

Although there is not space here to allude in detail to the provisions of this code, the remarks of Judge Staples on the subject, written over fifty years ago, should certainly be quoted. These early legislators, he says, "began at the foundation, and adopted a bill of rights which secured all that their ancestors had wrested from their kings, and which their countrymen had subsequently lost, and were then endeavoring to regain. They clothe them in language too plain not to be understood. They were a simple people, and the language of their laws was such as a people would naturally use. They regarded themselves, within the scope of their charter, as the only source of power among them, and they in practice declared 'that their government derived all its just powers from the consent of the governed'. They expressly declared their government to be a democracy, or 'government held by the consent of all the free inhabitants'. This declaration was as heterodox in the political systems of that day, as were their notions of soul-liberty. . . . This code, and the acts and orders passed at its adoption, constituted the fundamental laws of the colony while the charter remained in force. The alterations made in them during that period were rather formal than substantial. Their spirit remained unchanged, and has been infused into all the subsequent legislation of the colony and state"¹

CHAPTER VII.

THE PERIOD OF THE FIRST CHARTER, 1648-63.

The people of Rhode Island had started the machinery of their new framework of government, but they were poorly qualified to keep the machine running smoothly and easily. When to the controversies within the separate towns were added the disputes arising from a general union, the burden seemed more than they could bear. The absence of a state protected church, while of incalculable benefit from many points of view, was in that day somewhat of a bar to political order. The blind subordination of the people and the calm ascendancy of the rulers—both the fruits of a theocracy—gave place in Rhode Island to rampant individuality. Eccentrics, enthusiasts, men

¹*Code of 1647*, p. 63.

of original and bold minds—those who are in the vanguard of every great reform—are seldom best qualified to submit peacefully and quietly to a newly framed government. And the early colonists of Rhode Island were no exception to the rule. The addition of new political relations only gave opportunity for further dissension.

Trouble soon began to crop out between Newport and Portsmouth. Scarcely had the charter been adopted, when the former town, by a vote of 41 to 24, signified its desire to continue under the same joint government as before; but the Portsmouth men, adopting a more reasonable construction of the charter, replied to the Newport messengers that they would “act apart by themselves and be as free in their transactions as any of the other towns in the colony”.¹ Providence, although not entertaining a dislike toward the new government, was too disturbed by internal disputes to be of much assistance in its management. Williams, either to escape these distractions or to seek a closer acquaintance with the Indians, had established a trading house in the heart of the Narragansett country.² He continued, however, to lend his aid and presence to the conducting of Providence affairs, and in December, 1647, prevailed upon several of his associates to subscribe to an act, whereby they renewed their allegiance to the town and colony, and consigned all former differences to the “Grave of Oblivion”.³ This act bore little fruit, since the few who signed it were least addicted to contentious actions.

Affairs were running far more smoothly, then, when the General Assembly met at Providence in May, 1648. Scarcely had Coddington been elected President when he was suspended, pending certain bills of complaint exhibited against him. As he did not attend the court to clear himself of the accusations against him, Jeremy Clarke, the assistant from Newport, was chosen to supply his place.⁴ The issue between the state party and the Coddington faction lay in the latter's refusal to side with the colony in her controversies with Massachusetts; and this course Coddington undoubtedly pursued from his dislike for Samuel Gorton.⁵ Williams, from his trading post near Wickford,

¹*Portsmouth Rec.* p. 35, 37.

²For this phase of Williams's life, see *Narr. Hist. Reg.* II, 25.

³*Prov. Rec.* xv, 11.

⁴The General Assembly record does not mention the specific nature of these charges, but Coddington says that the case in question was one with William Dyer. (*Mass. Hist. Soc. Coll.* vi, 321.) The records of the Court of Trials (MS. volume in Sec. of State's office) mention the case as one of assault and battery. Coddington and Dyer signed an agreement of reconciliation, Mar. 14, 1656, (*Narr. Club. Publ.* vi, 294).

⁵See his letter to Winthrop in Hutchinson, *Collection of Papers*, p. 224.

viewed the proceedings with much trepidation. "Our poor colony", he writes, "is in civil dissension. Their last meetings, at which I have not been, have fallen into factions. Mr. Coddington and Captain Partridge, etc., are the heads of the one, and Captain Clarke, Mr. Easton, etc., the heads of the other faction", and again, "The colony now looks with the torn face of two parties, and the greater number of Portsmouth with other loving friends adhering to them, appear as one grieved party; the other three towns, or greater part of them, appear to be another".¹ Williams's proposal for a general conference met with but little response. The Coddington party cherished designs and ambitions which no attempt at arbitration could frustrate.

The first move in the scheme was made in September, 1648. William Coddington and Captain Partridge presented to the Commissioners of the United Colonies the following application:

"Our request and motion is in the behalf of our Island; that we the Islanders of Rhode Island may be received into combination with all the United Colonies of New England in a firm and perpetual league of friendship and amity; of offence and defence, mutual advice and succor, upon all just occasions, for our mutual safety and welfare, and for preserving of peace amongst ourselves; and preventing, as much as may be, all occasions of war and difference; and to this our motion we have the consent of the major part of our Island".² The Commissioners responded that the request should be granted only in case the Islanders should acknowledge themselves within the jurisdiction of Plymouth. This condition was no bar to Coddington's traitorous design. In company with Captain Partridge, says Williams, he returned "with propositions for Rhode Island to subject to Plymouth; to which himself and Portsmouth incline; our other three towns decline".³ Such action would have been a complete disavowal of opinions which the people of Rhode Island had cherished for over a decade. Forgetful of the agency of Roger Williams both in procuring the grant of Aquedneck and in obtaining the Charter, this Newport Royalist would have deserted him when he most needed the help and strength of the larger towns; disregarding those principles of religious liberty for which he had contended for so many years, he would have subjected himself and his companions to a colony where church and state were one; unmindful of the hardships and self-sacrifice which all had undergone in order to found an abode of democracy and toleration

¹*Narr. Club. Publ.* vi, 150, 166.

