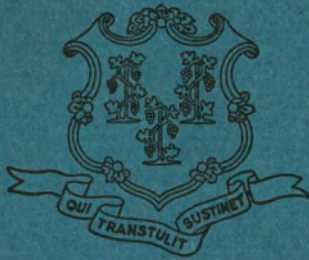


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The Beginnings of Connecticut

1632-1662

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TERCENTENARY COMMISSION OF THE
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The Beginnings of Connecticut.

1632—1662

CHARLES M. ANDREWS

I

NOT until 1632, two years after the great migration of the Puritans to Massachusetts Bay, had any white man, as far as we know, attempted to penetrate that vast area of wilderness which stretched as a dense and forbidding barrier between Massachusetts and the Hudson River. Except for a few trading posts and rudimentary villages established by the Dutch the whole region was almost unknown and entirely unoccupied save by Indian tribes, amongst whom the Pequots, driven eastwardly by invading Mohawks, were a disturbing and menacing factor. The Massachusetts settlers had at the beginning pushed at most but a few miles back from the bay and, as long as

This pamphlet publication is comprised of chapters from the forthcoming second volume of the writer's *The Colonial Period of American History*, to be published by the Yale University Press, and this material is here used by permission of the publishers. For the purpose of this series and because of the importance of the subject for the Tercentenary celebration, this period of beginnings has been treated here at somewhat greater length than will be the case in the larger work. All footnotes, references to authorities, and comments on controversial questions have been omitted.

land was available, had clung to the rivers as convenient lines of communication with the more thickly inhabited section along the coast. No Englishman, except occasionally a trapper, hunter, or explorer, had as yet made his way into this labyrinth of forest, which covered more than nine-tenths of New England, and no group of men had as yet faced the difficult task of clearing the land and laying out a settlement amid such unpropitious surroundings. Implements of husbandry brought from England were not well adapted to fell the huge trees, clear the matted undergrowth, and subdue the stubborn soil that made the region what it was, and for the moment there was no inexorable necessity of widening the area of occupation. The Dutch from Manhattan had sailed easterly along the southern coast in their search for favorable trading sites, and men of the Oldham type had doubtless trodden the Indian paths and visited the Indian clearings and villages in pursuit of bargains in furs, but no permanent results had come of their efforts beyond the gains acquired from barter and exchange.

The Dutch had early brought to the colonists at Plymouth and the Bay a knowledge of the existence of a great river flowing southward from the interior into Long Island Sound, and local Connecticut Indians, seeking protection from the warlike Pequots, had added further information regarding the fertility and wholesomeness of the upper river meadows and had shown how easily they could be reached, either by water or by way of the numerous paths that the Indians were accustomed to use in their journeyings from one part of the country to another. But the first man, of whom we have record, to seek the upper waters of the Connecticut River for the purpose of exploration and discovery was Edward Winslow of Plymouth, who, having returned from an agency

in England in the summer of 1632, set out soon after to investigate the possibilities of trade in the Connecticut valley. Among the Plymouth people he was the most energetic of all in contriving ways and means whereby his fellow "undertakers" might increase the wealth of the colony in order to pay off the debt to the London merchants who had financed the Pilgrim migration to New England. Some years before, after the break with the merchants, he had gone to the Kennebec in the interest of fishing and since that time had been indefatigable in his efforts to enlarge the scope of the colony's activities. He had already familiarized himself with the back country of Plymouth, going into the interior as far as Sowams and Narragansett Bay, and except for Roger Williams and John Eliot probably knew the Indians, though not their language, better than anyone else among the leaders in New England during the first half of the seventeenth century. The remarkably exact boundaries of the Bradford patent of 1630 were undoubtedly due to him. That two years later he should have extended his quest to the Connecticut River is not only reasonable in itself but is proved also by recorded evidence. In his letter to John Winthrop, the elder, in 1644, he speaks of his "experimental knowledge of the first beginnings" there and of his selection "of a place (and the place after possessed) the year before the Dutch began in the River . . . which was not a *vacuum domicilium* but inhabited the year before." The implication of these words is that Winslow was at the site of the present Windsor in 1632 and did something more there than merely view the land. He evidently picked out and occupied temporarily the spot whereon Lieutenant Holmes erected his trading house the next year.

Though officially Massachusetts would have nothing

to do with the proposal made to her in July, 1633, by Winslow and Bradford, who journeyed to the Bay for the purpose of persuading the Puritan leaders to join with Plymouth in a trading expedition to Connecticut, others of the colony were not so backward. They may have been, as Hubbard says, directed by a special providence to make the venture, but their main inducement was to take advantage of an opportunity for trade which the new information furnished. Among those who were ready at once to try out the wilderness was John Oldham, a pioneer of many experiences with both white men and Indians in early New England. He with Samuel (probably not John) Hall and two others, in September, 1633, went overland, and "taking a view of the country discovered many very desirable places upon the same river, fit to receive many hundred inhabitants." Returning with specimens of beaver, hemp, and black lead, Oldham persuaded a number of others from Watertown, where he was living as a freeman of the colony, to join with him in a second expedition the next year. Consequently in the autumn of 1634, with eight or nine companions, all of whom are known by name, he went again to the Connecticut, probably this time by water, and passed the winter in hastily erected houses at Pyquag, the Indian name of Wethersfield, which he made his headquarters for trade among the Indians. He was a man of a roving disposition, moving from place to place in quest of corn and furs, and going back and forth between the colonies as occasion demanded. He was probably frequently away from his Pyquag cabin, leaving others to look after his interests there. Mrs. Winthrop writes of sending a letter by him to her son at Saybrook in 1636, which he could easily have delivered, as he went in his pinnace to the mouth of the river on his way to Long Island or to one of the

lesser islands at the eastern end of the Sound with goods for Indian traffic. We know that he was at Saybrook in April, 1636, and was undoubtedly well known to the residents of the fort there. The fact that he was murdered by the Indians at Block Island shows that he went far afield in pursuit of his bargains and it is not at all unlikely that he delivered Mrs. Winthrop's letter on this very expedition. Roger Williams must have known him also, for Oldham had a claim to an island in Narragansett Bay, and Williams may well have entertained him at his house in Providence.

The Dutch aroused to activity by the appearance of Englishmen on the river, had already sent a small vessel thither in June, 1633, and erected a "slight-forte," upon which they mounted two guns, on the southern side of the little river flowing into the Connecticut, which today bisects the city of Hartford. Three months later Lieutenant William Holmes, who had been commissioned by Winslow, then governor of the Plymouth colony, to occupy the place picked out the preceding year, sailed up the river and past the Dutch fort, bearing the ready-made materials for a trading house. He set up this frame structure about nine miles farther on, within a short distance of, but below, the "rivulet," as the Tunxis or Farmington River was then called, and surrounded it with a palisade. He also purchased of the local Indians additional land on both sides of the great river. Thus before Oldham reached Pyquag there were two trading posts at well-selected points above his place of settlement, one of the Dutch and the other of the Plymouth people, the latter the better located because lying nearer the main source of the fur supply up the stream. Oldham in his traffic did not compete with the others because his field of action was down the river and out into the Sound.

The restlessness at the Bay reached a climax in 1635, when a desire to migrate seized upon many of the people of Dorchester, Newtown, and Watertown, and later spread to Roxbury. Reports of the attractiveness of the Connecticut region were partly responsible for this desire, stimulating the urge for more and better land, always an incitement in frontier movements everywhere. The fear of the Indians, which had been a deterrent in the past, was lessened by the news that a plague of smallpox had greatly reduced their numbers, so that in the summer, probably toward the end of June, a pioneer group from Dorchester, with perhaps a few from Newtown and Watertown, ventured to make the journey, either through the woods or by pinnace around Cape Cod, under the lead, it is supposed, of Roger Ludlow. This company was followed later by others, who as reported by Jonathan Brewster—son of Elder Brewster and agent in charge of the trading house at Windsor—were arriving almost daily. They came from one quarter or another, by land and by water, “hankering”, as Brewster puts it, for the lands of the valley. Brewster was not a little embarrassed by the unexpected invasion, but he received the newcomers kindly, fed and housed some of them, provided others with guides and canoes, and became their intermediary in an unsuccessful negotiation which was undertaken with the Dutch for a part of the latter’s territory.

For these friendly offices he was ill-requited. The Dorchester people ignored the Plymouth title to the meadows north of the rivulet and proceeded to lay out their homelots and build their houses along the high ground above and west of the great river. They even seized upon part of the territory which the Plymouth people had purchased of the Indians, just as Holmes had occupied, under Winslow’s prior claim, lands which the Dutch had

acquired, not of the local Indians but of the Pequots. They called it "the Lord's Waste" and therefore open to all, under the conviction then prevailing among many of the Puritans that they had "a common right to [all new land] with the rest of the sons of Noah." Only after two years of wrangling, during which their "unkindness" was not soon forgotten, were they persuaded to pay for what they had appropriated. Plymouth finally sold, May 15, 1637, for £37 10s., about fifteen-sixteenths of the whole, reserving only the trading house with forty-three and three-quarters acres of meadow and forty acres more of upland near the Hartford bounds, together with a proportion of all lands within the area afterward to be divided. Eventually all, people and lands, were absorbed in the town of Windsor.

Other settlers soon appeared, coming in such numbers during the last part of the year 1635 as to mark the effective beginning of the Connecticut settlement. Among them was a special group standing apart by themselves, the arrival of which was in this wise. Sir Richard Saltonstall, a member of the Massachusetts Bay Company and one of the lords and gentlemen to whom the Earl of Warwick in 1630 had deeded the lands he expected to receive from the Council for New England, wished to start a private plantation of his own for the purpose of occupying the territory. He sent over, in his own vessel and at his own expense, Francis Stiles, a master carpenter of London, his two brothers, also carpenters, and eighteen indentured servants, who landing in Boston about the middle of June sailed ten days later for Connecticut. They were coldly received by the Puritans in possession at Windsor and were forced to take up lands on the northern fringe of the settlement, where, as was soon proved, there was insufficient pasture, meadow, and arable to meet the

needs of the newcomers. For these and other reasons it is more than likely that the lords and gentlemen, with at least three places of refuge to select from—Piscataqua, Windsor, and Saybrook—would have rejected Windsor in any case. Saltonstall was angry at the result. "Had I but imagined [he wrote] they would thus have greedily snatched up all the best ground on the river, my pinnace should rather have sought a pilot at Plymouth than to have stayed ten days as she did at the Bay and given them such warning thus to prevent me." This comment shows that the Dorchester people, already preparing to go, on hearing of the arrival of the Stiles party at Boston, had hastened their departure and in so doing had forestalled Saltonstall in the occupation of the valley lands. It was a piece of sharp practice. Saltonstall's treatment at the hands of his fellow Puritans may have had something to do with his refusal to return to Massachusetts from England, after a brief sojourn of only one year in the colony.

Thus far the people of Newtown have hardly come into the picture. In 1634 six Newtowners had gone in the *Blessing* on its trip to New Amsterdam, to take a look at the Connecticut River with the intention of preparing the way for a future exodus of their fellow townsmen, and there is some reason to think that a few Newtown people had accompanied the Dorchester contingent under Ludlow in the summer of 1635. But as yet no great number had taken part in the westward movement. It took time to dispose of houses and lands and to settle personal affairs in anticipation of removal. Though many of those desiring to go were recent arrivals at the Bay, others were residents of some years' standing, who were loth to leave their properties until purchasers could be found who would take them over. The Newtowners were

reputed wealthy, and as their substance consisted of lands and cattle as well as houses it was difficult to depart at a moment's notice, however much their bent may have been to do so. Nevertheless a beginning had to be made. Sometime in October, 1635, a company of fifty persons—men, women, and children—along some one of the Indian paths westward, reached their destination toward the end of the month. As the Windsor lands were already taken up, they moved southward in the direction of the Dutch fort and began to lay out their homesteads and build their houses upon the ridge above the meadow and back from the river. Thus they became the "north-siders" of the later town of Hartford, the Suckiaug of the first comers. Twelve of the men had accompanied the party to assist its members in preparing winter quarters and in building a palisade and when that work was completed they returned to their home in Massachusetts. On the journey back, which took place during ten days at the end of November, they lost one of their company through the ice and would have starved, all of them, had they not been able to find refuge in the wigwams of the Indians. Others, some seventy in number, part of the Windsor community, half-starved and thoroughly discouraged, struggled through deep snows to the mouth of the Connecticut, where they found the *Rebecca*, a vessel built at Medford in 1634, which was attempting to make its way up the river for the relief of the settlements. Caught in the ice, the boat went no farther and after some delay returned to Boston with those of the fugitives who had not died, as some of them had, on the voyage. Connecticut with difficulty escaped the starving time of some of the settlers elsewhere, a fate that might well have befallen her first inhabitants had they been separated by three thousand miles from their source of supply, as were those of Virginia

and Sagadahoc. The winter was evidently an early and cold one and those who remained must have experienced their bitter meed of suffering. Such were the perils of frontier life in the early New England days.

II

THE greater and more famous migration soon to come took place under conditions quite different from those that attended the wandering of the first pioneers. The latter were in a sense squatters, in that they had no other title to the lands upon which they settled than such as had been acquired by purchase from the Indians, unless their right as the sons of Noah be considered an adequate claim. A new aspect was now given to the situation by the attempt of the lords and gentlemen to enforce their pretension to the Connecticut territory based on the deed from the Earl of Warwick. Although Saltonstall had sent his Stiles party to occupy a portion of the river lands there is nothing to show that he was acting in any official capacity or had been instructed by his fellow grantees to do so. In 1635 the latter made an important decision. On July 7, Saye and Sele, Fenwick, Saltonstall, Haslerig, Lawrence, and Darley, in the name of the entire body, authorized John Winthrop, Jr., to go to New England and there at the mouth of the Connecticut River to lay out lands, build a fort, and erect houses suitable for himself and such other men of quality as might desire to take refuge there. They supplied him with men, ammunition, and £2000 for the purpose. Thus the Puritan refuge (to which Cromwell and others might have come, if Neal's statement in his *History of the Puritans* is to be believed) was located on the Sound rather than at Piscataqua or at Windsor. This site was chosen in part with the idea of anticipating a possible Dutch occupation and of taking

advantage of the river trade and of the coast trade with Boston.

