



## It Happened in the 'Land of the Free'!

[And it's happening again!]

IT MAY come as a surprise to some to learn that **persecution of minorities for conscience' sake** has occurred on a large scale in "free" America. When? During Colonial and post-Colonial days. By whom? During Colonial days, by those who had themselves been persecuted in the Old World!

It is one of the inconsistencies of human nature that too often the oppressed become the oppressors, and this was notoriously true of the early American colonists. They fled from the old country because the majority were determined to compel them to conform to certain religious forms and practices. Yet almost as soon as they planted their feet upon these free shores they in turn persecuted their fellow immigrants who refused to conform to their religious dogmas.

Before the Constitution was adopted, some of the colonies and States established an official religion, and they legislated what doctrines and precepts were to be observed by all the citizens. "The people were taxed, against their will, for the support of religion, and sometimes for the support of particular sects to whose tenets they could not and did not subscribe. **Punishments were prescribed for a failure to attend upon public worship, and sometimes for entertaining heretical opinions.**"-CHIEF JUSTICE MORRISON R. WAITE, in *Reynolds v. U.S.* 98 U.S. 145.

The Virginia Colony in 1610, among its religious enactment, section 3, decreed the death penalty for the following offense: "That no man blaspheme God's holy name upon pain of death, or use unlawful oaths, taking the name of God in vain, curse, or ban, upon pain of severe punishment for the first offence so committed, and for the second, to have a bodkin thrust through his tongue, and if he continue the blasphemy of God's holy name, for the third time so offending, he shall be brought to martial court, and there receive censure of death for his offence."-*Tracts Relating to the Colonies in North America* (Washington, 1844), volume 3, number 2, page 10.

### Sunday Laws in Colonial Days

In 1705 the same colony passed a law that anyone who did common labor or travel on Sunday and failed to attend church on that day, was to pay a designated fine, and if he refused to pay the fine he was to receive ten lashes on his back.

Plymouth Colony, in 1671, passed a law invoking the death penalty for idolatry, witchcraft, and Sunday desecration. Massachusetts Bay in 1641 imposed the death penalty for idolatry, witchcraft, and blasphemy; in 1646 a law was passed compelling church attendance on Sunday; punishment for heresy; the death penalty for denying the Bible.

Maryland in 1723 enacted laws imposing varying fines for blasphemers, swearers, drunkards, and Sunday law violators. Pennsylvania, in 1681 and 1682, punished Sunday law violators and blasphemers.

Delaware in 1739-1740 publicly branded and whipped blasphemers (with 39 lashes on the bare back), put Sunday law violators "in the stocks" for up to four hours. Georgia, New York, and New Hampshire had their share of religious laws for blasphemy and Sunday desecration. (See American State Papers, pp. 17-77, Religious Liberty Association, Washington, D.C.)

Modern Sunday law legislation, which is rapidly becoming one of the great controversial issues of our day, is but a twentieth-century adaptation of the Sunday blue laws of the Colonial era. The first blue law that was passed in what is now the United States was enacted in Virginia in the year 1610. This law compelled everyone to attend Sunday morning services as well as afternoon worship. Those who failed to do this forfeited their food supply for the following week. If they absented themselves the second time, they were deprived of their week's provision and in addition were whipped; for the third offense they suffered death!

The Massachusetts Bay Colony was established as a union of church and state, and as a natural corollary to a church-state, they enacted a compulsory Sunday blue law in 1629. That law was "blue" indeed, as records of the governor and Company of Massachusetts Bay show.

Five years later, in 1635, the Massachusetts general court decreed that anyone within its jurisdiction who absented himself from worship "upon the Lord's day" should be punished by imprisonment or a fine not exceeding five shillings for each offense. In 1692 the law was amended that "in case any such offender be unable or refuse to satisfy such fine, to cause him to be put in the cage, or set in stocks, not exceeding three hours."

### **Religious Liberty of Jews Restricted in Colonial Era**

In the eighteenth century, under the drastic Sunday laws of the States, Jews were liable to fines and imprisonment for their failure to observe Sunday after they had kept the seventh-day Sabbath. On November 27, 1786, the State of Virginia passed a law "for Punishing Disturbers of Religious Worship" and violators of the Sunday law. In order to survive economically many Jewish shopkeepers felt compelled to carry on business on their Sabbath. This may explain why in 1791 a Mrs. Rebecca Samuel, of Petersburg, Virginia, writing in Yiddish to her parents in London, England, stated that "on the Sabbath all the Jewish shops [except hers] are open, and they do business on that day as they do throughout the week."-LOUIS GINSBURG, Religious Freedom and the Jew in Colonial Virginia, p. 7.

