

CHAPTER IX

SANCTUARY SEEKERS

IN barbarous ages when each man was a law unto himself, the ancient dictum that "whoso sheddeth man's blood, by man shall his blood be shed" was usually fulfilled by the vengeance of the next of kin. Hence the need for some place where an offender could dwell in security for awhile and be afforded time to provide for his own safety or the welfare of his dependents, or, indeed, to compound for his offence.

Such privileged places existed from very early times. The Hebrews had their six cities of refuge, the Greeks had the asylums afforded by certain of their temples, and the Romans could find safety in the sacred precincts not only of the altars in their temples but also of the statues of their emperors.

The fear and reverence that made heathen temples a place of refuge; the awful sanctity of the Holy of Holies, where the Shekinah quivered above the Mercy Seat; all this was reflected in after-days in the Christian Church.

Where the altar stands at the east end of the church is still the Sanctuary. At the altar is enacted the holiest of all that is connected with the Christian religion, to which the penitent sinner, however great his crime may have been,

is allowed to draw near, but where the unhallowed feet of the avenger thirsting for blood might not approach. Hence it was natural that the church should be a place of refuge for a fugitive, whether he were an unwitting one fleeing from vengeance or a downright criminal. By degrees there came into being the right of "Sanctuary," as recognised by law.

The usual privilege of Sanctuary was in some cases considerably extended by Royal Charter. Hence the prominence given to the rights possessed by certain chartered sanctuaries such as the great Religious Houses of Beverley, Durham and Hexham, has caused such confusion that we have lost sight of the privilege of Sanctuary that pertained in ancient times to the ordinary parish church.

All consecrated churches possessed this right from very early times. From the laws of Ethelbert, King of Kent, drawn up soon after his baptism by St. Augustine in 597, we see that the violation of church "frith," or peace, was heavily punished. The laws of Ina, King of the West Saxons, drawn up about the year 680, also make it clear that even the right of every consecrated church to afford Sanctuary was well established, whilst in the ninth century a period of Sanctuary extending to seven days and seven nights was granted to any fugitive seeking refuge in a church.

The church's peace, or "frith," was denied to none save those guilty of heresy and thus without the pale by the nature of their offence.

Though the period of Sanctuary was so limited

it was a decided advantage because it obtained a remission of part of the punishment. No bloodshed was allowed by the Church, and so the fugitive within her borders could not be condemned to death, but a more merciful punishment, or perhaps even a fine, could be imposed.

In successive reigns we find the time of grace extended a little. Definite rules, and scales of penalties for violation of church "frith," were drawn up. It was provided that those in Sanctuary were not to be removed except by the priest or his ministers. No fugitive was to retain stolen property, but was to restore it to its owner. Finally, any fugitive who took refuge repeatedly in a church was to forswear the province, and if he presumed to return no one was to shelter him, except by the consent of the King's justices.

This last clause is the earliest known reference to the formal Abjuration of the Realm made by the Sanctuary fugitive, which became customary from about the middle of the twelfth century.

By the time of King Henry II (1154-1189) the laws relating to the Church's asylum for offenders were strictly defined. A person accused of felony, or in danger of such accusation, could flee to any church for Sanctuary, and having reached consecrated ground he was allowed to stay there for forty days. While he was in Sanctuary the church authorities were responsible for his maintenance, which meant that the parishioners supplied him with food. If the parish authorities neglected this merciful pro-

vision, sentence of excommunication could be pronounced against them, as was once done in such a case by William of Wykeham, Bishop of Winchester. The parishioners were responsible for the fugitive's safe keeping in another way, for if he escaped they were heavily fined. So, during the period of Sanctuary, a careful watch was kept around the church to prevent an escape or rescue, the four neighbouring vills, townships or parishes providing a guard.

Before the expiration of the forty days of grace, the man in Sanctuary was expected to send for the coroner and then, in the presence of the sheriff, confess his crime at the church-yard gate and take an oath to quit the kingdom for ever. If, at the end of the forty days, he refused to abjure the realm or to quit Sanctuary, what was to be done? No layman must interfere with him. The priest alone could endeavour to persuade him to leave the sacred precincts, but if he should fail, then the supplies of food would be cut off and the fugitive would be forced by hunger to surrender.

In the Assize Roll, 632, for the County of Northampton, being the Pleas of the Crown and Gaol Delivery, under date 3 Edward III (1329), which covers a period of thirty years, we have two local instances of fugitives abjuring the realm. One was at Milton and the other at Collingtree, which at that time was still regarded as part of Milton.