Winthrop came over in the *Abigail*, arriving early in October, with young Henry Vane and the Rev. Hugh Peter as co-agents, and soon after reaching Massachusetts instituted an inquiry into the whys and wherefores of the settlements already made within the territory of the Warwick deed. He was possibly induced thereto by the recent departure of the Dorchester group and by the news which must have come to him, soon after his arrival, of the experiences of the Stiles party. He wished to know by what right or pretense these people were entering and laying claim to the lands of the grantees, and he demanded that all going to Connecticut or who were already there should acknowledge the legal rights of the same grantees and submit to the counsel and direction of himself as their governor, or else leave the territory. He and his fellow agents stated very emphatically that Connecticut lay beyond the jurisdiction of Massachusetts and that settlement there could be made only with the consent of those to whom the grant had been made. Here was a troublesome but perhaps not an unexpected obstacle in the path of migration, confronting not only those who had already gone but also those who were preparing to go, for the Massachusetts general court had already given permission to the inhabitants of Dorchester, Watertown, and Newtown to remove to Connecticut. The court had appointed a single constable for their protection and had given them out of the colony's store three pieces of ordnance. It was undoubtedly well known that Thomas Hooker and his church at Newtown were ready to move as soon as their business affairs could be satisfactorily arranged.

Conferences on the subject of removal, in which the

agents, representatives of the Massachusetts general court, and Hooker, Haynes, Ludlow (back from Windsor), Stone, and perhaps others of the Connecticut group must have taken part, lasted from October, 1635, to March, 1636, and efforts were made to arrive at an understanding such as was fitting among men who were friends and fellow Puritans. The problems were not easy to solve and the discussions were conducted with the utmost secrecy. The grantees wanted settlers and the emigrants wanted security and a legal title. Final decisions were reached sometime before March, 1636. Hooker and his colleagues recognized the claims as laid down by Winthrop and accepted him as governor of the whole territory; the agents agreed to the proposed settlement within the bounds of the Warwick deed. But as the agents had no authority from the grantees to permit the establishment of an independent government within the borders of their grant—for nothing of the kind is to be found in Winthrop's instructions—some way of meeting the difficulty had to be contrived. The contrivance was ingenious. The Massachusetts general court was accepted by both parties as qualified to give proper constitutional character to the proposed plantation and was invited to serve, not officially or as a principal, but as a go-between or friendly broker, in the task of putting into authoritative form the agreement arrived at. On March 3, 1636, the court issued a commission, on its own behalf and that of John Winthrop, Jr., and in the interest of "divers friends, neighbors, freemen and members of Newtown, Watertown, Dorchester and other places, who [were] resolved to transplant themselves and their estates into the river Connecticut, there to reside and inhabit." This document contains some of the essentials of a plan of government and was probably drawn up by Ludlow with the coop-

eration of Hooker and others, for it in no way represented the Massachusetts idea of how a government should be carried on. It may therefore be looked upon as containing the first expression of the political principles which were later embodied in the Fundamental Orders of 1639.

“Where there are a people to sit down and inhabite,” so runs the commission, “there will follow upon occasion some cause of difference,” therefore eight men, Ludlow, Pynchon, Steel, Swaine, Smith, Phelps, Westwood, and Ward—all of whom were either in Connecticut or were preparing to go there—were given full authority to exercise judicial powers to inflict punishment, to make decrees and orders as best might conduce to “the peaceable and quiett ordering of the affairs of the said plantation,” to exercise military discipline, and to make war if necessary. They were also empowered “under the greater part of their hands, at a day or dayes by them appointed, upon convenient notice, to convene the said inhabitants of the towns [not church members only as in Massachusetts] to any convenient place that they shall think meete, in a legal and open manner, by way of court, to procede in executing the power and authority aforesaid.” Here we have a clear-cut statement of government by consent of the “inhabitants,” though no attempt was made to determine just what the word “inhabitants” meant; and we have also, in the use of the same word, an early indication of why these men wished to leave Massachusetts. Certainly half of them were members of the general court which drew up the Fundamental Orders two years later and as some of the terms used anticipate the language of the preamble to that document, we have a right to believe that the two instruments of government are closely related and that all those named in the commission were in sympathy with Hooker and Lud-

low in their desire to place authority in the hands of a wider popular constituency than was the case with Massachusetts. The commission was to last only for a year or until the lords and gentlemen should have made up their minds as to the form of permanent government they wished to establish for their territory.

This important matter having been settled to the satisfaction of all—for both Winthrop and the emigrant leaders had got what they wanted—the westward movement was resumed. John Warham, at the head of the Dorchester church, guided his people, among whom was Ludlow himself and many who had struggled back to Massachusetts the previous winter, to the spot where their fellow townsmen were living at Windsor. William Pyncheon, who had inspected the land the September before, led a company by water to Agawam, where he built a trading house, first locating it on the west side of the river and later on the east, selecting the latter site because it offered a safer location and one better adapted for traffic with the Indians. Men and women from Watertown, in groups and organized parties, continued to cross the country or to sail around by water, until some fifty or more had arrived at Pyquag (Wethersfield) in sufficient numbers to constitute a sizable plantation. And, lastly, John White, Samuel Wakeman, and possibly Samuel Stone, Hooker's assistant at Newtown—the forerunners of the larger migration to come—conducted a number of people to join the group already located “at the New Towne upon Quinatucquet River.” They carried the commission drawn up in Massachusetts and under its guidance there was set up the first court in the history of the colony. On April 26, 1636, five of the eight commissioners—Ludlow, Steel, Phelps, Westwood, and Ward—came together at Hartford and passed a few simple orders, swore in con-

stables for the three plantations, and ratified and confirmed the dismissal of seven Watertown men from their church in Massachusetts, on their promise to renew their covenant and to erect a church of their own in Wethersfield. This the seven did, being of the number deemed sufficient for a church by the "ancient ministers" of the Bay. Thus organized government began in Connecticut nearly two months before Thomas Hooker and his company entered the valley, and all the essentials of self-government, based on the settlers' own ideas of the form such government should take—ideas already embodied in the March commission—were put into practice nearly three years before the Fundamental Orders were adopted.

In October, 1635, there came from England in the *Defence*, at the same time with the arrival of John Winthrop, Jr., in the *Abigail*, the Rev. Thomas Shepard, B.A., of Emmanuel College. He and his company soon made their way to Newtown, where he was welcomed as Hooker's successor and where he and his people either began to occupy houses already vacated by those who had gone to Connecticut or proceeded to bargain for the purchase of others that belonged to men who were expecting soon to go. The opportune appearance of the Shepard party relieved in part the business uncertainty, for though some of those going to Connecticut were sufficiently well off to retain property in Newtown after their departure, there were many others who had to sell all their landed possessions as a necessary step preliminary to removal. As we have already seen, some had departed in 1635 and others in the spring of 1636, but Hooker and the members of his church still lingered. It was one thing for individuals to depart quickly, but it was quite another for a covenanted church group, which had been established for three years under Hooker and Stone, to break from its

moorings and remove a hundred and more miles into the wilderness. Shepard, as soon as possible, set about the raising of a new church organization, and on February 1, 1636, asked for the attendance of the neighboring ministers that he might be properly instructed in the New England way of ecclesiastical polity and the proper forms of ecclesiastical procedure. Instruction having been given to the contentment of all, the new members entered into a covenant whereby they became a church, which John Cotton, in the name of the rest, accepted in the bonds of fellowship. The ordination of Shepard as pastor was deferred until another day, "wherein there [should be] more time to go through the other solemnities proper to such a great occasion."

Thus the way was providentially prepared for the withdrawal of Hooker and the members of his church, just as soon as business arrangements could be completed and word had been received from Connecticut that all was ready. February was not a propitious month for a journey through the wilderness by so large a number of men, women, children, and livestock as were expected to go, so that the actual departure was postponed until May. How the two churches got on together during these four months and how the housing problem was solved history has not revealed. It was an eventful day when, on Tuesday, May 31, this company of thirty-five men, with twice as many wives, children, and servants, started on its pilgrimage, under summer skies, along the Indian path. They carried Mrs. Hooker in a horse litter and drove one hundred and sixty cattle, feeding on the milk of the cows by the way. Hooker carried letters to the younger Winthrop from his father, the governor, who took advantage of the opportunity to send also, in charge of Lieutenant Thomas Bull of the company, assisted by one of Win-

throp's servants, six cows, four steers, and a bull, which were to be delivered to his son at Saybrook. As the travelers went on foot and could make but ten miles a day, the journey lasted nearly a fortnight, all sleeping in the open, "having no pillows to use to take their nightly rest but upon such as their father Jacob found in the way to Padan-Aram." They took up their location in largest part on the south side of the little river, adjoining the Dutch fort, and became the "southsiders" of the Hartford settlement. Hooker and others of the leaders, however, remained north of the river.

No record remains of the route which the Hooker company followed in its journey from Newtown to Hartford. According to tradition the pioneers took the Bay Path westward to the Connecticut River at Agawam, thence moved southward to the river crossing from East Windsor to Windsor, and from Windsor, through forests still primeval and by ways that had not yet been widened into highways, journeyed to their final resting place at Hartford. Also possible, and with at least a show of evidence to support it, is the belief that the company followed the Old Connecticut Path running southwesterly, first through the Mohegan-Pequot territory and then through lands of the friendly Podunks, passing by the sites of the later towns of Woodstock, Mansfield, and Manchester, and ending their land wanderings at the river bank opposite Hartford. This view of the case is rather presumptive than conclusive and the evidence brought forward in its behalf rather negative than positive, nevertheless the latter is sufficient to throw the burden of proof on the upholders of the traditional version. It is unfortunate for the early history of Connecticut that no contemporary writings exist, similar to those of Bradford, Winslow, and Winthrop, to aid him

who wishes to know what are the facts in the case. Because of the absence of any such source of information, many of the incidents narrated above have become the subjects of wide differences of opinion and the objects of a good deal of local and personal dispute. Most of these differences and disputes are, however, of minor historical significance.

III

IN the founding of Connecticut no question of religious freedom was involved and no intention was had of establishing a religious colony in any way different from that of Massachusetts. In matters of ecclesiastical polity, creed, and discipline the Connecticut churches adhered in all respects to the New England way of the churches, to which two of the covenanted groups had conformed in Massachusetts and continued so to conform without change in Connecticut. Hooker had no sympathy with the religious agitation associated at this time with the names of Roger Williams and Anne Hutchinson. That which influenced a majority of those who went to Connecticut was not a desire to alter their religious creed and practice, but the allurements of a fertile valley fed by a navigable stream, where land could be obtained of the Indians and where relief could be felt from the pressure of a rapidly increasing population and freedom be obtained to grow and expand. This was the one and only reason assigned by the colonists themselves, when twenty-five years later they had occasion to state the causes of their going. "In that part of the country, neer the port of their first arrival [Boston] they settled for a time, till upon experience they found that place would be too streight for so great a number if they should continue all there long together."

There can be no doubt that available and desirable land was becoming scarce at the Bay and that pasture and meadow, so necessary to a people whose interests at the time were entirely rural and whose lives depended on their stocks of cattle, goats, and swine, were insufficient for their needs. Southampton on Long Island was settled from Lynn soon after because of the limitations of the arable and pasture and the straitness of the opportunities in Massachusetts, and there must have been other towns that suffered similar restrictions upon their enlargement. Newtown, which lay between Charlestown and Watertown, "being in form like a list cut off from the broadcloth of the two fore-mentioned towns," had early complained of the dryness and sandiness of its soil and the insufficiency of its grazing ground, and its people, tired of tillage, expressed a desire to turn to the raising of cattle as a more profitable and less wearisome pursuit. This desire was well known in Massachusetts, for the town of Ipswich had reproached the men of Newtown for seeking "the good of their cattle more than [that] of the commonwealth." The general court tried to meet the emergency by offering the Newtowners land in other parts of the colony, notably along the Merrimac, but neither reproaches nor offers had any effect. Loyalty to the commonwealth was not conspicuous among those who went to Connecticut, as later events were to show, and lands elsewhere in Massachusetts presented no compensating advantages in comparison with the unrestricted stretches of low, rich meadow that lay along the Connecticut, reports of which had been sent or brought back by those who had ventured thither. To the mass of the people, land was still, as it always had been, the object of their desires and its possession a necessity in a pastoral and agricultural age.

To the leaders of the movement there were other causes of discontent. The years 1635 and 1636 were a time of great uneasiness at the Bay. Not only were there fears of the loss of the charter and of the appointment of a governor general but there was also dissatisfaction in some quarters with Winthrop's management. Among those who were discontented was John Haynes, "a gentleman of great estate" in England, who had been highly honored in the colony and was the leading lay member of Hooker's church; and also Thomas Hooker himself and Roger Ludlow, both of whom were nursing certain ideas of their own regarding the way a colony should be governed and regarding certain foundation principles upon which such government should rest. These three men were conspicuous among their fellows—Haynes and Hooker, the Moses and Aaron of the new wandering of the Israelites, and Ludlow, trained in the law, determined in disposition and uncertain in temper, the legal expert who put into proper form their common ideas regarding government and administration. Others of lesser prominence were in accord with these three and willingly embraced the opportunity to escape from Massachusetts and find a new field for the exercise of that leadership which was difficult to obtain at home. Pynchon, Wolcott, Steel, Phelps, Westwood, and Ward were all important men afterward in Connecticut. They had found Massachusetts an uncomfortable place to live in, because of the differences of opinions that prevailed there and because of the overshadowing influence of the magistrates and clergy with their rigid, inelastic methods of oligarchic control. Many a man of the day in New England, orthodox or heterodox, who possessed the instincts of one having authority—Williams, Coddington, Gorton, Pynchon, Davenport, Hooker, Ludlow, and the younger Winthrop

—wished each to have his own little world, where he might set up his own system of theology or government and pursue his own independent way of making a living and a profit apart from, though not out of touch with, others in other localities.

