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## THE FATHERS OF NEW ENGLAND. (From the Edinburgh Review.)

It may be thought superfluous at this day to repeat that the founders of New England were systematic tyrants. But the propriety of reiterating an admitted truth depends upon the sincerity with which that truth is recognised. Those who are conversant with the popular histories of America will be conscious, indeed, that the heroic energy and iron fortitude of the Pilgrim Fathers were not unalloyed with harsh and ferocious bigotry; but they will find their eyes continually diverted by judicious treatment from the darker portions of the picture. When even Mr. Bancroft, a superior example of his class, speaks of "transient persecutions" as of "a train of mists hovering of an autumn morning over the channel of a fine river that diffused freshness and fertility wherever it would," it concerns us to know that they were not so transient nor so slight as he pictures them, but that they suffused the whole atmosphere of colonial life with a depressing terror and a long-impending gloom. There is the further reason for reopening the case that, thanks to transatlantic diligence, more is known of it. While the sketches of Mr. Hawthorne in the "Scarlet Letter" have been questioned as the coinage of imagination, archaeological inquiry has popularised the means of showing that even these fall short of the reality.

To comprehend thoroughly the compressive energy of this state of society we must bear in mind, that the Massachusetts polity, which was the leading type of the other New England States, was the identification of Church and State upon a Puritan basis, whereby the senior ministers became virtually the lawgivers for secular interests. "According to the system established in Massachusetts," says Mr. Hildreth, "the Church and the State were most intimately blended. The magistrates and General Court, aided by the advice of the Elders (so the ministers were designated), claimed and exercised a supreme control in spiritual as well as temporal matters; while even in matters purely temporal the elders were consulted on all important questions.—The support of the elders, the first thing considered in the first Court of Assistants held in Massachusetts, had been secured by a vote to build houses for them, and to provide them a maintenance at the public expense. The polity of Massachusetts conferred, in fact, unlimited power in matters of religion, as in everything else, upon the majority of the Church members, as represented by the magistrates and general court. Those in the minority, whether churches or individuals, had no rights, and no alternative but silence and submission or withdrawal from the colony." The acceptance of a cramped theological creed was made the condition of a complete enjoyment of civil rights as well as of a participation in the political franchise. No man, unless he were a member of the Church, could be a magistrate or officer, or serve upon a jury; and the tendency of this restriction becomes apparent when we learn that juries gave verdicts on "matters of equity, and even of heresy." Lechford, of Clement's Inn, whom we here quote, and who was an attentive and competent witness of their mode of procedure, remarks, that "in the General Court and Great Quarter Courts before the civil magistrate are tried all actions and causes, civil and criminal, and also ecclesiastical, especially touching the non-members; and they themselves say, that in the General and Quarter Courts they have the power of Parliament, the King's Bench, Common Pleas, Chancery, High Commission and Star Chamber, and all the Courts of England, and in divers cases have exercised that power upon the King's subjects, as is not difficult to prove. They have put to death, banished, fined men; cut off men's ears, whipt, imprisoned men, and all these for ecclesiastical and civil offences, and without sufficient record." He complains, also, in another place, that the proceedings were not entered upon record at all, and that to the constitution of juries, such as it was, no practical check existed in the form of facilities for challenging them. Moreover, the Courts, even with this crushing machinery, were not content to decide *secundum allegata et probata*. "The jury," says the accurate Hutchinson, "sometimes gave their verdict that there were strong grounds for suspicion, but not sufficient evidence. Yet the Court would give sentence upon this verdict, and punish for many offences which, by the evidence upon the trial, the party appeared to them to have been guilty of, although he was not convicted of the particular crime he was charged with." With this mode of procedure it was, perhaps, immaterial what were the provisions of the laws administered; but it will be interesting to recall a few of them to remembrance.

