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## THE CRIMINAL CODES OF CONNECTICUT.

LAWRENCE HENRY GIBSON.<sup>1</sup>

*Introductory Note.*—In the present study an endeavor has been made to draw a comparison between the criminal legislation enacted in the two colonies, Connecticut and Pennsylvania.<sup>1½</sup> Connecticut has been called the home of the Brahmins of Puritanism; in this colony Puritanism had its most rigid expression. Pennsylvania, on the other hand, was the only colony where the Quakers were given an opportunity of putting their ideals to the test of a body of formal law. It is hoped that the analysis presented may shed some fresh light upon the attitude of mind peculiar to each of these two peoples, and that it may serve somewhat as a basis for judging the comparative merits of Puritanism and Quakerism when applied to affairs of a public nature.

In answering the question as to how far these sects were still the dominant forces in the two colonies at the end of the colonial period that they had been in the seventeenth century, it will be necessary to attempt to determine just how far those peculiar ideas and convictions that each so characteristically expressed in legislation at the founding of Connecticut and Pennsylvania were able to survive in the law that was actually applied in these colonies when they entered into statehood.

The compass of this study will not allow treatment in detail of the codifications that Connecticut made of her criminal law in 1673, in 1715, and in 1769. From the middle of the seventeenth century on, the drift in the direction of conformity to the English common law became steadily stronger down to the period of the Revolution. On the other hand, in colonial Pennsylvania there was no such steady evolution from the beginning. As will be seen, the body of criminal law in force at one time would have little traceable connection with the law of another period. Changes in proprietorship, in the basis of control, and in the spirit of the inhabitants were responsible for

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<sup>1½</sup>The portion of the study relating to Pennsylvania will be published later.—[Ed.]

this variation. It will, of course, be necessary to take account of these changes.

The writer in no sense presents this as an exhaustive study, but rather as a preliminary survey of a field of investigation that offers many attractive possibilities. The conclusions that have been drawn can only be tentatively held until the great work of collecting, compiling, and publishing will make the sources sufficiently accessible to allow one to arrive at something like finality in this field. However, many decades will probably elapse before this has been accomplished.

I. *The Criminal Codes of Connecticut.*—The Code of 1650; the New Haven Code of 1656; the Code of 1784.

The Colony of Connecticut was an offspring of Massachusetts Bay Colony. The General Court of Massachusetts on March 3, 1635-6, after consulting with John Winthrop, then lately "appointed governor by certain noble personages and men of quality, interested in the said River, which are yet in England," issued a commission "to severall persons, to govern the people at Connecticut for the space of a year next coming."<sup>1</sup>

From April 26, 1636, when the first court met at Newton, to May, 1650, the colony was bound by regulations passed from time to time by the General Court. The first attempt at codifying a set of laws was in 1642 when the so-called "Capitall Lawes" were established.<sup>2</sup> Realizing the importance of having a compact body of law which would apply to criminal actions, the General Court in 1648 invited a Mr. Ludlow "to take some paynes in drawing forth a body of lawes for the governing of this Commonwealth and present them to the next general Courts." There was some delay in the perfecting of this code and it was not until May, 1650, that it was adopted.

The main body of this law is preceded by a statement embodying a Bill of Personal Rights. The laws themselves embrace much that at the present time would be classified under the head of civil, commercial or ecclesiastical law, and is, therefore, a body of general regulative measures adapted to a government based on a theocratic ideal. Certain questions naturally arise in taking this code up for consideration. What were its sources? What was the character of its sanctions? How was it applied? What juristic tendencies did it display? How far was it a reflection of any distinct puritannical attitude and quality of mind?

It may first of all be said that the "Body of Liberties" adopted in Massachusetts in 1641 was taken as a model and followed closely.

<sup>1</sup>Hazard's State Papers, I, 321, for the Commission.

<sup>2</sup>Colonial Records of Conn., I, 77. (3) Ibid. I. 136.

