SOME NEW BOOKS.

The County Palatine of Durham.

Inasmuch as the Proprietary governments of Maryland, of the Jerseys, of Pennsylvania, of Carolina and of Georgia were, to a more or less avowed and considerable extent, modelled upon the pattern afforded in the mother country by the County Palatine of Durham, it is surprising that the constitution of that palatinate has not been made long since the subject of careful study by American historians. The task long overlooked has been at last performed in the latest edition to the series of "Harvard Historical Studies," *The County Palatine of Durham*, by GAILLARD THOMAS LAPSLEY, Ph. D. (Longmans). In a volume of over three hundred pages the author undertakes to trace the origin of the palatinate and to discuss the powers of the Bishop of Durham in his capacity of Lord Palatine. In subsequent chapters he considers the administrative, legislative, judicial, financial, military and naval arrangements of the palatinate, from the inception up to the disappearance of it, regarded as a semi-distinct political entity. Relatively, few persons are aware that the County Palatine of Durham did not become entirely extinct until the death of Bishop Van Mildert in 1836, when an act of Parliament was passed whereby all temporal jurisdiction and privileges were declared to be forever removed from the bishopric. Up to that late date the Bishop still opened the assizes in person, as being still at the head of the administration of justice, the Judges sitting by virtue of the Bishop's writ. We add that the county of Durham, which is now included in the ecclesiastical province of York, contains an area of 1,012 square miles, but, formerly, there were three outlying portions of the county, shown in old maps and known as North Durham, Bedlingshire and Crayts. These were attached to the county as having formed parcels of the ancient "patrimony of Cuthbert," whereof the land between Tyne and Tees was the chief portion. The population of Durham is now about a million.

I.

It is naturally in his first chapter that Dr. Lapsley examines the origin of the palatinate. Like the other two English palatinates, those of Chester and Lancaster, it was substantially a great fief, answering in most essentials to the duchy or county of mediæval France. The three political entities did not differ greatly among themselves, and since Durham has had by far the longest independent history, it has been properly chosen to stand for the others. What we have in Durham is a tiny feudal England surviving into the Tudor period, when its political powers were summarily dealt with, and even to the reign of William IV., so far as some of its judicial privileges were concerned. Even when the separate judicial organization of the palatinate was reduced to two local courts the county palatine was preserved with the title vested in the Crown, and to-day the Queen-Empress Victoria is also Countess Palatine of Durham. Concerning the origin of this palatinate, three views have been entertained: two of these ascribe the erection of the county palatine of Durham to the act of some king of England, either Alfred or William the Conqueror, while the third view regards it as a growth, not, indeed, completed until the thirteenth century, but founded on a survival of local independence in the ancient kingdom of Northumbria. The oldest and generally accepted opinion is that William the Conqueror, as a matter of policy, created two strong local authorities in the persons of the Earl of Chester and the Bishop of Durham to act as buffers against the invasions of the unconquered Welsh and Scots. Dr. Lapsley points out, however, that there is not a vestige of evidence to show that William made any grant of palatine privileges to the Bishop of Durham. On the contrary, there is proof that, in the beginning of the twelfth century, a widely different view was held.

The Durham chronicler, writing in the first quarter of the twelfth century, ascribes the origin of the possessions and privileges of the see to the grants made to St. Cuthbert on his elevation to the see of Lindisfarne in A. D. 685, by Egfrith, King of Northumbria. These grants were confirmed and largely increased by the joint action of Alfred and Guthred the Dane, and merely confirmed again by the Conquerer. Moreover, the Bishops, when their liberties were called into question, never pleaded any grant from the Conqueror, but always answered that they held these privileges by prescription. The first hypothesis concerning the origin, then, must be rejected as not proven, and as not even probable.

The next theory to be considered is that of Sir T. G. Hardy, the theory, namely, that the jurisdiction of the Bishops of Durham grew gradually from a small beginning, under the protection of Oswald, King of Northumbria, and was considerably increased by later sovereigns, who, as late as the Anglo-Norman period, continued to make grants of land and privileges. The authority for these grants, especially for those imputed to Alfred and Guthred, is the Chronicle of Symeon, which, although written in the early part of the twelfth century, is based on Beda and certain Northumbrian annals which have since disappeared. Dr. Lapsley accepts Hardy's first assumption that the Durham palatinate had no definite origin, but was the outcome of a slow growth, begun long before the Norman Conquest, but he rejects, for lack of evidence, the supplemental assertion that the palatinate was founded by the act of Alfred and Guthred. A recent and ingenious theory of the origin of the palatinate has been propounded by Mr. W. Page, who, after reviewing the history of the kingdom of Northumbria, from its foundation in 547, until the earldom of Northumberland was granted to Prince Henry of Scotland in 1139, arrives at the conclusion that the palatine rights enjoyed by the Bishops of Durham were inherited from the Earls of Northumbria, who were practically independent, and did not belong separately to the Bishops previously to the time of Walcher, the first Norman Bishop of Durham, who was murdered in 1080. Dr. Lapsley declines, however, to accept Mr. Page's hypothesis, on the ground that the evidence adduced for it is insufficient. The view of the origin of the palatinate advanced by the author of this book is not inconsistent with that put forward by Mr. Page, but takes a broader view of the question. Mr. Page suggests a single cause for the origin of the palatinate, namely, the survival of the local independence of the Northumbrian Kings. It is not denied that this circumstance had its effect, but there were other causes as well, including conspicuously the fact that the Bishop of Durham was so far removed from the central government that what in nearer counties would have been looked upon and punished as usurpation was, in Durham, allowed to pass unnoticed. Such indulgence, indeed, may have been deliberate, owing to the fact that the English Kings were alive to the situation of Durham with reference to Scotland.

II.

