



II.—THE BISHOPS' BOROUGHS.

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INTRODUCTION.

The latest historian of the county of Durham has said, 'The palatinate of Durham was in its nature a microcosm of the kingdom.'¹ It was the one franchise in England where the forces of feudalism proved stronger than those of centralisation. In this tiny state the bishop was supreme, and possessed over his subjects most of the powers that the king had over the rest of England²; he had his barons, his mint, his courts, and also his boroughs which derived from him their charters and their privileges. The peculiar circumstances of their position made the Durham boroughs stand apart from the usual course of development in the royal boroughs of England, while their strong resemblance to one another makes it possible to study them together as an interesting variation from the common type.

In the fourteenth century, when the powers of the bishop of Durham over the palatinate were at their greatest, he was immediate or mediate lord of thirteen boroughs. Three of these, Holy Island, Norham, and Northallerton, lie beyond the present limits of the county of Durham, and are not included in this study. A fourth, Barnardcastle, is also omitted because it was held first by the Balliols, and after their forfeiture, by the earls of Warwick; the bishop was only able to maintain over it a doubtful and much-contested overlordship, and its development was influenced by the local history of Yorkshire rather than by

¹ Lapsley, *The County Palatine of Durham*, p. 2.

² *Abbreviatio Placita*, p. 257.

that of the palatinate. The six boroughs of which the bishop was the immediate lord were Bishop Auckland, Darlington, Durham, Gateshead, Stockton, and Sunderland. All of these are at the present day municipalities with the exception of Bishop Auckland, which is now controlled by an Urban District Council. The three mesne boroughs were Hartlepool, held from the bishop by the family of Bruce (and later by the Cliffords); Elvet or Elvethaugh, held by the prior of Durham; and St. Giles, held by the hospital of Keyper. Hartlepool is now a municipal borough, but Elvet and St. Giles are part of the city of Durham. In addition to these there are at the present day in the county of Durham the new boroughs of South Shields and Jarrow, which were previously villis under the lordship of the prior of Durham, and West Hartlepool, in Stranton township, which has grown up entirely in the nineteenth century.

The object of this essay is to trace the history of this group of boroughs, to show how they developed up to a certain point on lines similar to those followed by the boroughs in other parts of the kingdom, how this development was checked, and the divergence from the common type which this check caused; and finally how in the nineteenth century they at length were brought into conformity with the rest of the English municipalities.

THE BOROUGHS BEFORE THE NORMAN CONQUEST.

It is curious that the earliest of the Durham centres of commerce is also one of the latest to obtain the title of borough in modern times. The Shields Lawe, a promontory on the south side of the mouth of the Tyne, was inhabited long before the Romans came to Britain; after they withdrew, the camp that they had built there was defended by the Britons, who called it *Caer Urfa*, and it was later captured by the Angles.³ In the

³ The early history of South Shields is traced by Dean Savage in his paper on 'Abness Hilda's First Religious House.' *Arch. Aeliana*, 2 ser. xix, p. 47.

great days of the kingdom of Northumbria, in the seventh and eighth centuries, *Caer Urfa* was a royal burgh, as *Bamborough* was farther north; it was also one of the centres of *St. Aidan's* mission, and the site of the first monastery of *St. Hilda*. A harbour, a fortress, a royal residence and a monastery were sufficient to make a centre of considerable importance, though the place cannot properly be called a borough, as the word is not found before the tenth century. After this one brief period of prosperity *Caer Urfa* was destroyed in the Danish raids of the ninth century.

The history of another of the modern boroughs goes back to the period of the kingdom of Northumbria. In 674 *Benedict Biscop* built the monastery of *St. Peter* at the mouth of the river *Wear* on the north bank.⁴ Some years later he made his last journey to Rome and brought back 'two cloaks woven entirely of silk and most admirably wrought.' These he gave to king *Aldfrid* of Northumbria in exchange for the vill of *South Wearmouth* which lay on the south bank of the *Wear* opposite to the monastery.⁵ The account which *Bede* gives of abbot *Ceolfrid's* departure for Rome about the year 700 shows that the port was on the south side of the river mouth. Thence voyages were made to France and to Rome. *Benedict Biscop* brought over foreign masons and glaziers to complete his great church, and they taught their crafts to the people of the neighbourhood.⁶ The port of *Wearmouth* seems to have survived the earlier raids of the Danes, and as late as 821, *Tidfrith*, the last bishop of *Hexham*, died at *Monkwearmouth* while awaiting a favourable wind to sail to Rome.⁷ It was not until 868 that the port was seized by the Danes, who destroyed the monastery and probably held the

⁴ *Bede, Vitae Abbatum* (ed. Stevenson) cap. iv.

⁵ *Ibid.*, cap. xvii-xviii.

⁶ *Ibid.*, cap. xvii-xviii.

⁷ On the evidence of his tombstone. *Victoria County History of Durham*, I, pp. 74-75.

harbour as a naval base.⁸ In 930 the vill of South Wearmouth with eleven dependent vills was given by king Aethelstan to St. Cuthbert.⁹

When bishop Egilwin fled before the advance of William the Conqueror in 1070 he found at Wearmouth harbour the vessels of Aedgar the Aetheling awaiting a favourable wind to take the whole royal family to Scotland. Their retreat was covered by Malcolm of Scotland, who destroyed the vill of Wearmouth.¹⁰

In 1003 the vill of Darlington is mentioned for the first time. Styr, its lord, gave it and its dependent villages, with sac and soc, to St. Cuthbert in that year.¹¹ Traces have been found there of an early Angle settlement which was probably pre-Christian.¹² In 1003 Darlington appears as the centre of a large district, as South Wearmouth does in 930. Almost two centuries later in the tallage of Richard I (1197), Darlington is the only Durham town called 'burgus': Durham is 'civitas,' Wearmouth and Gateshead; although they had received charters some years before, are merely vills.¹³ This distinction suggests that in 1197 Darlington was second only to Durham in importance. Its geographical position and the dedication of the church to St. Cuthbert make it probable that this was one of the resting-places of the saint's body on its return from Ripon.¹⁴ A market was held there from early times, but there is no evidence to prove that it was pre-Norman.

About the year 640 Hieu, a religious woman, under the direction of St. Aidan, established a monastery for men and women

⁸ *Ibid.*, II, p. 83.

