A Study in Massachusetts Ecclesiastical Law 1691-1780

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SUSAN MARTHA REED, B.A., (MT. HOLYOKE) 1907

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Susan Martha Reed

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E. B. [Signature]
Instructor in Charge.

APPROVED: [Signature]

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CHAPTER I.

INTRODUCTORY

THE MASSACHUSETTS ECCLESIASTICAL SYSTEM

IN THE SEVENTEENTH CENTURY. ¹

Although the greater part of the early English emigration to Massachusetts was distinctly Nonconformist rather than Separatist, and although there was at first an effort to remain a part of the Church of England, several forces united to break down such a theory and to leave the religious system of Massachusetts in an intermediate position between that of the Presbyterians and that of the Separatists. Among the forces working toward such a result were the distance from the mother country, which widened the breach between New England Puritanism and the mother church, the presence of strong Separatist views in the nearby Plymouth colony, and a succeeding immigration of colonists who leaned toward Independence rather than Puritanism.

While Calvinism was the basis of the church and state government in Massachusetts Bay, it was a modified Calvinism. At Geneva church and state were distinct, though acting upon each other, the church attempting to create a perfect Christian society, the state furnishing the necessary external conditions. For while the church was far loftier than the state, its ideals could not be

¹ - The authorities used chiefly for this Chapter are Osgood: The American Colonies in the Seventeenth Century, and Lauer: Church and State in New England.
attained without the assistance of the civil power. In Massachusetts the relation between church and state resulted by development in a fusion; the position of minister was a political as well as a religious office; church membership and the civil franchise were inseparable, with the result that in the individual towns the assembly of the freemen and the assembly of the congregation were identical.

The majority of the Massachusetts Puritans for some time continued to affirm that they still held communion with the Church of England, but as time went on even the semblance of such communion ceased. Each new church established was an independent unit. Episcopacy and ritual were both lacking. With the coming of the Commonwealth in England it was no longer advantageous to feign Episcopacy and there was no attempt to assume Presbyterianism.

No sooner was the New England Church upon its feet than it began to set about itself the bars of intolerance. Laws against heresy were passed and strictly enforced. The church member only was recognized as a freeman with the right to vote. But in 1638 a general law was made that "all inhabitants are liable to assessment for church as for state," so that taxes for the support of the ministers of the established church were exacted from all property owners alike.

Such was the basis of the Massachusetts ecclesiastical system in the seventeenth century. A brief review of several lines of development during the century are necessary for even a slight appreciation of conditions in the colony when the new royal charter

1.- Osgood, pt. II., Chap. III.
2.- Ibid.
of 1691 became the basis of government. Such a development may be reviewed along the lines of growing toleration, extension of the franchise and the beginnings of a breaking down in the church-state system. Meanwhile church establishment with the support of the ministry by the taxation of dissenters as well as of members of the standing order received no demolishing blow until the eighteenth century.

The cases of Roger Williams and Anne Hutchinson were among the most flagrant examples of intolerance which the religious history of the period produced. Though few Quakers met death in accordance with the extreme laws of heresy, many were driven from the province and otherwise punished upon their determined reappearance. Charles II made a vain attempt to gain recognition for a group of Episcopalians in Boston and Andros labored for the same ends. But by 1660 Episcopacy was tolerated and before 1690 King's Chapel was built in Boston, and several Baptist churches and Quaker congregations were in existence.

In the meantime several causes were effecting the breaking down of the church-town system. Among them were the national growth of the towns and the extension of the franchise. When population became too great for the use of a single meeting-house, the erection of a new one meant the division of the old society and the election of a new minister. Although church and town were still one theoretically, in various instances they were practically separate. Two religious bodies were existing within a single political one.

A second great attack on the church-state system came from the broadening of the franchise. The first change which tended toward such an end was the result of internal political conditions. In
1641 and 1643, when the Maine and New Hampshire towns were incorporated with Massachusetts, the inhabitants, though not all church members in the strict reckoning of Massachusetts Bay, secured the franchise. Where they were admitted, they formed a party of liberal views within the body politic.

Internal religious conditions were of even greater importance. In 1631 it had been enacted that "no man shall be admitted to the freedom of this body politick but such as are members of the churches within limits of the same." This meant church membership in its strictest sense of full communion and expression of belief. It was not absurdly extreme in the earlier years of the colony when religious sentiments predominated, but became antiquated as the irreligious sought admittance to the colony for commercial purposes, and as the children of the first colonists failed to live up to the religious ideals of their fathers. The curious result was the "Half Way Covenant" of 1662 which practically made infant baptism mean church membership. At the same time baptism could be administered when but one parent was a communicant. The object was of course to broaden the franchise, but it seems not to have occurred to the Puritans that they could change their law concerning the franchise rather than sacrifice the purity of the church to consistency in the civil statute. The natural result was the lowering of the moral standing of church members; and with the secularization of the church came the inevitable weakening of the ecclesiastical system.

In 1665 Charles II demanded of the Massachusetts authorities that they grant full liberty of worship to all members of the Anglican Church to concede the right to vote to all freeholders who
possessed competent estates. Although this was not granted, a new law was enacted in the same year that "all Englishmen in full communion with some church among us may present their desires to this court, and have such their desire propounded and put to vote in the General Court, to (be admitted to) the freedom of the body politic, by the suffrage of the major part."

In 1681, the church membership qualification was abolished to give place to a property qualification of ten shillings and a "good character."

In 1691 the new charter confirmed this vote, granting liberty of conscience and political rights to all except Papists. One could vote who "had an estate or freehold in land within our said Province or a territory to the value of 40 shillings per annum at the least or other estate to the value of £40 sterling." If observed literally therefore it would have meant religious liberty and political rights to all Protestants.

So it was that before the end of the seventeenth century the original conception of a single town with a single church was beginning to pass away and the church membership qualification for voting had given place to a property qualification; but the New England churches were still maintained by public taxation of members and dissenters alike. For the charter was not observed literally and the eighteenth century was almost to pass away before the dissenting sects were to have an equal political footing with members of the standing order.

1.- Acts and Resolves, I., 1.
CHAPTER II.

THE ESTABLISHED CHURCH 1691 - 1760.

A study of the Massachusetts charter of 1691 reveals the fact that church establishment in Massachusetts in the eighteenth century was an institution resting on no charter basis. Its chief religious clause proclaims "liberty of Conscience allowed in the Worshipp of God to all Christians (Except Papists) Inhabiting or which shall Inhabit or be Resident within our said Province of Territory." Eighteenth century dissenters, struggling for religious liberty, were fond of calling attention to this fact with a view to giving rank to their own denomination. Such is the plea of Pres. Manning of Rhode Island College, writing in 1774, "we would observe that the charter must be looked upon by every impartial eye to be infringed so soon as any law was passed for the establishment of any particular mode of worship. All Protestants are placed upon the same footing; and no law whatsoever could disannul so essential a part of a charter intended to communicate the blessings of a free government to his Majesty's subjects." Of the religious provision in the charter Isaac Backus wrote that it "was construed by the ministers as meaning that the General Court might, by laws, encourage and protect that religion which is the general profession of the inhabitants." There was at the same time nothing in the charter prohibiting the customary taxation of the inhabitants of a

1. Acts and Resolves of the Province of Massachusetts Bay, I., 1.
2. Hovey, 205 — Speech of Manning at conference in Philadelphia, October 14, 1774.
town for ministerial support so that the General Court never ques-
tioned its own right to continue and enlarge upon earlier seventeenth
legislation in regard to the maintenance and support of a learned
and orthodox minister as well as schoolmaster, in every town. That
such was the interpretation by the adherents of the established
church appears in the words of Cotton Mathew, in speaking of the
charter. "Religion is forever secured; a righteous and generous
liberty of conscience established. And the General Assembly may,
by their acts, give a distinguishing encouragement with that reli-
gion which is the general profession of the inhabitants."

The first law under the new charter, relating to the
settlement and support of a minister and schoolmaster and passed
November 4, 1692, sums up previous legislation and registers the
condition of the church-state system in Massachusetts in the last
decade of the seventeenth century. More than this it describes
the interdependence which existed between church and state through
the eighteenth century, as the more important changes which were
made were concerned with the relation between state and dissenters
rather than between state and churches of the established order.
This law enacted "that the inhabitants of each town within this pro-
vince, shall take due care, from time to time, to be constantly pro-
vided of an able, learned and orthodox minister or ministers, of
good conversation, to dispense the Word of God to them; which minis-
ter or ministers shall be suitably encouraged and sufficiently
supported and maintained by the inhabitants of such town." The law
continues "that every minister, being a person of good conversation,

1. Records of Massachusetts, IV. Pt. I., 417.
2. Mather: Account of his father's life, 141. Quoted in Backus, 515
able, learned and orthodox, that shall be chosen by the major part of the inhabitants in any town, at a town meeting duly warned for that purpose (notice thereof being given to the inhabitants fifteen days before the time for such meeting) shall be obliged to pay towards his settlement and maintenance, each man his several proportion thereof." Further than this the law provides "that where any town shall be destitute of a minister qualified as aforesaid, and shall so continue by the space of six months, not having taken due care for the procuring, settling and encouragement of such minister, the same being made to appear upon complaint unto their majesty's justicies at the general sessions of the peace for the county, the said court of quarter sessions shall, and hereby are impowered to make an order upon every such defective town, speedily to provide themselves of such minister as aforesaid, by the next sessions at the furthest; and in case such order be not complied with, then the said court shall take effectual care to procure and settle a minister qualified as aforesaid, and order the charge thereof and of such minister's maintenance to be levied on the inhabitants of such town." The act further made the county court the arbiter by decreeing that in case a town failed to keep its agreement with its minister in the payment of his salary "the said court of quarter sessions shall and hereby are impowered to order a competent allowance unto such minister according to the estate and ability of the town; the same to be assessed upon the inhabitants by warrant from the court, directed to the selectmen, who are thereupon to proceed to make and proportion such assessment in manner as is directed for other public charges, and to cause the same to be levied by the constables of such town, by warrant under the hands of
the selectmen, or of the town clerk by their order." So it was that while each town was practically independent in its choice of a minister who was to be called by the voters in town meeting assembled the General Court exercised a very potent influence in the matter of enforcing its orders, by making the Court of General Sessions responsible for the election, orthodoxy and financial support of the minister of every town within its jurisdiction. This court through the sheriff could act upon the town by issuing its warrant to the selectmen who either assessed the taxes themselves or appointed assessors to do so, the constable to collect the same. It was natural that the office of constable should become a most unpopular one and was evaded in every way. These earlier laws belong to the period when rates for the support of minister and schoolmaster were the chief expenses of the town, and the constable, even if he did not himself have conscientious scruples in the matter of taxation for religion, must inevitably meet opposition when he approached members of the Baptists, Quaker or Anglican societies.

A further difficulty presented itself as one by one the older towns were broken up and new precincts formed as groups of settlers at some distance from the original meeting-house felt able to build a new one in their midst and support an able minister of their own. It was now evident that whereas the church was no longer coincident with the town, it was not practicable for the inhabitants of both precincts assembled together to elect the minister who should belong to only a part of themselves. The General Court accordingly, February 17, 1693, enacted "that each respective

gathered church in any town or place within this province, that at any time shall be in want of a minister, such church shall have power, according to the directions given in the word of God, to choose their own minister. And the major part of such inhabitants as do there usually attend on the publick worship of God, and are by law qualified for voting in town affairs, concurring with the church's act, the person thus elected and approved, accepting there-of and settling with them, shall be the minister."

