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THE HISTORY
OF
COMPULSORY EDUCATION
IN
NEW ENGLAND

*A Dissertation presented to the Faculty of Arts, Literature, and
Science of the University of Chicago, in Candidacy
for the Degree of Doctor of Philosophy*

BY
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THE HISTORY OF COMPULSORY EDUCATION IN NEW ENGLAND

CHAPTER I.

INTRODUCTORY : THE ORIGIN OF MODERN COMPULSORY EDUCATION, AND THE PROGRESS OF UNIVERSAL EDUCATION AND THE PRINCIPLE OF COMPUSSION IN THE SIXTEENTH CENTURY.

MODERN compulsory education has its origin in the Reformation.* The making of man responsible for the religious "faith that is within him" put upon each one the obligation of reading and understanding the Bible for himself. It made the education of the people, among all branches of the Protestant faith, a religious duty to be as carefully and conscientiously performed as any other duty contained in the religious creed they had accepted. This explains the great attention that Luther and Calvin, the chief exponents of the Protestant reform, gave to the establishment of schools for the people. During the remainder of Luther's life after his revolt from Rome, he advocated universal education and urged the establishment of schools for the masses. While he believed "the church is the mother of the school," he urged the establish-

* In the sixth year of the reign of James IV of Scotland (1494), a statute ordered all barons and freeholders to put their sons and heirs at school "from six or nine years of age and keep them there until they should have perfect Latin under a penalty of £20." After that they were to study Philosophy and Law for three years. This statute was not universal in its application; it applied only to the upper classes. In this respect it differs from present day legislation on this subject. Macpherson's "Annals of Commerce," Vol. II., p. 7. See also, "Historical Survey of Education in Scotland Prior to the Establishment of the Present System," in Report of Commissioner of Education, 1889-90, Vol. I., p. 217.

ment and support of schools by municipalities. In 1524, in an address on this subject to the mayors and aldermen of Germany he says: "Dear rulers, if we must spend so much yearly upon artillery, roads, bridges, dykes, and innumerable other things of the same kind, in order that a city may have temporal peace and tranquillity, why should we not spend as much on the poor, needy youth, that we may support an able man or two for school-master?"* He not only urged the establishment of schools by every city and village for the sake of the mental and moral training of the youth, but he urged such a course as a duty the municipality owed to itself. He believed that the safety, strength, and perpetuity of municipalities depended more on the schools they established than on their armies and fortifications. In the address which has just been quoted he emphasizes this belief in no uncertain language. "Therefore it is becoming," he says, "for the council and the magistrates to have the greatest care and diligence for the youth. For since the good, the honor, the life, and the activity of a great city is committed to their faithful hands, they do not act justly before God and the world when they do not seek the prosperity and improvement of the city with all their power, night and day. Now a city's prosperity lies not alone in accumulating great treasures, producing strong walls, beautiful houses, and munitions of war; indeed where there is much of this, and reckless fools come into power, it is so much the worse, and of greater detriment to the city. But this is the best and richest increase, prosperity, and strength of the city, that it has many polished, learned, judicious, honorable, and well-bred citizens; who when they have been able to accumulate treasures and great

* An die Bürgermeister und Rathsherren aller Städte Deutschlands, dasz sie christliche Schulen aufrichten und halten sollen.

"Liebe Herren, musz man jährlich so viel wenden an Büchsen, Wege, Stege, Dämme, und dergleichen unzählige Stücke mehr, damit eine Stadt zeitlichen Frieden und Gemach habe; warum sollte man nicht vielmehr doch auch so viel wenden an die dürstige arme Jugend, dasz man einem geschickten Mann oder zwei zu Schulmeistern hielte?"—*Dr. Martin Luther's reformatorische Schriften von Dr. Karl Zimmermann (Darmstadt, 1847), Zweiter Band, Seite 517.*

wealth may keep and use them rightly.”* Again, in a letter to John the Constant, who had succeeded his brother Frederick the Wise as elector in 1525, he says: “Where there is a city which has the ability, your electoral grace has the power to compel [the people] to support schools, pulpits, and parishes. If they will not do it for their salvation, then consider that your electoral grace, as highest guardian of the youth and of all others needing supervision, shall compel them to do so, just as they are compelled to give and render services toward bridges, paths, and roads, or other matters pertaining to the public interest.”†

His plans for universal education did not end with the establishment and support of schools by municipalities. In his sermon on the “Duty of Sending Children to School,” he maintains that it is both the right and the duty of the state to enact laws compelling parents to send their children to school. “I maintain,” he says, “that the civil authorities are under obligations to compel the people to send their children to school.

If the government can compel such citizens as are fit for military service to bear spear and rifle, to mount ramparts, and perform other martial duties in time of war, how much more has it a right to compel the people to send their children to school, because in this case we are

* “Darum will es hier dem Rath und der Obrigkeit gebühren, die allergrösste Sorge und Fleiss auf das junge Volk zu haben. Denn weil der ganzen Stadt Gut, Ehre, Leib, und Leben ihnen zu treuer Hand befohlen ist, so thäten sie nicht rechtlich vor Gott und der Welt, so sie der Stadt Gedeihen und Besserung nicht suchten mit allem Vermögen Tag und Nacht. Nun liegt einer Stadt Gedeihen nicht allein darin, dasz man grosze Schätze sammle, feste Mauern, schöne Häuser, viele Büchsen und Harnishe zeuge; ja, wo desz viel ist und tolle Narren darüber kommen, ist so viel desto ärger und desto grörszern Schade derselben Stadt, sondern das ist einer Stadt bestes und aller reichstes Gedeihen, Heil und Kraft, dasz sie ist so viel feiner, gelehrter, vernünftiger, ehrbarer, wohlgezogener Bürger hat, die können darnach wohl Schätze und alles Gut sammeln, halten und recht brauchen.”—*Ibid.*, Seite 521.

† “Wo eine Stadt oder Dorf ist, die des Vermögens sind, hat G. E. F. G. Macht sie zu zwingen, dasz sie Schulen, Predigtstühle, Pfarren halten. Wollen sie es nicht zu ihrer Seligkeit thun, noch bedenken, so ist G. E. F. G. da, als oberster Vormund der Jugend und Aller die es bedürfen, und soll sie mit Gewalt dazu halten, daszu sie es thun müssen; gleich als wenn man sie mit Gewalt zwingt, daszu sie zur Brücken, Steg, und Weg, oder sonst zufälliger Landesnoth geben und dienen.”—*Schreiben an den Kurfürsten Johannes, 22sten November, 1526. Zimmermann, Dritter Band, Seite 193.*

warring with the devil, whose object it is secretly to exhaust our cities and principalities of their strong men."*

Besides the establishment of schools, he urged the formation of libraries. "Finally," he says, "it is well for all those, who have so much love and desire, that schools and studies be established, and sustained in Germany, to keep in mind that we must spare no trouble nor expense to furnish good libraries, especially in great cities, where such are possible. For if the Gospel and all the arts are to remain, they must indeed be enclosed and bound up in books and writings."† These libraries were not to include the writings of the school-men and the church fathers merely, but also the works of every great writer, whether pagan or Christian.

The labors of Luther in behalf of universal education bore much good fruit from their beginning. In 1524 Duke John of Gotha granted a petition of the council, the parish, the dean, and the court, declaring for the Reformation. This was on Tuesday of Whitsuntide, and in August of the same year Frederick Myconius, Luther's intimate friend, was made evangelical minister and superintendent of the duchy. In this year appeared Luther's address to the mayors and aldermen of Germany. Myconius considered it one of his principal duties to care for the schools. He fused those already in existence in Gotha into one, and established the new school thus formed in the convent of the Augustinians.‡ This was no easy task. Myconius himself says, "Schools and studies were

* This sermon is not given in the edition of Luther's writings that I have used. The quotation is taken from "Luther on Education," by F. V. N. Painter, A.M. (Philadelphia, 1889), p. 269.

† "Zum letzten ist auch das wohl zu bedenken allen denjenigen, so Liebe und Lust haben, dasz solche Schulen und Sprachen in deutschen Ländern aufgerichtet und erhalten werden, dasz man Fleisz und Kosten nicht spare, gute Libereien und Bücherhäuser, sonderlich in den grössten Städten, die solches wohl vermögen, zu verschaffen. Denn so das Evangelium und allerlei Kunst soll bleiben, musz je in Bücher und Schriften verfasst und angebunden sein."—*Zimmermann, Zweiter Band, Seite 536.*

‡ Dr. Henry Barnard in speaking of this school calls Myconius "the founder of the gymnasium." See "Systems, Institutions, and Statistics of Public Instruction in Different Countries," by Henry Barnard, LL. D. (New York, 1872), Part I, "Europe—German States," p. 575.

utterly despised by the mob, and it would be much easier to find ten ready to storm and destroy a school, than one or two willing to help in building one." * In speaking further of the magnitude of his labors he says: "Nobody would believe what an immense amount of labor is required to build a new house with warped and rotten wood. Oh, how long have we been compelled to work against the stream and to fetch everything from out of the fire. Now, God help us, that it may be preserved to our posterity." † When he had completed the organization of the town schools, he placed a rector, M. Monerus, at their head. Then he turned his attention to the establishment of elementary schools. This too was due to Luther's influence. In 1527 Luther had written a letter to the ministers asking "that they should read the catechism to the children and servants every Sunday afternoon at church, and hear them recite." It was comparatively easy for the ministers of the towns to satisfy these demands. But in the country where they had in charge numerous chapels scattered over a wide territory, they were able to give but little attention to the young. To overcome this difficulty and to comply with Luther's wishes, a substitute for the minister was found in his clerk or sacristan. In this appointment of the minister's clerk to take charge of the education of the youth, we have the beginning of the common schools in Gotha.

In Thuringia, also, Luther's labors brought speedy and desired results. Here the propagandist of universal education was Philip Melancthon, ‡ as in Gotha it had been Myconius. Like Myconius, Melancthon was an intimate friend of the great reformer. He was a man of great learning and of much mental acuteness. In 1527, through the influence of Luther, John the Constant appointed him to visit and examine the schools of Thuringia. He traversed the

* *Ibid.*

† *Ibid.* Quoted there from Myconius' "History of the Reformation," p. 54.

‡ His name was originally Schwarzerd (black earth), of which Melancthon is a Greek translation.

whole of this territory with Myconius and Justin Jonas. The results of his investigations were embodied in his "Book of Visitation," which was published in the following year by the order of the elector. These labors of Melancthon had much significance in the further development of the educational ideas of the Reformation. Out of them grew the "Saxony School-Plan," which afterwards became the educational system of most of the Protestant states of Germany. It demanded of the pastors that they should admonish the people of their charge on the necessity of sending their children to school that they might be trained "to teach sound doctrine in the church, and to serve the state in a wise and able manner."

There can be no doubt that this plan of Melancthon was based on one prepared by Luther four years earlier. In 1524 Luther wrote to Spalatin saying, "I send you my sketch of the school as it should be, that you may lay it before the elector; and though I do not expect that much heed will be given to it, yet I must venture, and leave the issue with God."* Melancthon himself says in a letter to Camerarius on the subject of his "Book of Visitation," "You will see that I have written nothing more than what Luther has prompted."†

The influence of Melancthon's labors did not end with the organization of schools under the Saxony plan. The "Book of Visitation" was the means of the establishment of an "Evangelical Church System" which in matters of ecclesiastical doctrine and government asserted its own authority independently of the papacy.‡

One of the most important laws of this century was that given by

* "Luther's Views of Education and Schools." From the German of Karl von Raumer. *Barnard's Journal of Education*, Vol. IV. (1858), p. 442.

† *Ibid.* In a foot-note Von Raumer says, "Luther's plan, above referred to, I have never seen, nor is it, so far as I am aware, on record. That Melancthon, however, essentially agrees with it we have abundant cause to conclude."

‡ Barnard's "Systems, Institutions, and Statistics of Public Instruction in Different Countries," Part I., "Europe—German States," p. 535.

Duke Christopher of Würtemberg in 1599. In that year he gave the first permanent regulations for the education of the common people. Universal education was not only provided for, but insisted upon. Pastors were required to admonish the parents of their congregations twice each year upon the duty and the necessity of sending their children to school. Besides this, the schoolmasters were required to keep a register of all the boys in the district according to the classes to which they belonged. At the close of each recitation they were required to call this roll, and if the absentees were not able to give satisfactory excuses "they were fined according to their deserts." These provisions were looked upon with favor by other districts of Germany, and in some instances laws of a similar nature were passed.* Nearly half a century before these provisions for the education of the common people were made, secondary schools were established throughout the duchy by the authority of the state.† May 15, 1559, Duke Christopher issued what is called the "Grand Ecclesiastical Order." The purpose of this order as stated in the preamble was "to carry youths from the elements through successive grades to the degree of culture demanded for offices in the church and in the state."‡ This order received the sanction of the Diet in 1565, and with some modifications remained in force till 1803. As a result of this order, there were in Würtemberg, in 1607, forty-seven Latin schools (*Lateinische Stadt-Schulen*) and eighteen cloister schools in operation.||

Wherever the Reformation spread, plans for universal education accompanied it. In 1542 the organization of the ecclesiastical

* *Ibid.*, p. 564. See also article on "Compulsory Education," by Prof. E. J. James in Lalor's "Cyclopædia of Political Science, Political Economy and the Political History of the United States," Vol. II.

