

Following, it is true, the lead of others of puritanic bent, he found among other things that the play and the playhouse were conducive to no good. These were among the sinful amusements that took men from good works, from thoughts of things above, from the methods and forms of Christian living. Such things were not likely to bring about that temperance of life that was the keystone of Quaker thought and ideal. They were heathenish, worldly, and unthrifty; they were the causes of lasciviousness and immorality. In fact large sections of his "No Cross, No Crown" are devoted to attacks on sinful pleasures. He urges strongly against participation in "a play, a ball, a masque, at cards, dice, etc., drinking, reveling, feasting and the like" at which those who do not devote themselves to good works, spend "an entire day; yea turn night into day, and invert the very order of creation, to humor their lusts."¹

With Penn, however, the grounds of complaint against the play and the playhouse possess none of the specific charges against Restoration plays—which had hardly struck their stride—that one finds in Jeremy Collier's "Short View of the Immorality and Profaneness of the English Stage" (1698). Penn's grounds of attack are essentially those held by Puritans from the beginning of stage productions—they are in a measure similar to those that can be found in early Christian times as well as in the works of Gosson and Prynne. His attacks are on purely ethical and religious grounds and are founded probably, not on any personal knowledge of the playhouse, but rather on the idea that one should spend his time here preparing himself for the hereafter. Our hearts, he writes, should be "set on things above" because if one's "treasure is in heaven, there would their minds in-

¹ William Penn. *No Cross, No Crown*. Philadelphia, 1837. Chap. XV. 259.

habit, and their greatest pleasure constantly be. Such who call that a burden, and seek to be refreshed by such pastimes as a play, a morrice-dance, a punch-anello, a ball, a masque, cards, dice or the like, I am bold to affirm, not only never knew the divine excellency of God, and his truth, but thereby declare themselves most unfit for them in another world.”²

“Plays, parks, balls, treats, romances, musics, love-sonnets, and the like, will be a very invalid plea for any other purpose than their condemnation, who are taken and delighted with them, at the revelation of the righteous judgment of God.”³ This, of course, is Puritanism carried to the highest degree. The reasons that follow in this early publication are merely a preliminary statement of those that actuated his demands for prohibitions of such entertainments in the law of Pennsylvania. They explain how Penn’s later demand for a provision against plays in the fundamental law of the colony harmonizes with his theory of government. He felt that attendants at plays neglected their vocations and were tempted to gratify their lusts; that young women were deluded, and all sorts of immoral practices resulted; that plays created an imagination of things that do not exist and are therefore pernicious to Christian living.⁴

Besides, he could find no scriptural authority for the excesses of those who go to playhouses. Rather naïvely, he remarks:

How many pieces of riband, and what feathers, lacebands, and the like did Adam and Eve wear in paradise, or out of it? What rich embroideries, silks, points, etc., had Abel, Enoch, Noah, and good Old Abraham! Did Eve, Sarah, Suzannah, Elizabeth, and the Virgin Mary use to cure, powder, patch, paint, wear false locks of strange colours, rich points, trimmings, laced gowns,

² William Penn. *No Cross, No Crown*. Philadelphia, 1837. Chap. XV. 259, 260.

³ *Ibid.*, p. 260.

⁴ *Ibid.*, pp. 260, 261.

embroidered petticoats, shoes with slippers laced with silk or silver lace, and ruffled like feet, with several yards, if not pieces of ribands? How many plays did Jesus Christ and his apostles recreate themselves at? What poets, romances, comedies, and the like, did the apostles and saints make or use to pass their time withal?⁵

Furthermore, his examination of the philosophers disclosed to him none of standing who had any good words for the silly pastimes.

And finally, he pointed out that thrift—of which virtue or vice as one chooses, Penn like most Quakers was a shining example—argues against such amusements. Temperance, he held, is commendable in the matter of spending, for many “have deeply engaged their estates” by their excess. Men of small means can also “improve their small stocks” if they do not spend it “upon superfluous apparel, foolish may-games, plays, dancing, shows, taverns” etc. “None (no kingdom in the world) that I know of is so infested with cheating mountebanks, savage morrice-dancers, pick-pockets, and profane players and stagers.”⁶

It is small wonder, therefore, that with these ideas firmly fixed in his mind in the sixties, he should have tried to incorporate them a dozen years later into his frame of government for his colony, that was to be a Christian commonwealth whose purpose was moral uplift as well as righteous government and religious toleration.

Pennsylvania was unique among the English colonies in that it was founded with a definite plan and a well-thought-out frame of government prepared in advance of the actual settlement of the colony. There was nothing haphazard here as in other colonies. No Mayflower compact, made just before landing, no form of government, forced on them by dire circumstances

⁵ William Penn. *No Cross, No Crown*. Philadelphia, 1837. Chap. XV. 266.

⁶ *Ibid.*, p. 272.

after landing, was to exist in this colony. When William Penn, politician, diplomat, courtier, Quaker, received the grant from King Charles II., he immediately set about advertising for persons to go out into this new land of which he was proprietor where religious freedom might be had. Then, when the first group of colonists was ready to start, he prepared a Frame of Government containing his suggestions for the laws to govern the colony. These suggestions, however, since he intended that the colony should be democratically governed, were to be submitted to the first legislative assembly representing the colonists and to become law when enacted by it.

It is not my purpose to go into detail concerning Penn's proposals nor to recount the history of the way in which the assembly that convened at Upland (Ches-ter), in 1682, responded to all of the proprietor's proposals other than to say that the body of laws was enacted substantially as Penn had proposed them and that they became what is known as "The Great Law" of the colony. This study is concerned with only one of the enactments, but, in order to understand that enactment, Penn's theory of the nature of law and government must be understood.

Penn's proposals in the "Frame of Government" were based on the definite theory that law has three purposes: (1) to set up a governing body to take care not only of making new regulations but also of administering those in force; (2) to punish those guilty of disobedience to its mandates; and (3) most important, to regulate human conduct and affairs that men might be trained in their actions and relations to each other and to the state. This moral purpose was inherent in many of his proposals and formed the most definite item in his theory of government. "They weakly err," he wrote, "that think there is no other use of government, than correction, which is the coars-

est part of it, daily experience teach [*sic*] us, that the care and regulation of many other affairs, more soft, and daily necessary, make up much of the greatest part of government.”⁷

It was in keeping with this idea that The Frame included the following proposal:

All prizes, stage plays, cards, dice, may-games, masques, revels, bull-baitings, cock-fightings, bear-baitings and the like, which incite the people to rudeness, cruelty, looseness, and irreligion, shall be respectively discouraged, and severely punished.⁸

When the Great Law of the colony was adopted by the assembly on December 7, 1682, this proposal took the following form, as Chapter XXVI:

That whosoever shall introduce into this Province, or frequent such rude and riotous sports and practices as prizes, stage-plays, masques, revels, bull-baitings, cock-fightings, with such like, being convicted thereof, shall be reputed and fined as Breakers of the peace, and suffer at least ten days’ imprisonment at hard labour in the house of correction, or forfeit twenty shillings.⁹

A similar suggestion had been made for the Jerseys, of which Penn was also a proprietor. This article, although not enacted into law in that colony, is interesting as showing the Quaker attitude. It reads:

Nor by this article is it intended, that any under the notion of this liberty shall allow themselves to avow atheism, Irreligiosity, or to practice Cursing, Swearing, Drunkenness, Profaneness, Whoring, Adultery, Murdering or any kind of violence, or indulging themselves in Stage Plays, Masks, Revells or such like abuses, for restraining such and preserving of the people in Diligence and in good Order, the Great Council is to make more particular Laws, which are punctually to be put in execution.¹⁰

⁷ Preface to *Frame of Government of Pennsylvania* (1682).