Whatever may have been the source of their authority, it is certain that, from the thirteenth century onward, the Bishops of Durham were commonly reported to have within their see whatever rights and privileges the king himself enjoyed in his kingdom. In Durham, said a lawyer of the fourteenth century, the Bishop may do as he will, for "he is as king there." The limits of the sovereignty, indeed, were by no means stable, but, like all institutions, waxed and waned, attaining their widest development between the years 1300 and 1400. To this, the fourteenth century, therefore, particular attention is directed, for, without a clear notion of the complete structure, the phenomena of subsequent degeneration would be obscure. The attributes of the Bishop's legality are distributed under three categories, namely, powers *in imperio, in dominio* and *in jurisdictione*. As regards the first-named power, the Bishop was the head of the civil Government of the palatinate. In this capacity, he appointed such officers as the Kings of England had regularly used, or had designated to meet special emergencies, or to carry out the provisions of an act of Parliament. It was also the Bishop's duty to maintain the peace in his province, where it was correct to speak of the Bishop's, not the King's peace. From the early years of the thirteenth century, the entire machinery of capital punishment was in the Bishop's exclusive possession. Then again, like the King, the Bishop might delegate certain of his governmental functions; he might even appoint persons to fill his place during his absence, with powers so extensive as almost to constitute a regency. In like manner, certain persons in the palatinate enjoyed liberties and franchises by grant from the Bishop.

Another instance of the delegation of the Bishop's power was afforded in the creation of corporations. Of these, the most important were the municipal corporations or boroughs. There were five boroughs in the palatinate, all of which received their privileges and charters from the Bishop, not from the King. On the other hand, the Bishop, in strict theory, could not have any foreign relations. The power to make treaties or to enter into direct communication with any foreign power was never claimed in terms by the Bishops though as a matter of practice they exercised it in regard to Scotland. It is easy to see why the treaty power would be denied to the Bishop in theory, while, at the same time, the restriction was not always enforced. Geographically, the palatinate was of great strategic importance in all relations with the Scots; particularly was this true in the twelfth century, when the Scottish Kings were striving to add Cumberland and Northumberland to their dominions. The Bishops of Durham were brought into direct relations with other foreign powers in so far as they possessed and exercised the jurisdiction of admiralty in the palatinate. Thus one of them came into direct communication with the Hanseatic League, the town of Bruges and other Flemish municipalities. Another attribute or symptom of rudimentary foreign relations was the right of the Bishop to take at least a share of all spoils and ransom of prisoners accruing in consequence of the perpetual warfare on the borders. It appears, then, that, while, in theory, the Bishop of Durham had no authority to deal with foreign powers, and, therefore, no external relations, yet, in practice, such relations existed to a limited degree. We observe, finally, that the Bishop, in his capacity of supreme head of the civil Goverment in the palatinate, had the right to all lands forfeited within his province by reason of treason, as well as for other causes. Herein lay a sharp distinction between him and other great feudal lords in England. With regard to the latter, the rule was that "the felon's lands escheated to his lord, the traitor's land was forfeited to the King."

We should note also, that, as supreme head of the civil Government in the palatinate, the Bishop stood toward the Church in a peculiarly complex relation. The friars never obtained a foothold in the palatinate, and there was but one monastic body in the provnce, namely, the Benedictine convent of Durham, with its independent cells. Not only did the Bishop visit the convent, in his spiritual functions, but, the Prior was elected by the monks under authority of a *conge d'elire* issued by the Bishop in his capacity as Prince; and, during vacancies, the temporalities of the priorate were vested in him. As regards the Bishop's relation to his spiritual superior, the Archbishop of York, we find that the former resisted the process of visitation by the latter, and that, standing squarely on his character of a lay Baron, who might not be excommunicated without the King's leave, he despised the spiritual consequences of his acts. With respect to the relation of the Bishop as head of the civil Government to the Church in its judicial aspect, we need only say that he, in that capacity, issued prohibitions, writs for certification of divorce or bastardy, and, in general, regulated the relations of the civil and ecclesiastical jurisdictions.

We should next point out that, within his see, the Bishop of Durham was not only the head of the civil Government, but also the universal land lord; that is to say, within the bishopric, no land was held of the King, but all land was held mediately or immediately of the Bishop. In England, all mines of gold or silver belonged to the King; the privilege, of the Bishops of Durham somewhat exceeded that of their royal models, for they seem to have possessed all the mines in the palatinate, including base, as well as precious, metals and coals. This control of the mines was a fruitful source of revenue, for coal, iron and lead were plentiful. From a period at least as early as the beginning of the twelfth century, the Bishop of Durham also possessed the right to wrecks, and to the so-called royal fish, to wit: whales and sturgeons, that might be cast ashore or taken near the coast. In like manner, he was entitled to treasure-trove, or all hidden treasure discovered in the palatinate; to waif, or stolen goods abandoned by the thief; to estray, or beasts and cattle for which no owner could be found; and to deodand, or any object that had been the proximate cause of the death of a human being. The Bishop's royalty in respect to forests was of somewhat late development, but, eventually, became indistinguishable from that asserted from the Crown. The Bishop, too, might erect fairs and markets, a privilege which, outside the palatinate, could be claimed only by prescription or royal grant.

What within his province were the relations of the Bishop of Durham to the law? The answer is that, like the King of England, he stood outside the law in the sense that he might, by his grace, prevent its consequences, and, by his prerogative, suspend certain of its conditions. Thus no action lay against the Bishop in his own courts; if a person sought remedy against him, he was obliged to proceed by way of petition to the Bishop and his council. As regards the pardoning power, the analogy between the Bishop and the King was practically complete. This power was withdrawn from the Bishop and vested in the Crown by act of Parliament in 1536. The Bishop also, like the King, possessed the power of staying judicial procedure, and of suspending statutes. Anything done in the palatinate before Judges other than those appointed by the Bishop was null. No officers of the King could come into the palatinate for the execution of their office. Except in two specific cases, all appeals and writs of error lay to the Bishop only. In fine, he determined and regulated the relations between the common law courts and the ecclesiastical forum. Thus, we see that the Bishop of Durham was a sovereign, yet he was an elective one, in the choice of whom, the will of the King, exercised independently, or through pressure on the Pope, was the determinant. Then again, the interregna, during which the sovereign state of Durham was in the hands of the King, were frequent, and sometimes long; moreover, both as Prelate and Baron, the Bishop was nominally subordinate to the King. In general, it may be said that, at almost any time between 1066 and 1485, the Bishops of Durham desired to be as Kings in their palatinate, and, during most of this period, they, in varying degrees, approximated to their ideal.

III.