On August 17, 1790, the Hebrew Congregation of Newport, Rhode Island, addressed a letter to George Washington, expressing confidence that under the new government and under its administration, just inaugurated, all classes of people in the United States would enjoy equal opportunities and freedom under the law. Washington wrote in reply:

"All possess alike liberty of conscience and immunities of citizenship. It is now no more that toleration is spoken of as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights. For happily the government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should

demean themselves as good citizens, in giving it on all occasions their effectual support.” - George Washington Papers, Letter Book 30, pages 19, 20.

When the Puritans, who had been persecuted in England, settled here, they became intolerant of the members of other churches. The Dutch in New York excluded Catholics from public office. In Pennsylvania and Maryland any man who did not profess a belief in the Christian religion was disqualified from holding public office. Roger Williams was banished by the Puritans from Massachusetts because of his religious views. Until up to the nineteenth century Jews and Catholics were not permitted to hold office in many States. Massachusetts required a religious test for office as late as 1826.

### **James Madison on Religious Liberty**

In Virginia clergymen of nonconformist churches were treated no better than common criminals. When James Madison was a young man he listened with deep emotion to a sermon of a Baptist minister from the only pulpit available to him—the window of a jail! The impact which this scene made upon the mind and conscience of James Madison was never erased from his memory and did much to make him the intrepid advocate of separation of church and state. In his historic “Memorial and Remonstrance” of 1784 against a proposal of the Virginia House of Delegates to impose an annual tax for the support of the Christian religion, Madison declared:

**“The religion or the duty which we owe to our Creator and the manner of discharging it can be directed only by reason and conviction, not by force or violence.** It is proper to take alarm at the first experiment on our liberties. Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians, in exclusion of all other sects?”

“Experience witnesses that ecclesiastical establishments, instead of maintaining the purity and efficacy of religion, have had a contrary operation. During almost fifteen centuries has the legal establishment of Christianity [a reference to the Roman Catholic Church during the Middle Ages] been on trial. What have been its fruits? More or less in all places, pride and indolence in the clergy; ignorance and servility in the laity; in both, superstition, bigotry and persecution.”

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### **Early American Victims of Religious Bigotry**

New England has the distinction of being first in inflicting martyrdom upon one of two victims of inquisitorial intolerance. In front of the State House in Boston are five statues, two of which are women—Anne Hutchinson and Mary Dyer.

In many ways Anne Hutchinson was a modern woman. She was intelligent, talkative, and strong-willed. Edward Johnson, a historian who was her contemporary, called her “a masterpiece of woman’s wit.” And she dared to think independently on religious and political subjects and to say publicly what she

believed to be true. This alone was enough to cause the stern, self-righteous elders of the Massachusetts Bay Colony to condemn her as a heathen, publican, and a child of Satan.

The story of Anne Hutchinson is significant today because it points up the evils of intolerance and the need for continued vigilance to protect our religious liberties from the encroachment of misguided zealots who seek by legal means to enforce conformity.

Separation of church and state was only a utopian dream when Anne Hutchinson and her husband, William, a well-to-do merchant, arrived in Boston in 1634. The Puritans, who had established the colony under a charter from Charles I, had come to America to find religious liberty for themselves—not freedom for others who happened to think differently. Although their colony was called the Bible Commonwealth, it was not a democratic or tolerant government. Civil authority of the colony was wielded largely by its religious leaders.

Convinced that they alone knew Biblical truth, the Puritan officials persecuted all who spoke out against their brand of religion. To quote the historian David Saviile Muzzey:

“They banished clergymen who attempted to use the prayer book. They drove Roger Williams out into the snows of a New England winter to find a refuge among the more merciful Indians. They hanged Quakers on Boston Common and yielded to a perfect panic of persecuting zeal when a few poor old toothless, mumbling women were convicted of being the agents of Satan in bewitching the senses of the people of God.”—The United States of America, volume 1, page 17.

This was the America in which Anne Hutchinson found herself in 1634. Just a year after her arrival, Roger Williams, a young preacher who had horrified the Bay colonists by suggesting separation of church and state, had been found guilty of disseminating “new” and dangerous opinions” and ordered banished.

A keenly sensitive and religious woman, Anne Hutchinson was disturbed by what she saw and heard. Even the long, uninspired sermons of the Puritan clergy began to trouble her. Was this the American dream of freedom?

