican and the United States."

"We therefore respectfully but with genuine earnestness urge our President to recall Mr. Myron C. Taylor. His appointment has created a spirit of uneasiness and resentment in the minds of a great number of people, and instead of promoting peace has engendered discord and strife, which seem calamitous at this time when there is imperative need for harmonious united action on the part of those who fear God and love righteousness."

The Baptists, the Lutherans, and the Seventh-day

Adventists recently passed similar recommendations requesting the recall of Mr. Taylor; and other Protestant organizations which will convene shortly are contemplating similar actions. Unless the President recalls Mr. Taylor, or gives assurances that diplomatic relations with the Catholic Church will be terminated shortly, this religio-political ambassadorship to the Vatican will lead to unnecessary bitterness and the provocation of class and group hatreds which by all means should be avoided as far as possible. It is most unfortunate that this hotly contested issue has been imposed upon the American public in these critical times by giving one church organization governmental advantage and prestige above all others. Instead of bringing peace and harmony, it is producing strife and division.

C. S. L.

Holding the Citadel of Freedom

by **ERNEST W. LASS**

Editorial Staff, Asbury Park (N.J.) Press

NOTE.—This article originally appeared as an editorial in the *Asbury Park (New Jersey) Press*. It was deemed the third best editorial on the subject of liberty published by any newspaper in New Jersey during 1939. The judges were President Harold Dodds of Princeton University; President Robert C. Clothier of Rutgers University; and President Frank Kingdom of Newark University. With the permission of the general manager of the *Asbury Park Press*, we are happy to present this article to our readers.—EDITORS.

OPPRESSION AND CENSORSHIP abroad are a challenge to which American liberties could succumb, but from which we believe they will emerge fresh and strong. For just as it requires a certain amount of adversity to develop the best in the character of an individual, so can human rights be preserved and strengthened only when they are subjected to a test that requires that they be exercised to the fullest. It is human not fully to appreciate the sunshine until after the rain, and it is also human to regard too lightly the value of liberty until the plight of those to whom it has been denied has been witnessed.

Now that war has emphasized the darkness and oppression in which most of the peoples of Europe have been plunged, millions of Americans have been made conscious, perhaps for the first time, of the bountiful benefits that our heritage of freedom confers upon them. Hitherto they have read the uncensored truth in their newspapers without contemplating the advantages of a free press; they have worshiped when and where they chose, only dimly conscious of the beauty of religious freedom; they have stood on the corners to bespeak their mind with-

out fear of a concentration camp, and yet without appreciation of freedom of speech; they have met with their fellows to discuss common problems, unaware that but for the heritage of freedom of assembly they might be imprisoned for so doing.

In his "Time Machine," H. G. Wells foresees the man of the future as having grown weak in body and spirit, because, through the centuries that are to follow, life will become so easy as to fail to require the exercise that develops physical and moral strength. And when freedom has been accepted as a matter of course, men become less inclined to cherish it with their full strength, only to grow apathetic as it is snatched from weak hands, hands which might have been strengthened by holding fast. "Eternal vigilance is the price of liberty;" therefore freedom can be preserved only by men and women who have been aroused to its defense and strengthened by their experience in warding off attacks upon it.

Thus if the sinister forces that have mowed down civil rights in most of the civilized world are a threat to liberty in this country, they also present an opportunity to Americans to withstand the assault

from abroad and hold even higher the torch of freedom. For the challenge is one that evokes our highest concepts of constitutional right and demands that we safeguard them with the same strength and determination with which our forefathers won them. If in the past we have been coddled by the illusion that liberty is self-sustaining, now we are aroused by the knowledge that it must be defended if we are not to follow the peoples of Europe in seeing it snatched from our grasp.

Having observed even the democracies thrust their citizens into the abyss of ignorance by censoring the news and converting their newspapers into propaganda machines; having seen some countries venture to make the church a pawn of the state; and having witnessed the destruction of those who dared speak their mind and of the audiences who dared listen to them, Americans are enjoying a compelling lesson in the glories of freedom and the need for valor and sacrifice in its defense. Pessimists will shudder lest the contagion of oppression that has plagued Europe spread to these shores, but confident Americans will accept the challenge and create an immunity by more fully appreciating the blessings of the liberties which our Constitution confers and girding themselves to defend them, however formidable the assault.