A minute comparison of the two does not fall within the province of this paper. However, it can be said that one is not a replica of the other. The local needs of this frontier community were probably responsible for numerous changes in this borrowed body of laws.

With reference to its sanctions, there were as a basis the twelve capital laws of 1642,<sup>3</sup> supplemented by two others concerning refractory children.<sup>4</sup> These capital offenses are as follows: Worshipping a strange god, witchcraft, blasphemy, willful murder, slaying another through guile, bestiality, sodomy, adultery, rape, kidnapping, false testifying, rebellion against the colony, cursing of parents by a child over sixteen, and stubbornness (by child over sixteen). Besides the death penalty, branding, mutilation, whipping, the pillory, the stocks, imprisonment, and fining were employed. In order to secure a basis of comparison with other codes to be considered a brief statement of the offenses against the public and the penalties provided for in the Code of 1650 will be offered.

The Code of 1650.<sup>5</sup>

*Burglary and Robbery.*—First offense, branding on forehead with letter B; second offense, branding and whipping; third offense, death as an incorrigible. For committing this offense on the Lord's Day: For first offense, branding and the loss of one ear; second offense, branding and loss of the other ear; third offense, loss of life.

*Court, Disorder in.*—A fine of twelve pence.

*Court, Betraying Secrets of.*—A fine of ten pounds.

*Children, Negelect of.*—To be taken from parents and apprenticed.

*Conveyances, Fraudulent.*—To be non effective.

*Damages, Pretended.*—Court to place reasonable fine.

*Ecclesiastical.*—For behaving contemptuously toward the Word or the messengers thereof, first offense, open reproval by magistrate; second offense, a fine of five pounds or to stand on a four foot block for two hours on Lecture day with a placard reading, "An open and obstinate Contemner of God's Holy Ordinances." For staying away from services, five shillings.

*Fires, Carelessness with.*—For injuring fields damages and a fine of one-half the amount, or corporal punishment with not over 20 stripes.

*Forgery.*—Double damages and the pillory for three lecture days.

*Fornication.*—Marriage, fine or corporal punishment.

<sup>3</sup>These laws were taken from the Body of Liberties. See the Colonial Laws of Massachusetts (Boston, 1899), 129.

<sup>4</sup>These do not appear in the code of 1641 in Massachusetts, but are in the code of 1648.

<sup>5</sup>This code is printed in the Colonial Records of Connecticut I, 509.

*Gaming.*—At shuffle board, five shillings; for keeping one at a public house, twenty shillings..

*Idleness.*—A suitable punishment by the court.

*Indians.*—For killing Englishman's cattle, double damages; for meddling with an Englishman's weapons, one-half fathom of wampum; for stealing, double damages with some additional punishment; for mending arms for Indians or selling arms or dogs to them, ten pounds or corporal punishment; for trading at their wigwams, twenty shillings; for living with the Indians, three years' imprisonment and fine or corporal punishment; for any white man to trade with Indians, confiscation of goods.

*Inns and Innkeeper.*—For drinking more than one-half pint of wine at one time or for tipping for more than one-half hour or after nine o'clock at night, five shillings; second offense, a double fine or for drunkenness ten stripes and for excessive drinking three hours in the stocks.<sup>6</sup> For failing to provide keep for horses, two shillings and six pence, for constable failing to seek out offenders of the tavern laws, ten shillings; for delivering wine without warrant or giving hot water in quantity, censure by the court.

*Keeping bachelor house.*—If without servant and alone, twenty shillings for every week. For giving habitation to any young man without consent of town, twenty shillings for every week.

*Lying.*—For first offense, ten shillings or three hours in the stocks; second offense, twenty shillings or not more than twenty stripes; further offenses severely punished.

*Profane swearing.*—For each offense ten shillings or from one to three hours in the stocks.