Hooker had other and more personal reasons for dissatisfaction. These reasons are suggested in a letter from one of Winthrop's English correspondents, who wrote that "Mr. Hoker before he went away preached against the strictness of the Massachusetts rule regarding admission to the churches" and was "moved to remove" because of the "great division of judgement in matters of religion amongst good ministers and people." This remark refers of course to the Antinomian controversy, but it also refers to Hooker's disputation with John Cotton, the influential teacher of the Boston church, which took the form of an exchange of opinions, in the customary manner of statements, objections, and answers, during the years 1635 and 1636, and before Antinomianism became a matter of state concern. Cotton held that faith was built upon Christ, not upon sanctification obtained from preaching, teaching, and good works, and that man first attained assurance of faith of his justification by the witness of the spirit of Christ in a free promise of grace. He declared that faith went before works; that in receiving "the Guift of ffaith wee are merely passive, that in receiving Christ or the spirit of Christ we are passive also—an empty vessel fit to receive Christ and his righteousness"; and that sanctification was but a "created Guift" and a secondary witness. He took the position that sanctification could not be the first evidence or "evident cause" or ground of justification and that to believe otherwise was "flatt Popery," an implication that Hooker may well have resented. Cotton declared further that a

“faith made by a word [preaching and teaching] and a work [some outward act] without the witness of the spirit and *before it* was not a faith wrought by God’s Almighty Power,” and that the word without the Almighty power of the spirit was *a dead letter*.” He insisted that the controversy with Hooker (“if it be indeed a Controversie and not some mistake, as I would gladly hope it is”) was not the opposition “between Grace and Works” but “between Grace and the meritt of Works,” or, as he elsewhere puts it, “between Grace and the debt to Works,” a subtle distinction. All this Hooker denied, and it is quite possible that some of the imputations contained in the objections and answers may have aroused considerable bitterness of feeling between the two men, even though Winthrop in his kindly way thought the contrary. Winthrop in his writings always minimized the differences of opinion among the elect.

Just when the controversy was begun and ended we do not know, but it must have lasted quite a long time. Cotton’s first polemic was followed by a reply from Hooker, to which in turn Cotton made answer. Hooker replied again and Cotton counterreplied, evidently in the hope that Hooker would continue the argument, but Hooker refrained. It is not unlikely that at this stage of the debate Hooker was planning to go to Connecticut and did not wish to carry the discussion further. We learn of the encounter from Cotton’s last reply, which was sent to England for the inspection of Archbishop Laud, probably in 1637, on nine small sheets of paper in a writing so fine as to be almost undecipherable. The subject matter shows that in origin this exchange of opinion dated back to the days when Cotton was a Hutchinsonian sympathizer and Hooker on the other side. These differences between the two men in doctrinal and other matters (such as the cross

in the ensign, which is mentioned in Cotton's reply but of which we know nothing more) in which Cotton was the more liberal thinker, may well have been accentuated by the fact that Hooker held more progressive views than did Cotton regarding the share of the people in affairs of government—ideas that were not capable of application in a colony where church membership was a qualification for freemanship and where the magistrates were deemed the oracles of God. Each of these men was something of a prophet in his own community and, as the historian Hubbard says, nature did not allow two suns to shine at the same time in the same firmament. Cotton Mather adds the equally wise remark that two such men were likely to be more serviceable apart than together.

But Hooker's dissatisfaction was not confined to matters of doctrine or limited in its expression to Cotton only. Other causes of uneasiness arose which became manifest as early as 1634, only six months after Hooker's arrival in the colony. What these causes were can be inferred from his letter to Winthrop, written from Connecticut in the year 1638, protesting in vehement and almost passionate terms against the efforts which Massachusetts was making, not only in New England but in Old England also, to discredit Connecticut in the eyes of the English world—the "common trade that is driven amongst multitudes with you" is his way of putting it. It is not easy to believe that so sharp an arraignment of the Puritan habit of criticism could have found utterance within two years of Hooker's arrival in Connecticut had there not been behind it unpleasant experiences of longer standing. Ipswich in 1635, a year before Hooker's departure, had complained of "too many unjust detractions in the bay to serve their own ends," and we know that censoriousness and disapproval were characteristic Puri-

tan failings. "The strong bent of their spirits to remove thither," as Winthrop sums up the situation, is a phrase which may well cover many symptoms of unrest. "Sir," wrote Hooker, "he wants a nostril, that feels not and scents not a schismatical spirit in such a framer of falsifying relations to gratify some persons and to satisfy their amends. . . . Do these things argue brotherly love?" One cannot avoid the conclusion that in this letter are to be found some of the emotions that drove Hooker and the Newtown church to undertake their western pilgrimage. Between the placid lines of Winthrop's journal may be read many things of which Winthrop makes no mention, discontent, vexation of soul, and even animosity.

Later comments also demonstrate the Connecticut state of mind. When in 1648 a dispute arose among the commissioners of the New England Confederation regarding the jurisdiction of the two colonies and Massachusetts insisted that the emigrants from Watertown, Newtown, Dorchester, and Roxbury had taken possession of Connecticut in her name and right, the Connecticut delegates indignantly replied that on the contrary the commission of 1636 originated with the emigrants themselves and "not from any claymes of the Massachusetts jurisdiction over us." From this it is clear that the Connecticut people, twelve years after Hooker's arrival, held firmly to the belief that the commission was the work of the emigrants themselves and had its origin in the determination of these emigrants to remain no longer in a colony with the spirit and government of which they had no sympathy.

Hooker did not like the Massachusetts system and expressly said so. He told Winthrop in 1638, in the letter already referred to, that he objected to the Massachusetts practice of leaving so much to the discretion of

the magistrates and of using the clergy as counselors in purely secular affairs. In dealing with civil things he preferred "a general counsel chosen by all," which was to concern itself with issues that were of importance to all. Answering Winthrop's statement that it was unsafe and unwarrantable to refer matters of counsel or judicature to the body of the people and that the best part was always the least and of that best part the wiser part was always the lesser, he declared that he "chose neither to live or to have his posterity live under such a government." Unlike many of the deputies and two or three of the magistrates in Massachusetts, who were working to liberalize the government there from within, Hooker, Haynes, and Ludlow preferred to depart from the colony and to set up a government of their own outside the Massachusetts boundaries. They wanted to start afresh with a system based on a broader body of political principles, among which the idea of authority vested in such part of the people as was deemed competent to exercise it was the most conspicuous.

Whether they arrived at this fundamentally important idea by a natural process of reaction against the Massachusetts system of government by divine immanence or by some subjective reasoning of their own it is impossible to say. Roger Ludlow has left no writings of any kind from which to form an opinion as to what his political views were. Hooker in his printed works says nothing about political things, but in his conception of the covenant we may find a possible clue. In *A Survey of Church Discipline* he wrote, "Mutual covenanting and confederation of the Saints in the fellowship of the faith according to the order of the Gospel is that which gives constitution and being to a visible Church." Starting with the fact, accepted by all in the New England way of the churches,

that the members covenanting in a church way had a share in the government of the church, he could easily arrive at a similar idea as to the meaning of the social compact in its application to the state. In determining who these members should be, Massachusetts limited their number to the "regenerate" only, but this Hooker refused to do, perhaps because he knew the difficulties accompanying any attempt to find out who were truly regenerate in spirit as well as in outward conformity. He may well have believed that Massachusetts rejected many who were better Christians than some who were admitted, and he was therefore willing to admit all who professed Christianity, provided they were freeholders as were the voters in England, to a share in government, whether they were church members or not.

At the same time the general principle inherent in the Congregational system that the members of a church had a right to elect their officers and if the latter did not live up to the terms of their election to remove them and place others in their room fell far short of a democracy, which was a form of government repellent to the Puritans. The latter believed that the people might choose but that those chosen—elders in the church and magistrates in the state—were to rule. When the elders proposed anything the people of the church gave their assent; when the magistrates reached a decision the people were to do as they were told. This was as true of Connecticut as it was of Massachusetts. The point has been well expressed by Perry Miller who says, "The component elements of [Puritan] society did not draw up the fundamental law or delegate to the government any sovereignty they originally held. . . . The congregation retained no 'residuary powers.'" This applies very accurately to the political situation in Connecticut, and Hooker may well have had

a commonwealth in mind when he wrote of the church, "The elders are superior in regard to Office, Rule, Act, and Exercise; the people are superior in point of censure. Each have their full scope in their own sphere and compass." In Connecticut this was exactly what happened in governmental practice: the "people," that is, the "freemen," elected and set bounds, but the magistrates took the lead and laid down the principles according to which the people made their decisions. Another similarity is to be noted. Just as no one was propounded for admission to the church without the consent of the elders, so no one was admitted as a member of the commonwealth without the consent of the general court. No man could exercise the franchise in Connecticut simply because he had been born and had been able to live to a certain voting age.

It is quite possible that Hooker was influenced by the example of Plymouth, where for fifteen years the Pilgrims had been applying a not dissimilar principle of political government. The idea of some form of popular coöperation was clearly in the minds of Hooker, Haynes, and Ludlow when they drew up the commission of 1636, which provided for the convening of the "inhabitants" of the Connecticut plantations in a court for the execution of the powers entrusted to them, and this idea was given concrete enforcement in Connecticut during the years 1636, 1637, and 1638. But it did not find full expression until Hooker delivered his famous sermon or address on May 31, 1638. Certain phrases in that sermon are so reminiscent of the language used by Roger Williams in *The Bloudy Tenent* and elsewhere that one is tempted to believe that Williams had some influence upon Hooker in the working out of his political doctrine. "The foundation of authority is laid in the free consent of the people" is almost the same as Williams' "The sovereign power of

all authority is founded in the consent of the people." Hooker and Williams had known each other in England, for they had lived for some time in the same neighborhood, and on one occasion he and Cotton and Williams had ridden to and from Sempringham arguing about common prayer and possibly other things. Hooker visited Williams at Providence at least once, in 1637, and there are extant three letters from Hooker to Williams, written between January and May, 1638. From whatever source these ideas came, whether Hooker was influenced by Williams or Williams by Plymouth or both by Plymouth, the fact remains that Plymouth, Connecticut, and Rhode Island conducted their governments in a manner quite unlike that of Massachusetts, in that they accepted the political coöperation of at least a part of the people of their respective colonies, unrestricted by membership in any ecclesiastical organization.

Thus was Connecticut settled and thus there came into existence at the very beginning a form of self-government in which the admitted inhabitants and the freemen of the colony had a definite and important share.

IV

THE commission of March 3, 1636, contained, though in very rudimentary form, the first definition of government for the colony. The eight men named in it were to have full power and authority to exercise judicial functions, to make such orders and decrees as were for the peaceable and quiet ordering of affairs, to regulate matters that concerned trade, planting, building, and distributing lots, and to enforce military discipline. They were empowered to call together the "inhabitants" of the plantations at any convenient place they deemed meet, by way of court, for the purpose of carrying out their instructions, thus

placing the government on the broad bottom of popular coöperation. For the first year, however, the commissioners, acting on the discretion allowed them, apparently did not call either a popular assembly or a general court but conducted the administration themselves, sitting as a "cort" from April 26, 1636, to March 28, 1637.

The commission government lasted but a year. It was not imposed on the settlers from without but was the product of their own minds and the expression of their own wishes. No attempt was made to choose a governor, for John Winthrop, Jr., was recognized as the head of the territory and the right of the lords and gentlemen to appoint a successor if they wished was undoubtedly agreed upon at the time the commission was drafted. Not until the framing of the Fundamental Orders, when the lords and gentlemen had manifestly withdrawn from their enterprise, was provision made for the election of a governor. In all other respects the commission enabled the Connecticut people to look after their own affairs, until a more complete system could be established. When it expired in 1637, the colony went on as before, with one important distinction. A general court was called, apparently for the first time, an action made necessary by the impending war against the Pequots. So serious and dangerous an undertaking demanded that what so intimately concerned all should be approved by all and that the people who were to carry on the war should be responsible for the means and methods employed. To this end the inhabitants were instructed to come together in their respective towns for the election of representatives or "committees," as they were called, to join with the magistrates in a general court at Hartford, in order that the necessary preparations for such a war might be made. With one exception the magistrates were the same as the

old commissioners, but that exception shows that some arrangement was entered into whereby the personnel of the magistrates might be changed. What this arrangement was we do not certainly know, but Hooker says in his letter of a few months later that local elections took place in the towns and that the committees thus elected came to the general court and there chose their magistrates. This selection of magistrates may have been made either independently or from those nominated by the towns.

The first and only important business of this general court was to declare "that there shalbe an offensive war agt the Pequott" and to distribute the burden of that war proportionately among the three plantations. The Pequots after invading the river valley had passed southward and southeastward until they came to rest in the region between the Thames River and the present boundary of Rhode Island. They had defeated or pushed aside the peaceful river tribes and in opening a new hunting ground for themselves—covering both the mainland and the islands off the coast—had made enemies not only of the English but also of the Niantics, the Mohegans, and the powerful Narragansetts under Miantonomo, each of whom had a part, though not a very active part, on the side of the English in the war that followed. The immediate cause was a series of three murders: that of Captain Stone and a few companions, itinerant traders from outside the colony; that of John Oldham, who had located himself for purposes of trade at Wethersfield; and, lastly, that of three women and six men of the same plantation in April, 1637. The war, which lasted three weeks and was an undertaking of exceptional boldness for an infant colony—the expense alone was estimated later by Governor Leete at not less than £30,000, a figure very difficult to accept—was brought to a successful issue under the

leadership of Captain John Mason, Captain John Underhill (formerly of Massachusetts), and Lieutenant Robert Seely, with Samuel Stone as chaplain. The soldiers attacked and burnt the Pequot fort two miles from Mystic and, following up their success, pursued the survivors to their retreat near the present village of Southport. There in a swamp fight they completed the destruction or dispersal of the tribe. From this time forward, for nearly forty years, relations with the Indians were peaceful enough, though the settlers suffered from occasional alarms and engaged in a few punitive expeditions. The local Indians were a good deal of a nuisance as well as a danger, and strict orders had to be issued against trading with them or selling them liquor, guns, powder, and shot. There were occasional difficulties in determining Indian land claims and purchases, and Connecticut's share in the quarrel between the Mohegans and the Narragansetts, that is, between Uncas and Miantonomo, was not to her credit. The New England Confederation took the side of the Mohegans, as was not unnatural the Mohegans being Connecticut Indians, but the cold-blooded murder of Miantonomo by the treacherous Uncas was a deed for which the colony must always bear the blame.