²Request and reply in *Plym. Rec.* ix, 110.

³*Narr. Club. Publ.* vi, 154.

in the New World, he would have abandoned the two smaller towns to be overcome by their aggressive neighbors. Fortunately the great majority in the colony saw fit to continue the "experiment" and Rhode Island was saved.

Failing to impress even the people of his own town with the wisdom of destroying their government, Coddington was now prepared to execute a more covert, but equally destructive, scheme. He had witnessed the decline of his own influence, due to his unwillingness to act with his fellow colonists in their contentions with Massachusetts, and he now thought that harmony could be restored only through the restoration of his own authority. Ambition and a mistaken idea of his own importance caused in him the desire to be absolute ruler of the Island. As Dr. Turner has said in his most excellent account of Coddington: "Almost any man would be in favor of monarchy, if he could be king"; and Coddington was no exception to the rule. Not disclosing his design to any one, he sailed for England in January, 1649, leaving Captain Partridge in charge of his affairs at Newport.¹ Of his subsequent fortunes we shall hear later.

During his absence, matters went on in the same inharmonious routine as before. At a special meeting of the Assembly in March, 1649, Williams was chosen Deputy-President, and charters of incorporation were granted to the different towns.² The annual May sessions for 1649 and 1650 resulted in the regular elections of officers, and in the making and amending of certain laws to suit new conditions. The most important item of business at these meetings was the effort to resist the intended occupancy by Massachusetts of the Pawtuxet and Shawomet lands. At Pawtuxet dwelt the little band of men, led by the Arnolds, who had subjected themselves to Massachusetts in 1642, and who thenceforth kept that colony constantly informed as to Rhode Island affairs. Their refusal to pay taxes and to attend the colony courts led Rhode Island legislators to make frequent complaints of their traitorous conduct.³ At Shawomet, also, Massachusetts still

¹*Narr. Old Publ.* vi, 169; *R. I. Hist. Tracts*, iv, 50.

²The Charter for Providence is in *Prov. Rec.* ii, 113, 151. That for Warwick is copied in the MS. records of that town. The Portsmouth charter is referred to in the *Port. Rec.* p. 41.

³This Pawtuxet body took every opportunity to oppose Rhode Island interests, and were thoroughly determined to belong to the jurisdiction of Massachusetts. In a letter of Aug. 11, 1653, they ask that "some small rate" shall be laid upon them, and that officers shall be appointed to collect it. The rest of the letter, as usual, is filled with abuse of Rhode Island, this time directed against the people of Warwick, whom they accuse of restraining some of their inhabitants from subjecting themselves to Massachusetts. (Letter in *Extracts from Mass. MSS.* ii, 144, in R. I. Hist. Soc. Library.)

claimed jurisdiction. In June, 1650, Plymouth, at the request of a Bay commissioner, relinquished whatever claim to Shawomet and Pawtuxet lands she possessed. The Commissioners of the United Colonies, however, advised that the lands in question should be restored to Plymouth, and the Massachusetts Court acceded.¹

To all of these assignments of her territory, Rhode Island made a vigorous protest. At this time when the interchange of warnings and summons could have engendered little good feeling between the two colonies, there occurred an exhibition of Puritan intolerance which must have obliterated what little friendship there was left. In July, 1651, three members of the Newport church—John Clarke, Obadiah Holmes, and John Crandall—were deputed to visit an aged fellow member, who was residing near Lynn. Scarcely had they arrived and begun holding worship in the house when they were arrested, "being strangers". A few days later they were tried at Boston, charged with being anabaptists, and heavily fined. Holmes, for refusing to pay his fine, was so unmercifully beaten with a corded whip that it was a torture for him to move for many weeks afterwards.² Thus did the Massachusetts clergy, through the fear of being deprived of their temporal power, repress those who dared to worship God in their own manner. Bigoted as they were, they could not heed Clarke's prophetic warning that the "forcing of men in matters of conscience towards God to believe as others believe, and to practise and worship as others do, cannot stand with the peace, liberty, prosperity and safety of a place, commonwealth, or nation".

Coddington, in the meanwhile, had succeeded in having himself installed as ruler of Aquedneck. He had entered a petition with the Council of State, praying for a personal grant of the islands of Aquedneck and Conanicut from Parliament. He stated that he had discovered those islands, had purchased them of the Indians and lived in quiet enjoyment ever since, and was now desirous of being governed by English laws under the protection of the Commonwealth. On April 3, 1651, after nearly a year's delay, he was commissioned as Governor of the two islands. He was allowed to raise forces for defence, and to appoint annually not more than six counsellors, who,

¹See *Mass. Col. Rec.* iii, 216, iv, 16; *Plym. Rec.* ix, 170; Arnold, i, 230. The ease with which Massachusetts could assign and reassign Rhode Island lands is chiefly explained by the disparity in the size of the two colonies.

