Legal Blues

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CURIOSITIES OF THE LAW

THE LEGAL BLUES

From time to time, legislative assemblies have frequently given us something to feel blue about. The Anti-Tobacco League gained such a prestige in Kansas that they were able to make the sale of cigarettes unlawful; small town councils have closed their movie houses and so on until nearly every state has some blue law or other. Puritanical legislation is ever before the state assemblies and people are often prone to wonder just where it will all end. Some have predicted that before another century has rolled around narrow minded reformers will have so regulated personal liberty that our statutes will resemble those of the eighteenth century. But no! That will never be. A mere glance at some of the laws of our forefathers will convince us of that. Let us draw aside the curtain that hides the events of centuries and see just how blue the bluest of laws have been.

A law of Virginia entitled: "A Law to Punish Babbling Women", was enacted by the General Assembly in 1662 ("Condensed America"—Dillon). It asserted, that as many babbling women slander their neighbors, thereafter in actions of slander occasioned by them, women shall be punished by ducking. In the event that the slander was so enormous as to be judged at greater damages than five hundred pounds of tobacco, the woman suffered ducking for each five hundred pounds adjudged against her husband if he refused to pay. Imagine the dismay that such a law would cause today. Most of our fair sex believe in the old chinese adage, "Hear no evil, see no evil, speak no evil, and you will be a very poor conversationalist". The teas and luncheons of our various woman clubs would be somewhat unlawful to say the least and the expense of the construction and maintenance of sufficient ducking pools would far out weigh our city treasuries. Perhaps though, the law could be modified so as to read that damages could be paid in a certain number of cartons of the ladies' cigarettes. That would be much more economical as scientists tell us that a camel holds a nine day supply of water.
How it would hurt the pride of some society matrons to be publicly ducked because they dared to mention that Mrs. So and So, was getting a divorce from her husband.

Speaking of pride, the early colonists had to mention that word in a whisper. It was in 1675 that Massachusetts passed a law relating to that specific thing (Mass. Statutes 1675). It decreed that as there was manifest pride openly appearing amongst them, in that long hair, like women's hair, was worn by some men and some women were cutting, curling, and immodestly laying out their hair, that the county courts should proceed against such delinquents. How times have changed! Men abandoned using women as a model of hair dress years ago but the old saying that history repeats itself has come into its own again. Instead of woman being mans' model, however, the flapper has had her hair cut to resemble that of a man. As to women immodestly laying out their hair, we wonder how the early legislatures would rule as to the wind blown bob, the pineapple bob, the he-man bob, the shingle bob and the various other bobs that have come to the fore. To be sure, the lawyers would have to be pointing out many hair line distinctions before the several courts.

That would be an ungrateful job, too, when we consider that they would receive absolutely no compensation at all for their services if a certain Virginia law against mercenary attorneys were in effect. The Virginia Grand Assembly in 1658 legislated that: "Whereas there doth much charge and trouble arise by admittance of attorneys and lawyers through pleading of causes thereby to maintain suits in law, to the great prejudice and charge of the inhabitants of this colony, for prevention thereof, be it enacted by the authority of this present Grand Assembly, that no person or persons whatsoever within this colony, either lawyers or any other, shall plead in any court of judicature within this colony, or give counsel in any case or controversy whatever, for any kind of profit or reward whatsoever, either directly or indirectly, upon the penalty of five thousand pounds of tobacco upon every breach thereof." (Virginia Statutes 1658.) If such were the law today, our learned jurists would have to take to bootlegging or some other profitable occupation in order to maintain a livelihood. Seemingly, the only real mercenary business of that day was that of selling tobacco. No doubt tobacco sales-
men frequented the court room in much the same manner that professional bondsmen do today.

Another oddity of the colonial period had to do with the retrenching of extraordinary expense at funerals. (Dillon's Oddities.) It was Massachusetts who believed that the giving of scarfs, gloves, wine, rum, and rings at funerals was a great and unnecessary expense and in 1741 legislated against the practice. From then on a rather dead time was had by all. No doubt there were many who mourned the passing of the wakes were spirits ran rampant.

It is not known as to whether or not the Massachusetts statute of 1633 pertaining to idle persons was aimed at public officials or not but, nevertheless, the lawmakers of that state did legislate against spending one's time idly. The text of the law stated: "It is ordered that no person, householder or other shall spend his time idly or unprofitably under pain of such punishment as the county court shall think best to inflict.

Possibly, it was in order to avoid being indicted and charged with idleness that many of the legislatures of the several states busied themselves with the passage of laws that are blue labeled oddities today. Among them were measures pertaining to witches, traveling on Sunday, playing sports on the Sabbath and so on.

Is it the same motive that impels our modern reformers to dictate that it should be unlawful to engage in many innocent pleasures? Will they tell us in time that a man can not kiss his wife, a dog can not bark, the baby can not cry nor tired business men engage in a friendly game of . . . . chess? We sincerely hope not.

—WILLIAM F. CRAIG