But as the gulf became wider between the church and the town, it was not always easy to bring the town to concur in the church's election of a minister, a difficulty which the General Court overcame by making both church and town dependent upon a third judgment. The legislation of June 13, 1695 enacted "that when at any time a church shall make choice of a minister, and present their choice unto the inhabitants of the town or precinct in a public meeting duly warned and assembled for the purpose, to have their concurrence therein, and the inhabitants so assembled shall by a major vote deny their approbation of the church's choice, the church may call in the help of a council consisting of the elders and messengers of three or five neighboring churches, which council are hereby impowered to hear, examine and consider the exceptions and allegations made against the church's election; and in case the council shall notwithstanding approve of the said election, such minister accepting of the choice and settling with them shall be the minister of the town or precinct, who shall be in all respects supported and maintained as by the said act is provided; but if otherwise, the church shall proceed to the election of another minister."

The increasing prominence of dissenting sects, chiefly Baptists and Quakers, with their growing unwillingness to contribute to the maintenance of the Congregational minister was the cause for a future addition to the acts providing for the support of ministers. Not only were the tax payers negligent but both the constables and assessors, in spite of legislation which required fines in default of the performance of their duty, failed repeatedly to accomplish their tasks. Such is the basis of the enactment of November 21, 1702, a law strenuously resisted by the Bishop of London, which provided that whenever complaint should be made to the Court of General Sessions of the Peace in any county that the minister of any town within the county was not suitably supported by reason that the selectmen or other assessors of the town refused or neglected to assess such maintenance or withheld such payment from the minister, then the Court of General Sessions, in addition to imposing the fine set by law on such delinquent selectmen or assessors, should appoint three or more sufficient freeholders within the same county to assess the sum agreed on for the yearly support of such minister, and to present the list of such assessment to two justices of the peace of the same county who should then affix a warrant to the same, directed to the constables of such town, requiring them to collect the sum and pay it to the minister, the constables to be further fined in default of this duty. An act of June 19, 1718 took care in a similar manner for the assessment of taxes for the building or repairing of meeting-houses. Interference of the County Court in the ecclesiastical matters in the

1.- Acts and Resolves, I., 508.
2.- Ibid., I., 505.
3.- Ibid., II., 99.
towns is further ordered in the acts of 1706 and 1715 "for maintaining and propagating religion." They are in large part an explicit reiteration of legislation already in existence, for the first of them, passed November 14, 1706, provides "that the justices of the Court of General Sessions of the Peace within the several counties, at the opening of their court from time to time, do give in special charge to the grand jury to make diligent inquiry and presentment of all towns and districts, within such county, that are destitute of a minister, as by law is directed; and of such towns and districts that neglect to fulfill their contracts and agreements, and do not make suitable provision for the support and maintenance of their minister or ministers accordingly."

Further than this the Court of General Sessions was to make orders on the towns where they found no ministers settled, and in case the town failed to provide itself with one, they were to supply one for it, providing for his support by making a large assessment on the town. A similar law, of December 20, 1715, added that such minister should be "first recommended by three or more of the settled, ordained ministers." This law was in effect through renewal until 1730.

The later ecclesiastical laws of the eighteenth century deal chiefly with the exemption of the dissenting sects from taxation and with matters within the established church which became important after the Great Awakening. Such a matter was the discussion over an educated ministry which appears in legislation after 1760. But before passing on to the later years of church establishment one may not find valueless a study of the actual working out

1.- Acts and Resolves, I., 597.
2.- Ibid., III., 27.
of the town-church system during the first thirty-five years of the provincial charter to discover to what extent the Court of General Sessions and more especially the General Court itself did actually take part in the ecclesiastical affairs of the individual towns. Such a study throws light also upon the real working of the town-church system in the town itself, a system which, because it was the rule rather than the exception, is a somewhat obscure study.
CHAPTER III.


The supervision of the General Court over the individual churches began with the very establishment of a new town. Conditions were put upon the proprietors that within a certain length of time after the number of families was large enough to warrant it a minister must be selected and a meeting-house built. Although the Puritan immigration of the seventeenth century was practically completed almost fifty years before 1691, population in Massachusetts was increasing rapidly, so that in the numerous towns where there was no disagreement within the church, itself, a division was advisable because of the size of the society or the distance which some were obliged to travel in order to reach the meeting-house. Under ordinary circumstances the town itself was entitled to the right and was willing to cut off a section of itself as a new precinct for religious purposes. In this case, while the boundaries of the single township remained unchanged and a single group of select men managed affairs, two distinct political groups existed in the two churches, and the taxes were assessed and paid in two separate portions. The actual splitting off of a new township, which was a matter of state legislation, is a more obvious performance and therefore needs less explanation. In case there was any disagreement in a township in regard

1.- Acts and Resolves. X, 189, ch. 82 - Order for granting two towns on the Housatannock River. 739, ch. 472 - Requirements placed upon the settlers of Pennycook.
to the separation of a precinct, the matter was likely to be brought by petition before the General Court. Such a petition was usually referred to a committee made up of members of the Court or inhabitants of neighboring towns. If the committee decided that the number of settlers did not warrant a second meeting-house, the petition might be granted with the proviso that the new arrangement was not to go into execution until population had increased.

Complications of all sorts were bound to arise in the separation of new precincts and one difficulty led naturally to another. The affair of Watertown between 1694 and 1707 is typical. In answer to a petition sent up by the selectmen of Watertown asking the "liberty to erect a meeting-house in the west end of that town", the General Court voted, September 7, 1694, that a committee be appointed to hear the selectmen. On June 14, 1698 it passed a resolve


2.- Acts and Resolves, VII., 111, ch. 12. "Ordered that Mr. Solomon Stoddard, Mr. Edward Taylor, Captain Samuel Partrigg, Captain Aaron Cooke, Mr. Medad Pomroy, and Lieutenant Samuel Root, be a committee to consider of the contents of a petition presented by the inhabitants of the west side of the river in Springfield, for the settlement of the ministry among them." Of these Mr. Edward Taylor was minister of the church in Westfield, Captain Samuel Partrigg the representative from Hatfield in the General Court, Captain Aaron Cooke from Hadley, and Lieutenant Samuel Root, the towns in Hampshire County nearest to the west precinct of Springfield.


4.- Adams: Three Episodes of Massachusetts History. A study of church and town government, gives the account of affairs in Brainshir tree.

5.- Acts and Resolves, VII., 55, ch. 20.

"for permitting the inhabitants of the west side of Stony Brook, in the town of Watertown, to call and settle a minister in that part of the town, and for erecting them into a separate precinct." On July 1, 1699, the Court again legislated for Watertown, "appointing a committee to proceed to Watertown and to determine a line dividing the town into two separate parishes, and to propose a sum to be paid by the inhabitants of the easterly side of said town towards the charge of building the new meeting-house; and to report thereon at the next session of the General Court." Such an order suggests the interesting matter of ministerial taxation in the support of the new minister and the building of the second meeting-house, a discussion which should properly be taken up in connection with ministerial support in general. The most natural solution of the problem, namely that inhabitants of the new precinct should carry their own financial burden, though often so arranged, was not always resorted to. It was common for taxes for the building of the new meeting-house to be levied upon the inhabitants of the old as well as of the new precinct, a method resorted to when the new precinct plead poverty. In this case however the Court was likely to decide that the new precinct should for a certain number of years help in the support of the original one as well as maintain their own. Difficulties in this matter in Watertown were settled through compromise by the General Court.

The forming of new precincts was a natural development following growth in population, but the decay of an occasional hamlet produced the opposite result, and the General Court, on at

1.- Acts and Resolves, VII., 226, ch. 29.
2.- Ibid, IX., 551, ch. 87; 640, ch. 131. Lynn.
4.- Ibid, VII., 270, ch. 76; VIII., 247, ch. 59.
least one occasion, was petitioned that a group of farms, no longer able to support a minister of their own, might be joined to the nearest town in the support of the ministry.

A further matter of an allied nature in which the General Court was called upon to act as authority was in the transferring of a group of farms from one parish to another. The plea was usually that they were at too great a distance from the meeting-house of the precinct in which they were situated, and the removal caused little commotion when it was made only from one parish to another in the same township. There was however great likelihood of displeasure in the town when the petition sought for a new town boundary line as in the case of Dorchester in 1724. At this time the inhabitants of the westernmost part of the town petitioned the General Court "shewing that they are Situated at Such a Distance from the Body of the Said Town, that they ly thirty miles from the Old Meeting House, and fifteen from the South Meeting House at Pungapang, So that they are under great Disadvantages", etc. The case was carried to the General Court because Dorchester had refused to allow its "westernmost part" to be annexed to Wrentham as the petitioners desired. That such a move was not irrevocable is evidenced in the petition which certain of the inhabitants of Newton sent up to the General Court December 18, 1722. Because of their great distance from the meeting-house in Newton, six families had been placed in the south precinct of Roxbury, but the Newtonites had proceeded to change the location of their meeting-house and

1.- Acts and Resolves, VII., 23, ch. 3. Ipswich farms and the town of Topsfield, 1693.
had "placed it Commodiously for, the six families," and therefore asked that they might be restored to them again.

Such a description of hard and fast boundary lines leads one to attempt to discover if it was not possible for a man to frequent the meeting-house of his choice regardless of the location of his own farm. Although he was certainly limited in the matter evidently had at least something to say, for when in 1722 a line was drawn to separate the north and south precincts of Weymouth, it was "provided that Joseph Beat and Samuel Ward and their Families and Estates be taxed to the North Precinct if they Continue to desire it," although they were actually located in the South precinct.

A man who had not made such provision and continued to frequent a meeting-house which was not his own was likely to find himself taxed with both precincts. The General Court moreover used means to encourage the voter to attend church in his own precinct by failing to grant to the one who lived without precinct limits the right to vote in church affairs.

That the General Court was in earnest when it enacted that each town should be provided with an "able, learned and orthodox minister of good conversation" is emphatically demonstrated in the private laws of the first decade of the eighteenth century which deal with the matter. The case of Tiverton, where opposition was met by the Quaker element, is merely an extreme example. On June 26, 1708 it was ordered that "Whereas Tiverton have not provided themselves with a minister, and the necessary Orders by them made

2. Ibid, X., 220, ch. 175.
4. Ibid, IX., 17, ch. 36.
5. Ibid, IX., 17, ch. 36: II., 263, gives the full account of the difficulties in Tiverton.
thereupon not being duly observed, but Eluded and Render'd ineffectual; Mr. Jos. Marsh Minister be treated with and obtained if it may be, and sent to the said Town; And that £50.............be allowed by the public treasury for that end." But by June 17, 1709 Tiverton was still without a minister and again it was ordered "That the neighboring ministers, be Desired, to Preach in their Turns, at Tiverton, untill the last of October next, or to procure the most suitable person, they can for the circumstances of that People." And to defray the cost 20 shillings a week were voted from the public treasury. Again in the same year, twice in the next and once in 1711 and in 1712 funds were voted from the treasury of the province for the spiritual welfare of Tiverton, and when in 1717 it was "ordered that the Justices of the Court of Quarter Sessions in the County of Bristol be directed to procure a suitable Minister to reside at Tiverton," £70 were voted for his support. Such a choice was evidently not always satisfactory, as one can readily imagine, for on October 29, 1708 the General Court is recorded as granting a petition from Malden asking that a Minister of their own choice might come to them, rather than tho one selected by the Justices of the Peace.