⁹ Symeon of Durham, *Historia Dunelmensis Ecclesiae* (Rolls Series), I, pp. 74-75.

¹⁰ Symeon of Durham, *Historia Regum* (*ibid.*), II, p. 190.

¹¹ Symeon of Durham, *Historia de Sancto Cuthberto* (*ibid.*), I, p. 212.

¹² *Victoria County History Durham*, I, p. 211.

¹³ Greenwell, *Boldon Buke* (25 Surt. Soc. publ.), appendix I.

¹⁴ Longstaffe, *Hist. of Darlington*, p. 44.

¹⁵ *Victoria County History Durham*, I, p. 212; II, p. 79.

on the promontory of Hartlepool. St. Hild was abbess there in 657, but nothing more is known of its history. The monastery was probably destroyed by the Danes in 800.¹⁵

These little vills had as yet no claim to be called boroughs. They were only distinguished from the other vills of the district by some slight advantage of position and circumstance. A very full account is given by Symeon of Durham of the origin of what was to be the first true borough in the county of Durham—the city of Durham itself. In 995, when the priests bore their sacred burden to the spot, the great fortress-rock was covered with thick forest,¹⁶ but there was at least one little village in the neighbourhood.¹⁷ In the midst of the wood the bearers of St. Cuthbert's body made a clearing where they set up a shrine of boughs to cover the relics.¹⁸ Then Ucthred, the son of Waltheof, earl of Northumberland, summoned all the men between Tees and Coquet to help to clear the forest and to build a church fit for the saint. In 1003 Aldhune's cathedral was completed and St. Cuthbert's body was transferred to it from the white church which had been built while the saint's body lay in the first little church of boughs. In the meanwhile houses had been built and distributed by lot among the people who had come with the monks. Then followed two sieges, one in 1006,¹⁹ and another in 1040,²⁰ when Duncan of Scotland led an invasion which was repelled from the settlement by the people of Durham themselves; the heads of the Scots whom they slew being displayed in the market-place ('forum').

Under its Saxon bishop Egelwin, Durham became a centre of the opposition in the north to William the Norman. It was not until late in 1068 that the first unsuccessful attempt was made to reduce the district, and Symeon of Durham gives

¹⁵ Symeon of Durham, *op. cit.*, I, p. 79.

¹⁷ *Victoria County History Durham*, I, p. 224.

¹⁸ Symeon of Durham, *op. cit.*, I, p. 80.

¹⁹ *Ibid.*, I, p. 215.

²⁰ *Ibid.*, I, pp. 90-91.

a vivid account of the slaughter of Robert de Comines and his followers at Durham.²¹ The people of the city tried to fly from the invaders but were stopped by the deep snow. They lingered in the neighbourhood until the Normans had been in Durham for some days and had become demoralized: then they burst in at the gates at midnight, slaughtered every Norman they could find, and set fire to Cumin's house which lay to the west of the Saxon cathedral. Presently the flames threatened the cathedral itself and at once the men of St. Cuthbert fell on their knees on the blood-stained snow and implored the saint to save his house. The wind changed, the flames were blown back, and the men whose prayers had just worked a miracle rose to their feet and slew the Normans who attempted to escape from the burning house, until only one man was left alive to carry the news to king William.

The vengeance of the Conqueror on the men of Northumbria in 1070 closes the first period of the history of the places which were to be boroughs. One of them, Caer Urfa (South Shields) had arisen, continued for a while, and been destroyed: of those that survived Wearmouth was a port and Darlington probably a market; Durham itself was a stronghold and a market. It was a point of vital importance to these three nascent boroughs that they lay within a great ecclesiastical franchise²² which, though it did not as yet differ materially from such franchises in other parts of the kingdom, was destined to develop on lines of its own.

THE NORMAN BISHOPS.

In 1072 Walcher was created bishop of Durham, and the process of assimilating the Saxon tenures and customs of the

²¹ *Ibid.*, I, p. 99.

²² Lapsley, *The County Palatine of Durham*, p. 25.

bishopric²³ with the Norman feudal system began.²⁴ Whatever may have been the case in the south of England, in the north this meant a very real change, for since the ascendancy of the kingdom of Northumbria had been destroyed by the Danes, the northern earldoms had fallen a long way behind the rest of England in civilization and retained the customs of an earlier age. This explains the extreme dislike felt for Norman bishops which appears in the chronicles. It also partly accounts for the growth of the palatinate.²⁵ Durham was so distant from the centre of government, the people so backward and rebellious, and the position between England and Scotland of such importance, that the head of the franchise was forced to exercise unusual powers, and thus prepared the way for their recognition as prescriptive in later times.

The king did his best to strengthen the position of bishop Walcher in his turbulent diocese. A royal mint was either continued or established in Durham,²⁶ and a castle was erected,²⁷ Durham city was practically impregnable for many years after this and bishop Walcher lost his life, in 1080, only after he had ventured beyond its walls. It is not necessary to dwell on the well-known story of the quarrel between the bishop's Norman and Saxon counsellors,²⁸ the feud that followed, and the bishop's

²³ The bishopric of Durham was strictly speaking the district in which the bishop of Durham had spiritual jurisdiction, namely, Durham and Northumberland, excluding Hexhamshire: nevertheless the name 'the Bishopric' was continually applied colloquially to the present county of Durham, the old county palatine lying between the Tyne and the Tees, and in that sense it is used in the present essay.

²⁴ *Victoria County History Durham*, I, p. 312n.

²⁵ Lapsley, *op. cit.*, p. 29.

²⁶ *Ibid.*, p. 278; Noble, *Two Dissertations on the Mint and Coins of the Episcopal-Palatine of Durham*.

²⁷ The history of Durham Castle is summarised by Boyle, *The County of Durham*, pp. 140-183; *cf.* Symeon of Durham, *Historia Regum* (Rolls Series), II, p. 199.

²⁸ Symeon of Durham, *op. cit.*, II, p. 208.

attempt at reconciliation which ended in his murder at Gateshead. The popular rising to which Walcher fell a victim had one important result, that the northern counties were omitted from Domesday Book in 1086,²⁹ probably because no royal official could have attempted to collect the materials for the survey there without losing his life.