The chapter on the officers of State and of the household in the palatinate may be summed up as follows: The Bishop's staff of officers present several characteristics in which they differ from the pattern set in the kingdom at large, or in the great Continental fiefs. In the first place, they were at no time feudalized; although such officers as the Sheriff and Steward often belonged to great families, and performed most of their duties by deputies; still, the offices were purely appointive, and showed no tendency to remain in or return to any one family. Again, the duties of two or more officers were usually discharged by one person. This practice, easily understood in view of the small area of the palatinate and the fact that it was probably thinly populated, produced results perplexing to the historian. The functions of the various officers became so confused that, in many cases, it is impossible clearly to distinguish between the duties of two offices commonly held by the same person, as, for example, between the chancellorship and the receiver-generalship. From another point of view, this confusion is no more than a case of retarded development, a rudimentary condition occasioned by the lack of the pressure which economic forces were bringing to bear on the institutions of the kingdom.

The bishopric of Durham had its local assembly, which, however, had but little legislative power, the principle being clear, that, unless there was special provision to the contrary, all general English legislation applied to the palatinate as well as to the rest of the kingdom. The principal functions of the local assembly were fiscal. The palatinate, it should be remembered, was altogether exempt from ordinary royal taxation; the King could levy nothing there, except through the Bishop and by his leave. This exclusion did not extend to the clergy, who were taxed separately. When the King applied to the Bishop for financial aid, the latter would obtain leave from the *communicas*, or county assembly, to levy what was required; but, in the course of the fifteenth century, this practice was dropped. In 1449 the English Parliament granted the King a subsidy, and transmitted the act to the Bishop, with directions that the money should be raised by the Sheriff and constabulary. The Bishop's Council is not to be confounded with the palatine assembly. From the Norman Conquest onward, the Bishop was surrounded by a more or less limited body of advisers, composed of the great officers of his household and of the palatinate, a number of feudal tenants-in-chief, and, possibly, a few other councillors of humbler rank. The number of this body did not vary much, but the individuals composing it changed constantly. In the course of the thirteenth century a lower and more permanent class of councillors, largely clerics and jurists, began to become conspicuous, and the feudal or noble element was gradually subordinated or eliminated by the practice of choosing certain individuals to be of the council for a fixed time and at a salary. In the succeeding centuries, the body became smaller and more manageable, and the legal and clerical elements more predominant. This council had various advisory, financial and ministerial functions, and, in view of the narrow geographical limits of the problem of government in the palatinate, may be termed a rudimentary ministry of State.

In the chapter on the financial arrangements of the palatinate, we are enabled to form some idea of the amount of the Bishop's revenue. The total sum accounted for during a vacancy in 1180 is £1,452, but this is for a period of two years. During the next vacancy, which occurred in 1197, the gross revenue of the bishopric while it was in the King's hands amounted to £5,058. Between 1208 and 1211, the gross annual revenue was £5,595, and, in 1307, the receipts had risen to £5,695. The normal royal receipts for the whole kingdom in 1300 were but £58,155. In 1535, the Bishop's income had shrunk to £2,398, but there is reason to believe that the statement was made as low as possible. Financially, the palatinate fared well at the hands of Henry VIII. It remained for his daughter Elizabeth to strip it of some of its richest possessions and seriously reduce its revenues. In 1831, however, Durham was still one of the richest sees in England, showing an average gross yearly income of £21,991; at this time, the average gross income of the see of Canterbury was £22,216, of London, £15,133, of York, £13,798 and of Winchester, £12,107.

Toward the close of the eighteenth century an effort was made to extinguish the independent jurisdiction which existed in Durham. Although Lord Eldon and Sir Samuel Romilly each held at various times the office of Chancellor of the County Palatine, the Durham Court of Chancery gradually fell into decreptitude. Between 1825 and 1836, only sixty-one cases were heard there; the palatine Court of Pleas during the same period heard 150 causes, about half of these being appeals from the County Court which entertained a large number of actions, principally those of debt in which the sum was under forty shillings. A Court of King's Bench for Durham was intermittently held at Serjeant's Inn, and Lord Denman was Chief Justice of this body in 1836. The proposal of the Government to abolish these courts met with strong opposition, the result being that the act of Parliament passed in 1836 merely provided that the palatine jurisdiction of the Bishop of Durham should be separated from the bishopric and vested in the Crown, and should be exercised and enjoyed by His Majesty as a separate franchise and royalty. The County Court, indeed, was specifically abolished, but the Court of Pleas was retained until 1873, when its jurisdiction was transferred to the High Court of Justice. The Durham Court of Chancery still survives, although about 1850, it was nearly dead of inanition. In 1889, it was overhauled, and assimilated to the new judicial conditions of the kingdom, and, under the present Chancellor, the Chancery Court of Durham has become comparatively active.

We need only add that, by the middle of the seventeenth century, whatever shadow of authority in military affairs the Bishop Palatine of Durham may have retained ceased to be of any constitutional importance; in naval matters, the palatinate had been at all times practically subject to royal control, the Bishop possessing but one important seaport, Hartlepool, and his rights there having been strenuously disputed from the close of the thirteenth century.

The Commonwealth of Massachusetts.

In a volume of 400 pages, entitled *The Puritan Republic*, Mr. DANIEL WAITE HOWE has undertaken to bring out some of the salient features in the history of the Government and people of the Massachusetts Commonwealth from the foundation of the colony up to the revocation of its charter in 1684. He has undertaken to describe the public and the private life of the early Puritans, their customs, their characteristics and their struggles to establish and maintain themselves against great odds in a remote corner of the earth. In the prosecution of this task he has endeavored, he tells us, to portray the early Puritans as they would have wished to be portrayed; as Cromwell wished to be depicted, when he said to the painter: "Take me as I am, warts and all." Mr. Howe has also essayed to trace the evolution of the Commonwealth from a colony, of a Constitution from a charter, of a republic from a corporation. Throughout the narrative, and especially in the later chapters, he has striven to exhibit the germination and development of the republican ideas and institutions which were to reach their culmination in the last quarter of the eighteenth century. As regards the author's personal attitude toward the Puritan founders of Massachusetts, he says that, while he cannot accept all their beliefs, he thoroughly believes in *them*, in their manhood, their fortitude, their patriotism, their integrity, their devotion to duty and their reverent recognition of God in all their public and private affairs. It follows that the position assumed by him is very different from that taken by Mr. Brooks Adams in his interesting book, "The Emancipation of Massachusetts," and by Mr. Charles Francis Adams in his discussion of what he terms the "theologico-glacial" period, or "Ice Age" of the Puritan Commonwealth. At the same time, Mr. Howe can scarcely be classed among the "ancestor-worshippers," for he frankly admits that the Puritans did some things that he cannot justify, things for which it is difficult to find even a reasonable excuse, though he holds that they did a great deal more for which their posterity should be grateful.