The town however almost always had the privilege of an increase on the length of time which it might take in settling a minister. In 1709 Brookline sent up a petition asking that one year's time be added to the first grant for building a meeting-house and settling a minister. The petition was readily granted November 12,

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1.- Acts and Resolves, IX., 70, ch. 42.
2.- Ibid, IX., 97, ch. 126.
3.- Ibid, IX., 111, ch. 167; 131, ch. 42.
4.- Ibid, IX., 166, ch. 141.
5.- Ibid, IX., 249, ch. 54.
6.- Ibid, IX., 572, ch. 140.
7.- Ibid, IX., 30, ch. 74.
1709 but the next year selectmen of Brookline begged for two years more and at the end of that time were still unprepared to settle a minister. Their last petition was granted June 10, 1713 "with this strict Injunction that the Town be provided of a convenient Meeting-House and of a learned orthodox Minister and of good Conversation by the End of .... three years."

Not only in settling ministers but in the less simple matter of removing them the General Court took a lively interest. As the minister was theoretically settled for life, such a separation was unusual and difficult, ordinarily the result of disagreement between minister and church members. On the report of a committee appointed "to examine into the Controversy and Difference betwixt Mr. Benjamin Woodbridge Minister, and the Town of Medford," which decided "that their wound is Incurable and that it is necessary that the Reverend Mr. Benj. Woodbridge and the Town of Medford be parted," the Court decided "that Mr. Benjamin Woodbridge ....... be declared to be no longer Minister of Medford" but advised him "by no means to discourage the coming and Settlement of another Minister among them. This was nevertheless not the end of the difficulty for while one faction concurred with the Court decision another proceeded in town meeting to recall Mr. Woodbridge so that the Court felt called upon to order "that the selectmen and moderator and Mr. Woodbridge appear and give an account of their proceedings, and a few days later, February 24, 1709 resolved that the Justices of the Court of General Sessions of the Peace see that the town be provided

1.- Acts and Resolves, IX., 96, ch 123.
2. Ibid, IX., 147, ch 92.
3.- Ibid, IX., 294, ch 34.
4.- Ibid, IX., 14 ch 41.
5.- Ibid, IX., 41, ch 110.
6.- Ibid, IX., 45, ch 118.
with another minister. In the case of Watertown there was installed a minister by name, Robert Sturgeon, who had been "forbid by Two Councils of Churches" to preach and whose "disorderly carriage in that affair, if not seasonably prevented, might be very prejudicial to the constitution and break in upon the peace of the churches." A committee of which Samuel Sewall was chairman was of the opinion that "the Attorney General be director to prosecute the Said Sturgeon ... at the next Court of the General Sessions of the Peace for the County of Middlesex, to be held at Charlestown," a decision arrived at only after an investigation into the reasons for "his extraordinary proceedings."

But the General Court having made itself so prominent in the establishment of the ministry in every town was more or less under obligations to be responsible for the material comfort of minister and congregation. In no way did it play its part more heroically than in the measures which it took to guarantee the minister his salary. Its principal indirect means were by a reassessment of taxes and an order allowing the taxation of the unimproved land of non resident proprietors. On December 11, 1734 the former was used for Rutland, and six years before that Oxford was given permission to levy 20 shillings per annum on each 1000 acres for 5 years on the unimproved lands in the town, so that they could build a meeting-house and settle a minister. An act of a similar sort was enforced in Leicester in 1723, by the order that if the "absent proprietors refuse to pay after notice has been on the meeting-house door and in the Boston News Letter 60 days,

1.- Acts and Resolves, X., 221, ch 176.
enough of their land can be taken for the use of the town as equals the amount of the rates." In the case of Deerfield which, for the want of selectmen, had failed to assess its taxes, the Justices of Quarter Sessions were authorized in 1706 to appoint persons to act as assessors.

Such an account of ministerial taxation gives one the impression that the enforced tax for the support of the ministry was universal. As a matter of fact, although it was the rule, it was not universal. The churches of Boston from earliest times prided themselves on the voluntary support which they received, a state of affairs which appealed strongly to Baptists in their struggles for exemption and several of the smaller towns followed Boston's example. It was a system which was more likely to succeed in a large town where rivalry existed between the various churches, but which was less successful in a smaller town where the ministerial support would inevitably fall upon the few most conscientious church members. Watertown took the backward step from voluntary to enforced ministerial taxation when in 1712 she sent in a petition saying that "by Reason of Death and Removal of many Persons and Alienations made of Estates, that Way and Method is become less practicable than heretofore." As late as 1820 when disestablishment in Massachusetts was under discussion John Adams wrote to Henry Channing, "In Rhode Island, I am informed, public preaching is supported by three or four wealthy men in the parish, who either

1. Acts and Resolves, VIII., 180, ch 44.
2. Ibid, II., 304, ch 17.
3. Wibor; Mem. Hist. of Boston, II., ch VI.
   Acts and Resolves, II., 460, ch 7, Sect 3.
4. Hovey; Life and Times of Isaac Backus, 213. Address to General Court from the Baptists, Dec. 2, 1774, "Only allow us freely to enjoy the religious liberty that they do in Boston."
have, or appear to have, a regard for religion, while all others sneak away and avoid payment of anything. And such, I believe, would be the effect in this State, Almost universally; yet this, I own, is not a decisive argument in favor of the law." Andrew Eliot on the other hand as early as 1771 in writing to Thomas Hollis remarks, "I wish our fathers had contrived some other way for the maintenance of ministers, than by a tax. Thank God, we have none in Boston. I do not like anything that looks like an establish-
ment .

At a much later date the General Court found a further means of insuring the minister his salary. The first instance of the Court's granting authority to a town to tax the pews in its meeting-house is in 1752 when Salem and Newbury were given this privilege. The plan proved sufficiently popular to call for various repetitions of the act, and was resorted to even in Bos-
ton. The natural method to enforce the tax was by the sale of the pew of a delinquent payer.

Second in importance to the raising of the minister's salary was the appropriation of the ministerial land, a matter in which the General Court stepped in on several occasions, although it was a distinctly town matter. There is the record of a vote

2. - Massachusetts Historical Collections, Series IV, IV., 455. It is entertaining to notice that Eliot as a Bostonian was most familiar with the system of voluntary contributions, while John Adams represented the smaller town of Braintree.
4. - Ibid, 1760, 1766, 1769, 1773.
5. - Ibid, III., 778, ch 12.
of March 24, 1702," for appropriating 100 acres of land to the use of the ministry in the town of Suffield, on condition that said town grant .... an equal quantity of land in fee simple to Benjamin Ruggles, minister of said town;" and the following year a full 400 acres was granted unconditioned to the minister of the same town. The Court might also go so far as to oversee the surveying of such a parcel of ground by a committee appointed from its members. On another occasion an act was passed, "to enable Samuel Sprague, Benjamin Hammond and John Briggs, in behalf of the town of Rochester to dispose of a share of land consisting of a three and thirtieth part of the said township, which was devoted to the use of the ministry, they laying out the produce thereof in purchasing other lands in the town of Rochester for the use of the ministry thereof," the reason being that the original grant of land consisted of scattered allotments instead of a single piece. On one occasion the Court was called upon by petition to grant that the minister's house might be built upon another lot than the one specified in the original grant, the land being "So Wett, and Stony that it will be hardly possible to dig a Cellar there."

And last, before coming to the direct means taken by the Court to assist the ministry, two less important indirect means should be considered. In spite of a general dislike of preachers who were not ordained ministers the Court was willing to make some concessions to them where they were settled in distant towns, especially as missionaries to the Indians. In 1724 it was

decided that the Rev. Mr. Experience Mayhew of Martha's Vineyard should be considered a member of the Settled Ministry and "So ought to be Exempted from paying any taxes to his Poll and the estate in his Own Hands and under his own Management." In the same year the Court was concerned with the difficulties arising in the payment of the ministers' salaries on account of depreciated currency and appointed a committee, of which Samuel Sewall was chairman, "to Consider of Some Method to Remedy the Difficulties many of the Ministers of the Gospel ly under by Reason of the low Value of the Bills of Credit."

The direct means taken by the General Court to assist in the support of the ministry was by voting certain sums of money from the public treasury toward the payment of the minister's salary or toward the building or repairing of the meeting-house. Such a vote might be a voluntary offering of the House of Representatives acting on the suggestion of some member, in which case the establishment of a minister in a new plantation was the subject under consideration; or it might be the result of a petition, the more usual case. Such a petition might come from the representatives in the General Court of the town which desired aid, from the freeholders of the town or even from the minister himself. The reasons given in these petitions for asking aid from the province treasury were usually the extreme poverty of the town, due to the requirements put upon it by the French and Indian War, or the

5. Ibid, VII., 173, ch 60. Stow, IX.
6. Ibid, VIII., 222, ch 19; York, 1698. IX., 533, ch 287; Northfield.
7. Ibid, X., 80, ch 3; Biddeford.
inability of the constables to collect the taxes on account of religious scruples of certain of the inhabitants. In one of these two classes may be included nearly every town which sought financial aid of the public treasury between 1691 and 1725, and even a slight study of their distribution gives an interesting insight into the political and religious difficulties of the times.

Along the coast of the present state of Maine and open to the attacks of the Indians of the Maine woods lay the frontier towns of Kittery, Wells, York, Berwick, Biddeford and Arundel, Falmouth, Scarborough and, far to the eastward, the garrison of Winter Harbor. In 1695 two pounds were voted "towards the support of the minister at Newichewannick, the upper part of the town of Kittery;" Wells and York had frequent assistance between 1699 and 1712; Berwick received several small sums varying from five to fifteen pounds; Biddeford and Arundel, which together supported a minister, were assisted with large amounts as late as 1725, "the minister to preach alternately if the weather permit;" Falmouth was provided with the large sum of £50 in 1725 because it had finished a "handsom Meeting House"; and Scarborough in the same year was receiving its third allotment. Winter Harbor, a fishing station and garrison, was supplied with £40 for the maintenance of a minister in 1716. In at least one case Massachusetts joined

1.- Acts and Resolves, IX., 434, ch 123; Dartmouth.
2.- Ibid, VII., 88, ch 43.
4.- Ibid, VII., 160, ch 28; 202, ch 53; 304, ch 49; 311, ch 68.
5.- Ibid, X., 592, ch 43.
6.- Ibid, X., 725, ch 422.
8.- Ibid, IX., 475, ch 42.
with another province in the matter of ministerial support when in 1705 she granted "£14 out of the province treasury towards the maintenance of a minister at the Isles of Shoals, provided the province of New Hampshire pay £5 for the said purpose."

Within the present borders of the state also, numerous frontier towns sought help from the public funds. Ten or twenty pounds went annually to the support of a minister for the garrison at Dunstable between 1696 and 1714; in 1697 the sum of £20 was voted "to such Minister as shall be procured by the town of Lancaster to remain there one year, to succeed their former minister who was slain by the enemy;" Stow and Brookfield had numerous grants, and in the case of Rutland, the town's whole "proportion to the Public Tax in 1724 and 1725 was remitted to the said town," not to pay further taxes until so ordered by the Court. This remitting of taxes was the second means of granting money in addition to the direct appropriations. In the western part of the state the frontier settlement of Deerfield was constantly in need of aid from 1696 to 1712, receiving anything from ten to forty pounds per annum. The grants were usually in answer to petitions which described the poverty of the town due to Indian war and massacre. A few years later the settlement of Northfield, several miles above Deerfield was obtaining assistance.