† The same is true of other parts of Germany. According to Mr. George H. Martin, "A school law was adopted and schools opened in Brandenburg before 1540; in Wittenberg in 1559; in Saxony in 1560; in Hesse in 1565." "The Evolution of the Massachusetts Public School System," by George H. Martin, A. M. (New York, 1894), p. 20.

‡ Barnard, p. 709.

|| *Ibid.*, p. 710.

state of Geneva was begun. In the ordinances given by Calvin on January 2 of that year, four orders of officers are named—pastors, teachers, elders, and deacons.* Provisions were made for the instruction of the people and the training of the children. Education was made universal, and so far as Calvin was able to realize his plans in this direction it was obligatory.†

In 1560 the Protestants of France took up the cause of universal education. In that year the States-General of Orleans sent to the king the following memorial: "May it please the king to levy a contribution upon the church revenues for the reasonable support of teachers and men of learning in every city and village for the instruction of the needy youth of the country; and let all parents be required, under penalty of a fine, to send their children to school, and let them be constrained to observe this law by the lords and ordinary magistrates."‡ Reasonable and just as were these recommendations, they did not meet with the approval of the king. Eleven years later on the recommendation of the queen, Jeanne d'Albret, the Estates of Navarre passed a law making primary instruction compulsory. Probably this was borrowed from Geneva. Queen Jeanne was a zealous Calvinist, and Calvin himself wrote to her at times concerning the affairs of her government.

What Calvin did for education in Geneva, John Knox attempted to do in Scotland. "The First Book of Discipline, prepared under Knox's direction in 1560, ordained that every several kirk should have one schoolmaster appointed, able to teach grammar and the Latin tongue; this if the town is of any reputation. In the upland towns the minister is to take care of the children and instruct them in the first rudiments and in the catechism."|| It

* "The Period of the Reformation, 1517-1648," by Ludwig Häusser (New York, 1873), p. 250.
 "History of the Reformation," by George P. Fisher, D.D. (New York, 1873), p. 217.

† "Education in the United States," by Richard G. Boone (New York, 1889), p. 6.

‡ "The History of Pedagogy," by Gabriel Compayré. Translation by W. H. Payne, A.M. (Boston, 1886), p. 120.

|| Martin, p. 20. Cited there from the Works of John Knox, Laing (Edinburgh, 1848), Vol. II., p. 183.

seems that but little if any assistance was given to Knox by the civil authorities in his endeavors to establish schools. Not till 1633 was there a legal enactment for the establishment of schools. In that year it was ordained by parliamentary legislation "that a school should be established in every parish, and that the lands be assessed for that purpose."*

Early in the history of the Reformation, Protestant Holland attained a higher standard of education for the masses than had been realized elsewhere. In speaking of the institutions of Antwerp, Motley says, "The schools were excellent and cheap. It was difficult to find a child of sufficient age who could not read, write, and speak at least two languages."† Again he says: "The standard of culture in those flourishing cities was elevated, compared with that observed in many parts of Europe. The children of the wealthier classes enjoyed great facilities for education in all the great capitals. The classics, music, and the modern languages, particularly the French, were universally cultivated. Nor was intellectual cultivation confined to the higher orders. On the contrary, it was diffused to a remarkable degree among the hard-working artisans and handicraftsmen of the great cities."‡

The progress of the Reformation brought with it greater zeal for the education of the masses, and before the close of the sixteenth century there had been established a system of schools fostered by the state. A resolution was passed in the first Synod of Dort in

* *Ibid.*, p. 21. Report of Commissioner of Education, 1889-90, Vol. I., p. 221.

† "The Rise of the Dutch Republic," by John Lothrop Motley (New York, 1875), Vol. I., p. 84.

‡ *Ibid.*, p. 26. Prof. Ludwig Häusser says: "Besides the universities, there were everywhere excellent schools, which had more thoroughly imbibed the modern humanistic spirit than any others, and that culture extended even among the people. 'There was no country,' says a contemporary historian, 'where learning and culture prevailed so widely as among us; even in the Frisian fishermen's huts you might find people who could not only read and write, but discussed scriptural interpretations as if they were scholars.' Even if this is an exaggeration, it is well known that amidst their material prosperity a real desire for mental culture had spread among the lowest classes of the people. Friends and foes bear witness that in these countries the conditions of material and mental prosperity were combined to a rare extent."—*The Period of the Reformation*, p. 288. See also, "History of the Reformation," by George P. Fisher, pp. 285-6.

1574 urging "the servants of the church" to obtain permission from the magistrates to appoint schoolmasters in every locality.* A more advanced step was taken by Friesland in 1582. There it was decreed by the Estates that "the inhabitants of towns and villages should within the space of six weeks provide good and able Reformed schools-masters, and those who neglected so to do would be compelled to accept the instructors appointed for them."† In the year following a law was passed in Zealand insisting upon education because "it is the foundation of the commonwealth."‡ In 1586 the Synod attempted to make schools universal. Then it was ordered "that the consistories or assemblies of ministers and elders of the church should take care that schools should be everywhere provided with good schoolmasters to instruct the children of all classes of persons in reading, writing, rhetoric, and the liberal arts as well as in the doctrines of religion and the catechism of the church."|| By 1609, the year in which the Puritans took up their residence in Leyden, schools for the people had become municipal institutions which were paid for as were other expenses of the municipalities.§

In England the state did but little for the cause of universal education during this period. The magnificent results achieved by the labors of Luther, Melancthon, and other reformers of Protestant Germany are in marked contrast with those accomplished by the labors of Erasmus, Colet, and More in England. Almost nothing was accomplished during the first half of the sixteenth century. At the beginning of the reign of Henry VIII., the Oxford reformers had hoped and looked for a reawakening of the people through schools established for them. But Henry did but

* "The Puritan in Holland, England, and America," by Douglas Campbell (New York, 1892), Vol. II., p. 340.

† *Ibid.*

‡ Boone, p. 3.

|| Martin, p. 20.

§ Campbell, Vol. II., p. 342. See also article by A. S. Draper in *Educational Review* (New York), for April, 1892.

little toward establishing schools. During his entire reign of thirty-six years, he founded but ten grammar schools. Twenty-seven were established by Edward VI., and thirty between Mary and Elizabeth.* When the Reformation was considerably advanced, Cranmer formulated a scheme for the founding of schools of every grade in connection with new cathedrals which he hoped would be established. It was a part of his plan to use the revenues from the monasteries for this purpose. But the spoils of the monasteries went into other hands, and his plans were far from realized.† The Reformation and that great intellectual movement which accompanied it, both as cause and as effect, gave through private charity the facilities for education which the state had failed to provide. In all, two hundred and fifty grammar schools were established by the state and private donations during the period of the Reformation. But these schools did not furnish the primary instruction which the people needed. They were higher schools and corresponded to the *Lateinische Stadt-Schulen* established by Duke Christopher in Würtemberg. Probably these schools accomplished the object which the leaders of the movement had in view when they established them. They undoubtedly did if that object was the furnishing of the means of education beyond primary instruction to the middle classes. But if they also had in view provisions for the intellectual training of the poor, then in that respect they must have failed. What this class needed was primary instruction, and the Reformation was far advanced before schools giving such instruction were established, and then only by private benefice.‡

Such was the origin of modern compulsory education, and such the progress that universal education and the principle of compul-

* "The State in its Relation to Education," by Henry Craik, M.A., LL.D. (London, 1884).

† For an account of the destruction of the monasteries see "The Early Tudors," by Rev. C. E. Moberly. A.M. (New York, 1889), pp. 193-199. See also "History of the English People," by John Richard Green, Vol. II., pp. 158 and 181.

‡ Craik, p. 6.

sion had made at the end of the sixteenth century The great movement which began with Luther's breaking the ecclesiastical shackles which Rome had placed on the Christian world had transferred from the church to the state all matters pertaining to the instruction of the youth.* That principle maintained so strenuously by Luther, that the city or state for its own safety must establish schools for all the people, and compel the attendance of the youth upon them if necessary, had won the battle so far as it then had been waged. The next victory for the cause of universal education and the principle of compulsion was won on the American continent by the New England Puritans.

* Barnard, p. 709.

CHAPTER II.

THE PRINCIPLE OF COMPULSION IN NEW ENGLAND.

1620-1800.

THE Puritans of New England belonged to that middle class in the home country who have made England what it is to-day. They were not ignorant men driven to the wilds of America by poverty. On the contrary, many of the earliest settlers—the men who shaped the destinies of the settlements—were men of ability who had been trained in the schools and universities of England. No inconsiderable number of them had been large land-holders. Others had been prosperous merchants having independent fortunes. With them had come professional men from the Inns of Court and the offices of physicians. The ministers of the Gospel who accompanied them, with few exceptions, were men of learning and of more than ordinary ability. Nearly all of them had been educated at the Universities of Oxford and Cambridge, and had been regularly ordained as clergymen in the Church of England, but for non-conformity had been deprived of their rectorships. They were acquainted with the best theological literature of their time, especially that produced by Protestant writers. Indeed, their scholastic attainments were of such high order that Prof. John Fiske thinks they were able to use both the Old and the New Testament in their original tongues.* The clergymen, and not infrequently the settlers themselves, brought with them their private collections of books, “which the impulse of the true scholar, to impart to others the knowledge he has gained, afterwards united in

*“The Beginning of New England” (Boston, 1889), p. 150.

foundations whence have since arisen the splendid libraries of Yale and Harvard." *

Generally, the settlers were men of lofty character, possessing a high order of intelligence. They were men of thrift and industry. They were preëminently religious, and had an abiding faith in the Calvinistic doctrines they had espoused. Their wives were educated women and their children had not been deprived of instruction. "Probably," says Victor M. Rice, "no such a body of intelligent, religious, moral, and energetic men ever before left their native seats to found new colonies, since the Greeks went forth to found Syracuse and Marseilles." †

Driven from their native land by religious and political persecutions, it was but natural that they should early provide for the perpetuation of those principles and doctrines for which they had sacrificed so much. They had given up home, kindred, and native land, and come to a region wild and uninhabited save by savages. Even here, amidst physical dangers, they regarded ignorance as their worst enemy. It was the covert of the papacy and of every form of political despotism. And as Luther, a century before, had based the safety and strength of a city in an educated citizenship, so these early Puritans believed that the only security possible for the commonwealth they had founded, and the only means by which the political and religious principles which they represented could be preserved to posterity was in popular instruction. Accordingly, as early as July 20, 1629, the Rev. Francis Higginson, an alumnus of Cambridge University, was appointed teacher to the congregation at Salem. Four years later the Rev. John Cotton, who had also been educated at Cambridge, and who before coming to America had acquired a reputation for ability and learning, was chosen as teacher to the congregation of the First Church in Boston.

* "The Development of Constitutional Liberty in the English Colonies of America," by Eben G. Scott, p. 88.

† "Special Report on the Present State of Education in the United States and Other Countries and on Compulsory Education" (Albany, N. Y., 1866), p. 66.

In 1635 Boston took a more advanced step and made provision for a public school. At a public meeting held April 13 of that year it was voted "that our brother Philemon Pormant shall be entreated to become schoolmaster for the teaching and instruction of children with us." * A tract of thirty acres of land was assigned to Mr. Pormant, which is now believed to be a part of Brookline. † Pormant, however, soon attached himself to the Antinomians and went to Exeter with Wheelwright. The Rev. Daniel Maude succeeded him as teacher. For his maintenance a subscription of fifty pounds was made. Of this sum Winthrop, Vane, and Bellingham each contributed ten pounds. ‡

However, as the immigrants increased in numbers and the settlements pushed further on the wilderness, it became evident that provisions should be made for the instruction of the youth more adequate and definite than that already provided. On June 14, 1642, the following order was passed by the General Court: "For as much as the good education of children is of singular behoof and benefit to any commonwealth, and whereas many parents and masters are too indulgent and negligent of their duty in that kind,

"It is ordered that the selectmen of every town in the several precincts and quarters where they dwell, shall have a vigilant eye over their neighbors, to see first that none of them shall suffer so much barbarism in any of their families, as not to endeavor to teach, by themselves or others, their children and apprentices so much learning as may enable them to read perfectly the English tongue and to get knowledge of the capital laws, upon penalty of twenty shillings for each neglect therein." ||

Five years later, November 11, 1647, that well-known law was

* "The Memorial History of Boston"—essay by Hon. Robert C. Winthrop, LL.D., entitled "Boston Founded"—by Justin Winsor, Vol. I., p. 123. See also "Free Schools in Colonial Times," by William F. Pillsbury in *The Public School Journal*, Vol. XII., p. 286.

† *The Public School Journal*, Vol. XII., p. 286.

‡ "History of New England," by John Gorham Palfrey (1860), Vol. II., p. 47. See also Winsor's "Memorial History of Boston," Vol. I., p. 123.

|| Records of Massachusetts Colony, Vol. I.

passed beginning, "It being one chiefe project of yt ould deluder, Sathan, to keepe men from the knowledge of ye Scriptures, as in an unknown tongue, so in this latter time by perswading from ye use of tongues, yt so at least ye true sence and meaning of ye original might be clouded by false glosses of saint-seeming deceivers, yt learning may not be buried in ye graves of o^r fathers in ye church and commonwealth, the Lord assisting o^r endeavors."*

Then follows the order that every town numbering fifty householders shall appoint one of the community to teach the children to read and write. It was further ordered that whenever a town should increase to one hundred house-holders a grammar school should be established to fit the youth for the university. The failure of any town to comply with the regulations of this statute was to be punished by a fine of five shillings to be paid to the nearest school until the order was obeyed.†

The grade of the grammar schools instituted by this statute is revealed to some extent in the requirements of admission to Harvard College at that time. As stated in the "laws, liberties, and orders of Harvard College," then in force, candidates for admission were required to give evidence of ability "to read Tully, or such like classical author *extempore*," to speak and write Latin in both prose and verse, and to decline the Greek paradigms of nouns and verbs.‡

Some of the towns failed to meet these requirements. To secure the establishment of grammar schools in all towns having one hundred house-holders, the General Court in May, 1671, doubled

* *Ibid.*, Vol. II., p. 203.