⁸ Thirty-seventh article of *Frame of Government. Charter to William Penn and the Laws of the Province of Pennsylvania, 1682-1700*, John Blair Linn, editor. Harrisburg, 1879, p. 103.

⁹ *Ibid.*, p. 114.

¹⁰ “Fundamental Constitutions for the Province of East New Jersey in America, Anno Domini 1683.” *New Jersey Archives*, First Series, I. 406.

A provision of this sort, although not a new one to British subjects, is interesting because of its connection with America. The Quaker, perhaps the most logical of all the Puritan group, is here seen carrying definitely into practice a well-formulated conviction regarding the deleterious effects of wordly pursuits. Besides, this pronouncement comes at that period when, from a moral point of view, British drama was at a very low ebb. The comedy of the Restoration in the hands of Dryden, Etheredge, and Wycherly had become more offensive to the Puritan than anything of the kind that had preceded it, and was preparing the way for those later productions that were to lead to Collier's outburst, referred to above.

The position, however, with respect to stage plays and amusements taken by the colony of Pennsylvania in its fundamental law, was maintained for more than a hundred years, although quarrels with the proprietors and the influx of a heterogeneous population soon changed the original character of the colony.

Penn came out to the colony in 1682, but his stay was brief. He returned to England in 1684, and, on the death of Charles II., became somewhat of a favorite of the ill-favored James II., only to fall into disfavor when, in 1688, that monarch was displaced by William and Mary. During the years immediately succeeding the founding of the colony at Philadelphia, the ordinances known as the Great Law of 1682 remained in force and seem not even to have been reviewed by the Lords of Trade or by the King in Council, perhaps because of Penn's favor with the Stuarts. Religious controversy, political bitterness, and difficulties of management in the colony, combined with a suspicion that Penn was disloyal because of his nearness to James II., brought him, however, into disfavor at home after 1688. Consequently, the new rulers, William and Mary, removed him as the proprietor of

Pennsylvania in 1693, and entrusted the colony to the care of a royal governor, Benjamin Fletcher. At the same time, the provisions of the Great Law were brought under review, and a number of them were vetoed by the joint sovereigns. Among those so abrogated was the provision against plays and other amusements noted above.¹¹

Penn soon gained a hearing from the sovereigns, and, being promptly acquitted of the charge of being disloyal, he again was restored as proprietor. Since he was unable to leave England at this time, he continued in office Colonel Markham, who had been appointed as deputy by Fletcher. Markham, working on the theory that the removal of Penn as proprietor had abrogated the laws, convened the assembly to enact laws for the colony. It is significant that among the laws thus enacted, the law against sports and plays was one. This 1696 version, however, also contained prohibitions against card playing and lotteries.¹²

In 1699, Penn, freed from difficulties at home, again came to the colony, and one of the first things that he did was to disregard the constitution, adopted in 1696, and to reconvene the assembly for the purpose of adopting new basic laws.

In the meantime, however, the good Quakers had been grievously annoyed by the growth in Philadelphia of "looseness and vice" which they accounted for by the growth of the city and the need for new laws.¹³

In fact, the question of the increase of practices

¹¹ It is significant that the royal commission issued to Governor Fletcher contains a provision by which *at any time* after a law is passed, the sovereign in council may veto it. This apparently set aside the five-year provision regarding vetoes contained in the original grant. (See Charter to Penn in Linn above.) It raises, too, the question which will appear later, whether on the renewal of Penn's proprietorship, the original veto provision again became operative.

¹² Linn, 197.

¹³ *Minutes of Provincial Council of Pennsylvania*, Harrisburg, 1838. I. 496.

thought vicious by the Quakers had been the subject of an action by the Provincial Council, on February 10, 1698, which at that time called for the enactment of new laws.¹⁴

The Council, for example (under date of February 12, 1698), upon the petition of William Southbee and others, ordered the suppression "of noise and drunkenness of Indians, especially in the night, . . . and to put a check on Horse racing."¹⁵ This latter item then becomes a new one in the list of restricted amusements. It probably is one of the objectionable practices which came in the train of the fairs that had been established, in 1686, to promote industrial enterprises. The fairs were held twice a year, three days each and according to Scharf,¹⁶ "These gatherings became very popular, and led to license and riot, races, gambling, and drunkenness, such as made the strict Quakers groan. Numerous complaints were recorded against them in the courts and proceedings of Council and assembly, and they were finally suppressed, as supporters of vice and immorality, in 1783." Furthermore, these objectionable practices had been brought to the attention of the proprietor who in July, 1700, wrote to James Logan, secretary of the Colony, from Pennsburg, to "Prepare a nervous proclamation against vice."¹⁷ This apparently was done although not in the manner Penn had contemplated for on "3d, 7th mo. 1700" he again writes Logan, "I did not mean that a proclamation should be prepared by them for me to sign, but to see a draught for me to correct, if I thought fit, in order to propose in Council, which yet I would have them do."¹⁸

¹⁴ *Minutes of Provincial Council of Pennsylvania*, Harrisburg, 1838. I. 496.

¹⁵ *Ibid.*, I. 498.

¹⁶ Scharf and Westcott. *History of Philadelphia*, 1884, I. 153.

¹⁷ *Penn-Logan Correspondence*, I. 12.

¹⁸ *Ibid.*, I. 14.

Finally the proclamation was prepared and issued and, as one of the items in this crusade against vice, a law was passed on November 27, 1700, entitled "an Act against Riots, Rioters and Riotous sports, Plays and Games." This act was one of those included in the new code that the proprietor desired to have enacted when he came out in 1699. After legislating against riots, it provides,

And whosoever shall introduce into this province and territories any rude or riotous sports, as prizes, stage plays, masks, revels bull-baiting, cock-fightings, bonfires with such like, or shall practice the same be lawfully convict thereof etc. . . . shall pay twenty shillings, or suffer ten days' imprisonment at hard labor in the House of Correction.¹⁹

Essentially this law is the same as that of 1682, although it has tied up with it a clause directed against the more reprehensible riots and rioting and another provision concerning bonfires. Both of these matters intimately concerned the safety of the colony, and it is not unlikely that they were incorporated with the play prohibition with the idea of getting the whole thing approved by the sovereigns in council.

Apparently, however, the law did not entirely restrain the people from engaging in the pastimes to which they had been accustomed, for mumming and masquerading at least went on in spite of the Quaker prohibitions. "In Fact, all that was not exactly according to Quaker ways was narrowly looked upon as vice and to be suppressed. Christmas mumming was accused as flagrant licentiousness."²⁰ For example we learn that

John Smith, living in Strawberry alley, presented (before a Court) for being maskt or disguised in women's apparell; walking openly through the streets of the citty from house to house on

¹⁹ *Statutes of Pennsylvania*. II. 4.

²⁰ Scharf and Westcott, I. 156.

or about the 26th of the 10th month (day after Christmas) it being against the Law of God, the law of this province and the law of nature etc.²¹

The presentment to the court stated that John Simes, at whose house the masquerade was held "was presented for keeping a disorderly house, a nursery to Debotch ye inhabitants and youth of this place . . . to ye greef of and disturbance of peaceable minds and propagating ye throne of wickedness amongst us."²² Those associated in the indictment were two women, Dorothy Canterill and Sarah Stiver.

Watson speaking of the same occurrence remarks

Probably there was no further attempt at "Masquerade Balls" from that time till about twenty-four years ago, when some foreigner publicly proposed to introduce them at his dancing room. It was promptly suppressed by an act of the legislature, got up, before the night of intended execution by John Sargent, Esq.²³

Even as late therefore as the middle of the nineteenth century, Watson, good but not entirely trustworthy old chronicler, did not himself like the smell of the beast, masking, and one can almost hear the smack of his lips as he tells of its suppression and see the righteous anger that underlies his words: "some foreigner publicly proposed to introduce them at his dancing room." Verily, the Quaker builded well in those early years!

