

Subdivision: Chapter VI: Changing Establishments

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VI

CHANGING ESTABLISHMENTS

THE colonies of New York, Maryland, New Jersey, and Georgia form a group by themselves, by reason of the fact that their history is marked by change in the relation of the colonial government to the Church. In all of them there occurred during the colonial period a distinct modification of the ecclesiastical attitude. New York and New Jersey, begun under Dutch auspices and with ecclesiastical subjection to the Reformed Church of Holland, were by the English conquest brought into a peculiar ecclesiastical struggle. Not only was their ancestral Church dislodged from its position, but a prolonged, though unsuccessful, effort of the English government to force upon them an alien establishment was the cause of much trouble and bitterness. Maryland began with almost complete freedom, under a Roman Catholic palatine, but through Puritan uncharitableness and political intrigue was forced into intolerance, and finally subjected to an Anglican establishment. Georgia also was planted with the allowance of liberty, but, on the annulling of its charter by the crown, this liberty gave place to the royal establishment of the Church of England. The history of colonial Georgia is, however, so short, and its beginnings were so near to the time of the Revolution, with the crucial questions of liberty already decided, that its religious story is without much importance in the development of our present theme.

I. *New York*

The story of New York, in relation to the Church and to religious liberty, has some peculiar features without likeness

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in other colonies, except New Jersey. Throughout the colonial period there either was, or was supposed to be, an established Church, but the Church of early institution was other than the one which the English conquest of New Amsterdam attempted to introduce. In regard to the later establishment there is also the curious fact that, while the English authorities always acted on the supposition that the Church established in New York by the act of 1693 was the Church of England, it yet was not such and legally had no organic relation to the Anglican establishment.

Another notable thing is, that the bounds of this latter establishment were restricted to four counties by the terms of the act, all the rest of the colony being free from the imposition of a State-Church.

Yet one more general feature is in the vacillating conduct of the colonial authorities in regard to religious and ecclesiastical affairs; for the most part easy and tolerant of dissent, and occasionally breaking out in stern language of repression or harsh measures of persecution. There was no set purpose, as in Massachusetts and Virginia, to force one form of worship on the people, a purpose steadily adhered to until relaxation was compelled by the strong growth of dissent. Whether the utmost possible laxity, or a bigoted narrowness, should prevail in the governmental policy depended entirely on the changing caprice, or principle, of governors.

To begin with, when the Dutch West India company set out, under the broad and almost imperial powers of their charter from the states general of Holland, to found their colony on the Hudson, unlike other colonial founders, they made no professions of religious motives. Undoubtedly, the religious troubles in Europe had large influence in peopling the colony. Germany sent Lutherans out of the turmoils of the Thirty Years' War; France sent many of her Huguenot refugees; out of Scotland and intolerant Massachusetts came the disciples of Presbytery; while the Dutch founders brought with them the ordinances of discipline of

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the Reformed Church of Holland. The latter were hastened also in their schemes of colonization by the sharp, political antagonisms in the Netherlands growing out of the Arminian debate. Thus it may be truly said that, the settlement of Manhattan grew directly out of the great continental struggles of Protestantism."¹

Yet the confessed motive of the undertaking was neither for liberty of conscience nor for the propagation of the

gospel among the heathen. So far as the states general were concerned, the motive was political, to give to Holland place and power among the colonizing nations of Europe; while the West India company occupied its mind with dreams of commercial gain.

At the same time, the thought of, and provision for, religion were not absent from the company's plans. That some provision should be made by government for religious services in the settlement was a necessity of the time. It was taken for granted, both that such arrangement should be made, and that the religious affairs should be under the control of the company.

The first Dutch minister, Jonas Michaelius, was sent out by the company in 1628, for whose support the company made itself responsible. He "built a Church" and formed an organization, with Peter Minuit, the first Dutch governor, as one of its two elders. So far as is reported, the first formal expression of the company's policy in regard to religious matters was made in 1638,² in the "Articles for Colonization." These articles were drawn with the aim of attracting emigrants, and were submitted for approval to the states general. The two sections which touch upon religion are as follows: —

"2. Religion shall be taught and preached there, according to the Confessions and formularies of Union here publicly

¹ Bancroft, *History of the United States*, II, 277.

² *Colonial History of New York*, I, 110.

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accepted. . . without, however, it being inferred that any person shall be hereby in any wise constrained or aggrieved in his conscience.

"8. Each house holder and inhabitant shall bear such tax and public charge as shall hereafter be considered proper for the maintenance of clergymen, comforters of the sick, &c."

The intent of a Church establishment, with a rate assessed by the civil law on every inhabitant, is thus clearly expressed while there is marked liberality in the allowance of dissent.

Because of this latter feature, it would appear, the articles failed of approval by the states general; and, two years after, the direction about the Church modified to the terms of positive and exclusive establishment of the national Church of Holland. The article reads: "No other Religion shall be publicly admitted in New Netherland except the Reformed, as it is at present preached and practiced by public authority in the United Netherlands: and for this purpose the Company shall provide and maintain good and suitable preachers, school-masters, and comforters of the sick."¹ Under this restricted rule the ecclesiastical affairs of the colony were ostensibly administered to the end of the Dutch possession, but showed no indications of harshness until the fiery Stuyvesant came to the governorship. The company assumed the expense of Church-building and maintenance of the ministry,² the choice and commissioning of whom it claimed as its prerogative a genuine right of presentation.

It is not to be supposed, however, that the company's outlay for these purposes was large. In the whole period of the Dutch rule not more than ten ministers were sent and there appeared early tokens of desire to shift the burden of maintenance upon the colonists. This desire, indeed, was

¹ *Colonial History of New York*, I, 119.

² *Ibid.*, I, 155; XIV, 60, 84.

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expressed in the first *articles*, and was put into the agreement of 1629¹ with the "Patroons."

This agreement, which instituted a favored class of men unlike any found in other colonies, conferred upon any, who "within four years would plant a colony of fifty souls," a right to purchase immense tracts of land and to exercise thereon the power of lords of the manor.² The agreement recited that, "the Patroons and colonists shall in particular and in the speediest manner endeavor to find out ways and means whereby they may support a minister and school-master, that the service of God and zeal for religion may not grow cool and be neglected among them; and that they do, for the first, procure a comforter for the sick there."

With this desire to get rid of the expense of the establishment, the company was yet unwilling to part with its right of presentation; and on that subject it came promptly into collision with its first patroon upon the Hudson, Kiliaen van

Rensselaer. This powerful and rich member of the company had by purchase from the Indians and by patents obtained an enormous estate, extending twenty-four miles on both sides of the Hudson, above and below Fort Orange (Albany), and forty-eight miles east and west. To such a manorial lord as this it seemed but fitting that the choice of a minister in his domain should vest in himself.³ He therefore agreed with and appointed John Megapolensis as the minister at Fort Orange. To this appointment the company objected strenuously, claiming that the directors alone could make or approve such appointments. The strife between the two parties was continued for several months, and was finally composed by a compromise, which left a doubtful victory to the company, that Van Rensselaer should consent to “the directors approving the appointment, under protest, saving his rights as Patroon.”

¹ *Colonial History of New York*, I, 405; O’Callaghan, *New Netherland*, I, 119.

² Bancroft, *United States*, II, 281.

³ O’Callaghan, I, 328.

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Sundry other instances of action by the company and by the civil authorities at New Amsterdam may further illustrate their intentional administration of a Church establishment. In 1638 Domino Bogardus, evidently regarding himself as a servant of the company, requested permission to visit Holland, which request the governor and council refused, explaining, “We have deemed it necessary to retain the Minister here, so that the Church of God may increase more and more, day by day.”¹

A similar application was made to the council by Megapolensis in 1619, and refused, on the ground that, “the extreme need of the Church imperatively demands that one minister at least remain in this province, . . . were it only for administering Baptism to the children.”² The Domine had already been dismissed from Rensselaerwyck and had come to New Amsterdam, on his way to Holland. The council not only refused permission to sail, but formally called him to the Church of New Amsterdam, recently left vacant by the departure of Domine Bogardus. The council reported their determination to retain Megapolensis, “*blanda vi et quasi nolens volens*. Such we resolve to be most necessary for the honor of God, the service of his Church, and the salvation of the people.” This action of the governor (Stuyvesant) and council was approved by the directors in Holland, who wrote to Stuyvesant,³ that they have paid to the Domine’s wife 600 florins as six months’ salary; that they are taking steps to have published at their expense a religious treatise by Megapolensis; and that they have engaged the Rev. Samuel Drisius, “a very pious man and possessed of great gifts, able to preach in English, Dutch, and French,” to go out as an assistant. The directors fixed the salary for Drisius at 100 florins per month and 250 florins annually for subsistence.

Another record or set of records — exhibits the governor and council attempting to exercise ecclesiastical discipline.⁴ The subject of it was the same Domino Bogardus, whose

¹ *Colonial History of New York*, XIV, 10.

² *Ibid.*, XIV, 116.

³ *Ibid.*, XIV, 119, 123, 134, 173.

⁴ *Ibid.*, XIV, 59, 69, 72, 84.

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spiritual services were in 1638 too valuable to lose. Seven years after that date, either the Domine had changed his conduct or the council had altered their opinion of him, for in 1645 Governor Kieft sent to him from the council a formal admonition in writing, “which he would not receive or open, and the paper was returned by the court messenger.” Thereupon Bogardus was summoned to answer before the governor and council on various charges of improper and scandalous conduct “unbecoming a Minister.” The summons also upbraids him for “your disposition towards the Company, by whom you are paid.” To this summons Bogardus replied in writing, refusing to appear, and “abusing them from the chair of truth.” The council then offered to leave the matter to the decision of Domines Megapolensis and Doughty; but this also Bogardus refused, demanding that the case be deferred until the arrival of the new governor (Stuyvesant), then daily expected.

When Stuyvesant arrived he decided to send the stubborn minister home to Holland, together with Kieft, whose administration of civil affairs had been one continued disgrace. The two sailed in the ill-fated *Princess*, which was lost at sea. The directors, in notifying Stuyvesant of the loss, wrote of Bogardus: — “When the shepherd errs, the sheep go astray, fitly applies to his case. He with others, has been relieved from rendering his account.”

In the same period with these records are others showing the liberal disposition of the authorities at New Amsterdam.

In 1642 the Rev. F. Doughty, whose expulsion from the Church at Taunton has been narrated in the chapter on Plymouth, came with Richard Smith and others to Long Island, and the company received from the council permission to settle with their minister. It was ordained that "They shall enjoy the free exercise of religion."¹

Patents were issued in 1642, 1644, and 1645 to different parties of "Englishmen," at New Town, Flushing, and the

¹ O'Callaghan, I, 257; *Laws of New Netherland*, p. 27.

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"Great Plains on Long Island," which ordained "the use and exercise of the reformed Religion, which they profess, with the Ecclesiastical Discipline thereunto belonging."¹ The patent to the Flushing settlers specified that they were "to have and Enjoy the Liberty of Conscience according to the Custom and Manner of Holland, without molestation or disturbance from any Magistrate or Magistrates, or any other Ecclesiastical Minister that may pretend Jurisdiction over them." In these regulations a full toleration of orderly dissent was undoubtedly intended. So much the "Custom and Manner of Holland" involved, while the reference to the "Reformed Religion which they professe" clearly carries the broad construction of the word "Reformed."

Besides these admissions, other parties were welcomed to the Dutch Throgmorton and a number of friends, who had left Massachusetts on account of the prosecution of Roger Williams, settled at West Chester with the permission of the council. Sir Henry and Lady Deborah Moody, "who had become imbued with the erroneous doctrine that infant baptism was a sinful ordinance," were, 1645, with Ensign George Baxter and Sergeant James Hubbard permitted by a formal vote of the council to settle at Gravesend, Long Island.² The celebrated Ann Hutchinson also found a free asylum among the Dutch, taking up her abode with her younger children in the upper part of Manhattan Island. Not long afterward they all perished in the massacre by the Indians. That the directors approved of such admissions is stated in their letter to Stuyvesant, that they had no objection to Englishmen settling in New Netherland "in reasonable numbers."³

In 1646 Peter Stuyvesant began his tempestuous reign at

¹ *Laws of New Netherland*, pp. 43, 48; *Colonial History of New York*, XIV, 38.

² O'Callaghan, I, 258; Felt, *Ecclesiastical History of New England*, I, 486; *Laws of New Netherland*, p. 53.

³ *Colonial History of New York*, XIV, 76.

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New Amsterdam. Honest and faithful, never did a man strive more earnestly than he to serve his masters and bring order out of chaos. With a devoted patriotism, never did a man drink a bitterer cup than he when he surrendered to the British. At the same time, the one-legged governor qualified these virtues by narrowness of mind, obstinacy, and a fiery temper. The beginning of his administration was with gentleness and with many indications of his care for the Church, several incidents of which are noted in illustration of the acknowledged dependence of religious affairs on governmental action.

In 1646 the sheriff and others in the new settlement at Flushing applied to the governor and council to "favor them with a pious, learned, and reformed minister, and then to order that each inhabitant shall contribute to such godly work according to his ability."¹ To this the council promised such action "as shall be found to promote peace, union, and tranquillity both in ecclesiastical and civil affairs." The matter having been reported to the company, a reply assured that, "We shall look out for a man fit to attend the Church there." This search does not seem to have been immediately successful, or it may be that a vacancy had occurred, for in 1654 the directors of the company alluded to the matter again, saying: "We have been pleased to see the zeal of several of our inhabitants of a new village on Long Island for the Reformed religion, and, that it may not cool, we have resolved to contribute 600 fl. yearly, and are looking about here for a fit and pious teacher or minister."²

In the letter of Stuyvesant, telling of the above request, he also suggested to the directors that Domine Megapolensis should be transferred from Fort Orange to the Church in New Amsterdam, to which they answered with a doubt whether the patroons would consent, and whether the Domine could not be as useful at Rensselaerwyck as elsewhere. Then, in striking contrast with a frequent arbitrariness in

¹ *Colonial History of New York*, XIV, 82, 84.

² *Ibid.*, XIV, 252.

such matters, they remarked: "It must also be considered that this plan cannot be well carried out without the consent of the colonists."

Interest in the religious affairs of the colony finds expression in the states general in Holland, which in 1650 resolved that, "New Netherland being now provided with only one clergyman, orders shall be given forthwith for the calling and support of at least three more."¹

The matter of support of ministers was the subject of much action both in Holland and New Amsterdam. In 1654 the company wrote to Stuyvesant that, Domino Drisius complained "that he did not get his salary," and rebuked the governor for his carelessness in not securing the payment of the minister.² Thereupon the council at New Amsterdam adopted a rule, ordering the *Schepens* (associate justices) in each town to provide for the minister's salary. To this the burgomasters and schepens replied with an agreement to "pay one preacher, one precentor, who is to be schoolmaster, and one beadle." This official array they styled "the ecclesiastical establishment."

There seems to have been some failure on the part of the town officers to fulfil this agreement, as, later in the same year, the governor and council sent the following remarkable notice to them. It asserts that the matter of "Tavern Excise" had been put into the hands of the burgomasters and schepens, "on the promise and under the condition that they would induce, or compel, the *proprietors* to provide means for the support of the preachers." They having failed, the council will now "let the said Excise to the highest bidder"; and the notice concludes: "By these means the Burgomasters and Schepens will be excused and delivered from carrying out their agreement to support one clergyman, one schoolmaster, and one beadle; the intentions and orders of the Lords Directors will be executed; the *jus patronatus* will

¹ O'Callaghan, *New Netherland*, II, 134.

² *Colonial History of New York*, XIV, 252, 268, 289, 293.

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be preserved, and both the clergymen paid and placed above want." No record was made of the success of this ingenious scheme to support the gospel from the proceeds of the liquor business, and to maintain the rights of an established Church.

Sundry records illustrate the attention of the council to the details of the Church, to an extent that deprived ministers and Churches of much self-determining power. A few of such, taken almost at random, are of interest.¹ Thus, in 1654, the council ordered that "Dom. Polhemus should continue at Midwout, and the people have liberty to collect money for building a Church." The people must have met with success in their collection, but they were not to be allowed to spend the funds at their own discretion, for at a subsequent meeting of the council a committee from its own members was appointed to superintend the building of the Church.

To a petition from Brooklyn asking that the minister at Midwout be allowed to preach alternately in Brooklyn, the gracious answer was returned: "The Director General and Council of New Netherland have no objection against Do Johannes Polhemius officiating alternately at both places, wind and weather permitting."²

This Domine Polhemus had troubles which he brought to the council.³ In 1656 he complained that his "house was not fit to live in," and also asked the council to pay him 100 florins on salary account. This the council did, but took no action about his house. Two years afterward, the council paid all arrears of his salary, and ordered the arrest of three men of Brooklyn for refusing to pay 6 guilders each toward the minister's support. One of the three was a Frenchman and the others were Englishmen. The first pleaded that he was a Catholic, and the others that they did not understand Dutch; but each was compelled to pay a fine of 12

¹ *Colonial History of New York*, XIV, 295, 310.

² *Ibid.*, p. 338.

³ *Ibid.*, pp. 370, 377, 411, 414.

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guilders.¹ The Domine's wrongs found their way into the chambers of the company at Amsterdam, on complaint of three Holland ministers, and payment was ordered by the directors.² About the same time the complaint came to the council that "some Inhabitants of Hempstead refused to pay" toward the minister's support, and the magistrates of the town were authorized to "constrain and punish as they in equity shall think meet."³

Toward the middle of Stuyvesant's term there appear tokens of a more strenuous rule, and determination to uphold the established Church against all comers. In 1651 the Council adopted an ordinance, declaring that the judges must be "promoters and professors of the Reformed Religion, as it is at present taught in the Churches of New Netherland, in conformity to the Word of God and the order of the Synod of Dordrecht."⁴

The governor was jealous for his own authority also, and, while watchful that the Churches were faithful in religious duty, would permit no outbreaking of the clergy into civil affairs. Domine Backerus had offended him by some such manifestations, whereon the peppery Stuyvesant went in to the Domine's house and left a written notice, *forbidding* him "to read, or have read, in Church any writing, petition, or proposal, having relation to the municipal or general government, whether generally or in particular, before such writing shall be signed by the Director himself, or the Secretary, by order of Director and Council. But this is not to apply to ecclesiastical affairs."⁵ The precise nature of the minister's offence is not recorded, but the governor's rebuff seems to have crushed him, for presently he applied for permission to return to Holland, which was at once

¹ O'Callaghan, II, 353.

² *Colonial History of New York*, II, 72.

³ *Ibid.*, XIV, 513

⁴ *Laws of New Netherland*, p. 395.

⁵ *Colonial History of New York*, XIV, 114, 115.

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granted by the council. Such was the issue of the first attempt in New York to take politics into the pulpit.

Stuyvesant was also of a mind to assert his ecclesiastical authority at a distance from the capital, as in 1657 he wrote to the magistrates of Hempstead, nominating a Mr. Denton to be minister there, and *forbidding* "the return of Rev. Mr. Fordim because he did leave the place, and also the exercise of the ministry without our wish or knowledge, and for no or little reasons."¹ The governor meant to govern in all things, and had small patience with opposition, whether from individuals or Churches, in things secular or religious.²

The first dissenters subjected to his annoyance were the Lutherans. Many of these religionists had been attracted to New Amsterdam, and in 1653 petitioned the governor and council for liberty of worship and permission to send for a Lutheran minister.³ The petition was opposed by the Dutch clergy, and referred to the company in Holland, who, in 1654, replied: "We have decided absolutely to deny the request made by some of our inhabitants, adherents of the Augsburg confession, for a preacher and free exercise of their religion, pursuant to the custom hitherto observed by us and the East India Company, on account of the consequences arising therefrom; and we recommend to you also not to receive any similar petitions, but rather to turn them off in the most

¹ *Documentary History of New York*, III, 118.

² This testy disposition made for him enemies very early in his service at New Amsterdam, a token of which is preserved in a letter, written in 1651, by one Van Dincklage to a Van Donck: "To describe the state of this government to one well acquainted and conversant with it is a work of supererogation; 'tis to wash a blackamoor. Our great Muscovy Duke goes on as usual, with something of the wolf; the older he gets, the more inclined he is to bite. He proceeds no longer by words or writings, but by arrests and stripes." (*Colonial History of New York*, I, 453.) This description had reference to Stuyvesant's course in some political disturbances, but it may illustrate the spirit with which he undertook to suppress dissent in religious affairs.

³ O'Callaghan, *New Netherland*, II, 320; *Laws of New Netherland*; *Colonial History of New York*, XIV, 252.

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civil and least offensive way, and to employ all possible, but moderate, means to induce them to listen and finally join the Reformed Church."

Notwithstanding this rebuff, the Lutherans persisted in their desire, and held religious services in their houses without a minister, by which they excited the governor's wrath, made specially severe by the Lutheran assertion that "Heaven was above law." Some of the offenders he threw into prison, and posted up an "edict" prohibiting any more attempts at their dissenting worship.

In this harsh treatment Stuyvesant doubtless thought himself justified by the directors' refusal to permit freedom of worship; but it seems that in the meantime they had found reason to modify their decision, notice of which they sent to the governor together with a rebuke for his violence. Under date of June 11, 1656, they wrote: "We should have gladly seen

that your Honor had not posted up the transmitted edict against the Lutherans, and had not punished them by imprisonment. . . . inasmuch as it has always been our intention to treat them with all peaceableness and quietness. Wherefor, your Honor shall not cause any more such or similar Edicts to be published without our previous knowledge, but suffer the matter to pass in silence, and permit them their free Worship in their houses.”

This is as far as the directors were willing to go for a while; for they wrote to Stuyvesant in 1657¹, that they would not increase the religious liberty of the Lutherans “beyond the terms of our letter of June of last year.” Again in 1658 they signified to the governor their approval of his action in sending out of the colony John Goetwater, a Lutheran minister, who had found his way thither and had attempted ministerial functions.²

¹ *Colonial History of New York*, XIV, 388.

² This approval seems to have been incited by a report from Domines Megapolensis and Drisius to the classis of Amsterdam, which is well worth quotation. (*Documentary History of New York*, III, 69.) They relate that, [footnote continues on p. 315] “a Lutheran Preacher, Goetwater, arrived, to the great joy of the Lutherans and the especial discontent and disappointment of the congregation of this place; yea, of the whole land, even the English. We went to the Director General,” who summoned Goetwater, and found that he had as credentials only a letter from a Lutheran consistory in Europe to the Lutheran Church in New Amsterdam. The governor ordered him not to preach, even in a private house. The Domines lament, “We already have the snake in our bosom,” and urge Stuyvesant to open the consistory’s letter, which, oddly enough, he refused to do, but consented to the ministers’ demand that Goetwater be sent back in the ship that brought him. “Now this Lutheran parson,” the Dutch ministers conclude, “is a man of a godless and scandalous life; a rolling, rollicking, unseemly carl; who is more inclined to look into the wine-can than to pore over the Bible, and would rather drink a kan of brandy for two hours than preach one.”

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In their last letter the directors opened a matter, in which lay the root of Lutheran objections to the established Church. The law required the baptism of all children, while restricting the administration of the ordinance to the Reformed minister and in the Reformed Church. Thither were Lutheran parents compelled to take their children for an administration which they resented. The directors counsel “moderation and tolerance” in the enforcement of the law, and ordered the use of “the old formulary of baptism,” which they understood to be less offensive to the Lutherans; and also ordered that “the words *present here in Church* (referring to parents) be entirely omitted.”¹

To this subject the directors returned in the next year, severely blaming Domines Megapolensis and Drisius for “making difficulties in regard to the use of the old formula of baptism,” and insisting that the Lutherans must “be placated,” as otherwise the trouble “might result in the permission to conduct a separate divine service there; for the Lutherans would very easily obtain the consent of the authorities here (the states general) upon a complaint, and we would have no means of preventing it.” In 1660 the directors informed Stuyvesant that they were sending two preachers, Blom and Selyns, both of whom “said that they

¹ *Colonial History*, XIV, 418, 421, 451, 461; O’Callaghan, II, 345.