²The chief original sources for this narrative are in Backus's *Hist. of Baptists*, i, 207, Clarke's *III Newes*, and Cobbett's *Civil Magistrate's Power*. The best modern treatment is H. M. King's *Visit of three Rhode Islanders to Mass. Bay*.

however, were to be nominated by the freeholders of Newport and Portsmouth.¹ There is not the slightest doubt that Coddington obtained this commission under false pretences. His representation as to personal ownership of the island was certainly untrue, and was expressly denied by him a year later. That his neighbors so regarded it, is shown in Dexter's letter to Vane of August, 1654, in which he says, "We were in complete order, until Mr. Coddington, wanting that public, self-denying spirit which you commend to us in your letter, procured by most untrue information, a monopoly of part of the colony, viz., Rhode Island to himself, and so occasioned our general disturbance and distractions".²

Coddington's return to Rhode Island in the late summer of 1651 is strongly in contrast with the return of Williams seven years previous. Sixty-five of the inhabitants of Newport, and forty-one at Portsmouth, joined in requesting John Clarke to proceed to England and there seek a repeal of the commission.³ The inhabitants of Providence and Warwick immediately took active exertions towards raising two hundred pounds to send Williams to England.⁴ Overcome by their importunities, he sold his trading house at Narragansett, petitioned the Bay for passage through their jurisdiction, and embarked at Boston probably in November, 1651. He and Clarke, though acting for different constituencies, both sought the same object—the repeal of Coddington's commission.

The sudden arrival of Coddington with his commission left the two northern towns in the unenviable position of having to form a new government. As Arnold wrote to the Bay rulers: "Coddington hath broken the force of their charter, because he have gotten away the greater part of the colony". After a preparatory organization at Warwick in October, the commissioners of the two towns met at Providence in November, 1651, and declared that the Island towns had deserted from the chartered government formerly established. Act-

¹The proceedings of the Council are given in *Calendar of State Papers, Colonial, 1574-1666*, pp. 335-354. See also Palfrey, II, 344.

²*R. I. C. R.* II, 50, 287.

³*Staples's Annals*, p. 82. Coddington wrote Winthrop that the plantation "hath not hitherto succeeded as was expected by me", and said that a rebellion had been occasioned by some proceedings against William Dyer. (*Mass. Hist. Soc. Coll.* VI, 322; VII, 282.) Dyer and some others petitioned Massachusetts in Nov., 1651, for freedom to embark at Boston on their way to seek redress in English courts. (Copied in *Extracts from Mass. MSS.* I, 53, in R. I. H. S. Library.)

⁴Letter to Mass. from William Arnold, who hopes that their purpose may be frustrated and humbly desires that his name be concealed, Sept. 1, 1651 (*R. I. C. R.* I, 234). See also *Narr. Club Publ.* VI, 228, 231, 297.

ing under that charter, they chose a President—Samuel Gorton—and enacted that the legislature should henceforth consist of six men from each town in the colony.¹ Gorton called a general assembly for May, 1652, when they elected a new set of officers, and ordered among several laws of minor importance, that no slave, black or white, could be held in servitude for more than ten years. This was one of the very first laws ever made which provided for the emancipation of the negro.²

A small controversy now arose between Providence and Warwick which showed that some strong hand was necessary in order to keep the inhabitants from bickering over matters of trivial importance. In July, 1652, the Providence commissioners wrote to Warwick, communicating the latest advices from Roger Williams and proposing the appointment of a committee to compose an answering letter of encouragement. To this Warwick assented, and further provided that the committee might if they saw fit, treat with Newport and Portsmouth about expressing the unanimous desire of the four towns of renewing the Charter. But the Providence men would not contemplate this "enlargement" of their plans and in a plainly written letter replied to that effect.³ They met at Providence in October and drew up a reply according to their own way of thinking, in which they urged that Williams should have himself appointed by Parliament as Governor for one year. At the next meeting, held at Warwick, the commissioners declared against certain particulars in the letter which were "contrary to the end for which the said Roger Williams was sent". And so these and other matters of local importance—engendering "uncivil speeches", vilification of neighbors, and allegations of illegality—continued to disturb the meetings of this truncated remnant of a colony, until the success of Williams's mission made them abandon local animosities to face problems of state.

At Newport Coddington was rapidly discovering that even the smallest of monarchies cannot be successful with disaffected subjects. One cause of controversy was his withholding of the original purchase deeds of the Island. The settlers knew that he had obtained his commission through representing himself as sole purchaser, and this claim they made him flatly disavow by inducing him to deliver over to them

¹*Prov. Rec.* xv, 49; *R. I. C. R.* i, 233-38.

²*R. I. C. R.* i, 243.

³These three letters, all dated in July, 1652, are in *Copies of Warwick Records*, p. 3-4, in *R. I. Hist. Soc. Library*; and in *Prov. Rec.* xv, 56. See also *R. I. C. R.* i, 249, 356.

all the original deeds and records.¹ Another cause of trouble had its origin in controversies begun in the mother country. The war that had been declared between England and Holland early in 1652 spread to the New World, and led to certain restrictions upon the enterprising Dutch traders who had already opened a flourishing commercial intercourse between New York and Narragansett Bay. In April, 1652, some letters borne by Dutch messengers to Governor Coddington were intercepted, opened, and found to contain an offer of soldiers to be employed against the inhabitants of Rhode Island. The General Assembly immediately charged both Coddington and the Dutch Director with conspiracy and treason.² Although the case does not seem to have been pressed, the event does not display the character of Coddington in the most favorable light.