When, after four years, the code of laws of 1700 finally came to be reviewed by Queen Anne and her ministers, this law against rioting, plays, etc., was among the thirty-six laws that were vetoed on 7 February, 1705.²⁴ This veto was maintained, too, over the protests of Penn, and notwithstanding his explana-

²¹ Scharf and Westcott, I. 157.

²² *Ibid.*, I. 157.

²³ Watson, *Annals of Philadelphia*, 1879, I. 307.

²⁴ *Laws of Pennsylvania*. Philadelphia, 1792. I. 3.

tions which the Board of Trade took into consideration in November and December, 1705.²⁵ In this particular case, the Attorney General objected to the law on the ground that it "leaves too great room to make persons offenders of construction at the will of the judge."²⁶

While the protests of the proprietor were being reviewed by the Board of Trade, the laws, together with the suggestions of the Attorney General for amendment, had been returned to the colony; and on October 13, 1705, they were submitted, presumably as amended, to Governor Evans and the Council of the Colony. The Governor in Council pointed out that with respect to the second of these "an act against Ryots, Riotous Sports, Plays and Games, in wch is observed, that instead of obviating the Attorney's objection, this Bill incurs it further than the former."²⁷ A week later, October 20, the Assembly refused to alter the act and passed it without amendment.

In reporting the legislative activity to the proprietor earlier in the session, James Logan²⁸ wrote under date of "sixth of 8th mo, 1705" (October), "They [the assembly] are now re-enacting those 36 laws the Attorney-General objected against, with the amendment, he desires, and are very unanimously resolved to provide for the support of the government," and on the ninth of the same month, he again wrote to Penn:

The Assembly here is going on very industriously but have not yet quite finished any one act, but with those objected agst by the Att^{ny} Gen^l have I suppose about 40 almost ready to be p^rsented.²⁹

²⁵ *Board of Trade Journals, 1675-1782*, manuscript copy in The Historical Society of Pennsylvania, XVIII. 112, 114, 115, 148, 149.

²⁶ *Statutes of Pennsylvania*, II. 489.

²⁷ *Minutes of Provincial Council*, II. 216.

²⁸ *Penn-Logan Correspondence*, II. 80.

²⁹ Letter Book of James Logan, II. 208. (In The Historical Society of Pennsylvania.)

Finally, on January 12, 1705-6, "An act against Riotous Sports, Plays and Games" was approved that contained the following provision:

That if any person shall introduce or at any time exercise in any part of this province any prizes, interludes, stage-plays, masks, revels, bull-baitings, bear-baitings, cock-fightings, dog matches, cudgels, back-sword, throwing at cocks, or shall in any town or near any building fire any rockets, wildfire, squibs, or make bonfires, or shall practice or be a party in any riotous sport or play whatsoever, and be lawfully convict thereof by view of a magistrate, confession of the party, or proof of one or more credible witnesses, such person or persons shall for every such offense be reputed as breakers of the peace, and shall forfeit and pay twenty shillings, and be imprisoned till payment.

The second section has to do with cards, dice, lottery rowley-Powley, loggats, shovegroat, shovel-board, billiards, cales (Kayles), clough cales (closh-kayles) ninepins, nine holes, quoits, bowles, half-bowles.³⁰

As noted above, the Governor had opposed the passage of this act particularly but he was forced by the Assembly and the Council to accept it. His opposition is understandable when it is recalled that he, a very young man, was not averse to engaging in some of the same "riotous sports" of which the law complained and that he himself had, with others, beaten a watchman who had attempted to enforce the law against drinking and unseemly noises at night. In reality it was the demand for this law by the better classes that had forced its passage. That this demand had already been voiced by many who complained of laxity, alleging that, with the influx of all classes into the colony, there was growing up an opposition to the Quaker customs that was undermining the ideals on which the colony was founded and was putting at naught their means of enforcing law is made plain by a letter of Isaac Norris to Jonathan Dickinson, dated Philadelphia, 7 mo. 27, 1704 (September):

³⁰ *Statutes at Large*, II. 186.

By the Queen's orders that oaths shall be administered to all that demand them, Friends are shut out of the judicature, they endeavor to preserve themselves in the mayors court, but are strenuously opposed, and their attempts to discourage vice, looseness, and immorality, which increase, are baffled by proclamations making void their presentations, and the unhappy misunderstanding between them and the country increases.³¹

On October 9, 1704, too, a second Proclamation against vice had been issued.³² Laws and proclamations, however, seem to have been of little avail for two years later Penn was compelled to write again to Governor Evans, probably as a result of the numerous complaints he had received:

Ealing 15th 3d mo. 1707

The third complaint is the encouragement and growth of vice for want of power and countenance to suppress it. Now this touches my reputation—that so fairly began in both good laws and good examples too.³³

A little more than a year later, the situation apparently remaining the same, the Assembly in reply to the message of Governor Evans, asserted that "the Torrant of Debauchery seems to Overflow this place with security, and the hands of those that would stop it are weakened under the present administration."³⁴

Such conditions easily account for the insistence of the Assembly on laws with stringent regulations against any kind of amusement that would tend to disorder. The inclusion of plays in the list of provocatives of disorder is not to be wondered at for the Puritans of London, even in the mid-Elizabethan period, made similar complaints, asserting that not only did the gathering of crowds endanger the public peace, but it offered also opportunity for all sorts of vice and wantonness as well as danger from contagion.

³¹ *Penn-Logan Correspondence*, I. 315.

³² Penn Papers, Proclamations, pp. 17, 21, 25.

³³ *Penn-Logan Correspondence*, II. 221.

³⁴ *Colonial Records*, II. 438; August 7, 1708.

Professor Schelling writing of this situation, remarks,

In their zeal to preserve the peace and, as far as possible, the health of the city (London), the civic authorities of London, opposed the theatre. Their attacks were prompted by the antipathy which thrift always feels for extravagance, and encouraged by the growth of Puritanism, the austerity of which was hostile to the loose and thoughtless lives of many of those who acted plays or witnessed them.³⁵

And the disorders that sometimes accompanied or followed London performances during the Restoration period would naturally cause fear among the good Friends that plays in the new world might likewise bring trouble even if no attempts had been made to produce plays in Philadelphia.

The law of 1705-6 was favorably reported on by James Mountague for the Board of Trade. On August 30, 1709, he wrote:

To the Right Honorable the Lords Commissioners for Trade and Plantations:

May it please your lordships: In obedience to your lordships' commands, signified by Mr. Popple in his letter of the 10th of this instant, August, I have considered the five following acts passed in Pennsylvania. viz:

1. An Act against riotous sports, plays and games,

.....
and do humbly certify to your lordships that I do not find anything in any of the said acts which I can apprehend will be prejudicial to Her Majesty or any of her realms, and since the lieutenant governor and general assembly in Pennsylvania have judged them useful and profitable to be enacted in that province, I have no objection to make against Her Majesty's allowance of them.³⁶

Penn, however, was ordered to attend a meeting of the Board, apparently to explain certain provisions of the law.³⁷ His explanations do not seem to have been

³⁵ F. E. Schelling, *Elizabethan Drama*, I. xxxviii.

³⁶ *Statutes*, II. 527, 528.