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would make no difficulty about the formula of baptism,” and they were also sending books containing the old formula to be given to Megapolensis and Drisius, “that they may use it, and carry out our good intentions, which they *must not oppose*.”

The incident illustrates quite strikingly the religious powers of a commercial company, and puts in contrast the desire to placate the Lutheran conscience and willingness to coerce that of their own ministers. Still another contrast is exhibited in the same letter, which urged complacency to the Lutherans, by refusing similar regard for the English settlers in the colony. With a notable liberality of mind which their successors of a hundred years later might have copied to their advantage, the two Dutch ministers had urged the sending two English preachers, to be located in the English villages. This the directors refused, on account of “the condition of England,” but would try to find among the Dutch candidates some one who could preach English.”¹

The next religionists to feel the heavy hand of Stuyvesant were the Jews.² In 1654 he wrote to the company, requesting that no Jews be permitted “to infest New Netherland.” To this the company answered that the request was “unreasonable and unjust,” and that Jews should be permitted to go to the colony, on condition of taking care of their own poor, “without giving the said Jews a claim to the privilege of exercising their religion in a synagogue, or at a gathering. If they desire that, refer them to us.”

Stuyvesant, however, was a decided anti-Semite and contrived to put many hardships on the Jews. He refused, “for pregnant reasons,” to allow a deed to be given to a Jew, who had bought land in Manhattan; and forbade the Jews to trade at Fort Orange and South River. For such conduct he was rated sharply by the company, who ordered that the

¹ *Colonial History of New York*, XIV, 451.

² *Laws of New Netherland*, p. 193; *Colonial History of New York*, XIV, 341, 351.

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should have in the colony the same liberties as they possessed in Holland, except that of having a synagogue, and “may exercise in all quietness their religion within their houses.”

In the meantime trouble arose for the governor in another quarter.¹ The two ministers of the Dutch had heard that one Wickendam, a Baptist, had been holding unlawful services, and they complained to the council that, “during the absence of Do. Moore from Middlebush, some unqualified persons ventured to hold conventicles, and assumed to preach the gospel, from which nothing could be expected but discord, confusion, and disorder in Church and State.”

This complaint drew from the council the stringent “Ordinance against Conventicles,” adopted February 1, 1656, which ran: “Some unqualified persons in such Meetings assume the ministerial office, the expounding and explanation of the Holy Word of God, without being called or appointed thereto by ecclesiastical or civil authority, which is in direct contravention and opposition to the general Civil and Ecclesiastical order of our Fatherland, besides that many dangerous Heresies and Schisms are to be apprehended: Therefore, the director general and council. . . . absolutely and expressly forbid all such Conventicles and Meetings, whether public or private, differing from the customary, and not only lawful but scripturally founded and ordained, Meetings of the Reformed Divine Service, as this is observed according to the synod of Dordrecht.” The penalties imposed by the act were £100 *Flemish* for the preacher and £25 for every attendant.

Under this act William Hallett, sheriff of Flushing, who had allowed such meetings in his house, was deprived of office and fined £50. In default of payment he was to be banished. The preacher, Wickendam, was fined £100 and sent out of the country. Henry Townsend

¹ O’Callaghan, II, 316, 321; *Laws of New Netherland; Colonial History of New York*, XIV, 337, 369.

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of Rustdorp was convicted of having had “prayer meetings in his house” and condemned to a fine of £8 pounds *Flemish*; failing which he was to be whipped and banished.

This persecution for irregular worship presently ran into the furious onslaught upon the Quakers, who had appeared in the colony about the same time as the wandering Baptist preacher, and whose proceedings could come under the Conventicle Act. Against the Quakers Stuyvesant was “exceedingly mad.” Ten of them came to New Amsterdam from Boston in 1657, and were immediately arrested and jailed.¹ As with the Boston magistrates, the Dutch governor did not propose to wait for any overt act. Their mere presence was an offence and danger.

One of their number, Hodsham, escaped and went to Hempstead, where the magistrates issued a proclamation against him and his services. They arrested him, seized his papers and Bible, and fined two women who had entertained him, and then took all three to New Amsterdam for the disposal of the governor. Stuyvesant threw Hodsham into jail, and had him condemned to two years hard labor, “at the wheel-barrow with a negro.” The man either unable or refusing to work, the governor caused him to be beaten unmercifully, several successive days, and to be strung up by his hands with a log tied to his feet. He was finally released because of the intercession of Stuyvesant’s sister.

This severity had its natural issue of spreading the persecuted opinions, which found many adherents at Flushing and Jamaica. The council sent (1660) Domine Drisius to Jamaica to “inquire about the Quakers and their friends.”² Two years afterward, the magistrates of Jamaica reported to Stuyvesant that a majority of the people of the town were adherents of the Quakers.³ The absurd order was sent to the constables to arrest all such persons.

¹ O’Callaghan, II, 347.

² *Colonial History*, XIV, 490.

³ *Ibid.*, p. 515.

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A similar order had been sent (1658) to Flushing, in response to which the people of the town presented to the council a remonstrance,¹ refusing to execute the law against the Quakers. “Therefore,” they said, “if any of these persons come in love unto us, we can not in conscience lay violent hands upon them, but give them free Egresse and Regresse

into our town and houses, as God shall persuade our consciences, and in this we are true subjects both of Church and State, for we are bound by the law of God and man to do good unto all men and evil to no man." This remonstrance was read to the council by the sheriff of Flushing, Tobias Feake, who was at once put in jail, whither Edward Hart, the clerk, was sent to keep him company. Feake was soon released, but Hart was kept three weeks. The magistrates of the town were suspended from office, and Flushing was forbidden to hold town meetings without the special permission of the governor and council. Feake, who had added to his offence touching the remonstrance, that of "lodging some of the abominable sect called Quakers," was removed from the shrievalty and fined 200 guilders. Should he refuse to pay the fine, he was to be banished.

Henry Townsend of Rustdorp, notwithstanding his experience of two years before, continued to have prayer meetings in his house, and joined himself to the Quakers. For this he was fined 300 guilders, and on refusing to pay, was "cast into a miry dungeon."² Tilton, the clerk of Graves-end, who had "dared to provide a Quaker woman with lodging," was fined £12 Flemish. In 1661, Henry Townsend, John Townsend, and Tilton were all banished for "harboring Quakers";³ and it was ordered that soldiers be quartered on all inhabitants of Rustdorp, who did not promise to have nothing to do with Quakers.

In the next year the authorities resorted to frantic measures of repression. A proclamation was issued forbidding

¹ *Colonial History*, XIV, 402; O'Callaghan, II, 351.

² O'Callaghan, II, 352.

³ *Ibid.*, II, 450.

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the public exercise of any other than the Reformed religion, "either in houses, barns, ships, or yachts; in the woods or fields," under penalty; for the first offence, of 50 guilders fine; for the second offence, 100 guilders; and for the third, 200 guilders fine, with "arbitrary correction." To import or distribute Quaker books was punishable by a fine of 150 guilders, while to receive such books subjected the recipient to a fine of 50 guilders. All persons arriving at New Amsterdam were to register and take the oath of allegiance, under the penalty of 50 guilders fine and "arbitrary correction." All magistrates conniving at a violation of this ordinance were to be degraded and made incapable of holding office.¹

The climax to these high-handed measures was reached through the action and experience of John Bowne of Flushing. One of the most prominent of the citizens of that progressive and liberal-minded little burgh, he does not seem to have been concerned with the Quaker movement until after the issuance of Stuyvesant's proclamation.² Then, as though prompted to bear testimony against such persecution, he announced himself a Quaker, and made his house a home for any of the persecuted sect who might come to the town. On this he was arrested and fined £25. He refused to pay and was thrown into prison. He lay in prison several months, and was then sent by the governor to Holland. Doubtless this deportation was considered by Stuyvesant as a final riddance, but it enabled Bowne to bring the issue to a prompt decision by the governors superiors, and to Stuyvesant's complete discomfiture.

On arrival in Holland, Bowne at once appealed to the West India Company with the statement of his own wrongs and the sufferings of his fellow-religionists, securing from the company a sharp rebuke to Stuyvesant and a disallowance of all his persecuting measures. Under date of April 16, 1663, the

¹ O'Callaghan, II, 454.

² *Ibid.*, II, 454-457; *Colonial History of New York*, XIV, 526.

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directors wrote to the governor: "We heartily desire that these and other sectaries had remained away, . . . yet we doubt very much whether we can proceed against them vigorously, without diminishing the population and stopping emigration. In the youth of your existence you ought rather encourage than check the population of the colony. . . . The consciences of men ought to be free and unshackled so long as they continue moderate, peaceable, inoffensive, and not hostile to the government. . . . You may therefore shut your eyes, at least not force people's consciences, but allow every one to have his own belief, so long as he behaves quietly. Such have been the maxims of prudence and toleration, by which the magistrates of this city have been governed; and the consequences have been that the oppressed and persecuted from every country have found among us an asylum from distress. Follow in the same steps, and you will be blessed.

So ended the persecution of the Quakers and all persecution in New Netherland, of which it is evidently to be noted that the spirit of it was altogether Stuyvesant's. It may be regarded as certain that, as his superiors did not approve, so his associates in the colony were not in sympathy with him in oppressive course, and were coerced into their agreement by the dignity of his office and the violence of his temper. Stuyvesant's fierce bigotry was singular among the Dutchmen of that day, and the reader wonders that he should have been so blind as not to see that his course would be disowned by

the company in Holland. Probably, at so great a distance from his masters and left to his own discretion in so many affairs, he grew to regard himself as an autocrat and his own opinions as Supreme. By whatever process he prepared for himself a humiliation public and stinging, such as rarely has been experienced by a governor not dismissed in disgrace.

It is well to remark this personal quality in the harsh religious measures of his term of power. Such measures did not belong to the policy of the government. The founders

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of the colony, while all in the Reformed communion, and while seeking that their colony should maintain a Reformed establishment, had yet no purpose of coercion toward dissent. They had no theocratic principle to express in legislation, and gave to the religious affairs of New Netherlands the forms of an established Church, simply for the reason that they, with almost all of Christendom of the day, looked upon the state as in every place vested with a care for the Church. Except for Stuyvesant, "running before he was sent," never in the fifty years of Dutch rule in America would any sectary have felt an oppressive hand.

We can well imagine that the reproof from Holland must have been a bitter morsel for the fiery governor to digest, but he had other and more serious troubles to disturb him presently. Not long afterward (1664) the English fleet sailed into the harbor and compelled surrender of the colony, a surrender almost welcomed by many of the people, because of Stuyvesant's despotic ways. So ended the history of New Netherland, giving place to New York, save for the brief return of Dutch power in 1673 and 1674.

Our narrative may here anticipate that period, and, before regarding the incidents of English rule in the ecclesiastical affairs of New York, look at some religious features in the story of that Dutch return. When Evertsen and Colve came to New York in 1673, captured it without a blow and turned it to New Amsterdam again for a little season, they undoubtedly thought that the conquest was to be permanent. With this thought the intention took form to secure also the permanency of the Reformed Church establishment, while at the same time they did not hesitate to give expression to tolerance toward all forms of dissent. In this latter particular the legislature under Colve went further than any of its predecessors.

This care for the establishment at once expressed itself in a renewal of the ordinance of 1651, requiring that all magistrates should be "exclusively of the Reformed Christian

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Religion, or at least well affected thereto." This action was repeated in the next year.¹ On these magistrates it was made obligatory that they "shall, each in his quality, take care that the Reformed Christian Religion be maintained in conformity to the Synod of Dordrecht, without permitting any other Sects attempting any thing contrary thereto." This order, taken in October, 1673, was repeated in the next month and again enacted in the following January.² In consistency with this order the commissioners, sent in 1673 to Fort Nassau and South River, were instructed that their duty was, to take care, "First, that the pure, true Christian Religion, agreeably to the Synod of Dordrecht, shall be taught and maintained in all things as it ought, without suffering any the slightest attempt to be made against it by any other sectaries." The same instruction was sent to the magistrates of Brooklyn and the other towns on Long Island, and of the settlements up the Hudson.³

Along with these tokens of a purpose to conserve the Reformed establishment, appear the evidences of a very tolerant spirit.⁴ From the legislature of 1673, the delegates from Fort Orange, "lately called Albany," among other conditions demanded, "That conscience shall not be subjected to any constraint, as there are some here of different opinions, who have intermarried, but that every one shall be permitted to go where he pleases to hear the Word of God." To this demand the response was, "Granted; and the Commandant and Magistrates are ordered to pay attention to it." To the towns in the east of Long Island, on their submitting to the reestablished Dutch rule, there was allowed "Freedom of Conscience in the Word of God and Church discipline." The same was allowed to the settlers on South River, in reply to their petition: and to English settlers in Jersey there was

¹ *Laws of New Netherland*, pp. 473, 515.

² *Ibid.*, pp. 476, 485, 512.

³ *Colonial History of New York*, I, 618, 620, 653.

⁴ *Ibid.*, I, 584, 593, 605.

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"accorded Freedom of Conscience as the same is permitted in the Netherlands."¹ But to these towns thus made free in the exercise of religious worship, it was commanded that their choice of magistrates should be restricted, according to the statute, to "such only as are of the Reformed Christian Religion, or at least well affected thereto."²

Notwithstanding an apparent contradiction between these grants of freedom and some of the stringent terms requiring the maintenance of the Reformed Church, it is but fair to presume that no curtailing of the allowed religious liberty was designed; and that "any attempt against it by other sectaries" had in view, not the orderly independent services, but the possibility of invasion by the sectaries on the service of the established Church.

Of other religious action by Colve's government one item may be cited for its ferocity. There had been some disorder in New Amsterdam and martial law had been proclaimed. Under such rule it was ordered, with a Puritanical zeal worthy of early Massachusetts and of Dale's "Lawes Martiall and Morall" in Virginia, that "Whosoever blasphemeth the name of the Lord, or His holy Word, shall be, for the first offence, fined and committed three days to prison on bread and water; and, for the second offence, shall have his tongue bored with a red hot iron, and he shall furthermore be banished out of this government and the United Provinces, as a villain."³ On one occasion Colve exercised an ecclesiastical jurisdiction, degrading for one year a Lutheran minister, Fabricius, who had married parties without publishing banns. After the year he must apply for a special license in order to preach. The language used indicates the governor's purpose, not to silence a sectary, but to suspend a minister from his spiritual office.⁴ Colve also showed his care for the State-Church in obtaining from the council an order for the payment out of public funds of all arrears of salary to the widow

¹ *Laws of New Netherland*, p. 467.

² *Colonial History of New York*, I, 586.

³ *Ibid.*, I, 623.

⁴ *Ibid.*, I, 693; XII, 512.

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of Do. Megapolensis, "about to return to Patria"; and to Do. Samuel Megapolensis, then settled in the colony¹.

With this pleasing evidence of desire to see justice done, Colve ended his care of the Reformed Church in New Netherland, and presently, surrendering his government, ended also this short Dutch episode. With the peace of 1674 between England and Holland the colony was returned to English hands, and reassumed the name of New York, so to remain under the British rule until the era of American Independence.

With the fall of the Dutch power, fell also the Reformed Church from its position of a State establishment. This, indeed, was the immediate result of Stuyvesant's surrender in 1664, to be made final and complete by the return of the English, ten years later, after their short-lived banishment.

This disestablishment of the Dutch Church did not, however, place it on a level with other non-Anglican communions in New York. In the "articles of Capitulation," in 1664, it was specifically agreed that, "The Dutch here shall enjoy the liberty of their Consciences in Divine Worship and Church discipline."² The intent of this agreement was that the Reformed Church should enjoy a complete autonomy in its own affairs, and not be subjected to the interference by the magistrates, which other Churches were compelled to submit to until near the end of the colonial period. The principles thus obtaining were in the main respected by the English governors, though some departures will appear. The Dutch themselves were so jealous and watchful for these rights, that, on the resumption of the province by the English, they refused to take the oath of allegiance to the king of England, until assured in writing "that the Articles of Surrender are not in the least broken, or intended to be broken, by any words or expression in the said oath."³

¹ *Colonial History of New York*, I, 722.

² *Ibid.*, I, 251; O'Callaghan, II, 533.

³ *Colonial History of New York*, III, 74-76; Corwin, *History of Reformed Church*, p. 63. (*American Church History Series*, Vol. IX.)

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The agreement at the second surrender to the English was made by Colve and Andros, and each consented to the stipulation of the other. In regard to Church affairs and the rights of the Dutch, Colve insisted "that the Inhabitants of Dutch Nativity may be allowed to retain their customary Church privileges in Divine Service and Church discipline." To this Andros added, "The usual discipline of their Church is to be continued to them as formerly."

To return now to the surrender of 1664, the first English governor, Nicholls, on entrance to office published his "Instructions" from the Duke of York, to whom Charles had given the province. In these were recited, "The Conditions for new planters in the territories of his royal highness, the duke of York." Among these conditions, with an undoubted intent to make the first step toward tolerance of Roman Catholics, it was prescribed that, "In all the territories of his Royal Highness

liberty of conscience is allowed, provided such liberty is not converted to licentiousness or the disturbance of others in the exercise of the *protestant* religion. Every *township* is obliged to pay their minister, according to such agreement as they shall make with him, and no man shall refuse his proportion; the minister being elected by the major part of the householders, inhabitants of the town.”¹

The Duke’s laws, touching upon Church affairs,² further provided that a Church building with a seating capacity for two hundred should be erected in every parish; that the cost of such building and of the support of the minister should be raised by public tax; that “every inhabitant shall contribute to all charges both in Church and State;” that preachers must produce to the governor certificates of ordination by some Protestant bishop or minister, on which *the governor shall induct them* in their pastorates; that the minister must administer the Lord’s Supper at least once a year, and must not refuse baptism to a child of Christian parents;

¹ Smith, *History of New York*, I, 39.

² Corwin, *Reformed Church*, pp. 66-68.

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“nor shall any person be molested, fined, or imprisoned, for differing in judgment in matters of religion, who professes Christianity.”

Besides this breadth of tolerance, unwonted at the time, the instructions and laws of the duke are notable in that they do not surrender civil control over religious affairs. The unique character of this position is in the assumption of civil power of direction over all sects. No individual Church is sought to be thereby established, and the legal effect was to establish religion as such, by whatever Churches it might be represented. The vast majority of the population were, of course, Dutch, and any Church organized by them would be Reformed. Other settlers were expected and came from England in the immediately following years. But the duke’s laws do not specify to either nationality the particular Church, only that there must be a Church of some kind in every town. Here is an establishment without a name.

This further appears in the making Church expenses a public charge, in directing as *to minutiae* of Church services, in prescribing an examination and approval by the governor of ministerial credentials, and finally in the putting into the governor’s hands the right and power of induction.

Such arrangements virtually made the head of the civil government the head also of the Church, not specifically the Reformed or Anglican, but every Church in the province! Theoretically, this situation is without a parallel in the entire history of Church and State. Elsewhere the idea of civil power over the Church always involved the legal preference of one Church, accompanied by either the proscription, or modified tolerance, of all others. Singular as the relation was, it will be seen that the early governors of New York frequently acted upon the supposition of its propriety and validity, up to the time of the abortive endeavors of Fletcher to establish the Church of England.

Nicholls, who published the duke’s instructions, noted his first use of ecclesiastical authority by ordering the city to pay

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the salary of the Dutch minister.¹ His successor, Lovelace, extended his protection over the Lutherans in 1666, forbidding all interference with them, “so long as they live quietly and in order.”² In 1670 Lovelace directed that the Church at Albany (Reformed) should be maintained “as the established Church,” and guaranteed support to any minister who would come over as assistant to Domine Drisius. This brought over William Nieuwenhuysen, to whom the promise of maintenance was not well kept.³ In 1671 Lovelace wrote to the minister and Church of Southold a letter of reproof for having distressed a Mr. Booth for rates. In so doing the Church and town magistrates were clearly within the law requiring every inhabitant to contribute to Church support. But this Booth was an Episcopalian, in whose defence the governor was willing to wrest the law, and to upbraid the Church with their “misuse of the liberty given to their opinion,” threatening them also with the loss of that liberty.⁴ This was the first recorded instance of gubernatorial perversions of law in favor of episcopacy, which were quite frequent during the English sway.

It would be tedious, and is altogether needless, to recite all the instances of interference by the New York governors with the affairs of the ministry and the Churches, or of their action against the law in favor of their own preferred Church order. Sufficient witness of these things will appear in the more important incidents which illustrate the ruling principle of the government on religious matters.

The reappearance of English power in 1674 was with the proclamation of the broadest kind of liberty of opinion. James’s instructions to Governor Andros ran, “You shall permitt all persons of what Religion soever, quietly to inhabitt within the precincts of your jurisdiction, without giveing them

¹ Corwin, p. 68.

² *Colonial History*, XIV, 626.

³ *Ibid.*, III, 189; Corwin, p. 69.

⁴ *Documentary History of New York*, III, 209.

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any disturbance or disquiet whatever for, or by reason of, their differing opinions in matters of Religion: Provided they give noe disturbance to ye publique peace, nor doe molest or disquiet others in the free exercise of their religion.”¹

This breadth of toleration has frequently been cited against the memory of James, as something arguing a specious and deceptive intent, in like manner that his efforts toward toleration in England have been charged to an innate falsehood of mind. It is remembered that James was a Romanist, and supposed that he was a bigoted one at that, from which the usual conclusion has been made that this proclamation of liberty of conscience was a mere blind; that under the cover of it he might make an asylum for distressed Catholics in his new dominions. This conclusion drew with it the inference that, when the Catholic representation in the colony should become large enough to permit, he would turn the government into “papistical” hands and withdraw the ordinance of toleration.

All of which supposition may be true, as an outline of the duke’s desire. At the same time, it is not a matter of record and is nothing more than a supposition of what might have taken place on the possible occurrence of a situation which was never reached. James made no expression, at least as preserved to us, indicating any such treacherous purpose. What he said and did in the matter was altogether honorable, and far in advance of the toleration accorded by his son-in-law, William, the idol of seventeenth century Protestantism.

Certainly, it is not to be charged to him as a crime or as a proof of treacherous intent, that he sought to make a safe retreat for the oppressed followers of the Church of Rome. Himself a devout Catholic, it would have been strange, and would have been just cause for reproach, if, with this authority over a princely domain, he had not bethought him of the opportunity to afford his co-religionists an asylum. It would not redound to his honor, if he, a Catholic prince, had

¹ *Colonial History*, III, 218.

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put into the charter of New York liberties the words, “except Papists,” so common with the men of the day, who were loudest in their demands for freedom of conscience. The last of the Stuart kings has enough to answer for at the bar of history, without depriving him of the honorable record made by all his actions in regard to religious freedom in his province of New York, notwithstanding its unlikeness to other portions of his record.

Almost at once that Andros assumed his government in New York, he found occasion to exercise his supposed right of presentation and that in the Reformed Church.¹ A certain Nicholas van Rensselaer, a native of Holland and licentiate of the classis of Amsterdam, but whether related or riot to the patroon of Rensselaerwyck does not appear, went to London in the train of Charles II. at the time of the Restoration. He was permitted to preach in London and was ordained a deacon by the bishop of Salisbury. He did not appear in New York until 1674, when, it is probable, he came over with Governor Andros, bringing with him a recommendation from the Duke of York to some “benefice” in the province. He was sent by Andros to Albany as colleague to the minister there, with a somewhat peremptory command to receive him as a co-pastor. The governor wrote to the Church that Van Rensselaer had “made his humble request whereunto I have consented. I do hereby desire you to signify the same unto the Parishioners . . . wherein I shall looke upon their compliance as a mark of their respect and good inclinations towards me. 23 July, 1674.”

This was a sufficiently imperious message to begin with, at the opening of his administration, in dealing with a Church which had prided itself on submitting to even the Dutch governors only as they were themselves supposed to be submissive to the classis of Amsterdam. The Albany Church declined to receive the candidate, in which refusal minister,

¹ Corwin, *Reformed Church*, p. 73; Smith, *History of New York*, I, 49; *Colonial History of New York*, III, 225.

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magistrates, and people were agreed. It was denied that he had a right to administer the sacraments in their Church, because he had been episcopally ordained; and he was not permitted to even preach until he promised to submit to the classis.