An Open Appeal to the Ministers of Boise

THE RELIGIOUS LIBERTY ASSOCIATION of Idaho sent the following open appeal to the ministers of the Ministerial Association of Boise, which was promoting and supporting an ordinance to close various establishments on Sunday:

"This appeal is addressed to you in the interests of Christian and American liberty. Many are becoming alarmed over the European urge of regimentation that is making its inroads upon the traditional American ideals and mode of life. Conformity seems to be becoming our objective. If conformity cannot be obtained through voluntary action and mutual cooperation, the tendency seems to run toward coercion. The display of force in the field of religion we admit is un-Christian. The invasion of individual rights in the matters of state we denounce as un-American. From time to time we are made aware of national and local movements that are subversive of our traditional concepts of religious and civil liberty.

"We believe that all civil ordinances of a religious nature are both un-Christian and un-American, and contrary to the spirit and intent of that glorious document, the Constitution of the United States. Millions have flocked to our shores to find here the

freedom of church and state that was denied them in the land of their birth. Under this twofold freedom extended to all, our nation has prospered as has no other nation.

"Through the press our attention has been called to a recent movement in Boise which is making a bid for ministerial support in the interest of an ordinance to enforce Sunday closing of various establishments. We believe that such an ordinance will be a violation of both religious and civil liberty. Our plea is that you do not support this movement. All good and Christian people are interested in a more strict observance of the Sabbath, but this is a duty that no earthly tribunal has a right to exact from any man, as it has to do with his duty and obligation to God. No state has any right to regulate a man in his form of worship or to establish any tenet of religion by civil enactment. The moment this is done, the field is open for the persecution of the nonconformist. We think that the world has had enough of this sort of thing. The bloody history of the Dark Ages is a perpetual reminder that morality cannot be legislated. Why repeat that sad mistake?

"We are not living under a theocratic form of government. In our land the spheres of the church and state were distinctly drawn by our founding fathers. Before our laws, all men stand as equals. The moment religion is established by law, this equality is destroyed. All who do not bow to the religious enactment, whatever form it may take, become law-breakers, even though they be good Christians of another profession, or good citizens in every other respect.

"Should the minister of the Lord Jesus support such a program? We believe not. When the enemies of Christ sought to draw Him into a controversy with the powers of the state over the matter of tribute, He laid down an immortal principle to which we should ever give earnest heed. You will find it in Matthew 22:21: 'Then saith He unto them, Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's.' Had the kings of earth always recognized their rightful sphere of authority, there never would have been any Hebrew worthies cast into the fires of Babylon. There never would have been a Daniel cast into the den of lions. There never would have been any apostles of Christ cast into the dungeons of Rome at the instigation of the religious zealots of the Jews. There would never have been any religious persecution in any age.

"May the Lord help you one and all to maintain a proper attitude in your worthy efforts for a more wholesome community life in the city of Boise. May God grant that the needed reforms may come through a deeper inner life, rather than through the coercive measures of the police force of our city."

• Editorials •

Supreme Court Unanimously Upholds Religious Freedom

A CONNECTICUT STATUTE which required licensing for the solicitation of funds for religious purposes, and which also forbade the teaching of falsehoods, the circulation of error, the attacking of religious creeds, and the criticizing of religious faiths, was declared unconstitutional by a unanimous decision of the Supreme Court of the United States on May 20, 1940.

The immediate case at hand arose from the action of a member of Jehovah's Witnesses. In the streets of New Haven, Connecticut, in the presence of two Catholics, he played a phonograph record which attacked the Catholic Church. These Catholics brought suit in the courts of Connecticut, contending that according to the Connecticut statutes which forbid the criticizing of any religious creed or religious faith, such a record should not be allowed to be played, as it was an insult to their religion and their faith; and the Connecticut courts held that the Jehovah's Witness was guilty of inciting a breach of the peace.

The Supreme Court of the United States reversed these Connecticut rulings by a unanimous decision. Justice Roberts wrote the opinion and declared that American citizens under the Bill of Rights in the Federal Constitution had a perfect right under the grant of the freedom of speech and of the press to advance falsehoods and errors and to criticize the creeds of other churches and faiths in order to convert others to their own beliefs, and he declared that "in spite of the probability of excesses and abuses," the freedom to engage in such argument is "essential to enlightened opinion and right conduct on the part of the citizen of a democracy."