† In these statutes of 1642 and 1647, we have the beginnings of the Massachusetts school system. This system was sustained for nearly two hundred years by the people with little or no aid from the state. It was not until 1834 that a statute was passed providing for a state school fund. "The fund was to consist of all money in the treasury derived from the sale of lands in the state of Maine, and from the claims of the state on the United States for military services, and half of all money thereafter to be received from the sale of Maine lands, the fund not to exceed a million dollars."—*The Evolution of the Massachusetts Public School System*, by George H. Martin (Boston, 1894), p. 154.

‡ Rice's Report, p. 67.

the penalty for failure to comply with the statutes.* Twelve years later an addition was made to the law requiring all towns of five hundred families or more to establish and maintain two grammar schools and two writing schools.†

Before the union with Massachusetts colony in 1691, very little had been done by Plymouth colony in the way of establishing schools. Soon after the Massachusetts statute of 1647 was passed, similar provisions were made by Plymouth. This law seems to have been a dead letter, for as late as June, 1674, there was but one public school in the colony. This was at Plymouth.‡ In 1663 an order was passed by the General Court recommending the several townships of the colony to take steps toward the organization of 'schools.¶ The recommendation availed little, if anything. Ten years later the General Court passed a more effective order. It was then ordered that the thirty-three pounds a year which were necessary to defray the expenses of the free schools of the colony should be paid from the profits of the fishing at the cape. But this order was provisional in its nature. It was to continue in force only as long as it was necessary for the court to learn "the minds of the freemen concerning it."§ The order met with the approval of "the freemen," and at the meeting of the court in the next year it was confirmed.¶¶

At the meeting of the court in November, 1677, provisions were made for the establishment of grammar schools. Every town having fifty families or more was to establish a grammar school; and all towns of seventy or more families not having such schools

* Colonial Records of Massachusetts, Vol. IV., Part II., p. 486. See also article entitled "Early Legislation in Massachusetts," *North American Review*, Vol. XLVII., p. 279.

† Colonial Records of Massachusetts, Vol. V., p. 414.

‡ "An Historical Memoir of the Colony of New Plymouth," by Francis Baylies (Boston, 1866), Vol. I., Part II., p. 93.

¶ Records of Plymouth Colony, 1623-1682, p. 211.

§ *Ibid.*, p. 233.

¶¶ *Ibid.*, p. 237.

were required to pay the next town that had complied with the provisions of the statute the sum of five pounds.*

When the union was effected the laws of Massachusetts colony superseded those of Plymouth. This was brought about by a province law passed in 1692 which reënacted all of the colonial statutes of Massachusetts excepting that of 1683. This province law continued in force without change till 1702, when it was modified by a statute fixing the penalty for failure to establish a grammar school at twenty pounds per annum. The penalty was again increased in 1718. Upon towns of one hundred and fifty families it was raised to thirty pounds. It was increased ten pounds for towns of two hundred families; and raised in the same proportion for towns of two hundred and fifty and three hundred families.†

With some slight modifications these laws continued in force till 1780. In the constitution adopted in that year, the legislature was given authority to require the people of the state to make provisions for the education of the youth, and to compel their attendance upon the schools thus provided.‡ The authority thus granted was exercised by the legislature in 1789. On the 20th of June that year, an act was passed "for the instruction of youth, and for the promotion of good education." The principle underlying this law was the same as that which characterized the colonial laws from the very first. The establishment of schools was made compulsory. All towns of fifty families or householders, and less than one hundred, were required to support one or more schoolmasters to teach the English language six months in each year. Failure to comply with this provision was punishable by a fine of ten pounds. If a school of the character specified in the statute had been kept for a less time than six months, then a proportionable part of the fine was assessed for such time as the

* *Ibid.*, pp. 246, 247.

† *North American Review*, Vol. XLVII., p. 280.

‡ The Constitution of Massachusetts, 1780, Art. III.

school was not in session. Towns of one hundred families and upwards were required to keep such a school during the entire year, under penalty of a fine of twenty pounds. As in the case of towns of fifty families, if the school had been kept part of the year, a proportionable part of the fine was assessed for the time the school was not in session, and not the entire sum. Towns of one hundred and fifty families were also required to keep such a school during the entire year. But the penalty was again increased. For keeping no school at all, it was thirty pounds; and a proportionable part of this for the time the school was not in session, if a school had been kept for a part of the year only. A penalty of thirty pounds, and proportionably a sum for less time than a year, was fixed for the failure of towns and districts having two hundred families and upwards to establish grammar schools.*

The laws passed by Connecticut during this period were much like those of Massachusetts. The first code of laws adopted here was in 1650. In this code was a provision for obligatory education which was almost a literal transcript of the Massachusetts statute of 1642.† Five years later a code was adopted by New Haven colony containing similar provisions. Both of these colonies, however, had schools prior to the dates when these codes were adopted. In Hartford a school was kept as early as 1637 or 1638 by John Higginson, who was afterward minister at Saybrook and at Salem. Higginson was succeeded by a man of the name of Collins, a son-in-law of Mrs. Anne Hutchinson.‡ In April, 1643, at a general town meeting it was voted that Mr. Andrews should teach the school for one year. His salary was fixed at sixteen pounds, which the town guaranteed.|| In February of 1648 it was agreed

* The Laws of the Massachusetts Commonwealth from November 28, 1780, to February 28, 1807 (Boston, 1807), Vol. I., p. 469.

† The Public Records of the Colony of Connecticut Prior to the Union with New Haven, p. 520.

‡ Palfrey, Vol. II., p. 48. See also Cotton Mather's "Magnalia," Bk. III., Chap. I., § 15.

|| "History of Common Schools in Connecticut," by Henry Barnard, LL. D., in Barnard's *Journal of Education*, Vol. IV (1858), p. 658. See also "A Brief History of Public Education in Connecticut," in the Report of the Connecticut Board of Education for 1876, p. 92.

to appropriate forty pounds for the erection of a schoolhouse.

The example of Hartford in making provisions for the education of the youth was followed by other Connecticut towns. Their method of supporting the schools they established was the same as in Hartford. In Wethersfield, it was ordered on March 12, 1658, that Mr Thomas Lord should be employed as schoolmaster at a salary of twenty-five pounds a year. Mr Lord was also voted the use of a house and lot, and "the use of the meadow as formerly" *.

New Haven colony was settled in 1638. The next year mention is made of a school in the records which seems to indicate the existence of a school at this early date.† In 1641 it was ordered that "a free schoole shall be sett up in this towne." The yearly allowance to be appropriated by the town for this purpose was to be determined by a committee consisting of the pastor, Rev John Davenport, and the magistrates of the town.‡ It was agreed by the committee that this sum should be twenty pounds. But that not proving sufficient for a competent maintenance, in August of 1664 it was raised to thirty pounds.|| Mr. Ezekiel Cheever, to whom, with Elijah Corlet, Cotton Mather gave the praise of having saved New England from barbarism, was the first teacher.§ Later Cheever was established as schoolmaster at Ipswich and Charlestown, Massachusetts. In 1671 he went to Boston and took charge of the Latin school there.

These provisions of New Haven colony remained in force until 1665, when the colony was united with Connecticut. Then they were superseded by the Connecticut laws. These continued in force, without change, until 1671. In that year a revision of the

* "History of Common Schools in Connecticut," by Henry Barnard, LL. D., in *Barnard's Journal of Education*, Vol. IV. (1858), p. 659.

† *Ibid.*, p. 661.

‡ Records of the Colony and Plantation of New Haven from 1638 to 1649, p. 62. See also Palfrey, Vol. II., p. 47.

|| Records of the Colony and Plantation of New Haven from 1638 to 1649, p. 210.

§ *Ibid.*, p. 210. Palfrey, Vol. II., p. 47.

laws was begun which was completed and approved the next year. The new code retained the obligatory provision of 1650. In addition, there was an order for the establishment of a grammar school in every county. To accomplish the purpose of this order, the court granted six hundred acres of land to each of the four counties.* The efficiency of these laws was greatly increased in 1677. Then the General Court ordered that every town should forfeit five pounds for the support of the Latin school in that county, if it failed to keep a school above three months in a year.† At nearly the same time, the failure of any county town to establish a Latin or grammar school was made punishable by a fine of ten pounds. This fine was to be paid annually by the county town until it should establish such a school, to the next town in the county.‡ In 1690 the court ordered the establishment of two free grammar schools, one at Hartford and the other at New Haven.||

A second revision of the laws took place in 1700, and two years later was published. This revision retained the "Act for Educating Children" as it was originally in the code of 1650. But it contained two new and important features. A tax of "forty shillings on every thousand pounds of the list of estates" was to be collected in every town with the annual tax of the colony to be paid proportionably to those towns only that kept their schools according to the law. The other feature referred to was a provision requiring every town having seventy or more families to keep their school eleven months in the year. All towns having less than seventy families were to keep their school not less than six months.

In 1715 an act was passed which was designed to effect a more faithful execution of the "Act for Educating Children." In May,

* Colonial Records, 1665 to 1678, p. 176. See also Annual Report of the Board of Education of the State of Connecticut, 1872, p. 108.

† Colonial Records, 1665 to 1678, p. 307.

‡ *Ibid.*, p. 312.

|| Colonial Records of Connecticut, 1689 to 1706, p. 31.

1717, the law of 1700 requiring towns having seventy or more families to keep their school eleven months in the year, and towns with a less number of families to keep theirs six, was extended to parishes or societies having that number *

In October, 1742, the General Court passed an act for a better regulation of the schools. In the same year a committee consisting of Roger Wolcott, Jonathan Trumbull, Thomas Fitch, and John Bulkley, was appointed to make a revision of the laws. This revision was not published until 1750. With a slight alteration, the "Act for Educating Children" as it was originally in 1650 was retained. Another revision was made in 1783 by Roger Sherman and Richard Law, who were appointed in May of that year.† After a careful consideration at an adjourned session of the General Court, in January, 1784, this revision was accepted and ordered to be published. The obligatory provisions of this revision remained the same as in 1750.‡

✓ In Rhode Island but little was done during this period toward the establishment of schools for the people. Here the idea prevailed, as it always has in England until very recently, that public elementary schools are charitable institutions.|| The same idea
 L prevailed in the South and to some extent in Pennsylvania.

It was a theory in Rhode Island that the state could not safely interfere in elementary instruction except in instances where the people were unable to provide the necessary means for it. But the poorer people did not always indorse the establishment of schools under this provision. When in 1768 an effort was made to establish a public school system supported by a tax, it was defeated by the opposition of this class. And again at the close of the eighteenth century, when John Howland labored to establish a system

* "History of Common Schools in Connecticut," in Barnard's *Journal of Education*, Vol. IV., p. 698.

† *Ibid.*, p. 701.

‡ *Ibid.*, p. 703.

|| "Free School System of the United States," by Francis Adams, p. 52.

of free schools for the state, it was from this class that the chief objections came.

Another reason for the failure of Rhode Island to make as ample provisions for universal education as did Massachusetts and Connecticut was probably because the colony was small, and the settlements too feeble to secure efficient organization. In 1680 the population did not exceed 7,000. In 1700 it was less than ten thousand; while in 1730, it was only 17,935.* Besides these reasons, there is a third that may help to explain the feeble assistance the colony gave to the cause of education. In Massachusetts, a most potent force in building up and sustaining a system of schools was the clergy. In Rhode Island, there was a most vigorous opposition to clerical influence, and "against the traditional institutions of Massachusetts and Connecticut."†

Schools, however, were not wholly wanting. Newport established one in 1640, and Robert Lenthal was made teacher. Lenthal could not have remained in this office but two years at most.‡ It is stated in the records of the colony that "at the General Court of elections held on the 16th and 17th of March at Newport, 1642, it was ordered that Mr. Lenthal, being gone for England, is suspended his vote in elections."||

In May, 1663, provisions were made for the establishment of a school in Providence. The proprietors passed an order agreeing that "one hundred acres of upland and six acres of meadow (or lowland to the quantity of eight acres in lieu of meadow) shall be laid out within the bounds of this town of Providence; which land shall be reserved for the maintenance of a school in this town ;

* Article on "Rhode Island" in "The Cyclopædia of Education," by Henry Kiddle and Alexander J. Schem (New York and London, 1877), p. 734.

† *Ibid.*

‡ "The Cyclopædia of Education," by Kiddle and Schem, cites Callender's "Historical Discourse" (published in 1738) as authority for the statement that "an appropriation of one hundred acres of land was made for the permanent support of schools," at the time Lenthal was employed as teacher. I have been unable to find any evidence of such a grant in the records. However, part of the early records have disappeared.

|| Rhode Island Records, 1636-63, Vol. I., p. 119.

and that after the said land is laid and the bounds there set, it shall be recorded in our town records, according unto the bounds fixed, and shall be called by the name of the school lands of Providence."* In January, 1696, a grant of land was made to John Dexter, William Hopkins, and others for the erection of a schoolhouse.†

In 1767 the citizens voted to build three schoolhouses for primary instruction and one for more advanced pupils. These schools were to be under the control of the school committee, and the cost for their support to be defrayed out of the town treasury.