The erection of the castle at Durham may have led to the creation of burgesses there as in other towns.³⁰ A second institution,³¹ begun by Walcher and carried out by his successor, bishop William de Carileph, had far-reaching consequences in the history of the palatinate. This was the convent of Benedictine monks founded by the Norman bishops to replace the secular priests who had previously possessed the monastery. The fate of the priests gives another glimpse of the condition of the Durham boroughs at this time (1080-1095). Colleges of priests were founded in four parish churches in different parts of the bishopric—at Auckland, Darlington, Chester-le-Street, and 'Ekington.'³² As they were wealthy enough to support colleges it is to be supposed that these were after Durham the chief places in the bishopric at that time. Auckland was already one of the bishop's residences and Chester-le-Street had been the earlier capital of the see. 'Ekington' has not been definitely identified and may be either Heighington or Easington.

In spite of the importance of the new convent of St. Cuthbert, it seems that formal foundation charters were never drawn up.³³ Those which at present exist are forgeries of the early twelfth

²⁹ Lapsley, *op. cit.*, p. 26.

³⁰ Ballard, *British Borough Charters*, p. xci.

³¹ Greenwell, *Feodarium* (58 Surt. Soc. publ.), p. xxv *et seq.*

³² Symeon of Durham, *Historia Dunelmensis Ecclesiae* (Rolls Series), I, p. 123n.

³³ The whole question of the foundation charters is fully discussed by Dr. Greenwell in the preface to the *Feodarium*.

century, but they appear to be based on a genuine though informal grant. One of the clauses which is accepted as genuine in substance is that which grants to the prior and convent 'Aeluet, that the monks have there forty merchants' houses to their own use, which henceforth are free from all service to the bishop, except the walls of the city are to be repaired, for which labour not exceeding that of the other merchants of the city may be exacted from them.'³⁴ This clause throws light on the geography of the city of Durham at that time. The castle and the new cathedral, which was just being built, stood on the steep promontory round three sides of which the river Wear sweeps. Below the fortified hill lay the bishop's borough on the north and Elvet belonging to the prior on the east.

After the death of bishop Ralph Flambard in 1128, the see was vacant for five years, and its revenues are therefore entered in the Pipe Roll of 1130. It is recorded that the burgesses of Durham were fined 100s. by Eustace son of John, the justice in eyre. They paid 40s. and 60s. was forgiven them on account of the burning of their houses.

Bishop Geoffrey Rufus was appointed to the see in 1133. He supported Stephen in his struggle with the empress Matilda and took advantage of the anarchy which prevailed to extend his powers. During his episcopacy the mint at Durham first struck episcopal as distinct from royal coins.³⁵

A hint as to the nature of burgage tenure at this time is found in the account of the usurpation of the see by William Cumin, 1140-44. The usurpation was a move on the part of David of Scotland, who intended to assist his niece, the empress Matilda, and at the same time to extend his own boundaries. Cumin seized Durham and compelled the burgesses to take the

³⁴ Greenwell, *Feodarium*, p. xxxv, xli note; cf. Ballard, *op. cit.*, pp. xlviil-l.

³⁵ See page 87.

oath of fealty to him as if he was already bishop.³⁶ The 'Continuator' of Symeon of Durham does not mention burgesses in any other place, but it may be noted that Cumin also held Gateshead. During the four years that he held Durham against Stephen's nominee, William de St. Barbara, the greater part of the city was burnt and the whole bishopric was ravaged by the adherents of the two rivals. At length David withdrew his support, Cumin submitted, and bishop William de St. Barbara took possession of his cathedral city.³⁷ During Cumin's usurpation the king of Scotland held Newcastle, and by his orders the customs of that borough were recorded in order that they might be introduced into his own kingdom. The drawing up of this instrument was an event of great importance in the history of the bishop's boroughs, for Newcastle was their mother town and their charters were closely modelled on hers.³⁸

In 1153 the prior and convent of Durham elected to the vacant see Hugh Puiset, who was a relative of the future king Henry II and proved to be the greatest bishop who ever ruled in Durham. It was bishop Puiset who utilized the forces which since the Norman Conquest had isolated the bishopric from the rest of England in order to increase his own power. His ability, his position at court, and the tendencies already mentioned, enabled him to evade the levelling process which Henry II applied to the great immunists, and from this time onward the palatinate of Durham tended to become a tiny kingdom in itself, governed by the bishop.³⁹ The bishop was able to grant charters to his boroughs without the confirmation of any higher authority.⁴⁰ Nevertheless the first of bishop Puiset's

³⁶ Symeon of Durham, *Continuator* (Rolls Series), I, pp. 146-161.

³⁷ Raine, *Dialogue Laurentii Dunelmi* (70 Surt. Soc. publ.), preface.

³⁸ Stubbs, *Select Charters*, p. 111; *Arch. Ael.*, 2 ser. III, p. 109.

³⁹ Gaufrid de Coldingham, *cap. II, Historiae Dunelmensis Scriptores Tres* (9 Surt. Soc. publ.), p. 4; Lapsley, *op. cit.*, pp. 161-165, 169.

⁴⁰ *Ibid.*, p. 35; *cf.* Ballard, *op. cit.*, p. xl.

borough charters, that granted to Durham, was confirmed by the pope in 1179.⁴¹ Such a confirmation was never repeated, but it indicates that the burgesses were not quite sure at first how far the episcopal powers might be extended.⁴² This charter is very brief and simply states that the burgesses of Durham shall enjoy the customs enjoyed by Newcastle and shall be free from in-toll, ut-toll, merchet and heriot. It belongs to the most common type of borough charters, those in which the customs of another borough are granted but not specified.⁴³ This is an indication that the borough had already enjoyed the privileges for some time before the confirmation of them was granted. This charter crowns bishop Puiset's measures for restoring his city to prosperity. He had entered it barely ten years after Cumin's devastations and during those ten years little or nothing had been done to repair the damage. The chronicler gives a long list of the buildings with which the bishop ornamented the cathedral and the city.⁴⁴ Among the rest he built the bridge and borough of Elvet, which he afterwards restored to the monks because it was theirs by right.⁴⁵ He was a sufficiently enlightened ruler to perceive the advantages he might gain by possessing flourishing boroughs, and all the older boroughs of the bishopric owe something to his acts. At Darlington he built the collegiate church, which is still the chief beauty of the town, and as Darlington was called a borough in Boldon book (1183) it is highly probable that he granted a charter to the place, but unfortunately it has not been preserved. The two other surviving borough charters of Puiset are those of Gateshead and Wearmouth (Sunderland).