I.

Before glancing at a chapter in which the author sums up what he considers to have been the merits of the Puritans, we would direct attention to some sections of the book that treat of the domestic, social, industrial and commercial life of the inhabitants of Massachusetts Bay during the seventeenth century, when that colony might be described as a theocracy. One of the first facts to be noted in connection with the Puritan fathers is the size of their families. From this point of view, they may be compared with the French-speaking denizens of lower Canada. We have no reason to doubt what the author of the "Magnalia" says about the numbers of the children in the old Puritan households. Cotton Mather gives one instance of a woman who bore twenty-two children and of another who bore twenty-three, of whom nineteen lived to adult years. The mother of Gov. William Phipps, he tells us, had twenty-one sons and five daughters. The Rev. John Sherman of Watertown had six children by his first wife and twenty by his second. "Behold," writes Cotton Mather, "thus was our Sherman, that eminent fearer of the Lord, blessed of Him." We do not know whether the women of that day considered child-bearing on such a colossal scale a blessing, and it is certainly hard to comprehend how the children could be taken care of when we compare their numbers with the proportions of the ordinary dwelling. Most of the dwelling houses in the colony of Massachusetts Bay were, at first, very small structures, built of logs, the "chinks" or spaces between the logs, being filled with clay; the roofs were thatched with coarse grass, or covered with clapboards, and the floors were made of split logs, or puncheons. Generally, the house consisted of but two rooms, a living room and a kitchen; some sleeping places in the garret were reached by a ladder. Sheldon, in his "History of Deerfield," says that "a common form was 18 feet square, with 7 feet stud, stone fireplaces, with catted chimney, and a hip roof covered with thatch." The pictures of them show houses very similar to those common in the early settlements in the West. The buildings in the seventeenth century were heated by fireplaces, stoves not coming into general use until long afterward. They were lighted at first with pieces of pitch pine or candle-wood. Wax candles were a luxury and so were tallow candles until cattle and sheep became plentiful. Sperm oil was not used until whale fishing began, which was not until 1690; not until 1774 did Boston light its streets.

As soon as sawmills and the manufacture of brick were introduced, the log houses in the towns gave way to larger and better structures. When glass began to be used in the windows, the panes were small and diamond-shaped. Previously, oil paper was used instead of glass. For some time after the foundation of the colony of Massachusetts Bay, the furniture of the dwellings was usually as plain as the structures themselves. It consisted for the most part, of homemade tables, benches or stools, plain bedsteads and ticks filled with straw or pine needles. If there was anything more costly, it had been brought from England. In the "Catalogue of Such Needful Things as Every Planter Ought to Provide to go to New England," Francis Higginson in 1630 enumerated the following household implements: one iron pot, one kettle, one frying pan, one gridiron, two skillets, one spit; wooden platters, dishes, spoons and trenchers. Extravagance in the building and furnishing of houses was not more favored by the early Puritans than was extravagance in dress. In 1632, Gov. John Winthrop reproved his deputy, telling him "that he did not well to bestow too much cost about wainscoting and adorning his house in the beginning of a plantation, both in regard of the public charges and for example." Before the Commonwealth lost its charter, however, Winthrop's advice was disregarded, and houses of a much more pretentious character began to appear, especially in Boston; even the pious Judge Sewall wrote to London for finer furniture than he could get in America. The inventories of estates found in the early probate records show that, long before the close of the theocratic period, that is to say before the end of the seventeenth century, the houses of some of the rich inhabitants of Boston were furnished very handsomely; specimens of finely carved furniture, beautiful plate and other costly interior ornaments are still preserved in antiquarian collections, and as heirlooms in private families. The great majority, however, of the houses and their furnishings, even in Boston, continued to be plain and simple.

In Higginson's catalogue of "needful things," before mentioned, the following articles of apparel are enumerated: "one Monmouth cap, three falling bands, three shirts, one waistcoat, one suit of canvas, one suit of frieze, one suit of cloth, three pair of stockings and four pair of shoes." In 1639 the General Court made an order prohibiting the wearing of "any manner of lace" upon garments, and, at the same time, provided "that hereafter no garment shall be made with short sleeves, whereby the nakedness of the arm may be discovered in the wearing thereof, and such as have garments already made with short sleeves shall not hereafter wear the same unless they cover their arms to the wrist with linen or otherwise. And that hereafter no person whatsoever shall make any garment for women with sleeves more than half an ell wide in the widest place thereof, and so proportionable for bigger or smaller persons." In 1675 "the evil pride in apparel" continuing, and "new, strange fashions" appearing, "both in poor and rich, with naked breasts and arms, or, as it were, pinioned with the addition of superfluous ribbons, both on hair and apparel," another law was passed directing that if the grand jurors failed to find indictments against the guilty persons the county courts should impose a fine upon them at their discretion. The Rev. Nathaniel Ward preached a furious sermon against ungodliness in female attire, and confessed that he found himself wrought up into a frenzy when he heard "a nugiferous gentledame inquire what dress the Queen is in this week; what the medinstertian fashion of the Court," thereupon, he proceeded to denounce her as "the very gizzard of a trifle, the product of a quarter of a cipher, the epitome of nothing, fitter to be kicked, if she were a kickable substance, than either honored or humored." He added that there were only "about five or six of them in our colony." The question whether women should appear veiled or not at public assemblages got into the churches. Roger Williams, when minister at Salem, thought they ought to wear veils, and adduced plenty of Scripture to prove it. It happened that John Cotton took the opposite view and brought forward plenty of Scripture to sustain him. We infer that Cotton's arguments suited either the tastes or the consciences of the ladies better than did Williams's, for, thereafter, the women wore veils only when it suited them to do so. Dr. Higginson has recalled that, "in 1652, three men and a woman were fined ten shillings each and costs for wearing silver lace; another woman, for a silk hood," and that Jonas Fairbanks, about the same time, was "charged with great boots, and the evidence went hard against him, but he was fortunately acquitted and the credit of the family saved." So lately as 1676, thirty-eight women were arraigned in Northampton for their "wicked apparel," but, not long afterward, similar prosecutions were quashed. Our foremothers had triumphed over the Magistrates, and the latter gave up the contest.