In 1768 a committee appointed for that purpose reported a plan for the organization of the schools under state control. The report was made through Gov. Jabez Bowen. It offered to every inhabitant of the town, whether free or not, equal privileges in the school. However, the plan was defeated by the poorer people of the town.‡

In Bristol, a grant of land was made in 1680, "for the encouragement and use of an able orthodox minister, and for the use and encouragement of an able schoolmaster in the town."|| Other orders were passed by the town in 1682 and 1684. The order of 1682 fixed the teacher's salary at twenty-four pounds a year. That of 1684 voted this sum "to Mr. Cobbitt for officiating in the place of a schoolmaster "

These were the leading attempts to establish a system of schools prior to the Revolution. In none of the acts passed is there an obligatory provision either for the establishment of schools or the attendance of the children upon them. But in the year 1800, a new era begins in the history of education in Rhode Island. In 1799 John Howland drew up a petition to the General Assembly

* "Annals of the Town of Providence, from its First Settlement to the Organization of the City Government, in June, 1832," by William R. Staples (Providence, 1843), p. 492.

† *Ibid.*, p. 494.

‡ "The Cyclopædia of Education," by Kiddle and Schem.

|| *Ibid.*

asking that a free school system be established in the state. This petition was presented to the Assembly at the February session of this year by the "Providence Association of Mechanics and Manufacturers." It was referred to a committee which reported in June by offering a bill having in view the establishment of such a system of schools as the petition asked. In October the bill passed the House of Representatives after vigorous opposition by many. It was referred to the Senate, which deferred action until the February session of the next year. Then the bill was passed and became a law. But it never had a fair trial. The violent opposition with which it had been met in the House of Representatives led to measures for its repeal. These were successful. The law soon became unpopular and in February of 1803 it was repealed.* It was not until the January session of 1828 that another act establishing public schools was passed.† Then the present school system was founded.

Of the other New England States but little is to be said. From 1641 till 1693 New Hampshire was a part of Massachusetts. After it became an independent province, its laws pertaining to education were the same in spirit as those of Massachusetts. Vermont was not permanently settled until 1724. Prior to the Revolution no attempt was made to establish a school system. And, as in Rhode Island, the principle of compulsion was wholly wanting.

The history of modern compulsory education destroys that objection to obligatory laws, so frequently urged in some parts of the United States of late, that they are monarchical in their origin and history. Common as the idea is that obligatory laws originated in Prussia, it is wholly erroneous. Nearly two centuries had elapsed from Luther's famous address in 1524, before Fred-

* "*Annals of the Town of Providence*," etc., by William R. Staples, pp. 505-508.

† *Ibid.*, p. 511.

erick William I. issued those mandatory orders that developed into compulsory attendance laws. These orders were issued October 24, 1713; and nearly four years later, September 28, 1717, the king issued the first law. Then such laws had been tried by the state of Geneva, the Estates of Navarre, and the duchy of Würtemberg. Such a law had been in successful operation in Massachusetts for seventy-five years, and in Connecticut for nearly the same time.

Compulsory education, as understood in modern times, had its origin in the desire for universal education which accompanied the Reformation. The principle that the safety and the strength of a city lie in an educated and a moral citizenship, and that other principle, which is its sequence, that the state has not only the right to establish schools, but that it is its duty to do so, and, if need be, to compel the attendance of its youth upon them, are both Lutheran in their origin. They constituted the fundamental doctrine of the great reformer's famous address in 1524. Through such propagandists as the "gentle Melancthon," Myconius, and Justus Jonas, with the aid of such wise rulers as John the Constant and Duke Christopher of Würtemberg, they became by the close of the sixteenth century an essential part of the educational creed of Protestant Germany. It is true they were not universal in their application during this era, and that later there were periods of retrogression.

When the laws of Frederick William I. were given, a new era began. The principle of the right of the state to compel the attendance of its youth upon the schools it had established was asserted with new vigor. It was the same principle for which Luther had contended; the same principle which determined the character of the system established by Massachusetts and Connecticut. The great difference between the Massachusetts statutes of 1642 and 1647, and that of Connecticut of 1650, when compared with the laws of Frederick William with reference to this principle, is merely one of degree. New England emphasized it

earlier and more strongly than Prussia. But it is in the Prussian law. By this law parents, especially those in the rural districts, are required to send their children to school from their fifth to the twelfth year. They are to attend school daily in winter, and in summer, if they are needed for work, at least once or twice a week. The fee fixed for their schooling was two threepence for each child per week. If the parents were too poor to pay this sum, then it was to be paid from the community's fund.* But Frederick William's labors in behalf of the education of his people did not cease with these laws of 1717. He was a great school builder. In Prussia and Lithuania, by the end of his reign, he had established more than eleven hundred village schools (*Dorfschulen*) for the people.†

His example was followed by his illustrious son. At three different times during the first years of his reign, Frederick II. issued regulations concerning the support of schools.‡

After the Peace of Paris, February 10, 1763, Frederick gave a "General School Regulation for the Whole Monarchy."|| The tenth section of this "Regulation" requires that parents and guardians who have children to educate, and who do not send them to school as the ordinance requires, "shall still be obliged to pay the common school fee for the term." Guardians were not permitted to pay this sum from money belonging to their wards.

* "Auf eine Anregung des reformierten Kirchendirectoriums erliesz der König 1717 eine 'generelle Verordnung.' Von allen Consistorien und kirchlichen Behörden 'in allen königlichen Ländern,' dasz die Ältern, namentlich auch auf dem platten Lande, bei nachdrücklicher Strafe gehalten sein sollten, ihre Kinder vom fünften bis zum zwölften Jahre im Winter täglich, und im Sommer, wenn sie bei der Wirthschaft benöthigt, zum wenigsten ein oder zweimal die Woche zur Schule zu schicken; sie sollen für jedes Kind in der Woche zwei Dreier zahlen, und wenn sie zu arm sind, sollen die zwei Dreier, 'aus jedes Orts Almozen' bezahlt werden."—*Geschichte der Preussischen Politik, von Joh. Gust. Droysen (Leipzig, 1869), Viertes Theil, Dritte Abtheilung, Seite 418.*

† *Ibid.*, Seite 420: "History of Prussia to the Accession of Frederick the Great, 1134-1740," by Herbert Tuttle (Boston and New York, 1883), p. 471.

‡ These orders were issued October 13, 1740, October 29, 1741, and January 2, 1743.

|| This "Regulation" was given August 12, 1763. Barnard's "Systems, Institutions, and Statistics of Public Instruction," pp. 861-868.

Besides this, the law fixes another penalty for its violation. "If, after earnest exhortation of the ministers, they do not send their children regularly to school, then the magistrates of the town, in the last resort, shall direct execution against them. It is made the duty of the school-visitors to impose on such parents as have not made their children attend school regularly, a fine of sixteen groschen, to be paid into the school-treasury." On November 3, 1765, he gave "Regulations for Catholic Schools in Silesia."* These contained compulsory features analogous to those given in the Regulations of 1763.

Thus, at the close of the eighteenth century schools for the people were demanded by monarchical Prussia and democratic New England. The educational principles that characterized Luther's writings had become dominant. There was no questioning the right of the state to establish schools. It was acknowledged that the state had the right to compel the attendance of its youth upon them. New England had asserted these principles and demonstrated their truth by legal enactments earlier than Prussia. But when Frederick William I. came to the throne, through him and the greater Frederick, Prussia demonstrated their truth as completely, and asserted them with as much vigor, as ever had been done elsewhere in the Protestant world.

* *Ibid.*, pp. 869-877.

CHAPTER III.

INDIRECT COMPULSION—THE FACTORY LAWS OF MASSACHUSETTS AND CONNECTICUT.

THE two essential elements in every system of universal education are the establishment of schools for all the people irrespective of class, and the education of the youth in these schools, or by other means, whether brought about by public opinion or by obligatory laws. This was fully comprehended by the New England Puritans, and the first two acts relating to education that the General Court of Massachusetts passed created such a system. The same thing was done in Connecticut when the code of 1650 became the law of that commonwealth. From the time they were established until the beginning of the nineteenth century the fundamental principles of these systems remained the same. Such laws as were passed during this period had for their purpose either the increase of educational advantages, or the making of the attendance laws more stringent. The very first law passed by Connecticut in the present century is but a reiteration of the principle found in the first code. This statute was enacted in 1805, and required all parents to see that "their children are able to read the English tongue well and know the laws against capital offences." The only difference between this law and the code is that the penalty for neglect to meet these requirements is fixed at \$3.34 ; whereas formerly it was twenty shillings.*

In the main, these early laws in both commonwealths were faithfully administered. They expressed the sentiment of a majority of the people, and in the high intelligence that has characterized

* The Public Statutes of Connecticut (Hartford, 1808), p. 123.

the people from the earliest times there is sufficient evidence of their utility.

The conditions under which these systems were established were most favorable to their successful administration. The people were homogeneous and in the main well-to-do. They were intelligent and industrious. Besides, the Protestant creed which they had accepted had from the very first proclaimed itself the friend of such systems as had been established here. More than this, the principle of universal education was the basal stone on which Protestantism had been reared. This accounts for the unanimity of thought relative to these systems, and the united action which was given to their support.

But the simple social arrangement which characterized New England for more than one hundred and fifty years was completely changed during the latter part of the eighteenth century. A new industrial system then began. In England, the inventions of Arkwright, Hargreaves, Crompton, and Watt had revolutionized the manufacture of textile fabrics. The old methods were superseded by organized manufacturing establishments. The cottage of the weaver could no longer be his factory. But he was compelled, in order to support himself and his family, to move to the nearest town and engage in the employ of some capitalist. Important and valuable as was this change to the economic development of England, it was attended with some evil consequences. It was soon found that the lighter portions of the work could be done by very young children. Many children of the poorest families were sent from the south of England by the poor-law overseers to be apprenticed in the manufacturing districts of the north. In these communities they were treated hardly better than slaves. They were worked night and day, and "it is even said that one gang, when exhausted, went to rest in the beds still warm of those coming on to work."* Besides this, they were ill fed and poorly clothed.

* "The State in its Relation to Labor," by W. Stanley Jevons (London), p. 53.

This overworking and underfeeding of these pauper children soon led to an epidemic of disease. The attention of the public was first directed to the evils in 1796, through the labors of Doctors Aiken and Percival, who had been appointed to investigate them.* These gentlemen so strongly emphasized the evils of the factory system so far as it related to the employment of child labor that Sir Robert Peel introduced in Parliament, in 1802, a bill to remedy these evils. This bill became a law and was known as the "Health and Morals Act." Besides certain sanitary provisions relating to the factories, it required the master to furnish a new suit of clothes to each apprentice yearly; the hours of labor were fixed at twelve hours daily, and night work with certain exceptions was entirely forbidden; and finally, all apprentices were to be instructed in reading, writing, and arithmetic.†

Thus it is seen that in a little more than a decade of years after the establishment of the factory system in England evils had followed it which demanded legislation for their eradication. In New England there was the same tendency to establish factories. This tendency differed from that in England only in degree. There was less capital and less skilled labor to be employed than in England; but nevertheless the same spirit was manifested. In 1785 Boston formed an "Association of Tradesmen and Mechanics."‡ Four years later Providence founded its "Association of Mechanics and Manufacturers."|| This latter organization, which still exists, had for its purpose the "promoting of industry, and giving just encouragement to ingenuity."

Another evidence that the tendency to establish factories prevailed in New England is found in the establishment of a large factory in Boston, in 1788 or 1789, for the manufacture of linen

* Hansard's Parliamentary Debates, Third Series, Vol. XVII., p. 85.

† Jevons, p. 54.

‡ "Economic and Social History of New England, 1620-1789" (Boston), by William B. Weedon, Vol. II., p. 847.

|| *Ibid.*, p. 850.

canvas. Besides this, Weeden says that "from 1785 to 1791 cotton was being introduced into the Southern States from the West Indian seed, to meet the new demand for northern manufacturers as well as for exportation."* But the real development of the manufacture of textile fabrics in New England began under the Embargo Act of 1807. At the close of that year, there were but fifteen cotton mills in the United States. Two years later eighty-seven more such mills had been built. And in 1810, when Gallatin made his report on American manufacturers, he roughly estimated the total annual value of all manufactured products, at that time, at \$120,000,000.†

This economic development had its disadvantages. It is true that in both Massachusetts and Connecticut where child labor was used, the children were not so cruelly treated as in England before the "Health and Morals Act" was passed. They never were slaves in any sense. But the practice of binding out children was accompanied by deprivation of educational privileges. This evil became so great in Connecticut that by 1813 the old laws pertaining to education were practically a dead letter in some localities.

The General Assembly took hold of the matter, and in 1813 enacted a law to eradicate this evil. By the provisions of this act, the proprietors of all manufacturing establishments were required to see that all the children of their employ were taught reading, writing, and arithmetic. Furthermore, they were to give attention to the children's morals. To secure obedience to this law, the selectmen of each town were constituted a board of visitors to ascertain annually whether or not these provisions were obeyed. This board was also required to report all violations to the next county court.‡

When the statutes were revised in 1821, the provisions of this

* *Ibid.*, p. 851.

† "History of the United States of America Under the Constitution," by James Schouler (Washington, D. C., 1889), Vol. II., p. 298.