The charter of Gateshead is little more than a forest charter. The town at this time lay on the outskirts of the bishop's forest

⁴¹ Hutchinson, *Hist. of Durham*, II, p. 13.

⁴² Ballard, *op. cit.*, pp. xxi, xliii, p. 36.

⁴³ *Ibid.*, p. xlii, pp. 25, 192.

⁴⁴ Gaufrid de Coldingham, *cap. vii*, *Hist. Dun. Script. Tres*, p. 11.

⁴⁵ Greenwell, *Feodarium*, p. 198n.

of Gateshead; in 1225 the chief forester bore witness that Puiset valued this forest very highly and that he frequently resided at Gateshead to enjoy the hunting there. The bishops of Durham had a manor-house at that place which was probably built before the time of Puiset.⁴⁶ It is not surprising that the burgesses suffered from the oppressions of the bishop's foresters.

Puiset's charter to Gateshead⁴⁷ is chiefly composed of rules for the taking of wood and undergrowth in the forest,⁴⁸ and of exemptions from the jurisdiction of the forester: it is not dated and does not contain the names of any witnesses. The clauses relating to the borough state that bounds have been fixed between the forest and the borough, that there is a court in the borough before which disputes between burgesses and foresters are to be determined, that the cattle of the burgesses shall not go out of the borough when distrained but shall be replevied there,⁴⁹ and that every burgess of Gateshead shall have for his burgage the same liberty which the burgesses of Newcastle have for theirs: this, in the 'Customs of Newcastle' is defined thus:—'A burgess may give his land or sell it and go where he pleases freely and quietly unless there is a suit against it.'⁵⁰ Finally their common pasture in Saltwellmede is confirmed to the Gateshead burgesses.⁵¹ The usual clauses relating to exemption from trial by battle, enfranchisement of a villein by residence, or assizes of bread and beer are absent. The chief official of the borough is never named. In short this charter is scarcely a borough charter, as it grants the least possible amount of the privileges which go to make a borough. It shows a forest vill which occupies such a favourable position geographically that it is slowly establishing its claims to borough privileges in spite of very adverse circumstances.

⁴⁶ Greenwell, *op. cit.*, p. 239.

⁴⁷ Greenwell, *Boldon Buke* (25 Surt. Soc. publ.), append. II.

⁴⁸ Ballard, *op. cit.*, p. xlv., p. 53.

⁴⁹ Bateson, *Borough Customs*, I, p. 135; II, p. xlix. Ballard, *op. cit.*, p. 166.

⁵⁰ Ballard, *op. cit.*, p. 25.

⁵¹ *Ibid.*, p. 59.

The third of bishop Puiset's charters is that granted to Wearmouth (Sunderland). This charter also is undated, but from the names of the witnesses it appears that it was granted between 1180 and 1183. The bishop grants to his burgesses of Wearmouth the 'Customs of Newcastle,' which are recited in the charter. They are copied with a few slight variations from the customs which are still extant.⁵² The chief officer is the provost (*praepositus*); as nothing is said about the way in which he was appointed it may be assumed that he was chosen by the bishop. He held the borough court, the only court in which burgesses might be sued except in pleas which belonged to the crown or when the bishop's court made default. There was also a court for doing justice speedily between burgesses and foreign merchants who were about to sail from the port.⁵³ The privileges of the burgesses were that they might distrain villeins living outside the borough for debt without seeking licence from the provost,⁵⁴ and might compel them to appear before the borough court, but a burgess might not distrain another burgess without leave of the provost. A burgess should be impleaded in his own borough in all except crown pleas, unless he was arrested in another borough for an offence committed there, and he could not be compelled to answer without a fixed day and term, unless he had first blundered in his defence.⁵⁵ A burgess could not be

⁵² Greenwell, *loc. cit.*, *Victoria County History. Durham*, I, pp. 307, 313n. There were three Wearmouths—Monkwearmouth on the north side of the river Wear, Bishop's Wearmouth, the parish on the south side of the river, and the port of Wearmouth at the mouth of the river. Within the port there was some place called Sunderland whose name in the fourteenth century was transferred to the borough. The borough of Wearmouth was the same place as the borough of Sunderland-by-the-Sea. *Arch. Ael.*, 2 ser. XIII, p. 283.

⁵³ Lapsley, *op. cit.*, p. 321; Ballard, *op. cit.*, p. 218.

⁵⁴ Bateson, *op. cit.*, I, pp. 111, 127; Ballard, *op. cit.*, pp. 143, 162.

⁵⁵ Bateson, *op. cit.*, I, p. 10; II, pp. cxlix, clii; Ballard, *op. cit.*, pp. 115, 116, 132, 146.

compelled to defend himself by the duel, except when one hundred pounds were in question [omitted in the Newcastle customs] or in case of treason:⁵⁶ otherwise 'he shall defend himself by law, namely by thirty-six men.'⁵⁷ No burgess might fight a villein without first forfeiting his burgage,⁵⁸ under a penalty of six *orae*. Forfeitures under the assizes of bread and beer were to be judged by the provost alone for a first or second offence, but a third was to be judged by 'the common consideration' of the burgesses.⁵⁹ A burgess might buy anything he pleased from a ship in the port.⁶⁰ All merchandize brought by ship must be landed before sale, except salt and herrings, which might be sold on the ship at the will of the owner. A burgess's son dwelling in his father's house had the same liberty as the father.⁶¹ Blood-wite, merchet, heriot, and stengsdent were not to be exacted in the borough.⁶² Every burgess might have his own oven and handmill, saving the bishop's right.⁶³ With regard to land: those who had held land in the borough for a year and a day could not after that be proceeded against by any claimant to the land who during that time was in the neighbourhood and of full age.⁶⁴ A villein who had held land in the borough for a year and a day could not after that be reclaimed by his lord.⁶⁵ A burgess might sell his land and go whither he pleased if there was no suit against it.⁶⁶ He might sell or give any land that he had bought with his own money without seeking licence or the consent of his heir.⁶⁷ There are three clauses which show that Wearmouth was still an agricultural vill. A burgess might export his corn whenever he pleased unless the bishop had

⁵⁶ Bateson, *op. cit.*, p. 33; Ballard, *op. cit.*, pp. 132-133.