He asserted further that every citizen has a right to put forward religious or political opinions which "seem the rankest error to his neighbor." "Events familiar to all," Justice Roberts wrote, emphasize "the danger in these times from the coercive activities of those who, in the delusion of racial or religious conceit, would incite violence and breaches of the peace in order to deprive others of their equal rights to the exercise of their liberties."

The prerogative to license the right of the freedom of the press and of speech, and of soliciting funds for religious purposes, is equivalent to denying that freedom, and is therefore unconstitutional. This decision is a timely verdict, as a number of State legislatures of late have passed legislation of a similar nature. This decision will nullify all such legislation. It is

timely because the Constitution of the United States is being assailed from many angles by legislation that is in direct conflict with the Bill of Rights, and unless the Supreme Court of the United States calls a halt to this un-American legislation, the time is not far distant when every provision of the guaranties of human rights under our matchless Constitution will be overridden by thoughtless and immature legislation.

Altogether too many of the activities of life which are supposed to be protected under the Constitution from governmental interference, are being regulated, restricted, and regimented by the civil authorities. Eternal vigilance is the only safeguard of our liberties.

C. S. L.

Maryland's Ridiculous Sunday Laws

ON SUNDAY, February 25, 1940, the police of Baltimore arrested Samuel Davis for selling a pair of shoestrings to a boy who went skating on Sunday. Mr. Davis was tried and convicted and fined \$21.45 for violating the Sunday law of Maryland. The magistrate said that it was very distasteful to him to clamp down such an enormous fine for selling a pair of shoelaces on Sunday, but that he could not help it so long as the law was as it was on the statute books.

When Leon Abramson, a member of the city council, learned of the conviction of the merchant who sold the shoelaces and was fined \$21.45, he said: "The bitter irony of the matter is that it is legal to skate, but a youngster can't buy a shoelace to skate with. 'Ridiculous' is not the name for such a situation. . . . There has been a cry for more policemen. Well, I feel that the present force would do a service to the citizens by devoting their efforts to more serious offenses. For instance, these same policemen in the community where the arrest occurred might make more strenuous efforts to get some of the purse-snatchers in the section. Such efforts would be more appreciated."

It is lawful to skate at the ice-skating rinks on Sunday in Baltimore. It is lawful to play professional baseball and to operate motion-picture houses on Sunday, and to sell beer and wine, but it is a crime to sell a shoelace. Recently a woman was arrested in Baltimore for selling four cents' worth of onions on Sunday. A householder was arrested for mending a hole in the roof of his garage on Sunday, and another was arrested for painting his window sill on

Sunday. Fortunately, the judge ruled that onions are fruit and not vegetables, and that it was lawful to sell fruit on Sunday, but not vegetables. How in the name of sense can a law make saints out of fruits on Sunday and devils out of vegetables? Such theological hairsplitting over what is and what is not lawful on Sunday reminds one of the times when one set of theologians argued until they were red in the face that it was possible for one thousand spirits to sit on the head of a pin while the opposite side just as vehemently argued that ten thousand could sit on the same pinhead. The trouble with those ancient and our modern theologians who quibble over the fine distinctions of what a person can and cannot lawfully do under police regulations on Sunday, is that the whole lot of them are of the pinhead caliber.

If our government were still operating under the old regime of a union of church and state, religious legislation would be a natural consequence. But under our present system of government, with a total separation of church and state, it is entirely improper and inconsistent to legislate upon the enforcement of religious obligations and customs, which are matters of private concern between the individual and his God. Religious liberty is denied where religion is enforced by law.

It is ridiculous to forbid the sale of potatoes because they are vegetables and legalize the sale of apples because they are fruit. It is ridiculous to forbid the sale of a can of tomatoes, but allow tobacco, cigarettes, and cigars to be sold. Whoever decided that it was a crime to sell a shoelace to a lad who broke his shoestrings on Sunday, and not a crime to sell a motorist a tire when he had a flat tire, belongs to the same kind of church as the one which was rented to a planing mill and had this sign hung over the front door: "All sorts of twisting and turning done here."