In England, Williams and Clarke were striving to obtain the repeal of Coddington's commission. The disturbed condition of affairs resulting from the Dutch war, and the vigorous opposition of the other New England agents greatly hindered them in their undertaking.³ But the influence of Sir Henry Vane—the "sheet-anchor of our ship", as Williams called him—coupled with the fact that the colony, in its disordered condition, might fall into the hands of the Dutch, finally induced Parliament to revoke the commission. The document, dated October 2, 1652, empowered the magistrates and people of the colony to administer the government by virtue of previous instructions, until further directions should be given.⁴ With the hope of obtaining a final determination, and also for the purpose of settling some private affairs,⁵ Williams continued to remain in England until the spring of 1654. The news of the provisional repeal, however, was immediately conveyed to the colony by William Dyer, who arrived there in the early part of the year 1653.

There was no reason now why the towns should not unite again under the terms of the Charter of 1644. But local animosities and

¹R. I. O. R. i, 50, under date of Apr. 14, 1652.

²O'Callaghan's *Doc. Col. Hist. of N. Y.* i, 497.

³See Williams's Letters in *Narr. Club. Publ.* vi, 254, and *Copies of Warwick Records*, p. 4 in R. I. H. S. Library.

⁴The document is printed in Palfrey ii, 557. It makes special provision for defending the colony against the Dutch, and advises the appointment of William Dyer as a sort of admiralty officer to report the capture of Dutch vessels, etc.

⁵*Narr. Club. Publ.* vi, 236. While in England, Williams tutored, read Dutch with Milton (*Narr. Club. Publ.* vi, 262) and published four controversial pamphlets (see titles in *J. O. Brown Catalogue*). Clarke also published his *Ill News from N. E.* in 1652.

jealousies prevailed. Freed as they had been for so many years from the restrictive influence of a religious supervision, accustomed as they were to almost complete political freedom, these colonies had yet to learn that the wish of the individual must be subordinated to the good of the state. The two northern towns held that as their government under the charter had never been interrupted, they constituted the legal colony.¹ The two island towns, since they possessed the greater population and importance, acted most independently, and paid scarcely any attention to Providence plans for union, unless the mainland towns should sue for it from island assemblies. Thus, for nearly two years there were two distinct governmental bodies, each professing to act for the whole colony, and each often passing laws directly in repudiation of the other's action.²

¹See the letter from Providence to Roger Williams in Staples's *Annals of Providence*, p. 89.

²Since the action of these separate assemblies has never been given in orderly detail, and since unused manuscripts throw some new light on the subject, it is here briefly summed up in a footnote. In February, 1653, Dyer wrote to both Providence and Warwick that he had some letters of trust which he would communicate to them at a meeting in Portsmouth. (*Prov. Rec.* xv, 52.) Thereupon the commissioners of the two northern towns met on Feb. 25, and sent down messengers with overtures of union, to which they received no reply; nor did a request, at a meeting of Mar. 9, for the mutual appointment of committees avail anything further (*R. I. C. R.* i, 239, 269). The two island towns met on Mar. 1, and, styling themselves the "Assembly of the colony", declared that all officers should stand until the May election. (*Idem*, p. 240.) On Mar. 18, they wrote a letter to Providence and Warwick, informing them of the approaching election in May, and telling what legislation was to be discussed. The mainland towns replied that they would meet to discuss reunion, upon ten days' notice. Receiving no reply to this they met on May 16 and elected officers for their own two towns (*Idem*, p. 258; see also *Prov. Rec.* xv, 34, 64, 65). On May 17 the island towns met, elected officers for the colony including assistants for Providence and Warwick, made several laws, and granted commissions to privateers to go against the Dutch. (*R. I. C. R.* i, 263.) The northern towns met on June 3, and drew up a remonstrance, stating how their attempts at reunion had been disregarded, and complaining of the issue of commissions in the name of the colony. (*Idem*, p. 267.) At a special meeting of Aug. 13, they addressed a letter to Massachusetts concerning her subjects at Pawtuxet. (*Idem*, p. 271.) The Island assembly met at Portsmouth Aug. 16, and drew up a letter in reply to one sent by Massachusetts protesting against the capture of a French prize by Capt. Hull, acting under a Rhode Island commission. (Mass. letter copied in *Extracts from Mass. MSS.* i, 56, in R. I. H. S. Library.) Their reply was in substance, that the Bay protests of illegality would be referred to English courts. They transacted various items of business, appointed one committee to negotiate with Providence and Warwick, and another to reconcile the difficulties on the Island itself. This latter committee reported that "Mr. Coddington only will agree to a compliance in case he may be governor and act upon his commission". (The records of this important assembly are not in *R. I. Col. Rec.* They are copied in *Extracts from Mass. MSS.* i, 59, in R. I. H. S. Library.) On Sept. 5, William Arnold, at Pawtuxet, communicated to

Although some of the men of the northern towns strove to heal the breach by attending Island assemblies, it was not until August, 1654, that a complete reconciliation was effected. The noise of the disorders had reached England and drew forth from Sir Henry Vane a stinging letter which did much to quicken the union. "Are there no wise men among you", he writes, "no public self-denying spirits that at least upon grounds of common safety, equity and prudence can find out some way or means of union, before you become a prey to common enemies"? The reply of Providence to this letter, although ascribing the chief cause of disorders to Newport contentions, admitted that which was really the key to the whole situation, namely, the possibility that imbibing too much from the "sweet cup [of liberty] hath rendered many of us wanton and too active". On August 31, 1654, a few weeks after the receipt of this letter, commissioners from the four towns met and signed general articles of reunion, in which the transactions of each set of towns during the period of separation were allowed to stand, and the government under the Charter of 1644 was resumed.