While the frontier settlements were receiving material aid for the maintaining of religion, a second group of towns were in

2. Ibid, VII., 113, ch 17; VII., 366, ch 64.
3. Ibid, VII., 168, ch 47.
4. Ibid, VII., 173, ch 60.
5. Ibid, VII., 197, ch 36; IX, 377, ch 96.
7. Ibid, VII., 113, ch 16; IX., 252, ch 63. N.B. - These dates include the year of Deerfield Mass. 1704.
need of similar assistance from a very different cause. These towns, lying within the limits of the old colony of Plymouth and near the boundary line of the Providence Plantations, including Freetown (Fall River), Taunton, Tiverton, Dartmouth, Middleborough, and Rehoboth, mingled with the freer traditions of the Plymouth colony in the matter of church and town government, that independence of spirit of resistance which the Baptists and Quakers of Rhode Island displayed. It was in Swansea that the first Baptist church in Massachusetts was founded; it was in Middleborough that Isaac Backus, the most prominent Baptist preacher of the province advanced his theories in respect to religious liberty. The case of Mr. Hunt, the Congregational minister sent to Dartmouth, and the Quakers is a long story and a matter which was not settled until after it had been carried to England. The minister who was sent to Tiverton gave up in 1724 "after a year's trial, being discouraged by the perverse and intractable Temper and Carriage of the Said people." In Freetown (Fall River) the struggle between minister and people extended over five years and became somewhat involved. In the years 1718 and 1719 the town chose as constables George Winslow and Thomas Durfee, who failed to collect the ministerial tax so that the minister, Thomas Craighead in 1720 petitioned the General Court that some other persons might be appointed to collect his dues which at that time amounted to £200. The Court then ordered that "the Justices in General Sessions of the Peace for the Said County of Bristoll, be Impowered and directed to Grant out Warrants of

1.- Lauer; Johns Hopkins University Studies, Ch. and St. in New England
2.- Hovey.
3.- Acts and Resolves, II., 269-277; Gives the full account of the controversy between the towns of Dartmouth and Tiverton and the General Court respecting the support of the minister.
Distress or Execution directed to the Sheriff, of that County, to
detrain the Goods or Estate reall or personall, of the Said Defec-
tive Constables respectively to the Value of the Sums due from them,
to make Sale of Such Estate Reall or Personall, Returning the Over-
plus to them, and pay to the Rev. Mr. Craighead, the Said Sums
amounting In the whole to £130, etc." Three years later matters
were as bad as ever and we find the Court again ordering a hearing
for the town at which the delinquent constables must appear. The
affair was however still unsettled.

In addition to the churches of the frontier settlements
and of the Rhode Island border one other church of a rather unique
character gained its share of assistance just at the opening of
the century. On June 29, 1700 a vote was passed "for paying £12
out of the province treasury to the minister of the French Protestant
Congregation in Boston, for their encouragement and his support." The
following year an order was passed "remitting the duties upon
the goods to the value of £300 sterling, imported by Captain Went-
worth as the gift of the king to the French Church."

Parallel with the votes for ministerial support appear
those for aid in building or repairing meeting-houses. Lancaster
Dartmouth, and Falmouth were granted definite sums. In the case
of Cape Cod a grant of £150 was limited by a proviso stating what
the dimensions of the meeting-house must be and obliging the in-

1.- Acts and Resolves, X., 70, ch 156.
3.- Ibid, VII., 250, ch 34. Winsor: Memorial History of Boston,
   II., ch VII, gives an account of this church but does not mention
   this fact.
6.- Ibid, VIII., 67, ch 32.
7.- Ibid, VIII., 292, ch 27.
habitants to keep it in repair. On November 21, 1719 the Court granted a petition sent up by certain of the inhabitants of Natick asking that they might be allowed to sell some of the town land to pay for the repairing of the meeting-house the condition of which they graphically described as having "the Boards shattered and falling off, and the windows broken down, and so open that the Rain and Snow drives all over the House, so that the Seats and Floors are much damned." The town of Leicester, desiring in 1720 some speedy means of finishing its meeting-house was given permission to levy "on each Pole or Head in the Town" the sum of five shillings and two pence on each acre of Land.

The part played by the central government in the ecclesiastical affairs of the towns was not limited to material aid, for the General Court acted as a kind of arbiter in town disputes of a religious as well as of a political nature. In no matter was the judgment of the Court sought so unceasingly as in the serious question of the location of the meeting-house, the real importance of which appears where one considers that meeting-house and precinct were inseparable. The Court might be called upon to decide upon the site for the meeting-house in a new precinct, or to give advice about a change of location in an older town where the original building had become outgrown and population had shifted. The usual method adopted by the Court to settle a dispute of this nature was to appoint a committee which should go to the town, look the ground over and send in a report. Upon a petition from North Scituate in

2. Ibid, IX., 682, ch 82.
1708 it was ordered by the Council and approved by the House that Ephriam Hunt and Samuel Appleton Esqs. with such of the representatives as that House shall think fit, be a Committee to repair forthwith to Scituate, And upon Hearing both Parties, to determine the Setting up the Meeting House on one of the Two Places proposed, Viz, At the Meeting House Hill, or that place near Jos. Neal's House, But if that cannot be effected to good Agreement, Then to report the same to this Court, The Charge of the Committee to be born by the said Society."

On another occasion a similar Committee were of the unanimous opinion that a certain location was desirable as it had been given to the town by its owner for such an end and "some of the Timber for it already his in the most convenient Place for erecting the said Meeting House."

In West Newbury in 1711 a serious difficulty presented itself because a certain group of its inhabitants "rays'd and in part covered a House intended for a Meeting House" in a place unauthorized. On several occasions the committee appointed by the House of Representatives decided against the petitioners desiring a change of location, and showed evidence of having an eye to the future growth of the town. In one instance the decision of the committee proved unsatisfactory because the owner of the selected spot refused to sell his land.

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1. Acts and Resolves, IX., 12, ch 17.
2. Ibid, IX., 334, ch 157; Brookline 1713.
3. Ibid, IX., 141, ch 52; 196, ch 65.
5. Ibid, IX., 439, ch 132. Bridgewater. Here a second Meeting-House was placed in 1715 with the idea that a "third will soon be needed."
6. Ibid, X., 179, ch 60.
The General Court was further called upon to arrange compromises between factions in churches. In the case of Worcester in 1722 the contending parties had submitted their dispute to a Council of seven churches which failed to finish the work intrusted to it so that the Court was obliged to order it to proceed; and upon the unwillingness of the various delegates to go to Worcester "by reason of the rupture with the Indians, It being a Frontier place," the Court decided that the council might be held at Dedham.

In 1722 a curious matter was brought to the attention of the Court because a parish, partly in Taunton and partly in Middleborough, was under difficulties in regard to the support of the ministry because it lay in two counties. The Court merely decided that the Justices of the Peace for the County of Plymouth rather than those of Bristol should execute the laws.

On another occasion the Court was obliged to settle a difficulty in this same Providence region when in 1723 it was called upon to confirm the votes relating to the encouragement of a minister, passed in a town meeting of Taunton which some of the inhabitants claimed was irregular.

We have seen that the part played by the General Court in the ecclesiastical affairs of the town was of a three-fold nature. While it enforced the laws in regard to the propagation of religion and the maintenance of the ministry, it was of practical assistance to the towns in a financial way and acted as arbiter in various disputes.

2. Ibid, X., 208, ch 137.
CHAPTER IV.

DEVELOPMENT OF RELIGIOUS LIBERTY IN MASSACHUSETTS
IN THE EIGHTEENTH CENTURY.

The general aspect of the eighteenth century in Massa-
chusetts ecclesiastical history is a growing toleration and emanci-
pation of dissenting sects and a gradual breaking down of the old
state-church system. Chapter III has already revealed certain
evidences of this development by exhibiting the increasing resist-
ance of the ministerial tax which was practiced by Baptists and
Quakers, and which was already demanding relief legislation before
the end of the third decade of the century.

But it was the Episcopal church which was first favored,
although the eighteenth century had begun before it had a firm foot-
hold in Massachusetts, as the effort of Andros to force the church
upon the people had been unsuccessful. In 1727, four years after
a lengthy petition had been sent to the king in Council from a group
of ministers of the Anglican Church in Massachusetts, enumerating
the disabilities under which the Episcopalians of the province were
laboring on account of the elaborate legislation for the support
of the ministry, the first evidence of their exemption appears in
an act relating to the settlement and support of ministers. It
states that "some persons who conscientiously profess themselves to
be of the church of England, and to differ in opinion from the

1.- New England; Board of Trade; XV., Z. 3, in Pub. Record Office.
Quoted in Acts and Resolves, II., 477-482.
2.- Chap. II.
discipline and form of worship used in the respective churches settled by law within the towns...may be under difficulties by being obliged to pay for the support of the minister settled according to law, altho' they give no attendance on his public administrations, but they and their families usually attend the public worship of God according to the manner of the church of England, either within their own or some neighboring town." The law went on to state that although the ministerial tax must be exacted of attendants upon the Episcopal Church, if there was "a person in orders according to the rules of the Church of England settled and abiding among them and performing divine service, within five miles of the habitation...of any person professing himself as aforesaid of the church of England, so that he can conveniently and doth usually attend the public worship there," the town treasurer was to return to them the ministerial tax which had been collected from them so that it could be used for the support of the Episcopal minister. The law was unsatisfactory especially on account of the five mile restriction and was enacted for five years only, but in 1735 it was repeated, this time with the further restrictions that the exempted person must live in the town where there was a society of the church of England, and that he could not be exempted unless it was first certified by the minister of the English Church and the churchwardens that he was in the habit of attending public worship there. This law was renewed in 1742 with no time limit.

3. Acts and Resolves, II., 782. ch. 15.
4. Ibid., III., 25, ch. 8.
The position of the Quakers was much more trying than that of the Anglicans because of their peculiar political and ethical ideas. Among their complaints were the requirement that they support the Congregational minister, when, as a matter of fact, they highly disapproved of any paid ministry, the oaths which they were required to take as witnesses, a form which they opposed on moral grounds, and their forced participation in the militia while they steadily preached non-resistance. More than this their worship was looked upon with suspicion and a Quaker himself was something of a social outcast. Sewall records that in Council on August 23, 1708 he opposed granting a petition for the privilege of building a Quaker Meeting House although the Selectmen and Justices of the Town had passed it, on the ground that he "would not have a hand in setting up their Devil Worship." In 1720 the General Court appointed a committee to investigate the disabilities under which the Quakers were supposed to be suffering, as described in a petition sent up a certain Joseph Wanton and Richard Borden of Freetown. The petition reads that the Quakers "for years past have suffered the Distraint and Loss of their Goods for the Support of the Presbyterian and Independent Ministers, and also for the building of their Meeting Houses, And that too often with much Extortion, Double and sometimes more being taken from them than the Sum demanded." The petition asks that the General Court "give Orders that the Persons that are now suffering under such Imposition, may be discharged therefrom, for that their consciences will not allow them to pay their Money for the Support of the said Ministers and Meeting-Houses, And they being known diligently to attend the Public Worship in their

own Meeting-Houses, every first day in the week." A similar memorial was sent up from Tiverton in 1723. But while they were humbly petitioning and in spite of their theory of non-resistance, they were strenuously opposing the ministerial tax. In relief legislation the Quakers were usually classed with the Baptists, the first exemption law appearing in 1728 and renewed constantly upon petition from one sect or the other, in spite of the feeling of the Privy Council that if such acts were passed, they must, to be constitutional, include all dissenters rather than certain specific sects. In a similar manner Quakers were exempted in 1743 from taking the customary oath of the province and were allowed to substitute for it a "solemn affirmation." In regard to service in the militia, the General Court made an exception of the Quakers of Nantucket in 1755 and two years later passed a sweeping law to include all of the sect in the province, as the result of numerous petitions which tried to explain to the Court and Council the Quaker attitude of mind. Such a law, becoming less important after 1763 had to be renewed as the Revolution came on.