Massachusetts has been absolved, by the researches of Mr. Gray, from the charge of inflicting the punishment of death for every offence which was made

capital by the Law of Moses. But the Rev. Mr. Cotton's "Abstract," which was intended to have been the basis of the Massachusetts Code, proceeded to this extremity; and when the magistrates and elders, "who were not forward" in drawing up any code of laws, but procrastinated as long as they could to save their arbitrary discretion, adopted the document called the "Body of Liberties," its prefatory article admitted the inference that, "in case of the defect of law in any particular instance" a man might still be punished by the General Court, even to the extent of taking away his life, on the assumed sanction of the Word of God. Explicitly, indeed, the Body of Liberties stopped short of its Hebrew precedent; only in the cases in which it punished crime with death it followed the Levitical law. Thus idolatry, witchcraft, and blasphemy were made capital offences. In addition to these, the revised Code of 1649 assigned the penalty of death to "stubborn and rebellious sons," and to "children above sixteen who curse or smite their natural father or mother,"—enactments similarly borrowed from the Jewish lawgiver. The ninety-first of these Liberties legalised slavery, as Mr. Hildreth observes, many years before anything of the sort was to be found in the statutes of Virginia or Maryland. The forty-fifth Liberty authorised the application of torture in certain cases, and under certain restrictions; implying that "Liberties" were peculiarly interpreted by men who have been represented as Champions of Freedom. As a whole, this Code affords conclusive evidence that the liberty to obey their own consciences practically included the more definite liberty to oppress all who differed from them.

The result was, by a singular interchange of positions, that their most conspicuous victims appealed elsewhere for toleration. Massachusetts has reverentially enclosed with a railing the supposed footprints of the Pilgrim Fathers; but Rhode Island can exhibit another rock on which its founder, Roger Williams, first set his foot as a fugitive from the precocious tyranny of Massachusetts. We have not space to refer to the incidents of a life which, in conjunction with that of the indomitable Anne Hutchinson, is the most attractive in early American biography. The simultaneous efforts of these congenial spirits ended by involving them in a common exile, which, in the case of the heroic woman, was concluded by the Indian's knife, to the ferocious joy of some whom she had tested in controversy. The importance of these examples consists in the evidence they afford of a continued struggle to bring the Governors of Massachusetts to a milder disposition. One of these attempts was made with such perseverance, that we may usefully have recourse to Mr. Hildreth, who has given the details of it with his customary precision.

In the year 1646, a petition had been presented to the General Court, signed by seven citizens, in the name of themselves and others, for the rights of English subjects, with complaints of the exclusion, under the existing system, of all but Church members, from civil and ecclesiastical privileges:—

"Though sufficiently moderate in its tenor, this petition had given great offence to many godly, both elders and others." The zealous Johnson denounces those who signed it as "of a very lineswolsie disposition, some for Prelacy, some for Presbytery, and some for Plebsytery." Several replies to it were now presented to the Court, which, by order of that body, were summed up into one; not, indeed, by way of answer, because the petition was adjudged a contempt, and therefore not worthy of an answer, but as a declaration of the Court's opinion touching this audacious assault upon the theocratic rights.—Dr. Child, a young physician, recently from London, whose name stood at the head of the signers, being summoned before the General Court, alleged, on behalf of himself and the others, that it was no crime to petition. He was told in reply that it was not for petitioning they were questioned, but for the "miscarriages" which their petition contained, specified on the spot to the number of twelve, of which the principal were, calling the existing government an "ill-compacted vessel," ascribing the misfortunes of the colony to its bad government, intimating that many persons were discontented, charging the government with tyranny, and claiming a right of appeal to England. To these specifications the petitioners returned elaborate answers in writing, to which the Court rejoined extempore, to the entire satisfaction of an assembled multitude of church members, whose exclusive right to political authority the petitioners had presumed to question.

"Thus beaten in argument, Child and his associates were fined £10 to £50, \$50 to \$250 each, and were exhorted to be quiet, to study to mind their own business, and to recollect the sin of Korah in resisting Moses and Aaron. On promise of the remission of their fines 'if they would ingenuously acknowledge their miscarriage,' some of the

petitioners, of whom Maverick was one, submitted; others appealed to Parliament, and tendered their appeal in writing; but the Court refused to accept, or even to hear it read. The majority were decisive in favor of this denial of appeal. Three, however, of the magistrates, Bellingham, Saltonstall, and Edstreet, with two of the deputies, desired to be entered 'contradictentes in all these proceedings.'