⁵⁷ Bateson, *op. cit.*, p. 40. ⁵⁸ *Ibid.*, p. 33; Ballard, *op. cit.*, p. 153.

⁵⁹ Ballard, *op. cit.*, p. 158. ⁶⁰ *Ibid.*, p. 214. ⁶¹ *Ibid.*, p. 101.

⁶² *Ibid.*, p. 95. ⁶³ *Ibid.*, p. 96. ⁶⁴ Bateson, *op. cit.*, II, p. xvii.

⁶⁵ Ballard, *op. cit.*, pp. 71, 103.

⁶⁶ Bateson, *op. cit.*, p. 91; Ballard, *op. cit.*, p. 64.

⁶⁷ Ballard, *op. cit.*, p. 70.

issued a general prohibition.⁶⁸ The burgesses were to have the same liberty with regard to timber and firewood as the burgesses of Durham⁶⁹; and they were to have common of pasture which had previously been conceded to them and which was to be delimited.⁷⁰ Finally the bishop reserved to himself a duty on the sale of fish such as Robert de Brus had from his men of Hartlepool.⁷¹ From this elaborate rehearsal of the customs which were granted to the new borough it appears that Wearmouth had not enjoyed them before. Wearmouth must however have been a place of some importance as the only harbour of the bishopric in the bishop's hands. From the clause that the burgesses 'may have common of pasture as we conceded to them at first' it may be conjectured that there had been a previous charter of smaller scope and perhaps on the lines of that granted to Gateshead.

These three charters reveal the three boroughs at different stages of development, Durham with established privileges which the central authority has confirmed,⁷² Wearmouth entering into the enjoyment of new privileges, and Gateshead just beginning to claim them. Darlington, in all probability, was at much the same stage as Wearmouth.

In 1189 bishop Puiset took a most important step when he bought the wapentake of Sadberge, including Hartlepool, from Richard I.⁷³ The district of Hartness in Sadberge had come into the hands of Robert de Brus, the son of one of the Conqueror's warriors, at the beginning of the twelfth century.⁷⁴ The town was sacked by Danish pirates in 1153.⁷⁵ In 1174 Henry de Puiset, son or nephew of the bishop, landed there with a body of Flemings to support the invasion of William of Scotland,⁷⁶ as the bishop was one of the partisans of the younger Henry

⁶⁸ *Ibid.*, p. 214. ⁶⁹ *Ibid.*, p. 54. ⁷⁰ *Ibid.*, p. 58. ⁷¹ *Ibid.*, p. 197.

⁷² Ballard, *op. cit.*, p. xlii-xliii.

⁷³ Gaufrid de Coldingham, *loc. cit.*, cap. ix, p. 14; append., pp. lix, lxi.

⁷⁴ Sharpe, *Hist. of Hartlepool*, p. 17.

⁷⁵ *Ibid.*, supplement, p. 29n.

⁷⁶ Sharpe, *op. cit.*, p. 23.

against Henry II.⁷⁷ In the charter of Wearmouth of 1180-83, as stated above, the bishop reserves to himself a custom on fish such as Robert de Brus takes from the men of Hartlepool.⁷⁸ These references indicate a port at least as large and prosperous as Wearmouth, where there was accommodation for a considerable fleet and fisheries which yielded an established revenue to the lord proprietor. Between 1162 and 1185 the men of Hartlepool obtained from their lord Adam de Brus a brief charter granting them the same privileges or customs as the burgesses of Newcastle upon Tyne.^{78a}

Puiset's restoration of the borough of Elvet or Elvethaugh to the prior of Durham has already been mentioned. He also created another mesne borough, that of St. Giles by Durham, which he granted to the hospital of St Giles at Keyper.⁷⁹ The hospital had been destroyed by Cumin and was rebuilt by Puiset among the other restorations which he carried out at Durham. Bishop Ralph Flambard was the founder of Keyper hospital in 1122, but bishop Puiset granted it a new charter containing this passage: 'We also grant to the said master and brethren free burgage in the district (*vicus*) of St. Giles in Durham, and to all their men to whom they have conceded liberty; and they shall be free from military service and all aids, in-toll and u-toll, and works and customs and vexations and exactions.'⁸⁰

Thus in Durham itself there were three boroughs gathered together under the protection of the castle and the cathedral, Durham, Elvet, and St. Giles.

In the Chronicle of Geoffrey of Coldingham there is an interesting story about the state of the city of Durham after the

⁷⁷ Lapsley, *op. cit.*, p. 37.

⁷⁸ See p. 95.

^{78a} *Cal. of Patent Rolls*, 1396-9, p. 172; Ballard, *op. cit.*, p. 251.

⁷⁹ Barmby, *Memorials of St. Giles, Durham* (95 Surt. Soc. publ.), preface and appendix.

⁸⁰ Ballard, *op. cit.*, p. xci.

death of bishop Puiset on 5th March 1195.⁸¹ When they heard of the bishop's death the people of Durham (*oppidanæ*) laid the keys of the city on the altar of St. Cuthbert. The royal custodian of the castle demanded the keys and when the monks refused to give them up a soldier attempted to carry them off. But he was instantly seized with a fever, the keys became red-hot in his hands, and he returned them to the altar in terror. This legend illustrates two influences which must be taken into account in the history of the bishopric; first, the strong belief in the powers of St. Cuthbert and the allegiance which the people felt for their saint which made his personality a real power in Durham, and second, the dread that the men of the bishopric had of the anarchic times when the see was vacant and they were at the mercy of the royal officers. The bishops were sometimes tyrannical and frequently unpopular, but any bishop was better than none to the men of the bishopric.