For the two years 1637 and 1638 the three plantations continued under the simple form of self-government thus far employed. The householders in the towns were engaged in apportioning land and building houses and in looking after such matters of daily routine as were essential to their existence as traders and planters. The three settlements were still in the plantation stage and can have had no other organization than the meeting of their inhabitants to take common action in the choice of committees to the general court and the management of their agricultural, military, and prudential obligations.

The writer wishes to make a correction here. Governor Leete is evidently referring to King Philip's War, not to the Pequot War, in which case his figure is not excessive.

Their relations with the general court were probably pretty much the same as those which prevailed after the Fundamental Orders were adopted. They sent their committees to act for them whenever the general court was to be held and at the first meeting which, following the Massachusetts practice, was even then construed as a court of election, the committees named the magistrates nominated by each town and the whole body gave its approval in a formal election. The general court, thus made up of magistrates and committees, sat seven or eight times and possibly more during these two years, and there is reason to believe that particular courts, composed of the magistrates only, met for the transaction of judicial, financial, and probate business. The powers of the general court were much the same before 1639 as they were afterward and the nature of the government carried on between 1636 and 1639 does not appear to have differed either in principle or in form from that of the more systematized and orderly arrangement which followed the Orders and the formal setting up of the commonwealth.

V

AN important phase of the situation, because of its significance and its association with subsequent events, demands a brief consideration here. At the beginning Springfield was included among the river towns and Pynchon and Smith had been named as among the eight men selected to govern the settlements under the March commission. Pynchon sat only once with that body and neither he nor anyone else from Springfield attended the general court the next year, probably because of the distance and the threatened dangers from the Indians at the time of the Pequot war. All the planta-

tions during the war were left in a measure unprotected, and Springfield, a small community situated in a dangerous quarter, was in a peculiarly defenseless condition. The people there were not required to furnish any men for the expedition, but Pynchon's shallop was called into requisition, probably without his consent, and later the plantation was assessed £86,15s., a sum that Pynchon said was equal to his entire estate.

Though Springfield was represented in the general courts of March and April, 1638, and probably the Springfield representatives attended other courts held during the latter year, trouble soon arose between Pynchon and the men of the river towns. The cause was his failure (so Connecticut alleged) to carry out his part of a contract for a supply of Indian corn, which he was to furnish in return for a monopoly of the Indian trade up the river in furs and corn—a monopoly he had not asked for and to which he was strongly opposed. Connecticut charged that "he was not soe carefull to promote the publique good in trade of Corne as hee was bounde to doe," and at a general court held on April 5, in his own presence as a magistrate, fined him forty bushels of corn "for the publique and the said Corne to be delivered to the Treasurer to be disposed of as shalbe thought meete." Pynchon was deeply offended at this ill-advised action of his fellow colonists, and taking advantage of the fact that there was considerable uncertainty as to whether Agawam or Springfield was or was not within the Massachusetts jurisdiction he began to consider whether it would not be more to his advantage to have no further connection with the lower plantations.

The importance of the situation was enhanced at this juncture by the plans under way in 1637-1638 for a union of the Puritan colonies in a loose confederation for mutual

support. Should Springfield come in as a part of Massachusetts or of Connecticut? Debate on this question gave rise to considerable ill will between the two colonies, Connecticut and Massachusetts, and served in part to postpone the final agreement. The situation was further complicated by the necessity which the Connecticut leaders felt, in order to prepare their colony for entrance into the new combination, of giving to their own political system a more centralized and uniform governmental organization. Before doing so they had to decide whether or not to invite Springfield to become a member of the commonwealth they proposed to set up. Pynchon settled that question by opposing the plan and deciding to throw in his lot with Massachusetts and so brought it about that the Connecticut leaders in drawing up their frame of government left Springfield entirely out of the new combination.

There were other reasons also than the anger which Pynchon felt at the injustice of the fine imposed upon him by the general court to explain the separation of Springfield from the river towns. Hooker and Pynchon did not get on any better together than did Hooker and Cotton and the differences between them, as was so often the case with the Puritan elect, were apparently irreconcilable. Hooker resented the Massachusetts claim of jurisdiction over Springfield, a claim that had not been made at the time of the migration. He was deeply indignant that Pynchon (who had been one of the chief participants in the westward movement, had shared as a magistrate in Connecticut's beginnings, had taken the oath of fidelity to the common cause, and was a member of the general court, a committee of which was engaged in drawing up the Fundamental Orders) should have been willing on so slight a pretext to break away from

his former allies. It is quite possible too that Pynchon's Calvinism did not suit Hooker, who was one of the most orthodox of the Puritan clergy, just as later it did not suit the Massachusetts general court, when the latter ordered a Pynchon book, *The Meritorious Price of our Redemption*, to be burned on the Boston Common.

These reasons, together with the distance and the difficulties of navigation up the river and the fur-trading interests of the northern plantation, as contrasted with the agricultural activities of the plantations down the river, are sufficient to explain why Springfield entered the New England Confederation in 1643 as part of Massachusetts and not of Connecticut, and thus had no place in the commonwealth which was erected under the Fundamental Orders in 1639. As Massachusetts did not for ten years admit deputies from Springfield into her general court, it was necessary for that small plantation, occupying land on both sides of the Connecticut River, to set itself up, for the time being, as a tiny self-governing republic, with the inhabitants making up the body politic. In 1641, however, Massachusetts appointed Pynchon to execute the office of chief judge and magistrate there, with a right of appeal from his decisions to the court of assistants at Boston. In 1642 Pynchon was chosen one of the assistants and in 1649 deputies from Springfield appeared in the general court at the Bay.

The controversy which ended in the secession of Springfield from Connecticut is thus closely bound up with two events of major importance in the early history of the colony and of New England. The first of these was the proposal which came from Connecticut in 1637 that a confederation be formed of the Puritan colonies for mutual protection against the Indians and the Dutch, for the disposal of the Pequot country and the extension

of the fur trade, and for the maintenance of the common faith and the common good. Agreement was not easily reached and the discussion was prolonged for six years. The claims of Massachusetts to the Pequot country, her support of Pynchon in his determination to withdraw from Connecticut, misunderstandings regarding the boundary line between Springfield and Connecticut, and, later, disputes regarding Connecticut's right to levy tolls at the mouth of the river delayed the ratification of the articles of the confederation and endangered the continuance of the union even after an understanding had been reached in 1643. The antipathies thus created continued to vex the members of the confederation until its usefulness, though not its existence, came to an end with the absorption of New Haven by Connecticut in 1665.

The second important issue was the necessity that the Connecticut men felt of giving to their plantation system a more compact and authoritative form and of consolidating the experiences of the preceding three years in a written document which should represent the principles and policies already tried out in practice. Connecticut as yet had no formal instrument of government. Massachusetts had her charter and Plymouth her Mayflower Compact and Bradford patent of 1630. New Haven, though hardly as yet founded, was soon, in June, 1639, to settle "a Civill Government according to God." We do not know that the Connecticut towns had even plantation covenants as had New Haven, Milford, and Guilford, holding their members together in a common obedience to such constituted civil authority as these members might elect. The Connecticut towns undoubtedly came very early to some understanding regarding local affairs and entered into definite agreements regarding the distribution of their lands, but there is nothing to

show that either Hartford, Wethersfield, Windsor, or Springfield had drawn up any formal civil agreement before or after they entered the valley. Hooker, confronted with the withdrawal of Pynchon and believing that it was every man's right to choose his jurisdiction as he pleased, probably felt that the time had come to bind the inhabitants of the river towns firmly together in a common loyalty to a central government. The assurance that the lords and gentlemen had deserted their settlement and would never erect any government of their own, and the imperative need of creating a jurisdiction that was sufficiently organized for Connecticut to enter the confederation on equal terms with the others were added reasons why in the year 1638 the general court of Connecticut faced the important task of framing the Fundamental Orders of the colony.

VI

THUS by the spring of 1638 circumstances were forcing the Connecticut leaders to take action in two important directions—first, to prepare, as they had not yet done, a statement of fundamental law, which should define their procedure as a government and their status as a properly constituted civil jurisdiction; and, secondly, to combine and unite with the colonies of Plymouth and Massachusetts so far as to walk and live peaceably and lovingly together to maintain the common cause and to defend the “priviledges and freedoms wee now enjoy against all opposers.” To this end there was gathered, sometime in May, 1638, what Ludlow calls in his letter of May 29 to the Massachusetts Bay authorities, “a generall assembly of these plantacons in this River,” at which were considered “divers particulars that might or may concerne the general good of these parts.” Matters

of so important a character might well have been brought to the attention of the free planters of the colony and though Ludlow makes it quite clear that what he is writing about is the plan for a confederation with Massachusetts and nothing else, nevertheless the idea of drafting fundamentals for the colony might well have been among the subjects presented for the assembly's approval. This assembly, whatever it was—and we do not know anything more about it—probably met, did its business, and departed. That it lasted for any such length of time as to be still in being when Ludlow wrote his letter on May 29 and Hooker delivered his sermon on the 31st is clearly impossible. Were it still sitting on the 29th Ludlow would have used some other expression than “There being of late a generall assembly,” which if words mean anything distinctly refers to an event that has come and gone. The connection of this “assembly” with the Fundamental Orders is therefore wholly a matter of conjecture. The assembly may have given the general court some kind of a warrant to go ahead with the drafting of the orders, or it may have done nothing of the kind. As the colony had already been governing itself for two years, it could hardly have seemed to the leaders necessary to call the planters together before putting into written form what had already been tried out and shown by experience to be workable; whereas the proposal to combine with Massachusetts was so novel that the leaders might well have hesitated to act without the wider consent.

However that may be, Hooker on May 31, 1638, delivered a famous sermon. Before whom he delivered it we do not know, but unless the free planters were called together again, as is most unlikely, he probably spoke to the members of the general court. Whether what he said was solely his own or represented the opinions of others

than himself we are also in doubt. The probabilities are that he was simply putting into an expository form certain principles already agreed on, according to which a civil government should be erected. There was nothing specially new about these principles, for they had been in process of test for the preceding two years in Connecticut, and in others of the New England colonies had found and were to find application in one form or another, notably in Plymouth and Rhode Island. The chief difference in the civil practices of these colonies, including Massachusetts and New Haven, lies in what was understood by the "people," a word which, in the history of mankind, has always been easy to misinterpret. Hooker's statement on this point is idealistic, broad, and loose, and far from precise, if we are to judge from the brief synopsis of his sermon that has come down to us. He said that the foundations of authority were laid in the free consent of the "people" and that therefore the choice of public magistrates belonged unto the "people" by God's own allowance; that the privilege of election was to be exercised according to the blessed will and law of God, because by a free choice the hearts of the "people" would be more inclined to the love of the persons chosen and the more ready to yield obedience; and, lastly, that they who had the power to appoint officers and magistrates had also the power to set the bounds and limitations of that power and place unto which they called them. What Hooker meant by his sermon is just what Roger Williams meant in *The Bloudy Tenent*, that authority ought to come from *below* and not from *above*. Everything in the working out of this idea would, therefore, depend on what was understood by "below," a term, which as we shall see later, Connecticut defined in her own particular way.

Under the stimulus of Hooker's powerful words the

general court set about its business of drafting a frame of government. We are left without any information as to how the work was performed. The preliminary task was undoubtedly placed in the hands of a committee, consisting certainly of Ludlow and Haynes and probably of Wells, Steel, and Hopkins also. That Ludlow shaped the instrument in its final form can hardly be questioned. Its brevity, clarity, and compactness are the earmarks of an exceptionally good legal mind, wholly unlike the verbosity of the average Puritan writer. When finished, the draft was put to vote and adopted, January 14, 1639, either unanimously or by a majority of the members present. We have no details.

VII

THE contents of the document, new chiefly in the form in which they are cast, consist of a preamble and eleven orders or laws. The preamble is a civil covenant binding the inhabitants of the three towns or plantations to be guided and governed in all civil things by the orders that followed. These orders are the fundamentals of the "public state" thus erected, the "laws or orders of general concernment," as they were later called by the court itself, which gave body to what Hooker calls the "combination." This "combination" was brought into being, not as something struck off for the first time but as a confirmation of an already established system by a government which had been functioning for more than two years and performing important political, financial, religious, and judicial duties. This government had from the beginning contained within itself all the essentials of self-rule, free from the regulating influence of any outside authority other than God himself.

The preamble was the counterpart of the church cove-

nant, the outward and visible sign of a civil as contrasted with a religious compact. By the latter a group of people entered into an agreement with God and each other to form a church; by the former they entered into a mutual agreement and common accord to form a state or commonwealth. The Connecticut preamble differs from the usual plantation covenant in that it was the work of three plantations, not one plantation, but it did not differ in principle from the covenants that had gone before and were to come after. The covenant or social compact idea lay at the bottom of the Puritan organization in both church and state.

