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CHURCH AND STATE IN THE AMERICAN COLONIES BEFORE THE REVOLUTION

BY WILLIAM THOMSON HANZSCHE

PRINCETON, N. J.

PLYMOUTH

THE little band of men that left Scrooby for Holland, in order that they might escape the persecutions in England and worship God as they saw fit, had no desire to become assimilated by a foreign country, and consequently did all in their power to retain their English customs. The news from Virginia in the New World gave them the opportunity they sought, and after many unsuccessful attempts they finally succeeded in seizing the opportunity through the organization of "The Plymouth Company." Without any charter but their own lofty aims, without any regal right but the right of conscience, without any aid but unwavering faith in God, they sailed to America to establish a new home. They emigrated, not as a band of heterogeneous refugees, but as a Church already constituted. Just before reaching the shores of their new home they made a covenant together creating themselves into a "civil body politic." No one was compelled to sign this, yet everyone was bound by it. On December 11, 1620, they landed and began life under their new civil covenant, a sort of a church-club idea which tended toward separation of Church and State. It has been often truly pointed out that in the series of articles embodied in the agreement with the "Plymouth Company" and consequently agreed upon by the Separatists, there is one article which practically acquiesces to state control of the Church. "We judge it lawful," reads this article, "for His majesty to appoint bishops, civil overseers . . . to oversee the churches. . . ." Even if we assume the most critical viewpoint in examining this article, we must, nevertheless, recognize that it is not so much an exposition of faith, as a condition of agreement—a concession necessary to be made. The Separatists believed in a congregational, not a national Church. It is indeed true that

the principle of complete separation may have been fully recognized by this same body of men while they were being persecuted in England, but the principle was then too novel a thing to be held to tenaciously, and consequently, it was not one of the fundamental principles put in practice in America. The Separatists thought it well to allow the state to control civilly only and to permit religious toleration. Should there be an occasion for state interference in ecclesiastical affairs, for example, to guarantee the proper maintenance of ministers, it was a perfectly lawful thing, according to their ideas, for the state to interfere and exert its full authority. When they first established themselves in Plymouth their church had no direct connection with the state, and was dependent on the state for nothing but protection. They never followed the example of the Massachusetts colony and made church membership a condition of citizenship, for records tell us that even the famous and powerful Miles Standish was not a member of the Church, though he was a great state leader.

As we examine the legislation of the time, we are surprised to learn that in the early days there was a liberal and charitable policy toward those whose beliefs were different, but a policy which left it to the State to decide which faith should be tolerated. In the House of Delegates in 1645 a majority was in favor of an act "to allow and maintain full and free toleration to all men that would preserve the civil peace and submit to the government; with no limitation or exception against Turk, Jew, Papist, Arian, Socinian, Nicolaitan, Familist, or any other." Here was an act that someone has well said, "would have been a lasting honor to Plymouth," but the governor would not put the question and it failed to become a law. Not long after this, more direct legislation concerning the Church was thought to be necessary, and in 1650 it was forbidden to set up any churches or public meetings diverse from those already set up, without the consent and approbation of the government.

The development of this almost universal belief of that time that the civil government had not only a religious

character, but a religious function, is further seen in an act of 1650, when it was enacted by the General Court "that whosoever shall profane the Lord's day by doing servile work or other like abuses, shall forfeit for every default ten shillings, or be whipped."

On June 6, 1651, it was enacted "that whatsoever person or persons shall neglect the frequenting the public worship of God, that is according to God, in the places where they live; or do assemble themselves under any pretence whatsoever, contrary to God and the allowance of the government, tending to the subversion of the religion of churches; or palpable profanation of God's holy ordinances; being duly convicted, viz.: everyone that is a master or a dame of a family, or any other person of their disposing, to pay ten shillings for each such default."

At the first, we find ministers supported by voluntary contributions; but some of them had a hard time of it and began to leave their churches. In 1655 a law was passed that no pastor should leave his congregation for this cause without notifying the magistrates. The latter were then to use gentle means (to bring about the pastor's salary), and in case of failure, they were to use other means. In 1657 the union of church and state became more intimate; public worship was maintained and taxes were levied for the support of the ministers, and the Church was under the direct patronage of the State. Whatever may have been the early views of Robert Brown and his immediate followers as to the relation of Church and State, those views had not been sufficiently inculcated to form a part of the Pilgrim creed.