Andros was incensed, and summoned Nieuwenhuysen, the Albany minister, to answer before him, for contempt, with the result of arousing great public indignation both at Albany and at New York. Meanwhile Van Rensselaer preached at Albany and was thrown into jail by the magistrates, for "several dubious words" in his sermon, and thereupon the governor felt still more outraged and issued warrants for the arrest of the magistrates and to put them under £5000 bonds to show cause for their conduct. The celebrated Leisler took part with the offending officers and was imprisoned by order of Andros.

But the governor could not enforce his will. After much commotion he gave up the case altogether, "referring" it, for form's sake, "to the Consistory of the Church of Albany." Inasmuch as the said consistory had already made its opinions very clearly known, this reference was but a euphemism to signify the striking of the governor's flag of presentation to a Reformed Church. So fared the first conflict of an English governor with a Dutch Church, in the complete victory of the latter. As to Van Rensselaer, he was not worth the struggle, and after a year's time the governor compelled him to depart, "for scandalous conduct."

Another ecclesiastical mandate of Andros met with a greater success in 1679, when he *authorized and directed* the Dutch clergy of New York to ordain Tesschenmacker to the ministry.¹ In respect to ecclesiastical polity, this demand made the highest flight of spiritual supremacy ever attempted by a colonial governor. It was an attempt to *create an ordaining power*, which in a colony under the Church of England establishment could only be equalled by the appointment

¹ Corwin, p. 74.

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of a bishop, a peculiar prerogative of the crown. For in the polity of the Reformed Church, as in the Anglican, the power of ordination was not resident in the clergy as such. In the Anglican Church only a bishop could ordain, while in the Reformed Church the power belonged to a convened body of ministers and elders, called a classis, formally organized for that purpose and for the care of the Churches.

But in the time of Andros there was no such "Reverend Body" in New York. The care of the Churches in New Netherland had been committed by the states general and the West India company to the classis of Amsterdam. To that body belonged ordination for the Dutch Reformed Church in America; for which rite any man of those Churches, desiring ordination, was forced to go in person to Holland. A like hardship was experienced by the American candidates for Episcopal ordination, who, until after the Revolution, were compelled to voyage to England for the imposition of a bishop's hands.

The singularity, then, and arrogance of Andros's demand were in the attempt to create a spiritual body for the discharge of the highest office in the power of the Church! It is hardly to be supposed that the governor was at all aware of the real gravity of his command. He probably only looked upon it as a matter of convenience, which he as governor had every right to direct. In reality, he could not have presumed much further, unless he had undertaken to ordain the candidate himself.

A still more singular thing about the incident was the complaisance of the Dutch clergy. They, unlike Andros, perfectly well understood the nature of the demand, and that it was a preposterous invasion of one of the Church's most sacred rights. They knew that they could not ordain as clergy; and could not organize themselves into a classis, without express authorization from their superior at Amsterdam; and that any action, which they as a pretended classis might take, would be irregular and void. At the same time,

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they complied with Andros's demand, organized themselves into a classis, and ordained Tesschenmacker! It is worthy of note that, on report of this action to the classis of Amsterdam, that body, for the sake of peace, ratified the ordination, but did not legalize the classical organization at New York.

So Andros carried his point, and won the greatest (theoretical) ecclesiastical victory ever gained by a colonial governor, with which his success in securing rights of Episcopal worship in Boston is not to be compared. Doubtless, the record of this incident emboldened Governor Nicholson, thirty years later, to demand the ordination of Van Vleck at the hands of Dubois and Antonides, Dutch ministers in his time at New York. But these men were either wiser or less pressed by circumstances than their predecessors, and flatly refused to do the governor's bidding. The governor was sensible enough not to press the matter.¹

The assembly of 1683,² the first after the coming of Governor Dongan, adopted a "Charter of Liberties," in which it was ordained that, "No person professing faith in God by Jesus Christ is to be molested or called in question for any difference of opinion in matters of religion." This is substantially in the language of the duke's instructions to Andros in 1674. The "Charter" goes on to say that "the Churches already in New York do appear to be privileged Churches," their privileges confirmed by the past government

¹ Smith, *New York I*, 199.

An amusing instance of governmental interference with religious matters is contained in a letter from Lieutenant Governor Brockholst to the constables at Huntington in 1682. (*Colonial History XIV*, 765.) he writes that complaints have come to him against Mr. Jones for refusing to baptize children and that Jones informs him that he is willing to baptize all children of Christian parents, but, that many inhabitants of Huntington are godless and Sabbath breakers. Whereupon the governor charges the constables to "see that the Lord's Day is well and Solemnly observed by all . . . that it may not longer be A Doubt or Dispute who are Christian Parents."

² Corwin, p. 78.

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and by the later surrender confirmed again, "Provided also that all other Christian Churches, that shall hereafter come and settle in the province, shall have the same privileges."

There can be no exception taken to such an ordinance. It distinctly declared the mind of the colonists as opposed to any legal preference of any particular Church. Though the great majority of the people were attached to the Reformed Church, they desired that all Churches should be on a level before the law — a thing worthy of all honor, as showing that the Dutchmen of New York had not lost the tolerant spirit which their fathers had brought from Holland.

The broad terms of this charter were approved by the duke of York, but when he became king and the titular head of the Church of England this approval was recalled, and the attempt was made to establish that Church as the State-Church in New York. Thus, James's instructions to Governor Dongan in 1686 said:¹ "You shall take care that God Almighty bee devoutly and duely served throughout your Government, the Book of Common Prayer read each Sunday and Holy day, and the Blessed Sacrament be administered according to the Rites of the Church of England." Various prescriptions were made about Church buildings and ministers, and each one of the latter was to have assigned to him "a competent Proportion of Land for a Glebe and exercise of his Industry." The parishes were "to bee so limited and settled as you shall find most convenient for ye accommodating this good work." The ecclesiastical jurisdiction over the province was lodged in the archbishop of Canterbury, while the governor was vested with the powers of presentation and immediate discipline and removal of the clergy. The governor was forbidden to prefer any minister "to any benefice" without a certificate from the archbishop that he is of the Church of England; and he was empowered to remove any "scandalous" minister and to fill the vacancy at his "discretion."

¹ *Colonial History of New York*, III, 372, 373.

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These provisions in preference of the Church of England, forced upon James by his accession to the throne, were not designed to act in exclusion of other Churches. Nothing was said toward modifying the liberty granted in the former instructions. This was again allowed, and the door was intentionally left open to the followers of differing forms of religion, "provided they make no disturbance of the public peace. Through this open door various religionists entered the colony and settled without hindrance. Among them were a number of Romanists. Three Jesuit priests are said to have been in New York during Dongan's administration, one of whom is thought to have been teacher of the Latin school opened by the governor.¹

Dongan's "Report on the State of the Province,"² 1687, in reference to religious matters, said: "Here bee not many of the Church of England; few Roman Catholics; abundance of Quaker preachers, men and Women especially; Singing Quakers; Ranting Quakers, Sabbatarians; Anti-Sabbatarians; some Anabaptists; some Independents; some Jews in short, of all sorts of opinions there are some, and the most part of none at all. The most prevailing opinion is that of the Dutch Calvinists. . . . It is the endeavor of all persons here to bring up the children and servants in the opinion which themselves profess; but this I observe, that they take no care of the conversion, of their Slaves. . . . As for the King's natural born subjects that live on Long Island, and other parts of the Government, I find it a hard task to make them pay their Ministers."

There are no records of serious interference with ecclesiastical affairs on the part of Dongan. Though an avowed Catholic, he showed no strong desire to build up any Church, but devoted himself to his civil duties, in which he proved to be one of the very best of the governors in the province. During his term the influx of Romanists could not have been

¹ *Documentary History of New York*, III, 73; Smith, *New York*, I, 90.

² *Colonial History*, III, 410; *Documentary History*, I, 116.

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large, but those who did come were the recipients of his favor. Some of the public officials professed attachment to Rome, and many of “the people trembled for the Protestant cause.”¹

This fear found expression on the fall of James II. and the usurpation by Leisler of the government in New York. On receipt of the news of the Revolution in England, the council at once resolved to “suspend all Roman Catholics from Command and Places of Trust.” This resolution turned out just two officers, Major Baxter and Ensign Russell, — not a very formidable number, — who left the province. Leisler ordered the arrest of all “reputed Papists,” and forbade the franchise to others than Protestant freemen. The effect of this, however, was only an expression of opinion and desire, for Leisler and his government soon came to ignominious disaster.

In 1689 Governor Sloughter came to New York with instructions from William and Mary, which repeated in regard to Church matters the provisions in James’s orders to Dongan, except that the jurisdiction of the colonial Church was transferred from the see of Canterbury to that of London. They were made also in the light of the great toleration act of 1689, which was intended to have force in all the English dominions, and which excluded from favor both Unitarians and Romanists.³ The like instructions were given to Colonel Fletcher in 1692, when he succeeded to Sloughter, with the addition that he was authorized “to Colate any Person or Persons to any Churches, Chapells, or other Ecclesiastical Benefices . . . as often as any of them shall happen to be void.”⁴ Like instructions, with scarcely a variation, were given to the successive governors down almost to the Revolution. James set the model for his followers on the throne,

¹ Smith, *New York*, I, 90.

² *Documentary History of New York*, II, 21, 41, 244.

³ *Colonial History of New York*, III, 688.

⁴ *Ibid.*, III, 821, 830.

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none of whom ever detected the folly of supposing the Church of England to be established in New York.¹

Governor Sloughter’s administration does not appear to have interested itself in the advancement of the Church of England, or in religious matters at all; unless we may take as an indication of the latter the expulsion from the assembly of 1691 of two members from Queens, on the ground that they were Quakers.² Though the royal instructions insisted on the recognition of the English Church and its orders, its establishment in the colony could not be effected without the formal action of the colonial legislature, which action Sloughter made no effort to procure. The only official representation of the Church was in requiring from all office holders the test oath prescribed by the parliament. This involved the oath of allegiance and supremacy, partaking the sacrament “according to the rites of the Church of England,” and signing a declaration against the Roman doctrine of transubstantiation. The application of this oath was enough, without any movement of the governor, to cause the exclusion of Quakers from the legislature and all office.

When Fletcher came to the government in 1692, he brought with him either emphatic orders from his superiors, or a determined purpose of his own, to procure the formal establishment of the Church by a colonial statute. His own zeal, indeed, was sufficient to urge him to the effort. His religious bigotry was only equalled by his vain love of power and by a lust for money, which made his government the most corrupt in the annals of the province.³ The story of his struggles with the assembly is notable as illustrating both his temper and the spirit of the Dutchmen, whom he attempted to coerce. It is also a peculiar instance of that ecclesiastical arrogance which has often made no scruple about grasping more “than the law allows.”

¹ *Colonial History*, IV, 269, 287; V, 95, 391, etc.

² Smith, *New York*, I, 113.

³ *Colonial History*, IV, 822, 826; Cobb, *Story of the Palatines*, pp. 115, 218.

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To the first legislature of his term (1692) Fletcher issued a demand that they take the requisite action to “settle the ministry,” using that term to involve the establishment of the Church of England.¹ The assembly, however, did nothing in the matter, greatly to the wrath of the governor, who berated them roundly, and declared that “the same law, which established your privileges, provided for the religion of the Church of England.” To the next assembly Fletcher presented the same demand, saying, “I recommended to the former assembly the settling of an able ministry, that the worship of God may be observed among us, for I find that first and great duty very much neglected.” This assembly of 1693, more complaisant than the last, relaxed something of its opposition. Unwilling, however, to yield all that the governor wanted, they appointed a committee of eight to devise a scheme, which might possibly satisfy Fletcher and yet avoid the

establishment demanded. The result of the committee's labor was a bill for a religious establishment of an entirely nondescript character, the like of which is not to be found elsewhere. The bill was reported to the assembly and became law on the 23d of September, 1693.²

The significant portions of the Act are as follows: "In Each of the respective Cities and Counties hereafter mentioned there shall be called, inducted, and established a good, sufficient, Protestant Minister." . . . In the City of New York one: in the County of Richmond one; in the County of Westchester two, one to have care of West Chester, East Chester, Yonkers, and the Manor of Pelham, and one to have the care of Rye, Mamaroneck, and Bedford; and in Queens County two, one for Jamaica and "adjacent towns and farms," and the other for "Hamstead" and adjacent towns. The law also ordained that in the Churches named there should be

¹ Corwin, *Reformed Church*, pp. 96-106; Smith, *New York*, I, 128-134.

² *Colonial Laws of New York. Colonial History*, IV, 57; *Legislative Journal*, pp. 47, 48.

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"Wardens and a Vestry," to be chosen by the freeholders summoned by the justices: and that the ministers should be supported by public tax. This act is remarkable for both its requirements and its omissions. There is not a word in the act referring to the Church of England, or to the book of common prayer; there is no requirement of services "according to the rites" of the English Church, nor any acknowledgment of the supremacy of the crown, nor any allowance of patronage to the governor. At the same time, the act restricts its operation to the four counties named, and does not apply to Kingston, Albany, or any part of the province outside of those counties. Nor in those counties does it make the establishment universal. What in legal construction it did, was to establish, not a Church at all, but *six Protestant Ministers* in places named, and these ministers of no specified denomination, save that they must be Protestant. In other towns of these counties and in the case of other ministers needed in these towns, the act did not apply. Thus, while the act did create a Church establishment in the places noted, it yet established neither any Church for the province at large, nor any particular Church for the localities specified. The Reformed Church had as good a legal right to claim the establishment as had the Church of England. This was practically acknowledged at the time by Colonel Lewis Morris, himself a strong Church of England man, in a letter written in 1711.¹ The act, he wrote, "is very loosely worded. The Dissenters claim the benefit of it as well as we: and the Act without much wresting will admit a construction in their favor as well as ours." In fact, it belonged to neither. The only named Church that was ever "established" on the soil of New York was the Reformed Church, which fell with the Dutch power. The arrogant assumption of English cabinets and governors that the Church of England was established in New York, and the common supposition, even to this day, that the Episcopal Church was ever a State-Church

¹ *Colonial History*, V, 320.

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in the province, are alike unwarranted by the facts.¹

At the time of the passage of the act Governor Fletcher was well aware of its deficiencies. He returned it to the assembly with instructions to amend, by inserting a clause investing the governor with the right of induction. He suggested that the act should require that ministers be "presented to the governor to be approved and collated." But the assembly thought that they had yielded enough and refused the amendment; whereupon the governor prorogued them, saying, "if you seem to understand that none can serve without your collation or establishment, you are far mistaken; for I have the power of collating or suspending any minister in my government by their majesties' letters patent: and whilst I stay in the government, I will take care that neither heresy, sedition, schism, nor rebellion be preached among you." But neither anger nor argument could bend the legislature to the governor's will, and he was forced to content himself with the act as it stood.

Almost immediately there arose two occasions which gave the assembly opportunity to construe their own act. In 1694 the Rev. John Miller, chaplain to the English soldiers, claimed the benefit of support under the act, on the ground that he was a clergyman of the Church of England stationed in New York. Fletcher at once allowed the claim, but the legislature would not permit. Again, in the following year, it was questioned whether any of the Churches named were restricted in their choice of ministers to clergymen of the Church of England. Five wardens and vestrymen in the city of New York petitioned the legislature on the subject, and the house resolved: "That, the vestrymen and Church wardens have power to call a dissenting protestant minister, and that he is to be paid and maintained as the act directs." This was not pleasing to Fletcher, who argued the absurdity of such opinion on the ground that "there is no Protestant

¹ Hoffman, *Ecclesiastical Law in the State of New York*, p. 7.

Church admits of such officers as Church-wardens and Vestry-men but the Church of England.” He could not comprehend that the legislature had created an establishment of their own, and had borrowed these terms to hoodwink him; or that considerably more than the titles of local Church officers were needed to constitute a branch of the Church of England. It was only by indirection, and also by many false statements, that the impression took form that the act of 1693 established the Church of England. Fletcher himself knew to the contrary, but he always afterward talked and acted as though he had gotten the establishment he desired. The course of government likewise, on both sides of the sea, always assumed that the Anglican Church had been established. The ministers and members of the Episcopal Church in New York acted on the same assumption — a most unwarranted perversion of the facts in the case; for the reason that it is perfectly clear, from the succession of events, that the establishing of the Church of England was precisely that thing which the legislature was determined *not* to do. Owing to this perversion, the assembly made many efforts to repeal the act, but were opposed by the governor and council, so that the law remained in force until the Revolution.¹

As though prompted by the passage of the “Ministry Act” and the construction which the governor seemed determined to put upon it, the consistory of the Reformed Church in New York applied for and obtained in 1696 a charter, confirming the privileges stipulated in the articles of surrender in 1664. Beyond doubt, it was a recollection of those stipulations, together with a desire to propitiate a public indignant at his effort to force the English Church upon the colony, that moved the governor to grant the charter.²

¹ Corwin, p. 106; *Colonial History*, IV, 427.

² Lord Bellomont, who succeeded Fletcher in 1697, writing to the board of trade, described this charter as, “extraordinary, for it is setting up a jurisdiction to fly in the face of government.” He also said that Fletcher had accepted “a bribe for it,” and that himself had seen in the book of the [footnote continues on p. 342] Church treasurer, the entry of the purchase of “a considerable service of plate” to be presented to the governor (*Colonial History*, IV, 463), which entry he copied for proof to the board.

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Other Dutch Churches in New York and New Jersey received charters in the following year, but such incorporation was consistently refused to all other Churches except the Episcopal. Thus — to anticipate in our narrative — the Presbyterian Church in New York applied for a charter in 1719.¹ The application to the governor was opposed by Trinity Church, and was referred to the board of trade to meet a denial. In 1763 the Lutheran Church in New York made a similar application, which was approved by the council, but was referred by the governor to the home government, with “several from Dissenting Congregations for like privileges.” What these other Churches were does not appear, but they were all denied, “as his Majesty saw no reason which rendered it necessary.”² In 1766 the Presbyterian Church renewed its request for a charter by way of petition direct to the king. The action in response to this petition took a curious course.³ It was referred by the king to the board of trade, and the board sent it back to America, inquiring if there were any objections to the petition, “which in the general and abstracted view of it appears to us to be no ways Improper or unreasonable.” Thus the request came up in the provincial council, which body, less anti-Anglican than formerly, resolved, that a judicial decision must first be obtained as to whether “the old English statutes of Uniformity extend to America”, and stated, “Except the charters granted to the Church of England, all the instances of such Incorporations within this province (four only in number) are confined to the Dutch, whose claims to this Distinction are grounded on one of the Articles of Capitulation.” In the next year the king in council took order dismissing the petition, on the ground that it was “against the king’s

¹ *Documentary History*, III, 279.

² *Ibid.*, III, 295, 299.

³ *Ibid.*, III, 302-307; *Colonial History*, VIII, 846, 943.

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coronation oath to preserve the Church of England,” and that it was “not expedient upon Principles of General Polity to comply with the Prayer of this Petition, or to give the Presbyterian Church in New York any other Privileges or Immunities than it is entitled to by the Laws of Toleration.” The Presbyterians undiscouraged renewed their request in 1775, only to be again refused, though less brusquely.¹

The whole story of these applications is but one among many illustrations of the perverse tenacity which clung to the false assumption of an Anglican establishment in New York. This assumption is most strikingly exhibited in the charter of Trinity Church. That Church, as though startled by the incorporation of the Dutch Collegiate Church in 1696, and as though having some suspicions of its boasted establishment, in the next year made application for a charter, in which application, as also in the charter itself, the assertion is many times repeated that the act of 1693 had established the Church of

England.² Not for lack of assertion was the misstatement to fail of credence.

The administration of Bellomont did not concern itself very greatly in ecclesiastical matters. This was probably through lack of opportunity, if we may judge from one recorded instance of zeal for the Church of England his veto of a bill for the settlement of a minister, on the ground that he was a dissenter.³ His lordship's successor, Lord Cornbury, more than made up for the lack, filling his term with much activity in the cause of the Church and that in ways of most offensive annoyance and oppression. "Educated at Geneva, he yet loved episcopacy as a religion of the State subordinate to the executive power."⁴ A cousin of Queen Anne, to whom he bore a strong resemblance of feature,

¹ *Colonial History*, VIII, 572.

² *Documentary History*, III, 410; *Colonial History*, IV, 1114; Corwin, p. 116.

³ *Colonial History*, IV, 536.

⁴ Bancroft, *History of the United States*, III, 60, 62.

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he prided himself on the relationship and deemed that it conferred upon him more imperial powers than other governors possessed, especially with regard to Church affairs. His zeal carried him to very extreme actions, and, as though dissatisfied with the already defined powers of his office, led him to forge instructions from England for the purpose of increasing his ecclesiastical prerogatives. (Bancroft.)

He arrived at New York in 1701 and at once proceeded to the exercise of episcopal powers, in a way which none of his predecessors had attempted. They had respected that limitation of the ministry act which had confined its nondescript Church to the four counties of New York, Westchester, Queens, and Richmond. But Cornbury chose to consider that it covered the province. Thus, about the time of his arrival the Church (Reformed) of Kingston became vacant, and the governor undertook to induct there a Mr. Haburne, a Church of England minister, whom he sent to Kingston with order that the people receive him as their minister and provide him with a good house.¹ To these orders the Kingston Church paid small attention.

The next year, Cornbury, to his great indignation, learned that a certain Paul van Vleck had been preaching about the country, "notwithstanding that he had been forbid by his Excellency"; and that he had been called by the Church (Reformed) of Kinderhook, "without any License" to the Church permitting the call. The governor at once ordered the "High Sheriff" of Albany to arrest Van Vleck, and bring him to New York. Four members of the Kinderhook Church having presumed to interfere with a certificate in favor of the candidate, they were included in the order for arrest. The party appeared before the governor in March, 1703, and, not having the stuff that martyrs are made of, "acknowledging their error & submitting themselves thereon, were discharged with a caution to be more careful in future."²

About the same the Lord Cornbury appeared as a defender

¹ *Documentary History*, III, 584.

² *Ibid.*, III, 539

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of the faith against heresy. John Tallman, one of the justices of Queens county was reported to have said that, "the Scriptures were not the rule, they being wrote by sinful men of like passions as we are; and that the holy Scriptures was a rule, but not the rule we should go by." Affidavits of these heretical words were laid before the governor's council and it was ordered that Tallman be removed from office and be prosecuted by the attorney-general.¹

It were tedious to here recount all the instances of Cornbury's impudent interference with Church affairs and the liberty of religion. His administration was rendered famous by three great cases. These were the celebrated Mackemie case, which came to issue and quick decision in 1707; the Jamaica Church case, and that of Freeman and Antonides, both of which began in 1702 and left a legacy of much annoyance to Cornbury's successors. The main features of each must be briefly noted.

The case of the Jamaica Church was one of barefaced spoliation. The town had been settled in 1656, mainly by English people with Presbyterian preferences. They had been made welcome by the Dutch, and by the English conquerors were not disturbed until after the passage of the ministry act.² They had set apart land for a glebe and made a parsonage for a minister, and in 1699 had built a fine stone Church, the expense of which was raised by public tax. Meanwhile there had come to the town a number of people of the Church of England, whose cupidity was excited by the fine Church property of their Presbyterian neighbors, an opportunity of securing which for themselves seemed to be offered by the

ministry act.

On the passage of that act the organization of the Jamaica Church was so far changed as that its officers (all dissenters) took the names of Wardens and Vestrymen. As such they called and settled Mr. Hubbard,³ who at the time of the Opening

¹ *Documentary History*, III, 124.

² *Ibid.*, III, 135; Smith, *New York*, I, 170, 171.

³ *Ibid.*, III, 160.

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of the trouble was the pastor of the Church and in quiet possession of the parsonage and glebe. In pursuance of the Episcopal desires a Mr. Bartow, a missionary of the "Society for the Propagation of the Gospel in Foreign Parts," came to Jamaica in 1702 or 1703, and concerted measures by which the Episcopal minority might obtain possession of the Church property.¹ On a Sunday, after Hubbard had preached in the morning, Bartow and his followers slipped into the Church, held service, and claimed the building for the use of the Church of England. This was the occasion of what is noted in the records as the Jamaica Riot; for the majority of the town did not choose to submit to the robbery and expelled the intruders by force.