The danger of a Coddington monarchy was at last warded off, and the dethroned ruler later stated publicly in the General Assembly that he did "freely submit to the authority of his Highness in this Colony as it is now united, and that with all my heart".¹ The separated settlements had come together, but the renewed aggressiveness of their neighbors, combined with the exuberant political activity of some of their own number prevented them from enjoying the fruits of such a union. The insecurities of disjunction were replaced by the perils arising from tumultuous town-meetings, especially at Providence,² from outside greed for Rhode Island lands, from Indian depredations,

the Bay intelligence as to the document sent to England in response to Massachusetts' protest—a document, by the way, which his own son was one of those appointed to draw up (Hutchinson, *Collections*, p. 253). There were apparently no meetings of the northern towns in 1654; but on May 16 of that year, there met on the Island a general assembly in which both Providence and Warwick were represented. A committee was chosen to compose the difficulty with "our dissenting friends". (*R. I. C. R.* i, 273.) In July came the letter from Vane, written Feb. 8, 1654, which did much to bring in the dissenters, and which was answered by Providence on Aug. 27. (*Idem*, p. 285.) On Aug. 31, commissioners from each of the four towns met and adopted articles of reunion. (*Idem*, p. 276.)

¹*R. I. C. R.* i, 327, under date of Mar. 12, 1656.

²See *Prov. Rec.* ii, 81; *R. I. H. S. Coll.* ix, 60; *R. I. H. S. Proc.* 1883-84, p. 79. A paper, circulated in 1654 by some seditious citizen at Providence, asserting that it was "against the rule of the gospel to execute judgment upon transgressors against the public or private weal", drew forth from Williams his oft-quoted "parable of the ship" (see *Narr. Club Publ.* vi, 278; Backus, *History of Baptists*, 1, 297.)

and from a dozen other dangers that might beset an unstable state. Roger Williams, in a letter to Massachusetts in 1655, refers to those difficulties with which the Bay was particularly concerned. The Indians near Warwick, says Williams, constantly committed such insolences that he remained in daily expectation of a great fire or massacre. When questioned for their conduct, they claimed to be within Massachusetts jurisdiction. At Pawtuxet also, the four families who had submitted to the Bay in 1642, continued to evade the colony taxes and disobey the colony laws under shelter of the Bay authority. Another cause of complaint was the refusal of Massachusetts to sell any powder or guns to Rhode Island people. Williams asserted that it was most unjust for the Bay magistrates to allow their own race and kindred to be exposed to the horrors of an Indian massacre, merely through lack of the means for an adequate defense. In his apt metaphor he remarks that although Rhode Island had often been esteemed a thorny hedge in the side of Massachusetts, yet even a hedge must be maintained as a bulwark against common enemies.¹

An event now occurred which has laid Williams open to the charge of inconsistency, and which seems to show that for once at least his personal animosities got the better of his usual peace-making spirit. William Harris, always in active opposition to Williams, had written a tract in which, according to his own account, he sought to defend "some simple, harmless people" whose conscientious principles forbade them to fight, take oaths, or conform to other colony regulations. Williams, who was the president of the colony, inferred from this tract that Harris was against all government, and at the May session of the Assembly, in 1657, brought against him the charge of high treason. The court put the matter over until the July session, and then came to the following negative decision. Having found that Harris had "much bowed the Scriptures to maintain that he who can say, it is his conscience, ought not to yield subjection to any human order amongst men", they admitted that it was "contemptuous and seditious", and discreetly referred the whole matter to John Clarke, the agent in England. All the papers, however, were probably lost at sea, and the subject was never again revived.

Harris may have given vent to his opinions in a contemptuous and irritating manner, and expressions of disloyalty and sedition could

¹Williams's letter dated Nov. 15, 1655, is in *Narr. Club Publ.* vi, 293. See also the letter of May 12th, 1656, on page 299. Winthrop had previously admitted the error of state policy in refusing the settlers of Aquedneck powder for their defence. (*Hist. of N. E.* ii, 173.)

have undoubtedly been inferred from his vigorous writings. But Williams must have realized that the charge of high treason could never have been supported, and that nothing more could have been accomplished than the possible blackening of his opponent's name. Even if the opinions that Harris held were dangerous in principle, they should not have formed the ground of such a severe charge unless he attempted to carry them into action by resisting the state. The condition of the colony at the time was so precarious that it would have been far better to pacify than to accuse.¹

Whether or not on account of his action against Harris, Williams was not re-elected President of the colony in the spring of 1657. Benedict Arnold, who was one of the seceders to Massachusetts and who had removed to Newport in 1651, was chosen in his stead. His elevation to this high position must have made his father, William Arnold, and his other relatives and friends at Pawtuxet realize that their position as subjects of another colony, was not exactly conducive to the most harmonious family interests. For on May 26, 1658, William Arnold and William Carpenter, in behalf of the inhabitants of Pawtuxet, petitioned for a dismissal from their subjection to the Bay government, which the court immediately granted.² We must notice, however, that Roger Williams, filling his usual role of peace-maker, is partially accredited with bringing about the reconciliation.