In 1665, we find the following law passed: "Whereas, complaint is made to the court of great abuse, in sundry towns of this jurisdiction, by persons there behaving themselves profanely, by being without doors at the meeting house, on the Lord's day, in time of exercise, and there misdemeaning themselves by jesting, sleeping, or the like; It is enacted by the court, and hereby ordered that the constables of each township of this jurisdiction, shall, in their respective towns, take special notice of such persons, and to admonish them; and if, notwith-

standing, they shall persist in such practices, that he shall set them in the stocks, and in case this will not reclaim them that he return their name to the court." In 1669 we find a law prohibiting violent riding on the Lord's day, and a law placing a heavy fine on all who are found smoking on the Lord's day while going to or coming from meeting, or within two miles of the meeting house. From this time on laws to prevent the further profanation of the Lord's day, giving power to the magistrates to search homes for the slothful who lurk at home during meeting time, laws preventing out of town travel, etc., are common, and we find the Church and the State linked together in close unity, despite the congregational tendencies of the Separatists.

This condition of affairs remains until 1691, when the Plymouth colony combines with the colony of Massachusetts Bay in conditions where the Church and State organizations become almost a unity.

MASSACHUSETTS BAY AND MASSACHUSETTS.

The history of the Bay settlement begins with the arrival of Endicott and his company in 1628 and the founding of Salem—a religious plantation manned by Pilgrims who had not separated from the English Church. The charter, which was not granted until the following year, said nothing of ecclesiastical affairs nor of religious liberty. The colonists were intent on planting a new commonwealth in which the Church of Christ should be supreme. Therefore, from the nature of the case, the government was a rigid theocracy, a nationalistic, influential church state, which soon became the model of all the most powerful New England colonies. Thus, from the beginning Church and State were intimately associated.

The general court, April 17, 1629, adopted the following action: "And to the end that the Sabbath may be celebrated in a religious manner, we appoint that all that inhabit the plantation, both for the general and particular employments, may surcease their labor every Saturday throughout the year, at three o'clock in the afternoon,

and that they spend the rest of the day in catechising and preparing for the Sabbath." In 1631 a law was passed "to the end that the body of the commons may be preserved of honest and good men . . . for the time to come no man be admitted to the freedom of the body politic, but such as are members of some of the Churches within the limits of the same."

The General Court assumed that all inhabitants, whether citizens or not, received the benefits of both state and church, and were under obligations to support both. In 1638 the court declared that "every inhabitant in any town is liable to contribute to all charges both in Church and Commonwealth, whereof he doth and may receive benefit; and withal it is also ordered, that every such inhabitant who shall not voluntarily contribute proportionately to his ability, with other freemen of the same town, to all common charges, as well for upholding the ordinances in the Church as otherwise, shall be compelled thereto by assessment and distress to be levied by the constable or other officer of the town." And this is not all; the inhabitants were required to attend upon the Lord's day the preaching provided for them on pain of fine or imprisonment.

Roman Catholics were denied toleration in the colony by charter, and in 1644 Baptists, who should openly condemn or oppose the baptizing of infants, or who should go about secretly to seduce from the approbation or use thereof, if willfully and obstinately persistent therein, were to be sentenced to banishment.

The unity between Church and State was so rigid in those early days that the state authorities seemed to put in most of their time passing laws to compel men to be churchmen of the highest order. In 1648 the General Court formally approved the Cambridge Platform, thereby declaring it to be the duty of the magistrate to take care of matters of religion, and to improve his civil authority for the observing of the duties commanded in the first as well as in the second table. Every town had to be supplied with a minister, and make provision for his support, and the State saw to it that the law was enforced.

A few years later, 1650, a public official was deposed of his office for publishing a book that slightly controverted the orthodox view on the atonement, and the book was ordered to be publicly burned by the state hangman.

In 1658-9 the Massachusetts law against Quakers was severe and banishment from the colony or death in case of return from banishment, was the dire penalty.

The original records of the colony show many interesting conditions brought about by the close unity of Church and State. A church building law, requiring each citizen of each town to aid in the building of the church which the law required in the town, was soon followed by a law compelling the people to build their houses within a half mile of the meeting house. On the green in front of the meeting house were placed the punishing machinations of the law, the stocks, the whipping posts, and the other instruments of torture. Misbehaviours in the Church were fined and punished by the public magistrate and even a "little lad, who in church, sported and played and made wry faces and indecent gestures causing laughter and misbehaviour in the beholders" was held and sentenced by the public officials. Wanton Tabatha at another time "is fined three shillings, six pence" because "she did on ye 24th day of Feb, it being Sabbath on ye Lord's day prophane ye Lord's day in ye meeting house of ye weste society in ye time of ye forenoon service by her rude and indecent behaviour in laughing and playing in ye time of ye service." Again, two are fined five shillings and cost because "during ye divine service they did smile." In 1670 we have a record of two lovers who were accused of and tried for "sitting together under an apple tree on ye Sabbath day," and a certain Captain Kemble of Boston is in 1656 set for two hours in the public stocks "for his lewd and unseemly behaviour which consisted in kissing his wife publicly on the door step on his return after a long journey." A man in Hartford was likewise made to suffer long in the stocks because he said he "hoped to meet some of the Church members in Hell before long and he did not question it at all but that he should," and we find others who are excommuni-

cated and punished by denying to them the privilege of the sacrament and of baptism for their children—and excommunication meant to be socially ostracised.