³⁷ *Ibid.*, II. 529.

satisfactory, for, in a representation upon the laws of Pennsylvania, passed in 1705, signed by Her Majesty's Commissioners for Trade, September 8, 1709, this law is objected to in that "it restrains your majesty's subjects from innocent sports and diversions." Consequently, when the Queen met with her Council at Windsor on October 24, 1709, the act was disallowed.³⁸ The reasons at this time assigned for the repeal are specific:

An act against Riotous Sports, Plays and games. Her majesty was pleased by her Order in Council of the 7th of February, 1705, for the Reasons then laid before Her, to repeal several Laws of Pennsylvania, among which was one with the same Title and Contents with this before mentioned, which is lyable [*sic*] to the same Objection as the former, viz., that it restrains her Ma^{ty}s subjects from Innocent Sports and Diversions; However, if the Assembly of Pennsylvania shall pass an act for preventing of Riotous Sports, and for restraining such as are contrary to the Laws of this Kingdom, there will be no objection, thereunto, so it contain nothing else.³⁹

Plays, it is to be remembered, were not on the/proscribed list in England.

In view of this specific veto, it is rather strange, to find a note appended to this act⁴⁰ saying that the act of 1705 was "allowed to become a law by lapse of time, in accordance with the proprietary charter, having been considered by the Queen in Council October 24, 1709." As shown above the act was disallowed at the meeting referred to in this note.

Furthermore, the *Laws of Pennsylvania*,⁴¹ as well as the *Statutes at Large of Pennsylvania*,⁴² discloses the passage of another "act against Riotous sports, Plays and Games" on February 28, 1710-11. This act is particularly to be noted in that it fails to prohibit

³⁸ *Statutes*, II. 524, 525.

³⁹ *Pennsylvania Archives*, First Series, I. 155.

⁴⁰ *Statutes*, II. 187.

⁴¹ *Laws of Pennsylvania*, Philadelphia, 1810. I. 47.

⁴² *Statutes*, II. 360.

Stage plays [but only
games, cards]

stage plays and has to do only with games, card plays, gambling, and fireworks.

This last action was taken in all probability with the idea that it fulfilled the provisions of the veto act, but it also met the same fate as its predecessors, for, on February 20, 1713, the act was "disallowed"⁴³ because "It restrains persons from several innocent and healthy diversions and the penalties in it are too great, & therefore," says the Attorney General, "I humbly conceive it ought to be repealed."⁴⁴

The omission of the prohibition against plays impels one to a bit of speculation: Was the danger from stage plays so remote by this time that mention of them was omitted when cards and gaming were included? Or had there been specific mention of plays as the objectionable feature of the act, at the time of the veto, in some other document? Which of these reasons led the Assembly to omit them in the law of 1710-11? The answer to these questions can be only conjectured at present, although I am inclined to believe that the Assembly, anxious to overcome some of the disturbances in the city, was willing to omit from the law that part which prohibited the least annoying vice.

Conditions in the city did not improve,⁴⁵ and, in 1716, the yearly meeting "advised Friends against going to or being in any way concerned in plays, games, lotteries, music, and dancing." This action seems to indicate that something approaching dramatic performance existed thus early in the colony although I can find no record of such performances. Again, in 1719, advice was given "that such be dealt with as run races, either on horseback or on foot, laying wagers, or use any gaming or needless and vain sports and pastimes, for our time passeth swiftly away, and our pleasure and delight ought to be in the law of the Lord."

⁴³ *Pennsylvania Archives*, 1664-1747, pp. 161, 162.

⁴⁴ *Ibid.*, p. 159.

⁴⁵ Watson, III. 55; and Scharf and Westcott, II. 863.

By this time Penn, who for some years had not been able to take any active interest in the colony, had died, and the proprietorship after passing first to his widow came in turn to his three sons. None of them, although members of the Society of Friends, seem to have had the stringent notions of Penn, himself. Besides, the city of Philadelphia had become quite cosmopolitan as a result of the heterogeneous mixture of races and religions that made their way here. Consequently, the precursors of the playhouse and the play—if not the play itself—were to be found in the Quaker colony in the next decade.

In "1722 was advertised the exhibition of the Czar of Muscovia's country seat, with its gardens, walks, fountains, fish-ponds and fish that swim. It was to be seen at the house of Oliver Galtery, the periwig maker, in Market Street, near the court-house."⁴⁶

"In 1724 the first rope dancer that astonished the young town held forth upon Society Hill"⁴⁷ says Scharf. At all events an advertisement appeared in the *American Weekly Mercury*, May 7, 1724, which stated that "By permission of his Excellency Sir William Keith, Bart, etc", the performance was to be given to include various kinds of rope dancing and then continues, "6thly, you are entertained with the comical humour of your old friend, Pickle Herring."

This Pickle Herring is the lineal descendant of the Vice of the old Morality Play. He is the comedy character who appears in certain of the old Morris plays and particularly in the Revesby Sword Play.⁴⁸ Apparently, then, if this show was given, and there seems no reason to doubt it, at least an earlier form of dramatic entertainment had found its way into the colony by 1724. The latter part of the advertisement, which

⁴⁶ Scharf and Westcott, II. 863.

⁴⁷ *Ibid.*, II. 863, 864.

⁴⁸ Cf. Manly, *Specimens of Pre-Shakespearean Drama*, Boston, 1897. I. 286.

follows, would seem to indicate, too, that the new booth on Society Hill was definitely arranged for dramatic or semi-dramatic performances: "There will also be several other diverting performances on the stage, too large here to mention." These performances were to last twenty days from April 30, at "new Booth on Society Hill." Prices were "on the stage, 3s; in the pit 2s; in the gallery 1s, 6d."⁴⁹

A peculiarity exists here in that the advertisement in *The American Weekly Mercury* appeared on May 7, the week after the performances were to begin. This fact apparently argues that the performances were in progress for it is unlikely that even a belated insertion of the advertisement would have been admitted to the paper if the performance had been stopped.

From that time on, various advertisements of interest appear. For example, in 1727, "The Lion, King of Beasts" was to be exhibited in Water Street, admission 1s each; in April, 1737, was to be exhibited at Indian King Tavern on Market Street "a cat having one head, eight legs, two tails and from the breast down two bodies"; in 1739, a mechanical contrivance of moving figures representing Joseph's Dream, etc., at Clark's Tavern, Chestnut between Fifth and Sixth; and in "1742 there was a magic lantern exhibition."⁵⁰

Watson reports that by the mid-thirties, bull-baiting and cock-fighting were in good countenance:

As respectable a person as Doctor William Shippen, in 1735, in writing to Doctor Gardiner, says, "I have sent you a young game cock, to be depended upon." . . . This is the same gentleman who speaks of "his beloved friend Mr. Whitfield, the Rev. preacher."⁵¹

The next step takes us to actual recorded productions of recognized regular plays in the city. There

⁴⁹ *American Weekly Mercury*, May 7, 1724.

⁵⁰ Scharf, II. 864.

⁵¹ Watson, I. 278.

are accounts of the acting of a play or plays in the fall of 1749, but whether this play or these plays were produced by amateurs or professionals does not concern us. We learn that this first recorded play was Addison's tragedy of "Cato" and that its production caused great consternation among the Quakers.⁵² The Recorder reported that

certain persons had lately taken upon them to act plays in this city, and as he was informed, intended to make a frequent practice thereof. . . . Whereupon the Board unanimously requested the magistrates to take the most effectual measures for suppressing this disorder, by sending for the actors, and binding them for their good behavior, or by such other means as they should think proper.⁵³

At all events the *New York Weekly Post Boy* for February 26, 1750, records the coming of "a company of comedians from Philadelphia." This would seem to indicate that the play was presented by a professional company as Seilhamer believes. From this point on Dunlap, Seilhamer, Hornblow, and others, each one copying perhaps from his predecessors tell much the same story. What follows here is an account culled from various sources, either authenticated statements by the recognized historians of the theatre or contemporary accounts they did not touch of the struggle between the state and the theatre. An attempt has been made to correct misstatements where that has been possible. That it follows in the main the accounts of stage historians is only accidental. No attempt is made to consider the plays or the players. This study is interested only in the method by which the theatre won from the state the right to exist.