1-Acts and Resolves, X., 19, ch. 36.
2.- Ibid., X., 406, ch. 366.
4.- Ibid., II., 494, ch. 4.
5.- Ibid., II., 619, ch. 11; II., 876, ch. 6.
6.- New England, Board of Trade, XXIII., 8. 6. 157, in Public Record Office. Quoted in Acts and Resolves, II., 635.
7.- Acts and Resolves, III., 126, ch. 20.
8.- Ibid., III., 915, ch. 32.
9.- Ibid., IV., 49, ch. 17.
11.- Acts and Resolves, V., 86, ch. 10; V., 487, ch. 14; V., 1120, c ch. 18.
The position of the Baptists was very similar to that of
the Quakers as the parallel legislation for the two sects indicates.
As late as 1722 Samuel Sewall was strongly objecting to a considera-
tion of the offer of Thomas Hollis "as to his Professor of Divinity"
at Harvard College, because of the article in the proposals which said
that he should be "in communion with a church of Congregational,
Presbyterians or Baptists." Sewall wished "rather to lose the
Donation than to Accept it" with the objectionable clause, arguing
that "one great end for which the first Planters came over into New
England was to fly from the Cross in Baptisme."

In 1700 there were only nine Baptist churches in all New
England but, as they increased, their opposition to ministerial taxa-
tion became so insistant that in 1728 the first law was passed to
exempt them and the Quakers. It referred only to the polls of such
persons and could be used only by those living within five miles of
the place where their meeting was to be held and was therefore un-
satisfactory, but in the following year was renewed to include es-
tates as well as polls. The law of 1734 described the lists which
were to be made out by the assessors, to indicate what persons were
"to be considered of the Baptist perswasion," and initiated the
bungling certificate system whereby an omitted person could prove
his denomination by a certificate from"two principal members of his
society." But it proved unsatisfactory because the assessors failed
to do their duty and was, as Manning later said, "more clear, accurate
and better drawn than any of the former, but for want of a penalty on

2. - Acts and Resolves, II., 484, ch. 4.
3. - Ibid., II., 543, ch. 6.
4. - Ibid., II., 714, ch. 6.
the returning officer, badly executed, subjecting our brethren to many hardships and oppressions." The similar law of 1740 had the same defects, but in 1747 was reenacted for ten years. The strict law of 1753, carrying the certificate system to a ridiculous extreme, was occasioned not by any act of the Baptists but because the Separate churches which resulted from the Great Awakening, failing to gain recognition from the General Court, formed nominal Baptist churches and as such claimed the right of exemption. It enacted "that no minister, nor members of any Annabaptist church shall be esteemed qualified to give such certificate...other than such as shall have obtained from three other churches commonly called Annabaptists, in this or the neighboring provinces, a certificate from each respectively, that they esteem such church to be one of their denomination, and that they conscientiously believe them to be Annabaptists." This law proved so oppressive to the Baptists that it occasioned a petition of unusual length and detail which was read in the Council, May 29, 1754. Although a similar law was enacted in 1758 for thirteen years, that of the year 1770 is a decided improvement over its predecessors, not only in the substitution of the technical term "Antipedobaptist" for the derogatory "Annabaptist," but also in the opportunity which the General Court in it gave to the individual towns to show liberality. In addition to the regular certificate legislation, it enacted "that it shall always...be in

1.- Hovey, 207.
2.- Acts and Resolves, II., 1021, ch. 6.
3.- Ibid., III., 362, ch. 6.
4.- Lauer, 81.
5.- Acts and Resolves, III., 644, ch. 15.
the power of any town....where any person or persons dwell or have any rateable estate, who profess themselves to be either Quakers or Antipedobaptists, at any meeting of such town....by the vote of the major part of the qualified voters, other than those who profess themselves to be Quakers or Antipedobaptists, to exempt....from ministerial taxes, or taxes for building or repairing any meeting-house or place of public worship, the polls and estates of any person or persons....who profess themselves to be Quakers or Antipedobaptists, although no such list or lists as is before mentioned in this act should be exhibited to the assessors of such town...."

But in actual working the law seems to have differed little from its predecessors as it did not prove satisfactory to the Baptists, and the last act for the exemption of Baptists and Quakers, which came four years later and was renewed in 1777 and 1779, included the odious certificate system, going even so far as to reproduce the exact wording which such a certificate was to bear.

Having reviewed the ecclesiastical legislation of the eighteenth century as an evidence of a decided though gradual approach toward complete religious liberty, it is necessary to attempt to discover what were the causes both within the Congregational Church and apart from it which produced this result. As a matter of fact the way began to be paved for the dissolution of the state church when the older towns began to break up into smaller parishes for reasons of convenience. Although church matters were still merged in political ones, and although there was no idea of

2. Backus, II., 156.
4. Ibid., V., 732, ch. 4.
5. Ibid., V., 1120, ch. 18.
6. Chap. III.
disestablishment in any sense, for the ministerial taxes were still assessed, the original theory of a single town with a single church was hopelessly broken down. The Great Awakening, coming as the natural reaction to the result effected by the working out, to its logical conclusion, of the Half Way Covenant, exerted some curious and rather diverse influences on disestablishment. Jonathan Edwards in preaching the dignity of the church, "divinely founded and nourished by divine grace," was unconsciously resisting secular control of spiritual things because of their superior nature. Among the people themselves the adoption and strict observance of a set of outward rules and the insistence on inner contemplation drew attention away from matters of a purely ecclesiastical nature just as it also meant a weakening in missionary zeal. A more obvious and disastrous result of the Great Awakening in its effect on the religious life of the country was the inevitable reaction which followed the excesses and excitement of the period. Such a spiritual lethargy could not fail to have the result of producing a general lack of interest in maintaining the religious ideals of the seventeenth century. The spirit was fostered by the growing importance of the commercial and industrial life of the people who found that "keeping out dissenters was not so important as doing business with them." A further shattering power, in the church itself, was the Unitarian movement, which, first appearing in New England in the seventeenth century, though hardly recognized at the

1.- Chap. I.
2.- Edwards: "The City of God."
3.- Cobb, 485.
4.- Walker, 239. Am. Ch. Hist., III.
6.- Lauer, 68; Allen, chap. 8. Am. Ch. Hist., X; Weeden, II.
time, assumed importance by the middle of the eighteenth century. By its tendency to split the older churches it could not fail to work toward the breaking down of the ecclesiastical system.

No incident of the eighteenth century, even in the later years, shows more clearly the position of the established church as a declining institution in religious power and political position than the attempt of the New England ministers in 1725 to hold a synod. The proposal gave the reasons for such a synod, describing in the words of Cotton Mather, "the Visible Decay of Piety in the Country, and the Growth of many miscarriages, which we may fear have Provoked the Glorious Lord in a Series of various Judgments wonderfully to distress us, Considering also the Laudable Example of our Predecessors to recover and establish the Faith and order of the Gospel in the Churches, and Provide against what Immoralities might Threaten to impair them, in the Way of General Synods convened for that purpose." The Council voted to grant this request, but the Episcopal clergymen of Boston remonstrated and the House of Representatives voted to refer the matter to the next session for further consideration. The Bishop of London practically ended the matter, observing that as the Church of England extended to America, the Independent clergy were simply a tolerated body there as in England, and to extend permission to them to hold a synod would be doing an injustice to the dissenters in England who had never had the privilege. While the appeal to the General Court for permission to hold a synod shows that the ministers still clung to

2. Palfrey, IV., 456; Cross, 67.
5. Cross, 69.
the old theocratic idea, the hesitation of the legislature to comply with their demands and the submission of both legislature and clergy to the Episcopal interference were evidences of the weakening power of the church.

This danger to the Massachusetts ecclesiastical system which came from the party of the Anglican Church dates from the establishment of the Society for the Propagation of the Gospel in Foreign Parts. Although King's Chapel in Boston, the first Episcopal Church in New England was not built until 1687 and even then was unable to buy a suitable spot for building and met with great difficulties in the early years, a great advance was made by the church of England in the first years of the eighteenth century through the Society incorporated by royal charter in 1701. Formed with the aim of strengthening the Episcopal Church in the colonies, in charge of the Bishop of London, and devoting itself wholly to spiritual concerns, it was no sooner established on a firm basis than it began to work toward substituting the control of resident American bishops for the jurisdiction of the Bishop of London. As the English Church was too closely joined with the English government to make it possible to keep such a system free from political influence, the attempts made by the Anglican party were much feared by the independent churches, especially as the revolution drew near. A further cause for alarm lay in the suspected coalition of the Baptists with the EpiscopalianS instead of union with the Presby-

5. Chap. V.
terians and Congregationalists in opposing an American Episcopate.

While the influence of the Anglican party played somewhat indirectly on church establishment in Massachusetts because the chief sphere of influence of the Church of England was not in New England, the Baptists in Massachusetts were taking some very direct means to accomplish their ends. The repeated petitions which the Baptists with their allies, the Quakers, put before the General Court at intervals during the greater part of the century culminated in the intense appeals which began to appear just before 1770, and were largely the work of Isaac Backus, the most prominent Baptist minister of the period. The Warren Association, formed for the united action of the Baptist churches, to collect examples of Baptist grievances, put in the Boston Evening Post of August 30, 1770, an advertisement, reading as follows:

"To the Baptists in the Province of Massachusetts Bay, who are, or have been oppressed in any way on a religious account. It would be needless to tell you that you have long felt the effects of the laws by which the religion of the government in which you live is established. Your purses have felt the burden of ministerial rates; and when these would not satisfy your enemies, your property hath been taken from you and sold for less than one half its value. These things you cannot forget. You will therefore readily hear and attend, when you are desired to collect your cases of suffering and have them well attested,—such as, the taxes you have paid to build meeting-houses, to settle ministers and support them, with all the time, money and labor you have lost in waiting in courts, feeing lawyers, etc., and bring or send such cases to the Baptist Association to be holden at Bellingham; when measures will be

resolutely adopted for obtaining redress from another quarter than that to which repeated application hath been made unsuccessfully. Nay, complaints, however just and grievous, have been treated with indifference, and scarcely, if at all, credited. We deem this our conduct perfectly justifiable, and hope you will pay particular regard to this desire, and be exact in your accounts. Boston, July 31, 1775."