The eleven orders that follow the preamble are in the form of a series of statute laws and differ from similar laws adopted or to be adopted in Plymouth, Rhode Island, and New Haven only so far as they are combined together in a concise, well-systematized scheme or frame of government and embody in unadorned, well-chosen language the essentials of popular rule such as the Connecticut leaders had planned for and Ludlow was competent to draw up. In its main features this government followed the Massachusetts model, based on a trading company's charter, with which these men were familiar. There are the same two general courts—one a court of election and legislation meeting in April (later changed to May), the other a court of legislation only meeting in September and doing much administrative and judicial business. There is also a governor, now for the first time provided for—Winthrop's commission having expired in the summer of 1636 and no successor having been named—and special rules were laid down concerning his election. He was to be a member of some approved congregation, was to be taken from among the magistrates, and was to hold office for only one year, though after another year had

elapsed he could be re-elected. This rule, which was in striking contrast with the rules of the other New England colonies, was retained only until 1660 when the restriction was removed and the choice thrown open.

In practice precautions were taken that neither governor nor magistrates should be hastily chosen, by introducing a series of checks, whereby names of such magistrates as were "fitted to put to election" should be tendered at a previous general court by the deputies from the towns and then, after presentation by the secretary, were to be acted on at the court of election in April (or May). Thus the governor and magistrates were to be elected "by the vote of the country." Just what this phrase actually meant will be considered later. The court could, if it wished, add to the names brought in by the deputies as many more as it judged requisite. Provision was made also for the orderly election of deputies from the towns, though no details are anywhere given as to how the local elections were to be conducted, except that those who exercised the local franchise were to be "admitted inhabitants" of the towns in which they resided.

This matter of the franchise at the beginnings of Connecticut's history has been greatly misunderstood. It has apparently been assumed that every male adult in the colony was given a right to a share in government and that in the exercise of that right the majority ruled. Nothing could be farther from the truth. The Fundamental Orders, as well as later laws, make a sharp distinction between one who voted in the town and one who voted for colony officers, that is, between an "admitted inhabitant" and a "freeman," though they are none too clear as to the precise qualifications of each. An "admitted inhabitant" was any householder of "honest conversation," whatever that may mean, who had taken a

carefully worded oath of fidelity to the commonwealth, testifying to the fact that he was neither a Jew, a Quaker, nor an atheist. When admitted by majority vote of those properly qualified in town meeting, he could take part in local affairs, join in the election of local officials, and vote for deputies to the general court. But being an "admitted inhabitant" did not make a man a "freeman." The latter was any "admitted inhabitant" who had been called to freemanship either by the general court itself or by some one of the magistrates who was authorized by the court to make "freemen." Only when thus admitted to freemanship could the adult male householder offer himself for election as a deputy, vote for the higher officials of the colony, and himself fill the post of magistrate. Only a freeman could attend the court of election, either in person, or by proxy in case he lived in a distant town. Thus the "admitted inhabitants" were the householders in the towns, including also the adult males, married or unmarried, in their families, who as landowners and Trinitarians were the substantial and godly men in their respective communities; the "freemen" were only such of the "admitted inhabitants" as were deemed by the general court fit to take part in the affairs of the larger commonwealth. As neither women, servants, apprentices, nor anyone convicted of a scandalous offense were allowed to exercise the franchise or to have any part in the government of town or colony, it happened that in the actual working out of the system from the beginning the words "people" and "inhabitants" acquired a meaning much more restricted than that commonly given to them at the present time.

In the towns the "admitted inhabitants" had to be religious and godly men with a competency of estate, though not necessarily members of a church, and they ran

local affairs and voted for deputies; but in the colony the control of government lay in the hands of the "freemen" only, constituting probably less than one third of the "admitted inhabitants," the specially chosen of the godly men, the last sifting in the winnowing of the grain according to the Connecticut standard, who as the "freemen" constituted what Dr. Bronson calls "a kind of popular aristocracy—the trusted pillars of the commonwealth."

In defining the functions of a government the Fundamental Orders are very imperfect and incomplete and scarcely go beyond a statement of what the framework of the system should be. They are much less elaborate than is the outline drawn up by John Cotton in 1636, representing the government of Massachusetts, or than the New Haven fundamentals of 1639 and 1643. Except in the portions relating to the powers of the general court itself they make no attempt to determine where lay executive, administrative, and judicial authority, probably because the compilers of the instrument considered these responsibilities as vested in the general court itself, by which, if desired, they might be delegated to specially appointed officials. The governor was required to summon the general court, which could be prorogued and dissolved only by vote of its own members; and the magistrates, who in these early years were largely concerned with judicial matters, constituted, with the governor and deputy governor, a particular court "to administer justice according to the Lawes here established and for want thereof according to the rule of the Word of God." The general court was the supreme power in the commonwealth. It was given authority "to make lawes or repeale them, to grant Levyes, to admitt of Freemen, dispose of lands undisposed of to severall townes or per-

sons, to call either court or magistrate or any other person whatsoever into question for any misdemeanor, and for just cause displace or deal otherwise according to the nature of the offence, and also to deale in any other matter that concerns the good of this commonwealth except election of magistrates which shall be done by the whole body of Freemen." No provision was made for a speaker (*eo nomine*) or for any rules of parliamentary procedure, except so far as to allow liberty of speech, which was not to be exercised in an unreasonable and disorderly manner. Anyone so offending was liable to a reprimand from the presiding officer—governor, deputy governor, or moderator. Later, secrecy was enjoined upon all. The presiding officer was to put all things to vote and in case of a tie was to have the deciding voice. The general court sat as a single body in the meeting house at Hartford.

There are certain provisions among the Fundamental Orders that represent the fears these men felt regarding the danger of a powerful magistracy and their desire to give ultimate control into the hands of the "freemen"—not of the people at large, for as we have already seen there was a wide gulf fixed between the "freemen" and the "inhabitants and residents" named in the preamble. Such fears may have arisen from their experiences in Massachusetts, where the power of the magistrates was one of the reasons for their dissatisfaction with the government there. Therefore the orders decreed that should the governor or the major part of the magistrates neglect or refuse to summon the general court, in regular or special session according to the method prescribed, then the "freemen" or the major part of them could petition the magistrates to do so, and if they continued to refuse then the "freemen" could take it upon themselves to order the town constables to bring together the "ad-

mitted inhabitants" for the election of deputies. These deputies could meet, choose a moderator, and proceed "to doe any act of power w^{ch} any other court may." Furthermore, the deputies at any time when attending the general court might meet beforehand to prepare an agenda "of all things as may concerne the good of the publike as also to examine their own elections whether according to order," and if they found that any election had been illegally conducted they could exclude the deputy in question, temporarily, until the matter had been passed on by the general court in regular session. At this preliminary meeting the deputies could impose fines upon any that were late or that were disorderly after the meeting had come together. As it happened, however, no court composed of the freemen-deputies only was ever convened; only occasionally at this early period was a court held without a governor or deputy governor; and rarely was an election ever called in question by the general court.

The terms of the Fundamental Orders embody the ideas of the founders as to what they conceived "consent of the people" to mean. To them it meant no more than that the source of authority was below and within and not above and without. Their notion of the "consent of the people" was not the consent of all the inhabitants but rather the consent of those only who, according to the Puritan idea, were of a "religious carriage," and therefore by God's will most qualified to give such consent. Numbers and majorities, though recognized as necessary to an ultimate decision, had very little to do with the matter. The founders of Connecticut differed from their Puritan brethren in Massachusetts Bay and New Haven only so far as they wanted popular self-government to rest on a broader religious base than was

the case in the other two colonies, and they defined their religious requirement in the oath of fidelity which every man had to take before admittance. They were willing to concede a share in government to anyone who was godly, as they interpreted godly to mean, and was responsible, trustworthy, and law-abiding. To have done otherwise would have been to belie their Puritan heritage and convictions, for to the Puritan what we call democracy was looked upon as an aberration of the human mind, disapproved of God and his faithful elect. Only those who were Christians, of honest and peaceable conversation, substantial, respectable, and reliable fathers in Israel were worthy to build up a community the design of which was religion.

The men who were responsible for this noteworthy document showed no intention of creating an organic law that was to be sacrosanct against the general court's complete control over legislation. They omitted, either intentionally or unintentionally, all reference to their royal sovereign across the seas and seem to have wished to cut themselves off from all connection with English authority and English law. Later actions seem to show that they fully expected future courts to elaborate, alter, and add to the general rules already laid down. There are other "fundamental laws" to be found among the early records of the colony that are so called although not contained in the eleven original fundamentals, for the word "fundamental" was in frequent use among the Puritan lawgivers in New England and had no more subtle meaning than a general law—one of the foundation stones upon which the governmental structure rested.

VIII

THE Fundamental Orders were added to and eight times altered in the ensuing twenty-two years. A study of these alterations throws some light on the way the original orders were probably adopted, for in six cases out of the eight the change was brought about by act of the general court itself and in only two—one relating to the summoning of the general court and the other to the tenure of the governor—were the freemen called upon for their approval.

In 1644, five years after the orders were voted, the general court "ordered and adjudged" that the number of magistrates present, sufficient to constitute a lawful court, should be three instead of four as stated in the tenth fundamental, and this change in a "fundamental" was effected by the simple fiat of the court itself. In 1647 the court "ordered, sentenced and decreed" (the very words used in the orders themselves) that the governor or deputy governor with two magistrates should have power to hold a particular court according to the laws established, and in case the governor or deputy governor were absent then three magistrates could choose a moderator and proceed to business. This was really equivalent to a twelfth fundamental and it too was issued by fiat of the general court as a law like the other fundamentals. Three times, in the years 1646, 1657, and 1659, as will be noted later on, were the law and practice of the franchise materially changed and in each case the general court acted entirely on its own responsibility. Again in 1661 the number of deputies was reduced one-half from each town in the colony, thus altering, by act of the general court alone, the eighth fundamental, which allowed the three original towns to send four each. At the same time a further remarkable

provision was made, that in an emergency a general court "with full power and authority" might consist of only the deputies of the towns "on the river," with "so many magistrates as the law required." These instances would seem sufficient to prove that in all probability the original fundamentals were the work of the general court acting by itself, for they show that in governmental matters of the highest importance the court at a later time altered these fundamentals with entire confidence in its power and right to do so.

Only twice before the coming of the charter were the freemen called on for their approval. In 1654 "the freemen voted and ordered to be added to the Fundamentals" that in the absence of the governor and deputy governor the magistrates, by majority vote, could call a regular assembly, choose a moderator, and pass laws in the usual manner. As the number of freemen was increasing, thirty-six having been admitted at this very court, their influence was increasing also, and the matter at issue concerned them very closely. The last revision made brings out this point still more clearly. In 1660 the decision was reached by the general court to alter the law regarding the tenure of the governor—the most important change thus far suggested. In putting this decision into effect the procedure adopted was as follows: The general court drafted the recommendation and ordered the secretary to insert in the warrants for the choice of deputies the proposal that the choice of governor should be thrown open and not restricted as in the Fundamental Orders. This proposal was made of course, only to the freemen, who alone elected the deputies, and they were instructed to vote on the question at the next court of election. The procedure, though more complete, is similar to that adopted in 1654 and shows that in matters of government

the freemen and not the inhabitants at large were considered the final seat of authority, as far as the administration of the colony, apart from that of the towns, was concerned, and that in certain important situations, though by no means necessarily in all, their approval was deemed advisable. In most cases, however, the action of magistrates and deputies in the general court was undoubtedly considered sufficient in matters of legislation.

But even when the approval of the freemen was sought a striking manifestation of Puritan political philosophy is revealed. As the general court itself decided who were worthy to be made freemen and made only such as it saw fit—not under any mandatory law defining freeman-ship but by God's own allowance—it becomes evident that the court was asking the approval of a group of men, very limited in number, the members of which had been selected by itself. If the general court could make a freeman at will and, for scandalous offense, unmake him then it approached very near the possession of more than supreme power, inasmuch as it could determine who should be the ones to exercise what the "freemen" were supposed to possess, and that is ultimate consent. Only in the choice of deputies did the "admitted inhabitants" have any determining influence and even this choice was restricted to "freemen" only, such as the general court approved. This is a curious situation to have existed in a colony that by popular repute is thought to have started as a "commonwealth-democracy."

The truth is that the Connecticut Puritan's idea of the political and religious organization of society was far removed from the democratic idea of later times. It sought the welfare of the community not the individual and in town and colony relegated the individual as an individual to a subordinate place in the social order. No one can

study the history of the Connecticut towns during the seventeenth century without realizing how at every point the freedom of the individual was under restraint whenever the needs of the community at large were involved. In the seventeenth century the towns were covenanted groups quite as much as were the churches. In the distribution and settling of lands; the selling and accumulation of lots; the reversion of land to the town in case the individual moved away; the control of the meadows after the haying season was over; the obligation of the individual to join in labor for the common welfare, as in making roads, clearing brush, and killing blackbirds; the access to the commons, woods, and waste; the use of timber and other natural resources; the attitude toward strangers and aliens; and the making of grants to artisans, millers, fullers, tanners, and the like, where the title was not absolute but only usufructuary—the interests of the community came first and those of the individual were of secondary importance. Town liberty was conserved but not individual liberty. “Saving the good of the community,” though not often expressed, was always understood in all transactions in which the individual had a part. The town records of the seventeenth century are full of votes limiting individual freedom.

That which was true of the towns was true of the commonwealth also. Before the coming of the charter and even more so afterward, the higher government was in the hands of a very small number of men. It was a combination and commonwealth, and later a corporation, that was largely divorced from the inhabitants as a whole and did not regard them *all* as necessary to its existence. It worked through the towns rather than through the people who resided in them, and yet, it did not hesitate to control, punish, and penalize the individual, whenever

the interests of the colony demanded that it do so, without regard to whether the individual had political rights or not. In the political creed of the Connecticut Puritan the essentials of modern democracy—the rights and liberties of the individual and the sacredness of popular representation and majority rule—had no place.