It is not necessary to touch upon any more of the laws made by early Massachusetts concerning the state, for it may be now readily seen what a close union existed. The colony was a true church state, a theocratic ideal.

With changing outside conditions, however, the rigidity of the government slackened more and more. The confederacy for defense with three other colonies in 1643, the contact with outside influences, the growth of New Amsterdam to attract settlers, the agitation of the half-way covenant, the pressure of England, all helped to break down the old theocracy, and its ways.

After the union of 1691, not Plymouth but the stronger Puritan colony took the lead. Plymouth set the example for ecclesiastical organization, but, politically, the Puritans of the Bay colony took the lead. After the new charter of 1691, the laws were much more liberal. In regard to religious liberty, the Charter said: “. . . we do grant, establish, and ordain, that there shall be liberty of conscience allowed in the worship of God to all Christians (except Papists) inhabiting, or which shall inhabit or be resident within our said province or territory.”

In 1691-2 the great witchcraft cases showed that the tendency to a close state-church union was hard to break away from. As one reads the quaint original records of the cases, the letters and descriptive articles by Cotton Mather and others, it is hard clearly to distinguish the work of the Church from the work of the State in the trials that were held and in the witnesses that were examined. Even the new charter did not have immediate results. The old custom, too, of compulsory ministerial support, with laws re-enacted even after the new charter had been in effect some time, show the theocratic ideas not to have been altogether dormant.

The new attitude of England to Massachusetts, however, and the influence of the new governors, compelled the cessation of religious toleration and the policy of

toleration. The controversies of that colony with the king forced the new attitude in matters of religion from 1684 on but especially after 1692 when the new charter combined with her Maine and Plymouth. With the new charter a great change now comes over New England, and church and state are far different from what they used to be. The coming in of many dissenters, the growth of commerce and trade, gave a new and broadening influence. The progress of religious liberty remained slow growing, however, and not until 1735 with the laws exempting Episcopalians from state tax for ministers, and a few years later the exemption of the Quakers and Baptists, do we begin to see a fuller separation of Church and state. With the growth of the other sects at the time of the Great Awakening results are still enlarged. There remained, however, more or less of a state Church until the post-Revolutionary period. The Bill of Rights with the entire separation of Church and State came finally in 1780.

MAINE—CONNECTICUT.

Long before the Pilgrims had reached Plymouth, a little company had settled on the shores of Maine. The Sunday after their arrival, in 1607, under the leadership of Popham and Gilbert, they conducted service according to the ritual of the Church of England. Owing to the severity of the northern winter, however, the great state they had intended planting lasted only a year. In August, 1622, the Plymouth Company gave a patent to Sir Ferdinando Gorges and Captain John Mason for certain territory in New England to be known as "The Province or County of Mayne," and the Church of England was by this charter made the established church of the colony. Massachusetts, however, was far more close to Maine than England was, and it did not take long for the larger colony to exert a strong influence on her more northern neighbor. Encroachment after encroachment followed and the Massachusetts ecclesiastical policy became regularly predominant in Maine by the purchase in 1677 of the Gorges Charter. From now on the history of Church and State in Maine becomes similar to that of Massachu-

setts, with the stronger state attempting more or less successfully to master ecclesiastical affairs, being necessarily lenient, of course, to the Episcopal tendencies of Maine. With the new charter in 1691, Maine became officially a part of Massachusetts, and history therefore binds the two colonies together from then on. Maine, as part of Massachusetts, was governed by its Puritan laws until 1820, and, though other ministers were sometimes sent there, the official church remained Congregational.

The Puritans and Pilgrims had not been long established in Massachusetts before they were attracted by the beauty and fertility of the Connecticut Valley, and as early as 1633 the first trading post was established there. Two years later the younger Winthrop came with a commission from the proprietors of the Connecticut territory, and in the same year settlements at Windsor, Hartford and Wethersfield were made under Hooker, Stone, and Haynes. During the first year the affairs of the colony were guided by commissioners appointed by the General Court of Massachusetts, but at the expiration of that time, the colonists organized the General Court of Connecticut and in 1639 adopted their constitution. An oath of allegiance to the State was the only qualification of citizenship, and various religious beliefs were tolerated. In fact, the majority of the settlers who had come there disapproved of the theocratic features of the Massachusetts government and established in its place a comparatively liberal and democratic colony in which state and church were not connected.