A complaint of this description was that of the Ashfield, a town which in 1768 and 1770 had vainly attempted to gain some kind of redress. It had been settled almost entirely by Baptists who were proceeding to settle a Baptist minister when a small number of Congregationalists took up land within the town, proceeded to settle a minister and to tax the Baptists for his support. Upon the refusal of the Baptists to pay, their land was taken from them and sold at auction for a part of its value to pay the taxes. The petition concludes, "if we may not settle and support a minister agreeable to our own conscience, when is liberty of conscience? ....We plead nothing but liberty of conscience and charter privilege." The complaints which the advertisement sought came in, but in the meantime, toward the close of the same year the General Court passed the liberal exemption law of 1770, the last law of the sort which came as an answer to a petition, for with the revolutionary period the Baptists found a new point of attack. This last petition sums up the Baptist position by saying "the act of the General Court, made with a design to favor us, and for the same

1. Hovey, 174.
3. Hovey, 184. Letter from Isaac Backus to Samuel Adams, Jan. 19.
4. Ibid., 7.
5. Chap. V.
purpose hath been renewed from time to time, is attended with some difficulties as render it ineffectual in many instances, and by no means sufficient to answer the good purposes for which we were willing to believe the honorable court attended it." The case is stated so strongly that one reads with surprise the testimony of the opposite side in the words of Andrew Eliot of Boston. "Our Baptist brethren, all at once, complain of grievous persecutions in the Massachusetts! These complaints were never heard of till we saw them in the public prints. It was a great surprise when we saw them, as we had not heard that the laws in force were not satisfactory....But in the way in which our ministers are generally maintained, the Baptists can have very little reason to complain. For as soon as any produce a certificate that they are Baptists they are excused from all ministerial taxes....There may have been some particular acts of hardship and injustice, but they must have proceeded from some accidental cause. There is nothing in the present complexion of this country, that looks like persecution. Both magistrates and ministers are as free from it as they ever were in any age or country. If it were not so, I should detest New England as much as I love it, and if possible would leave it."

1.- Hovey, 179.
CHAPTER V.

INFLUENCE OF THE REVOLUTION ON THE RELATION BETWEEN CHURCH AND STATE IN MASSACHUSETTS.

If the eighteenth century as a whole marks a gradual advance toward theories of complete religious liberty, the period of the Revolution effected a tremendous forward movement in the same direction.

We have already referred to the reaction which followed the Great Awakening, making the era of the Revolution a period of very low spiritual vitality. Such a condition explains the unusual lack of ecclesiastical legislation belonging to the Revolutionary epoch. Aside from the renewals of the older laws, the only act bearing upon the church which appeared after March 6, 1774 was of a private nature, incorporating "the committee of the church and congregation of the town of Warwick for certain purposes," namely to raise £1200 for the support of the minister. Although the General Court was to a great extent taken up with directly military legislation during these years, of the 224 laws passed in all between 1775 and 1780, forty relating directly to the war and many of the others indirectly, the church would have received its share of legislation had it continued to occupy its old position of importance in general the democratic teachings of the Revolution intensified the spirit of democracy in the local churches, as well as in the church as a whole, while the great tendency of the period was toward

1.- Chap. IV; Walker (Am. Ch. Hist.), 319.
2.- Acts and Resolves, V., 962, ch. 44. April 20, 1779.
3.- Walker (Am. Ch. Hist.), 308.
a more perfect toleration, destined to result eventually in complete religious liberty.

The position of the Anglican Church however was unique because its adherents represented the Loyalists toward whom the Patriots exhibited growing animosity which temporarily interfered with liberal treatment of them. With the other colonies Massachusetts feared, as it was said, a "union of the Episcopal party through the continent in support of ministerial measures, as Dr. Chandler and Dr. Cooper, and other Episcopal clergymen, were met together about the time of the news of the Boston Port Bill, and were employed night and day writing letters and sending despatches to the other Colonies and to England." Moreover, with the approach of the Revolution, opposition to the establishment of an American episcopate, now resisted on political grounds, was renewed in Massachusetts as in the other colonies, and on January 12, 1768, the Massachusetts House of Representatives had commissioned Samuel Adams to write a letter on the subject to Dennis de Berdt, its agent in London. John Adams expressed his doubt whether Governor Hutchinson and Oliver ever directly solicited for bishops or not, but described the attitude of the colonists in a letter to J. Morse, written December 2, 1815. "The objection," he said, "was not merely to the office of a Bishop, though even that was dreaded, but it was to the authority of Parliament, on which it must be founded. The reasoning was this: The arch-bishops and bishops in England can neither locate dioceses in America, nor ordain bishops

1.- Works of John Adams, II., 168.
2.- Cross, 259. Writings of Samuel Adams, I., 149.
in any part of the dominions of Great Britain, out of the realm, by any law of the kingdom or of any of the colonies, nor by any canon law acknowledged by either. . . . But if Parliament can erect dioceses and appoint bishops, they may introduce the whole hierarchy, establish titles, forbid marriages and funerals, establish religions, forbid dissenters, make schism heresy, impose penalties extending to life and limb as well as to liberty and property. . . . The nature and extent of the authority of Parliament over the colonies was discussed everywhere, till it was discovered that it had none at all, a conclusion still more forcibly impressed upon the people by the Canada Bill by which the Roman Catholic religion and Popish priests were established in that Province by authority of a British Parliament. The people said if Parliament can do this in Canada they can do the same in all the other colonies, and they began to see and freely to say that Parliament had no authority over them in any case whatsoever. 1 The argument used by the Church party was that the bishops should be entirely free of political power, a theory not thoroughly trusted by the opposite party. "A Bishop of the Church of England without temporal power or worldly pomp!!!" wrote Andrew Eliot in 1769. "Surely the A. P. B. must have much too contemptible opinion of the understanding of the Americans, to imagine they would suffer themselves to be imposed upon by such flimsy pretenses. If we have a Bishop he will be like the rest of the order; once introduced, then will never want pretenses to increase his power—therefore we will not have one, unless we are compelled; no, not so much as to ride through the country to confirm.

1.- Works of John Adams, X., 185.
Although too much credence must not be put in the emphatic statement of Adams and others who maintained that American fear of the establishment of the Anglican episcopate in the colonies was a prime cause of the Revolution, it is true that the approach of the Revolution certainly increased American dread of Church of England bishops as well as suspicion of Episcopalians as a class, because "Anglican" meant "Tory." Although the greatest stir over the proposed Episcopate was centered at New York and Philadelphia rather than at Boston, Eliot writing, "the Episcopal controversy makes but little noise in this province," New England traditions of Episcopacy were not inclined to make the Sons of Liberty tolerant at such a crisis. When the British evacuated Boston, March 17, 1776, most of the Episcopal clergy in Massachusetts left the colony, and those who remained were forced, at least seemingly, to go over to the patriotic side. In the following year an act was passed "forbidding all expressions in preaching and praying that may dis- countenance the people's support of the independency of these colonies of the British Empire on the Penalty of £ 50." From this time to the close of the Revolution, the Episcopal Church played no important part in New England history.

But in the matter of religious toleration the Revolution had no greater influence than in the attitude of the New England Puritans toward Roman Catholics: A glance at their position in the eighteenth century shows a sharp restriction in political matters as well as an ignominious lack of recognition. In the charter

liberty of conscience was denied to Papists. In 1700 an act was passed "against Jesuits and Popish priests," ordering them to leave the province and forbidding by penalty their harboring or concealment. In the French and Indian Wars suspicion of Catholics was increased on political grounds so that in 1704 the General Court was led to resolve "that all French Roman Catholics be forthwith made prisoners of War. And the governments of Connecticut, and Rhode Island and New Hampshire be desired to use the same precaution." The transportation of the Acadians in 1756, many of whom were landed in Massachusetts, seems to have had little effect on the religious system as no laws were passed their favor except for their material comfort, necessitated by their poverty, and many of them were brought up as Protestants. The Catholic was held in utter disdain. "As rare as a Jacobite or a Roman Catholic, that is as rare as a comet or an earthquake," wrote John Adams in 1765, and a few years later, "we have a few rascally Jacobites and Roman Catholics in this town, but they dare not show themselves." The Quebec Act, by sanctioning the Roman Catholic Church in Canada, stirred up a latent fear of Papists. Writing in 1767 Andrew Eliot could not refrain from saying, "I shall expect soon to hear that popery is tolerated in Ireland, then in England. I hope in God it will never be established!" Three years later he was even more stirred upon hearing from a Canadian that the Catholic Church in that province had steadily gained ground since the Quebec Act and

2. Ibid., I., 423, ch. 1.
3. Ibid., VIII., 54, ch. 117.
4. Ibid., III., 887, ch. 23.
5. Such a one was General Sullivan. Hist. Mag. II., Vi., 41.
that "discouragements are thrown in the way of those who would renounce Popery."  "Would it not be of advantage," he asked, "to have intelligent persons constantly employed to find out and counterwork Popish agents?" The opponents of the French Alliance took advantage of the general hatred of Roman Catholicism to argue against any united action with a Catholic country, indicating the possible results of so disastrous a move.

The feeling toward the Catholics being therefore one of mingled disdain and fear, the tolerating influence which the Revolution exerted in their behalf, though effective, was imperceptible. Washington, when in camp at Cambridge in 1776, hearing on one occasion that the Pope was to be burned in effigy, wrote an emphatic order denouncing the scheme and expressing his surprise that "there should be Officers and Soldiers in the Army so void of common sense as not to see the impropriety of such a step, at this juncture, at a time when we are soliciting and have really obtained the friendship and alliance of the people of Canada." Although it was a communication based on expediency and probably had little effect outside of camp, it showed the more narrow minded New Englander the greater breadth which was possible in even a thoroughly patriotic American. Later in the Revolution the French Alliance had an important influence on Catholic toleration in Massachusetts. Count d'Estaing, entering the harbor of Boston August 25, 1778, remained there three months and during that time Boston people saw the Catholic service performed for the fleet and were favorably impressed with the piety of the French.

3.- Tyler, II., 74-76.
5.- Hist. Mag., II. VI. 42.
On one occasion a funeral procession traversed the streets with a crucifix at its head and priests solemnly chanting; while the Selectmen of Boston joined in the ceremony to show respect to the service of their allies. The result found expression in the Massachusetts constitution of 1780 which for the first time in the history of the province granted complete toleration to Roman Catholics.

The great importance of the Revolution in the attempts of the dissenting sects to put themselves on an equal footing with the Congregationalists was its fund of new principles which the struggle for independence offered. The petitions which the Baptists had been in the habit of presenting to the General Court sought chiefly an exemption from the province laws which required that all tax payers should share the support of the Congregational ministers. The arguments used were largely based on the oppression which the dissenting sects suffered when obliged to support a minister with whose teaching they were not in sympathy, as it necessitated a greater expense than they felt able to bear. There was some mention of the fact that the charter of 1691 granted liberty of conscience, but this was not the principal argument and the dissenters seemed to feel that exemption laws of a satisfactory nature were all that was needed. When these laws, framed in so restricted a manner that the certificate system which they outlined made a proper execution of them almost impossible, and when the constables and assessors took no pains to accommodate the Baptists and Quakers, the latter still seemed to feel that the difficulty

1. Rivington Gazette, N. Y. Quoted in Hist. Mag. II., VI., 42.
2. Chap. VI.
3. Chap. IV.
4. Chap. II.
lay not in the spirit of the laws but only in their execution. They accordingly plead for less complicated legislation.