Rhode Island was finally freed from the troublesome intrusion of an alien government, and was now able with a more united front to cope with new state problems. One of the first of these difficulties arose from the arrival of a sect which, much despised and persecuted in the neighboring colonies, brought to Rhode Island a legacy the value of which cannot be too highly estimated. For the principles of the Friends—or Quakers, as they were termed—being soon espoused by many of the leading inhabitants of Rhode Island, exerted a most moderate and beneficial influence on colony legislation for over a hundred years. The first comers of this sect to New England shores arrived at

¹Williams states his side of the controversy in his warrant for Harris's arrest (Arnold, 1, 263), in a letter of 1668 (*Prov. Rec.* xv, 122), in a letter of 1669 (*R. I. H. S. Proc.* 1877-78, p. 72), and in his *George Fox dugged out of his Burrowes* (*Narr. Club Publ.* v, 21, 31, 316). See also *Book Notes*, xlii, 267. The Harris side is given in a letter printed in a small pamphlet published in 1896 by Robert Harris, entitled *Some William Harris Memoranda*, in the *Plea of the Pawtuxet Purchasers* (*R. I. H. S. Publ.* 1, 204) and in Fox, *N. E. Firebrand quenched*, p. 282. See also Dorr, in *R. I. H. S. Coll.* ix, 73. The official action is in *R. I. O. R.* 1, 361, 363, 396.

²*Mass. Rec.* iv, pt. 1, 333. The petition itself and other documents are in *R. I. H. S. Coll.* ii, 206.

Boston in 1656, and from that time on those "cursed heretics" became the special object of Massachusetts legislation. Imprisonment and fines, branding and mutilation, banishment and death, were rapidly meted out to them until the bigotry of the magistrates seemed to spend itself by its own force.

Rhode Island, ever a haven for distressed consciences, soon became a refuge for many of these persecuted people. The Commissioners of the United Colonies, perceiving this, wrote to Rhode Island in September, 1657, asking her to banish the Quakers already there and to prohibit all future inhabitation. The Rhode Island Assembly immediately answered: "We have no law among us whereby to punish any, for only declaring by words their minds concerning the things and ways of God".¹ When again urged in October, 1658, and even threatened with commercial excommunication, Rhode Island steadfastly adhered to her principles of religious toleration. A letter was sent to John Clarke in England asking him to plead "that we may not be compelled to exercise any civil power over men's consciences, so long as human orders in point of civilization are not corrupted and violated."

While the Quakers were thus being protected in Rhode Island territory, those of the sect who had the temerity to visit the neighboring colonies were being subjected to the fiercest persecution. As the letter to Clarke expressed it, "The Quakers are constantly going forth amongst them about us, and vex and trouble them in point of their religion and spiritual state, though they return with many a foul scar in their bodies for the same". Several who incurred the censure of the magistrates were fined, imprisoned and whipped. But the acme of cruelty, so far as Rhode Islanders were concerned, occurred in the case of Mary Dyer, wife of William Dyer of Newport. She was a brave, devout woman, who hoped that her persistent defiance of the Bay laws would force from the rulers a repeal of the cruel death penalty. Returning to Boston for the third time under pain of death, she was arrested and hung, June 1, 1660. But these revolting scenes were put to a stop in the following year by the royal command of Charles II, and the increasing number of the Quakers finally forced the magistrates to respect their rights.²

Soon after the arrival of the Quakers, Rhode Island embarked upon a series of disputes concerning the Narragansett country that was to

¹*R. I. C. R.* 1, 374; Rogers's *Mary Dyer*, p. 83.

²The story of Mary Dyer is graphically told in Horatio Rogers's monograph on the subject. For a list of references on the Quaker persecution, see the preface to Judge Rogers's volume and Winsor, *Narr. and Crit. Hist.* iii, 359, 503.

last for many years. This great tract of land, extending from the south line of the Warwick purchase to the ocean, and from Narragansett Bay to Connecticut's eastern boundary line, was in a most unsettled state as regards both ownership and jurisdiction. The original territory of the Narragansetts stretched towards the southwest at least as far as Wecapaug Brook, a little stream about five miles east of the Pawcatuck.¹ This whole tract, "extending about twenty-five English miles into the Pequod river and country", was included under the authority of Rhode Island in the Charter of 1644. Rhode Island, therefore, henceforth assumed jurisdiction of the tract. Connecticut, replying upon the Lords Say and Seal Patent of 1631, which granted territory as far east as the "Narragansett river", also laid claim to it. Massachusetts, although having no claim to Narragansett lands, demanded a share of the Pequot country as her portion of the spoils of the Pequot war; and in 1658 the Federal Commissioners decided that her claim was good, as far as the Mystic River.² Still another claimant for the Rhode Island lands were the heirs of the Duke of Hamilton, to whom the Plymouth Council had granted in 1635 all the territory between the Connecticut and Narragansett rivers.³

This much desired Narragansett country, which had so many claimants, contained no permanent settlement until long after the arrival of the 1644 Charter. Richard Smith, John Wilcox and Roger Williams had bought land of the Indians, and had erected trading-houses near the present Wickford about 1641.⁴ But no settlement of a permanent nature was attempted until July, 1658, when Samuel Wilbur and three others of Portsmouth, and John Hull of Boston bought from the In-

¹Nearly all the early Massachusetts and Connecticut authorities set Wecapaug as the boundary between the Narragansetts and Pequots. (See *R. I. H. S. Coll.* iii, 27, 56, 233, 263-267; *R. I. H. S. Publ.* viii, 73.) But Williams supposed the Narragansett country to have extended originally as far as the Pawcatuck (*Narr. Club Publ.* vi, 340). The testimony of several Narragansett sachems in 1661-2 also favors this latter view. (See *R. I. H. S. Coll.* iii, 242-247.)