"Longe haire" on men was denounced by the General Court as early as 1634; but the fashion among men of wearing long hair, "after the manner of Russians and barbarous Indians" having "begun to invade New England, contrary to the rule of God's word, which says it is a shame for a man to wear long hair," Gov. Endicott and the Magistrates united in a solemn protest, wherein they declared their "dislike and detestation against the wearing of such long haire, as against a thing uncivil and unmannerly, whereby men do deform themselves, and offend sober and modest men, and do corrupt good manners." The fashion persisted, and became so alarmingly prevalent that divers inhabitants of Roxbury were moved to present to the General Court in 1672 a petition remonstrating against the evil example set before the people at Harvard College, chiefly because the youth there "are brought up in such pride as doth no ways become such as are brought up for the holy service of the Lord, either in the magistracy or ministry especially, and, in particular, in their long hair, which last first took head and brake out at the college, so far as we understand and remember, and now it has got into our pulpits, to the great grief and fear of many godly hearts in the country." This "provoking evil" still continuing to contaminate the morals of the community, it was found needful, in 1675, to pass a law making it a penal offence for men to wear "long hair like women's hair."

II.

Passing to the food and drink of the Massachusetts Puritan, we learn that of fish there was plenty, and so there was of wild game and of fowl. Out of the Indian corn the colonists learned from the Indians how to make many palatable dishes. Before it was quite matured it furnished roasting ears and "sukquttahhash." When matured, it was made into hominy, and the meal from it was used in making mush, johnny-cake or journey-cake, hoe-cake, ash-cakes and a variety of other kinds of food. Wheat did not thrive well in Massachusetts, and was little used in early times. Pumpkins, or "pompions," as they were called in those days, were abundant, and, out of them were made pies and many other dishes. Squashes grew profusely. Beans, pies and other garden vegetables also flourished, and helped to furnish the Puritan table. It was not long before the colonists had beef and mutton, and, as soon as they could grow them, apples, cherries and other small fruits reenforced the table supplies. We read of Thanksgiving dinners long before the close of the theocratic Commonwealth. Of good water there was no lack; Francis Higginson wrote in 1629 that the country was full of "dainty springs," and that, "we may dig wells and find water where we list." Nevertheless, the Puritans who came from England did not take kindly to water as a drink, and they soon began to make ale and beer. Ale houses sprang up on every hand. As soon as apples became plentiful, cider also was made, and it seems that the "harder" it was, the more it was liked as a beverage. The cider, moreover, was distilled into cider brandy or apple-jack. After a few years, wine began to be imported, and all classes drank wine when they could get it. Later, rum and whiskey were made and drunk. Meanwhile, laws against excessive drinking of intoxicating liquors were enacted and rigorously enforced. In 1639, the General Court passed a law making the drinking to one another a penal offence, and other laws against the excessive use of intoxicants were afterward enacted. Such entries as this were common: "James Brown is censured for drunkenness to spend two hours in the bilboes upon market day at Boston publicly."

Intemperance continued to increase until it became a prevalent and crying evil. Tea was a rarity, if not unknown, during the Commonwealth period, and we do not hear of coffee until about 1670. A vigorous and persistent war was waged against the use of tobacco. In 1632, the General Court forbade the taking of any tobacco "publicly." In 1634, it was further ordered that no person should take tobacco, either "publicly or privately in his own house, or in the house of another, before strangers, and that two or more shall not take it together anywhere." A short time afterward, the purchase and sale of tobacco was expressly prohibited. In 1637, the law against buying and selling tobacco was repealed, but other laws were subsequently enacted to discourage the use of the leaf, all of which seem to have been unavailing.

Inns or ordinaries early became a notable feature in the social life of the Commonwealth. They were not only indispensable to the traveller, but they became centres for the dissemination of local and foreign news. As there were no newspapers and no mails, information concerning what was going on in the outside world was gained chiefly from the innkeeper. The landlord himself was usually a conspicuous man in the community, and frequently held an office of some sort. The inns must soon have become places of resort for those inclined to greater conviviality than suited the ancient Puritans, for, at an early date, we find the General Court exercising a strict surveillance over all such places. Rigorous conditions were imposed upon the keepers of public houses. There could be no dancing in them and no "playing at cards, dice, tally bowls, ninepins, billiards, or any other unlawful games." The innkeepers were forbidden to sell "strong waters," or to allow any person to drink excessively, viz.: above half a pint of wine for one person at a time or to continue tippling for above the space of half an hour, or after 9 o'clock at the night." Neither were innkeepers to allow any tobacco-smoking, "except in a private room." Notwithstanding the severity of the laws, there is reason to believe that the landlords, when the constables and the tithing men were not about, did not always allow their zeal for the enforcement of the statutes to deprive them of the custom of those who sought their inns for a little social recreation. Indeed, some of the taverns, like the Blue Anchor at Boston and the Greyhound at Roxbury became famous, their landlords being known far and wide for their genial disposition and generous hospitality. Intercolonial travel and commerce, and also the internal commerce of the theocratic Commonwealth itself, were chiefly by water. Until roads and bridges were made, land travel followed the trails and paths which had been used by the Indians. It was chiefly on foot, until horses became plentiful.

The earliest of the great roads was the Old Plymouth or Coast Road, connecting Boston and Plymouth. In early times no person was allowed to travel over it single, "nor without some arms, though two or three together." The old "Connecticut Path" ran from Cambridge through Sudbury, Marlborough and other frontier towns to Albany in New York. There were also the "Bay Path" and other famous highways. As towns could afford the expense, roads and bridges and ferries would be established within their limits. Long journeys over these roads would ultimately be performed, mainly on horseback, the women being usually seated on pillions, the traveller depended for his provisions upon the supplies which he carried or upon those furnished at the inns along the way. The first vehicles used were two-wheeled carts. Stage coaches did not come into use during the period of the theocratic Commonwealth.

III.