A similar effort in behalf of religious liberty had been made in Plymouth colony about the same time by Vassall and others. One of the magistrates had made a proposal for general toleration, and two others had supported him. "You would have admired," wrote Winslow to Winthrop, "to see how sweet this cation relished in the palate of most of the deputies." But Governor Prince, sustained by a majority of the magistrates, refused to put it to the vote, "as being that, indeed, which would eat out the power of godliness."

While Child hastened to get ready to go to England in a ship about to sail, he and his friends bestirred themselves to get up a petition from the non-freemen, setting forth their grievances, and praying the Parliamentary commissioners for relief. This was esteemed by the majority of the magistrates a new and still more serious offence; and an order was issued to arrest Child just as he was about to embark, and to search his trunk, and also the study of Dand, another of the petitioners. Nothing was found in Child's trunk, but in Dand's study were seized, in the hands of Smith, another of the petitioners, copies of two memorials addressed to the Parliamentary Commissioners for Plantations; the one from Child and his associates, setting forth their case, the other from some non-freemen, 'pretending,' as Winthrop tells us, 'to be in the name and upon the sighs and tears of many thousands,' praying for liberty of conscience and the appointment of a Parliamentary governor.

How dangerous a thing it was to meddle with such a petition was sufficiently evinced by the case of one Joy, 'a young fellow, a carpenter,' who had been very busy in procuring signers, and who even presumed to question the constable who searched Dand's study, whether his warrant were in the king's name. This audacious young carpenter was kept in irons till he humbled himself, confessed what he knew, blamed himself for meddling in matters belonging not to him, and blessed God for these irons upon his legs, hoping they would do him good while he lived. So he was let out upon reasonable bail.

"The offence of Dand and Smith, in whose custody the petitions had been found, was still more serious. It was held, indeed, under the fundamental laws, to be 'in nature capital,' being no less than treason against the Commonwealth, and bail was refused. At the General Court immediately following, Child and the others were very heavily fined.—Unable to pay his fine of £200, \$960, Dand was kept in prison more than a year, and was only discharged at last upon a humble submission."

The obnoxious petition was, however, intrusted to the care of one Vassall, with whom the magistrates of Massachusetts hesitated to meddle, not only because he belonged to Plymouth colony, but for the more powerful reason that his brother was an influential member of Parliament. He undertook to convey it to England, but just before the vessel sailed, Cotton, in his sermon at the Thursday lecture, advised the passengers, if a storm arose, to throw Vassall's trunk overboard, as containing the Jonah that would certainly sink them. A storm did arise, and to appease the superstitious fears of some of the company, a package was thrown overboard containing copies of the obnoxious papers; but Vassall took care to preserve the originals.

Vassall might, indeed, consider himself fortunate that he had the means of withdrawing when the fire became too hot for him. Others were not so privileged; who, notwithstanding they removed beyond the limits of the Massachusetts grant, were dragged back into its territory. There was the previous case of a man named Gorton, "a wild but benevolent enthusiast" as he is termed by Mr. Bancroft, who with certain of his followers, had taken up his residence at Shawomet, and whose doctrines were so unwelcome to the divines of Massachusetts, that, though out of their jurisdiction, they took measures to silence him. Gorton has narrated his story in a tract called "Simplicities Defence against the Seven-headed Monster," which Winslow replied to under the title of "Hypocrisy Unmasked," and from the two combined we partly gather these particulars.—"When the New-Englanders," says Gorton, "perceived his settlement to be a refuge to such as were oppressed, &c., then they went about to bring those parts to be under their jurisdictions by all possible pretences." The most available appears to have been an apocryphal claim of the Indians of Shawomet to a tract of land which Gorton had purchased