Elsewhere in Connecticut, however, about the same time, there was established another colony under Davenport and Eaton at New Haven. This "very godly" colony became the highest Puritan theocracy of New England, governed only by the "pillars of the Church" under a code of Mosaic laws that tended to realize a true "aristocracy of the saints." In April, 1638, they organized temporarily under the "plantation covenant" and in the following year a permanent government was established. Under the influence of a sermon preached on "Wisdom

hath builded her a house, she hath hewn out seven pillars," seven pillars of the Church were appointed; these seven associated with them in church membership nine others and these sixteen became the freemen of the little state. They resolved that "the Word of God shall be the only rule to be attended unto in ordering the affairs of government." The church members formed their civil government and elected their officers. Church and state were identical, and remained more or less so until the merger with the nearby colonies was forced in 1665, an event which caused Davenport to cry: "The cause of Christ is lost in New Haven." A small exodus to New Jersey began in 1665, after which we find the New Haven colony an integral part of Connecticut.

In 1680 we find Connecticut mostly Congregational, but a few other sects are tolerated. With a development now similar to Massachusetts, Church and State drift but slowly apart, and an act of Toleration in 1708 is followed by exemption laws, toleration to Episcopalians, Quakers and Baptists. Development then proceeds more slowly, and not until 1818 does a Bill of Rights destroy the Church establishment, and separate Church and State.

NEW HAMPSHIRE, RHODE ISLAND, VERMONT.

New Hampshire cannot be said to have had any laws of her own before 1691, being governed by Massachusetts from 1640 to 1680. The New Hampshire legislature came into being in 1680. Under the power of Cranfield, Andros and the other royal governors, religious liberty was pretended, but the religion of the Church of England openly encouraged. After New Hampshire's independence in 1691, we have record of the usual New England laws by which the free holders obtain a minister, whose salary is paid by public taxation; yet it is interesting to note that "This act does not at all interfere with Her Majesty's grace and favor in allowing her subjects liberty of conscience; nor shall any person under pretence of being of different persuasion be excused from paying towards the support of the settled minister or ministers of such town aforesaid; but only such as are conscientiously so

and constantly attend the public worship on the Lord's day, according to their own persuasion, and they only shall be excused from paying towards the support of the ministry of the town." This law, showing clearly the standing of the Church with reference to the State, remained unchanged in the edition of the laws published in 1761. In 1784 a bill of rights was issued, and not until 1804 were the Baptists recognized as a sect, and later, the Universalists and the Methodists. The final toleration act came in 1819.

The history of Rhode Island, it has been well pointed out, reflects the whole history of New England; for as dissatisfaction with the Church of England caused non-conformity and the planting of Massachusetts, so dissatisfaction with the Church of Massachusetts caused more non-conformity and the planting of Rhode Island. Roger Williams had theories of Church and State not at all in accord with those of the Puritans, for he insisted upon absolute separation of the civil and ecclesiastical organizations. After his banishment in 1636 he founded his new colony of Providence, a colony in which the high ideas of Williams became predominant. The union of Rhode Island towns under a charter in 1644 was followed immediately by a new charter which granted religious liberty to all. Hough, in his *American Constitutions*, comments on this charter thus: "This broad and liberal grant of liberty of opinion in matters of religion is among the earliest examples of the toleration which now prevails in every state of the American union; but at the time when it was asked and obtained, it formed a striking and honorable contrast with the custom and laws of the neighboring colony." Except the few years' period of the royal governors, this charter remained the fundamental law of the colony until the last century. Rhode Island thus never had a Church state and would not tolerate levying taxes for the support of religion. There is much dispute over the fact that one of her laws disfranchises Catholics, but some authorities claim that this is merely an interpolation made when the laws were compiled.

Vermont, the last of the New England states to be

colonized, was the object of dispute for many years, Massachusetts, New Hampshire and New York claiming her, she being finally placed mainly under New York control in 1760. In ecclesiastical matters most of the towns were governed as the other New England towns, with a more liberal policy, however. Where New York controlled, the Church of England held sway, but the Congregational Church was elsewhere strong, and religious liberty made headway. After the adoption of the Constitution in 1777 a greater separation of Church and State occurred, but in 1783 a law enabling towns to erect churches and support ministers was passed. Disestablishment finally came in 1807.

NEW YORK.

