

A  
S Y S T E M  
OF THE  
L A W S  
OF THE  
STATE of CONNECTICUT.

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IN SIX BOOKS.

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By ZEPHANIAH SWIFT.

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VOLUME II.

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him. If a prisoner escapes, and is re-taken, and re-committed he shall pay all the expence, in the manner provided for the payment of cost, and the time between the escape, and re-commitment, shall not be considered as part of the time for which he was sentenced to imprisonment.

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CHAPTER SEVENTH

OF CRIMES AGAINST RELIGION.

**C**RIMES of this description are not punishable by the civil arm, merely because they are against religion. Bold, and presumptuous must he be, who would attempt to wrest the thunder of heaven from the hand of God, and direct the bolts of vengeance where to fall. The Supreme Deity is capable of maintaining the dignity of his moral government, and avenging the violations of his holy laws. His omniscient mind estimates every act by the standard of perfect truth, and his impartial justice inflicts punishments, that are accurately proportioned to the crimes. But short sighted mortals cannot search the heart, and punish according to the intent. They can only judge by overt acts, and punish them as they respect the peace, and happiness of civil society. This is the rule to estimate all crimes against civil law, and is the standard of all human punishments. It is on this ground only, that civil tribunals are authorized to punish offences against religion.

The crimes against religion are, I. Blasphemy, II. Atheism, III. Polytheism, IV. Unitarianism, V. Apostacy, VI. Breach of Sabbath, VII. Profane Swearing.

I. *b* Blasphemy by the Statute is where a person wilfully blasphemes the name of God, the Father, Son, or Holy Ghost, either by denying, cursing, or reproaching the true God, or his government of the world. The punishment is whipping not exceeding forty stripes, and setting in the pillory one hour; and the superior court which has cognizance of the offence, may at discretion bind the offender to his good behaviour.

Blasphemy

i Blasphemy at common law, is the denial of the Being and Providence of God, contumelious reproaches against Jesus Christ, profane scoffing at the holy scriptures, and exposing them to contempt and ridicule. The crime is punishable by fine and imprisonment, and other infamous corporal punishment.

II. k Atheism is defined by statute, to be where a person educated in, or having made profession of the christian religion, by writing, printing, teaching, or advised speaking, denies the being of a God.

III. Polytheism, is where a person educated in, and having professed the christian religion, asserts and maintains by writing, printing, teaching, or advised speaking, that there are more Gods than one.

IV. Unitarianism, or denial of the Trinity, is where a christian by education, and profession, denies either by writing, printing, teaching or advised speaking, that any of the persons in the Trinity are God.

V. Apostacy is where a person educated under the wings of christianity, and having professed to believe it true, either by writing, printing, teaching, or advised speaking, denies the christian religion to be true, or the holy scriptures of the old and new testament, to be of divine authority.

As a punishment for the four last crimes, the statute enacts, that on conviction for the first offence, the offender shall be incapable to have or enjoy any offices or employments, ecclesiastical, civil or military, or any part in them, or profit by them, and the offices, places and employments, enjoyed by such offenders at the time of their conviction, shall be void. On a second conviction, such person is disabled to sue, prosecute, plead or maintain any action or information in law or equity, or to be guardian, executor, or administrator. The prosecution must be within six months after the commission of these last offences, and the law has that tenderness and indulgence for the errors of human reason and the infirmities of human nature, that it opens the door for repentance and restoration, and provides that upon renouncing the erroneous opi-

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i 4 Black. Com. 59.

k Statutes, 67.

nions within twelve months after conviction in the court where convicted, the person shall from that time be discharged from all the disabilities incurred by the conviction.

These are all the crimes respecting religious opinions known to our law. Blasphemy is so indicative of an abandoned heart, and injurious to the morals, that no one can question the propriety of punishing it.

The being of a God is so universally impressed on the human mind, that it seems unnecessary to guard against a denial of it by human laws. Atheism is too cold and comfortless, to be a subject of popular belief.

