

STRAWS IN THE WIND

Significant notes in world affairs today

Bye, Bye, Blue Laws

By William C. White

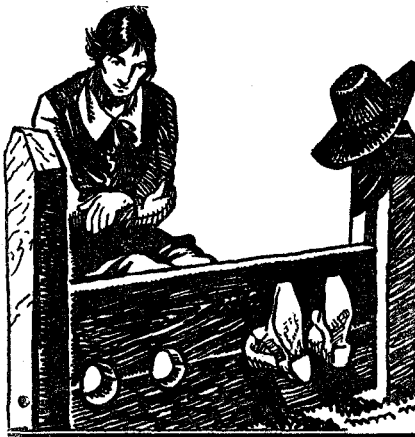
LAWS to control "morals" have always been a part of the American tradition ever since the first legislation for the observance of "Lord's Day" were drawn up in the New Haven Colony in 1656; they were printed in England on blue paper—hence the "Blue Laws."

In addition to the Sabbath laws, which every State in the Union, except California and the District of Columbia, has had, there are examples of other legislation to control and arrange personal conduct in every Federal, State, and local law book. There are prohibitions of prize fighting, of interstate transportation of fight films, of race-track betting; there is the censorship of literature by postal and customs authorities; there are restrictions on alcoholic beverages and on cigarette smoking; there is a New York law forbidding duelling and "racing near a court house"; and there are laws at beach resorts specifying what color bathing suits shall be.

In most countries these things are left to the individual, on the assumption that the population is sufficiently adult to decide matters of personal conduct for itself. But in America, and almost since its beginning, the supposition of the reformers has been different: that the American people must be kept moral by law.

The trouble has been that the customs of the American people have changed with the passing decades but not the laws. They have stayed on the books, more or less unenforced and more and more unenforceable. And the situation has contributed to the supposed adolescence of the American people a positive hypocrisy in their attitude toward legislation.

Almost unnoticed the law is now catching up with the fact. Within the



past few months more than a dozen States have abolished or changed in some way those statutes which have regulated the observance of the Sabbath. There have been changes made in legislation to control other fields of individual conduct. Where no changes have been made in the laws themselves, the courts have interpreted those laws more broadly.

Most clearly to the point is the recent decision in a New York City magistrate's court in the attempt of John S. Sumner of the Society for the Suppression of Vice to ban Erskine Caldwell's book, "God's Little Acre" as immoral. The magistrate's decision said, among other things, that the intent of the author must be considered—was he trying to write an immoral book and to profit by pornography? The opinion of critics and of reputable individuals in the publishing business must be taken into account. And finally, it was recognized that the individual reader is able to decide for himself what is moral and what he wishes brought into his home; and can establish the most stringent of all censorships—by not buying such books.

Here, in assuming that the American public is sufficiently adult to be its

own guide to literature, is the same attitude which many legislatures have shown toward the question of Sunday observance. They have realized, for various reasons, a truth about the American people which was best summed up recently by a New Jersey Grand Jury: "This body fully discussed and considered conditions which obtain in this country with reference to non-observance of Sabbath law. We do not believe this condition is due to any desire on the part of our people to violate the law, but rather to a change in conditions and customs in many of our communities which make the present law governing the mode of life on the Sabbath more or less obsolete."

Of all the many personal-conduct laws, the Sabbath laws have been carried to the greatest extreme. Conditions under which they were first written have changed and constant exceptions have had to be made, to permit railroads, newspapers, food stores, and, finally, amusements, to operate on Sunday. Most of the Sunday laws forbade all labor and work "except that of necessity and charity or mercy." The Kansas law forbids all labor on Sunday except that of ferry men. The Connecticut law, valid until 1928, forbade Sunday concerts unless the music played was symphonic or classical. The Mississippi law today forbids "amusements on Sunday including . . . cock-fighting . . . but private diversion is permitted." The Alabama law forbids amusements and lists among them domino playing. There was until this year a law in New Jersey against "wandering in the open on Sunday and failing to give a good account of oneself."

Most of these legal curiosities have been simply nullified in part by general non-acceptance. In spite of the law mentioned above, moving pictures operate

today in more than a hundred Kansas towns on Sundays. And it was a long time prior to 1928, when the law was repealed, that any man had been arrested in Connecticut for kissing his wife on the Sabbath.

The first breaches in these Sabbath laws were made by changes in economic life. The right to run railroad trains on Sunday had to be established in some States by law. Other States defined Sunday newspapers as necessities. The introduction of the automobile led to other changes; the Sabbath law in Alabama today reads, "Labor is forbidden except that of necessity. This law shall not apply to railroads or to steamboats. Nothing herein shall prevent the sale of gasoline or of motor oils."