The colonization of New York, unlike that of the other early American districts, had behind it no religious or high moral purpose, but was simply undertaken as a trade venture, with the consequent detrimental effect on the history of the Church's influence there. Yet under the charter of 1621 no other religion was to be tolerated or even allowed except that as then taught and practiced by the Dutch Reformed Church in the United Provinces. A later tendency towards liberality as evinced by the company was not approved by the states-general, and a rigid state church was commanded for the new colony. In the charter of 1629 a recommendation sought prompt provision for the support of a dominie and a schoolmaster, but partly because the colony grew so slowly, partly because the company was interested mainly in other things, the Church establishment never grew strong, and there was always a scarcity of ministers, especially of those of the right sort. In 1642 we find the first accounts of toleration shown to others when at three different times in as many years the state granted patents to Englishmen to worship at Flushing in liberty of conscience. Other nonconformists soon began to come in in greater numbers, and the Dutch were not in the least affected by the presence of the English worshippers, probably because they were not over zealous in their own religious activity. The subject of ministerial salary was the cause of frequent

action between the mother country and New Amsterdam, and in 1654 colonial council ordered each town to pay its minister's salary. The Lutherans now began to come in in such numbers that Stuyvesant began a rigid policy to uphold the established church and to coerce the newcomers. With the increase of the new colonists so that a nonconformist church could be possible, the governor became intolerant and antagonistic to the extreme; he had the Lutheran pastor arrested as soon as he landed, and practically endeavored to chase the Baptists out of the country. In 1657 he attacked the Quaker leader, who had been driven from Boston, while the man was walking in an orchard and after indignities of the grossest variety, from dragging him through the road behind a cart to starving him in a foul dungeon and stringing him up by his thumbs from the ceiling and letting him hang with a weight on his feet; but at last public sympathy overcame the civil authorities, and the persecution was stopped. Persecution of other sects dragged on, however, until word from Holland stopped it.

The English seized New Amsterdam in September, 1664, and conditions in the town changed slightly. Toleration was extended, but from the journal of a young English traveller of the day we find that toleration was of such a nature that the different ministers would not take tea together. The scarcity of clergymen, and the poor type of clergymen so common there, made it impossible to accomplish much.

With the fall of the Dutch power, except for the small renewal of it in 1673-1674, the Reformed Church fell from its position of state establishment and the new laws established a state religion, but allowed it to be in any town whatever Reformed type the town inhabitants desired. While toleration was practiced, the head of the civil government became the head also of the Church, not specifically the Reformed or the Anglican, but every Church in the province. Theoretically, "this situation is without parallel in the entire history of Church or State." The church expenses remained a public charge, while the governor had all power to review the Church worship,

examine ministerial credentials, and exercise his full right as official head of every denomination and Church.

The renewal of the English power in 1674 brought with it a policy of broad liberty of opinion, a policy strongly held to, except in the anti-Catholic panic of 1689. In fact, we find in 1691 the first Jewish synagogue erected in America, and as we hear an old writer describe New York as having all kinds of beliefs, but mostly no belief at all, we can see that the modern city got an early start. In 1692 the direct attempt to establish the Church of England entirely failed, but an unusual result was precipitated in the following year by the establishment of the Protestant Church as the state religion, an act, however, which affected only four counties. For these four counties no particular church was established, and there was no state religion at all for the province at large.

In the earliest years of the eighteenth century the governor attempted to appear as defender of the faith against heresy, with consequent meddling with Church affairs and retarding liberty of conscience. A later governor was used as a tool for interference in ecclesiastical matters by ambitious Church of England men who desired control of religious affairs, and the limited idea that men had of religious liberty may well be seen by such instances as the arrest of Mackemie for preaching without a license, by the scruples against the Quakers, and by the enmity against the Moravians. Small in actual numbers, but mighty in veiled ambition, and political intrigue, the Church of England had practically become the State Church, remaining, however, limited in power by the original ordinance of 1693, that is limited to four counties. Conditions remained thus until the war, when the nameless established Church in New York fell with the British control. The act of 1777 guarded the rights of conscience, and religious worship, from the interference of state power.

NEW JERSEY.

The first official history of Jersey begins with the act of the Duke of York in 1664, who, having a charter right to the country, granted the territory to Lord Berkley and

Sir George Carteret. These proprietors proceeded to divide their holding as nearly equally as possible, the one taking the northern part and calling it East Jersey and the other taking the southern part and naming it West Jersey.

Two different settlements later grew up, but later the Quaker influence predominated. Berkley sold West Jersey to a company of Quakers, and in 1682 Quakers, under the lead of William Penn, bought East Jersey from the heirs of Carteret. Before this time, however, Dutch settlements controlled the whole region and kept it so under the rule of New Netherland that the same relation between Church and State here existed as was supposed to have existed in Dutch New York.