Such were the conditions of the boroughs of Durham county at the time of Puiset's death. His character and policy appear in the most favourable aspect in his relations with his boroughs; here his ambition becomes dignified, while the means he took to achieve it are statesmanlike and effective. The impulse that he gave to trade and municipal development may be traced long after his death, and the magnificent buildings which he erected still stand in busy commercial centres as witnesses to his foresight. Thanks to him, the Durham boroughs, though of recent growth compared with the ancient south country boroughs, or even with York and Newcastle, were in very much the same position at the end of the twelfth century as older towns. It is natural to compare the Durham boroughs with their great rival Newcastle, and on paper their position is very much the same: they have the same privileges and as far as can be ascertained the same form of government. The king appointed the provost

⁸¹ Gaufridus de Coldingham, *loc. cit.*, cap. x. and xi, pp. 15, 16.

of Newcastle, the bishop the provosts of Durham and of his other boroughs. But the weaknesses of the bishop's boroughs at once becomes evident in the comparison. Newcastle was becoming more and more an industrial and commercial centre, while the Durham boroughs were still mainly agricultural. Newcastle had a larger and wealthier population, and it was, moreover, both a port and a great fortress of essential importance in the defence of the whole kingdom. Finally Newcastle was a royal borough; the king, its only lord, was very far away, and occasional payments were all that were required to obtain liberty to advance along its own natural lines of development. But in Durham the over-lord was near at hand and not at all willing to encourage independence among his people. He was apt to take all he could get as his due, and to leave his subjects without the power to bribe him. Thus the prospects of the new little boroughs were not very bright, but the first stage of their development was passed.

BOLDON BOOK AND AFTER.

It is possible to compare the condition of the boroughs immediately after they received their charters, both with each other, and with that of the vills which afterwards became boroughs, in bishop Puiset's great survey of the bishopric in 1183, which is called 'Boldon Book.'⁸² It is not necessary to point out here how inferior, in the amount of information it affords, this work is to Doomsday Book, with which it has been compared. Nowhere is this felt more than in its treatment of the boroughs. They are all valued as if at farm, and there is no account of the number of burgesses, or their services, or any other details. Little can be learnt from it beyond the comparative values of the boroughs, which are as follows:—

⁸² *Victoria County History Durham*, 1, article 'Boldon Buke,' by T. G. Lapsley; Greenwell, *Boldon Buke* (25 Surt. Soc. publ.).

- Darlington. Borough at farm, 5*l*. Dyers of cloth $\frac{1}{2}$ a mark.
 Durham. Borough at farm, 60 marks. Bakehouse 10 marks.
 Gateshead. Borough, mills, fisheries, bakehouses, and three parts of the arable land farmed, together 60 marks.
 Wearmouth. Borough alone 20*s*. It is not stated that it is at farm.⁸³

The farm of Wearmouth is that of the borough alone, *i.e.* the profits of the court, tolls, and house rents: this accounts for the fact that it is much less than the farms of Gateshead and Darlington, which include the profits of the bakehouses and fisheries. In a copy of the Boldon book, made about 1240, the bakehouses, dyers' rent, and borough of Darlington were farmed together for 10 marks. In the bishopric the common bakehouse occurs only in the boroughs in 1183, although in other parts of England it was an ordinary manorial institution: in Hatfield's 'Survey,' it was common in the larger vills. The bishop's monopoly was still maintained in the city of Durham in 1694.⁸⁴ At Darlington there was also a common dyehouse, from which came the payment of the dyers. The cloth trade was established there, as at Newcastle.

Some idea may be formed of the appearance and condition of the four little boroughs at this period. Each stood on the bank of a river at the head of the principal bridge which crossed it, or, in the case of Wearmouth, by the ferry. Durham, Darlington, and Gateshead lay close by churches which ranged in dignity from the great cathedral to the beautiful collegiate church just built at Darlington, and then to the plain parish church of Gateshead; the port of Wearmouth, however, lay at a little distance from the parish church of Bishopwearmouth and was divided from the ancient monastery of Monkwearmouth by the river. One of the two great highways which passed through the

⁸³ The entry relating to 'Sunderland' in Boldon Book refers to Sunderland-by-the-Bridge, a place on the river Wear above Durham. *Arch. Ael.*, 2 ser. II, p. 283.

⁸⁴ *Ibid.*, pp. 216-218.

bishopric led from Darlington on the southern border, through Durham in the centre, to Gateshead on the north boundary where the Roman bridge crossed the river Tyne. Durham was fortified and partly built of stone, but it is probable that there were few stone buildings except the church in the smaller boroughs; houses in the bishopric at that time were built of mud and wattle. In each borough the market-place lay near to the bridge or ferry and the church; round it the little houses were grouped; and beyond lay the common fields of the burgesses. The total area of buildings and fields was in each case very small, forming only a part of one of the vills that made up the bishop's manor. Thus in the parish of Darlington there were four vills, one of which, the vill of Darlington, was subdivided into the bishop's vill of Bondgate and the borough. In Wearmouth there were six vills, one of which, the vill of Wearmouth, contained also the borough. The parish of Gateshead was not subdivided in this way because beyond the bishop's vill of Gateshead, within which the borough lay, the whole parish was covered by the forest. The city of Durham was an exception, but only on a small scale; within the borough itself there were three little parishes and the extra-parochial area where the castle and the cathedral stood; Crossgate and Elvet lay in two other parishes, and St. Giles formed a seventh. None of the three lesser boroughs (Darlington, Gateshead, and Wearmouth) had walls, nor do they appear to have been fortified in any way in the twelfth century. In the vills of Darlington and Gateshead, close by the boroughs, the bishop had manor-houses. This was also the case in Stockton and Auckland, which were later to become boroughs. Wearmouth alone is not known to have had an episcopal manor-house and to this perhaps its greater independence may in part be attributed.

The mint of Durham was first reduced and then suppressed by Henry II, who granted a mint to Newcastle, but the mint was

restored to Durham by Richard I in the time of bishop Philip de Poitou.

All that is known of the borough courts has already been mentioned. The chief officer was the bailiff or provost, who was appointed by the bishop. The government of the boroughs probably did not differ materially at this time from what it became in the fourteenth century, but there is more evidence for the later period and its discussion will be reserved for the present.

The entries relating to the vill of Stockton and North Auckland⁸⁵ in Boldon book show the conditions which must have existed in Gateshead and Wearmouth before they received their charters.

Stockton is distinguished from the ordinary agricultural vill by the ferry across the river Tees and by the bishop's hall there. Although the visits of the bishop with his somewhat turbulent attendants were not an unmixed advantage, and did not encourage independence, yet they must have given an impetus to trade, and increased the population by the number of the household which was maintained at the hall.