The breaches made by changes in our amusements or cultural preferences came later and were more vigorously opposed. There were no Sunday moving pictures nor legalized Sunday baseball in the United States until after 1919. But there was an ever-growing desire for them, coupled with a rapidly growing interest in Sunday golf, tennis, driving, and other sports.

New York State was the first to break away, modifying its Sabbath legislation in 1919. Connecticut and Rhode Island followed and Massachusetts after them, in 1928. Repeal of some of the laws spread through the West, until nineteen States permitted Sunday moving pictures, with or without local option, and twenty-one States permitted Sunday baseball. But many States fought off all attempts to change these laws; curiously enough, during the period of prosperity, when golf courses rose over night and there was the hope of having two cars in every garage and both on the road on Sundays, most of the attempts to make changes were defeated. What matter if the laws were on the books? Didn't the American people thereby show that they believed in Sunday? Wasn't that sufficient?

This year has seen the two bulwarks of the Sunday laws fall: Pennsylvania and New Jersey have substituted local-option provisions. Wisconsin, following a referendum in 1932, wiped the Sabbath law from the books. The Georgia legislature is acting on a bill to legalize Sunday baseball and movies in Atlanta. A bill permitting moving pictures has been recommended by the Kansas legislature. The Delaware leg-

islature is considering a similar bill. Missouri has legalized Sunday hunting. Maine has passed a bill permitting amateur sports on the Sabbath.

In some cases the movement has met with setbacks. The fight in New Mexico was bitter. A bill forbidding all Sunday amusements was proposed. A senator immediately introduced a bill making attendance at Sunday amusements compulsory, saying that his bill was as logical as the other. The annual attempt to put a bill through the New York legislature to legalize legitimate theatrical Sunday performances failed as usual; Actor's Equity is continually opposed to it, declaring that the actors need a rest.

The immediate motive power behind these changes has been the result of the depression on tax income. Legislatures have seen, or it has been pointed out to them, the increased amounts of taxes that can be raised from Sunday amusements. They have hastened to legalize them, sometimes passing bills with a proviso that a percentage of all receipts be given to funds for the unemployed. At the same time the Democratic landslide last November brought in new officials who owed nothing to the "church crowd." These legislators on whom church lobbies could rely are gone.

But something deeper than financial motives has led to these changes. The depression, perhaps, has brought about fact-facing. Other "personal conduct" laws are undergoing a change. Nebraska has approved a bill to repeal the law forbidding cigarette smoking in restaurants and has blocked a bill to forbid movies which show women smoking. The progress of the movement to repeal the Eighteenth Amendment is in the same spirit.

Sunday, before the War, in the Pennsylvania city in which I was raised, was a dull day. Chiefly through the vigilance of the Ministerial Association the Blue Laws of 1794 were rigidly enforced except against small shopkeepers and against amateur baseball teams. The shades in many store windows on the main street were lowered. The Jewish shops, selling haberdashery and cheap dresses had no shades. Some ministers made remarks about "These foreigners who are trying to bring in the Continental Sabbath" and taught their children

not to yield to the temptation of looking in store windows on the Lord's Day.

Shortly after the war a minor-league baseball team came to town. During the first year its owners gave a season ticket to each minister. The town's clergy could be found almost every afternoon in grandstand seats. At the beginning of the second year the club owners planned to play baseball on Sundays. Their agents asked the ministers, not about Sunday ball, but whether they liked the team. They did. Season tickets were distributed. Shortly thereafter, Sunday baseball began, with never a protest from the Ministerial Association. Without that protest the civil authorities made no attempt to enforce the law; the cops had free tickets, too, and they could go on Sundays as well. But the pressure of the Ministerial Association squelched every attempt which the cinema owners made to open up on Sunday, and the Blue Laws, in this case, were enforced.

The Protestant clergy of America have been the official defender of the "personal conduct" laws. They have been accused at times of having a "business" interest in the Sabbath laws. So long as the majority of people were actively interested in church going, the enforcement of these laws was simple although concessions had to be made continually to changes in economic life. The clergymen defenders have not fought the changes of this sort as much as they have battled against measures designed to permit amusements and sports on Sundays. "America needs no more amusements," one pastor said to me. "She needs morals!" "The Christian Sabbath is one of the civil institutions of the State," a New York court decision declared. Yet the civil authorities usually fail to punish minor infractions of the law until their attention is directed to them by the clergy.

The argument against the "open" Sunday as advanced by the clergy is usually on religious and moral grounds. They quote the Fourth Commandment. The most curious arguments for a strict Sabbath are those offered in support of a bill to institute a Sunday law in the District of Columbia: "The men who make and execute our laws breathe this Sabbath-desecrating atmosphere and it cannot but influence their official conduct. The representatives of all the governments of the world—of India, China,

Japan—of all the nations to whom the church sends missionaries to convert the people to Christianity, come to Washington and live there. They witness this disregard for this fundamental institution of Christianity, and take it as a reflection of the nation's attitude toward it, and thus Washington's Sabbath desecration militates against Christianity in far distant lands."