Polytheism tho it has been believed by the most polished, as well as the most savage nations, has no chance of a revival where the unity of a god has been promulgated. The elegant fictions of the Grecian and Roman mythology, vanished like the baseless fabric of a vision, before the light of rational philosophy, and true religion. We must acknowledge that the multitude and subordination of the pagan gods furnish a system of poetical machinery, much more beautiful and magnificent than the christian theology. They seem to be a kind of poetical divinities, created by the bards of ancient times, to ornament and embellish poetical description, and one can hardly think they were ever the object of popular belief and serious adoration. The rapt of Jupiter and the amours of Venus, seem to render them very improper deities, for religious devotion. The character of God in the christian system, is too sublime and glorious to be exhibited in verse, and his conduct in the government of human affairs does not admit him to be introduced into the machinery of a poem, in such manner as will give scope to the fictions of fancy, and the embellishments of the imagination. The bold and vigorous genius of Milton, flags in such an attempt. In his description of the battle of the angels in heaven, the wild fiction of their inventing cannon, and throwing mountains at each other, while the Supreme Deity from his immortal throne beholds the wild affray, is so inconsistent with the nature and character of spiritual essences, that we are highly disgusted with the scene, tho painted in the most glowing colours, and can only consider it as a sublime burlesque upon the king of heaven. No event which the human race  
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have witnessed, is more solemn and awful, than the passion of our Saviour. Vida, an eminent Italian poet, has painted it in the most brilliant colouring, and decorated it with the richest poetical fictions, yet the scene is far less interesting and magnificent, in this poem, than in the plain and unadorned narrations of the evangelical historians. But when Homer exhibits the Grecian mythology in action, when the gods assemble in council, when Jupiter thunders from Olympus, and Apollo, Neptune, Mars, and Venus, mingle in the combat round the walls of Troy : we are charmed with the elegance of the fictions, the richness of the descriptions, the splendor of the scenery, the variety of the action, and the consistency of the conduct of these imaginary beings, with the character ascribed to them. But tho polytheism, furnishes the best machinery for poetry, there is no danger that it will root out the belief of the unity of God, and revive and flourish on the ruins of christianity.

To prohibit the open, public, and explicit denial of the popular religion of a country, is a necessary measure to preserve the tranquility of a government. Of this no person in a christian country can complain, for admitting him to be an infidel, he must acknowledge, that no benefit can be derived from the subversion of a religion which enforces the best system of morality, and inculcates the divine doctrine of doing justly, loving mercy, and walking humbly with God. In this view of the subject, we cannot sufficiently reprobate the baseness of Thomas Paine, in his attack on christianity, by publishing his Age of Reason. While experiencing in a prison, the fruits of his visionary theories of government, he undertakes to disturb the world by his religious opinions. He has the impudence and effrontery, to address to the citizens of the United States of America, a paltry performance, which is intended to shake their faith in the religion of their fathers ; a religion, which, while it inculcates the practice of moral virtue, contributes to smooth the thorny road of this life, by opening the prospect of a future and better : and all this he does not to make them happier, or to introduce a better religion, but to imbitter their days by the cheerless and dreary visions of unbelief. No language can describe the wickedness of the man, who will attempt to subvert a religion,  
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which is a source of comfort and consolation to its votaries, merely for the purpose of eradicating all sentiments of religion.†

While the public denial of christianity is prohibited, particular articles of creeds, and mere doctrines of speculation, excepting the doctrine of the Trinity, are left open for free and candid discussion. The crime of heresy is unknown. Direct and explicit denial, can only be comprehended by the statute. Consequences can never be drawn, and twisted by implication from the conversation, or writings of a person, into a breach of the law. It extends only to those who have been educated in or made profession of christianity. God's ancient covenant people, the Jews, who have been so long abused and insulted by christians, the Mahometan, who prays five times a day, the Bramin who believes in transmigration, and the Tartar who prostrates himself before the Grand Lama, may all teach the doctrines and practice the ceremonies of their religion, without being exposed to any penalty.

It is with the highest pleasure, that we compare our laws with other nations in this respect. Tho' our ancestors on flying from the hand of persecution, into this asylum of liberty, were anxious to preserve a uniformity of religious opinion, and public worship, yet they never attempted to effect their design by severe laws and sanguinary punishment. Prosecution never feasted her eyes upon wretched victims, tied to the stake or stretched on the rack. The severest laws against heretics, extended no further, than to send away such as came into the country, and to inflict a penalty on those who harboured or brought them into the government. At an early period our laws began to exempt sect after sect, from any penalty, and then by degrees, extended to all the full blessings of toleration

† In the title page the work is said to be written by Thomas Paine, secretary for foreign affairs to Congress in the American war. The truth is, that during some period of the American war, Congress appointed a committee for foreign affairs, to which Paine was secretary, but had no power, and performed no duty, but that of a clerk to the committee; without any portion of the authority, afterwards annexed to the office of secretary for foreign affairs. From the post of secretary to the committee for foreign affairs, he was dismissed for a scandalous breach of trust. What must we think of a man, who is capable of such a pitiful artifice to gratify his vanity, and render himself important.



toleration. While the civil arm was cautious in punishing the religious opinions of the people, no power of a secular nature was delegated to the church for that purpose. They could only inflict the sentence of excommunication, which secluded a person for misconduct, from the communion of a religious congregation, but subjected him to no civil inconvenience whatever.