We must, however, realize the early influence of the little band of settlers who, fleeing from the supposed ungodly conditions of Connecticut, founded Newark, hoping there to make the civil life a mere subsidiary part of the religious rights of the colony. This incoming of the English in 1664 threatened to wreck the Quaker prospects of religious and civil liberty, for the first colonial assembly at Elizabethtown in 1668 "transferred the chief features of the New England codes to the statute books of Jersey." But Jersey was too prominently located for the theocratic government to be unassailed, and the steady stream of people who began to come in from all sides, Scotch Presbyterians, Quakers, and Dutch Reformed, combined with the concessions granting religious liberty which the proprietors maintained, overcame quickly all tendencies towards an early theocracy. In 1681 the legislature guaranteed freedom of conscience, and the following year, as stated above, when the Quaker control became wide, the danger of a close Church and State connection was minimized. The East Jersey Quakers, influenced by rigid Presbyterians, were not so liberal as those of the West, but limited liberty of conscience to persons acknowledging "one Almighty and Eternal God, and professing faith in Jesus Christ." True liberty among Christians was granted and there was practically no other state interference.

During the proprietary government, then, there was no uniform Church and State establishment, but "the multiplicity of proprietors and the conflict between diverse interests and opinions" soon led to a unity of the settlements and an application in 1702 for Crown government. Liberty of conscience was permitted to all but Roman Catholics. Here a peculiar condition arose over a Church establishment, for the absence of an ecclesiastical statute on the laws of the colony was overlooked by the authorities in the assumption of the government, and though to all intents and purposes the Church of England became the State Church, yet, in reality, the Church was never officially established either by Crown or by legislature. The people of the colony had been opposed to the establishing of a state Church, and even now, when the English controlled, their former wishes had borne fruit. Despite many attempts to aid first one faith and then another, liberty of conscience in a limited sense remained, and there was but little connection between Church and State, especially after 1711, when the Jersey Quakers were given full acknowledgment of their rights. We are also told that "to the end of the colonial chapter, the English home government kept up the fiction of a Church of England establishment in Jersey," granting, at the same time, "liberty of conscience to all but Papists." Matters continued in this way until the new Constitution of 1776, when the State continued to give liberty of conscience to all, but limited civil officeholders to Protestants.

PENNSYLVANIA AND DELAWARE.

The record of the connection between Church and State in the colonies dominated by William Penn, is necessarily short and without detail. The first legislative acts of the colony which prided itself on being a "Holy Experiment" where no persecution or state usurpation would interfere with worship, recognized the Christian religion and guaranteed liberty of conscience. Yet it was enacted "to the end that looseness, irreligion, and atheism might not creep in under pretence of conscience, whoever shall speak loosely and profanely of Almighty God, Jesus Christ, and

the Holy Ghost, or Scriptures of Truth" should be fined and imprisoned. Further Christian tests were also levied, but, in the early days, even a Papist could hold office. Later, however, English influence, indirect but strong, forced through the legislature a law "that all public officers were required to subscribe to a declaration of their disbelief in transsubstantiation, adoration of the Virgin Mary and other saints, and . . ." etc.; also, "a declaration of their belief in the Holy Trinity and the divine inspiration of Scriptures." Later annulments of these acts were overruled by England.

Despite these tests for public office, no law ever persecuted or affected the belief of any resident of the colony who behaved himself, and the history of the colony is free from all persecution of a religious nature. The State had no connection with the Church.

After Delaware separated from Pennsylvania in 1702, its records "show much less concern with religious affairs than do those of the parent colony." The laws contained even less instances of anti-Catholic discrimination than those of Pennsylvania, and there is an almost total absence of state concern and interference with the political opinions of men.

MARYLAND.

Although people of this modern day have come to look upon the settlement of Maryland as more or less of a real estate venture, yet the perusal of the quaint documents of those early days give a liberal religious atmosphere to the plans of Lord Baltimore. In the letter headed "An Account of the Colony of the Lord Baron of Baltimore" dated 1633 we find the motive of colonization clearly stated in the following words: "The first and most important design of the most illustrious baron, which ought also to be the aim of the rest, who go on the same ship is, not to think so much of planting fruits and trees in a land so fruitful, as of sowing the seeds of piety and religion." In the charter there are two extracts that have been the cause of the statement that from the beginning the Church of England was the established Church; the first reads: ". . . And furthermore the Patronage

and Advowsons of all churches which (with the increasing worship and religion of Christ) within the said region . . . shall hereafter happen to be built; together with the LICENSE AND FACULTY of erecting and founding churches . . . and of causing the same to be dedicated and consecrated according to the ecclesiastical laws of our kingdom of England." The other passage reads that The Baron Baltimore has a right to interpret all laws, "provided that no interpretation thereof be made, whereby God's holy and true Christian religion, or the allegiance due to us, our heirs and successors, may in any wise suffer. . ." The Church of England, however, is not mentioned in the charter, and Lord Baltimore construed the phraseology to mean that he was to be the head of whatever church was in Maryland, even as the king was head of the Church of England. Under the terms of the charter it was competent for him to establish any type of worship that he saw fit. Elsewhere, however, as in Carolina, the proprietors construed the phrase to mean that the English Church was to be the State church.