²*Plym. Col. Rec.* x, 209. Massachusetts's claim affected the present R. I. territory only upon condition that the conquered Pequot country had previously extended as far east as Wecapaug.

³This claim never had any force, and was finally declared obsolete in 1697. (See Bowen, *Boundary Disputes of Conn.* p. 21.)

⁴J. W. Gardiner, in *Narr. Hist. Reg.* ii, 25, shows with much degree of plausibility that Williams may more properly be considered the pioneer of Narragansett than Richard Smith. John Wilcox's claim as "first settler" is advanced in *Narr. Hist. Reg.* ix, 60; see also *Idem*, viii, 269. The claim of the Dutch, who had trading stations at Charlestown even before the planting of Providence, should not be forgotten (*Dawson's Hist. Mag.* vii, 42.)

dians what was known as the Pettaquamscut Purchase. This comprised approximately the southeastern quarter of the Narragansett country. In the following year Major Humphrey Atherton and his partners purchased two tracts from the Indians—Quidnesset and Boston Neck—or roughly speaking, the eastern half of the present North Kingstown.¹

If the Narragansett country was included within the patent of 1644—as it undoubtedly was—then the Atherton purchase was in direct contravention of Rhode Island law; for in November, 1658, the General Assembly had ordered that all unauthorized purchases from the Indians of lands within the colony would be made under penalty of forfeiture.² This law received a still further wrench in September, 1660, when the Narragansett sachems, unable to pay a heavy fine of 500 fathoms of wampum forced upon them by the United Colonies, mortgaged all their land to Major Atherton and his associates on condition that the mortgagees should pay the fine. This Atherton did, and since the Indians did not discharge the mortgage within the specified time of six months, the Atherton company took formal possession of the territory.³ All this action, according to the "forfeiture laws" of November, 1658, was illegal and void. Rhode Island never attempted to oust the Atherton men from those lands that they had purchased from the Indians before that date, but, relying upon her sole jurisdiction under the Charter of 1644, she fought persistently to the end against this questionable mortgage.

Another dispute had already been begun concerning the lands in the extreme southwestern part of the Narragansett country. It will be remembered that the territory between the Wecapaug and Pawcatuck Rivers had been claimed by Massachusetts under the Commissioners' award of 1658. Immediately after this decision, the Bay magistrates

¹These two purchases took in the most fertile and desirable parts of the Narragansett country. For matters of detail concerning the Pettaquamscut Purchase, see *R. I. H. S. Coll.* iii, 275-299. Atherton's partners in his purchase were Gov. Winthrop of Connecticut, Richard Smith and his son of Narragansett and three Massachusetts men. The Atherton partners also purchased Point Judith in 1660, which sale, however, was made invalid by the previous Pettaquamscut Purchase. They made much pretension towards settlement, even ordering in 1660 that all lots not built and settled upon within two years should be forfeited. For boundaries and other details of their purchase, see *The Fones Record*, and *R. I. H. S. Coll.* iii, 289. See also the map showing the original purchases in Narragansett in J. N. Arnold's *Statement of the Case of the Narragansett Tribe of Indians*.

²*R. I. C. R.* i, 403; also *Narr. Club. Publ.* vi, 343.

³See *Plym. Rec.* x, 227, 248; *R. I. C. R.* i, 465; *R. I. H. S. Coll.* iii, 61, 234.

erected the lands on both sides of the Pawcatuck into a town, by the name of Southertown.¹ Two years later, in 1660, some inhabitants of Newport, acting upon the principle that Massachusetts' claim to the territory was without foundation, purchased from the Narragansett sachems the tract of land between the Wecapaug and Pawcatuck Rivers, and began a settlement there.² This tract, called by the Indians Misquamicuck, was later named Westerly. The Bay magistrates immediately took action, and after sending a letter of protest to Rhode Island through the Federal commissioners, issued warrants for the arrest of the trespassers. Three were captured and brought to Boston, two of whom—Tobias Saunders and Robert Burdick—were fined and committed to jail for non-payment. To this summary act Rhode Island naturally took exception, affirming that the settlement was legally made and proposing to refer the whole matter to the King.³ The matter remained in abeyance for over a year, during which period the inhabitants on either side of the Pawcatuck kept up a virtual border warfare most injurious to the peace of the colony.

These claims and encroachments upon Rhode Island territory, made possible by the ill-defined bounds of the First Charter, were the principal cause of a desire for a new and more specific instrument. This document, moreover, had been granted by Parliament, which was displaced in 1660 by the allies of the King. The monarchy was now restored in the person of Charles II. If Rhode Island wished to receive royal favor and recognition, she must needs exist under a charter other than that granted by a body whose proceedings were not recognized by the present ruling power.

Connecticut, however, had forstalled Rhode Island in this matter of procuring a charter. Through the able negotiation of John Winthrop, the younger, she had obtained in May, 1662, a charter granting powers and privileges of the most unusual latitude. According to its terms, the eastern boundary of Connecticut extended as far as "Narrogancett River, commonly called Narrogancett Bay". These bounds,

¹See *Mass. Col. Rec.* iv, pt. 1, 353. Southertown was later named Stonington.