Banished from Boston, Anne Hutchinson went to Rhode Island, where Roger Williams had established a colony that practiced religious freedom and gave sanctuary to persons of various religious beliefs. Her husband, William, and all her children except one son accompanied her to Rhode Island. When her husband died in 1642 the family moved to Long Island, probably Pelham Neck. Her life ended in tragedy. She and all of her children but one were killed by the Indians.

### **Roger Williams and Mary Dyer Persecuted**

Mary Dyer, a friend of Anne Hutchinson, also was a woman of strong convictions. She dared to be different when it was dangerous. She followed her friend into exile in Rhode Island.

Having gone on a visit to England, Mary, on her return, had to pass through Boston enroute to Rhode Island. The Bay Colony arrested and imprisoned her. Her husband’s importunities secured the release of his wife. Later she returned to Boston to visit fellow Quakers in prison and to “bear witness to her faith.” Her insistence on risking her life did not bring her the customary tarring, feathering, and expulsion from town. She was condemned to be hanged in 1659, but reprieved May 21, 1660. To the last she lived by her affirmation of purpose: “My life not avails me in comparison to the liberty of the truth.”

These two statues and the story they tell are a sculptured refutation of the idea which some of us entertain that “it cannot happen here.” Not only can it happen here, but it did happen here! Mary Dyer finally was hanged on Boston Commons, not for any offense against a criminal code, but because of her religious convictions.

Perhaps the darkest page in American Colonial history is the treatment the “first great American” and the founder of the Free State of Rhode Island, Roger Williams, received at the hands of the Puritans who established the Massachusetts Bay Colony. Roger Williams, a young British nonconformist preacher, left England in search of freedom in the New World. He arrived in Boston in 1631, one year after the Puritans had come to these shores and founded that colony. The Puritans, however, who like Roger Williams had suffered bitter persecution under the established church in England, had apparently learned nothing from their experience, for they proceeded at once to establish a state church with a vengeance! All the religious observances were enforced by law, with severe penalties for the transgressor. Failure to attend church on Sunday or to pay tithes subjected the guilty party to cruel treatment and corporal punishment. One of their laws stated that anyone breaking the first four commandments of the Ten Commandments should be sentenced to banishment!

Roger Williams took a decided stand against this church-state regime. By voice, pen, and vote he condemned these inquisitorial enactments. He pointed to the sharp distinction between the first and second tables of the Ten Commandments, contending that the first four commandments were spiritual requirements which a man owed to God and not to Caesar! Arraigned before the Salem court, he launched his unanswerable broadsides against fifty of the ablest Puritan opponents. But because he championed the cause of absolute separation of church and state, his ideas were regarded as “dangerous to the peace and order of the commonwealth,” and he was sentenced to banishment in the wilderness, where it was hoped he would perish from want of food, shelter, and clothing. He fled from his home at night, in the dead of winter, but the freedom which he was denied by the “savage Christians” he found among the “Christian savages”—the Narragansett Indians, who welcomed the fugitive and ministered to his needs. For the two years that Williams remained among the Indians he was their teacher, translated parts of the Bible into their language, and won many to the unadulterated religion of Him who is no respecter of persons, who loves the red-skinned people no less than those whose skin is white.

Oscar S. Strauss, twice American Ambassador to Turkey, fittingly said of Roger Williams: “If I were asked to select from all great men who have left their impress upon this continent. I would without any hesitation select that great prophet who established the first political community (Rhode Island) on the basis of a free church in a free state, the great and immortal Roger Williams.” “Quoted in C. S. LONGACRE, Roger Williams, p. 61.

### **This Happened in Nineteenth-Century America**

It seems incredible that the following story of religious persecution could have happened in America in the nineteenth century, but the records are there to confirm it. In the year 1885 the State of Arkansas repealed an exemption to the Sunday blue law of that State because some unscrupulous persons operated saloons, and other merchants conducted their business seven days of the week. The repeal of the exemption clause brought great hardships upon many honest, God-fearing people who observed the seventh-day—Saturday—as the Sabbath. They were penalized for working on Sunday on their farms and at other occupations. Many were arrested, fined, and thrown into prison.