It would have been an utter impossibility for Baltimore to have established a colony for Catholics alone, yet to his credit we must recognize that he desired full religious liberty. Bancroft says that Baltimore "deserves to be ranked as one of the most wise and benevolent law-givers of all ages. He was the first in the history of the Christian world to seek for religious security and peace by the practice of justice, and not by the exercise of power." The fundamental law of the colony was shaped by his wise and just policy. Though the first assembly was made up entirely of Romanists, yet three priests were not allowed seats, and never in the history of Maryland has a priest or a minister been allowed a seat in the governing body. The first law passed in regard to the Church says: "Holy Church within this province shall have and enjoy all her rights, liberties, and franchises wholly without blemish," a law notable "for what it omits as well as what it declares," a law allowing practical religious liberty, and passed for that purpose. The oath of allegiance, furthermore, prohibited molestation of any-

one because of their particular faith in relationship to Christ. Maryland was a free colony, created so by the desire of its lord proprietor. Baltimore's policy became gradually sanctioned by the colonists themselves, and both policy and legislation culminated in the great Toleration Act of 1649, which limited the liberty only of those who did not profess the Christian religion or take oath of allegiance to the state.

Under Puritan control that soon followed, the consequent Puritan narrowness began to be in evidence, especially in the feeling of intolerance that arose even though no formal change in the laws took place. Beginning with 1676, a strong attempt was made to establish the Church of England, and this combined with the Puritan acts of ingratitude, began to assail Lord Baltimore's policy. The Protestant revolution of 1689 put the Protestants in absolute control and hastened the establishment of the Church of England a few years later, 1692, as the state church. This act brought in the proscriptions of the English toleration act, and caused a setback to religious liberty, with its zeal against non-conformists. The English system of church and state connection remained in vogue in Maryland, with more and more toleration until 1775, when Maryland passed her disestablishment act and state and church were placed in their present relationship.

VIRGINIA.

The history of the connection of Church and State in Virginia is a history without any unusual details or joyous incidents, for from the very first the Church of England was the established Church of the colony. With the colonists to Jamestown in 1607 came a learned English minister who represented the English church and who was supported by the company, as the representative of the state religion. The second charter of 1609 repeats the terms of the first in regard to the ecclesiastical establishment, and clearly makes plain to all that no non-conformists are wanted in the colony. When we remember that there was but little religious motive behind the colonization of Virginia, we can see why some of the "conform-

ists" were the type of Christians they afterwards proved themselves to be. The low type of some of the colonists may readily be seen by their behaviour during the hard winters of those early days. As soon as the legislature thoroughly established itself it began to legislate morally and spiritually to uplift the colonists with but little avail until Whitaker, the Apostle to Virginia, began his work. Laws in reference to religion were more or less of the type of the following, which are from Dale's code: "To speak impiously of the Trinity, or of one of the Divine Persons, or against the known articles of the Christian faith, is punishable by death." "Blaspheming God's holy name is punishable by death." Words of disrespect to a minister, Sabbath breaking, non-attendance at service, refusal to be instructed by a minister, were all offences subject to fine, but Governor Dale often failed to enforce the laws that he so earnestly advocated. An enforcement of the law to its fullest, caused an outcry that caused the company to repeal the code at once. The first laws enacted within the territory now occupied by the United States included the following: "That there shall be in every plantation a room where the people use to worship God . . . that whosoever shall absent himself from service shall forfeit a pound of tobacco . . . that there shall be uniformity in our Church as near as possible to the canons in England, both in substance and circumstance: and that all persons yield ready obedience to them under pain of censure." In 1629 it was enacted that "all ministers conforme themselves to the canons of the Church of England."

It will thus readily be seen that the civil authorities in Virginia, imitating the authorities in England, protected and developed their established Church, and allowed no liberality in religious matters. Lord Baltimore was plainly told that he was not wanted, though the later practices and religious tendencies of the colony were not as irreligious as in that instance. The practical rule was fairly tolerant. About 1639, however, a feeling of animosity to the Puritans developed so that severer measures were used, and the illiberal feeling spread to other sects.

The feeling of the people was usually influenced by the leading official of the civil government. The dissolute clergy, obtaining an easy living through government protection and aid, readily followed the dictates of the civil authorities in regard to other faiths. In 1659 Virginia began a persecuting policy toward the Quakers, and a little later the restoration of Governor Berkley put an end to the qualified liberty that Virginia had obtained, and stringently established the Church of England once more.