²The deeds and several other documents relative to the subject are in *R. I. H. S. Coll.* iii, 241-269. The validity of the title to this tract depended upon whether the Narragansetts or the Pequots owned the land before the Pequot war. (See note on p. 98.) It is a question that can scarcely be settled at the present day, since the Indian witnesses furnished nearly the entire testimony.

³The documents relating to these matters are in *R. I. C. R.* i, 455-463, 469, 493; *Plym. Col. Rec.* x, 267, 287.

it will be seen, clashed with those of the Charter of 1644, and made it necessary for the Rhode Island agent to take immediate action. Fortunate it was for the colony that its affairs were entrusted to one so able and diplomatic as Dr. John Clarke. During the very year of the granting of the Connecticut instrument, he had presented two petitions to the King, in which he affirmed that the people of his colony had it "much on their hearts, if they may be permitted, to hold forth a lively experiment, that a flourishing civil state may stand, yea, and best be maintained, with a full liberty in religious concernments".¹

So forceful were Clarke's objections to the boundaries of the Connecticut charter, that Winthrop was compelled to overstay his time abroad in order to compose the differences between them. In April, 1663, the justice of Rhode Island's claim was recognized by the award of four arbitrators, who decided that the "Pawcatuck River should be the certain bounds between the two colonies, which said river should for the future be also called alias Narragansett, or Narragansett River"; and also that the Atherton Company should "have free liberty to choose to which of the colonies they should belong".² This agreement was signed by both the agents and the danger to both charters was averted. Having settled this difficulty, Clarke was now ready to act. So well had he bespoken the royal patronage and gained the esteem of influential men, especially of the Earl of Clarendon, that on July 8, 1663, he obtained a charter completely confirming the Rhode Island boundary claims, and making concessions even more liberal than those granted to Connecticut.³ In the following chapter allusion

¹*R. I. C. R.* 1, 490. These two petitions, although undated, are probably of the year 1662. See Arnold 1, 280.

²*R. I. C. R.* 1, 518. This terming the Pawcatuck, the Narragansett, was merely a compromise in order to conform to the wording of the Connecticut charter. This action of Winthrop's was subsequently disowned by Connecticut, upon the ground that his commission expired as soon as the charter was obtained. Such a disavowal, however, possessed no legal force when contrasted with the royal wish expressed in the explicit wording of the *R. I.* charter of 1663.

³The original documents for a study of Clarke's career in obtaining the charter may be found in *Calendar of State Papers, Colonial series, 1661-1608*, pp. 20, 110, 145, 148; *R. I. C. R.* 1, 432, 485, 518, et passim; *5 Mass. H. S. Coll.* viii, 75-79, ix, 33, 37-44, 50-53; *R. I. H. S. Publ.* viii, 147; and Arnold, *Hist. of R. I.* 1, 378-383. For an account of the imputation made upon Clarke's character by the historian Grahame, which later became the subject of a spirited controversy between Josiah Quincy and George Bancroft, see *Hist. Mag.* ix, 233; Quincy, *Memory of the late James Grahame vindicated*; Arnold, 1, 370, and Palfrey, iii, 431. A letter of June, 1663, inimical to Clarke's interests, which was obtained from the King by one John Scot, is discussed in copious foot-notes in Palfrey ii, 564; Aspinwall, *Narragansett Patent*, p. 30; and in Arnold, 1, 300, 383.

will be made to the reception and installation of this charter, and some attention will be given to its separate provisions.

Rhode Island had finally completed the first period of her colony existence, and could now look forward to the future with more confidence and hope. She had weathered the storms and hardships incident to the beginnings of all settlements, and though threatened with anarchy from within and oppression from without, she had held fast to the free and lofty principles that distinguished her from her neighbors. In spite of the warnings and forebodings of her incredulous Puritan opponents, in spite of their scorn and reviling, she persevered to the end, and clearly showed to them and to the world that a state *could* stand, even although it permitted a man to worship God as he saw fit.

CHAPTER VIII.

FROM THE CHARTER OF 1663 TO KING PHILIP'S WAR.

The Rhode Island Charter of 1663, which doubtless contained more liberal provisions than did any similar instrument ever granted by a monarch, which was expansive enough to remain as Rhode Island's only basis of government for one hundred and eighty years, and which at the time of its death was the oldest constitutional charter in existence, is surely worthy of careful study. In the first place the Connecticut and Rhode Island Charters mark a great departure in the line of constitutional powers of government granted to those incorporated. Previous royal charters, outside of those of the proprietary type, intended merely the exercise of rights of trade and commerce. It was purely a commercial venture, entered into by the individual as proprietor or by the colony as a corporation. England had Spain's example of assisting such commercial projects and hoped to reap the same rich reward. It is doubtful if the Massachusetts Charter of 1629, which is the best type of the earlier colonial charters, intended the least exercise of governmental powers.¹ By 1663, however, the

¹W. E. Foster, in a paper on the R. I. Charter of 1663, read before the R. I. Historical Society Nov. 13, 1888, thus summed up the opinions of those writers who had expressed themselves in regard to this much discussed subject; "First, those who take the ground that the Massachusetts Charter was essentially that of a trading corporation, including Gov. Hutchinson, George Chal-