This reclamation of their own was regarded by Cornbury as unlawful violence, and he interfered with his authority to confirm the property in the hands of the Episcopalians. He forbade Hubbard to preach in the Church again, "for in regard it was built by a public tax, it did appertain to the Established Church." This language of Cornbury is a curious specimen of his perversity of opinion — for as matter of fact, under the ministry act, the Church with Hubbard as its pastor was already part of the provincial establishment. Of course, Cornbury's false premise was, that the establishment was Anglican, coupled with another equally false, that any property for religious purposes, paid for at any time by tax, must belong to the Church of England. This latter claim finds place in a memorial from the New York Episcopal clergy to the bishop of London in 1711. They therein allege the public tax as a ground for seizure of the Jamaica Church, while they admit that the great majority of the inhabitants, who paid the tax, and all the vestrymen were "dissenters" and opposed to the perversion of the property.²

The governor's measures were prompt and sharp, at once that he heard that the "dissenters" had reobtained their

¹ *Documentary History*, III, 131.

² *Ibid.*, III, 143; Hoffman, *Ecclesiastical Law in State of New York*, p. 9.

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building. "A representation," wrote Colonel Morris, "was made to my Lord Cornbury that the Jamaica Church and house, being built by publick Act, could belong to none but the Church of England; my Lord gives his Warrant to dispossess the Dissenters, which immediately by Force was done without any Procedure at Law."¹ He also ordered Mr. Hubbard to vacate the parsonage, and, on his declining to move out, the sheriff was ordered to eject him. At the same time he ordered the wardens and vestrymen to secure the glebe for the benefit of the Episcopal minister, and the justices to levy a tax for his support. Cornbury completed his work by inducting a Mr. Urquhart into the violently vacated charge.² Well might Mr. Urquhart write to the Society for the Propagation of the Gospel that the governor was "a true nursing father to our infancy here."³

This opinion was echoed by all the Church of England clergy in the province, who in their convention of 1704, making report to the bishop of London, remark of Jamaica affairs, "There is a Church of Stone, built by a tax levied on the inhabitants by act of Assembly; and a house and glebe formerly in the possession of the Independent minister, but now in the possession of the present Incumbent by Lord Cornbury's favor."⁴ The same report notes with satisfaction that a dissenting Church at New Town, the minister of which had gone away, had been given by the governor to the Episcopalians!

Urquhart remained in possession of the parsonage and use of the Church for six years, though not without much trouble and popular discontent. At the end of that period he died, leaving in the possession of the house his widow and daughter, the latter of whom married McNeish, a "dissenting" minister, who at once took residence in the parsonage and was called to the pastorate of the Church by the wardens and Vestrymen, not one of whom was an Episcopalian.⁵ Thus

¹ *Colonial History*, V, 320.

² *Documentary History*, III, 128.

³ *Ibid.*, III, 130.

⁴ *Ibid.*, p. 75.

⁵ *Ibid.*, III, 144-160.

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the property came again into Presbyterian possession, and there remained.

Their tenure, however, was not without opposition from the Church of England party. In 1710 Governor Hunter gave the living to Rev. Mr. Poyer, one of the missionaries of the society, but the new rector was unable to obtain either Church or house, or yet his salary. The governor wrote to Chief Justice Mompesson to put Mr. Poyer into possession by an order from the court, but the judge replied that possession could not be given "otherwise than by due process of law, without a high crime and misdemeanor." Hunter then urged Poyer to carry the case into court,¹ offering his own purse to meet the costs. But this the minister and his associates were unwilling to do, alleging as their reason that "most of the judges were dissenters." To counterbalance such weight of dissent on the bench, a notable scheme was devised, which took form in a memorial to the queen from the society in London,² praying for an order in council, allowing appeals by the clergy from colonial courts, on account of their bias toward dissent, to the governor and council and thence to the queen and privy council. This petition was granted, February 6, 1712/3. On this the missionary was directed by the society to go into court. The issue after many delays was a defeat, for the court confirmed the property in Presbyterian hands. This final decision was recorded in 1731, and Governor Cosby intimates that it was procured by bribery of Chief Justice Morris,³ an altogether gratuitous slander. It does not appear that the Episcopal party made use of appeal to England, and they finally reconciled themselves to the necessity of building a Church of their own at Jamaica. So ended Lord Cornbury's famous attempt to pervert a Presbyterian Church by violence into the possession of the Church of England, after a bitter struggle of thirty years.

¹ *Colonial History*, V, 310.

² *Documentary History*, III, 163; *Colonial History*, V, 345, 352.

³ *New Jersey Archives*, V, 330.

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The second question, on which he put his ecclesiastical power to proof, was that of patronage. The case is chiefly notable for the bold insistence by one of the parties that the governor had no power of induction among the Dutch Churches. It began in 1702 and with frequent orders, petitions, and counter petitions, filling many pages of the public documents, lasted for twelve years.

In the year noted some of the elders in the Dutch Churches of Brooklyn, Flatbush, Flatlands, and New Utrecht, in which Churches, as a joint pastorate, Domine Antonides was already laboring, petitioned Lord Cornbury for permission to call the Rev. Bernardus Freeman of Schenectady.¹ This petition at once aroused great opposition among the other elders and the congregations, on the ground, as was reported to Cornbury, that he "had nothing to do with it, and it was their privilege to send for what Minister they please, without your Excellency's leave." A town meeting was held and the three petitioning elders were put out of the consistory for applying to the governor. Cornbury then obtained an order of council for the petitioners to appear, and also for the town clerk with the record of the above action.

In the hearing the governor seems to have learned something to the prejudice of Freeman, for he issued an order forbidding a call to him, because he "has misbehaved himself by promoting and encouraging the unhappy divisions." He declared the call of Freeman "not consistent with her Majesty's service"; for which reasons "the said petitioners are hereby required not to call him; but they are left at liberty to send for such Minister as they shall think fitt from Holland or any other place, as hath been customary." This order anticipated a petition from the Schenectady Church, praying the governor not to allow Freeman to be called away.

But, notwithstanding the prohibition of the governor and the desires of the Schenectady Church, Freeman came to New York with a view to labor in the Churches named, and

¹ *Documentary History*, III, 89-111.

by some undisclosed means succeeded in disarming Cornbury's prejudice and in securing from him a license to preach in the said Churches, "for & during So Long Time as to me shall Seem meet, and all P'sons are hereby Required to Take Notice hereof accordingly."

With this license Freeman began preaching at New Utrecht and presently made occasion for his elders to petition the governor that he would compel Antonides to surrender the property and books of the Churches, "whereof Mr. Freeman is Minister by License from your Excellency." In response to this prayer Cornbury issued an order to Antonides for the "delivery of House, Land, Stock, and Books. . . . Whereas I have licensed, authorized, and appointed Mr. Bernardus Freeman.

Out of such a situation grew a long-drawn, quarrel between the party of Freeman and the party of Antonides. The former distinguished themselves by the most obsequious submission to the governor's right of induction and ecclesiastical control, and went so far as to say in one of their petitions, "Your Excellency's petitioners are humbly of opinion that all Ecclesiastical affairs And the Determination of all things relating thereto in this Province lies solely before your Lordpp." This they declared to Cornbury, and after Cornbury's departure from New York they solicited Lieutenant Governor Ingoldsby, "that your Honour will be pleased, as has been usual, to order that no Dutch Minister shall preach or exercise his Ministerial ffunctions in this County, besides Mr. Freeman, until further orders from Yo^r Hon^r."

The opposing attitude of Antonides and his party was that of stout denial of any ecclesiastical power of the governor over the Dutch Church and its ministry, declaring that Antonides held his position by the authority of the classis of Amsterdam, "according to the laws and customs of the Dutch Church," and "that no such lycense or the other orders (Cornbury's) were, nor yet are, of any force or validity

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in the Dutch Churches of this Province, but Tended to the ruin of the liberty of the said Churches in this Country." In the exercise of such liberty, and such contempt for governmental interference, Antonides boldly disregarded an order not to ordain elders in the Churches, informing the governor that "he can not comply with the order, unless he breaks through the Rules and Discipline of the Dutch Reformed Protestant Church."

Had Cornbury remained in the government such language might have brought the bold minister into bonds, but his successors were of different mind. The term of Lovelace was too short for much service, giving place after a few months to Robert Hunter, who, while a sincere Church of England man, was liberal of mind and of placable disposition. Instead of taking up his predecessor's quarrel, or insisting on any superior ecclesiastical authority, he attempted to exert a moral influence, rather than official power, in establishing peace between the contending factions. This he succeeded in effecting by persuading all the Churches involved to call both Antonides and Freeman to a collegiate pastorate,¹ in 1714.

The most celebrated action of Cornbury against the liberty of worship was his prosecution of Francis Mackemie, the Presbyterian minister whose settlement and service in Virginia have already been noted in the chapter on that colony. In January, 1707, he with another minister, John Hampton, appeared in New York and did his great work therein in the cause of religious liberty.² On arrival in New York Mackemie

¹ Strong, *History of Flatbush*.

² Smith, *New York*, I, 186; *Massachusetts Historical Collections*, VI, 1; 12; Force, *Historical Tracts*, IV. Pamphlet entitled: —

"MACKEMIE'S TRIAL

"A narrative of a New and Unusual American imprisonment of two Presbyterian ministers, one of them for preaching one SERMON at the City of New York, 1707.

"A specimen of the Cloggs and Fetters with which the Liberties of Dissenters are intangled at New York and Jersey Governments, beyond any places in her Majesty's Dominions."

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either sought and obtained permission, or was invited by the Dutch Minister, to preach in the Reformed Church. But Cornbury forbade the service, and the preacher, not insisting on the use of the Church, held service and preached in the house of William Jackson, "with open doors." Hampton preached also on the same Sunday, January 20th, at Newtown.

So bold a defiance aroused the wrath of the governor, who on the 24th of the month issued a warrant for the arrest of both the men, "who have taken upon them to preach in a private house, without having obtained any License for so doing . . . they are gone into Long Island with intent there to spread their pernicious Doctrines and Principles, to the disturbance of the Church by Law established and of the government of this Province."

The warrant was executed and the culprits were brought for examination before the governor, when Mackemie defended his liberty on the toleration act of England. This act Cornbury declared to be without any force in his government, and required the prisoners to give bonds for good behavior and to promise not to preach in New York or New Jersey. Mackemie was willing to give bonds, but refused the promise, and both men were put in jail, where they remained six weeks and four days, during the absence of Chief Justice Mompesson. On the return of the judge they were brought before him on a writ of *habeas corpus*. Hampton was discharged without trial, as "a man of less interest," while Mackemie was liberated under bonds to appear for trial at the next session of the court, the grand jury having found a true bill against him, that "he did take upon him to preach . . . in a Conventicle and Meeting not permitted or allowed by law, under color or excuse of Religion in other manner than according to our Liturgy and practice of the Church of England." On the trial the prosecution relied on the royal *instructions* to Cornbury, rather than on the ministry act, as though conscious that said act, while establishing a Church, yet inflicted no penalties for non-conformity. Mackemie

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defended himself, producing licenses from the governors of Virginia and Maryland, contending that there was nothing in the English common or statute law to hold him, and nothing in the laws of New York against the liberty he had exercised. As to the governor's ecclesiastical authority, he argued that it could not exist without the due promulgation of law.

The plea of Mackemie was so forceful that a jury, "packed to convict," was won over to his cause and unanimously acquitted him. The court, however, would not release him until he had paid all the costs, which, together with his expenses amounted to £83, a sufficiently heavy burden; for which he must yet have had great compensation in the consciousness that he had fought a great fight and won a great victory in the cause of human liberty. Never again did a New York governor attempt to silence any orderly preaching of the gospel.

To Cornbury the issue of the ease brought a bitter mortification, and he seems to have been seriously alarmed for the consequences to himself from the reports of the trial made by Mr. Mackemie and his friends in England and the colonies. Writing to the lords of trade in October, 1707, he denied that Mackemie had applied to him for a license, and said, "I Intreat your Lordships' protection against this malicious man, who is well known in Virginia and Maryland to be a Disturber of the Peace and quiet of all places he comes into: he is a Jack of all of Trades, he is a Preacher, a Doctor of Physic, a Merchant, an Attorney or Counsellor at Law, and, which is worse of all, a Disturber of Governments."¹ It does not appear that Mackemie ever took any action against Cornbury. Nor was it needed to the damage of his lordship's reputation, which his course had so deeply stained.

With Cornbury's departure from the government of New York all attempts at coercion upon recognized "dissenting" churches and ministers ceased. The forms which asserted

¹ *Colonial History of New York*, IV, 1186.

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a religious establishment were preserved, but both in England and the colony it had become evident that a forcible conversion of a dissenting Church to the Church of England, as well as harsh treatment of non-conformists, was not advisable. In 1707 the bishop of London, as though alarmed by the violent proceedings of Cornbury, wrote: "The beginning of any new establishment ought to be carried on gradually, which will make all steps easier, and in case of disappointment the matter will not be so grievous."¹

The successive governors, Hunter, Burnet, Montgomerie, Clinton, Tryon, all received from the king instructions to "collate to benefices," to demand certificates from the bishop of London, and to allow liberty of conscience to all "except Papists."² There occur also in the records many applications to the governor for permission to build Churches, even non-conforming Churches, and for protection against intrusion by irregular preachers, and for licenses to preachers.³ But there were no more interferences with the liberty of preaching by any ministers of recognized denominations. So far as they were concerned, the victory of Mackemie was final.

The troubles of Governor Hunter on ecclesiastical questions came to him from the clergy of his own Church. They had been so elated by Cornbury's efforts to "become a nursing father" to the Church of England, that they resented Hunter's more tolerant and just disposition. When they found that they could no longer use the governor to prosecute their grasping and ambitious schemes, they turned upon him as an enemy, doing much, both in the province and in their representations in England, to harass the administration of the best governor ever sent to New York.

At first they treated him with deference, and in their convention of 1712, assembled by him to "consult about the

¹ *Colonial History*, V, 29.

² *Ibid.*, V, 95, 132, 135, 391.

³ *Documentary History*, III, 289, 291, 294, 568, 570, 583.

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affairs of the Church," they adopted an address¹ expressing "our humble thanks to your Excellency for this opportunity of meeting." They also desired "the establishment of the Church throughout the other Counties of this province, as well as to secure and corroborate it where it is already settled." According to Colonel Morris,² in the letter recently noted and which described Hunter's action in Church matters, the governor had given the use of the King's Farm to Trinity parish to hold during the time of his government. This tract, bounded by the present Chambers Street, Broadway, Fulton street, and the North River, had been granted by Governor Fletcher to Trinity in 1696, but the grant was annulled in 1699. The grant was renewed by Hunter in 1711 for the term above specified, but with this Mr. Vesey, the rector of Trinity, was not satisfied and besought the governor to influence the queen to give the farm in fee to the Church. This the governor refused to do, and thereby brought upon himself the enmity of the clergy. They found fault with him also for his conduct in the Jamaica case, condemning him, as Morris says, "for not dragooning Mr. Poyer into the parsonage." Vesey declared that Hunter was "no Churchman," and prevailed on the clergy to make representations against him to the bishop of London and the board of trade.

Their complaints do not seem to have had large influence on the other side of the sea, while the governor appears to have been well equipped to sustain his part in the battle of words. Two bits of his letters to Secretary Pople of the board of trade are worth quoting for their tone of easy and contemptuous indifference toward the clerical attack. In one he wrote: "If the Society (for the Propagation of the Gospel) take not more care for the future than has been taken hitherto in the choice of their Missionaries, instead of establishing Religion, they'll destroy all Government and good manners." Again, referring to the report that the

¹ *Documentary History*, III, 84.

² *Colonial History*, V, 320.

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bishop of London had appointed Mr. Vesey his commissary in New York, he wrote: "I hope his Lordship has also constituted Talbot his Commissary for the Jerseys & Phillips for Pennsylvania . . . and then I shall know what he means: the best on't is that, though I know no good they have ever done, I know no great hurt they can do at present."

It should be noted that during the period, which our narrative has reached, the Quakers were pressing for a release from disabilities. Since Stuyvesant's time they had suffered no molestation, beyond fines for refusing militia service and disfranchisement for refusal of the oath of allegiance. Many petitions from them to have their scruples in regard to these matters respected were presented to the governor and council.¹ The response of the council was that, "if they would not train, they must pay the penalty." As to their prayer for the ballot, Attorney-General Bradley gave an opinion, that "the English laws concerning Quakers did not extend to the colonies, and that all who refuse to take the Oath should be excluded from the poll." This opinion was rendered in 1734.

Not long afterward the persistence of the petitioners obtained from the assembly an act, giving to Quakers the same rights which they possessed in England.² This conferred upon them the right to vote, but made no release from penalty under the militia law. For such release they were compelled to wait many years, nor could the exaction of the penalty be set down to religious persecution. The militia laws bore equally on all citizens as a necessity of state, without regard to religious opinions. It was at every man's option either to train or pay the fine for failure. That the Quaker's conscience compelled him to choose the latter was no hardship by the law, which in this matter made no discriminations. It could be so accounted only in case the

¹ *Documentary History*, III, 605-612.

² *Colonial History*, VI, 28.

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law had subjected the Quaker alone to fine for refusal of service. But this was never done.

In 1744 occurred a new provocation to religious persecution already noted in our sketch of Connecticut. It is an interesting illustration of the limitations set by men of the day around the idea of liberty. Not yet had the conception of the breadth of that principle taken hold of the mind. Every new departure from stereotyped doctrine and polity was looked upon with suspicion and subjected to judicial inquisition, with more or less of hardship inflicted on its representatives. As with other sects, this was the fate of the Moravians in New England and New York. These gentle and devoted people had found places of gospel labor among the Indians in Ulster and Dutchess counties and over the border in Connecticut, presently drawing upon themselves the unfriendly action of the authorities in both colonies, the reason whereof was in no fault of which they had been guilty, but in the shameful ignorance and malice of their neighbors.¹

Nothing could be more beautiful than the earnest and self-sacrificing spirit with which they applied themselves to their chosen task of teaching the Indians in the truths of the Gospel and the decencies of civilized life. But their neighbors could not understand them. They themselves cared nothing for the Indians. The Moravians were strangers and with a strange tongue, while their religious methods and services differed from those to which their critics were accustomed. It is not at all unlikely, also, that these neighbors did not want a civilized body of Indians settled down among them. Thus, for a variety of reasons, there were soon sent to Governor Clinton and the council petitions against the Moravians and their work, representing that they were disturbers of public order and were suspected of being "disguised Papists." In those days when the French and English were at

¹ *Documentary History of New York*, III, 617-621; *Colonial History of New York*, VI, 269, 279, 311; *Colonial Laws of New York*; *American Church Review*, "Moravians in Housatonic Valley," by Rev. Dr. Andrews.

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swords constantly drawn for the dominion of America, and the borders were the scene of frequent massacre and rapine, this suspicion of "Papisty" was very easy to throw at a stranger. We have seen something of it in Virginia and will meet it again in Pennsylvania and Maryland.

In answer to the petitions the Moravian teachers were summoned to New York, and there examined before the governor and council. As the result of this examination it is recorded that the council could "find no fault in them," save that they refused the oaths for conscience' sake. In view of this and the opposition near the scene of their labors, they were ordered to leave the province. Thus, from the narrowest of spirits was broken up a godly work, which only bigotry or malevolence could condemn. The banished Moravians took themselves and many of their converts, first to more liberal-minded Pennsylvania and then to Ohio, where awaited them both a blessed work and the dreadful catastrophe of Gnadenhütten.

Their New York enemies, despite this departure, were not satisfied, and to guard against return secured from the legislature the enactment of the most disgraceful law that defaces the statute book of either colony or state. It is the act of September 21, 1744, entitled, "An Act for securing his Majesty's government of New York." It purports to guard against French and "popish" influence, but is solely directed to the distress of the pious and guileless Moravians; and ordains that "no vagrant Preacher, Moravian, or disguised Papist, shall Preach or Teach, Either in Public or Private without first taking the Oaths appointed by this Act and obtaining a Lycence from the Governor or Commissioner in Church for the Time being." The penalties of the act were fine, imprisonment, banishment, and, in case of return, "Such Punishment as shall be inflicted by the Justices of the Supreme Court, not extending to Life or Limb."

Against this oppression of his brethren the great Moravian leader, Count Zinzendorf, then in London, protested in

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complaint to the lords of trade. He wrote "By an almost evident instigation of the Calvinist clergy and a mean sort of people who through their ignoble disposition easily take occasion thereto, there has arisen an evil Custom of disturbing and burdening honest Men of all Sorts, who have settled themselves in those Colonies, hoping to enjoy an unrestrained Freedom of Religion. . . . I petition for two Declarations or Orders. The one to keep honest people, as well strangers in as inhabitants of America, from being chicaned with and plagued without the least reason and, as it were, only *de gayeté de Cœur*. The second, that no body, but least of all the Indians, shall be hindered from joyning with any Protestant Church whatever, which in his ideas is the most solid, according to the measures taken for encouraging Foreigners to settle in the British Colonies in America."

This complaint of Zinzendorf, together with another from M. de Gersdorff "in behalf of himself and the Moravians in New York," the board of trade referred to Governor Clinton, inquiring what the Moravians had done to deserve such treatment. The reply of the governor indicates the thought in his mind, that violence of epithet is sufficient to justify the harshness complained of. He described the Moravians as "Suspicious, Vagrant, Strolling Preachers," who "debauch the Minds of the people with Enthusiastical Notions, at least, and Created Great Scisms & Divisions in the protestant Congregations." They were "suspected of being popish emissaries and having designs against his Majesty's government." He denounced the free asylum for such people in Pennsylvania as "a most pernicious tiring." Then he launched out in a diatribe against Whitefield as laboring "with real design to fill his own Pockets," declaring the Moravians to be of the same

class, who "compassed sea and land to make Proselytes from which last assertion it would seem that, though the governor could quote Scripture, he knew not how to apply it.

This letter of Clinton was written in 1746. Only five years afterward, an item of record shows, both how short-lived

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was this spasm of religious bigotry, and how the governor's ecclesiastical authority had waned. It appears that Moravians, undeterred by the hostility of the government, had not ceased coming to the province. A number of them had settled in the city of New York and in 1751 by formal letter notified the governor of their "intention of building a Church in this city."¹ For this building they neither asked nor expected the permission of the governor, and by him no prohibition was interposed.

That the pretensions of the civil authority to interference in religious matters had greatly weakened is shown by another incident of Clinton's term of office, which occurred in 1746. About that time there came to New York a certain John Hofgoed, who appears to have been an irregular Lutheran preacher. He applied to the governor for a license, but Clinton refused and forbade him to exercise ministerial functions. This order he disregarded, to the great annoyance of the Lutheran minister and Church in the city, evidently intruding his service where it was not desired. To rid themselves of the infliction, the Lutherans appealed to the governor, praying him "to interfere in this Behalf and Suppress the further proceedings of the said John Lodewiek Hofgoed by such Ways and Means as your Excellency in Council shall think fit and proper to be Done." So far as the record goes, it appears that Clinton thought "fit and proper" to do nothing, for no order or prosecution is noted. Hofgoed, however, retired from the city and appeared at Fishkill in 1749, where his attempts to preach and intrude upon the regularly constituted parish caused another petition to the governor, in which the Fishkill people implored him to silence the troublesome minister. To this petition also Clinton turned a deaf ear, showing how the spirit of the time had changed from that of Fletcher or Cornbury, neither of whom would have delayed to clap the delinquent into bonds. It was becoming evident that any minister, who disturbed not the public peace, might

¹ *Documentary History*, III, 621.

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exercise his ministry, and that contentions of order in the Churches themselves, touching doctrine and ordination, must be decided by their own authorities without appeal to the civil power.