‡ Report of the Commissioner of Education, 1888-89, Vol. I., p. 486.

law were reënacted.* It remained on the statute books until 1842, but it never realized the expectations of its friends. It had two weaknesses that prevented its meeting with the success that was hoped for it. It contained no provision whatever for school instruction, but merely specified that certain subjects should be taught the children. As enacted, the law left to the masters the character of the training to be given ; and this is nearly always the most important element in elementary education. The second weakness consisted in the want of a provision requiring towns under penalty to organize the board of visitors. Dr. Henry Barnard said of this statute in 1840 : " It is a dead letter in nearly if not every town in the state. I know not of a single instance where the board of visitation authorized by the act has been organized."†

In 1842 a new act was passed. This provided that no child under fifteen should be employed in any manufacturing establishment, or in any other business, until he has attended " some public or private day school where instruction is given by a teacher qualified to instruct in orthography, reading, writing, English grammar, geography, and arithmetic, at least three months of the twelve months next preceding any and every year in which such child shall be so employed." The penalty fixed for violations was a fine of twenty-five dollars to be paid into the treasury of the state. The only evidence authorized by the act that the child seeking employment had fulfilled the conditions prescribed was a certificate signed and sworn to by his teacher. Another provision fixed the hours of labor for all children under fourteen years of age at ten. Any violation of this was made punishable by a fine of seven dollars for each offence. ‡

This law was a marked improvement over that of 1813, and if it

* Public Statute Laws of the State of Connecticut as Revised and Enacted by the General Assembly in May, 1821 (Hartford, 1821), p. 320.

† Quoted from the Report of the Commissioner of Education, 1888-89, Vol. I., p. 487.

‡ Public Acts Passed by the General Assembly of the State of Connecticut, May Session, 1842 (Hartford, 1842), pp. 40 and 41.

had had the support of public opinion, probably it would have destroyed the evil at which it was aimed. But it did not have that support, and soon it practically became a dead letter. State Superintendent Daniel C. Gilman, in his report for 1866, says of it: "In many cases the proprietors or agents of manufacturing establishments would willingly see the provisions of the statute sustained, but they are well aware that the law is not obeyed through the state, and are apprehensive that they shall lose both parents and children as operatives if they refuse the latter work."*

An important amendment was made to the laws relating to child labor in 1855. Before that date no age limit had been prescribed for children who worked in factories. In this year the General Assembly passed an act requiring a child to be at least nine years of age before taking service in such establishments. In the next year this requirement was modified by fixing the age at ten years before he could be so employed.†

The General Assembly in 1867 passed an act to supersede the law of 1842. This fixed the penalty for employing children more than ten hours a day, or fifty-eight hours per week, at fifty dollars. One half of this was to go to the person who had made the complaint and had successfully prosecuted the case. The other half was to go to the town treasury.‡

The defects of the act of 1842 were but partially remedied by these various acts. In 1869 they brought about a new employ-

* Connecticut School Report, 1866, pp. 82-83; quoted here from the Report of the Commissioner of Education, 1888-89, Vol. I., p. 487.

† Third Annual Report of the Bureau of Labor Statistics of the State of Connecticut for the year ending November 30, 1887 (Hartford, 1887), p. 156.

The English Parliament, in 1819, had fixed nine years and upwards as the age at which children could be admitted to labor in cotton mills. The same provision was made in the Althorp Act of 1833. There the distinction was made which has ever since been maintained between "children admitted to work of the ages nine to thirteen," and "young persons" of ages from thirteen to eighteen years. Jevons' "The State in its Relation to Labor," p. 55. Hansard's Parliamentary Debates, Third Series, Vol. XVII., p. 85 *et seq.*, gives a history of the legislation on this subject from 1802 till 1833. See also article in Lalor's "Cyclopædia," entitled "Factory Laws," by Prof. E. J. James, Vol. II.

‡ Public Acts Passed by the General Assembly of the State of Connecticut, 1866 to 1871 Inclusive (Hartford, 1871), p. 119.

ment act which was by far the most important piece of legislation yet enacted in this state relative to child labor. The law of 1842 had forbidden the employment of children under fifteen years of age who had not had three months' schooling the preceding year. The law of 1869 changed this limit to fourteen. Just why this change was made is not evident, but it may have been a concession to employers and parents to make the other exactions seem less stringent. The remainder of the act is much more exacting and binding than that of 1842. By the latter act only manufacturers, agents, and superintendents could be prosecuted; under the new act all employers were liable to prosecution. The penalty was increased from twenty to one hundred dollars. It again improved on the act of 1842, which required boards of visitors to examine into the execution of the law and report violations of it, when it required state attorneys and grand juries to cooperate with these. But more important than this was that provision that authorized the State Board of Education to appoint one of its number or some other suitable person as agent to enforce the law.* This agent was to be at all times under the control of the State Board of Education. The act of 1842 had left the execution of the law to local boards, which at best meant that the law would be only partially enforced.

The most serious objection that might be urged against the act of 1869 was destroyed by an act passed in 1871. The act of 1869 took the children out of the factories, or kept them out if they had not yet taken employment. But it did not send them to school; this was the purpose of the new act. It provided that all parents or guardians of children who had been employed in factories or other business and had been temporarily discharged for the purpose of sending them to school should see that they were put into school. The penalty fixed for non-compliance with this provision was five dollars for each and every week not exceeding thirteen in any one year.† This law, together with the one of 1869,

* *Ibid.*, p. 333.

† *Ibid.*, p. 594.

made a complete system of obligatory education so far as the factory children were concerned. There was considerable opposition to it from parents who were factory operatives.* There was much justice in the objection they urged against it. This objection was one of the factors which brought about the act of 1872 establishing compulsory education throughout the state irrespective of class.

Since 1871 some important modifications have been made in the laws affecting factory children and those employed in other work. As the law now stands no child under thirteen years can be employed in any "mechanical, mercantile, or manufacturing establishment." The penalty fixed for violation of this provision by employers or agents is a fine not exceeding sixty dollars; and each week of such illegal employment is to constitute a distinct offence. The same penalty is fixed for false certification of the age of any child by his parent or guardian. The act further provides that "no child under fourteen years of age, who has resided in the United States nine months, shall be employed to labor, unless such child shall have attended a day school in which instruction has been regularly and thoroughly given in the branches of education required in the public schools during at least twelve weeks, or sixty full school days of the twelve months next preceding any year in which such child shall be so employed, nor unless six weeks at least of this attendance have been consecutive. Any person who shall employ a child contrary to the provisions of this section shall be fined not more than sixty dollars."†

Legislation on this subject did not begin so soon in Massachusetts as in Connecticut. The first act passed in this state was in

* Dr. B. G. Northrop, who was State Superintendent at the time this statute was passed, said of it: "The only objection made to this law, within my knowledge, is its limitation to the parents and guardians of those children *who are hired out*. They ask, 'While we are justly required to send our children to school, why are the parents of children unemployed, it may be the idle and vicious, excused?' This has the look of class legislation. Make this law impartial and universal in its obligation, and you remove the only real objection as yet urged against it."—*Report of Commissioner of Education, 1888-89, Vol. I., p. 487.*

† *Ibid.*, p. 488.

1836. The immigration of a manufacturing and foreign population had destroyed the former homogeneity of the people. Where formerly there had been unanimity of thought and action in matters pertaining to education, there were now many differing opinions. Society was divided into sects and classes, not all of which espoused the cause of popular education. Some indeed antagonized such a system. The system which had answered the needs of this commonwealth almost from the day when it was first settled began to lose its vitality. It was seemingly unable to deal with the problem. In 1834, alarmed at the condition which confronted it, the state made provision for a public school fund, and two years later passed the act to which reference has been made. This act was approved by the governor April 16, 1836, but it did not go into effect until April 1, 1837. It provided that no child under fifteen years should be employed in any manufacturing establishment unless he had attended some public or private day school kept by some qualified teacher at least three months of the twelve immediately preceding the year in which he was employed. Employers were made liable to a fine of fifty dollars, which was to be paid into the town treasury for the use of the schools for violating this provision.*

This was a more advanced step than Connecticut had yet taken, but it cannot be said to have been a much greater one than that taken by England in the Hobhouse and Althorp Acts of 1825 and 1833. The first of these made a more thorough restriction of the labor of children under sixteen years of age, and provided for a "quarter-holiday" on Saturday. By the act of 1833 the education of factory children was made compulsory. Children were not to work more than nine hours each day, and were required to spend two more hours daily in school.†

* *Laws of the Commonwealth of Massachusetts, 1836* (Boston, 1836), p. 950.

† "It is said that this 'half-time' principle was quite accidentally discovered. Some means being sought whereby evidence should be available that a child was not working at a certain hour, it was suggested by Mr. Chadwick that presence in school would afford the best possible evidence."—*Jevons, pp. 55 and 56.*

Massachusetts modified this act of 1836, in 1837 or 1838, so as to release employers from liability to punishment, in case they were provided with sworn certificates that the children in their employ had attended school the length of time specified in the statute.* Horace Mann, who was secretary of the State Board of Education from the date of its organization in 1837 till 1848, wrote earnestly of this law in his report for 1840. He urged the necessity of "limiting the greed of both heartless employers and unnatural parents."† In 1842 legislation was effected limiting the hours of labor of children under twelve to ten each day. This was not up to the standard set by either the Connecticut law of the same year, or the English act of 1833. The Connecticut law had limited the hours of labor of children under fourteen to ten.‡ The English act went one step further and limited the hours of labor for children between the ages of nine and thirteen to nine hours.||

From this date until 1866 most of the legislation relating to obligatory education had reference to the truancy problem, which had now become an exceedingly troublesome one.§ However, in 1865, an act requiring eighteen weeks of all working children under twelve, and twelve weeks of all between twelve and fifteen, was passed. In this same year a resolution was passed by the legislature authorizing the governor to appoint a committee "to collect information and statistics in regard to the hours of labor, and the conditions and prospects of the industrial classes." This committee was appointed by Governor Andrew in February of the next year. The commissioners first considered the education of children, and said in their report, "A saddening amount of testimony has been brought before the commissioners concerning the

*Seventh Annual Report of the Bureau of Statistics of Labor of Massachusetts, 1876 (Boston, 1876), p. 264.

†*Ibid.*, p. 267.

‡Third Annual Report of the Bureau of Labor Statistics of the State of Connecticut for the year ending November 30, 1887, p. 156.

||*Supra*, p. 41.

§Chapter IV of this monograph is devoted to legislation on this question in Massachusetts.

frequent and gross violations of the law.”* The committee favored the “half-time” system and recommended the adoption of some plan that would lead to it if it were deemed best not to adopt it in detail. As an inducement to this they further recommended that where the “half-time” system was adopted and carried out in good faith the laws then in force pertaining to working children should not be considered binding.† These recommendations of the committee were not embodied in a statute. But the same year that this report was made, the most important piece of legislation yet given to Massachusetts on this subject was enacted. Under its provisions no child under the age of ten could be employed in any manufacturing establishment. Between the ages of ten and fourteen years, no child could be so employed unless he had attended some public or private day school for not less than six months of the year preceding that in which his employment would begin. This school must have been approved by the school committee of the place in which it was located. Any one knowingly employing a child who had not had this school training was made liable to punishment by a fine not exceeding fifty dollars. The act made one other important provision. Children under the age of fourteen who were employed in manufacturing establishments under the conditions already specified were not to spend more than eight hours in labor in any one day. Parents and guardians were made responsible for any violations of this restriction, under penalty of a fine not exceeding fifty dollars for each offence.‡ In the next year, 1867, another act relating to the education and the hours of labor of children employed in “manufacturing and mechanical establishments” was passed. This act provided, as the one of 1866 had done, that no child under the age of ten could be employed in any manufacturing or mechanical establishment. Between this age and fifteen children could only be employed after they had attended

*Seventh Annual Report of the Bureau of Statistics of Labor of Massachusetts, 1866, p. 273.

† *Ibid.*, p. 273.

‡ Acts of Massachusetts, 1866, Chap. 273.

some public or private day school under teachers approved by the school committee of the place where the school was located, for at least three months of the year preceding the one in which employment was taken. They must also have resided six months in the state preceding the time their employment began. The school requirement was to continue every year until the age of fifteen, "Provided that tuition of three hours per day in a public or private day school approved by the school committee of the place in which such school is kept, during a term of six months, shall be deemed the equivalent of three months' attendance at a school kept in accordance with the customary hours of tuition; and no time less than sixty days of actual schooling shall be accounted as three months, and no time less than one hundred and twenty half-days of actual schooling shall be deemed an equivalent of three months."*

In 1869 an act was passed which authorized towns and cities to establish and maintain evening schools for children over twelve years of age;† and three years later they were given the privilege and the authority to establish evening schools.‡

Legislation on this subject since 1872 to the present time has in principle been much as that found in the acts of 1866 and 1867. In 1873, when the new compulsory attendance and truant laws were passed, a new act was introduced at the same session of the legislature to further regulate the problem of child labor. But it failed to pass. It was offered in the next two succeeding sessions but was not enacted into a law. However, in 1876 it became a statute. The main feature of this law was that it made the pre-

* Acts of 1867, Chap. 285.

† Acts of 1869, Chap. 305.