The wonderful apostleship of Makemie, the first American Presbyterian leader, and the incoming of other sects, forced a more liberal policy on the Old Dominion and wrung out of the Legislature a limited toleration act, still, however, enforcing the parish dues. Exemption now gradually was granted to other sects, with now and then an outburst of old-time persecution, but the influx of other sects began to heighten the feeling against the established Church. Patrick Henry's famous victory in the "Parson's case," combined with persecutions against the Baptists, hastened the end of the establishment and an act of 1799, followed by an act of 1802, and not really settled by the courts until 1840, separated fully the Church and State. In practice, however, the separation had taken place before this. Jefferson tells us in his Notes on Virginia, that two-thirds of the people were dissenters by 1776, and Channing informs us that Henry, Madison, Jefferson, Washington were all for religious freedom. The Virginia church, thus connected with the state, was "a mere appendage of the state, with no higher demand than an outward conformity to the law, and no more earnest purpose than to secure its own prerequisites and emoluments. . . It debased the things of God into a mere setting for the sordidness of earth."

CAROLINA.

On March 24, 1663, Charles II granted a charter to eight proprietaries incorporating the province of Carolina, in the district in which settlers had already gone from Virginia in the exodus that followed Berkley's conformist regulations. Thus there were many non-conformists on

the ground when the first official emigrants came with their charter which, made to read similarly to that granted to Lord Baltimore, was nevertheless taken to mean that the State was to foster an established Church in the manner of the mother country. Nevertheless, the charter granted large liberty to non-conformists, and a consequent invitation was extended to all to settle there. The second charter repeated the toleration features, yet kept the authorities in such control of religious affairs, that any action they deemed fit for the benefit of the established church could at any time be undertaken.

In 1669 a rather fantastic set of laws known as "the Fundamental Constitution of Carolina" were put into effect. Among other things it outlawed all those who did not believe in God and who were not members of a Church (seventeen being the age limit), it established the English Church, allowed dissenters, defined the fundamental things that a non-conformist Church must agree to, and prohibited molestation. The "absurd mixture of relics of dead feudalism and institutions of a new and popular power" was so impracticable that the laws were revoked. The absolute lack of clergymen, and the immoral and lazy lives of those who finally did come to Carolina, made the established Church seem more like a hollow mockery than a real fact. Nevertheless, the State continued to legislate spiritual enactments for the people without a real means of worship. In 1720, when the charter was annulled and the province divided, affairs had changed but little in either part of the province. For fifty years or more both legislatures continued legislation for the established Church, and an apathetic toleration insured a freedom of worship.

In North Carolina the increasing number of dissenters soon secured control and the established Church died a natural death during the Revolutionary period. In South Carolina, however, the conformists remained in majority for a longer period. The constitution of 1776 makes no mention of religion, thus allowing the disestablishment to take effect, but the constitution of 1778 makes the Chris-

tian Protestant religion the established religion of the State.

GEORGIA.

The history of the connection of Church and State in the subsidized charity colony of Georgia, founded only a few score years before the Revolution, is simple and brief. The charter granted to Oglethorpe gave liberty of conscience to all in the worship of God, and free exercise of religion to all except Papists. There was absolutely no purpose to establish a state religion. The quarrels between the officials and the colonists, however, led in 1752 to the cancelling of the charter and the assumption of direct government of the King, with its consequent state religion. The attempt was more or less idle and the Revolutionary War soon led to the new constitution of 1777, which gave freedom but established Protestantism.

By an examination into the condition of each of the American colonies prior to the Revolution, we thus see that in only two of the early colonies, Rhode Island and Pennsylvania-Delaware, was there an absolute independence of Church and State from the beginning, while in Maryland, although the original idea of freedom was to some extent church and state independence, yet the proprietor retained the right to sway the Church, and a narrow, ungrateful Puritan legislature hastened a later establishment of a State church. In the other Middle colonies there was likewise a state church, first of one kind, and later of another, while in the southern colonies there was always an established Church of England. In the Puritan colonies, with minor exceptions, the Church and State were linked together in the closest possible relationship.

The later colonization of the seaboard and interior Piedmont regions by a cosmopolitan tide of people of all faiths and beliefs gradually broke down all theocratic tendencies, and tendencies to strong state church unions of every kind, and the climactic results of political movements hastened the tendency to the present American system of absolute separation of Church and State.

In addition to the books directly quoted in the text, the following have been the sources of information used:

- The Original Narratives of Maryland.**
- The Original Narratives of the Witchcraft Cases.**
- New France and New England. Fiske.**
- Beginnings of New England. Fiske.**
- Social Life in Old New England. Crawford.**
- Sabbath in Puritan New England. Earle.**
- Dutch and Quaker Colonies in America. Fiske, Vol. 2.**
- History of the United States. Channing, Vol. 2.**
- Old Virginia and Her Neighbors. Fiske.**
- Religion and Civil Government in the U. S. Cornelison.**
- The Rise of Religious Liberty in America. Cobb.**
- Church and State in New England. Lauer.**
- Church and State in Early Maryland. Petrie.**
- History of American Christianity. Bacon.**