VI. A Breach of Sabbath consists in a variety of acts, which are punishable by statute. Non attendance on divine worship in some lawful congregation, subjects a person to a fine of three shillings : but this law has grown obsolete.

No person may keep open his shop, store, ware-house, or work-house, or do any manner of secular business, (works of necessity and mercy excepted,) nor be present at any concert of music, dancing, or any public diversion, or show, or entertainment, nor use any game, sport, play, or recreation, on any part of the Lord's day, upon a penalty not exceeding twenty, nor less than ten shillings. No traveller, drover, waggoner, or teamster, or their servants, may travel on that day, (except for necessity or charity,) under the same penalty. Companies may not meet in the streets, or elsewhere, nor any persons go from home, unless to attend public worship or some work of necessity and mercy, upon the penalty of five shillings.

No tavern-keeper may entertain, or suffer any of the inhabitants of the town, or others, not strangers or lodgers, to be in their houses or dependencies, drinking or idly spending their time, on Saturday night after sun-set, on Sunday, or the evening following, on penalty of five shillings, and every person so spending his time to forfeit the same sum. Informations must be made within a month. No warning or notification of any secular business may be fixed on a door of any meeting-house to remain there on any day of public worship, upon penalty of five shillings, to be paid by the person putting it up, and grandjurors, constables and tything-men are directed to pull them down. No vessel may unnecessarily depart from any harbour, port, creek or river, nor pass by any town, where public worship is maintained, nor weigh  
anchor

anchor within two miles, unless to get nearer thereto, on the Lord's day, at any time between the morning light, and the setting sun, upon penalty of thirty shillings to be paid by the master. Any person behaving rudely or indecently within the house, where any congregation are met for public worship, may be fined not more than forty, nor less than five shillings. The service of a civil process on the Lord's day is void, and the officer incurs a penalty of ten shillings.

All fines imposed for a breach of this act, on minors, shall be paid by their parents, guardians, or masters, if any be, otherwise such minors are to be disposed of in service to answer the same, and upon refusal and neglect to pay such fine and cost, the offender may be committed, unless he be a minor, in which case execution for the fine and cost, shall issue against his parent, guardian, or master, at the end of a month, after conviction. No appeal is allowed upon a conviction of any offence in this statute.

The statute law to prevent the disturbances of public worship, has provided, that if any person or persons, either on the Lord's day, or any other day, shall wilfully interrupt, or disturb any assembly of people, met for the public worship of God, within the place of their assembling, or out of it, each person so offending, shall pay a fine not exceeding ten pounds, nor less than twenty shillings: and that in case the offender is a minor, the fine is to be collected as aforesaid, and if not, then on neglect or refusal, he may be committed.

There seems to be an inaccuracy in this statute. After the above direction respecting the payment of fines, there is a clause, that where there is a conviction for any profanation of the Lord's day, or any disturbance of public worship, if the offender neglect or refuse to pay the fine, or present estate, that he may be whipped, not exceeding twenty stripes, by order of the court before whom he was convicted. The first paragraph, directs on neglect to pay, that the offender be committed, in case of all fines imposed for a breach of this law, and the last directs, that in such cases

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he be whipped. These paragraphs being contradictory, the courts must determine which is void.

It is directed by statute, that where children or servants are under the age of fourteen, on conviction of profanation, or disturbance, they shall be corrected by their guardians, parents, or masters, in presence of some officer, if the authority so appoint, and in no other way, and if they neglect, or refuse to correct, they shall incur a penalty of three shillings.

VII. *m* The swearing rashly, vainly, or profanely, by the holy name of God, or any other oath, or the sinful and wicked cursing any person, subjects the offender for every offence, to a fine of six shillings, and if he be unable or refuse to pay, he shall be set in the stocks, not exceeding three hours, nor less than one, for one offence, and pay cost of prosecution.

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#### CHAPTER EIGHTH.

#### OF CRIMES AGAINST CHASTITY AND PUBLIC DECENCY.

**T**HESSE crimes are, I. Adultery. II. Incest. III. Polygamy. IV. Fornication. V. Lascivious Carriage and Behaviour. VI. A Man being found in a bed with another's Wife. And, VII. Public Indecency.

I. Adultery is the carnal connexion of a man with another's wife. The man may be either married or single; but the woman must be married: for the essence of the crime, is the adulteration of the offspring, the spuriousness of the issue. If a married man has carnal knowledge of a single woman, it is not adultery, but fornication. This distinction is founded in nature. The common opinion of mankind declares, that it is a very different and much more heinous crime for a woman that is married, to have criminal conversation with a single man, than for a married man with a single woman. A married woman that submits to the embraces of any man but her husband, does by that act, alienate her affections, deprave her sentiments, and expose him to the greatest  
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*m* Statutes, 240.