The reason why we have so many odd and peculiar Sunday laws in some of our States, the like of which cannot be found anywhere else, is that no two people can be found who hold exactly the same views upon the subject of Sunday observance. Some think it is wrong to play golf on Sunday; others think it is all right. Some think you should not ride in your automobile for pleasure on Sunday, and another man's conscience does not condemn him for this diversion. The net result is that all these different individuals have tampered with Sunday legislation in the past when they were fortunate enough to get into our legislative councils, and we have this legislative hodgepodge of Sunday laws of every hue and variety. The proper thing to do is to repeal all religious laws still existent upon our civil statute books, and separate the church and state in practice as well as in theory. How long will liberty-loving Americans cling to these antiquated and un-American Sunday blue laws,

which are the product of a union of church and state of colonial times? It is time to clear the civil statute books of all religious legislation and have the civil government function "in civil things only," as Roger Williams has taught us.

C. S. L.

The Fundamental Law of the Land

BEFORE THE CONSTITUTION of the United States was ratified by the people, the State laws were supreme, and the people were merely citizens of the several sovereign States in which they resided. After the adoption of the Constitution the status of every State law, as well as the standing of every citizen of the United States, was altered. The moment the Constitution of the United States became the fundamental law of the land, every citizen of every State became also a citizen of the United States, and every State and every court in the land was bound by the paramount authority of the Federal Constitution. The people are first and foremost citizens of the United States—not citizens of Pennsylvania, or Ohio, or California. The citizens of the several States are still bound by the local laws where they reside, but if those laws conflict with the provisions of the Federal Constitution wherein the Constitution is binding upon the States and its citizens, those local statutes are worthless, void, and unconstitutional.

The Constitution begins: "We, the people of the United States." It does not say: "We, the people of the separate States," or "We, the States," or "We, the State legislatures." The Constitution was not made by or ratified by the States, or State legislatures, or by the citizens of the several States, but by "the people" of the United States. Article VI, Section 2, of the Federal Constitution expressly says: "This Constitution and the laws of the United States which shall be made in pursuance thereof . . . shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

The popular consciousness never questions the theory of the supremacy of the fundamental law of the land. But in actual practice, the theory is often violated and utterly disregarded, without any protest on the part of the public. Such a procedure and attitude is fraught with much danger. If the citizens of the United States allow the States to encroach upon their inalienable rights vouchsafed to them under the Federal Constitution, or allow Congress to enact laws which in letter and spirit are a virtual nullification of the Bill of Rights and other provisions of the Federal Constitution, it will be only a question of

time till the fundamental law will be subordinated and the heritage of liberty completely destroyed.

Whenever the government attempts to destroy rugged individualism, individual initiative and thrift, it aims a direct blow at the Federal Constitution and its guaranteed rights to the individual. Whenever a State or a local municipality enacts laws or ordinances which are in open conflict with rights guaranteed to every citizen of the United States, and the courts uphold these local laws, they are doing violence to the Federal Constitution. We cannot forever retain local laws upon the State and municipal statute books which conflict with the provisions of the fundamental law, without ultimately destroying all reverence and respect for the authority of the Constitution. Either the Constitution must be maintained and its paramount authority respected, and the conflicting State and municipal regulations repealed, or the Constitution is doomed. The preservation of our heritage of civil and religious liberty depends upon the vigilance with which the American people defend and preserve the supremacy of the Federal Constitution.

C. S. L.

Are the Courts or the Constitution Supreme?

THE SUPREME COURT of the United States will soon have to decide one of the most momentous questions submitted to it in years; namely, Are the courts of the land supreme in their exercise of authority in contempt suits, or are they subject to the provisions of the Federal Constitution as it pertains to the guaranties of the freedom of the press?

It is such a test that is now being sought by the Los Angeles Times before the Supreme Court of the United States following a decision of the supreme court of California sustaining a conviction in superior court on three counts of contempt, involving the publication of editorials. The freedom of the press as guaranteed under the Constitution is the question at issue in this case.

The question to be decided by the Federal Supreme Court is how far the courts of the land can go in contempt proceedings without interfering with the constitutional guaranties of the freedom of the press.

It is claimed by Saul Ross, an eminent attorney of California, in the January issue of the Southern California Law Review, that the decisions in this contempt case of the superior and the supreme courts of California are "unfounded, erroneous, and unhistorical" in that they attempt to ascribe an inherent power of this nature to themselves independent of the provisions of the Federal Constitution, which limits the powers of the courts. There can be no question

as to the Constitution's being supreme over the legislative, the executive, and the judicial branch of our government. Every court, even the Supreme Court of the United States, derives its authority and powers from the Constitution. All decisions must be in harmony with that charter. If the courts can exercise an inherent power in contempt proceedings independent of the Constitution and in violation of its provisions, what is there to hinder them from overriding every provision of the Federal Constitution and thus nullifying it by arbitrary decisions? It is now conceded that the courts originally derived their powers in contempt proceedings from the common law. If this is the case, then the same rules should apply as in any other phase of common law—for instance, trial by jury after indictment. But such trial is now denied by the courts in contempt proceedings.