M. 59. "The Hundred of Wymersle come by twelve."

M. 60. "Rob'tus Burdeuill' de Burstall' in

Com' Leyc' posuit se in eccl'ia S'ce Elene de Midelton' & Ibide' recogn' se esse l'rone dem plur' latrociniis & abjur' regnu' Angl' cora' Coron' Cat' eius ijs vn' vic' r' Et quia even' de die & villat' de Colentr' no' cep' ip'm Io' in m'ia."

[Translation]

" Robert Burdeville of Burstall, in the County of Leicester, placed himself in the Church of Saint Helen at Midelton and there acknowledged himself a thief of many thefts and before the Coroner abjured the realm of England. His chattels were worth 2s., whereof the Sheriff answers. And because he fled of the day and the vill of Collingtree did not take him, therefore it is held in mercy."

M. 60. D. " Walt'rus fil' Will'i de Brinton' p'rcussit Thom' Baroun de Dayhugton in Campis de Colentre cu' quod' bac'lo q'd statim inde obiit Et pr'd'cus Walt'rus statim post fam' posuit se in eccl'ia s'ce Columbe & ibidem recogn' se int'fecisse pr'dcm Thom' & abiur' regnu' Angl' cora' Coron' Cat' eius ijs. vjd vn' vic' r'."

[Translation]

" Walter, the son of William of Brinton, struck Thomas Baroun of Dayhugton with a stick in the fields of Collingtree, so that he instantly died thereof. And the aforesaid Walter at once, after the deed, placed himself in the Church of Saint Columba and there acknowledged that he had killed the said Thomas, and abjured the realm of England before the Coroner. His chattels were worth 2s. 6d., whereof the Sheriff answers." ¹

¹ For other local items of a different character on this Roll, see page 286.

When a Sanctuary man summoned the coroner and abjured the realm, the mode of procedure was as follows: In the presence of the coroner the criminal admitted his guilt. The coroner then summoned a jury from the four nearest townships, that in which the fugitive had taken Sanctuary being always one of the four. A second jury representing the whole Hundred, was occasionally called together, and the verdict was then said to have been found "by twelve sworn men, together with the next four vills." These twelve men and four vills seem often to have been regarded as two distinct bodies, and their verdicts were in some cases evidently given separately.

Having agreed to quit the realm, the ceremony of abjuration usually took place at the churchyard gate or stile. There the fugitive took the oath in the presence of the sheriff, coroner and jurors. The Northamptonshire form of the oath, and therefore the one administered at the churchyard gate of Milton, was as follows:

"Thus here, Sir Coroner that I, —, am a felon of our Lord the King and felony I have done like as I have confessid to you (here he states the crime). Wherefore I forswere the realm of England and that I shall hie me to the port of —(Dover, Bristol, Portsmouth or Yarmouth were the usual ports)—the which ye have given me. And I shall not goe out of the King's Hie way and if I do I will that I be taken as a felon of our said lord the King. And at the said port I shall ask passage. And I shall not abide there but a flood and an ebb if I may have passage. And if I may not have it in forty days



MILTON CHURCH PRIOR TO 1856.

From a painting in the possession of Mr. J. C. Emery.

next I shall admit me to the church again as a felon of our said Lord the King so help me God and all the Saints &c."

The fugitive was to cross the seas to some other Christian country within a given time, and accept banishment for life, and the port authorities had power to compel ships, on leaving, to give him a passage. Standing there at the churchyard gate, penniless, clothed in sackcloth and carrying a cross of white wood, he was assigned a port and a reasonable time in which to make the journey, usually from three to fifteen days in consideration of the age of the fugitive and the distance to be traversed. In early days he had to discard all his clothes, which became the perquisite of the church officials, and wear a single garment of sackcloth, but this strict rule was abrogated as time went on and shirt and breeches were generally allowed. The abjurer was strictly forbidden to leave the King's highway. The penalty for infringing this order was death by beheading. He was not to spend more than one night in any one place and was passed on from constable to constable, each place being bound to furnish him with a minimum of food and shelter. During all this time he had the protection of the law and the Church, provided he kept to the King's highway. Indeed, it was a grave offence to interfere with fugitives on the way to the coast and was equal to breach of Sanctuary such as dragging a man out of church. The fugitive would be of course unarmed, as in the first place he could not seek Sanctuary if he bore

weapons, but would have to discard them before entering the sacred precincts.

Occasionally it would happen that the abjurer on his way to the coast would seize some favourable opportunity to escape. At other times the fierce behaviour of the crowd of spectators would constrain him to leave the King's highway through fear of being molested. In either case, if caught, he would be at once beheaded, because he was then an outlaw. A notable case occurred at Wootton early in the fourteenth century, being of great interest to us as the final act occurred in the fields between Collingtree and Milton.