The action of the common council or Board referred to above must have been merely for the city, for no

⁵² Dunlap says that "The Fair Penitent" and "Miss in her Teens" were the first plays, but this seems not to be borne out by the facts, for these plays were the program for the first performance in 1754.

⁵³ Scharf, II. 865; also Seilhamer, I. 2.

law in the province to cover the situation seems to exist. Since this was merely a municipal ordinance, it was not long before the actors were back in Pennsylvania. A request was made by "several gentlemen from Philadelphia,"⁵⁴ who urged Hallam to apply to Governor Hamilton for permission to play in Philadelphia. These gentlemen were probably of the influx of population of whom Dunlap spoke who had "changed the city of Penn from its drab-coloured austerity to the bland and polished amenity of the many-coloured receptacle of literature and the fine arts,"⁵⁵ for there is definite record that the Quakers were not quite so much in power as they had been previously. At all events, in response perhaps to the urging of the "gentlemen," Hallam sent Mr. Malone, a member of his company, to Philadelphia, late in 1753, to interview Governor Hamilton. Malone, however, was not very successful and Hallam himself came over to plead with the governor. Dunlap records that

The Quakers and their adherents carried a petition to the governor for the prohibition of profane stage-plays. Counter petitions were signed and presented, and finally the friends of action and passion prevailed, and the manager was favoured by Governor Hamilton with a permission to open a theatre and cause twenty-four plays to be performed on condition that they "offered nothing indecent and unmoral"—and that they performed one night for the benefit of the poor of the city.⁵⁶

These plays were acted at Plumstead's⁵⁷ "on the corner of the first alley above Pine Street" on Water Street, beginning on April 15, 1754, and consisted of "The Fair Penitent" and "Miss in Her Teens."⁵⁸

⁵⁴ Dunlap, p. 15.

⁵⁵ *Ibid.*, p. 13

⁵⁶ *Ibid.*, p. 16; cf. Hornblow, I. 93; Seilhamer, I, Chap. VII. p. 65 seq.; cf., too, *The Pennsylvania Gazette*, March 19, 26, 1754.

⁵⁷ William Plumstead, who had been originally a member of the Society of Friends but who left them and later became a vestryman of Christ Church, was mayor of the city in 1754-55. He had held the same office in 1750-51, and was to hold it during the year 1755-56.

⁵⁸ *Pennsylvania Gazette*, April 11, 1754.

Therefore, in spite of protests, the plays were given from April 15, through the month of June, and although the dispute continued, it waned somewhat until it was proposed, in 1759, to erect a playhouse. Then not only the Quakers (Address to General Assembly, May 22, 1759), but other of the people of the city began to make demands that the erection of the playhouse be prevented. The Presbyterian Synod of New York and Philadelphia protested to the governor against "erecting a House within the City or Suburbs, peculiarly designed for exhibiting Plays."⁵⁹ Similar protests came from the Lutherans and the Baptists. Nevertheless the playhouse, a wooden structure, was built right across the street from the city line to the south of the city at Vernon and South.⁶⁰

The opponents of the theatre, although not in power in the city and not particularly in favor with the Governor and the Council, controlled the Assembly; and the building of the theatre caused the Assembly on June 20, 1759, to pass "An Act for the more Effectual Suppressing and preventing of Lotteries and Plays," a very stringent provision against theatres, acting, and theatrical enterprises.

On June 2, 1759, "The Governor had laid before the Board [Council] a Bill sent up to him by the House, entitled 'an Act for the more Effectual Suppressing of Lotteries and Plays,' which was read and taken into Consideration."⁶¹ The Council objected to the provisions against Lotteries because they would harm the College, now the University of Pennsylvania, and to the prohibition against Plays because it "was unreasonable restraint of the King's Subjects from taking innocent Diversions," and called attention to the repeal of a simliar act in 1709.⁶² Nevertheless the

⁵⁹ *Pennsylvania Archives*, 1756-60, p. 656.

⁶⁰ Watson, I. 472.

⁶¹ *Colonial Records*, VIII. 339.

⁶² *Ibid.*, VIII. 340.

Assembly persisted, and although accepting some amendments regarding the date when the law should go into effect, it enacted the original provisions on June 20, 1759. The law was, in part, as follows:

An act for the more effectual suppressing and preventing of Lotteries and Plays

And whereas several Companies of idle Persons and Strollers have come into this Province from foreign Parts in the Characters of Players, erected Stages and Theatres, and thereon acted divers Plays, by which weak, poor and necessitous have been prevailed on to neglect their Labour and Industry, and to give extravagant Prices for their Tickets, and great numbers of disorderly Persons have been drawn together in the Night, to the great Distress of many poor Families, Manifest Injury of this young Colony, and grievous Scandal of Religion and the Laws of this young Colony, and prievous Scandal of Religion and the Laws of this Government, Be It Therefore Enacted, by the authority aforesaid that every Person or Persons whatsoever that from and after the first Day of January (1760) shall erect, build or cause to be erected or built any Playhouses, Theatres, Stage or Scaffold for acting, shewing or exhibiting any Tragedy, Comedy, Tragi-Comedy, Farce, Interlude or other Plays or any Part of a Play whatsoever, or that shall act, shew, or exhibit them, or any of them, or be in any ways concerned therein, or in selling any of the Tickets aforesaid, in any City, Town or Place within this Province, and be thereof legally convicted in Manner, aforesaid, shall forfeit and pay the Sum of Five Hundred Pounds, lawful Money aforesaid. These fines were to be given to Pennsylvania Hospital for its use.^{63,64}

The playhouse, taking advantage of the fact that the law's provisions were inoperative until January 1, 1760, opened on June 25, 1759, and continued in operation until the end of the year, for "Hamlet" was presented on December 28, 1759, for the benefit of the Pennsylvania Hospital. The law, too, was hurried be-

⁶³ *Colonial Records*, VIII. 339; *Statutes*, V. 447, 448; *Laws of Pennsylvania*, II. p. 110.

⁶⁴ At least one protest against the law is worthy of note. Alexander Alexander, a smith, and William Williams, a painter, protested against the law lest they should lose the results of their labor. They had built the playhouse at a cost of 300 pounds and upwards and had furnished scenes in addition to the amount of more than 100 pounds and were unwilling to lose it all.

fore the King in Council⁶⁵ and met the same fate as its predecessors, for on September 2, 1760, it was repealed along with six other acts.⁶⁶

It is to be remembered that, in the city itself, the Quaker element seemed to be in power for the theatres were kept outside the city limits. South Street was the southern limit of Philadelphia, and the theatre was on the south side of that street and beyond the control of the city fathers. One is reminded of the situation in the London of Elizabeth where, too, Southwark was the particular haunt of the players and playgoers when theatres were not permitted in the city itself. Watson's further comments suggest other reminiscences—this time to the England of the Commonwealth where similar practices prevailed. "To evade the law," he remarks, "the bills used to read: 'a Concert of music,' after which will be presented gratis a lecture or dialogue on the vice of scandal, etc, giving a few lines of the play."⁶⁷

A new theatre was erected on South above Fourth, with a brick first story and wood above. This building, that was demolished only about fifteen years ago, (was erected) in 1766, (and probably not,) as Watson states, in 1760.⁶⁸

This brick theatre "the first permanent theatre in America,"⁶⁹ opened, in 1766, in spite of a strenuous remonstrance. A memorial protesting against it "from a great number of the inhabitants of the city and county of Philadelphia of several religious denominations was presented to the House and read."⁷⁰ The memorial contained nothing that was new, the stock argument that Penn had used, that stage plays "di-

⁶⁵ Seilhamer, I. p. 112.