*Tobacco.*—For those under twenty or those not already using tobacco, for doing so without a certificate from one skilled in "phisick," censure of the court; for using it publicly six pence for each offense.<sup>7</sup>

The above summarized according to penalties liable to follow will give these results:

Offenses involving capital punishment.....	16 <sup>8</sup>
Offenses involving branding.....	2
Offenses involving mutilation.....	2
Offenses involving whipping.....	7 <sup>9</sup>

<sup>6</sup>This applies to all drinking in public.

<sup>7</sup>Fines were imposed for a variety of other things under the headings, Measures, Military Affairs, Records, Schools, etc.

<sup>8</sup>Burglary and highway robbery have been counted separately.

<sup>9</sup>Also in case a servant disposed of his master's property.

Offenses involving the stocks.....	4
Offenses involving the pillory.....	1
Offenses involving the wearing of a placard.....	1
Offenses involving imprisonment.....	1 <sup>10</sup>
Offenses involving fines.....	22 <sup>11</sup>

The question now arises, How strictly was this code applied? What tendencies, if any were at work to mitigate its severities? How far was it simply a formal expression of the hope of these Puritans to realize the Old Testament standard of public control without actually applying the Old Testament sanctions? The proceedings of the General and Particular Courts for Connecticut Colony during the first fifteen years of its existence will serve to illuminate this.<sup>12</sup> During this period the court dealt with the following offenses imposing such penalties as are here designated:

*Bequeathing wife.*—A fine of twenty shillings.<sup>13</sup>

*Bestiality.*—Whipping and imprisonment.<sup>14</sup>

*Defamation.*—A fine of eleven pounds.<sup>15</sup>

*Disorder in Church.*—Imprisonment.<sup>16</sup>

*Drunkeness.*—Fines amounting from 20 nobles to four pounds.<sup>17</sup>

*Familiarity with the Devil.*—Punishment not stated, probably death.<sup>18</sup>

*Fornication.*—Double whippings.<sup>19</sup>

*House-breaking.*—A fine of ten pounds.<sup>20</sup>

*Inveigling Affections.*—Fine from twenty shillings to five pounds.<sup>21</sup>

*Pernicious speaking.*—Fines from 40 shillings to 30 pounds.<sup>22</sup>

<sup>10</sup>Also in case grantor failed to acknowledge a sale.

<sup>11</sup>It will be noticed that where an act entails more than one type of penalty it has been included under each heading. Penalties for certain offenses are not defined but left to the court, as in the case of where a dependent marries without consent. A Ms. table prepared by Dr. Jernegan for Connecticut of the year 1673 gives the capital offenses as 15, involving mutilation 6, fines, imprisonment, etc., 12.

<sup>12</sup>Unfortunately, the records of the Particular Court from 1650 to 1663 have disappeared. Conn. Col. Rec. 1, Intro. iv.

<sup>13</sup>Ibid., I. 127.

<sup>14</sup>Ibid., I. 55, 84, 124, 157, 159.

<sup>15</sup>Ibid., I. 97.

<sup>16</sup>Ibid., I. 194-5.

<sup>17</sup>Ibid., I. 41, 136.

<sup>18</sup>On her own confession Mary Johnson was convicted. Mather says that she was put to death. Magnalia IV., 7. This was really witchcraft.

<sup>19</sup>Conn. Col. Rec. I., 129.

<sup>20</sup>Not burglary. The parties break into a house to get wine. Ibid., I. 44, 140-1.

<sup>21</sup>Ibid., 142, 162.

<sup>22</sup>Ibid., 51, 376.

*Profanity.*—Fines from ten to twenty shillings, the stocks, the pillory, whipping and imprisonment, one or all of them.<sup>23</sup>

*Rebellious servant.*—Imprisonment and public correction.<sup>24</sup>

*Riotous actions.*—A whipping.<sup>25</sup>

*Slander.*—In each case a fine of five pounds, also in one case the pillory, a whipping, and imprisonment.<sup>26</sup>

*Theft.*—Fourfold restoration and branding; double restoration; branding and whipping; double whipping.<sup>27</sup>

*Wantonness (self pollution).*—A 20 pound fine and pillory.<sup>28</sup>

*Witchcraft.*—Loss of life.<sup>29</sup>

It will be seen by the above, which is almost confined to offenses committed before 1650, that there is no recorded instance of capital punishment before that year, except for witchcraft.