Early in the year 1322, Henry Felip, of Stoke Bruerne, was found dead in the parish of Courteenhall and an inquest was held on Wednesday, March 24th, 1322. It was found that he had been attacked and murdered by certain thieves. His son, who was with him, escaped and raised the hue and cry, with the result that five of the robbers were captured, but one of them, named John of Ditchford, escaped to the Church of Wootton and took Sanctuary there. On the same day that the inquest was held, the fugitive summoned the Coroner, Richard Luvell, and before him and a jury of the four nearest townships, he confessed that he was guilty of the robbery and murder, and abjured the realm of England. The port of Dover was assigned to him and his chattels were a sword, a knife and a "courtepy," valued at eighteen pence.

On the following Friday, March 26th, Richard

Luvell, the Coroner, was again called to the district on a grim business, for a dead man had been found with his head cut off "in the fields of Collingtree." An inquest was held by oath of twelve men and the four nearest townships, viz. Collingtree-cum-Middleton, Courteenhall, Wootton and Rothersthorpe. It transpired that the body was that of John of Ditchford who on the preceding Wednesday had abjured the realm of England before the Coroner. On the same day, he violated his oath by abandoning the King's highway and the warrant of Holy Church and fled towards the woods. Hue and cry was immediately raised against him. He was pursued by the people of Wootton and others until at last they caught up with him in the fields between Collingtree and Milton, and he was beheaded while still fleeing. The Coroner probably commended the beheading as a just act because he ordered the severed head to be carried by the four townships to the King's Castle at Northampton.

It is quite possible that poor John of Ditchford having left the churchyard gate of Wootton on his way to Dover, was terrified by the demeanour of the exasperated people, who had probably known Henry Felip for many years. With threats and execrations ringing in his ears he made a dash for freedom. Consequently, as soon as he ran beyond the roadside he became an outlaw and the prey of any man.

Such was the penalty for a breach of the rules. It must have been pitiful to see the wretched abjuror on his journey, perhaps at times full of

anxiety because of the badly defined roads and the stern necessity of keeping to the King's highway. On more than one occasion it is recorded that a fugitive had the good fortune to meet with the King, who, moved to compassion, granted him a full and free pardon.

When abroad, the banished men sometimes joined the King's armies in the wars against France and frequently some were pardoned and could return home. Return of an abjurer without permission was sternly punished.

A man who had taken Sanctuary was not compelled to summon the coroner and admit he was guilty. One who was accused of any crime of which he was perfectly innocent would take Sanctuary and remain there until he had obtained evidence or arranged his defence. He could then surrender himself "to the King's peace," or in other words, go to prison, stand his trial and take his chance of being acquitted. If he felt the evidence against him was overwhelming, he would summon the coroner, admit he was guilty and abjure the realm.

Sometimes the rights of Sanctuary were violated. The well-known instance of the murder of St. Thomas-à-Becket in Canterbury Cathedral will occur to all. Those who offended in this way, however, were severely punished by the Church, being usually excommunicated until they made their peace.

That the Church was right in sternly upholding her rights of Sanctuary will be acknowledged by all when it is remembered that there were

some who sought her protection through fear of being falsely accused of some crime.

Certain of the great Religious Houses, such as Durham, Beverley, Westminster and Hexham, had special privileges conferred by Royal Charter. At Beverley, for instance, Sanctuary extended for a radius of a mile and a half from the minster church. A fugitive in one of these chartered sanctuaries was not compelled to abjure the realm, but could elect to live within the boundaries of the Sanctuary.

When Henry VIII dissolved the monasteries the case of these fugitives, who thus dwelt in Sanctuary, gave rise to curious situations. So in 1540, on the abolition of the chartered sanctuaries, and also because of the remonstrances of foreign powers who objected to criminals being dumped on their shores, the custom of abjuring the realm was abandoned and eight towns were declared to be places of permanent Sanctuary. These were: Westminster, Northampton, Wells, Norwich, York, Derby, Manchester and Launceston. Needless to say, these places were by no means pleased at being thus distinguished, and many and bitter were the complaints that reached the Council.

Good as were its intentions, this Act of Henry VIII's was not a success, and after several vain attempts to improve it, all rights of Sanctuary for persons who abjured were abolished in 1603, during the first year of James I. The rights of Sanctuary pertaining to churches and churchyards still remained, though Sanctuary for serious crimes such as

murder had already been abolished by Henry VIII. At last the end came in 1623 by the Act of James I, 21, Cap. 28, when all forms of Sanctuary in church or churchyard were swept away. Strange to say, however, one small privilege survives, a faint shadow of the old-time right of Sanctuary, in that a writ served in church has no legal force.