‡ Acts of 1872, Chap. 86. The history of evening schools in Massachusetts dates back to 1773. In that year, such schools were carried on in Salem "to teach a limited number of poor boys the mariner's art, and others to write and cipher." In 1836 an evening school was established at the Warren Street Chapel in Boston, in connection with philanthropic Christian work. In 1847 legislative enactment authorized towns to support such schools for adults, and in 1857, while leaving the support of such schools optional, they were made by legislation an integral part of the public school system. "In 1883 their support became compulsory in towns having ten thousand inhabitants." See Martin's "Evolution of the Massachusetts Public School System," pp. 218 and 219.

vious legislation on this subject apply to mercantile establishments as well as to manufactories and mechanical enterprises. This action was taken because of the large number of small boys who had taken employment in the large retail stores as cash boys and errand boys.* The essential difference between this statute and those of 1866 and 1867 was that it applied to children between the ages of ten and fourteen, whereas in the latter statutes the age limit was from ten to fifteen years. These latter laws had been modified by the compulsory law of 1873. This had extended the time of required school attendance to twenty weeks.† This provision was likewise extended to the new law.

The next law was one passed in 1888. This prohibited the employment of any child under thirteen years of age "in any factory, workshop, or mercantile establishment." Neither could such a child be employed in any indoor work, for wages, during the hours when the public schools of the place where he resides were in session unless he had attended school "for at least twenty weeks as required by law." Children under fourteen years of age could be employed in factories, workshops, or mercantile establishments only during the vacation of the public schools of the place where they resided, unless the employer kept on file an "employment-ticket" and an "age and schooling ticket." The former ticket gave a description of the child to be employed, and contained a declaration of the employer's or agent's intention to employ him. The latter was a sworn statement made by the father, mother, or guardian of the child as to his age and to the effect that the requirements of the law as to schooling had been fully satisfied.‡

* Report of Commissioner of Education, 1888-89, Vol. I., p. 475.

† *Ibid.*, p. 474.

‡ "Labor Laws of Massachusetts," compiled by Horace G. Wadlin, Chief of the Bureau of Statistics of Labor (Boston, 1890), pp. 78-79.

CHAPTER IV

THE TRUANCY PROBLEM IN MASSACHUSETTS.

1845-1890.

THE truancy problem in Massachusetts had become a very perplexing one as early as 1845. It is stated in the school report of Boston for that year that the absences from the schools of the city, each day, were about one fifth of the whole number of children who should have been in attendance. A part of these absences may be explained on the ground that children employed in factories had complied with the provisions of the statute of 1842.* But as this statute was never enforced to any great extent it is safe to presume that many of the absences were violations of its provisions. However, there was another class of children who were not in school, and to whom the provisions of this statute did not apply. These were the children who were deprived of instruction either by the poverty or neglect of their parents, or by their own perversity.

In 1846 measures began to be taken to secure the education of this class. The year previous, Josiah Quincy had taken the initiative that led to these measures. In 1845 he became mayor of Boston. Soon after his installation in office, he called the attention of the school committee to the magnitude of the evil of truancy, and urged the coöperation of the committee with the city council in devising coercive measures as remedies. The school committee referred the subject to a special committee. Theophilus Parsons, who was made Dane professor of law in Harvard in 1847, was appointed chairman of this committee. Professor Parsons reported

* *Supra*, p. 37.

for the committee the next year. In this report he maintained that the existing laws were sufficient to correct the evils if they were properly executed. Under these laws "stubborn children" could be sent to the House of Correction. By them, too, authority was given to any justice of the courts on application of the mayor, any of the aldermen of the city, any director of the House of Industry or House of Reformation, or of any overseer of the poor, to sentence to the House of Reformation "all children who live an idle and dissolute life, whose parents are dead, or if living, from drunkenness or other vices neglect to provide any suitable employment or exercise any salutary control over said children." By the same procedure, authority was given for the transfer of any child who had been committed to the House of Correction, to the House of Reformation.*

The committee proposed as a plan of action that police officers should ascertain what children had failed to enter their names at schools and if that failure was due to regular and proper employment, or to other legitimate excuse. The plan further required that the names of "all incorrigibly stubborn or habitually truant children" who had regularly entered their names upon the school register should be reported monthly to the city government by the various teachers. To aid in securing the execution of the plan the following orders were appended to the report for the consideration of the school committee :

"1. *Ordered*, That the several masters of the grammar and writing departments of the grammar schools report to the mayor of the city, in the first weeks of May and December of each year, the names of the children belonging to each school.

"2. *Ordered*, That the several masters of the grammar and writing departments of the grammar schools report to the mayor, on the first Monday of each month, beginning with June next, on whether there be in the school under their care any children who

*Supplementary Report on Truancy and Compulsory Education, by John D. Philbrick, in the Annual Report of the School Committee of Boston, 1861, p. 214.

are incorrigibly stubborn or habitually truant; and if so, their names, and their residences, and the names of their parents when known.

"3. *Ordered*, That this and the two preceding orders, together with the third section of the 'Act Concerning Juvenile Offenders in the City of Boston,' be printed in large letters and conspicuously posted in each grammar school; and that the same be read to the assembled scholars by the masters, on the first Monday of each month."*

With some slight modification in the wording, these orders became a part of the "rules of regulation of the schools" in May, 1846. In part they remained in force until 1857. In the revision of the rules in 1848 the third order was omitted. The first was repealed in 1851, and the words "beginning with June next," in the second, were struck out. Other changes were made in 1852 and 1855. In 1857 the order was made to read: "Teachers having charge of pupils who are habitually truant shall report their names, residences, and the names of their parents or guardians to the truant officers of the district."†

The evils of truancy were not confined to the Boston schools. They were felt in other cities and towns of the state, and in some of them were the subject of much earnest discussion. Mr. Horace Mann, then secretary of the State Board of Education, fully appreciated the magnitude of these evils, and made them important themes in his various reports. These discussions had their influence. By 1848 they had developed considerable sentiment throughout the state favorable to legislation by the General Court making truancy a criminal offence punishable by fine and imprisonment. Boston took an important step in this year toward securing such legislation. Mayor Quincy again called the attention of the city government to the magnitude of the evils. He urged the

* The third section of the "Act Concerning Juvenile Offenders of the City of Boston" is the one referred to on page 47.

† Philbrick's Report on Truancy, in *Boston School Report*, 1861, p. 215.

necessity of more effective measures in dealing with truants. It does not appear that his recommendation met with any action by the city council. But at a meeting of the school committee, November 15, an order was passed authorizing the appointment of a committee to consider the evils of truancy and to report measures to be taken to lessen it. The committee made their report December 20. They submitted a list of all "vagrant and truant children" in the city and recommended that the expediency of petitioning the legislature for new and more stringent laws be referred to the new board which would be organized in January, 1849.

Soon after the installation of the new board, an order was passed calling on Mayor Bigelow for information relative to what had been done by the city government toward securing the regular attendance of all children who were not members of private schools at the public schools. The order contained the still more important provision authorizing the mayor "to apply to the legislature for all necessary power to secure the attendance of such scholars." In response to this order, a report which had been submitted to the mayor by the city marshal was laid before the committee February 7, 1849. This report did not pretend to be complete. It stated that statistics had been obtained of ten hundred and sixty-six truant and vagrant children. These children were between the ages of six and sixteen years. Of the number reported, eight hundred and eighty-two were males and one hundred and eighty-four females. The marshal also gave it as his opinion that complete statistics would reveal no less than fifteen hundred children of this class in the city.*

Through the medium of the public press, the contents of this report were widely disseminated. The attention of the public having been thus directed to the evil, legislative action was demanded. The school committee of Boston, at its meeting of March 7, passed an order requesting the city government to devise immediately such measures as were necessary to secure the regular attendance of

* *Ibid.*, p. 222.

all idle and truant children of the city at school. About this time also a bill which had been prepared by a committee appointed by the school board, and of other gentlemen, was introduced in the legislature dealing with the question.* Certain members of the legislature, however, were opposed to a compulsory law, and their influence was sufficient to defeat the bill.

The teachers of the state now took up the question and advocated the principles of the rejected bill. In November, 1849, the State Teachers' Association convened at Worcester. At this meeting Joshua Bates, Jr., of Boston, gave an address favoring the enactment of a law for the prevention of "truancy and irregular attendance upon school." The address met with the approval of the teachers. John D. Philbrick introduced a resolution to the effect that the association endorsed the object contemplated in the address, and that the members should deem it their duty to use their influence to secure its accomplishment. Earnest discussion followed the introduction of this resolution, Professor Agassiz taking part in it. The resolution was not endorsed. In its stead a more practical one was adopted. This asked for the appointment of a committee of five "to petition the General Court to enact a law upon the subject of Truancy." †

Public opinion had by this time become thoroughly prepared for coercive measures. The efforts of the committee were not unavailing. On May 3, 1850, the General Court enacted a law authorizing the cities and towns of the commonwealth "to make all needful provisions and arrangements concerning habitual truants and children not attending school, without any regular and lawful occupation, growing up in ignorance, between the ages of six and fifteen years." Authority was given likewise for the enactment of such municipal ordinances relative to this class of children as should "be deemed most conducive to their welfare and the

* *Ibid.*, p. 224.

† This committee consisted of W. D. Swan of Boston, the mover of the resolution, Elbridge Smith of Cambridge, C. Northend of Salem, C. S. Pennell of Charlestown, and Levi Reed of Roxbury. Afterwards Joshua Bates, Jr., and T. Sherwin were added to it.

good order of such city.' Such ordinances, however, must have been approved by the Court of Common Pleas. The statute gave authority, too, for the appointment of three or more persons whose duty it was to make complaint to any justice of the peace, or any other judicial officer, of all violations of the ordinances. The justices were not required to assess the fine in case the violation was proved but in their discretion could confine the offender for such time as they deemed expedient, in "such institution of instruction or house of reformation, or other suitable situation, as may be assigned or provided for the purpose."* In July of this same year, the school committee of Boston requested the city council to enact such ordinances as would enable it to avail itself of the provisions of this statute. It was not until October 21 that this was done. Then with the approval of the Court of Common Pleas for the county of Suffolk, the necessary ordinance was passed. The third section of this ordinance set apart the "House for the Employment and Reformation of Juvenile Offenders" as the "institution of instruction" specified in the statute.† It was not, however, till 1852 that truant officers were appointed. This delay was due to the objection in the minds of some relative to two features of the law. The law gave to the court authority for assessing the fine, but in case of its non-payment, it prescribed no action on the part of the court for enforcing it. Again, should the court having jurisdiction sentence the culprit to the institution provided, instead of assessing a fine, the period of the confinement was left to the discretion of the judicial officer. These objections were both overcome by the statute of 1852. This gave authority to the judicial officer in case of default of the payment of the fine, to confine the culprit in the institution provided for a term not to exceed one year. At the discretion of the court, punishment by confinement might be given as the original sentence, instead of a fine. In this event, as in the punishment inflicted for non-payment

* Statutes of 1850, Chap. 294.

† Philbrick's Report on Truancy, in Boston School Report, 1861, p. 215.

of the fine, the term of confinement was not to exceed one year *

Boston, after the enactment of the statute of 1852, made arrangement for the enforcement of its provisions. The House for the Employment and Reformation of Juvenile Offenders was set apart by city ordinance as the institution which the act specified should be provided.† In April of 1853, the report of the truant officers of the city of Boston was made. In this report objection was made to the lenity with which the court fixed the term of confinement. One officer remarks: "One great objection to the truant law is the term of service being limited to one year, and I think it should be so amended that they [the truants] could be sent for an unlimited time."‡ Most of the sentences had been for either three or six months. In the case of the more hardened delinquents there was little, if any, improvement on the expiration of their sentence. The matter was again brought to the attention of the General Court. A third act since 1850 was passed in this year dealing with truancy.

The new statute was a great improvement over the former ones in at least two particulars. It gave the cities and towns of the state authority to transfer jurisdiction from the courts that had had it under the other two acts, to the police courts. It also extended the term for which an offender might be confined to two years.||

In the next year, an act was passed concerning truants in Boston. The only provision contained in this statute that is not found in the earlier statutes applying to all of the municipalities of the state related to minors who had neither parent nor guardian. It gave to the police justices authority to discharge such persons, if a fine had been assessed for violation of the provisions relating to truancy, on proof that they were without means to pay it.§

* Statutes of 1852, Chap. 283.

† "The House for the Employment and Reformation of Juvenile Offenders" was established in South Boston in 1826. Later it was removed to Deer Island.

‡ Quoted from Philbrick's Report on Truancy, in Boston School Report, 1861, p. 233.

§ Statutes of 1853, Chap. 343.

|| Statutes of 1854, Chap. 88.

By 1859 the various provisions of these laws were consolidated into a general statute. This gave the towns and cities the authority to make such provisions as were needful concerning truants and children growing up in ignorance. The law applied to all children between the ages of five and sixteen. It also increased the power of the truant officers. By it, they were not only to make complaint, but they were to carry into execution the judgments of the courts. The courts too were given greater authority in passing sentence than they had had formerly. They could fine the delinquent, or sentence him to an institution of instruction or reformation as under the previous laws. They were not required to do either. In their discretion the sentence might be the providing of the delinquent with a situation for work.*

This law remained in force till 1862. Then a new law was enacted essentially modifying the previous statute. The various statutes enacted from 1850 till this time had never been put into execution in many parts of the state. They had failed to accomplish their purpose for the reason that it was made optional with municipalities whether or not they should enact ordinances to enforce them. Thus they had never been given a fair trial, and for this reason had done but little in the way of correcting the evils of truancy.