#### THE NEW HAVEN CODE OF 1656.

“Whether the Scriptures do hold forth a perfect rule for the direction and government of all men in all duties which they are to perform to God and men as well in the government of families and commonwealths as in matters of the Church”<sup>29</sup>—was the proposition propounded in 1639 to the first settlers of New Haven Colony. To this they agreed and the Mosaic Law became the basis of all legal measures, as in the case of Massachusetts Bay and Connecticut colonies. It is needless to suggest that the Code of 1656 was largely influenced by the codes of the latter.<sup>30</sup>

In dealing with the sanctions of this code all that will be necessary is to point out any striking differences between it and the Connecticut Code of 1650.

*Burglary and Robbery.*—The branding was on the hand and not on the forehead.

*Capital Laws.*—They were also fourteen in number. Rape here was not capital but was to be severely and grievously punished;<sup>31</sup>

<sup>23</sup>Ibid., 50, 140, 203, 173, 293.

<sup>24</sup>Ibid., 124.

<sup>25</sup>Riotous watcher. Ibid., 33.

<sup>26</sup>Ibid., 115, 142.

<sup>27</sup>Ibid., 110, 115, 143.

<sup>28</sup>Ibid., 45, 50.

<sup>29</sup>There were a number of trials for witchcraft. In 1647 at Windsor the first execution in Connecticut for this offense is considered to have taken place. Following that apparently nine others, out of a total of some nineteen brought to trial, were put to death on the same charge. For a good account of this see *The Witchcraft Delusion in Colonial Connecticut*, by J. M. Taylor.

<sup>30</sup>N. H. Col. Rec. I., 12. (2) Ibid., I., 146-7.

<sup>31</sup>The punishment intended was probably castration, since Levit. xxiv:19 was cited. For an opinion see Art. on “Whipping and Castration” by S. E. Baldwin in *Yale Law Journal* VIII, 381.

here, the slaying of a man in anger is a capital offense and also for a woman to commit bestiality—in other respects they are alike.<sup>32</sup>

*Heresy.*—Entailed fine or banishment. Not specified in the Code of 1650.

*Incest.*—According to the New Haven Code this was punished by death. Not specified in the Code of 1650.

*Inweigling.*—For this a fine imposed (from 40s. to 41s.) and other punishments. Not mentioned in the Code of 1650.<sup>33</sup>

*Profanation.*—To profane the Lord's Day in a proud, presumptuous way was a capital offense.<sup>34</sup>

A general summary of the penalties provided for in the New Haven Code is as follows:<sup>35</sup>

Offenses involving Capital punishment.....	18
Offenses involving branding.....	2
Offenses involving whipping.....	4
Offenses involving banishment.....	1
Offenses involving the pillory.....	1
Offenses involving the stocks.....	2
Offenses involving imprisonment.....	3
Offenses involving fine.....	17
Offenses involving the wearing of a halter.....	2

With respect to capital punishment the laws of New Haven were more severe than those of Connecticut. But its punishment for burglary and highway robbery on the Lord's Day was slightly more humane. Instead of the loss of ears and branding for the first two offenses, there was branding, the pillory, a severe whipping and the wearing of a halter. For the third offense, death was the penalty in each case. Two years later the New Haven Code was strengthened by a new law of heresy directed against the Quakers, "a cursed sect of heretics." A penalty of fifty pounds was imposed for bringing a Quaker into the colony, for corrupting others with their doctrine for the first offense a Quaker was to receive imprisonment and a whipping, and for offending again the branding on the hand of a letter "H" and imprisonment; the third offense involved branding on the other hand, imprisonment and whipping, and for a fourth

<sup>32</sup>For full list see N. H. Col. Rec. II. 576-7.