of the Sachem Miontonimob. With respect to this claim the evidence of Gorton was destroyed by a convenient but ungrateful surrender of Miontonimob to the murderous designs of his enemy Uncas. Uncas not only tomahawked him *more suo*, but devoured the shoulder of his fallen antagonist, declaring that it made his heart strong, and was the sweetest morsel he ever ate. At the same time the magistrates of Massachusetts, triumphing after their fashion, sent, first, a summons, and subsequently an armed commission to come to the conclusions with the heretical Gorton. A proposal was made by Gorton to the Commissioners, through the mediation of some people of Providence, to submit his case to arbitrators, and to pledge the cattle belonging to his party as a security to abide their decision; but this reasonable offer having been rejected, after a short resistance he and the majority of his followers were captured and carried as prisoners to Massachusetts. Gorton alleges, but Winslow denies, that the Commissioners treacherously violated the terms of the capitulation. At all events, when they had lodged the Gortonists in safe custody, the motive for the outrage was freely manifested in the readiness with which they waived the civil charges, and proceeded exclusively on the ground of heresy. Their "prisoners of war," as they termed them, were subjected to an inquisitorial examination on their theological tenets, in which Gorton displayed the most troublesome address. While his trial lasted, and he was doubling through the mazes of Puritan controversy to the great perplexity of his polemical ferrets, the reverend disputants, by allusions in their sermons to Agag and Benhadad, suggested a summary conclusion of the controversy. A majority of the magistrates were prepared to put Gorton to death, but the deputies dissented; and, ultimately, he and six of his companions were condemned to work in irons in the extremity of a New England winter, under pain of death, if by speech or writing they attempted to publish or maintain any of their "blasphemous and abominable heresies." Their cattle, to the number of eighty, were seized to pay the expenses of their arrest and trial, assessed at £160. After they were chained, and before they were sent to the townships, among which they were to be distributed, they were made a spectacle, in the death of other amusements; that is to say, as Gorton himself describes it, "We were to stay till Master Cotton his lecture day, and then were all brought to the congregation in that our iron furniture, for the credit of the sanctuary which had set the sword at work for such good purpose." It was found, however, that, notwithstanding the threat of death which was hanging over them, these stubborn enthusiasts were still making converts; and therefore it was ordered, at a subsequent court, that they should depart out of the jurisdiction within fourteen days, and not return to Massachusetts, Providence, or even their former settlement of Shawomet, under peril of the last extremity. This proceeding was afterwards, though with little effect, made the subject of official investigation in England.

We have stated the circumstances of this case at some length for the reason that they are not only interesting but instructive. If Massachusetts went beyond her chartered limits, usurped a jurisdiction to which she had no pretence, and committed illegalities of which her oligarchs were conscious, in order to crush a little band of fugitives from whom she had received no detriment and could apprehend no danger, we may conceive what would be her treatment of those who, being legally in her grasp, had the rashness to take liberties with her cherished uniformity. To such, it is not exceeding the truth to say, that her little finger was heavier than the loins of the Government they had fled from. There were not a few who experienced the disadvantages of the change, and who, to quote the words of a certain Blackstone, had left England "to get from under the power of the Lord Bishops," but found that in America they "had fallen under the power of the Lord Brethren." Of such the Papists and the Baptists or Anabaptists had their several experiences; but those who encountered the most wholesale inflictions in confutation of their tenets were the unhappy sect of Quakers. The Quakers, it is true, as Hutchinson observes, solicited persecution; but even they, he adds, must have been surprised at the imprudence of the authorities in gratifying this humor as far as their utmost wishes could carry them. At first they were suspected or accused of dealing in the "Black Art," and the persons of the Quaker women were searched for "devil's teats," or other signs of witchcraft; but, as these were not discoverable, they were found guilty of heresy, and "thrust out of the jurisdiction." Subsequently, to recur again to Mr. Hildreth—

"The existing laws of Massachusetts against heretics were not thought sufficient for the occasion.—A special law was presently enacted, in the preamble