In the present contempt cases the court itself is judge, jury, and prosecutor, and there is no appeal. If we are to save our guaranties of freedom of the press, there needs to be a final ruling by the Supreme Court of the United States on the whole constitutional, philosophical, historical, and jurisdictional issue involved.

One of the legal points to be decided in this test case is the act of the California Legislature which limits the courts in the exercise of their power to punish for contempt by publication, which act has never been held unconstitutional by any binding legal decision—only by *obiter dicta* in two cases involving other legal questions.

An *obiter dictum* of a judge does not have the value of a legal decision and is therefore not binding upon the courts any more than a personal opinion expressed by a judge in a public forum. By avoiding the issue, the courts have in effect recognized the right of the legislature to impose such restrictions upon contempt proceedings involving the freedom of the press.

It is evident that no Federal or State constitution has ever granted the courts an inherent right to punish for constructive contempt. Nor has any State legislature ever enacted a statute granting such a right to the courts. The only basis for such a right must be found in the common law, and since such is the case, it means a jury trial, which is now denied by the courts in contempt proceedings.

The courts are not sacrosanct, or infallible, so that they can do no wrong. The right of free speech and free press as guaranteed by the Constitution should not be nullified by an arbitrary exercise of unlimited authority by the courts in attempting to perform all three functions of the government—the legislative, the judicial, and the executive. This question should be decided in the light of the constitutional and com-

mon-law issues involved, and the public should not be left to the mercy of unlimited exercise of judicial powers in contempt proceedings involving rights which are inalienable. It is our opinion that the Federal Constitution is supreme in authority and has subordinated all three branches of our government to its jurisdiction. If any one branch of our government could exercise inherent powers independent and contrary to the immunities and guaranties vouchsafed to every citizen under the Constitution, both the liberties and the safety of its citizens would be placed in jeopardy. We hold that the Constitution has placed restraints upon the exercise of arbitrary power by the courts in all cases whatsoever. C. S. L.

Sunday— A "Civil Institution"

HARRY L. BOWLBY, the general secretary of the Lord's Day Alliance of America, in the *Lord's Day Leader*, the official organ, speaks of "the civil institution of Sunday." We were much surprised to have Mr. Bowlby make this concession. If Sunday is a "civil institution" as is contended, then it must be perfectly proper and lawful to do on Sunday the same things we do on Monday, which is likewise "a civil" day. We cannot make fish out of one "civil" day and fowl out of another "civil" day. All "civil" days logically rest upon the same basis before the law. Yet Doctor Bowlby asks the Congress and the State and municipal authorities to prohibit on Sunday all civil functions and transactions because they would be commercializing and secularizing the day and would thus destroy its sacred character. That looks like blowing hot and cold at the same time. He wants to forbid all "civil things" as unlawful on Sunday—which he calls a "civil institution." But what is civil on one day is civil and lawful on every civil day. What is immoral on one day is immoral on every day. The laws which Doctor Bowlby advocates and wishes enacted to protect the sanctity of Sunday, sanction only religious acts, and prohibit all civil actions on Sunday. It seems strange that civil acts should be forbidden under the penal codes on a "civil" day. When only religious acts are allowed under the Sunday laws, and civil functions are prohibited, it is evident that such laws are religious and not civil, and that Sunday is being protected as a "religious institution" in place of a "civil institution." Doctor Bowlby has put his neck in a noose when he acknowledges Sunday as a "civil institution." Certainly the civil government has a perfect right to encourage all things "civil" on a "civil" day, and it has no legitimate right to forbid "civil" things on a "civil" day.

C. S. L.

"Blue-Law Blues"

UNDER THE ABOVE CAPTION the following article, written by Robert Barlow, appeared in the Toledo (Ohio) *Blade* of April 8, 1940:

"Alabamians who play dominoes on Sunday are liable to arrest and imprisonment.