Not all faiths are united on the question of Sunday observance. The Catholic attitude is well known. The Jewish people, with Saturday as their Sabbath, have lamented the Sunday laws. There are those Protestant clergymen who say "The laws of God cannot be annulled by the enactments of man. Every divine law is intended to work for man's good." But there are those Protestant clergymen, as the president of the Lord's Day Alliance reported at the last annual meeting, who say, "We are interested in your work for the Sabbath but just now we cannot admit to our pulpit an 'outside cause.'"

There are those ministers who approve of a compromise ordinance as it has been passed in many communities, permitting amusements after two p.m. Such an ordinance was voted for in Baltimore last year by a vote of 112,000 to 29,000. On the first Sunday on which it was in effect attendance at churches, according to newspaper reports, was larger than it had been for years.

Those religious organizations which fight all attempts to "liberalize" the Sabbath, such as the interdenominational Lord's Day Alliance, the Sabbath Day Observance Committee of the Presbyterian Church, and other groups, are much on the defensive. Some of their members look on the movement for reform of Sunday laws as part of the *Zeitgeist* of the day. Most of them feel, however, that all attempts to wipe out Sunday legislations are the actions of organized groups "indifferent to the great spiritual ends of the day," working for financial profit. "The Commercialized Amusement interests are the most outstanding foe of the Christian Sabbath in America," one pamphlet says. The chief specific objective of these pro-Sabbath groups is against the introduction of moving pictures and of theatres on Sunday.

The depression has seriously crippled the income which these organizations once enjoyed. They have needed money

for propaganda and to organize lobbies in various legislatures; they have often been willing to play with the most corrupt political machines, as with the Vare machine in Philadelphia, to prevent any liberalization of Sabbath laws. These organizations still send speakers around the country to preach for the defense of the Sabbath, the speakers usually demanding and getting an honorarium for their Sunday labor. But they find less response among the churchgoers. No longer do congregations sing,

"We'll not give up the Sabbath
To science, art, or news,
Nor wonder where the sights and sounds
Of earth-borne joys amuse."

A complete study of the change in popular attitude toward the Sunday laws should include a discussion of the loss of power which the churches themselves have suffered. They set themselves over too wide an offensive, attempting to regulate things which the individual, today, decides for himself and which he sees no wrong or punishment in so doing. Clergymen declare: "Neglect the Sabbath and it will lower the tone of public morals. The results of this are not a crime wave. They are the crumbling of the foundations." In spite of which, popular feeling moves to a liberalized Sunday and away from the attitude of the Scotchman, whom Stevenson described, sitting outside his house on Sunday, "honoring Sabbath with a sacred vacancy in mind."

With the disappearance of the Blue Laws comes a very real danger that must

be recognized. Whatever one may think of the moral implications of these laws they have been valuable in setting the custom of six days' work per week and one day of rest. It was the Lord's Day Alliance, in all fairness to that organization which now boasts Bishop Cannon as an official, that was responsible for changing the custom of seven days' work per week for letter-carriers with very few days off. With the repeal of the Blue Laws the rule of seven days' work per week is being felt painfully by restaurant and club employees, employees in places of amusement, and too often wherever the employer can bear down.

The state of California has never had a Sunday law; but there is one law on its books, "Every person employed in any occupation of labor shall be entitled to one day's rest therefrom in seven." A similar law should be enacted in every State which repeals the Blue Laws. Just because the Law is at last catching up with the Fact, thanks to the Depression, is no reason for permitting unscrupulous employers to profit from the death of the Blue Laws.

I have used the Sabbath laws as the most vivid illustration of the present tendency to modify personal-conduct legislation and to let the individual decide on his social behavior for himself. It may be due, in large part, to the depression. Regardless of cause, in the field of morals by legislation the American people are Growing Up or, depending on viewpoint, Going To The Devil.

The Mad Scramble for Bargains

By Melville C. Coleman

WITH Mrs. Roosevelt advocating the proposed Quality Label program and Mrs. Pinchot parading with Allentown mill strikers, feeling concerning the starvation wages currently paid factory-, loft-, and home-workers in the garment, textile, and allied trades is every day growing more intense.

Yet, contrary to general opinion, it is not the manufacturer or contractor who is primarily to blame for these wretched conditions. Nor can it be blamed on the

buying public, who in these times is compelled to get the greatest value for every dollar spent. On the contrary, the real instigators are the competition-crazed big-city department stores who by their destructive underselling policies drive the price of goods to new low levels, until they drop to the cost of the raw materials alone with an infinitesimal margin for labor. In their hands manufacturers and contractors are all but helpless.

Cost of materials, light, heat, power