It is well known that Christmas Day was not celebrated by the Puritan Fathers. At an early date a law was passed by the Massachusetts General Court for preventing disorders arising from "observing such festivals as were superstitiously kept in other countries, to the great dishonor of God and offence of others;" it was, therefore, made a finable offence to observe "any such day as Christmas or the like, either by forbearing labor, feastings or any other way." This law was not repealed until the year 1681. Of course, May days and other time-honored English holidays fell under the ban of the same law. There were various public days, however, some of which were of a religious character. There were, for instance, Fast days, Thanksgiving days and Lecture days. The Thursday lecture afforded an opportunity for social meetings, of which advantage was eagerly taken, and people often went from one town to another to attend the exercises; so much so that, at a later period, it became necessary to put some restraints upon this custom. In 1675, a law was passed reciting that "*Whereas*, there is a loose and sinful custom of going or riding from town to town, and that, oft times, men and women together, upon pretence of going to lectures, but it appears merely to drink and revel in ordinaries and taverns, which is in itself scandalous, and, it is to be feared, a notable means to debauch our Youth and hazard the chastity of such as are drawn forth thereunto," and providing that all single persons so conducting themselves should be "reputed and accounted riotous, and unsober persons, and of ill behavior," and should be punished accordingly. There were some public days not of a religious character. Of these, the chief was election day, but training or mustering day was that on which more than on any other there seems to have been most freedom from the religious restraints of the time. The austerity and sombreness of their religion tended to make the Puritan Fathers look unkindly at anything like frivolity. Moreover, there was not much time for play under the theocratic Commonwealth. We have referred to the laws prohibiting cards and dice, and dancing in houses of common entertainment. Dancing in any place was not favored. In 1638, Lawrence Waters and his wife and others were by the General Court solemnly "admonished to avoid dancing." Theatrical entertainments were not so much as thought of during the Commonwealth period, and it was a long time afterward before they were countenanced; the first entertainment of the kind in Boston took place in 1750. Even singing schools did not come into fashion until 1720. We should err, however, as Mr. Howe points out, should we assume that the Puritan laws could repress, especially among young people, occasional relaxations from religious restraints. The men found diversion in hunting parties for exterminating wolves and bears, in house raisings and in the excitements of elections and muster days. The women had their quilting parties, and other opportunities of meeting and discussing the latest fashions and exchanging the gossip of the neighborhood. The young men and women must have got sight of each other at the apple bees and corn huskings, and, when, at the latter, the lucky young man found a red ear, it is to be presumed that he exercised the right established by the unwritten law of kissing the girl of his choice.

The opportunities for courtship seem to have been limited. Still, they were not entirely lacking. Even at church, when the preacher was pursuing a seemingly endless discourse, and the hour glass was turned and turned again, there must have been some commerce of the eyes. There is no doubt that the Puritans believed in marrying. They married young, and did not spend much time in mourning for a lost mate, but got another as soon as they could. Every practicable encouragement to marriage was given by the laws. A young man, however, had to be careful that he did not persist in winning the affections of a young woman without the consent of her parents. If he did, he was liable to be fined, for courting a "mayd" without the consent of her parents was expressly forbidden. On the other hand, in favor of the children and "mayds" it was provided that "if any person shall wilfully and unreasonably deny to any child timely or convenient marriage, or shall exercise any unnatural severity toward them, such children shall have liberty to complain to authority for redress in such cases." The law required that notice of the intention of the parties to marry should be published or posted in the towns where they were to be married, or, if they resided in different towns, then in both. It is to be observed that, among the Puritans of Massachusetts Bay, a marriage ceremony was performed, not by a minister, but by a civil magistrate. The preaching of sermons on such occasions was allowed only with great caution, because, says Winthrop, "we are not willing to bring in the English custom of ministers performing the solemnity at marriage which sermons might at such times induce, but, if any ministers were present, and would bestow a word of exhortation, it was permitted." Marriage rings were not tolerated, the old Puritans believing "that it is a relic of popery to make use of a ring in marriage, and that it is a diabolical circle for the devil to dance in." No grounds for divorce were specified in the laws, but Cotton Mather enumerates some of the causes which would justify the civil magistrates in declaring the divorce of married persons, chief among which were adultery, impotence and malicious desertion.

In one instance, the General Court endeavored to compel a husband and wife to stick to each othes. This was in the case of the Rev. Stephen Batcheler of Lynn, who, when nearly 90 years old, married a third wife. Matrimonial troubles followed, and, in 1650, the General Court ordered that "Mr. Batcheler and his wife shall live together as man and wife, as in this court they have publicly professed to do, and, if either desert the other, then hereby the court doth order that the Marshal shall apprehend both Mr. Batcheler and Mary, his wife, and bring them forthwith to Boston here to be kept till the next Quarter Court of Assistants." The nonagenerian, however, got away, went to England, married another wife and lived on. Six years later, Mary having become convinced that she could get no other relief, presented her petition to the General Court for a divorce.

IV.

Of course, the Puritans could not spend their lives in praying or in watching their neighbors lest the latter should violate sumptuary laws. They had to work to earn a living. Let us, therefore, examine the industrial and commercial conditions of existence in the theocratic Commonwealth. From the outset, the colonists of Massachusetts Bay perceived that they would have no use for idlers and shirks. As early as 1633, an order was made by the General Court that "no person, householder or other, shall spend his time idly or unprofitably, under pain of such punishment as the court shall think meet to inflict, and to this end, it is ordered that the constable of every place shall use special care and diligence to take knowledge of offenders in this kind, especially of common coasters, unprofitable fowlers and tobacco takers, and present the same." By a subsequent law, the selectmen of towns were required to see that "all parents and masters should breed and bring up their children and apprentices in some honest, lawful calling, labor or employment, either in husbandry or some other trade, profitable for themselves and the Commonwealth, if they will not or cannot train them up in learning to fit them for higher employment." By a law passed in 1682, the tithing men in each town were required to return all idlers to the nearest Magistrate, who was authorized to set them to work "in or about any employment they are capable of," and, if they refuse "to be regulated as aforesaid," then they were to be sent to the house of correction.