"In the neighboring State of Mississippi the statute books forbid all amusements 'of a public nature' on the sabbath. 'Reasonable private diversions,' however, are permitted.

"According to the laws of Kansas, no work is permitted on the seventh day of the week 'except that of ferrymen.'

"Up until five years ago residents of New Jersey could theoretically be arrested for wandering in the open on Sunday and failing to give a good account of themselves.

"Unenforced and unenforceable, many such startling reminders of America's blue-law era can still be found in the pages of contemporary statute books, forgotten by everyone except a few overzealous Puritans and occasional collectors of Americana.

"One hundred years ago, however, their existence was no joking matter, and unwary citizens who were caught violating such regulations were apt to receive a stiff fine or a long jail sentence for their pains.

"Constantine of Rome, first pagan emperor to tolerate Christianity, ordinarily receives the credit for originating that type of prohibitory regulation that has since become known as a blue law.

"But Constantine, as a matter of fact, was merely copying the Babylonians and the Jews of a thousand years back, both of whom had proclaimed every seventh day a holiday and set up numerous laws for its observance.

"The first American blue laws originated in early New England and were so named because the most stringent Connecticut statutes of this nature were issued between blue covers. These laws, almost entirely concerned with personal conduct, were framed for the avowed purpose of discouraging pride, vanity, or frivolity of any sort.

"A famous scandal centered around William Blagden of New Haven because that eminently God-fearing gentleman failed to attend the three-hour community church service one cold Sunday morning in the autumn of 1647.

"Blagden fell into his millpond after breakfast, and as it was against the law to light a fire on the sabbath and he possessed but one suit of clothes, he was forced to remain at home in bed.

"After deliberating the case for several hours, the court could find no reason for extending clemency, and the hapless lawbreaker was charged with immoral

conduct and sentenced to ten strokes of the lash on his bare back.

"Young girls in the New England colonies had a particularly hard time of it, as dresses of silk or fine linen were ruled out by their frostbitten elders, and no 'lace, silver, golde or silke thread' was tolerated.

"When Esther Jynkes of Lynn, Massachusetts, was found secretly sewing a bit of lace on her bodice, she was put in the public stocks ten consecutive hours as an example for the rest of the community to study.

"Poor Sarah Chapman of Hartford once made so bold as to sit in her garden one Sunday in 1670, along with John Lewis, a suitor for her hand. Almost immediately thereafter she and her guest were summoned to court on a charge of sitting together under an apple tree on the Lord's day.

"The punishment for this dreadful crime was a twelve-hour confinement in the stocks.

"Early New Englanders looked upon the stage as the invention of Satan himself, and all those who were in any way connected with the theater were legally classified in Maine, New Hampshire, and Vermont as vagabonds—and thus automatically subject to a wide variety of punishments. . . .

"A typical Pennsylvania law of the early eighteenth century required that 'the host shall not allow any person to drink or eat in his house without first asking a blessing and afterwards saying a grace.'

"The innkeeper was also required to keep a Bible in a public place, 'in which anyone who wishes may read,' and the law concludes with the curious provision that 'nobody shall be allowed to sit up after nine o'clock at night except spies.' "

In those days the Puritans restricted, regulated, and regimented every activity of life in civil as well as in religious matters. We need to guard against similar totalitarian tendencies in government today, or we are destined to lose our civil, as well as our religious, liberties.

SPARKS From the Editor's Anvil

THE ideals of a republic can be best preserved by keeping out of war.

THE totalitarian government makes the individual the plaything and puppet of the state.

THOSE who bargain away liberty to obtain security usually lose both ultimately.

JUSTICE falls under the feet of rogues when the courts submit to political control.

THE church that puts infidels into the pillory for refusing to swallow the bread of life has never learned the A B C's of the gospel.

THIRD QUARTER

CONSCIENCE never belonged to Caesar, but to God.

WHENEVER Caesar becomes a totalitarian, he is found fighting against God.

ALL that truth needs to win the day is courageous defenders.

WHEN truth is held in low esteem, virtue is discounted.

THE greatest foes to liberty are its reactionary friends.

LIBERTY is what adds beauty and dignity to human existence.

HE who clings to power for power's sake will perish with power.

THE finest and greatest thing America has given to the world is liberty.

LIBERTY is the right to do as we ought, and not the right to do as we please.

WHEN constitutional liberty perishes, mass brutality and tyranny hold the reins.