IX

THUS the men who drew up the Fundamental Orders had a perfectly definite idea as to what the words “inhabitants” and “people” were to mean in the practical business of running towns and commonwealth. And just as they disclosed their faith in that direction, so they made known their conviction regarding the relative importance, in another direction, of deputies and magistrates. There was to be no “negative vote” or “negative voice” in Connecticut as there had been in Massachusetts. The deputies were to be supreme in matters of legislation and their will was not to be overridden by magisterial opposition. But as time went on and the administration settled down to a working routine, fear of the magistrates lessened and their position tended to increase in dignity and prestige as well as in judicial authority. They obtained no enlargement of political powers, unless the reduction of the number of those necessary to constitute a general court and their right to preside at its meetings in the absence of governor and deputy governor may be so considered. But they received noteworthy extensions of privilege in other directions. In the first place, with the governor and his deputy, they composed the particular court—court of magistrates or quarter court—which was a “tribunal for the settlement of differences and the establishment of just rights between particular persons, in distinction from the General Court, which dealt with

matters pertaining to the rights and benefit of all the inhabitants." The particular court was a common law court with a jury, the judicial functions of which were taken over, after 1664, by the county courts and the court of assistants, the latter being superseded in 1711 by the superior court. In the second place, in addition to their duties as judges, the magistrates were authorized, either collectively or individually, to commit incorrigibles to prison, to swear in juries, to render judgment in case a jury was deadlocked, to mitigate or increase damages awarded by a jury, to give bills of divorce, occasionally to grant licenses for the sale of liquor, to exercise discretionary power, should it be necessary, in punishing Quakers or sending them to prison, and to superintend the disposal of servants. They could perform the marriage ceremony, as could also the deputies and the magistrates' assistants in the more remote towns who were chosen by the towns to hear cases of less than forty shillings, with right of appeal to the particular court. They could make freemen, give the oath of fidelity to all males over sixteen years of age, press men and munitions for a defensive war, appoint days of thanksgiving and humiliation in the intervals between the sessions of the general court, serve as commissioners representing Connecticut at the meetings of the New England Confederation, and perform other diplomatic duties. The respect in which they were held appears from their being freed from all military service, exempted from all ferry dues, and granted the right to be entertained during the sittings of the particular court. Thus the magistrate in Connecticut, though never considered divinely guided as was his fellow magistrate of Massachusetts, won, through his service as a member of the particular court and his usefulness as an agent of administration, a position of influence superior

to that of the ordinary freeman and deputy, though both of these might at any time aspire to be magistrates themselves, should their fellow freemen choose to elect them as such.

X

COINCIDENT with the advancement of the magistrates a reverse movement was taking place affecting the status of the freemen and their deputies. This reverse movement would seem to indicate a loss of confidence on the part of the general court in the worthiness of those whom the towns were admitting to a share in local government and to the privilege of electing deputies. Perhaps for the same reason stress was laid more frequently than before on "honest conversation" as a qualification for "admitted inhabitants" and the towns were required to give certificates testifying in each instance to the "peaceable and honest conversation" of those whom they recommended to the general court for election as freemen.

At any rate something was happening to the social and moral standards of the Connecticut communities. The particular court records, as far as they are extant (1637-1663), are filled with entries which show the presence in the colony of an undesirable element, neither better nor worse than appeared elsewhere, but sufficiently filled with evil intents to show that Connecticut during these years was not an abode of saints only. As in other colonies most of those charged with wanton dalliance, fornication, lying, drunkenness, blasphemy, robbery, and breaking the laws of the colony were apprentices and servants, of whom there were many in Connecticut as elsewhere bound to labor for a term of years. But some of these delinquents were clearly of the better classes, goodmen, misters, and esquires. Among them were those charged

with contemptuous words and insolent carriage toward court and commonwealth, threatening and malicious speeches, defiance of authority and law, and the slighting of court orders. Men, and women too, were brought before the magistrates and juries in suits for debt, damages, trespass, extortion, slander, defamation, and offenses of all sorts "against the law." The court felt called upon to regulate very minutely the personal conduct and domestic welfare of the people of Connecticut during the years before the coming of the charter, and to take cognizance of such matters as using tobacco, drinking and selling liquor, playing cards, working and traveling on the Sabbath, marriage and divorce, and, not infrequently, relations between husbands and wives, fathers and children, masters and servants. Some twenty or more cases of witchcraft are recorded for Connecticut and New Haven before 1663, with at least ten hangings. Two women were executed for other reasons, one for poisoning her husband and the other for saying that "Christ was a Bastard and she could prove it by Scripture." There were others too whose utterances, if not as blasphemous were, to say the least, disrespectful of the clergy and the New England way of ecclesiastical polity and procedure. The troubles that arose between 1650 and 1660 in the churches of Windsor, Wethersfield, Hartford, and Middletown gave opportunities for a good deal of free speaking. The Rev. Mr. Stow of Middletown was called a contentious, pestilent person by several people, one of whom charged him with saying "that those that were not in the visible covenant" were "dogs and among dogs and in [the] Kingdom of Sathan and at Sathans command." As a result Stow was relieved of his pastorate by the general court, though allowed to continue preaching if he could get anyone to hear him.

Whether there was any connection between the limitation of the franchise and the troubled state of the colony during these years it is impossible to say. Newcomers were undoubtedly thrusting themselves into the towns, religious disturbances were increasing ill will, controversy and disorder were troubling the magistrates (if the records of the particular court are to be accepted as reflecting the spirit of the times), and the witchcraft mania was approaching its height. Certain is it that in 1646, 1657, and 1659, for reasons not specially disclosed, steps were taken to bar undesirables from having any part in the government and, seemingly, to rebuke the towns for letting down the bars of admission and the freemen for their want of orderliness at the courts of election. As we have already seen all these alterations in the law of the colony were made by fiat of the court in the regular course of its legislation, without reference to the freemen for their approval.

In 1646 the court decreed that anyone who had been fined or whipped for a scandalous offense, if legally convicted, should be disfranchised, and such an order proves that the offenders so punished were not servants or apprentices who had no vote, but men in the higher walks of life who could vote under the colony rule. In 1657 the court further decreed that no one was to be admitted a freeman unless he could present "an affirmative certificate under the hands of all or a major part" of the deputies of his town to the effect that he was of "a peaceable and honest conversation." Later in the same year it forbade the towns to admit anyone under twenty-one years of age or who had not at least £30 estate, thus restricting materially the meaning of the term "admitted inhabitant," as used in the seventh fundamental. Finally in 1659, in order to prevent, if possible, the "tumult and

trouble" that had disturbed the courts of election, it ordered that no one be admitted a freeman or have the privilege of freemanship conferred upon him unless he was twenty-one years of age, had borne office, was possessed of £30 of "proper personal estate," and was a man of honest and peaceable conversation. In these measures there is ample evidence to show that the ideals of Hooker, as presented in his sermon and commonly interpreted, whether at any time they had actually been put into practice or not, had become completely discredited within twenty years of the adoption of the Fundamental Orders.

XI

AN explanation in part of these measures lies in the fact that the colony was extending its jurisdiction and facing new conditions as one by one additional plantations came into existence. Alien peoples were drifting in and larger areas of territory, some of it adjoining the coast as well as the rivers, were scattering more widely the activities of the commonwealth and bringing unexpected problems. The Connecticut colony was pushing its jurisdiction eastwardly toward the Pequot country and westwardly toward the Dutch at Manhattan. The former region had been known to the English for a long time, as it was familiar to the coasting vessels going to and from Boston, and it had served as a rendezvous for the Connecticut soldiers during the Pequot war. John Winthrop, Jr., on his return from England in May, 1643, after spending a year or two in Massachusetts, turned to Connecticut and in 1645, with the consent of the general court, began a plantation on the west side of the Thames River, laying out lands and inviting settlers. The plantation was organized, May 6, 1646. In 1650 fourteen families arrived

as a covenanted church from Gloucester, with their minister, Richard Blinman, and uniting themselves with those already there became the first church of the community. In 1658 the name of the place was changed from Pequot to New London.

Just as Winthrop was the founder of New London, the leader and director of the people there, so was Roger Ludlow the one who began the opening of the coast region to the west. Having taken part in the swamp fight against the Pequots near Southport in 1637, he saw the possibilities of the region and in September, 1639, obtained permission from the general court to promote a plantation at Pequannock and for that purpose purchased land of the Indians there. From this purchase and the settling of peoples that followed sprang the towns of Stratford and Fairfield. For a while these two plantations acted jointly in judicial and financial matters, but after 1650 appear separately in the colony's list of estates. Ludlow removed from Windsor probably in 1640, took up his residence in Uncoway (Fairfield) and remained there until 1654, when he returned to England, as did many others who were attracted by the successes of the Puritans there and the offers of positions and honors. He made his way to Dublin, where in all probability he died. He had been influential in promoting the settlement of Norwalk also, which was started about 1650 and made a town the next year. Settlers continued to move westward along the coast, coming into contact with the Dutch moving eastward, but Connecticut made no effort to extend her jurisdiction beyond Norwalk until just before the absorption of New Haven when she endeavored to draw away Stamford and Greenwich from their allegiance to that colony.

Expansion in the neighborhood of the original river

towns was slow, partly because of the sufficiency for the moment of the arable land and partly because of the dense woods that stretched to the east and west on both sides of the great river. Enterprising traders had moved up the Tuxis or Farmington River, engaged in tar-making and in searching for favorable places for settlement. Projects for removal were entertained as early as 1640 and finally led to the planting of Farmington and its recognition as a town in 1645. Movements farther north but down the course of the meandering stream began soon after, and in 1664 Massaco or Simsbury was permanently settled, as an appendage of Windsor, and in 1671 was made a town. This was the farthest point inland from the great river to be occupied for many years.

There was no settlement to the southward, between Wethersfield and the mouth of the Connecticut until 1647, when enterprising men, overcoming their fear of the Indians, began to interest themselves in a certain attractive locality that they must have passed frequently on their way up and down the river. Once begun the plantation there grew rapidly and was sufficiently populated to receive recognition as the town of Mattabesock in 1651, a name that was changed to Middletown two years later. Norwich, where Jonathan Brewster had located his trading house, was settled by a migrating church congregation from Saybrook, and after various vicissitudes was accepted by the general court as a town in 1663.

Thus without including the towns of Southampton and Easthampton at the eastern end of Long Island and of Setauket and Huntington, about the center of the north shore, which were under Connecticut's jurisdiction for only a short time, there were in 1662, Hartford, Wethersfield, Windsor, Farmington, Middletown, New London, Norwalk, Stratford, and Fairfield, with Norwich, Ston-

ington, Killingworth, Haddam, Simsbury, and the New Haven towns soon to come. These towns, unlike those of Massachusetts, were situated so far apart as to render communication and transportation difficult and infrequent, in a day when traffic was slow and almost entirely by water. Such a situation had a marked effect in slowing down the tempo of the colony and developing that spirit of local independence and self-reliance which has always been so characteristic a feature of the Connecticut towns.

One town has not been included in the list given above—Saybrook. The circumstances in its case call for a somewhat fuller treatment. Starting as a blockhouse and fort, built by Lion Gardiner under Winthrop's direction in 1635, it gradually grew into a settlement which had lost much of its military character by 1641. There was no church organization until 1646, though John Higginson was there as minister for four years. Fenwick was the only one of the lords and gentlemen ever to reside there, as he did with the exception of a few years (1636–1639) until 1645. When it became quite evident that the English grantees had given up all intention of using the place as a retreat, the Connecticut leaders, who were undoubtedly kept posted on the situation by Edward Hopkins, one of the associate grantees, began negotiations for a "treaty of combination," to which Fenwick in 1639 agreed, as far as the fort and the land about it were concerned, the question of boundaries and jurisdiction being left open. Connecticut offered to help financially in the repair and upkeep of the fort and in 1643 made Fenwick a freeman and magistrate of the colony. Then on December 5, 1644, a formal agreement was drawn up, according to which Connecticut allowed Fenwick certain duties on goods, furs, and livestock passing out of the mouth of the river, while he in return made over the fort and the

land, but not the jurisdiction which he could not convey, to the use of the people of the colony, to be enjoyed by them forever. He promised to transfer also all the territory named in the Warwick deed, lying between the Connecticut River and the "Narragansett River" (presumably Narragansett Bay) "if it came into his power." This agreement was merely a bill of sale of land, the ownership of which was assumed to be vested in Warwick, the grantees, and their associates, though it is doubtful if Fenwick had a legal right to alienate any part of the land without the formal consent of the other grantees, which he never obtained, as far as we know. Much less could he transfer the remainder of the land together with the jurisdiction, thus conveying powers of government over the whole territory. Legally it made no difference that the lords and gentlemen had abandoned their claim, at least as far as Fenwick's right of disposal was concerned.

Fenwick went to England in 1645 and was there continuously until his death in 1658. Why he did not obtain a confirmation or renewal of the original Warwick patent while there or secure the consent of the lords and gentlemen, some of whom were still living, to the transfer of land and jurisdiction, as Connecticut desired, is hard to understand, unless it be that no copy of such a patent could anywhere be found. Doubtless consent could have been obtained if it would have done any good. It seems reasonable to believe that by that time the true inwardness of the patent had been realized and Fenwick had discovered that it was not in his power to make the transfer. This cannot have been due to any difficulties he might have met in endeavoring to find a copy of the patent or the deed. The former, had it ever existed, could have been obtained from the patent books of the council

or from Warwick himself; the latter from some one of the grantees, just as John Winthrop, Jr., later found a copy among the Hopkins papers. There was, as Mrs. Cullick, Fenwick's sister, said in her petition, "a total failure" on Fenwick's part "respecting his procuring of a Patent for the Colony." It was all a "great disappointment."