The tilling of the soil, both for farms and gardens, was, naturally, the chief industry at the start. The soil of Massachusetts was, of course, much better before it was exhausted by cultivation than it is now. The meadows and the salt marshes produced good hay. Wheat, as we have said, did not thrive, but Indian corn, rye, oats and most of the fruits and vegetables that are common to-day were profitably cultivated. Of domestic animals, swine and poultry were soon introduced and rapidly increased. It was more difficult to raise sheep on account of the wolves and the severe winters. On the other hand, it was not long before horses and cattle became abundant. Agricultural implements were of the rudest character, as, at the time, they were in England. Ploughs were scarce, and those used were of the most primitive pattern. Wheat was reaped with a sickle, and threshed with a flail. Four-wheeled wagons were unknown, and the only kind of vehicle used in farm work was a rude cart. It is noticeable that a protectionist policy was introduced at an early date. A law passed in 1652 prohibited the importation of "malt, wheat, barley, biscuit, meal and flour from foreign parts." On the seacoast, fishing speedily became an important industry, not only to supply domestic consumption, but to meet the demands of foreign commerce; in proportion as commerce grew, shipbuilding was prosecuted. As regards mechanical trades, carpenters, blacksmiths, bricklayers, joiners, and sawyers were early in request, and other artisans were presently called for, especially in the larger towns. Mills for grinding Indian corn and wheat were soon built and were run either by wind or water. Previously, the colonists had pounded their corn, after the fashion of the Indians. Tanneries were quickly established, and several laws were enacted to encourage the manufacture of leather. The manufacture of salt, too, was begun at an early date. A pottery was established at Salem in 1641, and iron works were started at Lynn in 1643, but the latter were abandoned not long afterward. Spinning was at first done at home, and, by a law passed in 1655, "all hands not necessarily employed on other occasions, as women, girls, and boys, shall be, and hereby are enjoined to spin according to their skill and ability." The weaving of woollen and cotton cloths was begun at Rowley in 1643. Other small manufactories followed, but their progress was slow, and nothing in the seventeenth century foreshadowed the wonderful growth of manufactures in Massachusetts that now crowds the banks of the Merrimac with mills.

Trade between the colonies of Massachusetts Bay and Virginia began as early as 1631, the former colony exchanging beaver and other skins and fish for the corn and tobacco supplied by the latter. Traffic was also carried on with the Dutch at New York, the Massachusetts colonists getting from them sheep, sugar and so forth, in exchange for strong waters, linen cloth, &c. Some trade was also prosecuted eventually with the colony of Maryland, and, before long, commercial relations were instituted with England, the Barbadoes, Portugal and Spain. A scarcity of money was experienced almost immediately after the first settlement; in 1631, it was ordered by the General Court that "no planter within the limits of this jurisdiction returning to England, shall carry either money or beaver with him without leave from the Governor." The Indians whom the colonists found within the boundaries of Massachusetts Bay used as a substitute for money strings or belts of polished beads, the white beads being made from periwinkle shells, and the black beads from clam shells. These strings or belts were called "wampum." The colonists used this Indian substitute for money at first as a medium of exchange in their traffic with the Indians, and, afterward, in their dealings with one another, and various laws were passed making wampum a legal tender for specified amounts. For a time, musket balls, at the rate of a farthing each, were also a legal tender for sums under 12 pence. In October, 1640, it was ordered that "after the last day of this month, no man shall be compelled to satisfy any debt, legacy, fine or other payment in money, but satisfaction shall be accepted in corn, cattle, fish or other commodities" at such rates as the General Court might from time to time establish, or as might be determined by appraisers. The next year, it was ordered that all servants, laborers and workmen "should be content to abate their wages according to the fall of the commodities wherein their labors are bestowed, and that they should be satisfied with payment in such things as are raised by their labor or other commodities which the country affords." Some gold and silver, however, was necessary for carrying on the Government and the foreign trade. So, in 1652, a mint was established in Boston. The law authorizing it provided for the coinage of "all bullion, plate or Spanish coin into 12-penny, 6-penny and 3-penny pieces, which shall be stamped with a double ring on either side, with the inscription Massachusetts and a tree in the centre on the one side, and New England with the year of our Lord and the figures XII, VI, III, according to the value of each piece on the other side." The shillings coined under this statute were known as "pine-tree" shillings. The enactment of the law was one of the grounds upon which the charter of the colony was afterward revoked. The new money went out of the country as fast as it was coined, and, up to the end of the theocratic Commonwealth, corn, cattle and other commodities were made a legal tender for payment of taxes and for other purposes, at specified values, and they were used by general consent in the private dealings of the people with one another. Paper currency was not issued until after the expiration of the theocratic Commonwealth.

For some time after the foundation of the colony attempts were made to regulate wages and prices by law. This was a practice which had been followed in the mother country for upward of two centuries, ever since the economical conditions of England had been dislocated by the Black Death. At the first meeting of the Court of Assistants, in August, 1630, the wages of carpenters, joiners, bricklayers, sawyers and thatchers were established under penalties for taking or giving more than the sums designated, but at the meeting of the General Court in the following March they were "left free, and set at liberty as men shall reasonably agree." In 1633 another order was made, fixing the wages of "master carpenters, sawyers, masons, clapboard-ryvers, bricklayers, tylars, joiners, wheelwrights, mowers," and other workmen, and it was further ordered that "all workmen shall work a whole day, allowing a convenient time for food and rest." Repeated efforts were also made by the General Court to establish prices. In 1633 a general order was made reciting "the great extortion used by divers persons of little conscience," and providing that, thereafter, "no person shall sell to any of the inhabitants within this jurisdiction any provision, clothing, tools or other commodities above the rate of fourpence in a shilling more than the same cost, or might be bought for ready money in England, upon paying a forfeit in the value of the thing sold." In 1634 the price of corn was "left at liberty to be sold as men can agree," and afterward its price was again fixed by law, but in 1637 "the price of corn is set at liberty." The prior laws establishing wages were repealed in 1635, it having been discovered that such statutes could not be enforced, "for workmen being restrained, would either remove to other places, where they might have more wages, or else, being able to live by planting or other employments of their own, they would not be hired at all." So the fixing of wages was ultimately referred to the towns, and in this way "by the counsel and persuasion of the elders, and the example of some who led the way, the laborers and workmen were brought to more moderation than they could be by compulsion." But even this way "held not long." Neither laws nor the persuasion of the elders could control wages. Equally ineffectual were the statutes formed for the purpose of regulating the prices of commodities and the profits of tradesmen. One of the principles of trading which Mr. Cotton clearly proved by Scripture and the example of Ephron and Abraham to be a false principle was "that a man might sell as dear as he can and buy as cheap as he can." Nevertheless, the people persisted in going on in the old way, and Winthrop records in 1640 that "this evil was very notorious among all sorts of people, it being the common rule that most men walked by in all their commerce to buy as cheap as they could and sell as dear."