This remark, of course, does not apply to the established Church, which, by dint of constant perversity of statement, had become entirely of the Church of England. Within this Church the governors continued to exercise a semblance of authority, while, until the opening of the Revolution, there were frequent efforts to advance its interests to the detriment of other Churches in the province. Such efforts, however, it must be noted, came not so much by way of government initiative as by the persistent demand of the Church itself for the active assistance of the civil power. It will hereafter be shown that this demand, made by a Church representing not more than a fifteenth part of the people¹ and with an arrogance of assertion difficult for "dissenters" to bear, had no small influence in preparing the population for entire separation from the mother country in both ecclesiastical and civil affairs.

But this establishment was forced to content itself with the original limitations of the act of 1693. Though implored by the Episcopal clergy, the government never made any effort to widen its domain beyond the four counties named in that act. The temper of the people at large was too well known to permit the attempt. Indeed, had the people had their way, the Church would have been speedily disestablished. Repeated efforts to secure that end were made by the assembly, to be as often defeated by the governor and council. The status remained until the coming of Independence, when the nameless establishment in New York fell with the royal power.

¹ Smith, *New York*, I, 337-362

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II. Maryland

The contribution of the history of Maryland to the question of Church and State and the related principle of Religious Liberty is a story of peculiar interest and vicissitudes. At different times Maryland faced both ways, for liberty and against it, while the conduct of affairs was in the midst of chronic broils and factions. A proprietary government, it was torn by continual jealousy. A foundation of Roman Catholics in the avowed interests of religious freedom, it was wrested from their grasp and made hostile to both their faith and the rights of conscience.

Its projector, Sir George Calvert, was a personal friend of James I., and one of his secretaries of state. In 1624 he was converted to the Church of Rome and openly confessed the change, resigning at the same time his secretaryship and

offering to retire altogether from the government. The king's friendship forbade the latter and retained Calvert in the privy council, and also raised him to the peerage as Lord Baltimore. This friendship was continued by Charles I., on his accession to the throne in 1625, with the result that Baltimore's colonization schemes found a ready and gracious attention on the part of the king.

Not long after the accession of Charles, Baltimore set out with several companions, among whom were three Jesuit priests, White, Copley, and Altham, to take possession of his patent of Avalon in New Foundland, which had been granted to him by James in 1624. The rigor of the climate, during a trial of less than two years, concluded Baltimore to abandon his intention of colonizing that locality, and he sailed southward in search of more promising regions. This search brought him to Virginia, where, as noted in the chapter on Virginia, he was not suffered to remain, because of his declining to take the oath of supremacy. This expulsion took place in 1628, when Baltimore, leaving his wife in Virginia,

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returned to England to seek a new patent from the king.¹ While in the neighborhood of the colony he had been able to look at the country on both sides of it, and at first selected that to the south of the James River, but concluded to substitute for this in his application the country to the north of the Potomac, which he and his Jesuit friends described as pleasant to look upon and fitted for the homes of a happy people.

The application for a patent covering the legions of the Chesapeake was made in 1630 and met with the royal favor, though the patent was not issued until 1632. Meanwhile Lord Baltimore had died, and his son Cecil succeeded to his barony and his colonizing plans. Thus, the Maryland patent was issued to the second Lord Baltimore, whose life and zeal were fully engaged in the schemes and desires of his father.

The patent for the designated province — to be called Maryland, in honor of Queen Henrietta Maria — is remarkable for several peculiar features, and for meaning much more than it says on the subject of religion. It was undoubtedly drawn up by Baltimore himself, with a view to permit the exercise of religious freedom. The king is represented as moved "with the laudable and pious desire of extending alike the Christian religion and the territories of the King's Empire, in the pursuance of which desire various rights of genuine sovereignty are conferred on Lord Baltimore. As Carolina, thirty years afterward, Maryland became a palatinate, and its ruler had almost regal powers. He possessed "the Patronages and Advowsons of all Churches, which shall happen to be built, together with licence and faculty of erecting and founding Churches, Chapels, and places of worship . . . and of causing the same to be dedicated and constituted according to the ecclesiastical laws of our Kingdom of England, with all and singular such and as ample rights, privileges, sovereignties &c. . . as any Bishop

¹ Johnson, *Foundation of Maryland*, p. 18. (*Maryland Historical Society Publication*, No. 18.)

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of Durham, within the Bishoprick or County Palatine of Durham in our Kingdom of England, ever hath." All the powers granted Baltimore was "to hold of the King in free and common socage . . . yielding unto the King and his successors Two Indian Arrows of those parts, to be delivered at the Castle of Windsor every year on Tuesday in Easter week, and also the fifth part of all gold and silver ore that shall happen to be found." This sovereignty is "subject only to one condition, namely; that it should not be such as might prejudice the true Christian Religion or allegiance to the crown."

This charter is sometimes spoken of as establishing the Church of England in Maryland. But this is not correct. The Church of England is not mentioned in the instrument, while the phrase, "according to the ecclesiastical laws of our Kingdom of England," might mean much or little, as circumstances might vary.¹ Baltimore construed the charter as conferring ecclesiastical supremacy on the proprietary, which he was to exercise according to those laws. This is to say, as those laws made the king head of the English Church, the charter made Baltimore head of the Maryland Church. It did not specifically tell him to conform the Church of Maryland to the English model, but left it in his hand to do as he wished and as he found what Church he desired. Under the terms of the charter it was competent for him to establish Romanism, Episcopacy, Independency, or Presbyterianism. The power of establishment is plainly in the instrument, but its character is undefined.

Professor Petrie² specifies three constructions which have been put on this clause: 1. The Churches *must* be of the Church of England; 2. *If* Churches are formed, they *must* be of the Church of England; 3. If they are formed, they *may* be of that communion. He argues also that the intent

¹ The Carolina proprietaries, differing from Baltimore, construed the phrase as establishing the Anglican Church.

² *Johns Hopkins Studies*, X; "Church and State."

of the Charter was to establish that Church. But the reply is cogent that if such intention had been clear in mind, instructions would have been explicit to fulfil it, as in other colonies. In the absence of any such explicit command, the most that can be made of the clause is a suggestion of the *manner* in which Baltimore should exercise his ecclesiastical power.

One cannot, at the first glance, escape the suspicion of a somewhat disingenuous purpose on the part of the proprietary in this allusion to the ecclesiastical laws of England. The casual reader could easily suppose that the establishment of the English Church was designed. It is possible, though not probable, that the king so supposed. At all events, it looks deceptive. Anderson, who enlarges on the shameful character of such a charter given to a Romanist, quotes Murray as saying, "It was formed for the purpose of blinding the public mind."¹

The judgment is not unjust. But the circumstances were peculiar, and, if ever a deceptive turn of words is justified, they certainly justified this "blinding" purpose of Baltimore. Himself a devout Roman Catholic, he desired to make a refuge for the persecuted brethren of his own faith, who in England were subjected to countless limitations, fines, and penalties. It was impossible for him to obtain a charter with that desire avowed in the instrument. All England, New England, and Virginia would have been roused to a storm of indignation. At the same time, it was impossible to obtain a charter expressive of the other and as great desire of his heart, to confer on Maryland the boon of complete religious liberty. The English prelate and presbyter, the Massachusetts Puritan and Virginia Churchman, would have been in arms at once. The times were not yet ripe for the "lively experiment," which the second Charles allowed Williams to try in Rhode Island, "that a flourishing civil state may stand and best be maintained, with a full liberty of religious concernments."

¹ *History of the Colonial Church*, II, 113.

All the conditions demanded that the charter should contain some ecclesiastical direction, while Baltimore desired that such direction should be in consistency with both of his dominant purposes, to protect his persecuted brethren and to give freedom to all. Both purposes were noble, and while they mark for us the lofty character of this founder of a state "more lofty because so immensely superior to almost all men of the age" we may be content to set down his deceptive phrase to the shrewdness of the politician. He knew that there was no other way to gain these noble ends than to take into his own hand the direction of the religious affairs of his province, according to the method of the king in England. So Baltimore became under the charter virtual king and head of the Church in Maryland, if he should choose to exercise supremacy.

If ever there was a man fit for so high a station, certainly Baltimore was such. He "deserves to be ranked among the most wise and benevolent lawgivers 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."¹ The first Lord Baltimore died before his noble scheme could be realized, but the fundamental law of the colony was shaped by his broad and liberal mind, while his son Cecil proved a worthy follower in his father's steps, to put these plans in execution. It is possible to say, as some have said, that the offer of complete freedom, with which the Baltimores began their colony, was but a guise, under which they sought relief for their co-religionists, in no less comprehensive way to be secured. But it is neither necessary nor just to so judge. Every detail of their directions touching on the subject evince the motives of broad minds, not seeking merely a selfish freedom, but grasping the fundamental principles of human rights. Unlike the Puritan, they did not arrogate to themselves the sole possession of the truth, or claim only for their own views freedom of expression. They

¹ Bancroft, *United States*, I, 244.

held rather to the dignity of the human soul, responsible alone to him who is Lord of the conscience, and to that Master alone to stand or fall. This they preserved in all conditions; nor did they, like the men of Massachusetts, forget in their accession to power the principles of liberty confessed in their days of hardship. They stand level with Roger Williams in the history of human freedom, and among founders of states worthy to rank with Winthrop, Hooker, and Penn.

The charter,¹ thus given to a Roman Catholic and involving so great possibilities, did not escape criticism; nor did the dubious allusion to the English ecclesiastical laws entirely blind the public mind. Scarcely had the instrument passed the broad seal when objections were heard. These had a double source, coming from both Protestants and Romanists. The former complained that it gave too great power to the proprietary, all the more to be deprecated because he was a Roman Catholic. The latter objected to Baltimore's schemes on the ground that religious freedom should not be allowed in any community. Strangely enough, this latter objection found more strenuous speech than the former. To the former the king's pleasure was a sufficient answer; while the latter was made to assume the form of a question of conscience as to whether a sincere Romanist could accept a charter allowing freedom of worship to all varieties of religionists.

The specially singular thing about this Roman contention is, that the charter itself did not decree religious liberty in the new colony, nor contain a line suggestive of its institution there. The entire decision in regard to the religious *status* of Maryland was put at the discretion of Baltimore. So far as its terms could forecast that *status*, inasmuch as the proprietary was a professed Roman Catholic, the Protestant contention that the colony would be Romanist appears far more just. The situation can be explained only by the fact that Baltimore, notwithstanding the “blinding” phrase of the charter, made no secret of his intention. This intention

¹ *Foundation of Maryland*, pp. 15-30.

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was frankly expressed in personal conversation, and, more publicly in advertisements for adventurers, in which was promised the free exercise of each man’s religion. Certainly, this frankness may go far to remove the charge of disingenuous purpose in the charter.

At all events, it was clearly understood by very many that the proprietary did not intend to found the colony within the lines of the Roman faith. In consequence there arose much discussion among the English Roman Catholics, by some of whom it was urged to Baltimore that he ought not, as a true son of the Holy Father, to undertake such a scheme; while others were made to doubt whether they could with good consciences associate themselves with him in the enterprise. In this dilemma Baltimore laid the question before Father Blount, the provincial of the English Jesuits, who set aside the objections and argued for the charter and the colony as designed by its founder. In the course of his paper he used surprising language from such a source, which has no parallel in the utterances of the Romanism of the day. “Conversion,” he wrote, “in matters of Religion, if it be forced, should give little satisfaction to a wise state . . . for those, who for worldly respects will breake their faith with God, will do it on a fit occasion much sooner with men.” This opinion of their spiritual superior resolved the doubts of Baltimore and his associates, and, as Johnson remarks, may be taken as “proof that the charter of Maryland was then considered and treated as securing liberty of conscience to Roman Catholics; and that the Society of Jesus undertook to further and extend the planting of the colony, with full knowledge that the principle of toleration was to be adopted as one of the fundamental institutions of the province.”

The first expedition to the new colony set forth in 1632, and was composed of two hundred and twenty emigrants. Of this number one hundred and twenty-eight were Protestants, who took the oath of supremacy at the time of sailing. The rest of the company were Romanists, among them the

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three Jesuit friends of Baltimore and twenty gentlemen of position and fortune. At the outset the substantial strength of the colony was thus Roman Catholic, while the great majority of the Protestants were artisans, farmers, and servants. Baltimore remained in England, to there superintend the interests of the colony, and sent his brother, Leonard Calvert, in the capacity of governor.¹

The expedition had hardly disembarked on the shore of the Chesapeake when it met the beginnings of a trouble, which was to annoy the colony for many years, an opposition in which the lust of gain and religious bigotry had about equal parts. There is no need to recount here the details of the struggle between Clayborne and Baltimore, and the present reference is made only to point out its religious element.² This Clayborne was secretary of Virginia and had obtained from the governor of that colony permission to explore Chesapeake Bay, and in 1631 secured a royal license to “traffic in those parts.” Under this license he took possession of Kent Island and parts of the shore of the mainland. The new colony with a patent covering these stations naturally seemed to him as an invader of his rights, while the Roman faith of Baltimore could ill be suffered by Clayborne’s avowed Puritanism. Nor was it difficult for the secretary of popery-hating Virginia to enlist many sympathizers, to whom the establishment of a Roman Catholic colony as their next door neighbor appeared among all evils the most to be feared and deprecated.³

¹ *Foundation of Maryland*, p. 31.

² Anderson, *Colonial Church*, II, 89.

³ This animosity of Clayborne was intensified by an incident related in Captain Yong’s *Voyage to Virginia and Delaware Bay* (*Massachusetts Historical Collections*, IV, 9; 82, note), 1634. Yong brought out with him his nephew, George Evelin, as an agent for Clayborne’s London partners, who by some means induced Clayborne to go to England. During the absence of Clayborne, Evelin, who was a Romanist, took possession of his property and turned over Kent Island and the neighboring station Calvert, whose object they supposed to be “to make Maryland predominantly Catholic.” This [footnote continues on p. 370] robbery was enough to rouse Clayborne’s resentment, and he made much, not only of his own wrongs, but of this perversion to Roman Catholic possession. “But,” says *Leah and Rachel*, “it was not religion, it was not *punctilios* they stood upon; it was that sweete, that rich, that large country they aymed at.” (Force, *Historical Tracts*, “*Leah and Rachel*.”)

The trouble hence arising had many outbreaks of violence, and culminated in the commonwealth time, as will be noted, in the overthrow of Baltimore's government through the attack of Clayborne and Bennett. That overthrow they tried to justify in their remarkable "Declaration against the Patent of Maryland," which bears date of 1649, and in which there is hardly a word of truth.¹ It charges Baltimore with "professing the establishment of the Romish religion only." It asserts, "They suppressed the poor protestants amongst them, to protect chiefly the Roman Catholic religion in the free exercise of the same. . . . There is not the least mention of a King in all their government . . . as if hee (Baltimore) had been absolute Prince or King. . . . The pattend of Maryland was grounded on noe good foundation, the King beeing misinformed."

That the religious action of the new colony was quite other than this declaration asserts is abundantly proved by the colonial records. The instructions of Baltimore were explicit on the point of liberty, and the early legislation sought the same end. Until 1637 the authority of the governor existed alone, without any legislative assembly or regular system of law. In that year the first assembly met on the summons of Calvert and was composed entirely of Roman Catholics. The three priests were summoned with the other freemen, but excused themselves from attendance. Johnson² notes that, from the beginning, no priest or minister has ever sat in a Maryland legislature. This exclusion is continued to this day and finds place in the constitution of the State, which makes ministers ineligible to that position.

¹ *Colonial History of New York*, III, 23.

² *Foundation of Maryland*, p. 94.

The special business for which the assembly was summoned was to act upon a "Body of Laws" prepared and sent over by Baltimore for legislative adoption. It is not at all probable that either he or Governor Calvert apprehended the reception this code would meet. Doubtless, both of them expected a really and prompt legislative ratification of the proprietary's will. But such did not take place, and it makes a striking indication of the tendency of American air to breed a spirit of independence to note that this Body of Laws was rejected by the assembly, which appointed a committee to digest and report a code for the consideration of the legislature and then adjourned. After but few days, too few for the preparation of a new code, the assembly met again, and received the report of the committee, which presented the same laws that they had rejected before. The action of the assembly was a prompt adoption of the report, and enactment of the "Body of Laws"! Thus early did the American settlers learn how to stickle for a point. They had no objection to the code itself, but to Baltimore's initiative. They would not formally ratify his will. What laws they passed must be their own, and transmitted to governor and proprietary for approval.

The first law in regard to the Church passed by the assembly was, "An Act for Church Liberties," which in simple and terse language, strikingly like that of the Great Charter of England, recites, —

"Holy Church within this province shall have and enjoy all her Rights, liberties and Franchises wholly and without Blemish."²

This was in harmony with the mandate of the charter to Baltimore that "nothing should be done contrary to God's Holy Religion." It is quite as notable for what it omits as for what it declares, making no distinctions among the various Christian bodies, each of which claimed to be Holy Church and to represent God's Holy Religion. There can

¹ *Foundation of Maryland*, p. 39.

² *Acts of Assembly*, I, 96.

be no doubt, indeed, that these Maryland lawmakers were Romanists to a man; or that, had they been called upon to specify the particular communion which to them was Holy Church, with one voice they would have named the Church of Rome. But this definition they studiously refrained from making, leaving to each citizen of the colony to decide for himself as to what communion he would call Holy Church, and asserting that that Church must be free from all interference by the civil power. This was practical religious liberty.

There is another illustration of this freedom in the oath prescribed (1636) by Baltimore to be taken by all officers of the colony,¹ of which a portion affirmed: — "I will not, by myself or any other, directly or indirectly, trouble, molest, or discountenance any person, professing to believe in Jesus Christ, for, or in respect of, religion; but merely as they shall be found faithful and well-deserving; my aim shall be public unity, and if any person or officer shall molest any person, professing to believe in Jesus Christ, on account of his religion, I will protect the person molested and punish the offender." To cause the spirit of this oath to be observed also among the people, a proclamation was published in the colony,

forbidding “all unseasonable disputations in point of religion, tending to the disturbance of the public peace and quiet of the colony, and to the opening of faction in religion.” Under this order, William Lewis, a Romanist, was fined five hundred pounds of tobacco for “interfering by opprobrious reproaches with two Protestants.”²

A still further indication of this liberal intent is to be found in a bit of legislation, against which the Jesuit priests protested vehemently, but for which they were themselves chiefly responsible and were quite unable to prevent.³ We may note in passing that the Jesuit fathers had immediately

¹ Hawks, *Contributions*, II, 27.

² *Foundation of Maryland*, pp. 52, 53.

³ *Ibid.*, p. 56.

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applied themselves to earnest missionary work among the Indians, with a very flattering success. Father White was specially diligent and devoted, conquering in a short time the Indian dialect, in which he prepared a catechism, and for the printing of which he imported the first press brought to America.¹ But they were ambitious of more than this and wished to build up the power of their order. It appears that they, and some other priests who had followed the first three, had early acquired large holdings in Maryland and at the same time urged the old distinction between the civil and the canon law, which for centuries had obtained in Europe, and which, subjecting priests to the canon law alone, had produced intolerable wrongs. This same distinction the Maryland priests wished to bring into the colony, and to effect thereby a reference of all cases, in which their order might be concerned, to an ecclesiastical, rather than a civil court. Probably, had they not stirred in the matter, the legislature would not have acted. Their own persistency made clear to the lawmakers the need of a special bulwark of liberty, such as no other colony enacted. To provide that bulwark, this Roman Catholic legislature of 1638, to the great discomfiture of their own spiritual directors, enacted that the laws should be “equally enforced against and concerning all persons, lay and ecclesiastical, without distinction, exemption, or privilege of any.” So was established under Roman Catholic auspices the free colony of Maryland, without a parallel for its idea of religious liberty in all the colonies, except the infant Rhode Island. In it the Roman Catholics found a secure asylum, and “Protestants were sheltered from Protestant intolerance.”² And there was no hesitation on the part of various sectaries to accept the broad invitation which such a constitution made. Winthrop notes in his *Journal* for 1643 that

¹ Scharf, *History of Maryland*, I, 187-190.

² Bancroft, *United States*, I, 248.

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Baltimore himself invited the Puritans of Massachusetts, offering lands and privileges, with “full liberty of conscience.”[†] No records exist of any emigration to Maryland from New England, but the colony proved a harbor of refuge to the Puritans of Virginia, distressed by the brutal and intolerant Berkeley.

The majority of Protestants over Romanists, noted in the first company of colonists, steadily increased. The Jesuit White wrote as early as 1641: “Three parts of the people in four at least are heretics.”² It is estimated that by 1649 there had come no less than one thousand from Virginia,³ and among them was Bennett, the Puritan leader, who specially vexed the soul of Berkeley. This man in Maryland forgot all gratitude for the asylum afforded him and was blind to all decency of conduct, when he lent himself to Clayborne to force the catastrophe of 1654.⁴

The population of the colony thus became overwhelmingly Protestant. For some reason Baltimore’s asylum for his coreligionists did not attract very many of them—a fact that may well seem strange. Undoubtedly, he supposed that multitudes of Romanists would flock to this happy refuge from the disabling acts of England; while for the historian it constitutes something of a surprise that so small a number of them sought its freedom and relief. Perhaps, we can find no better explanation of this fact than the supposition that the average Romanist conscience refused to purchase peace by tolerating opposing faiths, and that the offence of Maryland’s religious freedom was greater than the attraction of its refuge. But, however the fact may be accounted for, the

¹ Bancroft, *United States*, p. 257.

² "Twenty Cases." (*Publication Maryland Historical Society*.)

³ Fiske, *Old Virginia*, I, 312.

⁴ *Leah and Rachel* had a suggestion of fine scorn for the baseness of the conduct of this Bennett and his companions, saying that, "Maryland was courted by them," and that all their requests for liberty of conscience and other privileges were readily granted. We shall see how unworthy of every favor they proved themselves to be.

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result of twenty years' colonization found the Roman Catholics in a hopeless minority.

This disparity did not find its counterpart in the official bodies in the colony. Till 1648 Baltimore's appointments to office were almost invariably from among the Romanists, though it may fairly be claimed for him that his criterion of selection was rather personal fitness than religion. A large proportion also of the legislature was of the same faith, due to the fact that nearly every Romanist was a freeman, while only a minority among the Protestants were possessed of the franchise.

Though in no act of assembly or of public officers was there any evidence of intention to interfere with the Protestants, yet this situation in itself gave rise to great dissatisfaction among them. They esteemed it a wrong that the majority of the people should be excluded from the management of public affairs, and they knew not at what moment the dominant minority might fling aside its professions of liberality and proceed to oppress the Protestant faith. At the same time the struggle in England between king and parliament found reflection in the colony, adding greatly to the indigenous discontent. Maryland, unlike Virginia, did not exalt loyalty to the king. While the colonial authorities took no part against him, the great Puritan majority of the population were pronounced in their advocacy of his opponents.

In such conditions of discontent Baltimore found it advisable to make some changes to placate the opposition. To this end he remodelled the government in 1648, by displacing a majority of the Roman Catholic officials and appointing Protestants in their rooms. This, with an enlargement of the franchise, put the local government into Protestant hands. He even superseded his own brother, as governor, by the appointment of the Protestant Stone. In addition to this change in personnel he reappointed the oath of office, already noted, with the addition for the governor of the words, "nor will I

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make any difference of persons in conferring offices, rewards, or favors. . . for, or in respect of, their said Religion.¹

It was deemed also advisable that the free toleration of the past should receive from the local legislature an emphatic reaffirmation. To this end, and undoubtedly at Baltimore's suggestion, the famous "Toleration Act" of 1649 found its place in the statute book.² The act is remarkable both in its form and spirit, in its breadth and limitations. Curiously enough, it begins with its exceptions; ordaining death for blasphemy and the denial of the Trinity, and a fine of £5 for speaking "reproachful words of the Virgin Mary, the apostles, or evangelists." Then it imposes a fine of ten shillings for calling any person "by such opprobrious terms as, heretic, Schismatic, Idolator, Puritan, Independent, Presbyterian, Popish priest, Jesuit, Papist, Lutheran, Calvinist, Anabaptist, Brownist, Antinomian, Barrowist, Roundhead, and Separatist." Having specified these details, the act proceeds: "Whereas the enforcing of the conscience in matters of Religion hath frequently fallen out to be of dangerous consequence in those commonwealths where it hath been practiced, and for the more quiet and peaceable government of this Province, and the better to preserve mutual Love and amity amongst the Inhabitants thereof: Be it therefore also by the Lord Proprietary, with the advice and consent of the Assembly, ordered and enacted (except as in this present act is before declared and set forth) that no person or persons whatever within this Province, . . . professing to believe in Jesus Christ, shall from henceforth be any ways troubled, molested, or discountenanced for, or in respect to, his or her religion, nor in the free exercise thereof within this province, or the islands thereunto belonging, nor in any way compelled to believe or exercise any other religion against his or her consent, so that they be not unfaithful to the lord proprietary, or molest or conspire against the civill government." That the influence of this law might be universal the legislature in 1650 prescribed

¹ *Foundation of Maryland*, pp. 112-114.