⁶⁶ *Statutes*, V. pp. 654-659.

⁶⁷ Watson, I. 473.

⁶⁸ *Ibid.*, I. 472.

⁶⁹ Seilhamer, I. 151 *seq.*

⁷⁰ *Ibid.*, I. 152.

vert the minds of the people and more especially of the unwary youths from the necessary application of the several employments by which they may be qualified to become useful members of society" was strongly urged.⁷¹ As a result of the memorial, a committee of the House was appointed two days later, February 18, 1767, to draft an address to the Governor, John Penn. He received it unfavorably and never interfered with the production of the plays, which began on November 21, 1766, and continued through the season, but in carefully expurgated versions. The advertisement of Congreve's "Mourning Bride" contains the statement "The reviser . . . has taken the freedom to crop such luxuriences and expunge every passage that might be offensive either to decency or good manners."⁷² At least, if protests could not prevent the production of plays, they could at least provide them with a disinfecting.

Although seasons at the theatre were given during the following years, the protests continued. The attack of J. R. in the *Pennsylvania Gazette* for December 19, 1768,⁷³ is a worthy example of the feeling of outraged decency as it expressed itself in Philadelphia against the lessons taught or suggested by the theatre and its plays. "Good God, gentlemen," he writes, "what a degenerate age we live in! Into what a state of apostacy are we fallen, when our zeal for religion is actuated by the turn of a card and the mimicry of buffoons is put in competition with the sacred oracles of truth." The party referred to had decided by drawing cards whether to go to church or the theatre.

In like manner, on February 9, 1767,⁷⁴ Goddard's

⁷¹ Quoted, Seilhamer, *op. cit.*

⁷² Seilhamer, *op. cit.*

⁷³ Quoted, Seilhamer, I. 247.

⁷⁴ Seilhamer, I. 174, 175.

Pennsylvania Chronicle began a series of articles trying to prove the unlawfulness of the stage entertainments. These were signed "Philadelphus" and ran until May 4. They were mainly reprints of articles of William Jay, an English clergyman, and replies to them by the actor Douglas. They were merely the stock arguments against and for the theatre.

Although in general the press seemed opposed to the theatre, a rather considerable newspaper debate ensued. Plays, however, continued to be produced in Southwark because the cosmopolitan population that had by this time grown up in the Quaker city was no longer to be held in by the Quakers and apparently supported the plays that were given.

When the Revolution began, "Congress⁷⁵ adopted Puritanical objections to amusements, and prohibited theatrical entertainments as well as other vain diversions." The action really taken provided for encouraging "frugality, economy, and industry" and discountenancing and discouraging "every species of extravagance and dissipation," including the "exhibition of shews, plays,"⁷⁶ etc. While the Continental Congress remained in Philadelphia, these inhibitions remained in force.

In 1777, the British occupied the city (September 26, 1777–June 18, 1778), and a short time after their arrival, the old Southwark Theatre was (reopened) for⁷ theatrical purposes. It had been used, at first, by the British, immediately after the Battle of Germantown (October 4, 1777), as a hospital, Seilhamer⁷⁷ mentioning the fact as being recorded in the Diary of Robert Morton, son of a Philadelphia merchant. But in the

⁷⁵ Scharf, II, 1076.

⁷⁶ Quoted by Quinn, A. H., *A History of American Drama*, p. 32, from *Journals of The Continental Congress, 1774–1789*, edited from the originals in the Library of Congress by W. C. Ford, Washington, 1904, I. 78.

⁷⁷ Seilhamer, II. 28.

Pennsylvania Ledger for December 24, is an advertisement for a person to act as a clerk at the theatre; and on the 14th of January, 1778, the initial performance took place. Plays continued during the occupation, the parts being taken to some extent by professionals and to some extent by amateurs under the name of the "Martial Thespians." It is worthy of note that André who was later to figure in the Arnold affair at West Point and to sacrifice his life as a spy, painted some of the scenery for the productions.

The departure of the British, June 18, 1778, signalized dramatically by the famous *Mischianza*, was the signal for the return of the Congress and also of its prohibitions against amusement. Besides, when the Assembly met in 1779, it enacted as Section X of "An Act for the Suppression of vice and immorality," the provision that

every person and persons whatsoever, that shall from and after the publication of this act, erect, build or cause to be erected or built any play house, theatre, stage or scaffold for acting showing or exhibiting any tragedy, comedy or tragi-comedy, farce, interlude or other play or any part of a play whatsoever or that shall act, show or exhibit them or any of them or be in any wise concerned therein, or in selling any tickets for that purpose in any city, town or place in this commonwealth and be thereof legally convicted in any court of quarter sessions in this commonwealth shall forfeit and pay the sum of five hundred pounds.

This act of March 10, 1779,⁷⁸ remained on the statute books until September 25, 1786,⁷⁹ when it was repealed largely because the depreciation of the currency made its provisions practically of no effect. The repeal, however, was merely the occasion for the re-enactment of the same provisions as those in the old law but with heavier penalties.

Nevertheless, on January 2, 1782, the Southwark Theatre was opened by Alexander Quesnay with Beau-

⁷⁸ *Statutes*, XII. 313-322.

⁷⁹ *Ibid.*, XII. p. 322.

marchais' "Eugenia" and the farce, "The Lying Valet" as an entertainment for General Washington. This, of course, was in direct violation of the law of 1779, and it "sorely offended certain staid and worthy citizens."⁸⁰ On the eleventh of January the magistrates interfered and Quesnay immediately transformed the theatre into an "Academy of Polite Science" and produced "music, illuminations, transparencies, and a variety of French dances" that apparently satisfied the law but which, says Seilhamer,⁸¹ did not succeed.

On July 1, 1782, John Henry appealed to President Moore saying that, at the request of Congress he had left America, in 1774, and now on his return he says:

I find our Theatre here entirely out of repair, and a debt for Ground rent and taxes incurred to the amount of 174 pounds. I learn also that it has been used for some time by permission for the exhibition of a Wire Dancer, (Quesnay's show) on this account I presume to address your Excellency for Permission, for one Night only, to deliver a Lecture on Heads, for the purpose of paying the above debt, incurred since our Banishment.⁸²

On July 2, 1782,⁸³ the Council "ordered, that said request be not granted" because this lecture on heads, as well as Quesnay's Academy, was merely one of the various subterfuges so often employed to circumvent the laws against the theatre.

In 1783, two memorials from Quakers⁸⁴ to which 168 names were signed appeared in opposition to the theatre, and were read in Council on November 10. But Hallam was not to be defeated, and on January 21, 1784, he petitioned the legislature for a repeal of the law against plays, and a week later on January 28, 1784,⁸⁵ a petition in favor of the theatre offered the

⁸⁰ Scharf, I. 420.

⁸¹ Seilhamer, II. 161.

⁸² *Pennsylvania Archives*, IX. 573.

⁸³ *Colonial Records*, XIII. 324.

⁸⁴ *Pennsylvania Archives*, X. 141.

⁸⁵ Seilhamer, II. 162.

suggestions, (1) that it be opened and taxed; and (2) that, in order to protect the morals of the community, "a superintendent be appointed to revise every article of stage performance." These suggestions also did not meet with legislative favor and on the 18th of February the proposal was defeated.⁸⁶

Since even these proposals were unsatisfactory to those in authority, subterfuges again were resorted to and the theatre opened on April 1, with a "Lecture on Heads," and a poetical address to the public. Somewhat later were produced "groups of female portraits and male caricatures, and a Monody in honor of the Chiefs who had fallen in the cause of America."⁸⁷

The *Pennsylvania Packet*,⁸⁸ on April 17, espoused the cause of the theatre and on December 7, 1784, the Southwark opened with a group of "lectures" that before long became out and out plays. This is the Hallam season that Dunlap speaks of.⁸⁹

Hallam returned to Philadelphia on March 11, 1785. His appearance, says Dunlap, was the occasion for a debate in the legislature "on the subject of prohibiting a theatre,"⁹⁰ and a clause was proposed to the law for suppressing vice and immorality, prohibiting "the erecting of any playhouse, stage, or scaffold" for the purpose of acting any kind of dramatic work, enumerating them from tragedy to pantomime.⁹¹ After considerable debate, Dunlap further records, the clause was finally defeated. This statement of Dunlap does not seem reasonable, for the act of 1779, which provided for just such prohibition, was still on the statute books. It may be, however, that the act was practically inoperative because the currency was so depreciated

⁸⁶ Seilhamer, II. 162.