<sup>33</sup>The nearest approach is found in the dependent marriage law, Con. Col. Rec. I. 540.

<sup>34</sup>See Conn. Col. Rec. I. 524, Presumptuous behavior.

<sup>35</sup>These penalties are often applied in combination and occasionally the punishment for an offense is left undetermined.

offense, the tongue was to be bored through with a red-hot iron and in addition the offender was to suffer imprisonment and banishment.<sup>36</sup>

It will be observed in going through the early records of the Colony that there was a decided sentiment in favor of strict enforcement. Most of the cases which these records give us date prior to the codification of the law in 1656 and cover the general period from December, 1639, to May, 1662, or three years before the union with Connecticut colony. The following is a summary of the same:

*Adultery attempted.*—Complaining party and husband were severely whipped for not complaining earlier of attempts.<sup>37</sup>

*Bestiality.*—There were two convictions, one in 1641 and another in 1662. The penalty was death by hanging.<sup>38</sup>

*Drunkenness.*—Penalties were the stocks or a whipping.<sup>39</sup>

*Filthy Dalliance.*—The penalty, a severe whipping; in one case a whipping, a fine of 10 pounds and banishment.<sup>40</sup>

*Fornication.*—The penalty, a severe whipping; in one case enforced marriage.<sup>41</sup>

*House-breaking.*—The party was severely whipped and to prevent escape from parent a lock was placed on his leg.<sup>42</sup>

*Quakers, for Sympathizing with.*—In one case a fine of 30 pounds was imposed; in another, it was 5 pounds; and one party received a whipping.<sup>43</sup>

*Stealing.*—The guilty parties received severe whippings and were obliged to make double restitution.<sup>44</sup>

*Witchcraft.*—There was at least one execution for witchcraft recorded.<sup>45</sup>

This is sufficient to show that the laws were intended to be more than mere threatenings to keep the wicked in check. The New Haven code itself is harsher than that of the Connecticut Valley Colony, and the enforcement of the law appears to have been as a rule more rigid. Connecticut Colony, however, was more drastic in dealing with those accused of witchcraft.

<sup>36</sup>See N. H. Col. Rec. II., 238-41. Nothing so drastic appeared on the Connecticut statutes, and a law of the year 1660 afforded some relief. *Ibid.*, II, 303.

<sup>37</sup>Case of Goodwife Fancy. N. H. Col. Rec. I., 177, 233.

<sup>38</sup>*Ibid.*, I., 62-73, II., 439.

<sup>39</sup>*Ibid.*, I., 26. (4) *Ibid.*,

<sup>40</sup>*Ibid.*, I., 75, 77, 81.

<sup>41</sup>*Ibid.*, I., 88, 89.

<sup>42</sup>*Ibid.*, I., 89.

<sup>43</sup>*Ibid.*, II., 242, 291, 380, 413.

<sup>44</sup>*Ibid.*, I., 36, 89.

<sup>45</sup>N. H. Col. Rec. II, 78, 81. See also the *Witchcraft Delusion in Colonial Connecticut* by Taylor for additional facts. At least nine others were brought to trial.

## THE CODE OF 1784.

The code of the year 1673 showed an increase in the number of offenses involving mutilation as a penalty. But from this time on there can be noticed a tendency to soften some of the more extreme sanctions of the law. A comparison of the earlier codes with the one in force at the close of the colonial period will show that changes gradually were made. However, before doing this it would be well to illustrate somewhat the application of criminal law prior to 1784. This can be done through the records of the court of a justice of the peace at New Haven for the years between 1766 and 1770, inclusive. This court could only dispose of minor offenses which were dealt with as follows:<sup>46</sup>

*Drunkenness.*—By a fine of eight shillings and the stocks.