Fenwick's death in 1658 left the question of land and jurisdiction exactly where it was before, except for the fort and land at Saybrook, which Connecticut, whether legally or not, had taken under its direct control. Immediately on hearing that Fenwick had died and finding that they had profited but little from their negotiations with him, the Connecticut authorities demanded of his executor, Captain John Cullick, who had married Fenwick's sister Elizabeth, the return of a part of the £1600 already paid (as Connecticut estimated it) before letters of administration would be granted. Cullick promised to return £500, a sum that had not been entirely paid in 1663, when Mrs. Cullick petitioned for a remission of the amount still due—about £150. This request was refused by the general court. Whether the balance was ever paid in full is doubtful, but it is quite certain that this Fenwick money was never used for the purpose of meeting the expense of obtaining the charter, as has sometimes been said.

Thus in 1644 Saybrook came into Connecticut's possession and from this time forward was reckoned one of Connecticut's towns. In 1654 the population was rated at fifty-three taxable persons and the value of the estates there higher than those of either Middletown or Norwalk. The settlement must have prospered in this interval of twenty years. In 1663 it was rated above these two towns and above Norwich also, showing that the habitable lands outside the fort and the palisade were gradually

increasing in extent as more people came in, and that the whole was beginning to take on the form of a town of the usual type. It was granted representation in the general court in 1651, placed in the list of towns "within this jurisdiction" in 1654, and shared all the burdens and obligations, including jury duty and military service, as would any other town. In 1660 its church congregation, under the leadership of the Rev. James Fitch, migrated as a body to settle the plantation of Norwich at the head of navigation on the Thames. A new church was organized to take its place.

The powers of the towns were carefully defined by the general court in October, 1639. They could dispose of all lands undisposed of within their boundaries and could traffic freely in their own commodities. They could choose their own officials, with power to look after the prudential affairs of the community, make orders not repugnant to the general laws of the colony, impose penalties for the breaches of these orders, levy fines, and distrain for their payment. They could select the magistrates' assistants whom the general court required to hold court in minor cases and were ordered to keep books for the recording of lands, the entering of the estates of deceased persons, and the registering of the earmarks of cattle. Additional laws were passed from time to time concerning weights and measures, hogs at large, and other local concerns. The central government kept a watchful eye upon its towns and plantations, but did not often interfere in their affairs unless requested to do so. It expected each settlement to stand on its own feet, to pay without grumbling its share of the colony's running expenses, and to keep the peace among its own inhabitants and with those of the neighboring towns. The general court did not encourage new settlements or grant town privileges until

certain conditions had been fulfilled that would reasonably assure the meeting of these expectations.

The towns were supposed, after having the colony laws read publicly at town meeting, to copy them into a town law book provided specially for the purpose, though there is no evidence that anything of the kind was done before 1650. Aroused by the efforts of the Bay colony to prepare a code of law to meet the demands of the inhabitants for a more certain knowledge of what the laws were all about, the Connecticut general court in 1646 requested Ludlow "to take some paynes" in making an abridgment of the laws already passed. This Ludlow did. The results were approved in May, 1650, and issued in manuscript copies as the code of that year. Transcripts were sent to the towns, headed by the Fundamental Orders, and this code, whether added to or not I do not know, remained the "town law book" for more than twenty years. In 1671 a revision was called for, which was accepted the next year and ordered to be printed (1673), with a preface written by the governor and the assistants containing this sentence, "Being willing that all concerned by this Impression may know what they may expect at our hands as Justice in the Administration of our Government here, we have endeavored not onely to ground our *Capital Laws* upon the *Word of God*, but also all other *Lawes* upon the Justice and Equity held forth in that *Word* which is a most perfect Rule."

XII

THE colony thus settled in the wilderness had necessarily to provide itself with the means of subsistence and growth, and its efforts to develop its resources are worthy of examination as those of a settlement largely dependent upon its own efforts for its maintenance. Life was agricultural

and pastoral and only to a small extent was concerned with industry and the traffic in furs. The people were engaged for the most part in raising corn and other grains and were busy with the breeding of horses, cattle, swine, sheep, and other livestock, none of which were indigenous to the country, but had in the beginning to be brought from England or the Continent. Horses were used but little as draft animals, because for ploughing and other similar purposes they were found less serviceable than oxen. They were chiefly employed for transportation, were small in size, and were probably brought originally from England, Ireland, or Holland. Neat cattle were essential to Connecticut's prosperity. They furnished the inhabitants with flesh for food, hides for leather, and strength for ploughing and hauling, and their possession was an index to the owner's personal rating. In their garden plots the householders raised small amounts of tobacco, flax, and hemp; from the woods they obtained timber for building, pitch and tar for their boats, and pipe and hogshead staves and headings for export. To facilitate local exchange a market was first held at Hartford in 1643 and, following the English custom with which the colonists must have been thoroughly familiar, two fairs were arranged for at which business transactions of all kinds might be carried on. Of sea-going traffic there was little, the people of the colony, even as late as 1680, "having neither licence nor ability to launch out in any considerable trade at sea." Pinnaces and sloops, built in the colony, passed up and down the rivers and out into the Sound, and made their way along the coast to Boston and to the Dutch at Manhattan.

Corn was the commodity most frequently exported, always under restrictions laid down by the general court, in order that the colony might not be deprived in periods

of scarcity of its most necessary staple, but biscuit, bread, beaver, pipestaves, and livestock were also shipped away to Boston, New Amsterdam, Long Island, the Delaware, and perhaps even at this early date, by enterprising captains, to the West Indies. Out of this traffic, in vessels owned in Connecticut and elsewhere, arose the beginnings of a custom service, finding its origin in the collecting of dues at the mouth of the river—the “Fort rate”—to discharge the obligations incurred by the agreement with Fenwick in 1644. We meet with the equivalent of clearances, entrances, naval officers, forfeitures, collectors, and searchers in rudimentary form. Rules were laid down concerning the dumping of ballast, the prevention of Sabbath Day sailings, and the conduct of incoming mariners and sailors, who made much trouble for these Puritan communities, whether in Massachusetts Bay, Connecticut, or New Haven. The medium of exchange was chiefly the products of the soil, though payments were made in wampum and beaver also. There was less wampum or *se-wan*, as the Dutch called the Indian substitute for money, in the river towns than in the coast towns of Connecticut, Rhode Island, and New Haven, or than in New Amsterdam where the shell supply was nearer at hand. There are traces of coins—nobles, angels, crowns, and marks—probably brought from England, and of Spanish dollars and Dutch guilders, which were acquired in trade.

There seems to have been neither great wealth nor extreme poverty among the people at large, though there were men in Hartford who possessed goodly estates in England or who brought a measure of wealth with them into the colony. Pynchon of Springfield owned many houses and lands in the parishes of Writtle and Widford in Essex; Edward Hopkins was a wealthy man, as were

the Eatons of New Haven wealthy men before they left England, and Hopkins bequeathed money in the colony for educational purposes. Captain Richard Lord had an estate valued at £3000. Both Haynes and Wyllys were rich and spent money in subduing the wilderness and building houses, that of Wyllys being one of the finest, if not the finest at the time in New England. But facilities for accumulating money in the colonies were few and far between. Staple products were insufficient to furnish a surplus for export that would pay for the commodities needed from abroad; means of transportation were limited almost entirely to water travel, as highways for horses and carts were almost unknown even among the river towns, though there must have been a certain use of the Indian paths down the river and toward Quinnipiac, for cattle were driven both to Saybrook and New Haven. Such transit was, however, slow, arduous, and infrequent. Because of these difficulties of travel distant towns were allowed to vote by proxy at the court of elections and the time and expense involved in travel led to the reduction in the number of deputies to the general court in 1661.

The colonists lived in a world heavily wooded, though because of the river bottoms probably less heavily wooded than had been the case with Massachusetts. The river Indians were never a serious menace, but those in the neighborhood of some of the coast towns now and then became threatening and the government kept a strict watch over them, everywhere and at all times. Wild animals were dangerous and continued to be so throughout the century. The gray wolf was a "pernicious creature" and a constant threat to the lives of the planters and the peace of the plantations. Less common were bears, panthers ("painters"), and lynxes ("wild cats"), but they also made trouble because like the wolves they destroyed

sheep. Both towns and colony paid bounties for wild animals killed and wolf-pits were common both within and without the settlements. Beaver were everywhere and "beaver brooks" and "beaver meadows" are still so-called in local nomenclature. The red fox, members of the weasel tribe—otters, fishers, martens, mink, wolverines, and skunks (Indian "seganku")—muskrats (Indian "musquash"), Norway or wharf rats—all abounded. Moose, too, raccoon (from which coon-caps were made), squirrels, and woodchucks were everywhere. The streams were full of fish and in the Sound and tributary waters and harbors were hair-seals, from which came the seal caps of the colonists, porpoises, and right whales which furnished oil and whalebone. Whales were caught by Connecticut seamen as early as 1647. Some parts of the clothing of the early settlers were fashioned from the skin of the white-tailed deer, which ran through the woods and in severe seasons penetrated the settlements themselves.

XIII

SUCH was the general situation in the commonwealth when in the year 1660 news came of the restoration of Charles II to the throne of his fathers. The news was disconcerting to all the Puritan colonies, who looked to the ascendancy of the Puritan minority in England for their continued security and freedom from interference, but it was particularly disconcerting to Connecticut which had no certain legal standing as a colony. However much the leaders may have placed their trust in the validity of the Warwick deed, they must have come to realize by this time that it would not stand the test of legal scrutiny. They had been unfortunate in their attempt to obtain a patent from the Long Parliament, as Roger Williams had done in 1644, and Fenwick's failure to do anything for

them in England and his manifest inability to carry out his promises must have shown them that something was wrong with their title. If they had not even the slight protection that the transfer of the Warwick deed might have given them, they stood defenseless except for their moral right to exist as a colony of upright and honorable men, as they believed themselves to be, with a prescriptive right to exist as a colony. But were the authorities in England inclined to be unfriendly and ready to take the severe measures that some of the colony's opponents in New England wished them to do, they might advise the king to receive the colony into his own hands and for good and sufficient reasons get rid of the Puritan governments altogether. He might even place a governor general over them, as Massachusetts had feared would be done as early as 1635 and as was actually done when the Dominion of New England was set up under Andros in 1686. Connecticut's leaders knew that the colony was helpless in the presence of this danger and they laid their plans to meet it by the best means at their command. As events were to show these plans were shrewdly and even audaciously conceived and successfully carried out. The man who obtained for Connecticut her first charter and consequently her first legal right to exist as a corporate colony was John Winthrop, Jr., whom the freemen of Connecticut, with considerable adroitness, had drawn away from New Haven, where he was residing, by offering him the governorship of the colony in 1657.

John Winthrop, Jr., the eldest and most worthy son of the governor of Massachusetts, was born in 1606 and was at this time fifty-four years of age. He had been educated at Trinity College, Dublin, but did not graduate, was a member of the Inner Temple, in early years had been a traveller of wide experience, and was a gentleman

of many personal contacts, not only among the East Anglian Puritans but also among the leading men of the day in England. He never practiced law but early developed an interest in colonization, and after some hesitation joined his father in Massachusetts Bay in 1631. From that time forward New England became the field of his activities and in 1635 he accepted the offer of the lords and gentlemen to start a settlement at the mouth of the Connecticut River, later known as Saybrook. Remaining there but a year he returned to England but soon came back to America, sailing for Boston in 1643, with the idea of promoting an iron-work in Massachusetts in conjunction with Dr. Robert Child, the remonstrant. This undertaking not proving successful, he withdrew in 1645, having already been attracted by opportunities elsewhere. He received a grant of Fisher's Island from Massachusetts in 1640 "against the mouth of the Pecoit [Thames] Ryver, as far as is in our power, reserving the right of Conectecot and Saybrooke," and though at the time he made no effort to occupy and improve it, its possession called his attention to the Pequot country, where, as we have already seen, he began a plantation under the auspices of Connecticut, as a "curb to the Indians." Connecticut's title to the territory having been confirmed by the New England Confederation, he was commissioned a magistrate in 1648, to exercise justice there according to the Connecticut laws and the rule of righteousness, and became a freeman of the colony in 1651. After a year's residence in New Haven, where he was attracted by the project for an iron-work, he decided to throw in his lot permanently with Connecticut and accepted an election as governor in 1657, an opportunity which was later made more palatable by the change of tenure effected in 1660.

When the news of the Restoration came to that colony

in 1660, Winthrop called a hurried gathering of such magistrates and deputies as could be assembled, who agreed to recommend to the next general court, that of March, 1661, the duty and necessity of dispatching a speedy address to "our Sovereigne Lord Charles," declaring that the inhabitants were "his Highness loyall and faythfull subjects" and asking for "the continuance and confirmation of such priviledges and liberties" as were essential for "the comfortable and peaceable settlement" of the colony. At the next court, that of May, a committee was appointed to perfect the address, which in the meantime had been drawn up by the governor, and to frame a petition for presentation "to his Ma^{tie}," together with letters to such "noble personages" as might be thought favorable to their request. Though many of those in England friendly to the Puritan cause in New England were either dead, in poor health, in retirement or concealment, or in prison, there were a few upon whom the colony believed it might call in this emergency. Among them were the Earl of Manchester, lord chamberlain, who had married as his second wife the daughter of the Earl of Warwick, was connected with the Essex group, and felt strongly inclined toward the Puritan party, even though he had played an important part in the restoration of the king; Lord Saye and Sele, lord privy seal; Lord Brooke, the son of the grantee; and a few others. The petition was accompanied by a hurried and incomplete statement of what the colony wanted. At the same time a body of instructions was prepared that presented in greater detail sundry matters of a more particular nature. These documents were communicated at the meeting of the court in June and approved. As Winthrop was to be the colony's agent in transacting the business in England, the court gave him a fairly free hand to do

as he thought best, allowing him to write additional letters and to offer any further petitions that he thought necessary. It appropriated £80 for his expenses and £500, in the form of a letter of credit (dated June 16, 1661) upon London merchants, to meet the legal costs and such perquisites and gratuities as might be necessary. He was expected to obtain, if possible, a confirmation of the Warwick patent, which the colony still hoped was in existence somewhere, and to secure in its stead a royal letters patent or charter, containing such additions and enlargements as the colony wanted. Winthrop was specially enjoined to see that the "liberties and privileges inserted in the Patent" should "not be inferiour or short to what is granted to the Massachusetts."