² *Acts of Assembly*, I, 244.

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"The Oath of Fidelity for every resident, in which he was made to declare for Libertie of Conscience in point of Religion to himself and all other persons."¹

While the liberty confirmed by the statute was far greater than obtained in England, it was distinctly lower than that of Rhode Island. In Maryland only Trinitarian Christians were to be tolerated. There was no room under the law for the Unitarian, the Jew, the Infidel, or the Pagan. To our eyes it is narrow, but in the time of its enactment it was exceeding broad — far broader than the great toleration act of William and Mary, forty years later.

With this condition, one would think, the Puritans of Maryland ought to have been satisfied.² Though the powers conferred upon Baltimore by the charter were regal, the proprietary had divested himself of many privileges and had consented that all the rights of freeborn Englishmen should belong to his colonists — more rights indeed than they would possess in England. As enumerated by Johnson,³ they had all the rights of *Magna Charta*: a free legislative assembly; the common law of England; trial by jury; taxation only by act of assembly; immunity from martial law, except in camp and garrison; equal taxation on all, and the liberty of conscience. Besides these great concessions, the recent acts of Baltimore had put the entire government in Protestant hands, with the one exception of the proprietary himself, while he had shown nothing but the fairest and most liberal disposition toward the followers of a faith different from his own. On the religious question there was absolutely nothing for the Puritan to complain of. He had entire freedom of conscience and worship, while there was no State-Church and no Church-rate compelling the support of a religion he did not own.

But this did not satisfy him. Like his brethren in New England, he considered himself alone entitled to liberty. In

¹ *Acts of Assembly*, 1650.

² *Leah and Rachel; Force, Historical Tracts*.

³ *Foundation of Maryland*, p. 148.

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Massachusetts there was this justification of Puritan exclusiveness, that the colony was their own and was founded with the express intention to build up a commonwealth, in which a unity of faith should be the great pillar of the state. They neither invited nor desired religionists of other views, and any person of different persuasion, entering the Bay colony, went thither a conscious and unwelcome intruder. We may condemn as unsound the principle on which the Massachusetts Puritan moulded his state. We may condemn as cruel the harshness of many of his repressive acts. But we can never charge him with treachery or ingratitude to his benefactor, nor because of the narrowness of his view fail to see the stern and honest uprightness of his character.

Far otherwise was it with the Puritan of Maryland, in whose course there was nothing to commend or excuse it before the bar of history. Himself, equally with the Roman Catholic, the object of harsh treatment in England and in Virginia, he accepted the invitation of a Roman Catholic to an asylum of liberty for both, in it he suffered no wrong in his religious rights, and when he complained that he had not the share in governmental matters, which was appropriate to him, this also was accorded. On which recognition and with the first taste of power, he set himself to plot against his benefactor and against the religionists who had given him a home and liberty. He played the part of a viper, stinging the bosom that had warmed him, and made the most disgraceful chapter in the history of Puritanism and of religious liberty.¹ There were, indeed, political motives on the part of the Protestants in the Maryland broils; there was jealousy of Baltimore himself, though his rule had been beneficent and his policy was enlightened; and there was the old quarrel of Clayborne, now exalted into a struggle for the entire province. But none of these elements had any power of excuse for the conduct of the Puritans on the matter of religion.

¹ Scharf, *History of Maryland*, I, 200.

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Their opportunity was furnished by the triumph of the parliament in England. The downfall of the king, to the minds of the Maryland malcontents, seemed to require the overthrow of the proprietary.¹ Under the lead of Clayborne and Bennett the Puritan party in 1652 drove out Governor Stone and took possession of the government. Stone attempted armed resistance, but was defeated in pitched battle. The rights of Baltimore were ignored. Ten commissioners were appointed to administer the government and a new assembly was called. This assembly at once acknowledged the Commonwealth and the authority of Cromwell, without any recognition of the proprietary.

Having thus made a revolution in civil affairs, the Puritan party proceeded to reverse the colonial action in regard to religion. In 1654 an act was passed repealing the toleration of 1649.² The act explicitly declared that, "None who profess the exercise of the Popish Religion, commonly known by the name of the Roman Catholic Religion, can be protected in this Province." The law went on to accord liberty of dissent from the "predominant religion," but it was not to be "extended to popery, prelacy, or licentiousness of opinion." What was intended by the words, "the predominant religion," does not clearly appear, for amid the variety of opinions formerly made welcome in Maryland no one could be called chief. The phrase suggests that the dream of these conspirators was the establishment of a non-prelatical Church on the pattern of

Massachusetts. There can be little doubt that they confidently counted on the approval of Cromwell for this repealing act. They assumed that the protector would sympathize in any effort to dispossess Romanism and prelacy.³ Their surprise must have been great on receiving from Cromwell a distinct disallowance of the act with the command to set it aside. At the same time Cromwell commanded the commissioners

¹ Scharf, *History of Maryland*, I, 210-220.

² *Acts of Assembly*, I, 340.

³ Bancroft, *United States*, I, 260.

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“not to busy themselves about religion, but to settle the civil government.” The assembly was forced to repeal the persecuting act, and the toleration of 1619 was left unchanged. But, though the effort of the Puritan party was thus made void, yet the attempt is sufficiently illustrative of their spirit.

We need not dwell here on the political turmoil which for several years disturbed the province. Baltimore was restored to his rights by Cromwell, but was met by many petty revolutions in his province, with all of which the question of religion was connected, but with none in such a way as to cause special change in the religious history or attitude of the colony. Meanwhile there was a steady increase of the non-Catholic population. The emigration was of all sorts and from every clime. Huguenots, Dutch, Germans, Swedes, Finns, Bohemians,¹ all were found in Maryland. All faiths were represented also, and among them a considerable sprinkling of Quakers, who were allowed full freedom of worship; but about forty of them suffered fines and whippings, because of their refusal of oaths and militia duty.² So large had the disproportion grown between the Catholic and Protestant populations by 1675, that the former had sunk to a very small minority. It was estimated that not more than one-twelfth of the people were Romanists, one-sixth of the Church of England, and three-fourths “Puritans.” The last must be understood in its broadest sense as including all sects outside the two Churches of Rome and England.³

It is not surprising that this great disparity should accentuate a frequent discontent that a province so peopled should be in the possession of a Roman Catholic; while the discontent was increased by Baltimore’s return to the early policy of choosing officials from among men of his own faith.

¹ Bancroft, *United States*, II, 236.

² *Johns Hopkins Studies*, X; “*Church and State in Maryland*.” Indulgence in regard to those scruples was afterward accorded to them in 1688, through the intercession of William Penn.

³ Fiske, II, 150.

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The death of the second Lord Baltimore in 1675, leaving title and province to his son Charles, who was of the same religion as his father and continued his father’s colonial policy, gave the signal for new manifestations of opposition. There were complaints of arbitrary administration, into which we need not enter. But a large ground of complaint was in the religion of the proprietary and his colonial officers. This complaint was almost entirely sentimental, for it could not be shown that a single Protestant in the province had suffered in person or fortune on account of his religion, save in exclusion from colonial office. The complaint, however, was sufficient to meet with sympathy in England, where all Romanists were under the ban, and the wretched Oates was turning the cry, “No Popery,” into the absurdest shriek of agony that ever split the air. Protestantism in Maryland had become political, and soon after the accession of the third Lord Baltimore, the English ministry issued an order to him that all offices of government in the province must be intrusted exclusively to Protestants. “Thus were the Roman Catholics disfranchised in the province which they had planted.”¹

At the same time a new trouble for Baltimore was being prepared by the ambition of the Church of England. The movement looking toward the establishment of that Church in Maryland seems to have been started by a Rev. Mr. Yeo, laboring in the province, who wrote to the archbishop of Canterbury a piteous appeal in 1675, imploring action for the establishment of the Church.² “Here,” he wrote, “are ten or twelve counties, and in them at least 20,000 souls, and but three Protestant ministers of the Church of England. The priests are provided for, and the Quakers take care of those that are speakers, but no care is taken to build up Churches of the Protestant religion. The Lord’s day is profaned; religion is despised, and all notorious vices are commended; so that it has become a Sodom of uncleanness and a pest-house

¹ Bancroft, *United States*, II, 242.

² Hawks, *Contributions*, II, 49.

of iniquity.” With such an introduction, Yeo craves the influence of the archbishop with Lord Baltimore toward “some established support for the ministry of the Church of England.”

This appeal was sent by the archbishop to the king’s ministers and by then referred to the committee on plantations — otherwise called the board of trade. This body called upon Lord Baltimore, then in London, — for Charles, unlike his father, spent much of his life in Maryland, — for explanation. He replied,¹ that there were four ministers of the Church of England in his province; that every one of them had a comfortable support; that in the previous year an individual had bequeathed to the minister in Baltimore county five hundred and fifty acres, and another had conveyed his personal estate to St. Mary’s Church for the maintenance of the ministry; and that the various religious tenets of the members of the assembly rendered it difficult to obtain any law establishing one Church.

The king’s government were not satisfied with Baltimore’s reply, and insisted that provision must be made for the support of the clergy of the Church of England, and the insistence was made more urgent by the clamors of many high officials in the English Church. But the proprietary promised nothing and returned to Maryland, where he administered the government in person until 1684.

In that year, the last of the reign of Charles II., the continuance of complaints from the Maryland malcontents and the threat of a writ of *quo warranto* against his charter,² due to the increased pressure of English Churchmen on the government, compelled him to go to England to defend his rights. Charles died before any decisive action was taken, and if Baltimore expected with confidence that the Romanist James would protect him from an unjust Protestant clamor,

¹ *Johns Hopkins Studies*, X; “*Church and State in Maryland.*”

² Scharf, I, 299; Hawks, *Contributions*, II, 50; Anderson, *Colonial Church*, II, 617.

he was grievously disappointed. The king, though a bigoted son of Rome, loved power more than the bonds of religious brotherhood. While he posed as the grantor of religious liberty in New York, he could strike hands with its enemies in Maryland, though he knew that the sufferers by the action were to be men of his own faith. His sole reason was jealousy of the palatine powers possessed by the lords of Maryland, for the sake of which jealousy he was willing to sacrifice the rights and comfort of every Roman Catholic in the province. In the whole story of American colonization there is nothing more preposterous and absurd than the outcry of lying Protestants in Maryland to a Catholic king, and his readiness to listen.

Baltimore pleaded that his administration and that of his father had always been in conformity with the charter and with the laws of England, that he had never failed to show respect and obedience to every royal demand, and that he had in no instance been guilty of conduct which could incur the pain of forfeiture. The plea was just and could be borne out by the most scrutinizing examination of his rule. But it was idle in the ears of James, who gave orders for the writ, which did not come to issue before the treacherous king was himself thrust from power.

The fate of Baltimore fell thus into the hand of William, whose natural sense of justice would have prompted a favorable consideration, had the king understood the situation fully. This, it is safe to say, was not the case. New to the English throne and law, with many matters of highest imperial concern to claim his study and decision, it is not strange that this “Defender of Protestantism” should have failed to detect at a glance that the Roman Catholic lord of a little American principality was belied by his Protestant subjects. It was enough that the province was in an uproar and that the Catholic population was an inconsiderable minority, against whom and the proprietary the Protestant revolution in Maryland was already an accomplished fact.

For during the absence of Baltimore in England his enemies in the province had been busy¹. Scharf justly observes that “this revolution of 1689 was the result of a panic produced by shameful falsehoods and misrepresentations.” At the head of it was a man named John Coode, himself as shameful as the lies which helped him to his short lease of power. A frantic cry of “No Popery” was raised to stir up the people. Stories were circulated, of a popish plot to kill all the Protestants in the province, and of hardships suffered by Protestants in various parts of the colony — not one of which was true. There is not a single recorded instance of Romanist violence against Protestants in the history of the province.

But the stories found wide credence, so that the leaders easily organized an “Association in Arms, for the Defence of the Protestant religion and assisting the Rights of King William and Queen Mary.” The demonstration was too forcible for resistance by the officials of Baltimore, who gave way before it. Coode and his associates took possession of the government and issued a proclamation filled with falsehoods. It discoursed of “the injustice and tyranny under which we groan”; declared, that “the Churches which should be consecrated according to the ecclesiastical laws of the kingdom of

England have been diverted to the use of popish Idolatry;" that Protestant children had been subjected to "forcible tutelage in the Roman Catholic religion"; that many Protestants had been thrown into prison "by the Papists"; and that "the Priests and Jesuits used all means that the art of malice can suggest to divert the loyalty and obedience of inhabitants from" William and Mary.

This proclamation was designed to do its chief work in England, and was accompanied across the sea by an address to the king and queen from Coode, who extolled his own efforts to have their majesties proclaimed in the province, complained that Baltimore had failed to cause such proclamation,

¹ Scharf, I, 306-336; Hawks, II, 55-63; Anderson, II, 618.

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and besought the royal aid toward the advancement of the Protestant religion.

Coode also called an assembly, to which no Romanist was to be admitted. To this assembly the freeholders of Calvert county, headed by Sheriff Taney, refused to send delegates, embodying their reasons in a public declaration. For this act of independence Taney was put in jail. Neither this assembly nor one called in the next year, 1690, made any attempt to settle the civil government. The minds of the members seemed completely filled by their frantic hatred of Roman Catholics. They kept dinning the king's ears with their insane bellowings. From six counties went as many addresses to the king, numerous signed, craving "deliverance of your suffering people, whereby our Religious Rights and Liberties may be secured under a Protestant Government." These were answered by five other addresses, as numerous signed by both Protestants and Romanists, denying the statements of the former. There is no room for wonder that the English government was disposed to put an end to such a state of things by assuming direct control of the province; and all the more that no adequate demonstrations were at hand of the baseless nature of the Protestant complaints.

Charles Carroll, one of the most prominent citizens of the colony, wrote to Baltimore of "this strange rebellion of your ungrateful people, at the wicked instigation of Coode, Jowles," and others, "profligate wretches and men of scandalous lives." But, while this testimony goes far in a later generation to discredit the conspiracy, the religion of its author was enough to prejudice the English authorities against his cause. The outcome of the turmoil was that William voided the charter, dispossessed Baltimore, and took over the government of Maryland as a royal province.

There is some satisfaction for the sense of historic justice in noting that the leaders in this "strange rebellion," though they effected their aim against Lord Baltimore, yet did not

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gain for themselves the prizes they sought. The government was not committed to them, and Coode especially was left entirely without any marks of the king's favor.¹ He dropped out of sight for a while, and then reappeared in holy orders, was notorious for scandalous conduct, was tried by a civil court for blasphemy, and fled the province.²

The final act of William in revoking the charter of Maryland took place in 1692, when the king sent over Governor Copley to the province. Copley was an ardent Church of England man,³ and brought with him several clergymen to aid in settling that Church in the colony. Soon after arrival the governor summoned an assembly, which with great zeal and promptness passed "An Act for the service of Almighty God and the Establishment of the Protestant Religion within this province."⁴ By this act the Church of England was made the State-Church of Maryland; the justices in each county were directed to lay out the county in parishes; the freeholders in each parish were to choose the vestry; Churches and chapels were ordered to be built; and a tax of forty pounds of tobacco was laid on "each taxable Person" for the support of the clergy.

If we are to believe contemporary reports, we must conclude that the religious condition of the day was deplorable.⁵ One writer — probably one of the clergymen who came over with Copley — wrote: "There is scarce any protestant minister in Maryland. Now and then an itinerant minister came over of very loose morals and scandalous behaviour, so

¹ Scharf, I, 309, note; Hawks, II, 65.

² Hawks very aptly cites this career of Coode as "affording a striking illustration of the facility with which in that day vice, that deserved a prison, could figure in these unfortunate colonies in the robes of a priest. It happened in the times when too many thought that any one would suffice to serve the Church in America, and when a willingness on the part of an English clergyman to come to the American plantations was not infrequently viewed as presumptive evidence against his character."

³ Hawks, II, 63.

⁴ Scharf, I, 343, 303, 365; *Acts of Assembly*, IV, 425.

⁵ Hawks, II, 76.

that, what with such men's ill examples, the Romish priests' cunning, and the quakers' bigotry, religion was in a manner turned out of doors." The clergy also sent to the bishop of London a statement of a similar tenor. It declares that there were but three clergymen in the province before the governor's coming, and continued, "There was also a sort of wandering pretenders to preaching, that came from New England and other places; who deluded not only the protestant dissenters from our Church, but many of the Churchmen themselves, by their extraordinary prayings and preachments, for which they were admired by the people, and got money of them."

The act of establishment was a distinct loss to the cause of freedom in Maryland, not alone for its institution of a State-Church, but for its bringing in the proscriptions of the English toleration act. The liberty allowed by that act was far less than that of the Maryland law of 1649. The Roman Catholic founders of the colony were put under the ban, and could indulge in the public exercise of their religion only at the risk of fine and imprisonment. Even domestic and private devotions were made causes for hostile remark. Besides this oppression of the Romanist, the non-episcopal worship of Protestants could be exercised only upon sufferance, while every Protestant, not a member of the Church of England, was compelled to support a Church not his own.

This makes the course of the Maryland Puritans all the more notable. Their lying clamor against a "Popish tyranny," which did not exist, fettered the religious liberty they already possessed. Either their Puritan bigotry against the Church of Rome made them blind to the ecclesiastical consequences for themselves; or their affectation of a Puritan character was a mere cloak to cover political malice, indifferent to the religious result. The latter supposition is by far the more just, both from their unscrupulous methods of attack, and the readiness with which they accepted a prelatial establishment. No genuine Puritanism would have submitted

to the Anglican burden without a struggle, second only to its resistance to the Church of Rome. But so far as the Maryland Puritans were concerned, we read of no objection to the establishment. On the contrary they welcomed it, as though it had been a deliverer, and promptly established it themselves. The only protest came from the Quakers, who sent a deputation to England and petitioned the assembly, seeking relief from Church taxation as "a burden to their consciences and estates." But the assembly turned a deaf ear, and in England the remonstrances of the Anglican clergy hindered a favorable response.

Immediately that the Church of England came to its establishment in Maryland, it began the same course of vexations toward non-conformists, which distinguished it in Virginia and New York. In 1694 Nicholson succeeded Copley and showed his zeal in much harsh treatment, especially of the Quakers.¹ Various efforts were made to increase and extend the power of the Church.² In 1696 the assembly passed a new act of establishment with enlarged powers and reciting: That his Majesty's subjects of this province shall enjoy all their rights and liberties according to the laws and statutes of the kingdom of England, in all matters and causes where the laws of the province are silent." Against the act the Quakers and Romanists protested, sending an agent to London, and it was disallowed by the king in council, because of the clause above quoted, "which clause is of another nature than that which is set forth by the title to the said law."

Again the Church party in 1700 attempted its purpose by a law, enacting: "That the Book of Common Prayer and the administration of the Sacraments, with the rites and services of the Church, according to the use of the Church of England, the Psalter and Psalms of David, and morning and evening prayer, therein contained, be solemnly read by

¹ Anderson, *Colonial Church*, II, 622.

² *Ibid.*, II, 630-631; Hawks, II, 88, 89, 97, 115.

all and every minister or reader in every Church, or other place of public worship, within this province." This act was also disallowed by the king, on the ground that the phrase, "other place of public worship," infringed the act of toleration.

Still another bill was drawn up by Commissary Thomas Bray, approved by the board of trade, sent to Maryland, passed by the assembly in 1700 and approved by the king. By this act the Church was finally settled. In brief, the act provided that every minister of the Church should be inducted by the governor, and should receive forty pounds of tobacco per poll in his parish, and out of this income should pay to his clerk one thousand pounds of tobacco yearly. The sheriffs were to collect the stipends. The vestries, over which the minister was to preside, were to keep the Church property in repair, meeting the expense thereof by *the fines under the act*. If these fines were insufficient, they were empowered to lay a tax not exceeding ten pounds of tobacco per poll yearly. The toleration acts of England were extended to Protestant dissenters and Quakers, who were permitted to have meeting-houses, provided the same were certified to, and registered by, the county courts.

Thus did free Maryland under bondage. The Puritan exchanged his liberty for a grudging and burdensome toleration, while the Romanist found himself locked out of his own home. The situation makes a curious reverse, the like of which is not to be found elsewhere in the colonies. Not the least curious and expressive feature of the change is the provision that repairs on property should be defrayed by the fines under the act, in its very best light a provision distinctly immoral. The act turns a perfectly innocent thing — nonconformist worship into a crime, calculates that there will be many violations of the statute, and plans to raise a revenue out of the crime which itself creates. It was no less shameful than oppressive.

We must not fail to note that the author of the bill finally settling the Church came with it into Maryland. Though

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evidently, from the character of the measure drafted by him, a man of very narrow religious prejudices, yet Bray was in all other respects worthy of the highest commendation — a gentleman, a scholar, of purest personal character, and of unwearied devotion and Christian zeal. Before coming to America he had given evidence of his capacity in founding and organizing the two great English societies, for the “Promotion of Christian Knowledge,” and for the “Propagation of the Gospel in Foreign Parts.” Chosen by the bishop of London as his commissary to the Church of Maryland, he was a worthy companion to James Blair in Virginia. The two men stood head and shoulders above all the Church of England ministers in America since the day of Whitaker, the “apostle to Virginia.” Bray spent many years in Maryland, for a long time the only sweet savor in its Church, laboring with much toil, amid countless discouragements, but with intelligent and unflagging zeal. “He gave nearly all of his earnings to the advancement of religion and the Church in these colonies.”¹

Bray’s chief sources of trouble were the character of most of the clergy, and the governor’s power of induction to parishes. Bray’s own hand in England, taught by English custom, had put that power in the bill of establishment. But he found on acquaintance with American conditions that it was fatal to the Church. The two evils worked together, for the unsavory reputation of the ministry was not to be sweetened by an irreligious governor’s appointment of favorites to parishes. All records agree in representing the majority of the Maryland clergy on the same low level with their brethren in Virginia, serving in one province as in the other to nurture resentment, not only against the Church itself, but also against the royal authority, which forced an establishment with such a ministry upon an unwilling people. We have already noted the effect of this scandal in Virginia. In Maryland it was no less glaring and disabling to

¹ Hawks, II, 79; Anderson, II, 623.

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the Church, and the popular outcry against it was no less strident. The letters of the few godly men among the clergy to the society and the bishop of London¹ abound in references to it and its terribly disastrous influence on the Church. At nearly every opening of Perry’s invaluable compilation the reader will find some allusion. The constant appeal is for better men to be sent from England and for a bishop, the superior need of whose presence is the function of discipline to correct the irregularities of the clergy. Dr. Hawks² remarks with sharpness upon the lamentable condition, that while Churchmen were forcing their unwelcome Church on the people and “punishing men for non-conformity, they should not have illustrated their own orthodoxy by a consistent Christian life.”

The outcry against clerical indecencies became so strenuous that in 1708 an act was passed by the legislature creating a special court for the trial of derelict ministers.³ The governor and three other laymen were to constitute the court. To such a court, from which all clerical membership was carefully excluded, was committed the highest functions of spiritual authority, the power to both deprive a culprit of his parish and depose him from the ministry.⁴ This court, indeed, was never organized, as the governor, though in sympathy with the object of the act, declined to assent on the ground that he had received no instructions from the king covering such a measure. The assembly declared its intention to persist in action at every session. The clergy became alarmed and sent a remonstrance to the bishop of London, imploring his influence, and describing the measure as “an establishment of Presbyterians.” Whether by the bishop’s influence or other does not appear, yet the attempt to constitute so anomalous an ecclesiastical court was not continued. Its chief

¹ Bishop Perry, *Historical Collections* (Maryland).