The new law gave to "each city and town" the authority to make "all needful provisions and arrangements concerning habitual truants, and also concerning children wandering about in the streets or public places of any city or town, having no lawful occupation or business, not attending school and growing up in ignorance."† Besides making it mandatory on the towns and cities to make this provision, it more clearly defined than had been done heretofore the distinction between truancy and absenteeism. Lastly, the ages of children to which the law applied was from seven to sixteen. In the previous statutes it had been applied to

* Report of the Commissioner of Education for 1888-89, Vol. I., p. 472.

† Statutes of 1862, Chap. 207.

all children between the ages of five and sixteen. Just why this change was made is not apparent. If a child at the age of five or six is old enough to wander "about in the streets or public places," he is certainly old enough to be amenable to a law that will take him from them, and put him where he will be under less corrupting influences.

In compliance with the act of 1862, quite a large number of the cities and towns enacted ordinances to enforce the statute. But when compared with the total number of such municipalities in the state, this number was small. Out of three hundred and thirty-five towns and cities in 1865, but seventy-seven had made provisions for the appointment of truant officers.* In the next year the number was ninety-eight.† Before the end of the year 1862 Boston had found it difficult to enforce the law. It was defective in that it did not specify what court should have jurisdiction in cases arising under it. In the year following, the General Court passed a new act remedying the defect. By this, jurisdiction was given to "either of the justices of the police court of the city of Boston, and any judge or justice of any police court, and any trial justice in this state."‡

With this modification, relating to the city of Boston, the law of 1862 remained substantially as it was when enacted till 1873. Then the laws relating to truancy were reconstructed, and several improvements made. The truant officers were made the agents of the school committees instead of the municipality. The provision making truancy punishable by a fine was omitted, and for the first time the municipalities were required "to provide suitable places for the 'confinement, discipline, and instruction' of truant children."|| Besides these changes, it was made the duty of the county commissioners on the request of three or more cities or

* Rice's Report, p. 70.

† Report of Commissioner of Education, 1888-89, Vol. I., p. 473.

‡ Statutes of 1863, Chap. 44.

|| Report of Commissioner of Education, 1888-89, Vol. I., p. 474.

towns in any county to provide other places for the reception of truants than the county jail or house of correction. This took from truancy the criminal character which had been given to it in all the previous legislation on the subject. Heretofore, the efforts of the state had been in the direction of punishment. Now this was changed, and its efforts were directed toward reformation.

The same tardiness was manifested by the towns in putting this law into execution as had been with the law of 1862. Where it was enforced it proved fairly efficient, and greatly lessened the evils at which it was directed. But in 1875, only one hundred and thirty towns out of three hundred and forty-one in the state had appointed truant officers.* To induce the towns to comply with the provisions of the law, it was enacted in 1878 that all towns failing to make the required provisions should forfeit their share of the income of the school fund. This provision had the desired effect. In 1879 two hundred and fourteen towns were reported as enforcing the law.†

In 1881 provision was made by the General Court for the establishment of union truant schools in certain counties. The privilege was extended in 1884 to two, three, or four adjoining counties.‡ At the end of the year of 1890-91, county truant schools had been established in Essex, Berkshire, Hampshire, Hampden, and Worcester, and the counties of Bristol, Norfolk, and Plymouth had combined in the establishment of a union truant school.||

An amendment was made to the truant law in 1889, which abolished poverty as an exemption from complying with the law. At the same time some slight changes in the sections relating to the duty of truant officers were made. The officers still remained the agents of the school committees. It was also their duty to inquire into the reasons of the failure of any to comply with the

* *Ibid.*, p. 474.

† *Ibid.*, p. 475.

‡ *Ibid.*, p. 478.

|| Fifty-fifth Annual Report of the Board of Education (Massachusetts), 1890-91, p. 260.

provisions of the general compulsory law.* Under the direction of the school committees, they were required to prosecute, in the name of the municipality, such violations as came to their notice. Jurisdiction of all such cases was given to "police, district, and municipal courts"; trial justices and judges of the probate courts were also to have "jurisdiction within their respective counties."†

This law, with the provisions for the employment of children and the general compulsory law, makes a complete obligatory system. In the main, they are all well enforced. State Superintendent John W Dickinson writes to the commissioner of education under date of January 27, 1890, as follows: "The compulsory law operates well, and is generally obeyed. The employment law is quite thoroughly enforced. There is not much temptation in rural districts to break these laws, so not so much stringency is required to enforce them as in cities."‡

* See Chapter V. of this monograph.

† See Section 3 of act quoted in Report of Commissioner of Education, 1888-89, Vol. I., p. 482.

‡ Report of Commissioner of Education, 1888-89, Vol. I., p. 486.

CHAPTER V

THE GENERAL COMPULSORY LAWS OF NEW ENGLAND.

1852-1890.

THE truancy law of 1850 prepared the way for broader legislation in Massachusetts. Accordingly, two years later, it was made the duty of every person having under his control a child between the ages of eight and fourteen, to send him to the public schools of the place where he resided not less than twelve weeks each year, if the school was in session that long. Six weeks of this period was required to be consecutive. Failure to comply with these provisions made the offender liable to a fine, not exceeding twenty dollars for each offence. However, if it was shown to either the truant officers, or the school committee, that the absence of any child from school was due to his having otherwise been provided with the means of education for the same period of time, or if it was due to poverty of the parent or guardian, or to some physical or mental condition of the child that would prevent his application to study, the fine was not to be incurred. While the submission of proper evidence to either the truant officers or the school committee gave to these officials the authority to excuse from attendance, the enforcement of the law was no part of their duty. That duty rested with the town treasurers.* This provision proved to be a defect which prevented the efficient execution of the law. It is clearly evident that the proper executive officers should have been the school committees, working through truant officers. As it was, the town treasurers did little or nothing, and from the date of its enactment until 1873 the history of the law is little more than a record of failures. An attempt was made in 1859 to remedy

* General Statutes, Chap. 41.

this defect by placing the town treasurers under a penalty of twenty dollars for failure to prosecute after due notification had been given by either the school committee or the truant officers that the law had been violated. But this failed to secure its enforcement, and soon it practically became a dead letter.

It is evident from the report of General Oliver, in 1870, that the law was ignored; and that the provisions of the employment and truancy acts, then in force, were openly violated. He said, in speaking of this law: "Nobody looks after it—neither town authorities, nor school committees, nor local police—and the large cities and many of the towns of the state are full of unschooled children, vagabondizing about the streets and growing up in ignorance and to a heritage of sin. The mills all over the state, the shops in city and towns are full of children deprived of their right to such education as will fit them for the possibilities of their after life, and nobody thinks of obeying the school laws. In fact, most persons are ignorant that there is any such law, so that between those so ignorant and those that care for none of these things, we have no right to boast of compulsory education in Massachusetts."* In this same year, also, Superintendent White recommended that the legislature direct "the Board of Education or such other competent body as may be deemed proper to take into consideration all existing laws relating to school attendance, truancy, absenteeism, and the employment of children in manufacturing establishments, and inquire what alterations and amendments are needed to combine said enactments into a uniform, consistent, and efficient code adapted to the present views and wants of the public." The same recommendation was made by the State Board of Education the next year, and as a result the law of 1873 was enacted.† This changed the period of enforced attendance from eight to fourteen years, as provided in the statute of 1852, to that from

* Report of Commissioner of Education, 1871, p. 214. Quoted there from the Thirty-fourth Annual Report of the Board of Education, and of the Secretary of the Board (Massachusetts), for the year 1870.

† Report of Commissioner of Education, 1888-89, Vol. I., p. 474.

eight to twelve years. The reason of this change can probably be found in the increased number of weeks which each child was required to attend to school. The required attendance was now fixed at twenty weeks annually. But the most important feature of the new law was the placing of the responsibility for its execution on the school committees.* Under the law of 1852, this responsibility had been a divided one. It was the duty of the school committees to make inquiries concerning violations, and then to report them to the town treasurers, whose duty it was to make prosecutions. Now, prosecutions were to be made by agents of the school committees—the truant officers.

This law of 1873, together with the provisions relating to truancy and those of the Employment Act of 1876, made a complete system of obligatory education. This system continued in operation till 1889, when it received several important modifications. The general compulsory law of the system, however, worked only fairly well. Mr. George A. Walton, agent of the State Board of Education, says of it in his report of 1886: "There is one provision in our compulsory laws which is almost entirely inoperative; it is the section which imposes a fine upon the parent for neglecting to send his child to school for twenty weeks each year. Instances of such neglect are common. We often hear of them, but seldom of the parent paying the fine." †

By the amendments of 1889, the age limit to which the law was applicable was changed to that of the old statute of 1852. The period of required attendance remained the same as in 1873, but the time was divided into two terms of ten weeks, each of which was required to be consecutive. The exemptions provided for non-compliance with these regulations were other adequate means of instruction, an already acquired knowledge of the subjects required by law to be taught in the public schools, and such physical and mental condition as would render their attendance at school

* *Ibid.*, p. 474.

† *Ibid.*, p. 475.

impracticable. Poverty was to be no longer a legal justification for the non-education of children. This was a step in advance, for too frequently such an exemption becomes but a cloak to cover the greed or negligence of parents and guardians.

More important than any of the features of the law that have been stated is the provision regulating private schools. Attendance at such schools could be considered as fulfilling the requirements of the law only when they had been approved by the school committees. The conditions imposed for approval were the teaching of all the subjects required by law in the English language, equal thoroughness and efficiency in the teaching as that given in the public schools of the place where the private school was located. Finally, it was required that the progress of the pupils in such schools should be equal to that of those attending the public schools during the same time.*

On June 4, 1890, an amendment was made extending the time of required attendance from twenty to thirty weeks, if the schools were in session that long. In other respects the law remains substantially the same as in 1889.† The law as it stands is well enforced and is accomplishing the purpose intended. In the school year of 1890-91, two hundred and twelve towns, out of three hundred and fifty-one, had an average of over ninety per cent of the pupils at school every day; and of this number, eighteen had an attendance of over ninety-five per cent. Only eleven towns throughout the state had an attendance below eighty per cent.‡

This law in its requirements is similar to the one passed by the Prussian Diet during the same summer. The Prussian law is of greater stringency, and makes the period of required attendance extend from the ages of six to fourteen. This insures the child two

* *Ibid.*, pp. 481-482. The law is given in full.

† Fifty-fifth Annual Report of the Board of Education (Massachusetts), 1890-91, pp. 63 and 64.

‡ *Ibid.* (See Tables.)

years more of schooling than is required in Massachusetts. The penalty for non-compliance with the provisions of the law is a fine varying from ten pennies to one mark for each day of non-attendance. This fine must be paid immediately, and if it is not, the convicted person may be imprisoned from three hours to one day. Instead of imprisonment, however, there is a provision by which the delinquent "may work for the same number of hours for the benefit of the community, each according to his aptitudes."* Both laws establish the conditions under which private schools may be attended. In Prussia they must be equal to the public elementary schools, and when they are not, the inspectors are given the authority to enforce the attendance of the children at the public schools.†

Just how much of the Massachusetts law has been derived from Prussian precedent is not clear. It is, however, probable that from this or other German source the provision relating to private schools was obtained. As far back as 1850, Prussia began to exercise state control over such schools. In the constitution signed and sworn to by Frederick William IV, on January 31 of that year, is the declaration that "all public and private educational institutions are under the supervision of the state authorities."‡ The example set by Massachusetts in this particular has been followed by several other states of the Union. So far as Massachusetts is concerned, the chief significance of this provision lies in the tendency of the state to assume still greater control over such schools. If attendance at private schools is to be accepted in lieu of that at the public schools, then the assumption of greater authority by the state is inevitable; and the same qualifications, scholastic and professional, which it requires of the teachers in the public schools, ought and must be required of those

* Klemm's "Compulsory Education in Prussia" in Report of Commissioner of Education, 1888-89, Vol. I., p. 531.

† *Ibid.*, p. 531.

‡ *Ibid.*, p. 530; see Article 23 of the constitution.

in private schools. Only in such a course can the state be just to itself. In no other way can it guarantee to that class of children who attend such schools equal privileges as those enjoyed by the children that attend the public schools.

The present law of Connecticut had its beginning in 1872. The year previous, Dr B. G. Northrop went to Europe and made a study of the working of the compulsory laws in several countries. On his return he gave the results of his investigations in his report on "Obligatory Education." This was a strong factor in bringing about the law of 1872, and it had a decided influence in stimulating legislation in other states.

When the bill for this law was proposed, it contained a provision exempting all parents whose "pecuniary condition was such as to render the attendance of their children inexpedient or impracticable." Before the bill was passed by the house, this provision was struck out by a unanimous vote, and the state was committed to the position that poverty shall not be a just cause for the deprivation of any child of educational advantages. In 1871 a law had been passed requiring all parents or guardians to put their children who had been discharged from employment under the act of 1869 into school. At the same time the Employment Act of 1869, and the Truant Act of 1865, which had been modeled on the then existing truant law of Massachusetts, were incorporated with it. While these laws were applicable to all children, the compulsory system was not fully established until the law of 1872 was enacted.* This law has been amended several times since then. As it now stands it requires all parents or guardians having children between the ages of eight and sixteen to send them "to a public day school regularly during the hours and terms while the public schools in the district wherein such child resides are in session."† If the child has received thorough instruction during "the hours and the terms" that the public schools are in session through other means,

* Report of Commissioner of Education, 1888-89, Vol. I., p. 487.