⁸⁷ *Ibid.*, II. 163.

⁸⁸ *Ibid.*, II. 164.

⁸⁹ *Ibid.*, II. 165.

⁹⁰ Dunlap, Ch. V. 155.

⁹¹ *Ibid.*, *op. cit.*

that fines could be paid easily and the law evaded with impunity.

At all events, a second season at the Southwark opened on January 15, 1787. It was to be "a concert of music and lectures" and the season lasted for thirteen performances. Between June 25 and August 24, there was a continuation of the season consisting of musical comedy and farce, called "opera." Washington, then in the city because of the constitutional convention, attended at least three performances.

The next year brought the American Company again to the city during June and July. On the 7th month, 18th, 1788, a Quaker petition to President Franklin said "we conceive not only the happiness of Society injuriously attacked, but the dignity of Government also insulted by the open contravention of the Law in the Exhibition of Stage Plays, under whatever evasive name disguised,"⁹² etc. It is apparent that this petition reopened the entire question, for, on November 7, 1788, the matter having been brought before it, the Executive Council passed the following resolution:

Resolved, That Mr. Read, Mr. Woods and Mr. Gregg, be a committee to consider of the most proper measures for giving effect to the act of Assembly passed the twenty-fifth of September 1786, intituled "an act for the prevention of vice, immorality," etc., as far as the same law prohibits the erecting of theatres and exhibiting of plays.

This committee reported on November 8, 1788, and the report was ordered to lie on the table.⁹³ Two days later, November 10, it was

Ordered, that the said report be recommitted and that Colonel Miles and Mr. Smilie, be added to the committee on this business.⁹⁴

This new committee reported on the eleventh, and after the first and second reading the consideration was

⁹² *Pennsylvania Archives*, XI. 342.

⁹³ *Ibid.*, 589.

⁹⁴ *Ibid.*, p. 590.

postponed.⁹⁵ On the twelfth, it was decided to publish "in the several newspapers of the city" the section of the act regarding the prohibition of plays, etc., and to enjoin and require the judges "to exert themselves in giving full force and effect to the above recited law."⁹⁶

Seilhamer's statement that on November 12, 1788, the Assembly again passed an act against plays is apparently an error. No such law appears on the statute books. He possibly has in mind the action of the Council on November 10, which has just been quoted.

The year 1789 was a time of storm and stress for Hallam and Wignell and the Old American Company. In spite of the Council's action Hallam advertised for January 31, 1789, a miscellaneous entertainment to consist of five parts including,

A lecture on Richard Plantagenet by Mr. Hallam.

The Manager Turned Orator by several members of the company, possibly a farce.

A Comic and Satiric lecture on heads by Wm. Norris.

An Italian Hornpipe and sketches and caricatures.

and finally A Grand Masquerade or Exhibition of Character, dialogue, song, dancing scenery and illumination.⁹⁷

Monday's issue of the paper (February 2), however, contained the announcement by Hallam that "Messrs Hallum [*sic*] & Wignell respectfully inform the Public, that the miscellaneous entertainments intended to have been exhibited at the Theatre, are unavoidably postponed." The advertisement then tells how purchasers of tickets might have them redeemed. Apparently the law was being enforced.

From that time on the papers are filled with items that discuss the situation, pro and con. A week later appears the following, dealing with the second session of the Thirteenth General Assembly under the date of Friday, February 6, 1789:

⁹⁵ *Pennsylvania Archives*, XI. 592.

⁹⁶ *Ibid.*, 594, 595.

⁹⁷ *Federal Gazette and Philadelphia Evening Post*, January 30, 1789.

Minutes of 2nd session of 13th General Assembly of Pennsylvania under date of Friday February 6, 1789

Petitions from 1900 citizens and freemen of this commonwealth were read, praying that so much of the act, entitled, "An act for the prevention of vice and immorality, and unlawful gaming, and to restrain disorderly sports and dissipation," as restrains a theatre in or near the city of Philadelphia for dramatic representations, may be repealed.

Ordered to lie on the table.⁹⁸

On the tenth, under Minutes of Assembly, Saturday, February 7, we learn that

The petition of 1900 citizens and free men of this commonwealth read yesterday, was read a second time. On the question "Shall the said petition be referred to a committee?"

It was carried in the negative.⁹⁹

The next day, under the caption, "General Assembly," forenoon, February 11, appears the statement:

On motion of Mr. Clymer, and Mr. Marshall, the house agreed to reconsider their votes on Saturday last, on the petitions of 1900 citizens and freemen of this commonwealth, for the establishment of a Theatre in or near this city, and referred the same to the members of the city, to report thereon.¹⁰⁰

The committee reported on February 13:

The committee appointed February 11th on the petitions of 1900 citizens and freemen of this commonwealth for the establishment of a theatre in or near the city of Philadelphia, made report, which was read and ordered to lie on the table.¹⁰¹

The papers now began to publish long articles and essays dealing with the subject of Theatres or no Theatres. The *Gazette* on February 14, 1789, contained translation and abridgement of an article from "Mr. Steiner's German paper of last Thursday" favoring the theatre.

⁹⁸ *Federal Gazette and Philadelphia Evening Post*, Monday, February 9, 1789.

⁹⁹ *Ibid.*, February 10, 1789.

¹⁰⁰ *Ibid.*, Wednesday, February 11, 1789.

¹⁰¹ *Ibid.*, February 16, 1789.

The issue of Tuesday, February 17, reported that in the General Assembly on the previous afternoon "Petitions from 3446 inhabitants (including *school boys, bound servants, negroes*, etc. etc. etc.) of the city and county of Philadelphia, against Theatrical exhibitions; and a petition from a committee of the Dramatic association, in favour of a Theatre."

The same issue also printed the following interesting item:

It is said that on Friday next, the important question respecting the theatre, will be discussed in the General Assembly. Those who wish to see this city flourish, and become the residence of Congress, will doubtless exert themselves in favor of the Drama. Theatrical exhibitions are innocent, entertaining and instructive; those who think otherwise, are at liberty to stay at home, or amuse themselves, as usual, with *Sunday excursions*. The question respecting the Theatre, is now become a serious one;—and it is to be hoped, that the Representatives in the General Assembly will consider the consequences of refusing to repeal the odious law now existing against it.¹⁰²

Two other items appeared in the same issue indicating at least the great interest aroused at this time by the whole question. There was, for example, a memorial signed by Walter Steward, John Barclay, Robert Bass, Jacob Barge, Joseph Redman, W. T. Franklin, T. L. Moore, James Crawford, John West,

being a committee of the Dramatic Association, on behalf of themselves and the many citizens, who have prayed for a repeal of any law, or part of a law, that prohibits dramatic entertainments, They contended that the law is an interference with "The natural right of every freeman to dispose of his time and money, according to his own taste and disposition, when not obnoxious to the real interests of society."¹⁰³

The theatre, they held, is a rational amusement and diversion and that it is not right that those who wish to pursue it shall be prevented by "those of their fel-

¹⁰² *Federal Gazette and Philadelphia Evening Post*, Tuesday, February 17, 1789.