V.

Mr. Howe finds the germ of our present Union in the confederation formed in the seventeenth century by certain New England colonies. He points out that no authority for the New England confederation can be found in any statute passed by any English Parliament, or in any charter granted by any English sovereign. The principles upon which this association was formed were practically those of independency, and the association cannot be easily supported upon any other. Mr. John Quincy Adams asserts that the New England confederation originated in the Plymouth Colony, and was probably suggested to them by the examples which they had witnessed, and under which they had lived for several years, in the the United Netherlands. John Winthrop, however, tells us that, in 1637, "some of the Magistrates and ministers of Connecticut being here [in Boston] there was a day of meeting appointed to agree upon some articles of confederation, and notice was given to Plymouth that they might join in it, but their warning was so short that they could not come." The preliminary negotiations seem to have been conducted by Massachusetts and Connecticut. The New Haven colony had not then attained much consequence, and Plymouth seems not to have taken so active a part in the negotiations as Connecticut. The latter colony had no idea of entering into any sort of confederation with its more powerful Massachusetts neighbor which would undermine its own autonomy. The settlers of Connecticut were Puritans of the straightest sect, but they did not make church membership a condition precedent to the exercise of the privileges of citizenship. Gov. Winthrop, of Massachusetts had condemned this feature of the Connecticut organization as an indication of too great laxity. It is a striking illustration of the fallibility of human opinions that the written Constitution which Connecticut adopted in 1639, which Winthrop condemned, lasted, with little change for 180 years. Ultimately, in 1643, the danger of Indian inroads becoming imminent, commissioners representing Connecticut, New Haven, and Plymouth met at Boston and held a conference with a committee appointed by the General Court, and articles of confederation were signed on May 29 of the year named by all except the Plymouth commissioners, who then had not sufficient authority. Soon afterward, however, the articles were ratified by Plymouth also. The people of the province of Maine, as we are told by Winthrop, "were not received nor called into confederation because they ran a different course from us, both in their ministry and civil administration; for they had lately made Acomenticus (a poor village) a corporation and had made a tailor their Mayor, and had entertained one Hull, an excommunicated person, and very contentious, for their minister." Winthrop does not tell us why the people of Rhode Island were not received into the confederation, but we know that it was because that colony was regarded as the refuge of heretics and malcontents.

When Coddington and Partridge in 1648 requested in behalf of Rhode Island admission into the confederation, their request was denied by the commissioners with frigid politeness, accompanied "with tender respects" and hopes for their future "comfort and safety" upon the condition, known to be unattainable, "that the petitioners, or the inhabitants, or the most considerable part of them, upon a due consideration of the Plymouth patent or right, acknowledge yourselves within that jurisdiction." The confederation was named the "United Colonies of New England," and in case of war, each colony was to furnish soldiers, and contribute to the expense in proportion to the number of its male inhabitants between 16 and 60. Provisions were made guaranteeing the confederacy against the danger of any one of the confederates rashly embroiling the others in an unjustifiable war. It was provided that no new member should be received into the confederation, nor should any two of the members unite with one another without the consent of the rest. Each colony was to be represented in the confederation by two commissioners, "all in church-fellowship with us," and general authority was granted to the commissioners to execute the purposes of the confederation. The commissioners were to meet once a year or oftener in case of an emergency. The first and second meetings were to be held in Boston, the third at Hartford, the fourth at New Haven, the fifth at Plymouth, the sixth and seventh at Boston, and so on, until some place could be found "commodious for all the jurisdictions."

We pass now to the concluding chapter in which the merits of the Puritan fathers are set forth. Mr. Howe submits that, after all has been said about the bigotry, the austerity and the intolerance of the Massachusetts Puritans, much remains to be said in their favor. In the first place, it is a solid historical fact that Winthrop, Endicott and their associates founded a Commonwealth, and held it together long enough to make it the cornerstone of a New England confederacy and the beginning of a great republic. Again, it is undisputed that the Puritans believed no morality in public and in private life. No doubt their preachers preached long sermons and made long prayers. They required a rigorous observance of the Sabbath, and they did not concern themselves about making their churches or their religion attractive. The Puritans believed in education; the school house was as characteristic a feature of every New England settlement as was the meeting house. Their principles and practice were in this respect strikingly contrasted with those of the Royal Governors of Virginia. In 1670, the Lords Commissioners of Plantations proposed to Sir William Berkeley, then Governor of Virginia, a series of questions concerning the condition of affairs in Virginia: He replied: "I thank God there are no free schools nor printing, and I hope we shall not have them these hundred years, for learning has brought disobedience, and heresy and sects into the world and printing has divulged them, and libels against the best government. God keep us from both." It is likewise undeniable that the Puritans were intense lovers of liberty, and instinctive rebels against tyranny. Their first body of laws contained all the cardinal principles of Magna Charta and of the common law of England for the protection of the liberty of the citizens and of the rights of property. It is true that the Puritans were economical in their ways of life. There were no great fortunes in their days in New England. No great fortunes were then to be made by wrecking railroads, by watering stock or by cornering wheat. Most of the early Puritans had large families; the soil was poor; and, to make both ends meet, they were compelled to be thrifty and frugal. Yet they were not stingy in providing meeting houses and schoolhouses, and a substantial education for their sons and daughters. Finally, in the defence of their country, the Puritans of Massachusetts were never niggard with their contributions. Not only did they contribute liberally for their own defence in all the Indian wars during the Commonwealth period and in all the subsequent wars against French and Indians, but they contributed more liberally than any other American colony to the cost of carrying on the Revolutionary War. Official statistics show that, from the beginning of the Revolution to 1790, Massachusetts's excess of expenditures over receipts in behalf of the general Government was nearly equal to that of all four of the States of New York, Pennsylvania, Virginia and Maryland, and nearly ten times as much as Virginia, Maryland, North Carolina, South Carolina and Georgia. That was one of the reasons why Daniel Webster, replying on the floor of the Federal Senate to Hayne of South Carolina, declared that he had "no apology to make for Massachusetts."

M. W. H.