A typical case was that of a Mr. McCoy, of Magnet Cove, who moved from Louisville, Kentucky, to Arkansas in 1873. He served as constable seven years, and two terms as justice of the peace, in Hot Springs County. In 1884 he became a Seventh-day Adventist. On August, 1885, following the repeal of the exemption clause, he was indicted for Sunday desecration, the particular charge against him being plowing on Sunday. The witness against him was a Mr. Wetherford, a member of the Methodist Church, who went into the field where Mr. McCoy was plowing and spent several hours with him, walking around as he plowed. The work was half a mile from any public road and entirely away from any place of

public worship. In September, Mr. McCoy was arrested and placed under bond. With tears in his eyes he said to a friend that while he was reckless and wicked he was not molested, but that as soon as he turned and began to live a religious life, observing the seventh-day Sabbath in accord with the divine injunction, he was persecuted and fined for it.

Another case involved a Seventh-day Adventist minister, J. W. Scoles of Springdale, Arkansas. He was quietly and unobtrusively finishing a small strip of painting on the south side of his church on Sunday, clear out of sight of all public roads. He completed the painting in two hours and then went home. For this offense he was indicted.

At the fall term of the circuit court held at Fayetteville, J. A. Armstrong, of Springdale, was summoned before the grand jury. He was asked if he knew of any violations of the State Sunday law. He said he did. The following dialog ensued:

GRAND JURY: Who are they?

ARMSTRONG: The San Francisco railroad is running trains every Sun-day.

G.J.: Do you know of any others?

A.: Yes; the hotels of this place are open, and do a full run of business on Sunday, as on other days.

G.J.: Do you know of any others?

A.: Yes, sir; the drugstores and barbershops all keep open, and do business every Sunday.

G.J.: Do you know of any others?

A.: Yes; the livery-stables do more business on Sunday than on any other day of the week.

In spite of all this Pastor Scoles was convicted, and later the State Supreme Court affirmed the conviction. Twenty other cases essentially the same as that of Pastor Scoles also came up for trial. Commenting on this Sunday-enforcement crusade in Arkansas, and the character of the people being prosecuted, the St. Louis Globe-Democrat of November 30, 1885, said:

“They have been from the first apparently an industrious and God-fearing people, the chief difference between them and other Christian bodies being that they observe the seventh day as the Sabbath, according to the commandment. It is a little singular that no one else has been troubled on account of the law, with perhaps one minor exemption, while members of the above denomination are being arrested over the whole State. It savors just a trifle of the religious persecution which characterized the Dark Ages.”

In January, 1887, a bill had been introduced in the Arkansas Legislature by Senator R. H. Crockett, grandson of David Crockett, one of the famous pioneers of the Southwest, for the restoration of the clause in the State Sunday law exempting observers of the seventh day. The bill passed with but two dissenting votes and the two were Sunday keeping ministers. One of these ministers, who was acquainted with many of the Sabbatarians, confessed in private conversation that they were all of excellent moral character and law-abiding citizens.

To list all the religious persecutions that took place in Tennessee, Georgia, Maryland, and other States in the eighties and nineties of the past century would fill an exceedingly large volume.

### **A Nineteenth-Century Attempt to Destroy Our Constitution**

In 1863 at Xenia, Ohio, eleven Protestant denominations formed an organization whose avowed purpose was to introduce a religious amendment into the Constitution that would have nullified the First Amendment, which guarantees separation between church and state. The name of this organization was The National Reform Association. Had they succeeded in obtaining legal sanction for

their religious ideals, all dissenters would have suffered, as is clearly indicated from the utterances of their leaders:

“Constitutional laws punish for false money, weights, and measures, and of course Congress establishes a standard for money, weights, and measures. So Congress must establish a standard of religion, or admit anything called religion.”—C. A. BLANCHARD, Proceedings of the National Convention to Secure the Religious Amendment of the Constitution of the United States, Pittsburgh, 1874, page 71.

“Those who oppose this work now will discover, when the religious amendment is made to the Constitution, that if they do not see fit to fall in line with the majority, they must abide by the consequences, or seek some more congenial clime.”—DR. DAVID MCALLISTER, in National Reform Convention at Lakeside, Ohio, August, 1887.

This attempt in the nineteenth century to destroy the First Amendment failed, but the spirit that prompted the effort is still brooding over the land. Its philosophy was aptly summed up by Lord Macauley:

“The doctrine which, from the very first origin of religious dissension, has been held by all bigots of all sects, when condensed into a few words, and stripped of rhetorical disguise, is simply this: I am in the right, and you are in the wrong. When you are the stronger, you ought to tolerate me; for it is your duty to tolerate truth. But when I am the stronger, I shall persecute you; for it is my duty to persecute error.”—Essay on “Sir James Mackintosh,” Critical and Historical Essays (London, 1865), volume 1, pages 333, 334.

All this and much, much more happened here in this land of the free, up to the end of the nineteenth century. Has our generation learned anything from the past?