² *Ecclesiastical Contributions*, II, 128.

³ Anderson, III, 283.

⁴ This resembles the action of the Carolina legislature in 1704.

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value in this narrative is to illustrate the relation which the civil power considered itself to occupy toward the Church.

It found another illustration, sixty-two years later (1770), in a revival of the effort to form a court with spiritual jurisdiction. This new attempt proposed a body composed of the governor, three ministers, and three laymen, the six associates to be appointed, by the governor himself. The bill passed the legislature, but Governor Sharp refused assent on the ground that it conflicted with the principles of the Church of England.¹ The evil at which the bill was aimed, although the general character of the clergy slowly improved, continued to plague the Church down to the Revolution. Bray wore himself out in contending against it, and Henderson, his successor in the commissaryship, found a no less discouraging and impossible task.²

Both of them attributed a great part of their difficulty to the governor's power of presentation and induction, against which there existed no appeal in law. No power could reach a minister whom the governor's favor protected, no matter how shameful his conduct. Even the power which conferred the benefice could not withdraw it, and the governor himself could not remove a minister, who had disgraced his appointment.³ Bray sought to have the right of induction vested in the commissary, as the official representative of the bishop of London, but was unsuccessful. The power was too valuable for the governor to relinquish.

So thought also the Baltimores when they came to their own again. In 1715 Charles, third Lord Baltimore, died in England, after many ineffectual appeals for the restoration of his proprietary rights, always denied on the ground of his religion.⁴ His son Benedict, the fourth Maryland palatine, turned Protestant and was rewarded by George I. with a renewal of his patent. With his conversion to Protestantism, — a change undoubtedly dictated by policy rather than by

¹ Hawks, II, 257.

² Anderson, III, 295.

³ *Ibid.*, III, 281.

⁴ Scharf, I, 378.

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religious convictions, — he imbibed all the narrow prejudices and arrogancies which distinguished the attitude of the Church of England toward all other religionists. To this somewhat degenerate scion of the noble Roman Catholic house, which established religious freedom in Maryland, the right of patronage in the Church appeared no less valuable than to the royal governors. He clung to it with persistent tenacity and would tolerate no interference with his ecclesiastical power.

He wrote to the bishop of London in 1718, with the ardor of a neophyte: "I have nothing more at heart than the Protestant establishment, and I will do all that in me lies to encourage and favor the Church of England as by law established."¹ At the same time he was very unwilling to yield an iota of his rights as patron throughout the entire province, using them many times to the manifest disadvantage of the Church which he professed to love. The Rev. T. Bacon, who deplored the condition of the Church, wrote in 1730 to the bishop of London: "Lord Baltimore appoints all the clergy, and will not consult either with the bishop of London or the society."² And fourteen years later, Dr. Chandler, writing to the bishop a report of a recent tour among the Churches of Maryland, said: "The inhabitants look upon themselves to be in a state of the most cruel oppression with regard to ecclesiastical matters. The Churches are built and liberally endowed entirely at their expense; yet the proprietor claims the sole right of patronage, and causes induction to be made without any regard to the opinions of parishioners. Those who are inducted are frequently known to be bad men even at the very time, and others soon show themselves to be so. After induction they cannot be removed, even by the highest exertion of proprietary power."³

Baltimore was unwilling that the clergy should meet together to consult on Church affairs, or to concert any measures looking to relief from their burdens. About 1730 the

¹ Perry, *Historical Collections* (Maryland), p. 99.

² *Ibid.*, p. 326.

³ Hawks, II, 249.

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bishop of London, moved by the constant complaints from Maryland, and giving way to a surprising impulse of departure from the usual English policy, invited the provincial clergy to choose one of their own number to go over to England and be consecrated as suffragan. The clergy met and selected a Mr. Colebatch for this episcopal dignity, but, when he attempted to leave Maryland for consecration, he was forbidden by the government, which at the same time rebuked the clergy for their action.¹ Thirty years later the clergy renewed their effort for a bishop, and met a similar rebuke. Governor Eden, the last of the proprietary governors, had come over in 1769, and brought a command from Baltimore that the clergy should

not be allowed to meet in convention about Church affairs. Meanwhile they had met and adopted a petition for a bishop, which they commended to the governor's influence to obtain a favorable answer. "The only answer received was that of rebuke and insult. Never were they to presume to meet again. . . . The governor told them that the parishes in Maryland were all Donatives, and therefore beyond any control which a bishop could exercise."²

Thus it became clear that there was not much more freedom for the established Church of Maryland than those of non-conformists. Its clergy were indeed stipendiaries of the state, and in the matter of support were much better placed than other ministers. But in regard to the stipend they were subjected to vexations, for which their own irregular conduct was chiefly responsible.³ There was a struggle of many years' duration between them and the legislature. That body in 1763, "disgusted and wearied by the continued irregularities of the great mass of the clergy," passed an act reducing the ministerial stipend by one-fourth. Such a reduction no body of men would be apt to view with equanimity, and the Maryland clergy were in arms at once, the more clamorous as their character prevented their vision of anything beside their selfish interest. It was at the same

¹ Anderson, III, 295.

² *Ibid.*, III, 309.

³ *Ibid.*, III, 305-311.

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time with the famous "Parsons' Cause" in Virginia, and the public distress, which gave rise to the Virginia action, was also felt in Maryland as a justification, added to their disgust for the act of the legislature. There was no great trial and judicial decision of the question in a Maryland court, until after 1770, but the war of words was bitter and long.

Indeed, there was not at first much room for appeal to the courts. The Maryland legislators were wiser than the burgesses of Virginia. The latter left the stipends at the old figure, and, to the prejudice of all creditors, fixed the price of tobacco used in paying debts at less than one-third of the true value. The Maryland method was both more direct and thoroughly within the power of the legislature. Without attempting to meddle with prices, the power which had fixed the stipend simply reduced it. But we cannot affect much sympathy with the clergy, for, though their income was reduced, their support was well assured. They were not, as many of their brethren in Virginia, brought into grinding poverty by the blow. Anderson wrote of them: "The position of every clergyman in Maryland was far better than that of their brethren in any other colony. Their complaining alienated sympathy."¹ Dr. Chandler, in his letter of 1764 to the bishop of London, alluding to the clerical complaints, wrote "The livings generally are worth £300, some of them £500. Very few are so low as £200."² is quite impossible to seriously pity men thus situated, in view of the fact that, even if we suppose Dr. Chandler's figures to represent the stipends before the reduction, yet the reduction left the lowest stipend at an amount higher than the average ministerial salary in this country to-day (1901), while the purchasing power of money, as related to the needs of life, is now much less than in colonial times.

This trouble about the stipends took another form in 1770³ In that year the legislature neglected to continue the reduction act of 1763, a neglect which the governor attempted

¹ Anderson, III, 307.

² Hawks, II, 249.

³ *Ibid.*, II, 264-281.

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to correct by a proclamation, directing the sheriffs to collect the ministers' salaries at the new rate of thirty pounds of tobacco *per poll*. This action of the governor was condemned by some of the people as an usurpation of power, while the clergy contended that the legislative neglect, through the expiration of the law of 1763, revived that section of the establishing act which assessed forty pounds of tobacco *per poll* for the parsons' stipends.

But this contention of the clergy referring to the establishing act set another party, opposed to the Church, to questioning the legality of the act itself. Though the act was introduced in 1700, final action was not concluded until two years later, and the act was spoken of as the "Act of 1702." The contention of this party was, that the act of 1702 was passed on March 16; that King William died on March 8; that the authority of the legislature elected on the king's writs expired with his life; and, therefore, that the act of 1702 was invalid, and the Church of England had never been established in Maryland!

Here then was a triangular contest in which both Churchmen and non-conformists were engaged. The controversy is known as that of "The Proclamation and Vestry Act," and was never adjusted, save as the Revolution put an end to it and

its cause. During its discussion much and bitter strife raged. In many instances people refused to pay under the act of 1702, and the clergy entered suits to recover, on which the decision of the courts was against them. The legislature of 1773 reënacted the provision of reduced stipends, but, in order not to pre-judge the case of the establishment, expressly provided that this action should have no influence in determining the validity of the law of 1702, which must be left for future legal decision. As Dr. Hawks tersely observes, "The American Revolution settled it without the intervention of judge or jury." Certainly, the controversy can be regarded as a prelude to that Revolution and with much of its animating spirit. In Maryland, as in Virginia,

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the downfall of the establishment "found few to weep over its dishonored corpse."

It remains to note the action of the government toward non-conformists after the establishment of 1702. I have found no records of severe persecution of persons of any faith, though the earlier years of the establishment were full of annoyance. The majority of time population was so overwhelmingly non-episcopal — Baptist, Presbyterian, Huguenot, Methodist, German Reformed — that the legislature never ventured to interfere with their right of worship, though compelling their contributions to the support of the established Church. The Quakers and Roman Catholics were the special objects of animosity, and of these the former found early relief from trouble.

There had come into the province many of the sect, who increased in number constantly. It has been noted that in 1688 they obtained consideration for their scruples concerning militia duty. In 1704 the legislature explicitly conceded their rights to toleration. Twenty years after, 1724, the Quakers having been subjected to great indignity by turbulent disturbance of their meetings, a law was passed to punish such offences, and also to admit a Quaker's affirmation in place of an oath.

The lot of the Romanists was much more vexatious. They were not driven out of the province; they were not imprisoned or beaten. But they were deprived of all civil rights, prohibited the free exercise of their worship, and fined on any violation of the narrowing laws. Some of the legislation evinces a peculiar malignity of spirit against them. Thus, the law of 1704, "An Act to Prevent the Growth of Popery," forbade a "popish bishop or priest" to exercise his functions in any public service, under a penalty of £50 fine, or six months' imprisonment. If one, once convicted, should be guilty of a second offence, he was to be sent to England for punishment.² The only service permitted to the Romanist

¹ Hawks, II, 117, 174.

² Scharf, I, 369, 370; Hawks, II, 117, 142.

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was within the limits of a "private family of the Romish communion." The same act laid a tax of twenty shillings on every Irish servant imported, to "prevent the entrance of papists." This provision was renewed in 1714; a fine of £5 was imposed for concealing such importation, and certain oaths were ordered for persons on incoming ships, to discover their religious opinions. In 1715 it was enacted that children of a Protestant father and Roman Catholic mother, could, in case of the father's death, be taken from the mother. In case a son in a Romanist family became a Protestant, the father lost control of him and must be compelled to support him. The act of 1716 required the oath of abjuration for all persons elected to office; and that of 1718 denied the ballot to Romanists unless they abjured their faith.

It is pleasant to note that, despite the virulence of these acts, there was little force to execute them. They were chiefly sound and fury, and this Protestant bigotry was very like "Pope and Pagan" in Bunyan's tale, too stiff in the joints to run after the people at which they snarled. The Roman Catholics, beyond the things noted, suffered no great hardships and no personal persecutions. The fact was that, with all the loud professions of Protestant zeal on the part of the leaders, there was too much love for liberty in the land to countenance severity. Though his brethren suffered in some measure, yet the seed sown by Baltimore had not fallen on entirely barren ground. The heart and head of the people at large were sounder than those of the government. Presently, the Roman Catholics were able unchallenged to assume their rights, and though the colonial legislature never repealed these oppressive laws, they were able in 1763 to build their first Church in Baltimore without opposition.¹

So must end the peculiar tale of colonial Maryland in its relation to religious freedom. We shall find her well prepared to take her place in the company of states which declared liberty to every soul.

¹ Hawks, II, 246.

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Under the rule of New Netherland the same relation between civil and ecclesiastical affairs was supposed to obtain in New Jersey as we have already noted in Dutch New York. The early occupation of its territory has left permanent monuments of Dutch influence in the many Reformed Churches which flourish in that state. But beyond an occasional and unimportant note it does not appear that the Dutch authorities at New Amsterdam concerned themselves to any great extent about Church affairs in their dominions west of the Hudson. Even the settlement of Quakers in that part of his government did not stir the fiery spirit of Stuyvesant.

Thus our story of New Jersey must begin with the English conquest of 1664. At that time the Dutch had made settlements on the North and South (Delaware) rivers, and in one or two localities in the interior. Newark also had just been founded by Pierson and his Branford flock, who, resenting the "Christless rule" of Connecticut, essayed a "new ark" of that covenant, which defined all civil rights as the perquisites of religion alone. They began with the foundation laid at New Haven, the fundamental rule of Church membership as a condition for the franchise and for office; and through their influence the first colonial assembly, meeting at Elizabethtown in 1668, "transferred the chief features of the New England codes to the statute book of New Jersey."¹

But the impress of such restrictive legislation was transient. Its bands were sundered almost so soon as they were knit, through the influx of an incoming population over which the extreme Puritanism of New Haven could exercise little control. Into the country between the Hudson and the Delaware there came a steady stream of people not in sympathy with this ideal of a "godly government," men who had struggled and suffered for the rights of conscience and of

¹ Bancroft, *History of United States*, II, 318.

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man. Scotch Presbyterians sought in the Jerseys a refuge from the persecutions of Charles. Quakers fled thither from the hostile atmosphere of England and New England. The original Dutch settlers remained to assert continually the freedom which the Reformed faith inculcated. All together made conditions too strong for narrow Puritanism to successfully resist.

There was also arrayed against it the explicit "concession" of the proprietaries, which, after the manner of a fundamental law, guaranteed a complete religious freedom. These proprietaries were Lord Berkeley and Sir George Carteret. On the conquest of New Netherland Charles gave the entire province to his brother James, the duke of York. In expectation of this gift, James had already bargained with Berkeley and Carteret — who were also of the Carolina proprietaries — for the southern portion of the territory which was west of the Hudson. At the fulfilment of this bargain the new owners of the province were ready with their plans for the settlement of their colony, and at once published a scheme, embodying certain principles and stipulations, which they called "Concessions,"¹ and by which they desired to attract settlers.

The seventh concession ran: "No person . . . shall be any ways molested, punished, disquieted, or called in question in matters of religious concerns, who do not actually disturb the civil peace of the province; but all and every such person, or persons, may . . . freely and fully have and enjoy his and their judgments and consciences in matters of religion throughout the province."

This concession does not in words refer to civil rights, but it was understood, as now, that such language involved an entire absence of discrimination as to civil rights because of religion. To so discriminate, whatever might be the amount of civil rights possessed by any portion of the community, would be to "punish and call in question" for religious reasons the excluded portion of the people.

¹ Samuel Smith, *History of New Jersey*, p. 513.

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With the reconquest of New York by the English began a new movement in the history of New Jersey.¹ Lord Berkeley, who was old and wished to rid himself of care, sold the western half of the province, for a thousand pounds, to John Fenwick and Edward Byllinge, men of prominence among the English Quakers. With these two William Penn, Gawen Laurie, and Nicholas Lucas soon became associated, and these Quaker proprietaries, desiring not only a place of asylum for their co-religionists but also a territory for their own government, easily made an agreement with Carteret for the division of the province. Thus New Jersey became "The Jerseys," a term which has lasted in common speech down to this day, though the two provinces were reunited by royal decree in 1702.²

The Quaker proprietaries of West Jersey wrote to those of their faith, who had already settled in the province: "THE CONCESSIONS are such as Friends approve of . . . We lay a foundation for after ages to understand their liberty as Christians and as men, that they may not be brought into bondage, but by their own consent; for we put THE POWER IN THE PEOPLE" This purchase and declaration were made in 1676, and in the following year was published the fundamental agreement of

the proprietaries as to the conduct of government in West Jersey.³ This agreement — expanding the terms of the former concession — declared: “No men, nor number of men upon earth, hath power or authority to rule over men’s consciences in religious matters; therefore, it is consented, agreed, and ordained, that no person or persons whatsoever within the said province, at any time or times hereafter, shall be any ways, upon any pretense whatsoever, called in question, or in the least punished or hurt, either in person, estate, or privilege, for the sake of his opinion, judgment, faith, or worship towards God in matters of religion; but that all and

¹ Bancroft, *United States*, II, 355-357.

² *Ibid.*, III, 48.

³ Smith, *New Jersey*, p. 529.

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every such person and persons may, from time to time and at all times, freely and fully have and enjoy his and their judgments and the exercise of their consciences in matters of religious worship throughout all the said province.”

In perfect consistency with this ordination of liberty, the first assembly of West Jersey, in 1681, reiterated its principle, formulated it in a colonial law, and extended its specific terms to matters of civil right.¹ This law declared: “Liberty of conscience in matters of faith and worship shall be granted to all people within this Province, who shall live peaceably and quietly therein, and none of the free people of the Province shall be rendered incapable of office in respect to their faith and worship.”

With so broad a platform of freedom West Jersey immediately became as a promised land to the followers of Fox, who emigrated from England in large numbers, and whose firm adhesion to the principles of freedom made much trouble for the royal governors and the Church of England party, after the reunion of the Jerseys.

Meanwhile East Jersey had received large numbers of the Scotch, who brought with them their Presbyterian faith and worship. It was not a hopeful outlook for the Church of England men, who labored hard to establish dominance of their own faith. Bray, the commissary to Maryland, complained: “The whole territory is under Presbyterian or Quaker influence. They are left to themselves without priest or altar.”²

East Jersey was not so liberal as the Quakers in the west. At first, in 1683, the assembly reiterated the language of the “Concession,” but in 1698 limited the liberty of consciences to persons “acknowledgeing one Almighty and Eternal God, and professing faith in Christ Jesus.”³ This was undoubtedly due to the influence of a rigid Scotch religionism, with which

¹ Smith, pp. 128, 576.

² Anderson, *History Colonial Church*, II, 662.

³ Smith, *New Jersey*, p. 271; Kent, *Commentaries*.

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the sturdy Dutch may have been not entirely out of sympathy. The influence of the feeling seems to have asserted itself even in West Jersey, where in 1693 a bill was introduced into the assembly against non-believers in the Trinity, which appears however to have failed of passage.¹

The attempt was a departure from Quaker principle, and it is to be set to the credit of West Jersey that the effort failed; and all the more honorable, in that the colony of Penn across the Delaware had been guilty of as signal departure, in making belief in God and Christ a condition of citizenship. This condition was imposed, as will be seen, at the beginning of Pennsylvania and may have been among the reasons for the West Jersey attempt. These facts constitute the only blot on Quaker championship of religious freedom, for with these exceptions it can be noted as the peculiar glory of the Quakers, among the sects of that age, that they remembered in the day of triumph the principle of liberty professed by them in times of persecution.

A much more pleasing illustration of the spirit in West Jersey is found in a letter from the proprietaries in London to the Rev. Thomas Bridges, a minister of the Church of England resident in Bermuda.² Mr. Bridges had written in 1692, expressing his desire to settle in West Jersey, and to him the proprietaries declared themselves pleased at the prospect of obtaining for their colony his “religious and civil influence”; and continued, “You may in what situation you please take Two Thousand Acres, one Thousand to be your own in fee forever, the other to be annexed unto your office and descend unto him who shall succeed you.” The governor, Daniel Coxe, also wrote to Mr. Bridges, “You will be rewarded with . . . the Love and Esteeme of those who shall *voluntarily* come under your Pastoral care, with due maintenance: Together with Civill and Christian Respects from others of different perswations.”³

¹ Smith, p. 417.

² *New Jersey Archives*, II, 94.

³ *Ibid.*, II, 96.

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Political affairs in both Jerseys were in a chronic state of turmoil, unmixed with questions about religion or Church, save in so far as a bitter jealousy of Quaker influence asserted itself in the quarrels and disputes. The people of both colonies were also jealous of the proprietaries and unwilling to submit to their requirements, and made so much resistance that the proprietaries grew weary of their troubled government. In 1699 the proprietaries of East Jersey offered to surrender their charter to the crown, that their territory might be combined with New York under one provincial government. The offer was made with certain conditions, of which one was the following:¹ —

“X. No Person or Persons whatsoever to be molested or deprived of any civil Right or Privilege; or rendered incapable of holding any Office or Employment in the Government because of their religious Principles; the Province being planted by Protestant People of divers Perswasions, to whom that Liberty was an original encouragement.”

Two years afterward, the two colonies united in a joint petition to the king to be taken under the immediate government of the crown. Among the proposed conditions was: —

“XII. That all *Protestants* may be exempt from all penal Laws relating to Religion, and be capable of being of the Governor’s Council and of holding any other Publick Office, though they do not conform to the discipline of the Church of England, or scruple to take an Oath.”² The peculiar form of this condition indicates the special influences under which it was drawn. The toleration act of 1689 excluded from public office all non-conformists, hampering them with many other disabilities. In a province wherein dissenters were almost the entire population, and no Church had yet been organized of the English communion, it was needful that the rights of dissent should be clearly acknowledged. Besides

¹ *Archives*, II, 296.

² *Ibid.*, II, 404.

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this, in view of the fraudulent claim that the Church of England was established in New York by the Act of 1693, the prospect of being united to New York made it the more necessary to protect the non-conforming Jerseymen.

At the same time the influence of the toleration of William is seen in the specific reference to “Protestants” in the proposed condition. This made a distinctly backward step in New Jersey, which hitherto had made no discrimination against Romanists. But in applying to the king for a direct royal government, it seems to have been taken for granted, that the liberty demanded must stop short of protecting those whose religion was a crime under English law. It does not appear that Jersey authorities had ever come into contact with Roman Catholic demands, or that any of the Roman faith had ever proposed to settle in the colony. We may consider it, therefore, as probable that this specifying of Protestants was rather for conformity of phrase to the English statute, than for any hostility to Roman Catholics.

The offer and petition were made to William III., but were not acted upon before his death, being left for the disposition of his successor. Among the earlier actions of Anne’s reign was the assumption of the Jersey government. This took place in 1702 the charters of both Jerseys were surrendered and annulled; the united province was received under the direct government of the crown and joined to that of New York, to which joint government the queen sent its first governor in the person of her cousin, Edward Hyde, Lord Cornbury, than whom never was there in the province another “governor so universally detested, nor that so richly deserved the public abhorrence.”¹

But the order in council, assuming the government of New Jersey, made no allusion to the petitioners’ conditions, though the substance of them found place in the queen’s *instructions* to Cornbury, in which no distinction was made between New York or New Jersey. This instrument, in regard

¹ Wm. Smith, *History of New York*, I, 194.

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to liberty of religion, used the stereotyped form constantly repeated to every governor: “You are to permit a liberty of conscience to all persons (except papists), so they may be contented with a quiet and peaceable enjoyment of the same,

not giving offence or scandal to the government.”¹ The instructions also provided for a Quaker’s affirmation in place of an oath.

The other items of the instructions referring to religion proceed upon the supposition, either that the Church of England had already been established in New Jersey, or that it could be established by force of the instructions themselves. We have already exhibited the character of the famous “Ministry Act” of 1693 in New York, carefully drawn by the legislature to avoid recognition of the Church of England, and yet afterward always referred to by governors, the home government, and Episcopalians as having formally established that Church. The act was passed nine years before the appointment of Cornbury to the joint government of the two provinces, and his instructions seem to assume that the governmental union had carried that act over into New Jersey. It is but another illustration of the fraudulent dealing of which the act was the occasion; for, as already shown, its establishment was designed to affect only six towns in the entire province of New York.

At the same time, it is possible that, without regard to the New York act, the home government considered itself competent to establish the Church of England in New Jersey by royal decree; as though the colony, which had sought the direct government of the crown, must accept the queen’s pleasure in things ecclesiastical as well as civil. Thus in a province, which did not possess a single Church of the English communion, the governor is vested with ecclesiastical authority.² “We . . . authorize and empower you to collate any person, or persons, to any Churches, Chappells, or other Ecclesiastical Benefices within Our said Province, as often as

¹ Archives, II, 622.

² *Ibid.*, II, 496, 528, 529.