North Auckland resembled Gateshead in its situation on the borders of one of the bishop's forests, the great forest of Wear-dale. The forest services exacted at Auckland were much heavier than any that are recorded for Gateshead. The villeins of North Auckland and of the three other vills in the district of Aucklandshire were required to build the bishop's chapel and hall, a chamber, a larder and a privy, when he went on the great hunt. A rope for snaring the deer was due from every oxgang. The villeins kept the eyries of falcons and attended the roe-hunt on the summons of the bishop. They also had to construct eighteen booths at Durham at the fair of St. Cuthbert in September. All

⁸⁵The two Aucklands were restored to St. Cuthbert by Canute. Symeon of Durham, *op. cit.*, I, p. 90. No reference to Stockton earlier than Boldon book has been found.

this labour in the bishop's service cannot have been good for agriculture, but to a certain extent it would stimulate trade. Among the free tenants Luce Makerell rendered half a pound of cumin for her house, and Gatul the smith rendered one pound of pepper for sixteen acres of land. The whole vill must have attended the fair, where the free tenants brought the spices and the bond tenants built the booths, and there they would lay in supplies to retail to the bishop's men at the time of the great hunt. An example of a village industry is found in the case of Alan the cobbler, who held the same semi-official position as the smith or the miller, having one toft and one croft for which he rendered four shillings and did four boonworks.

The condition of these two vills of Stockton and North Auckland was in some respects similar. At each there was a favourite manor-house of the bishop, and while the bishop was in residence there it was impossible for the vill to be self-sufficing; new needs were created, and the bishops were inclined to grant new privileges. At Auckland there were also the duties connected with the great hunt, which upset the manorial economy. At Stockton there was a factor of still greater importance; it was sufficiently near the sea to become a port. Bishop Puiset's naval ambitions are shown by the charter which he granted to Wearmouth: he must have seen the possibilities of Stockton. It was towards the end of his life that he began to build 'magnificent ships' for a crusade on which he never went.⁸⁶ After his death his great ship was repaired and taken to London by Robert of Stockton.

The see of Durham was vacant for two years after Puiset's death, and during this time the tallage of 1197 was taken from the manors of the bishopric. Their payments were as follows:—

The vill of Stockton, 7*l.* 0*s.* 4*d.*, paid 5*l.* 10*s.* 5*d.*, owes 9*s.* 11*d.*

⁸⁶ Gaufridus de Coldingham, *loc. cit.*, *cap.* viii, p. 13.

The vill of Wearmouth, 37*s.* 4*d.*, paid 31*s.* 1*d.*, owes 6*s.* 3*d.*

The city of Durham, 10*l.*, paid 7*l.* 4*s.* 8*d.*, owes 55*s.* 3*d.*

The vill of Gateshead, 10*l.*, paid 6*l.* 16*s.*, owes 64*s.*

The borough of Darlington, 8*l.*, paid 7*l.* 12*s.*, owes 8*s.*⁸⁷

This assessment appears to be based on Boldon book and follows the original in charging the same amount upon Gateshead and Durham, and in the small sum required from Wearmouth.

In the same year (1197) Philip de Poitou was consecrated bishop of Durham. During his reign the mesne boroughs of the bishopric come into prominence. Bishop Philip at length obtained effective overlordship in Sadberge, which Puiset had bought but never held.⁸⁸ Before letting Hartlepool (in Sadberge) pass to the mesne lord, king John in the year 1200 granted a charter⁸⁹ to the burgesses for which they paid thirty marks into the exchequer.⁹⁰ This confirms the earlier charter of Adam de Brus and is in much the same terms. To the lord of Hartlepool, William de Brus, the king granted a market, to be held every Wednesday.⁹¹ Having thus done everything that he could to ensure the independence of the borough, the king handed it over to be held of the bishop.⁹²

The other mesne boroughs in the bishopric at this time were Elvethaugh, belonging to the prior of Durham; and the little 'vicus de St. Giles' belonging to Keyper hospital.

Prior Bertram (1189-1208) granted a charter to his burgesses of Elvethaugh, freeing them from all services, exactions and aids, except that the prior retained his court and his pleas. The burgesses were to hold their lands and their liberties by hereditary

⁸⁷ Greenwell, *op. cit.*, appendix, p. iii, the Pipe Roll of 1197.

⁸⁸ Raine, *Hist. Dun. Scrip. Tres* (9 Surt. Soc. publ.), appendix, p. lxxv; Gaufridus de Coldingham, *loc. cit.*, cap. xvi, p. 22.

⁸⁹ Sharpe, *Hist. of Hartlepool*, appendix (the charter is printed); Ballard, *op. cit.*, pp. 31, 101.

⁹⁰ Sharpe, *op. cit.*, p. 67.

⁹¹ *Ibid.*, p. 24.

⁹² Hutchinson, *Hist. of Durham*, I, p. 189.

right, paying the farm that had been agreed upon between them and the prior. They must grind at the prior's mill to the eighteenth measure. If the prior was able to obtain from the bishop the grant of a market and fair, all the dues which appertained to them should belong to him.⁹³ This last clause indicates that the date of the charter lies between 1189 and 1197, for bishop Philip quarrelled so violently with the prior and convent that they cannot have expected to obtain any favour from him. There is also an undated memorandum that the prior had granted that the burgesses of Elvethaugh should not plead beyond the borough, and that they should have common pasture with the men of Elvet without hindrance from the 'hostelarius' of the convent.⁹⁴ Prior Bertram's charter grants very restricted privileges, but in one point, that they farmed their own borough, the burgesses of Elvethaugh had surpassed the bishop's burgesses.

The borough of Elvethaugh was one of the sources of dispute between the bishop and the prior; the chronicler says that the bishop destroyed the bakehouses of Elvet and closed the north gate of Durham against the prior and his men.⁹⁵ The cause of the quarrel in this case appears to have been the respective claims of the bishop and the prior to that part of Durham which was called the 'Old Borough.' This dispute was terminated by 'Le Conventit,' a document drawn up in 1230 between bishop Richard le Poor and the prior and convent.⁹⁶

The clause dealing with Elvet and the 'Old Borough' is as follows:—

The customs and fines from the breweries, and bad bread and bad cloth and false weights and measures, from the prior's men at Elvet and at Old Borough shall remain to the monks of Durham freely and entirely for ever, so that, however, if these men come into the bishop's borough with bad bread etc.

