Dead Letters Among the Laws

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I

t is no new thing, in this coun-

try or any other, to be

deemed dead letters. Lack of en-

forcement of prediction may be

unusual in that New York and other

irrelevant localities regard the law

as an excuse for profiteering in

liquor selling, but the experience of

statutes widely disseminated is as old

as law itself.

There is no denying it. The most

casual reading of history proves the

fact, and most of us need only our

own memories to verify it. Witness,

for instance, the dead letter of New

York's law against Sunday recrea-

tions. It leaned on the statute books

for generations. Fishing on Sunday

was unlawful, yet fishermen throned

the mountain streams and beached

without molestation. Prob-

ably few of them even knew that

their sport was made legal on Sun-

day by the same recent enactment

which permitted the hitherto illegal

position of Sunday baseball.

So it has been in countless other

cases. Laws which have been nomi-

nally enforced for decades have be-

come dead letters, some of them

without going through the form of

repeal. Is it any wonder that the

syndics among us are speculating

whether prohibition will fall into this

class? Maybe it will endure. Any-

way, the speculation is interesting

when one recalls the precedents of

discarded statutes through genera-

tions past.

Statistics to regulate and standard-

ize the private life of the individual

have been popular with the law-

givers of all times. Yet it can be

demonstrated that the persistent ef-

fort to make men more (that is, to

make them conform to a code) has

not been very successful. History

shoves nothing more clearly than that

the suppression of vice has not elimi-

nated vice, and the idea of reducing

life to ritualistic conformity by laws,

divine or human, hasn't been a

triumph. But feasible conforming

and reforming goes on. Today, with

the Volstead act trying to be ef-

ective, it is refreshing to recall that

at certain Bachachan festivals in

pagan Greece it was a punishable

office not to be drunk, because a

state of sobriety showed gross lack

of reverence for the god of the grape.

If the draconic enforcers of this law

were observing it in proper spirit, it

is not likely that their persecution

of offenders was severe. Today some

of the officers who have promised

to love, honor and obey the Eight-

teenth Amendment seem curiously

absent in recognizing its violators.

The early Colonial laws regulating

taverns and Continental laws concern-

ing duelism and adournment have long

since been discarded, but those

designed to preserve the Christia-

nity of the Sabbath are still popu-

lar with the lawmakers and still

circumvented by the unregenerate.

The blue laws of Connecticut have

been a potent heritage whose influ-

ence has extended, with diminishing

intensity, out toward the Pacific

Coast through generations of law-

makers. In Connecticut colonial days

no expressions of affection were per-

mitted on Sunday; no man could kiss

his wife, nor could a mother caress

her child. Running, or any move-

ment save a slow, stochromatic gal-

ish, was prohibited. Compulsory

worship at church, the Sunday schools

lasting from two to four hours, was

required in most of the Colonies. The

togethered Quakers of Pennsylvania
did not make churchgoing compulsory,

but bledrel atrode from their midst.

The States have adopted with mod-

ification the Puritan code of Sunday

observance. The laws against Sun-

day work, requiring the closing of

theatres, shops and markets, and

laws prohibiting hunting, fishing,

card-playing and sometimes teetot.

alinen self rather generally through-

out the country. There are also sur-

viving remains of blue-law severity

in the local ordinances enforced

in some rural districts prohibiting lea-

ving on the streets on any public

places on Sunday.

Crossing the Continent several

years ago, happy in temporary de-

tachment from dates and places, a

group of otherwise respectable citi-

zens enlivened the flat stretches of

the Middle West with pleasure. It was

the Pullman porter who brought

the players back to a law-abiding world

with a reminder that it was against

the law of the Commonwealth of

Kansas to deal cards on Sundays. But

they took a rest.

The statistic prohibiting fishing

on Sunday have recalled McCauley's
decisions that the Puritan suppressed

bear-hunting not because it caused

suffering to the bear but because

it gave pleasure to the spectators.

Related to Sunday observance are

the widespread laws against blue-

berry, also feebly enforced. Va-

guery to a majority of States is an

offense against public welfare. In

Connecticut vagrancy is sweepingly

defined as any set of beggary, and

is punished by detention in the local

workhouse, a law which seems as

if it was framed by the Pur-

itanic hand of Commonwealth. One
dislikes seeing the shadow of the work-

house behind every adventure along a

friendly road. What would be-

come of the Yochel Lindseys and

the David Graysons if the vagrancy

law was generally enforced? There

are those who believe that the tramp

of story-telling or pestering prosti-

tutes should be subdued, not re-

pressed.

To revert to the moral State of

Kansas: Compulsory enrollment

is there curbed by a law prohibiting

betting on elections—a law more spe-

cific than similar forgotten statutes

in other States. There are wide-

spread laws against lotteries and "

raffles," although the ban is fre-

quently lifted if the object is to raise

money for a benevolent purpose, on

the theory, perhaps, that anything

is legitimate if done in a good cause.

It reminds one of the Geneva, law

enforced in Calvin's day, requiring

all the inmates of the town, save

sopor, to go to bed by 9 o'clock. In

that happy day such frivolous pur-

suits as eating mice pie and reading

the book of Common Prayer were

also banned, and no musical instru-

ments save drum, trumpet and jaw

harp were deemed proper.

Fantastic legislation has always

been conducive to crime and panic.

After a period of the nineties there

was introduced in one of the Western

States a bill for

securing the Delegalization in toto and

providing suitable penalties for the

violation of the various Command-

ments. There is still in the West a

law providing for a pimple whip-

ping post, chiefly for the benefit of

wife-beaters who receive from five
to twenty lashes on bare back. Im-

moral legislation, such as the West

Indian codes which gives the hus-

band legal sanction to beat his

wife.

Imprisonment in intolerable cages

the law abides, and always with the

mollification of reforming legislators.

An instance of violation of the spirit

of a law under - transparent veiling

of legality is observed in the operation

of the Nevada drivers statute. Six

months' residence is required to

converse with an automobile in any

area and any violation thereof

some day will deprive all of us of this

comfort. In Indiana a performing

chimpanzee in a traveling show was

once arraigned for smoking a cigar-

ner by which he supported his owner.

The owner was forced to pay the

fine. [In the Middle Ages lawsuits

against animals were of common oc-

currence.]

The law providing punishment for

any dog that do not bark howlingly

a large portion of our Criminal Codes,

has been inherited from England, but the law which is a man's life belonged to his King, and any

dog that did not bark it must be

punished as any other attempt to

destroy property.

It is alleged about us as we are by

laws which regulate our activ-

ities from the grave to the grave. It

crosses a street to what we can

say about the Government, a glance

at the statutes gives assurance of pros-

perous toward what Lord Acton de-

clared the greatest achievement of

modern times—the emancipation of

individual conscience from the bane

age of authority. We do not mark

violators of a Commandment with a

red-hot branding iron; we do not

put to death those who refuse to

worse that God in the orthodox fashion

or burn witches.

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