THE citadel of liberty can never be made airtight against the intrusion of the enemy.

A KNOWLEDGE of the past rightly applied will enable us to avoid the pitfalls of today.

THE way to rock the world is for government to trample underfoot fundamental liberties.

WHEN a government destroys business initiative, it banishes prosperity and throttles liberty.

THE aftermath of war leaves ruin in its wake, and seldom restores the guaranties of constitutional liberty.

To be entrusted with power is dangerous, unless the ego is subordinated to justice, fair play, and equal liberty.

WAR as a rule leads to the absolute surrender and sacrifice, not only of men's bodies, but of their rights and souls.

A RULER who raves over liberty and enslaves the people is like the crocodile that weeps while he swallows the man.

THE highest tribunal upon earth becomes a tyranny unless it recognizes its subordination to the authority of heaven.

WHEN Caesar sets up his authority above the word and law of God, the true and loyal church is bound to clash with the all-absorbing state.

LIBERTY, like a precious jewel, was set in the framework of the United States Government by a band of fugitives who fled from the Old World tyranny.

ROGER WILLIAMS

His Life, Work, and Ideals

by C. S. LONGACRE

Recent actions of subtle and powerful forces in the United States increase the anxiety that is felt by those who appreciate and understand the meaning of religious liberty, and who are opposed to any union of church and state. This new book is a timely volume for every citizen who loves liberty of thought and conscience.

Testimonials:

"I HAVE just finished reading 'Roger Williams,' and I can say that I found it to be one of the most interesting biographies I have ever read. Roger Williams was a truly great American, and his name stands as a symbol for many of the ideals for which this country was founded and upon which it has been built. He stands in particular, of course, for religious freedom, and in these times the preservation of that freedom is of prime importance to all."

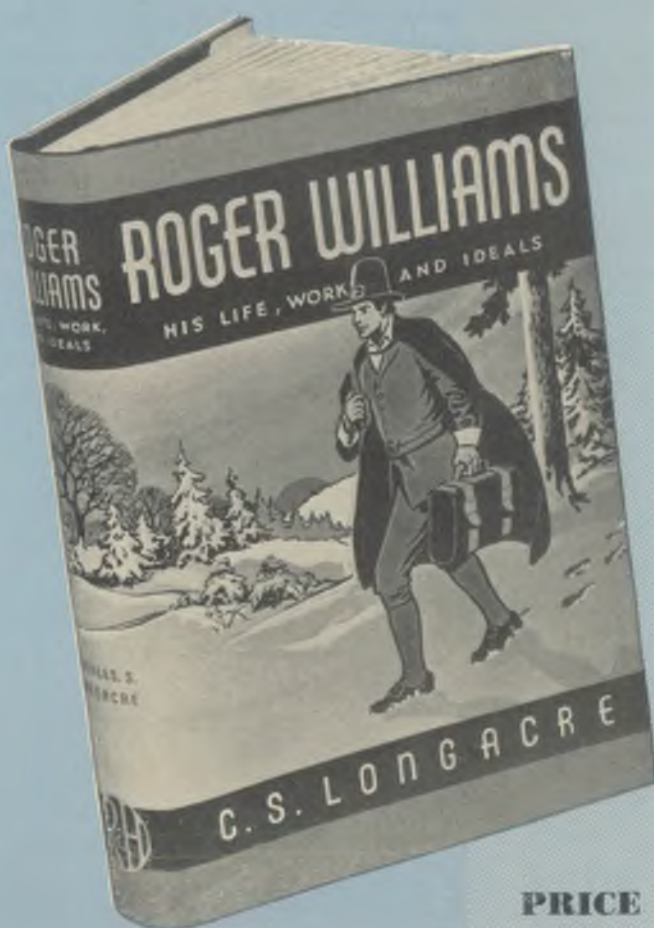
Arthur Capper,
United States Senator from Kansas.

"I FOUND it so fascinating, instructive, and worth while that it was with difficulty that I laid it down. I wish that every young American might have the opportunity to read this book and learn firsthand what our liberties really cost the Americans of yesterday who wrought not only for their own day and age, but for generations who were to follow."

Howard D. Angell,
House of Representatives.

"JUST at this time, when the principle for which Roger Williams made so valiant a stand is so generally under discussion, this little book will be well worth reading."

William S. Abernethy,
Calvary Baptist Church.



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