† *Ibid.*, p. 488. (The law is quoted in full.)

then he is excused from attendance upon the public schools. Neither is this provision applicable to children who have attended school twenty-four weeks of the preceding twelve months, nor to children who are between thirteen and fourteen, and who have attended twelve weeks during that period and who are legitimately employed to labor at home or elsewhere. Children who are over fourteen years of age and are lawfully employed are also excused. The penalty fixed for each week's failure to comply with these provisions is a fine of not more than five dollars. Like the Massachusetts law there is a provision regulating private schools, but it is less rigid in its requirements. Attendance at such schools is sufficient only when the persons who have control of them keep a register of the attendance of all scholars in "the form and manner prescribed by the State Board of Education for the public schools." During the regular school hours this register must be open for the inspection of the secretary and the agents of the Board of Education.* The great defect of this provision is the want of any requirements relative to the character of the instruction given in these schools. The state seems to regard it as sufficient that children attend such schools without giving any heed as to whether the instruction given in them will compare favorably with that given in the public schools. This makes the provision manifestly much weaker in point of efficiency than that of the Massachusetts law. The provision is probably sufficient to enable the state to determine whether or not the attendance requirements are complied with. It does more than this. The provision giving the state authority to inspect the registers of such schools, and that requiring reports relative to their conditions from the "teachers or persons who control them" fully establishes the principle of the right of the state to interfere in matters pertaining to the education of its youth, and may serve as an excellent precedent for more exacting regulations.

The provisions for the execution of the law are much better than

* *Ibid.*, p. 488.

in Massachusetts. In the latter state this is done through local authorities. In Connecticut the law is administered directly by the state. In 1888 four agents of the State Board of Education were charged with the execution of the law. In most instances the local authorities have coöperated with these, but it is seldom they take the initiative. In 1889 the local authorities in but three towns out of fifty acted.* The law is unremittingly enforced, and because of this proves itself efficient.

In the other states there is not the same efficiency as in Massachusetts and Connecticut. Legislation on this subject in Maine began in 1875. However, as early as 1850 a law had been enacted looking toward compulsory attendance. Section 13 of this statute authorized towns to make "such by-laws, not repugnant to the laws of the state, concerning habitual truants and children between six and seventeen years of age not attending school, without any regular and lawful occupation, and growing up in ignorance, as are most conducive to their welfare and the good order of society; and may annex a suitable penalty, not exceeding twenty dollars, for any breach thereof; but said by-laws must be first approved by a judge of the supreme judicial court."† This law availed but little. It was not a positive mandate of the state for the eradication of ignorance, but left to each locality the solution of the question whether all the children should be entitled to school privileges. The statute of 1875 was a decided improvement, yet it was very defective. By its provisions parents were required to send their children between the ages of nine and fifteen years to either a public or private school for a term of not less than twelve weeks in each year. For non-compliance, parents were to be fined five dollars, and boys who neglected or refused to attend school forfeited the same amount. If children had been taught at home, or if the physical or mental health of the child was such as to render attendance at school impracticable, or if the child

* Connecticut School Report, 1889, p. 44.

† Report of Commissioner of Education, 1871, p. 204.

lived farther than one and a half miles "by the shortest traveled road from any school" attendance at school was not required. The execution of this law devolved on the school committees and the supervisors.*

It seems that but little good resulted from this statute. Perhaps this was due to its inefficient execution. State Superintendent Luce said of it, in 1887, "I know that its enforcement was generally found to be impracticable whenever any supervisor who sought to enforce it in some aggravated case of absenteeism came to the question of ways and means."† A substitute for this statute was enacted in 1887. This required every person "having under his control a child between eight and fifteen years of age to send it to a public school sixteen weeks each year, divided as far as possible into two terms of eight weeks each, unless it has been instructed elsewhere or labors under some bodily or mental disability. Any one not complying is to forfeit not more than twenty-five dollars. Cities and towns are required to elect truant officers, who are to enforce this law." The neglect of any city, town, or truant officer to comply with these provisions was made punishable by a fine of from ten to fifty dollars. Provisions were also made for committing boys between the ages of ten and fifteen years to the State Reform School if they should be found wandering about the streets during school hours; "but if satisfactory pledges are obtained from him or the person having him in charge that in the future he will conform to the requirements, he shall not be prosecuted so long as the pledges are faithfully kept." State Superintendent Luce wrote the Bureau of Education at Washington, January 28, 1890, regarding this law as follows: "As to its efficiency in securing the ends desired, the result depends largely upon the activity and efficiency of truant officers, and this upon the countenance and interest of the communities of the towns of the state. In many cities and towns the increase of average at-

* Report of Commissioner of Education, 1888-89, Vol. I., p. 517.

† *Ibid.*

tendance has been marked ; in others little change has been discernible. The passage of the law has been too recent to decide upon the actual or prospective results to be secured by its general enforcement."*

In 1867 an attempt was made in Vermont to compel the attendance at school of all children between the ages of eight and fourteen. Three years later an amendment having particular reference to its enforcement was made ; but it seems to have been inoperative and soon became obsolete. In 1888 the law was entirely remodeled. Originally the period of obligatory attendance had been twelve weeks ; this was now extended to twenty. Another excellent provision made illiterate children under fourteen years of age ineligible for employment while the public schools were in session.† The weak feature of the law was a provision virtually making the initiation of proceedings depend on the complaint of "three voters in the district." The commissioner of education is undoubtedly right when he says of this provision, "All experience goes to show that the complaints of voters or taxpayers have never yet set in motion the machinery for enforcing a compulsory law."‡ The law seems to have failed to accomplish its purpose. At any rate, the report of the state superintendent for 1890 reveals the fact that out of 38,000 children between the ages of eight and fourteen, 2,600 were not in school at any time during the year ; and many who had enrolled failed to meet the time requirements.||

New Hampshire made provisions for obligatory attendance in 1871. A truant law, however, had been passed about twenty years before this.§ The statute of 1871¶ required of all children between the ages of eight and fourteen who resided within two miles of

* *Ibid.*

† See summary of the law in Report of Commissioner of Education, 1888-89, Vol. I., p. 513.

‡ *Ibid.*

|| Vermont School Report, 1890, p. 314.

§ Report of Commissioner of Education, 1888-89, p. 513.

¶ Approved July 14.

a public school, twelve weeks' attendance, six weeks of which were to be consecutive. The board of education or the "superintending school committee of such district" could excuse because of the physical or mental ills of the child, or if it was shown that "such child was instructed in a private school, or at home, for at least twelve weeks during such year, in the branches of education required to be taught in the public schools, or having acquired those branches, in other more advanced studies." For violation of these provisions, a fine of ten dollars was to be assessed for the first, and of twenty dollars "for each subsequent offence, to be recovered as in an action of debt." Furthermore, a penalty was attached for the non-execution of the law by the school officers.* In 1878 a general factory law had been passed.† Three years later amendments were made prohibiting the employment of a child under sixteen years of age during the time the school was in session, in any manufacturing establishment, unless he had attended school at least twelve weeks in the preceding year, or unless he could write legibly, and could "read fluently in readers of the grade usually classed as third readers." If the child so employed was under fourteen, he was required to have attended school in the district where he resided for at least six months in the preceding school year if the school was in session that long, if not then he must have been in attendance during the entire session. The penalty for the employment of children under other conditions than these was fixed at twenty dollars for each offence.‡ Relative to the enforcement and the efficiency of these statutes the commissioner of education in his report for 1888-89 || says: "No information can be obtained that the compulsory clauses of the above law § have been enforced. The state reports of recent years contain scarcely a

* Report of Commissioner of Education, 1871, p. 281.

† See General Laws of New Hampshire, 1878; Sections 11 and 12, Chap. 91.

‡ Report of Commissioner of Education, 1882-83, p. XXXIII. See also Report of Commissioner of Education, 1888-89, Vol. I., p. 513.

|| Vol. I., p. 514.

§ Law of 1871.

reference to the matter. Superintendent Folsom, of Dover, says : 'I have never heard of a case of a suit of this kind in this state.

I have had reason to believe that there have been, and are now, many children in this city whose parents are liable to the penalties prescribed by Section 18, though no legal complaint has ever been made to me.' '* In speaking of the enforcement of the efficiency of the employment laws, Superintendent Folsom says : "I find an impression quite prevalent that these laws are a dead letter with employers of children in this city. Whether or not this impression is correct, I have no means of knowing officially, as no taxpayer has ever made written complaint, and the law gives no authority for an investigation."

As far back as 1854, Rhode Island enacted a law forbidding the employment of a child under fifteen years of age in any factory unless such child had attended school for at least three months in the year preceding that in which he was employed. The law further provided that such a child should not be employed for a longer period than nine months in each year. The penalty for the violation of these provisions by either the employers or guardian of the child was twenty dollars for each offence.† This law does not seem to have been rigidly enforced. Even if it was, it was not sufficient in itself to drive out illiteracy. In 1870, 5,014 children in the state were not in school during the year. This number was nearly thirteen per cent of the whole number of children between five and fifteen years of age.‡ Commissioner Bicknell in his report for this year estimates the number of children who were unable to read and write at nearly ten thousand. Some of these were at work in the factories.|| This would seem to be sufficient evidence that the factory law had fallen into disrepute. Probably it

* Quoted from Dover, New Hampshire, School Report, 1887, p. 22.

† Report of Commissioner of Education, 1882-83, p. XXXIV.

‡ Report of Commissioner of Education, 1871, p. 336. The facts given in this report are based on the report of Hon. Thomas W. Bicknell for the year ending May 1, 1870. Mr. Bicknell was not at this time commissioner of education in Rhode Island.

|| *Ibid.*

never met with general favor. These evils were not remedied until the law of 1883 was passed. The census of 1880 showed to the people that in Rhode Island, in proportion to its population, was a larger number of illiterates than in any other northern state. Here the per cent of illiteracy was eleven and two tenths while the average for all the other Northern States was less than six.* The reason of this must in part be attributed to the inoperation of the factory law. During the decade preceding this census, Massachusetts and Connecticut had stringent employment acts which were well enforced.† Rhode Island thus became an inviting field to parents who opposed these restrictions. The want of restrictions in the employment of children in factories brought to the state a large foreign and illiterate population. Of the total population in 1870, nearly thirty-seven per cent were of foreign parentage. A large proportion of these could neither read nor write.‡ The number of this class increased during the decade following 1870.

A full knowledge of the evil as revealed by the census of 1880 led to measures for its eradication. State Superintendent Thomas B. Stockwell wrote in 1882: "Already different localities have begun to move in the matter, and seek for means of self-protection, so far as they can be provided under existing laws. The city of Newport has already passed a truant ordinance, and several of the towns are considering the question."|| In the next year a compulsory attendance law was enacted. Incorporated with this were provisions relating to the employment of children and to truancy. Beneficial results were experienced almost immediately. During the school year of 1882-83, the per cent of enrolled pupils to youth of school age was 73.07. This rose during the next year to 77.54 per cent. The average daily attendance increased from 48.89 per cent to 77.54 per cent during the same time.§ The

* Report of Commissioner of Education, 1888-89, Vol. I., p. 501.

† See Chapter III.

‡ Report of Commissioner of Education, 1871, p. 335.

|| Report of Commissioner of Education, 1888-89, Vol. I., p. 501.

§ Report of Commissioner of Education, 1883-84, p. 42.

secretary of the Board of Education did not attribute this improvement entirely to the compulsory law. He says "that it was much more the result of better teaching, increased attractiveness in the schools, and wider interest in education."* Possibly the reason for this "better teaching, increased attractiveness in the schools, and wider interest in education" may be found in the evil conditions revealed by the census of 1880. The eradication of these conditions was the purpose of the compulsory law, and it is a significant fact that within a year after its enactment the schools were in better condition than ever before in their history. It is true that in some parts of the state the law was not rigorously enforced. In Providence it was ignored. In other parts, not infrequently, there were political reasons for not complying with its provisions.

The law of 1883 was revised four years later. The chief changes effected were the imposition of a penalty upon cities and towns that failed to comply with the law, the transfer of jurisdiction to the district courts from the justice courts of the towns which had formerly had it, and, finally, the including of telegraph and telephone companies and mercantile establishments in the field of forbidden labor. The enforcement of the law has not been as rigorous as its friends had hoped for it. Still it has accomplished great good. The results it has accomplished have won friends for it and fully justify an obligatory system. In his report for 1889, Superintendent Stockwell says: "While the law is enforced in very different degrees in different localities, still it is coming to be a recognized factor in nearly every town. There are but six towns that do not report some work under the law, and in most of those towns it is probable that there was really no occasion for the service of a truant officer."†

The obligatory provisions of New England, as they are at

* *Ibid.*

† Rhode Island School Report, 1889, pp. 111 and 112. Quoted here from the Report of the Commissioner of Education, 1888-89, Vol. I., p. 503.

present, have changed in principle since the colonial era. As the various statutes now stand, they constitute a species of class legislation. The provisions relating to the employment of children and to truancy clearly evidence this. It is true that the general laws, like the old colonial provisions of Massachusetts and Connecticut, are applicable throughout the commonwealths. In colonial times, such legislation was but an amplification of the principle of universal education. Its purpose was preventive rather than remedial. The present general compulsory laws have the same design; but in the class legislation referred to, especially that relating to truancy, the purpose is remedial. Its design is the correction of existing evils, and the conversion of the youth belonging to what is known as the "dangerous and perishing classes" into good citizens. Such legislation is but a guarantee of the rights of the children of the state to be brought up under other than corrupting influences, and of the right to be so educated and trained as shall enable them to become honorable and useful citizens. It is in these rights, in that Lutheran principle "the safety of the state depends on an intelligent citizenship," and in history that such legislation finds a complete justification.