With the approach of the Revolution a gradual change appeared. The political arguments of the day came to be applied to the religious difficulties. The General Court, like Parliament, it was claimed, had been taxing without constitutional power to do so. The old charter was examined anew; it was again discovered that in it no religious denomination was given preference over any other. The General Court therefore had no right to ordain that the ministry of one chosen sect should be supported by public taxation. With this a new interpretation was given to the exemption laws, for if, the dissenters claimed, the Court had no right to demand ministerial taxes, the exemption laws were themselves based upon an entirely wrong principle; the Legislature was granting a privilege in a matter which in no way came under its jurisdiction. The plea came no longer for further laws, but demanded that the Legislature cease to levy ministerial taxes. In discussing the absence in the charter of any provisions relating to church matters the Baptists indicated that the difference between it and the old order of the seventeenth century was that whereas church membership was in the latter a qualification for voting, in the former a property qualification had taken its place, so that while it was fitting that representatives in the seventeenth century, elected on a religious basis, should legislate on religious matters, such a right was certainly denied in the provincial period as the representatives were elected on a property basis. For, they said, "

1.- Acts and Resolves, II., 1021, ch. 6; III., 362, ch. 6.
2.- Hovey, 189--Paper submitted to the Baptist churches of the Province, May 5, 1773.
"can constituents give their representatives any power which they never had themselves?" The new petitions did however use the older argument of undue oppression as well.

The appropriating of the political argument was unsuccessful. But the reason was not there was a flaw in the Baptists' argument, but that the party in power had no intention of giving in to a measure which some regarded with derision, but which many really opposed on thoroughly conscientious grounds. Although the dissenters, upon appeal to the Provincial Congress, December 9, 1774, had gained a resolution of sympathy, the attitude of the leading members had been somewhat derisive. John Hancock the president had asked "with a smile" whether the petition should be read or not, and the reason given by John Adams for acting upon it was that to throw it out "might cause a division among the provinces," Pennsylvania being at this time very suspicious of Massachusetts in her treatment of Baptists and Quakers.

2.- Ibid., 220.
3.- Lauer thinks that there was a flaw in their argument. Overlooking the fact that the Baptists were claiming that the Court had absolutely no right to legislate on ecclesiastical matters, the support of ministers and the exemption of dissenters, he says, "it was claimed that they (dissenters) were taxed without representation. But the colonists did not dispute the principle. They admitted that dissenters should not be taxed for the Established Church. Exemption laws involving the principle had been enacted. It is true that difficulties had been put in their way. The right of exemption had been admitted. That was not the question; the trouble was in the execution of the laws. Nothing therefore was accomplished by appropriating the political argument to ecclesiastical purposes." Lauer, 95.
4.- Hovey, 222. Letter of Dr. Hezekiah Smith of Haverhill to Pres. Manning, January 22, 1775.
The feeling came out even more strongly at a conference which Isaac Backus succeeded in arranging between a delegation of Baptists and Quakers which he himself headed, and the Massachusetts representatives at the First Continental Congress of 1774. He carried with him to Philadelphia a petition from the Antipedo-baptist churches of New England to lay before the Congress as a body, because they understood that it "was designed, not only to seek present relief, but also to lay a foundation for the future welfare" of the country. But being advised not to address Congress as a body, but to seek a conference with the Massachusetts delegates he arranged for such a meeting on the evening of October 14, and succeeded in gaining the attendance of Thomas Cushing, Samuel Adams, John Adams and Robert Treat Paine. On the side of the Baptists Pres. Manning and Israel Pemberton spoke at some length and were answered by John Adams and Samuel Adams. The arguments presented by the Baptists were based on the new Revolutionary principles in regard to unconstitutional legislation and unjust taxation. The answers made by the Massachusetts delegates give the point of view of prominent representatives of the standing order. In treating the matter John Adams' whole attitude is one of indignation mingled with calm superiority. "The substance of what I said," he afterwards wrote, "was, that we had no authority to bind our constituents to any such proposal: that the laws of Massachusetts were the most mild and equitatable establishment of religion that was known in the world; if indeed they could be called

1.- Hovey, 202.
2.- Diary of Isaac Backus, Oct. 11, 1774. Quoted in Hovey, 202.
4.- Diary of Isaac Backus, Oct. 11, 1774. Quoted in Hovey, 202.
5.- Ibid., Oct. 14. Quoted in Hovey, 204.
6.- Hovey, 205.
7.- Works of John Adams, II., 397.
8.- Ibid.
9.- Ibid.
an establishment; that it be in vain for us to enter any conferences on such a subject, for we knew beforehand our constituents would disavow all we could do or say for the satisfaction of those who invited us to this meeting. That the people of Massachusetts were as religious and conscientious as the people of Pennsylvania; that their conscience dictated to them that it was their duty to support those laws, and therefore the very liberty of conscience, which Mr. Pemberton invoked, would demand indulgence for the tender conscience of the people of Massachusetts and allow them to preserve their laws; that it might be depended on, this was a point that could not be carried; that I would not deceive them by insinuating the faintest hope, for I knew they might as well turn the heavenly bodies out of their annual and diurnal courses, as the people of Massachusetts at the present day from their meeting-houses and their Sunday laws." Of the conference Adams entered in his diary, "I hope (it) will produce good," but in the face of such a state of affairs in Massachusetts as he described in his somewhat extreme statement, a complete separation of church from state, such as the Baptists were advocating was far distant. Under such conditions it is small wonder that the constitution framed four years later left the dissenters in exactly the position which they occupied at this time, and that the final document in 1780, although distinctly liberal toward the dissenting sects, asserted most definitely the power of the Legislature to make laws for the maintenance of religion. The Revolution therefore, while it provided the dissenters with a new line of argument against ministerial

1.- Works, II., 397; Hovey, App. F.
2.- Works, II., 397.
taxation, had no immediate result upon the actual position of the dissenting Protestant sects, although it brought the Catholics into favorable notice so definitely that an immediate result appeared in their position in the new constitution.
CHAPTER VI.

THE POSITION OF THE ESTABLISHED CHURCH IN THE MASSACHUSETTS
CONSTITUTIONS OF 1778 AND 1780.

In spite of the untiring efforts of dissenters, during the whole of the eighteenth century, to gain complete independence of state control as well as a tolerable freedom of worship, and in spite of the liberalizing influences arising from the Revolutionary War, which must inevitably end in the breaking up of the old state church system, the Massachusetts State constitution of 1780, which remained unchanged for forty years, failed to separate political and religious interests.

The first attempt of the state to comply with the resolution of Congress of May 10, 1776, was the framing of a brief constitution, in the autumn of 1777, by the General Court acting as a constituent assembly. The chief ecclesiastical provisions of this document are as follows:

XXXIV. "The free exercise and enjoyment of religious profession and worship shall forever be allowed to every denomination of Protestants within this state."

XXIV. "No person unless of the Protestant Religion shall be Governor, Lieutenant-Governor, a member of the Senate or of the House of Representatives, or hold any judiciary employment within this state."

1.- Journal of the Convention, 255, 264; Works of John Adams, Iv., 214
2.- Ibid., 263.
IV. "Ministers of the gospel... shall be considered as disqualified for holding a seat in the General Court."

In addition to these three articles of a distinctly ecclesiastical character, there is one which has the appearance of being merely political but which, as a matter of fact, expresses indirectly the whole church-state relation embodied in the rejected constitution of 1778. Article XXXII. states that "all the statute laws of this State, the common law and all such parts of the English and British statute laws, as have been adopted and usually practiced in the Courts of Law in this state remain and be in force until a altered or repealed by a future law." These statute laws necessarily include the whole array of the ecclesiastical laws of the previous fifty years, which have already been described. The whole situation is summed up in the acts for the support and maintenance of ministers, and the exemption laws which, if observed to the letter, placed Anglicans, Baptists and Quakers practically on an equal footing with Congregationalists. The last act for the support of ministers was renewed February 9, 1776 for five years. On July 1, 1742 an act was passed, with no time limit, for the exemption of Anglicans, and on September 24, 1777 an act for the exemption of Quakers and Antipedobaptists was put in force to remain until January 14, 1780. It was therefore such laws as these that represent the constitutional position of the church in Massachusetts in its constitution of 1778. Freedom of worship was granted

1.- Journal of the Convention, 257.
2.- Ibid., 264.
3.- Chap. IV.
4.- Acts and Resolves, V., 457.
5.- Ibid., III., 25, ch 8.
6.- Ibid., V., 732, ch 4.
to all Protestants, but the established church was to continue, rigorously maintained by governmental control and supported by all tax payers except certain sects.

There was general dislike of the constitution of the grounds that it came directly from the General Court instead of from a convention of delegates; that it had been prepared at too short notice, and that it contained no bill of rights, but the objection to it on religious grounds came naturally enough from the dissenters who were angry that it restored the old ecclesiastical laws, the Anglicans, Baptists and Quakers thoroughly detesting the certificate system, the lesser sects disgusted because they were still unrecognised. The Baptists in fact sent up a petition to the framers of the document, February 28, 1778, saying that it was "the fundamental principle of our government, that ministers shall be supported by only Christ's authority." It had however no effect.

A further objection to the document was founded on the clause which debarred ministers from sitting in the General Court. The obvious reason for its insertion is that the ministers were considered public officials, classed in this case with the Judges of the Superior Court, Secretary, Treasurer General, Commissary General and Military Officers, and had nothing to do with their religious character, thus throwing some light upon their position. But in spite of the stand taken by the clergy in the Revolution and of the intense interest which they took in the framing of the constitution, they had so far lost their former place of eminence that

1. Hovey, 233.
2. Life of Samuel Adams, II., 153; Works of John Adams, IV., 55 n.
3. Massachusetts Historical Collection, I., VIII., 281. Memoir of Dr. Thatcher.
4. Winsor; Mem. Hist of Boston, II., 223; Sewall's Diary in general.
there was probably little ground for a fear of them as a political body such as is expressed by M. Turgot in a letter to Dr. Richard Price of March 22, 1778. "They wish to have nothing to fear from the clergy," he writes, "and yet unite them under the barrier of a common proscription. By rendering them ineligible, they become formed into a body, and such a one as is foreign to the state.... The clergy are only dangerous when they compose a body in the state, --when they conceive themselves to have rights and interests as a body; or when it has been devised to have a religion established by law, as if man could have any right or any interest in regulating each other's consciences.... Whenever true toleration, that is to say, the absolute incompetency of government over the consciences of individuals is established, then an ecclesiastic, when he is admitted into the national assembly, is but a citizen; when he is excluded from it, he becomes again an ecclesiastic." Although Mr. Turgot is here giving a decidedly French instead of American point of view, he is offering an interesting argument against establishment. A contemporary advocate of the other side of the question was Mr. Payson of Chelsea, one of M. Turgot's "dangerous ecclesiastics," who said in the Election Sermon which he preached at Boston, May 27, 1778, "Let the restraints of religion once be broken down, as they infallibly would be by leaving the subject of public worship to the humors of the multitude, and we might well defy all human wisdom and power to support and preserve order and government in the State."