Winthrop, bearing the address, petition, and letters, sailed from New Amsterdam to Holland, where he arrived September 6, 1661. He proceeded via Harwich to London, taking up his residence with William Whiting in Coleman Street, next door to the church of which John Davenport had been the vicar, and more than two miles from Whitehall where most of his work was to be done. In the course of his activities he was probably advised that the address written in the colony was not in satisfactory form, and therefore he drafted, or caused to be drafted, another and more suitable text, in which he prayed for a "Renual of the said [Warwick] Pattennt under your Ma^{ties} great Seale." Yet there is no reference to a Warwick patent in the Connecticut charter as there is to the New England Company's patent in the charter of the Massachusetts Bay Company. This fact in itself is fairly conclusive evidence that no such patent ever existed.

Winthrop was highly thought of in England, where he was known not only to the survivors of the original

grantees but also to many a prominent man outside the Puritan fold. He had corresponded for some years, at various times, with Robert Boyle, the governor of the Society for the Propagation of the Gospel in New England and the most representative member, if not the founder, of the Royal Society; with Sir Kenelm Digby, whose connection with the Winthrops was close and intimate; with Samuel Hartlib, the author of numerous pamphlets on husbandry and a great variety of other topics, educational, social, and religious; and with William Brereton, son of Sir William, the latter of whom had died before Winthrop reached England. The younger Brereton, knowing Winthrop's great interest in the medicine and science of the day, proposed him for membership in the Royal Society and he was admitted January 1, 1662. While in England he took an active part in the proceedings and read a number of papers. Though he found Saye and Sele too ill to be of much use to him, he learned that the Puritan lord had already spoken to Clarendon, the lord chancellor, in his behalf and was able to give him useful introductions. He was presented by Hartlib to Dr. Benjamin Worsley, who had been officially concerned with colonial affairs for a decade and he renewed his friendship with William Jessop, former secretary of the grantees and for many years identified with Puritan enterprises. The letter which he bore to the Earl of Manchester must have been of great assistance to him.

Despite his personal influence and the influence of his friends, Winthrop realized that his path to success was not to be without obstacles. The Puritan cause was not in favor in England and the Puritan colonies had many enemies in America. The spokesman of these was Samuel Maverick, who had the ear of Clarendon and during the year 1661 had written him from New Amsterdam many

letters on the subject. Returning to England he had followed up these letters with personal interviews, in which he sought to checkmate the Connecticut request. "The two southern Collonyes Conecticott and New Haven [he wrote] have no Pattents that I know but govern by Combination amongst themselves, but in a strange confused way, and in this Confusion [are] the governments in New England at present, and I conceive will be no otherwise untill his Maies^{tie} be pleased to call all againe in to his owne hands and disposall. . . reduced under his Ma^{ties} obedience." Though Maverick's strictures were chiefly directed against Massachusetts they were aimed at Connecticut also, and he would have been glad to see the latter's petition for a charter denied and a governor general placed over all the colonies in New England. But Lord Saye and Sele also had the ear of the chancellor and Maverick had to acknowledge that there were influential men in England who had "no desire that these persons in New England should be reduced." Their insistence and Winthrop's dexterous diplomacy had the desired effect. Winthrop handed in his final petition some time before February 6, 1662. This was received by Sir Edward Nicholas, one of the principal secretaries of state, and by him referred to the attorney general. The latter's report being favorable, the secretary acting under instructions from the king in Council, caused a warrant to be issued under the royal sign manual authorizing the attorney general to prepare the text of the charter, apparently based on Winthrop's own version which the crown's legal advisers were able to put into proper official form. These preliminaries having been completed, the charter passed rapidly through the seals and as a writ of privy seal, dated May 10, 1662, was enrolled in the six clerks' office in Chancery Lane. It received the great seal on the same

day, as is evident from the entries in the accounts of the clerk of the hanaper and from Winthrop's own report of proceedings.

There is no way of finding out exactly how much it cost Winthrop to obtain the charter. Roger Williams, in a moment of what appears to be gross exaggeration, said that Rhode Island paid about one thousand pounds and Connecticut about six thousand pounds for their charters. These figures are not possible of acceptance, and it may be that Williams, recalling the circumstances nearly twenty years after the event and when seventy-eight years of age, was either forgetful or careless. He wrote in thousands when he should have written in hundreds. Six hundred pounds would be nearly correct, if we include the amount appropriated for Winthrop's expenses. Winthrop, when writing home, May 13, 1662, expressed the hope that the colony would be "well satisfied about the charge that had been necessary for the affecting and prosecuting a business of such consequence"; and had he run over the £500 allotted he would doubtless have heard from the colony about it and some record would remain. That he used some of his own money to meet the costs of living in England for nearly twenty months is likely, but that he kept within the limits set by the colony in spending the money furnished for fees and perquisites seems evident from the accounting that followed. He borrowed the £500 of three merchants of London—Cowes, Silvester, and Maskeline, and he and his son made themselves responsible for the payment. He agreed with the merchants that, toward the end of November, 1662, the colony should pay the £500 in the form of 2000 bushels of wheat at 3*s.* 6*d.* a bushel and 1200 bushels of pease at 2*s.* 6*d.* This amount the colony levied on the towns, bidding them send the wheat and pease, in carts, boats, and canoes, at

their own charge to New London, where they were to be stored until the arrival of the *John and Robert*, a flyboat of London dispatched by the merchants for the purpose of carrying the cargo back to England for sale. The cost of sending the vessel on a voyage of five or six weeks each way must have been considerable, when the charges for wages, food, and insurance are taken into account, but the merchants evidently expected to recover their costs as well as their loan from the prices received in the London market. The whole financial transaction was completed by October, 1663, when Winthrop and the colony formally acquitted each other of all further claims in the premises.

Winthrop did not bring back the charter himself, as he was not returning at once to New England, but dispatched it by the hands of two Massachusetts agents, Bradstreet and Norton, who arrived in Boston, September 3, 1662. From there it was brought to Hartford by the Connecticut representatives at the meeting of the commissioners of the New England Confederation, where it had been presented and examined before being sent to the colony. On October 9, 1662, it was publicly read "in audienc of the Freemen and declared to belong to them and their successors," after which it was entrusted to the care of three of the magistrates for safekeeping, though the document itself was given over to Lieutenant John Allyn, who became secretary of the colony the following year. He retained it in his possession until in 1687 Connecticut became a part of the Dominion of New England and the famous episode of the hiding of the charter in the oak tree on the Wyllys estate was enacted.

XIV

UNDER the charter of 1662¹ Connecticut became a corporate government, legally and royally recognized, with authority vested in the governor and company, the members of which were the freemen of the company-colony. By this royal letters patent the people of Connecticut were for the first time given official security and their relations with their sovereign across the seas, who was now no longer ignored as he had been in the Fundamental Orders and the Code of 1650, were carefully defined. Henceforth they were the king's loyal subjects and as such were to have and enjoy all the liberties and immunities that were possessed and exercised by the free and natural subjects within any of the king's dominions. In their turn they took, as freemen "formally incorporated into this civil society," an oath of supremacy such as was required by the charter and, thirty years later, an oath of allegiance in which every member of the general assembly was obliged to swear that he would "bear true allegiance" to his own protestant king" (William III). The oath of fidelity was still required of all admitted inhabitants of the towns and a new "oath of freedom" of all who were granted the freedom of the company, in which, as far as we know, there was no mention of either obedience or allegiance. Though justice was to be rendered as before according to the Word of God and the law of righteousness, the colony declared in 1673 that it was not its "purpose to repugn the Statute Laws of England, so far as we understand them, professing ourselves always ready and willing to receive Light for Emendation and Alteration as we may have opportunity." Henceforth all writs ran in the king's

¹For an exact reprint of the charter, see A. C. Bates and C. M. Andrews, *The Charter of Connecticut, 1662*. (No. III in this series.)

name and later a king's or queen's attorney was appointed for "impleading in the law all criminal offenders." Now that Connecticut had a royal charter and was determined not to lose that charter by any ill-advised or incautious acts, she was willing to go a long way in the direction of accepting English authority and English law. As long as she could retain and exercise the power of self-government, she was willing to make any reasonable concession that did not infringe on this fundamental right or that would enable her to avoid any inquisitorial investigation into her affairs by the authorities at home.

The essential parts of the charter were based on the Fundamental Orders and on the laws passed and practices tested since that time. The terms had undoubtedly been carefully drawn by Winthrop in his final petition and they expressed in formal legal language, with here and there a modification, the determination of the Connecticut leaders to retain the government as it had been carried on since 1636. Thus the charter did little more than set the seal of the king's approval on what the colony had already done and its acquirement made little difference in the actual machinery and routine of administration. The colony, nowhere in the charter called a commonwealth as the founders had styled it, continued to have its governor, deputy governor, and assistants, chosen as before by the freemen from among themselves; its two annual assemblies, with not more than two members elected by each of the towns from among the freemen of the colony; its power to make laws, no longer unlimited but restricted by the phrase "not contrary to the laws of England";² its right to erect courts of justice, though the

²The situation arising under this provision is dealt with by the writer in two pamphlets in this series, *Connecticut and the British Government* and *The Connecticut Intestacy Law*. (Nos. I and II.)

indefiniteness of the language made uncertain the inclusion of vice-admiralty courts under the civil law; full freedom to carry on trade, to bring in or send away such of the king's subjects or strangers as were willing voluntarily to enter or migrate, to impose fines, imprison or otherwise deal with offenders, to pardon such if desired, and to convert the heathen. It was to have a common seal, for the first time legally, but it was not able to obtain release from the payment of custom duties in England, as Winthrop had so ardently hoped would be the case. Connecticut henceforth on the governmental side was one body corporate in fact as well as in name, with right of perpetual succession, capable of pleading and being impleaded, of answering and being answered, of defending and being defended in all suits and causes whatsoever. She was secure against aggression or interference within the bounds of her jurisdiction.

XV

"WITHIN the bounds of her jurisdiction!" The story of Connecticut's land claims is neither a simple nor an inviting one to deal with. It begins with the extent of land mentioned in the draft of the Warwick patent handed in to the Council for New England, June, 1632, but never acted on by the council. In that draft Warwick solicited land stretching southwesterly from Narragansett River (presumably Narragansett Bay) for thirty miles along the coast and fifty miles into the interior, thus asking for nothing west of the Connecticut River. But in the deed which he had already issued to the lords and gentlemen three months before he granted them a territory running for one hundred and twenty miles along the coast and west to the South Sea, which was then thought to lie just over the western mountains. How are we to account for

this extraordinary discrepancy and who was responsible for it? These are questions that we cannot answer. But we do know that when the general court of Connecticut drafted its instructions to Winthrop it bade him apply for all the territory named in the deed and in addition for enough more to carry the eastern boundary to the Plymouth line, the northern boundary to the Massachusetts line, and the western boundary to the Delaware, thus rounding out by enlargement in three directions the land granted by Warwick to the lords and gentlemen. Winthrop in his second petition improved a little on this instruction, seeking land from Narragansett Bay on the east, to the Massachusetts line on the north, to the Sound on the south, and to the South Sea on the west, with all the islands thereto adjoining. These are the boundaries of the charter, and, literally interpreted, as Connecticut insisted on interpreting them then and afterward, wiped out completely all other claims to soil within their limits. In thus "crowding on," Connecticut took advantage of the weakness of Rhode Island and New Haven, whose titles were defective, and of the insecurity of the Dutch on the Hudson, with whom her relations had been none too friendly, and following the precedent set by Massachusetts Bay dared all that she could. For the moment she was successful, though the committee of the Privy Council said later "that King Charles the Second was surprized in his grant to Connecticut as to the boundaries." If this statement is to be believed then how did the boundaries get into the charter? The English authorities in granting the charter, as later events were to show, had apparently no intention of destroying the independence of either Rhode Island or New Haven, for there is nothing to prove that in the latter case the treatment of the regicides had anything to do with the matter. Winthrop,

too, when he went to England had no thought of infringing on New Haven's liberties in carrying out the objects of his mission. William Hooke in his letter of February, 1663, to John Davenport, his former coadjutor in the New Haven church, speaks of spending a forenoon "with Mr Winthrop, Major Tomson (who hath bought Mr Whitfield's house and land at Gilford), also Captaine [John] Scott of Long Island, and Mr. Nath: Whitfield, in debating the business of your colony. They all came unlooked for, or undesired by me, to the place of my present abode [Hooke was in hiding]." In the course of the conversation "Mr. Winthrop apologizeth for himself, that it was not his Intention you should have been thus dealt with by his neighbours at Connecticut, nor that your Liberties should have been in the least infringed and that it is his desire that yet you may enjoy them as much to the full as ever you did."

With Winthrop and the king both disclaiming any intention, in granting the charter, of curtailing the liberties of New Haven, a question of considerable difficulty arises, which we shall not attempt to answer here, regarding the circumstances attending the drafting and issue of that instrument and the overthrow of New Haven's independence. The story of Connecticut's beginnings is not fully told until the relations of Connecticut with New Haven, which led to the absorption of the latter colony in the years from 1660 to 1665, are accurately and impartially narrated. Such narration must be the subject of another pamphlet at another time.

PUBLICATIONS OF THE TRICENTENARY COMMISSION OF THE STATE OF CONNECTICUT

The Committee on Historical Publications of the Connecticut Tercentenary Commission will issue, during the next few years, a series of small Pamphlets upon a great variety of topics, selected for the purpose of making better known among the people of Connecticut and others as many of the features as possible of the history and life of Connecticut as colony and state. No attempt is to be made to deal with these subjects in either logical or chronological order, the intention being to issue Pamphlets at any time and upon any subject that seems to be of interest and worthy to be made a matter of record.

PAMPHLETS THUS FAR ISSUED

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| I. | Connecticut and the British Government, by C. M. ANDREWS. 36 pp. | 25c. |
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