*Non-attendance at Church.*—By a fine of three shillings.

*Stealing.*—By a fine of two pounds and ten stripes.

*Swearing.*—By a fine of six shillings.

Burglary was dealt with in 1767 according to the law of 1650.<sup>47</sup>

In the earlier part of the eighteenth century a man convicted of mayhem was punished according to the principle of the *lex talions* and the court passed sentence of "membrun pro membro"—in this case castration.<sup>48</sup> This was repeated in 1783 when a man sentenced to death for rape was allowed to commute his punishment by submitting to this mutilation.<sup>49</sup> These punishments were carried out in spite of the fact that since 1672 a statute had been in force providing "that no bodily punishment shall be inflicted that is Inhuman, Barbarous or Cruel."<sup>50</sup> In fact, crimes of great seriousness which according to the records under consideration were practically unknown in the earlier days, alarmed the public from time to time in the eighteenth century.<sup>51</sup> Indeed, the Connecticut Journal of September 9, 1768, is led to demand more drastic laws covering such crimes as burglary and refers to "the lenitive laws of this colony, only prescribing for first and second offenses by whipping, cropping and branding." Executions were not common, as is shown by a statement of the Connecticut Journal of September 4, 1772, which was published

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<sup>46</sup>The Record Book of Jared Ingersoll, Ms. Yale Library. The great mass of evidence as to the application of criminal law during the first half of the eighteenth century is as yet inaccessible to the general student.

<sup>47</sup>For additional information see the Conn. Journal, Oct. 23, 1787.

<sup>48</sup>Conn. Col. Rec. VIII., 578. *Rex v. Barney*. See Yale Law Journal VIII., 381.

at New Haven. Commenting upon the execution of one Moses Paul for manslaughter some days past, it says that not since 1749 had there been in that community an execution. This same paper shows how attempted rape was punished toward the end of the colonial days. In its edition of May 6, 1774, there is an account of the punishment of a negro for attempting rape on an Indian girl. He was sentenced to sit on the gallows with a rope about his neck for one hour and to be whipped thirty-nine stripes at a cart's tail.

As was previously stated there was a tendency on the part of law makers to soften some of the more extreme sanctions of the law. There was an effort made to provide a punishment more in accord with the seriousness of the effect of the crime on the body social. This is shown by an examination of the Code of 1784, the principal sanctions of which are here summarized.<sup>52</sup>

*Adultery.*—No longer capital, but punished by whipping and the burning of a letter "A" on the forehead together with the wearing of a halter about the neck.

*Bigamy.*—Punished as adultery.

*Burglary and Highway Robbery.*—When attended with violence—death. Without violence, 40 stripes and not more than ten years in prison.

*Counterfeiting.*—A fine of one hundred pounds and twenty stripes with not more than ten years in the workhouse.

*Duelling.*—A fine of one thousand pounds for challenging, accepting or carrying a message.

*Forgery.*—Offender to stand in the pillory during three lecture days.

*Fornication.*—Punished by a fine of thirty-five shillings and not over ten stripes.

*Gaming.*—A fine of twenty shillings for playing cards, dice or tables.

*Horse Racing.*—The offender forfeited his horse.

*Incest.*—Those guilty to be sent to the gallows for one hour with a rope around the neck and the other end over the gallows, and on the way thence to the common gaol were to be severely whipped not

<sup>49</sup>Conn. Mss. Rec. in State Library under Crimes and Misdemeanors VI. 220, May, 1783. See Yale Law Journal VIII, 381.

<sup>50</sup>Stat. Ed. 1715, 99. See Yale Law Journal VIII, 381.

<sup>51</sup>Such crimes as homicides, burglaries and rapes. Referring to New Haven Colony, Prof. Baldwin says, "I find no record for any conviction for rape." See article referred to above.

<sup>52</sup>See the Acts and Laws of the State of Connecticut in America, published at New London, 1784.