The utter rejection of the constitution of 1778 forced

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1.- Works of John Adams, IV., 279.
2.- Payson’s Sermon, 20, quoted in Backus, 220.
upon Massachusetts the necessity of calling a regular constituent assembly which should devote its full time to the drawing up of a satisfactory and permanent constitution. This convention, meeting September 1, 1779, four days later chose a committee of thirty to shape the first draft. By them a sub-committee was appointed who prepared the first draft which was submitted to the convention October twenty-eighth. It was probably the joint work of the three men on the sub-committee, in the wording of John Adams, but with a Declaration of rights composed by Samuel Adams. This read, "It is the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great creator and preserver of the Universe. And no subject shall be hurt, molested or restrained, in his person, liberty or estate for worshiping GOD in the manner most agreeable to the dictates of his own conscience; or for his religious profession or sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship." It further required only of the chief officers of government, as a religious qualification, that they should be of the Christian religion. But it was in the important matter of church establishment that the wording of this draft differed completely from that of its predecessor and in this matter that it provoked long and serious discussion. Article III of the Declaration of Rights in Samuel Adams's wording read as follows:

"Good morals being necessary to the preservation of civil society: and the knowledge and belief of the being of GOD, His

1.- Journal of the Convention, 2.
2.- Ibid., 28-30.
3.- Life of Samuel Adams, III., 81, 87; Works of John Adams, I, 228;
4.- Journal of the Convention, 35.
5.- There is a dispute on this point. Works of John Adams, IV., 216, 222; Life of Samuel Adams, III., 80, n. 6.-Journal of the Conv., 193.
provide the legislative with a right, and ought, to provide at the expense of the subject, if necessary, a suitable support for the public worship of God, and of the teachers of religion and morals; and to enjoin upon all the subjects an attendance upon their instructions, at stated times and seasons: Provided there be any such teacher, on whose ministry they can conscientiously and conveniently attend.

"All monies, paid by the subject to the support of public worship, and of the instructors in religion and morals, shall, if he requires it, be uniformly applied to the support of the teacher or teachers of his own religious denomination, if there be such whose ministry he attends upon: otherwise it may be paid to the teachers or teachers of the parish or precinct where he usually resides." Unfortunately there have not been preserved any known records of the debates of the convention aside from the brief reports of amendments and motions recorded in the Journal of the Convention. But from the nature of these, the time spent in discussion of the article as well as from the evidence of several members of the convention, we may gain an idea of the importance which was attached to the subject, and of the care with which it was considered. The article was first read on the afternoon of Friday, October 29, and did not reach its final form for acceptance until the afternoon of November 10. It was therefore ten days

1.- Journal of the Convention, 193.
2.- Life of Samuel Adams, III., 86.
3.- Journal of the Convention, 37.
4.- Ibid, 46.
under consideration, in open debate during five, while the complexity of the proposed amendments necessitated the appointment of a committee to redraft it. It was first voted that the Declaration of Rights be taken up by propositions. Then, as the Journal remarks, "the propositions relating to the support of religious worship and instruction were...largely debated." On November 2, the debates being "very extensive," it was voted "that the rule of the Convention, which prescribes 'that no member shall speak more than twice to a question without leave being first obtained,' be suspended during the debates of this article," and a "free and general debate then ensued."

It was on the afternoon of November 3 that amendments had become so many and complex that a committee was appointed to consider them and to report thereon. This committee, consisting of the Rev. Noah Alden, a Baptist of Bellingham, as chairman, the Hon. Timothy Danielson Esq. of Brimfield, Theophilus Parsons Esq. of Newburyport and the Rev. Mr. Sanford, together with Caleb Strong, Robert Treat Paine and Samuel Adams was an unusually able committee and succeeded in putting the article into practically the shape which it retained. The conflicts of the convention, now carried to the closer bounds of the committee, Caleb Strong describes in a letter to Samuel Adams Wells, written March 31, 1819. "Part of the members (of the Convention)," he writes, "thought it highly important to authorize future members of the Legislature to require

1. - Journal of the Convention, 37.
2. - Ibid., 38.
3. - Ibid., 39.
4. - Ibid., 40; Works of John Adams, IV., 223.
5. - Journal of the Convention, 40.
6. - Backus, 225.
7. - Life of Samuel Adams, III., 52.
the separate towns to support ministers, and the people to attend their public services; while others strenuously contended that no such authority should be given. After the subject had been discussed for several days, with much zeal, and without any prospect of agreement, the Convention voted to choose a committee to reconcile, if possible, the opposing parties. Four of the committee, of whom Mr. Adams was one, were in favor of giving the authority in question, and three were against it. The committee met several times, and during their absence from the Convention the debates were suspended. At length, the Committee agreed to report the third article as it now stands in the Declaration of Rights,—all the members engaging to support it, except Mr. Sandford, a clergyman and delegate from some town in the present county of Norfolk. He observed that the article was an unexceptionable as anything that could be said on the subject, but declared that he would never agree that any authority should be given to the Legislature to make laws concerning public worship or the appointment of public teachers; however, he promised not to oppose the acceptance of the report."

The fact that an important committee of the Convention could have had a Baptist minister as chairman and a large minority entertaining strong liberal views on this subject shows how far public opinion had advanced; at the same time the very fact that the second draft of the final constitution is even more definite than the first in assuring church establishment, indicates that liberal opinions were far from general. The committee reported to the Convention on the morning of Wednesday, November 10, and their wording

of the third article was "read repeatedly," an extensive debate ensuing. A few minor changes were then made in it by amendment, such as the substitution of the words "Christians of all denominations" for "all sects and denominations of Christians," and a vigorous attempt was made to insert "being Protestants" or "except Papists" in the last clause, in order to exclude Catholics from governmental recognition. In the midst of the discussion the wild motion was made and seconded, that the whole third article with all its amendments be unpuned, but was lost. The report of the committee with the amendments was finally put and accepted, standing as follows:

"As the happiness of a People, and the good order and preservation of Civil Government, essentially depend upon piety, religion and morality, and as these cannot be generally diffused through a community, but by the institution of the public worship of God, and of public instructions in piety, religion and morality; therefore, to promote their happiness, and to secure the good order and preservation of their Government, the People of this Commonwealth have a right to invest their Legislature with power to authorize and require, and their Legislature shall, from time to time, authorize and require, the several towns, parishes, precincts, or other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the publick worship of God, and for the support and maintenance of publick Protestant Teachers of piety, religion and morality, in all cases where such provision shall not be made voluntarily."

2. - Journal of the Convention, 46.
"And the People of this Commonwealth have also a right to, and do, invest their Legislature with an authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any in whose instructions they can conscientiously and conveniently attend."

"Provided, notwithstanding, that the several towns, parishes, precincts, or other bodies politic, and religious societies, shall at all times have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance."

"And all monies paid by the subject to the support of Public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any, on whose instruction he attends, otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the same monies are raised."

"And Christians of all denominations, demeaning themselves peaceably, and as good subjects of the Commonwealth, shall be equally under the protection of the laws, and no subordination of any one sect or denomination to another shall ever be established by law."

The new constitution therefore established the Congregational Church as the charter of 1691 had never done. The final form of the third article of the Declaration of Rights was in fact

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1. Journal of the Convention, 46,47.
even more explicit in the matter than the original wording, definitely asserting that the "Legislature shall, from time to time, authorize and require the several towns, parishes, precincts, or other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the publick worship of God, and for the support and maintenance of publick Protestant teachers of piety, religion and morality, etc." Yet the article, in contrast to the constitution of 1778, showed a liberal tendency along two lines, the substitution of the word "Christian" for "Protestant," not only in the matter of religious toleration but even in eligibility for office, and in the wiping out of the old exemption laws by substituting a new order which did not discriminate against any dissenters and made away with the bungling certificate system. It was nothing less than the governmental control of all sects, with the tacit understanding that the Congregational Church was still the special object of protection in the eyes of the General Court.

The convention finished its work on March 2, 1780, and sent its draft to the people of the towns by their delegates, with an address of the president, James Bowdoin, again probably written by Samuel Adams, which sums up the general attitude of the majority of the delegates, in the religious as the other matters with which it dealt. "In the third article of the Declaration of Rights," he said, "we have, with as much Precision as we were capable of, provided for the free exercise of the Rights of Conscience. We are very sensible that our constituents hold those rights infinitely

1.- Cf. legislation in England. Catholic Relief Bill, 1791. 31 Geo. III., c. 32.
2.- Life of Samuel Adams, III., 89.
more valuable than all others: and we flatter ourselves, that while we have considered Morality, and the Public Worship of God, as important to the happiness of Society, we have sufficiently guarded the rights of Conscience from every possible infringement. This article underwent long debates, and took Time in proportion to its importance; and we feel ourselves peculiarly happy in being able to inform you, that the debates were managed by persons of various denominations, it was finally agreed upon with much more Unanimity than usually takes place in disquisitions of this Nature. We wish you to consider the Subject with Candor, and Attention. Surely it would be an affront to the People of Massachusetts Bay to labour to convince them, that the Honor and Happiness of a People, depend upon Morality; and that the Public Worship of God has a tendency to inculcate the Principles thereof, as well as to preserve a People from forsaking Civilization, and falling into a state of Savage barbarity...."

"Your delegates did not conceive themselves to be vested with Power to set up one Denomination of Christians above another; for Religion must at all times be a matter between God and individuals: But we have nevertheless, found ourselves obliged by a Solemn Test, to provide for the exclusion of those from Offices who will not disclaim those Principles of Spiritual Jurisdiction which Roman Catholics in some countries have hald, and which are subversive of a free Government established by the People." A meeting on the first Wednesday in June received reports and found

1.- Journal of the Convention, 245. The oath read, "I, A. B. do declare, that I believe the christian religion, and have a firm persuasion of its truth, etc."
2.- Ibid., 218, 220.
that the constitution with some proposed amendments, had been
accepted.

But the third article of the Declaration of Rights met
with great opposition among members of the various denominations,
the Baptists as usual taking the lead with their argument that no
matter how liberal the Court might be in religious affairs, it
ought to be given no right to deal with "matters of conscience."
Their position is described in an appeal sent up to the General
Court in October, 1780. "We whose names are hereunto subscribed,"
it said, "inhabitants of this state, who are twenty-one years of
age and above, of various religious denominations, enter our PROTEST
against the power claimed in the third article of the declaration
of rights in the new plan of government introduced among us;--
for the reasons following, viz:

"1. Because it asserts a right in the people to give away
a power they never had themselves; for no man has a right to judge
for others in religious matters; yet this Article would give the
majority of each town and parish the exclusive right of covenanting
for the rest with religious teachers, and so of excluding the
minority from the liberty of choosing for themselves in that res-
pect.

"2. Because this power is given entirely into the hands
of men who vote only by virtue of money qualifications, without any
regard to the church of Christ.

"3. Because said Article contradicts itself: for it pro-
mises equal protection of all sects, with an exemption from any sub-
ordination of one religious denomination to another; when it is im-
possible for the majority of any community to govern in any affair,

--- Life of Samuel Adams, III., 96. ---
unless the minority are in subordination to them in that affair.

"4. Because by this Article the civil power is called to judge whether persons can conveniently and conscientiously attend upon any teacher within their reach, and oblige each one to support such teachers as may be contrary to his conscience; which is subversive to the unalienable rights of conscience.

"5. Because, as the Convention say, 'power without any restraint is tyranny;' which they explain as meaning the union of the legislative, executive and judicial powers of government in the same hands; and it is evident that these powers are all united in the Legislature, who by this article are empowered to compel both civil and religious societies to make what they shall judge to be suitable provision for religious teachers 'in all cases when such provision shall not be made voluntarily.'"

So it was that Massachusetts began its history as a state church with an established. It was a condition which, in spite of constant attacks from without, a growing weakening within, and the liberalizing tendencies of the times, resisted efforts for a change in 1820 and only ceased at the end of fifty-three years. At that time Unitarianism with the curious results which it effected in the church-town system, by making it work out its theories and practices to their logical conclusion, gave the institution its death blow.

1.- Hovey, 241.
2.- Cobb, 514.
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