¹⁰³ *Ibid.*, Tuesday, February 17, 1789.

low-citizens, who think this, as they do every other amusement, contrary to the laws of conscience and virtue."

The memorial continues "For in truth the petitioners in favor of the drama, are men of science, friends to virtue, and approved guardians of the country."¹⁰⁴

Another item in the same issue reads:

The following is inserted by particular desire. On Monday a petition subscribed by three thousand and three hundred and ten inhabitants of the city and liberties of Philadelphia, upwards of three thousand of whom signed said petition in one day and a half; praying that the law of this state for the suppression of vice and immorality, may in no wise be repealed or weakened and in opposition to the intended play bill, was presented to the general assembly, by the following gentlemen appointed as a committee for that purpose.

Right Rev'd Dr. White
Dr. George Duffield
Dr. William Rodgers
Dr. Henry Helmuth
Dr. John Meder
Dr. Joseph Pilmore
Dr. Ashbel Green
Dr. John Redman, Sen.
Joseph Swift
Joseph Cauffman

Thomas Penrose
Samuel Davis
Hugh McCollough
Christopher Marshall, Sen.
Joseph M'Griffin
Nicholas Waln
James Pemberton
Thomas Armatt
Joseph Turner¹⁰⁵

The *Gazette* of February 19, 1789, tells of the arrest of "a set of young masters rehearsing the tragedy of Cato at a school in the neighbourhood" and of their being bound over to the next quarter session. Then, the writer of the article continues, "For my part, I do not hesitate to declare that I think the freedom of this country is more danger from the tyranny at which these people aim, than it ever was from the arms of *Great Britain*."

The next day appeared an announcement in the *Gazette* that

¹⁰⁴ *Federal Gazette and Philadelphia Evening Post*, Tuesday, February 17, 1789.

¹⁰⁵ *Ibid.*, February 17, 1789.

The petitions with respect to the theatre this day engaged the attention of the legislature. There appeared to be about 6000 subscribers in favor of the drama, and about 4000 against it. It will give sincere pleasure to every friend of rational amusement and freedom of sentiment, to be informed, that the city members are directed to bring in a bill, "for repealing any law, or part of a law, that prohibits Dramatic representations, and for providing such restrictions as will prevent these representations which may be injurious to morals."—The house divided 35 in favor of a bill, 29 against it. This decision was announced by a numerous and respectable audience, who joined in a joyful acclamation, as soon as the house broke up.¹⁰⁶

The bill thus introduced is, in part, as follows:

An act to Repeal so much of an act of General Assembly of this commonwealth as prohibits Dramatic Entertainment within the city of Philadelphia and the neighborhood thereof. (Section 1, P. L.) Whereas a great number of the citizens of Philadelphia and the neighborhood thereof have petitioned this house for a repeal of so much of a certain law of this commonwealth as prohibits theatrical exhibitions and this assembly being desirous of promoting the interests of genius and literature by permitting such theatrical exhibitions as are capable of advancing morality and virtue and polishing the manners and habits of society, and it being contrary to the principles of a free government to deprive any of its citizens of a rational and innocent entertainment, which at the same time that it affords a necessary relaxation from the fatigues of business is calculated to inform the mind and improve the heart: (Section I) Be it therefore enacted, etc. . . . that "so much of an act . . . entitled 'an act for the prevention of vice and immorality' etc. passed "[25 September, 1786]" as restrains or prohibits any person or persons from acting, showing or exhibiting within the city of Philadelphia or within one mile thereof any tragedy, comedy, tragi-comedy, farce, interlude, pantomime or other play" etc. "be and the same is hereby repealed and made null and void" [Then follow two provisos, the first having to do with preserving the legality of fines collected or in process of collection under the 1786 act; and the second a salve to the consciences of those who objected to the theatre. The second reads]

And whereas many respectable citizens are apprehensive that theatrical representations may be abused by indecent, vicious and immoral performances being exhibited on the stage, to the scandal of religion and virtue and the destruction of good order and decency in society and the corruption of morals.

¹⁰⁶ *Federal Gazette and Philadelphia Evening Post*, February 20, 1789.

Be it enacted by the author it is aforesaid, That it shall be lawful for his excellency the president of the supreme executive council, the chief justice of the supreme court or the president of the court of common pleas for the county of Philadelphia or any or either of them for the time being and they are hereby severally authorized and empowered at all times, within three years from and after the passing of this act to permit and license such theatrical exhibitions only as shall in the opinion of him who shall grant such license be unexceptional.

This act which was passed March 2, 1789, further provides that any who shall act or show any dramatic piece without such license shall be fined "not exceeding two hundred pounds" and imprisoned during the discretion of the court."¹⁰⁷

It is to be noted that, in general, the second proviso follows one of the suggestions made by Hallam, in 1784, that "a superintendent be appointed to revise every article of stage performances."¹⁰⁸

On February 23, the *Gazette* reports that

On Saturday last, in the General Assembly, Committees reported as follows, viz.

A bill to establish a Theatre in or near the city; and a bill to repeal part of an act respecting the charter and property of the College, Academy, and charity School of Philadelphia.¹⁰⁹

Three days later, the bill was reported to the assembly,¹¹⁰ and on February 28, it was passed by a vote of 35 to 27.¹¹¹ On March 2,¹¹² in the afternoon, the engrossed bill was "enacted into a law."

The next day,¹¹³ an announcement appeared in the *Gazette* as follows:

¹⁰⁷ *Statutes*, XIII. 184-186.

¹⁰⁸ Seilhamer, II. 162.

¹⁰⁹ *Federal Gazette and Philadelphia Evening Post*, Monday, February 23, 1789.

¹¹⁰ *Ibid.*, February 26, 1789.

¹¹¹ *Ibid.*, February 28, 1789.

¹¹² *Ibid.*, March 5, 1789.

¹¹³ *Ibid.*, March 6, 1789.

By authority

By the old *American* Company, at the Theatre in *Southwark*, will be performed on *Monday* the 9th instant [March]

A Tragedy, called
"The Roman Father"

a prolog by Mr. Hallam

A celebration over the victory of the theatre

A Hornpipe by Dr. Durang and a comedy
called "The Lyar"

The Theatre, however, although legalized, was not yet firmly fixed for its opponents resolved to make those who attended uncomfortable. A letter to the editor of the *Gazette* on March 11, 1789, complained of the annoyance caused

by some persons who sat near me in the Pitt, Smoaking Segars—one in particular from a long tube, puffed out some volume of smoak as greatly offended my *olfactory* nerves, and made my situation truly disagreeable; nor was it confined solely to the Pitt—a youngster in one of the front Boxes, in which there were a number of ladies, regaled them in the same manner; and to make himself conspicuous, or rather ridiculous, he stood on one of the benches the whole time he was smoaking.

Objections to the theatre still poured into the hands of those in authority, but two years later the theatre came into the city proper when "In 1791, a Theatre was erected on the site of the present Chestnut Street Theatre, near Sixth Street."¹¹⁴

The legal conflict, nevertheless, was over, for when, in 1794, the so-called Blue Laws were revised by the Assembly, no mention of theatres or plays occurs. Nearly a hundred and ten years had been required to legally establish the theatre in Pennsylvania. Just what effect these hundred years had in inhibiting the writing of plays, just how much they prevented the beginning of a production of native American plays in Pennsylvania, is a matter for conjecture. The present writer is inclined to believe that, perhaps, some-

¹¹⁴ Daniel Bowen, *A History of Philadelphia*, 1830.

thing might have been accomplished here, had it not been that the better educated persons of the city of Philadelphia were trained in those days to believe that the play was a sinful thing, an institution of the devil, designed to delude and destroy all who were touched by it.

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