<sup>53</sup>See Acts and Laws of Connecticut in 1784, pp. 206-10.

over forty stripes and wear forever in sight the letter "I". And in case the parties co-habit together they were to be treated as adulterers.

*Lasciviousness.*—Imprisonment or corporal punishment was provided.

*Lotteries.*—Forfeiture of goods for running one.

*Mountebanks.*—For performing in public there was a fine of twenty pounds.

*Manslaughter.*—The offender forfeited his goods, was whipped and the letter "M" was burnt upon his hand, besides there was a loss of civil rights.

*Murder.*—The penalty was death.

*Perjury.*—There was a fine of twenty pounds with six months' imprisonment, or one hour in the pillory with the ears nailed to the same, besides the loss of civil rights.

*Quakers.*—They were accorded freedom of belief.

*Rape.*—This offense was punished by death.

*Sabbath Breaking.*—Fines ranging from three shillings to ten pounds, were provided for various offenses, and those not paying were to be whipped not over twenty stripes.

*Stubborn Children.*—They were to be sent to the workhouse.

*Swearing.*—There was a fine of three shillings or the stocks.

*Theft.*—The penalty was threefold restoration, fine and whipping depending on the offense. Horse stealing entailed triple the value of the horse, a fine of ten pounds and four public whippings with three months' imprisonment.

*Treason.*—This was punished with death.

*Trespass.*—Fines of various amounts were inflicted with threefold value of damages. For trespass in disguise a whipping in addition was provided.

The relative use of the various penalties recognized in this code is illustrated as follows:

Offenses involving the death penalty.....	6
Offenses involving branding.....	3
Offenses involving mutilation.....	1
Offenses involving whipping.....	13
Offenses involving the stocks.....	1
Offenses involving the pillory.....	2
Offenses involving imprisonment.....	5
Offenses involving fine.....	11
Offenses involving forfeiture.....	3
Offenses involving badge of shame.....	3

As has been pointed out, there can be no exact figures as to the number of offenses which would entail one or another of the minor

penalties. For example, according to the Code of 1784, the following classes of offenders were ordinarily punished by confinement in the workhouse: rogues, vagabonds, jugglers, physiognomists, palmists, fortune-tellers, pipers, fiddlers, runaways, stubborn servants and stubborn children, pilferers, railers of brawlers, revelers, profane people, idlers, spendthrifts, thieves as well as distracted people.<sup>53</sup> The exact number of offenses which might either wholly or partially be met by a fine would be impossible to state.

It will be noticed that in the intervening century and a third between the early codès that have been studied and the present one certain offenses have lost their significance and new ones have appeared in their place. Of the fourteen capital offenses, idolatry, witchcraft, blasphemy, bestiality, sodomy, adultery, kidnapping, false testifying, the cursing of a parent and stubbornness of a child, have either entirely passed out of the Code of 1784, or are considered as minor offenses. The keeping of bachelor house and the entertainment of a young man without leave of the town are no longer prescribed, while inveigling, heresy and the use of tobacco have come in for legal toleration. The generation of Revolutionary days seemed to have been especially concerned over the rather sporting propensities of the people and this introduces much new legislation. Duelling, horse racing, lotteries, juggling, fortune-telling, dice, cards, tables, bowls, billiards, coytes, keils and loggets find no places in the laws of 1650 and 1656. While burglary when attended with violence is made a capital offense in the later code and counterfeiting makes its appearance with penalties attached, yet on the other hand profaning the Lord's Day presumptuously and committing incest, both of which were capital offenses in the New Haven Code, were in the one case punished by a fine of twenty shillings in 1784, and in the other, by public humiliations and a whipping. Moreover, in the days of the Revolution a man might drink more than one-half pint of wine at one time and tipple for more than one-half hour, as far as the law was concerned—just so that he did not become drunk; and if he told a lie over his cups he would not be in danger of a fine, the stock or a public whipping, as had been the case with his forebears of the year 1650.

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