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any of them shall happen to be voyd. . . . You shall take special care that God Almighty be devoutly and duly served throughout your government, the book of common prayer, as by law established, read each Sunday and holy day, and the blessed Sacrament be administered according to the rites of the Church of England.” The governor was also charged with a care for Church buildings and the support of ministers; to induct no man without a certificate from the bishop of London; to remove any scandalous minister; to constitute ministers members of their own vestries; and to report to the bishop of London, as having colonial ecclesiastical jurisdiction.

The really absurd thing about these instructions is, that the Churches of New Jersey were all of other than the Anglican communion, and the explanation of their purpose is, either the intent to dragoon the Reformed and Presbyterian Churches into conformity, or to confer power over such Episcopal Churches as might thereafter be organized; while behind it all is the evident thought that the royal authority carried the Church of England into the province. It is only thus that we can understand the phrase, “as by law established.” The book of common prayer and the Anglican Church were established by law in England, but the only possible way of using those words with reference to New Jersey was with the idea that English Ecclesiastical law covered all parts of English dominion — an idea very easily demonstrable as incorrect.

For in no other colony had this general dominion been thought sufficient for the establishment of the Church. The Virginia Church was established by the colonial assembly; that in Carolina by the charter. The royal authority never affected such power in New England or Pennsylvania; and in New York the angry struggle between Fletcher and the assembly was based on the understanding that an act of the colonial legislature was necessary for establishment. The only other colony, which bears any resemblance in this respect

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to New Jersey, is Maryland. But in Maryland, when William assumed the direct government of the province, the establishment of the Church, attempted by a specific and detailed order of the king and queen in council having all the force and effect of a charter, was supplemented by an act of the colonial legislature. In New Jersey the peculiar situation was that no such order was made, and that the establishment was simply taken for granted without any law or decree on which to base it. The colonial legislature had never enacted such a law, nor did it afterward supply the deficiency. Bancroft¹ speaks of the Church of England as established in New Jersey in 1702, but the only ground for the statement is in Cornbury’s instructions, which in reality assume that which was not true.

The whole treatment of the question has been misleading, for in point of fact the Church of England never was established in New Jersey by either crown or legislature. The contrary claim has not even so much reason as that for the establishment in New York. In both colonies the subsequent incessant claims of the Episcopal clergy and the English authorities to the privileges of establishment involved a perversion of the fact. This perversion was specially gross in New Jersey for the reason that, unlike New York, there was no legislative act whatever to furnish a ground for it.

The absence of an ecclesiastical statute was a sore grievance and conscious weakness to the Church of England party. Occasionally a complaint of it was expressed very plainly. Thus the Rev. Jacob Henderson, a missionary of the

Propagation Society, bitterly contrasted the condition of the Church in New Jersey with that in New York.² Writing in 1712 he said: "There are two Acts of Assembly for establishing the Church of England in New York, and ministers of the Church of England have always had the six Churches in New York.

¹ *History of United States*, III, 48.

² *Archives*, IV, 155-161; *Colonial History of New York*, V, 334.

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(Both of which statements were mistakes.) But in New Jersey there are no laws in favor of the Church and but four ministers of the Church of England."¹ The absence of such law, as of any subsequent attempt to supply one, is to be accounted for by the religious sentiment of the people, so adverse to the idea of establishment as to make even Cornbury sensible that no ecclesiastical statute was immediately possible. He does not seem to have essayed any direct struggle on the question, and certainly did not venture on any so high-handed proceedings as those which characterized his administration in New York. He interested himself for the Church so far as he was able, endeavored unsuccessfully to institute the tithe, and reported at one time with some elation, "There is a Church at Burlington which I have named St. Ann's."² But beyond occasional annoyance of no great moment his powers were limited by the overwhelming popular temper. Even his turbulent spirit dared not to openly grapple with the anti-prelatical sentiment of Quaker and Presbyterian.

The Quakers, indeed, furnished him and other governors material for much thought and countless complaints. Their numbers and the tenacity of their opinions in opposition to oaths, militia duty, and tithes brought an immense amount of turmoil into New Jersey. Before any hope could exist for a Church establishment the Quakers must first be disfranchised and silenced. The question resulted in a passionate political struggle, but behind it were the religious scruples of

¹ In this letter Henderson assailed Colonel Morris, the most prominent citizen of New Jersey, as "a professed Churchman, but a man of no manner of principles or credit, who calls the service of the Church of England a Pageantry, who has Joyned in endeavors to settle a conventicle in New York City." (This probably refers to Morris's approval of the movement to incorporate the Presbyterian Church.) To this letter Morris, paying no attention to the attack on himself, triumphantly replied, "He complains that there are no laws in favor of the Church of England in the Jerseys, which is granted. But does he know of any Law in favor of any other Religion?"

² *Archives*, III, 107.

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the Quakers and the ambition of the English Churchmen. Cornbury wrote to the board of trade¹, 1705, "Quakers are pretty numerous in this division (West Jersey), and in the time of the Proprietary Government they had all the power in there, and used it very arbitrarily." Part of the reason for the governor's animus is shown in a previous letter:² "The Quakers bragged that there should be no Revenue³ settled, that the Queen had sent them a Governor, but they would keep him poor enough: these and such like reports were spread about, not by the meanest men among them, but by the topping leading Quakers."

⁴ Another indication of the spirit of the struggle is in a memorial to the board of trade by three prominent leaders of the anti-Quaker party, Coxe, Dockura, and Sonmans, all of whom at different times stood high in the government. They petitioned for an order from England excluding Quakers from membership in the council and assembly. Among their reasons were: —

"1. The Quakers were opposed to a militia and to revenue.

"2. So long as they are in places of power, they awe and frighten many . . . who would otherwise leave that perswasion and come over to the Christian Church.

"3. Because, refusing to pay Tythes on pretence of Conscience, they will consequently oppose and obstruct the passage of any Act in favor of the said Church, or its settlement.

"4. Quakers were not admitted to office in England or elsewhere, save in Pennsylvania."

¹ *Archives*, III, 106.

² *Ibid.*, III, 70.

³ This meant salary for the governor. As other colonies, New Jersey did her best to starve out the royal governors. The quarrel was chronic and universal.

⁴ *Archives*, III, 82.

5. Lord Cornbury had rightly construed one section of his instructions as admitting Quakers to public office, and this view the memorialists said manifestly appears to be as false as 'tis scandalous. . . . We hope therefore that the Quakers may be excluded from the Council, the General Assembly, and all other places of publick trust in the Province. This clearly reveals the motive of some of those opposed to the Quakers, to remove an obstacle to a Church establishment.

Cornbury also, though forced to act according to instructions, yet evidently did not like this admission of Quakers. In a letter of 1704 to the board of trade¹ he complained of them as obstructing the courts by their refusing oaths, and concluded: "I think it would be much more for the service of the queen that none should be admitted into employments, but those who are willing to take the oaths."

The hard fact for Cornbury and the Church party to face was that the Quakers held either the majority or the balance of power, at different times, in the legislature. West Jersey sent in 1705 a delegation entirely Quaker, save for one member; and Lord Cornbury wrote: "Soe long as the Quakers are allowed to be chosen into the Assembly, the service of the Queen and the business of the country must wait upon their humors."² Indeed, as time went on, the governor became more and more disgusted with the situation. The "topping Quakers" were ever a burden. His letters abound in flings and complaints. "I have not suffered any Quakers to have any Office in the Government of New York," but in New Jersey, under the queen's commands, "I have put severall of them into employments; but I have always found them obstinate, unwilling to be ruled, never forwarding but still interrupting business: What Quakers would be, had they the Power in their hands, and which they are very fond of,

¹ *Archives*, III, 66.

² *Ibid.*, III, 114.

appears very plainly in the Province of Pennsylvania, where noe Man can tell what is his own or how to get what is Justly his due."¹

Undoubtedly the Quakers were in many things very aggravating. Their placid and quiet obstructiveness was more exasperating than a violent opposition. But they were clearly within their rights, facing a determined effort to debar them from all civil privileges. Save for their conduct in regard to the governor's support, in which matter they had sympathizers in every non-Quaker assembly on the continent, and in their refusal to provide for the defence of the country, it is impossible to find just cause for blame. It was within the province of a good citizen to choose between militia duty and a fine for refusal of it. But one cannot so easily excuse the action of the New Jersey Quakers in regard to the war with Canada and the Indians in 1709. The governor desired troops and money, that the colony might do its part in the general defence; and the assembly, a majority of which were Quakers, passed the following resolution:² The members of this House, being the People called Quakers, have always been, and still are, for Raising money for support of Her Maj^{ties} Government: but to raise money for Raising of Soldiers is against their Religious Principles, and for Conscience cannot agree thereto." One cannot excuse that attitude any more than the conduct of the Pennsylvania legislature, fifty years later, in refusing protection to the settlers in the western counties.

There was, then, this amount of justice in the attacks upon the Quakers. To some extent it justified the strictness of Colonel Quarry, inspector for the board of trade in the middle colonies, who wrote in 1708:³ "They are driving at the same game acted in Pennsylvania by their Friends there, who are resolved to allow no prerogative of the Crown, nor any power in a Governor, but will have all power lodged in themselves. . . . This growing evil and mischief requires a

¹ *Archives*, III, 229.

² *Ibid.*, III, 470.

³ *Ibid.*, III, 273.

speedy remedy, else I fear it will spread over the whole continent." It gives some justice also to the language of Lieutenant Governor Ingoldsby in 1709,¹ who attributed the unhappy state of the province to "the Prevalence of a Sort of People amongst us, who, though not above one Sixth part of the Inhabitants of the Province, yet by a Peculiar Address and a Religious Cunning Influence too many well-meaning Men with most Ridiculous and Injurious Principles."²

Yet this very language illustrates the spirit with which the Quakers had to contend, in a struggle not only for their civil

rights, but against an insidious scheme to impose an unwelcome ecclesiastical establishment on the colony. And it is pleasing to note that they were not without friends outside of their own sect. Colonel Morris wrote to the board³ of trade of the shameful extortion practised by Cornbury's officers on the Quakers, who refused to pay the militia tax, saying that they distressed "generally above ten times the value, which when they came to expose to sale nobody would buy, so that there is, or lately was, a house at Burlington filled with demonstrations of Quaker obstinacy." He declared that "this extravagant distress from the Quakers had impoverished New Jersey," and then paid his compliments to Lord Cornbury, as "a wretch, who by the whole conduct of his life (here) has evinc't y^t he has no regard to hor^e or virtue."

To Colonel Morris was added Governor Hunter in just consideration for the Quakers, and with his entrance to the

¹ *Archives*, III, 470.

² Ingolsby, however, quite overdrew the picture at another time (*Archives*, III, 413), writing, "For the Quakers, we meddle not with their Religious Perswasions and have no design to abridge them in any of their liberties and Privileges; But their Insolencies in Government are Intollerable, by their weekly, monthly, quarterly, and yearly meeting (where civil affairs are managed as well as spiritual), their Intelligence from all Foreign Parts, and General Combinations, they become Mischievous and daring, even to the affronting Magistrates and contemning the laws, and Particularly Pride themselves on being able to Cramp and Confound Government."

³ *Archives*, III, 280.

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government of the province their troubles began to cease. Hunter, though a sincere Churchman, was not bigoted. Fair-minded and just, he refused both in New York and New Jersey to use his power at the bidding of the English clergy, and at once detected the iniquity of the scheme in the latter province to disable the Quakers and establish the Church of England. His course in these matters brought upon him the hatred of the clergy, who lost few opportunities of maligning him to the home authorities. The governor, in New Jersey as in New York, does not seem to have been greatly disturbed by these attacks, but showed himself fully able to return their compliments with interest.

In the year (1711), after he came to the government and probably by his encouragement, a bill was passed in the assembly to relieve Quakers from all disabilities. The object was to place in a formal statute an assertion of the privileges, which had been conceded in the queen's instructions, and which the Quakers had been able to retain only by dint of much and constant struggle.¹ Of this action Hunter wrote to the board of trade² "The State of the Province absolutely Requires such, that People being by farr the most numerous and wealthy in the Western Division, and, as I may affirm upon experience, the most Dutyfull."

The bill, however, was thrown out by the council and caused no small excitement among the Church of England party. One of the members of the council wrote to Dockura, then in London, who sent the letter to the board of trade:³ "Hunter has entirely and passionately espoused the seditious Party of Morris, Johnstone, &c., and united with the Quakers. The Last Bill was Such a Monster that every Part of it was Terrible. It unhinged Our Very Constitution of Government. . . . great Encouragement of Quakerism, or rather its Establishment, and of the most Pernicious Consequences to the Church of England."

¹ *Archives*, IV, 20.

² *Ibid.*, IV, 196.

³ *Ibid.*, IV, 121.

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¹ In 1713 the effort was more successfully renewed. The "Act for Relief of the Quakers," enabling them to qualify by affirmation for jury and all other public duty, passed both houses, was approved by the governor and confirmed by the queen. On the accession of King George I., the act was reaffirmed. Its opponents petitioned the king against it, on the astonishing ground that it was "repugnant to the Laws and Statutes of this Realme and the Rights and Libertys of the Subject." The board of trade, considering that the act rather confirmed the rights and liberties of a very large number of his Majesty's subjects, advised the king that it should stand; and the act accordingly received the royal assent.

Thus ended in victory for the Jersey Quakers their fifty years struggle for the full acknowledgment of their rights. There was afterward an occasional outbreak of opposition, but their rights were not again seriously imperilled. The original law was for a term of years, was renewed in 1717, and came up again in 1725 and 1727. On this last occasion Governor Montgomerie opposed renewal, writing to London:² "The Quakers do not deserve his Majesty's assent to the act . . . (They) are very insolent and troublesome when they have no favor to ask, but quiet and useful when they have anything depending." But the act stood, the lords of trade writing to the governor that they "allow it to lye-by Probational, and hope

the Behaviour of the People will never induce the Crown to Repeal it." It never was disturbed, and thenceforth the most serious annoyance to which the Quakers were subjected was the penalty under the militia act. Party rancor seems to have made the application unnecessarily severe, and Governor Morris, who had criticised the extortion under Cornbury, had to admit in 1740 that under his own administration the distraint was excessive. But, he said, "the Quakers grew fond of what they called suffering."³

¹ *Archives*, IV, 334, 342, 343, 367.

² *Ibid.*, V, 235, 248.

³ *Ibid.*, VI, 104.

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Besides the incidents recited the colonial archives contain little that relates to the questions of a State-Church and religious liberty. A single case is recorded of voluntary submission to the governor's ecclesiastical authority.¹ This is a petition from people at Woodbridge for permission to build a Church, for "the service of God, after the manner of the Church of England, *as by law established*." The petition was addressed to Hunter in 1713.

Much space in the record of his administration is filled by his quarrels with the Episcopal ministers, especially Vesey of New York and Talbot of New Jersey. The correspondence is sufficiently amusing and charged with a sly satire, of which Hunter was a master, but it is not germane to this present treatise, save as the spirit of the clerical attacks on the governor is manifestly due to his refusal to forward their illegal schemes for aggrandizing the Church of England at the expense of other Churches. "Meanwhile," wrote Hunter to Secretary Popple of the Board of Trade in 1715, "I have enough to do to keep the peace of the Churches, but Never fear, your friend Jonathan will never yield to 'em, so long as he has the Grace of God and y^e prayers of the Saints."²

Of course, to the end of the colonial chapter the home government kept up the fiction of an establishment in New Jersey. Every royal governor, even after New Jersey was separated from New York, received the routine instructions as to "liberty of Conscience to all persons (except Papists)," and conferring upon him ecclesiastical powers, which in New Jersey at least amounted to nothing. In 1730 the crown issued a special commission to the bishop of London for ecclesiastical jurisdiction in the colonies, and instructed the governors of New York, New Jersey, Pennsylvania, Maryland, and Virginia "to give all Countenance and due Encouragement to the said Bishop of London, or his Commissaries, in the legal exercise of Such Ecclesiastical Jurisdiction"; and that they "cause the Said Commission (of

¹ *Archives*, IV, 189.

² *Ibid.*, IV, 224.

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the Bishop of London) to be forthwith Registered in the Publick Records" of the several colonies¹. But neither commission nor order was able to fasten the Anglican Church upon New Jersey.

At the very end of the period (1771) a Presbyterian movement gave occasion for a curious display of the governmental notion that there either was, or ought to be, a Church of England establishment in New Jersey.² The origin of it was an application from the Presbyterian ministers, headed by John Witherspoon, for a charter incorporating a "Fund for the Support of Widows and Children of Presbyterian Clergymen." Governor Franklin was much perplexed by the request and applied to the attorney-general of the colony, who advised sending the petition to England. Then the governor consulted his own council, a majority of which advised giving the charter, on condition that "the said Charter be unexceptionable in Point of Form, and be confined solely to the Purposes of the Charitable Institution therein mentioned, and the said Corporation made accountable to this Board (the council) for the Monies they shall receive and pay."¹ Then the governor referred the question to Justice David Ogden of the supreme court, who approved of giving the charter, but advised the striking out the words describing the Presbyterian clergy as "in communion with the established Church of Scotland,"³ because it was "improper for his Excellency to recognize by the Charter the Established Church of Scotland, so as to be a Rule, or mask, of distinction of any order of men in New Jersey." Another suggestion of change came in a second report from the attorney-general, who advised striking the word "clergymen from the petition and substituting "Ministers," or "Teachers," on the ground that "the King can't know, or with Propriety

¹ *Archives*, V, 264.

² *Ibid.*, X, 339, 340, 350, 359, 400, 404, 407, 409.

³ This is the only instance I have found in colonial history of appeal to the legal status of the Presbyterian Church of Scotland. (C.)

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call, any Men Clergymen, but those of the established Church of England, at least in England, Ireland, and these colonies.”

By this time the governor was in a fine state of confusion, and referred the petition to the English government. He alluded to the recent refusal of the king to grant a charter to the Presbyterian Church of New York, as “not expedient upon Principles of general Policy”; but at the same time, willing to do the Presbyterians a favor, he reminded the home government, that “charters for the like Purpose have been lately granted to the Clergy of the Established Church of England.” So the petition went to England, where it lay unanswered for two years. Then in 1773 the governor inquired what the home authorities meant to do about it, and received from the Earl of Dartmouth a prompt reply that the matter would be considered. This was soon followed by the announcement that the king had granted the petition, and ordered the governor to pass the charter and affix the seal. The “incident closed” with a grateful acknowledgment on the part of the Presbyterian clergy, in October of 1773.

With this may end the sketch of colonial New Jersey. Long before this date, while still clinging to the fiction of a tacit establishment, the Church party had given up all hope of securing by the colonial legislature a recognition of the Church of England. The clergy of that Church continued their clamor against the situation, and through their addiction to the English Church were, with few exceptions, pronounced in espousal of the king’s cause in the revolutionary struggle. But for the mass of people of all varieties of faith the question of a State-Church was finally and satisfactorily settled, so that the constitutional definition of full religious liberty found in New Jersey no statesman to call it in question.

IV. Georgia

Our story of Georgia must necessarily be brief. The colony, opened only two score years before the Revolution, owed its foundation to the benevolent and gentle heart of Oglethorpe,

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whose merciful thought was to form a place of refuge for distressed people of England and persecuted Protestants of Europe.¹ The sufferings of the poor, and especially those in the debtors’ jails, appealed to his compassionate spirit, and he determined to provide a relief. The charter for the new colony was granted by George II. in 1732.² The charter had the following language in regard to religion: “And for the greater Ease and Encouragement of Our loving Subjects and such others, who shall come to inhabit in Our said Colony, *We do*, by these Presents, for Us, our Heirs and successors, *grant, establish, and ordain*, That forever hereafter there shall be a LIBERTY OF CONSCIENCE allowed in the *Worship of God* to all Persons . . . within our said Province, and that all such Persons, except *Papists*, shall have a *free exercise of Religion*; so they be contented with a quiet and peaceable enjoyment of the same, not giving Offence or Scandal to the Government.” The instrument also allowed to Quakers a “solemn affirmation” in place of an oath.

On receiving the charter, Oglethorpe associated with himself twenty others as “Trustees,” among whom were five clergymen of the Church of England, and to these four others were afterward added. The English clergy were much interested in the charitable scheme of Oglethorpe, and appeals were made to the Church at large for contributions to assist its work.³

The trustees soon issued a statement of their “Design,” exposing their purpose to assist distressed Protestants, who were not able to go at their own expense, and “to relieve such unfortunate persons as can not subsist here”; and expressing the hope that “Christianity will be extended by the execution of this design.” Neither in the charter nor in the published design was any purpose expressed of establishing

¹ Bancroft, III, 419, 423, 447.

² Force, *Historical Tracts*, I, title, *A True and Historical Narrative of the Colony of Georgia*.

³ Stevens, *History of Georgia*, I, 319.

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the Church of England. Nor, strange as it appears, did the lively interest of the English clergy in Oglethorpe’s scheme endeavor to supply that lack. The settlers were left free to their religious preferences, with the sole exception of the Roman

Oglethorpe and the trustees were not indifferent, however, to the religious interests of their colonists, as appears from their "*Account, Showing the Progress of the Colony of Georgia*,"¹ printed at London in 1741. The account was a reply to the "*True and Historical Narrative*," in which was a sharp attack on Oglethorpe, Canston, and Wesley. The trustees say in their pamphlet that "Lands have been Granted in Trust for Religious Uses, to be cultivated, with the Money arising from Private Beneficence given for that Purpose, in order to settle a Provision upon a Clergyman at Savannah, a Catechist, and a Scholar, Three Hundred Acres." Afterward similar provisions were made for a minister at Frederica, and for a Scotch Minister at New Inverness. But in none of these provisions does it appear that there was any denominational preference on the part of the authorities. The clear inference is that the trustees and colonial government were disposed to help any locality in the provision for a minister of the people's choice. This help was given in the manner of foundation grants, and did not involve a tax for ministerial support.

It were out of place to enter here into the disputes between the trustees and the colonists. They were not on religious or ecclesiastical questions, and were rather charged with mutual jealousies. The zeal of Oglethorpe impoverished himself, and it can be justly said that the colonists were not properly mindful of his generosity. The quarrels resulted in 1752 in the abrogation of the charter and the assumption of direct government by the crown.² With that government

¹ Force, *Historical Tracts*, I.

² Anderson, *History of Colonial Church*, III, 639; Stevens, *History of Georgia*, I, 444.

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the Church of England entered the colony and was formally established by the colonial legislature of 1758. The colony was divided into eight parishes, and a stipend of £25 allowed to the clergy. In 1769 there were but two Churches of the establishment in the entire colony.

The chief interest of this short narrative of Georgia, in our study, is its beginning with a religious liberty knowing but one restriction, and its finish with an idle attempt to establish a Church, to which as an establishment was fated but a short lease of power. The breaking out of the Revolution destroyed what little semblance of life it ever had.

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A permanent establishment (PE) is a fixed place of business which generally gives rise to income or value-added tax liability in a particular jurisdiction. The term is defined in many income tax treaties and in most European Union Value Added Tax systems. The tax systems in some civil-law countries impose income taxes and value-added taxes only where an enterprise maintains a PE in the country concerned. Definitions of PEs under tax law or tax treaties may contain specific inclusions or exclusions. In contrast, employment growth in production establishments changing owners was only 5% lower than it was in production establishments not changing owners. (The relative employment decline in production establishments changing owners occurred in the 2 or 3 years before the takeover; after the takeover, employment recovered a bit, but not enough to offset the previous decline.) -0001. "money-changing establishments thesaurus" http://www.classicthesaurus.com/money-changing_establishments/synonyms (accessed May 17, 2020). Harvard.Â Classic Thesaurus. "money-changing establishments thesaurus" 30 November -0001. Web. 17 May 2020. . Filter | Part of Speech. expression. Permanent establishment audits and taxation are trending amongst tax authorities, creating disputes and uncertainty for taxpayers. They also pose a significant risk of double taxation. That is why it is recommended to let your tax risks be assessed by professional tax advisors. Permanent establishment. As mentioned above, where a corporation's home country has entered into a tax treaty with a target country, the business operations of the home country corporation are protected from target country taxation as long as those activities do not create a PE in the target country. Typically, a tax treaty defines a PE using the following two general tests