⁹³ Greenwell, *Feodarium*, p. 199n; Ballard, *op. cit.*, pp. 41, 91, 97, 171.

⁹⁴ Greenwell, *op. cit.*, p. 199n.

⁹⁵ Gaufridus de Coldingham, *loc. cit.*, *cap.* xvi, p. 22.

⁹⁶ Greenwell, *op. cit.*, p. 216.

they shall be judged by the bishop's bailiffs, and if fines or other profits arise they shall be shared between the bishop and the prior;⁹⁷ and the men of Elvet and Old Borough shall use the same weights and measures as the men of the bishop use in the borough of Durham.

After bishop Philip's death in 1208 the see was vacant until 1217, and the temporalties are consequently accounted for in the Pipe Rolls of these years. In the year 1211 various debts to the Jews are entered⁹⁸ showing that there was business for money-lenders in Durham. In the same year the bishopric was heavily drawn upon for supplies for the armies in Ireland and Wales. Bridles, pontoons, salmon, salt, millstones and iron were sent to Ireland. Twenty-five ships were hired and repaired to carry them. 1,260 shovels, 240 spades, 160 picks and 100 hatchets were carried to Wales.⁹⁹ Both in this year and in 1213 there are many entries of expenses in connexion with ships; 'repairing the bishop's galley,' 'for repairing a ship at Hartlepool 7*l.* 4*s.* 8½*d.*, for another and for cords and other necessaries 66*s.* 2*d.*'¹⁰⁰ In 1213 'for making a new galley 44*l.* 18*s.* 6½*d.*' 'for anchors and other armaments for the king's great ship which came from Portsmouth, 111*s.* 2*d.*'¹⁰¹ All this must have caused a good deal of business, especially in the ports of Hartlepool and Wearmouth, but it was probably accompanied by a good deal of oppression. Royal officials were generally unscrupulous, and the position of the bishopric while in their hands during a vacancy of the see was particularly defenceless.

During these years king John frequently travelled through Durham,¹⁰² but though he granted several charters to Newcastle,¹⁰³ the Hartlepool charter is the only one now extant which was obtained from him by a Durham borough. There is how-

⁹⁷ Lapsley, *County Palatine of Durham*, p. 268*n.*

⁹⁸ Greenwell, *Boldon Buke* (25 Surt. Soc. publ.), appendix, p. xv.

⁹⁹ *Ibid.*, p. xviii.

¹⁰⁰ *Ibid.*, p. xvii.

¹⁰¹ *Ibid.*, p. xxii.

¹⁰² Hardy, *Patent Rolls, Itinerary of King John*, index.

¹⁰³ Brand, *Hist. of Newcastle*, II, pp. 134-6.

ever some probability in the conjecture that he granted a charter to Stockton, which has been lost. One of the Newcastle charters is dated at Stockton in 1214.¹⁰⁴

In 1217 the vacant see was at last filled by the consecration of Richard de Marisco.¹⁰⁵ He made an attempt to heal the quarrel with the prior and convent,¹⁰⁶ but failed; it was not till after his death in 1226 that peace was restored. In 1228 bishop Richard le Poor was enthroned at Durham and the great achievement of his reign was to terminate the feud with the prior by 'Le Convent' in 1230. This event closes the uncertain and troubled period in the history of the bishopric which followed the death of bishop Puiset.

MARKETS AND FAIRS.

The earliest record of the great fair of St. Cuthbert was an entry of the 'Consuetudo et Lex Sancti Patris Cuthberti,' which was written at about the end of the eleventh century in a gospel book belonging to the cathedral.¹⁰⁷ The original gospel book was in the Cottonian collection and was destroyed by the fire of 1731, but a copy of the entry had been made in the register of the dean and chapter of Durham and this still remains. There were two festivals dedicated to St. Cuthbert: the day of his death (March 20), and the day of the translation of his body to Durham (September 4). Fairs were held on both these anniversaries, but the latter was the more important although it was established later than the other, as the translation of St. Cuthbert's body did not take place before 991. Possibly it was the date of some older feast which was afterwards re-dedicated to St. Cuthbert: the existence of the special 'peace,' and the close connexion

¹⁰⁴ *Ibid.*, II, p. 135.

¹⁰⁵ Hutchinson, *Hist. of Durham*, I, p. 196.

¹⁰⁶ Robertus de Graystones, *Hist. Dun. Script. Tres* (9 Surt. Soc. publ.), cap. II, p. 36.

¹⁰⁷ *Victoria County History Durham*, I, p. 288; Raine, *Hist. Dun. Scrip. Tres*, appendix, p. ccccxix.

between the fair and the land tenures of the bishopric both point to an early origin for the September fair.

The 'Lex Sancti Patris Cuthberti' directs that before the feast of St. Cuthbert in September all the thanes, drengs and other 'probi homines' holding land under the saint, are to assemble at Durham to confirm the peace of St. Cuthbert. The 'peace' is to last for seven days before and seven days after the feast so that all may enjoy safety both in going and returning. All are to travel by the direct road and not to wander hither and thither. Anyone who breaks the peace shall make amends before he is restored to the peace. No one coming to the feast is to be accused or summoned for anything that he may have previously done against another. Anyone who knowingly violates the peace is unworthy of its protection until he has made amends to the saint.

The Continuator of Symeon of Durham tells a story of a breach of this peace in the days of William Rufus.¹⁰⁸ It was necessary that the peace should be announced some time before the fair was actually held in order that the villeins might have time to build the booths which they were bound to provide by the terms of their tenure.

There is little evidence concerning trade in Durham in the twelfth century. The theory of the medieval manor was, of course, that it was self-sufficing. In Durham some of the manors must have very nearly achieved that ideal, for iron for the ploughs, which in most parts of England had to be bought, was one of the local minerals. Yet at the end of the century there are signs of both internal and foreign trade. At Durham in-toll and ut-toll were collected from strangers but the burgesses were exempt.¹⁰⁹ The charter of Gateshead contains careful regula-

¹⁰⁸ Symeon of Durham, *De Miraculis et Translationibus Sancti Cuthberti* (Rolls series), II, p. 336.

¹⁰⁹ Ballard, *op. cit.*, p. 193.

tions as to taking wood from the forest; twopence was paid half-yearly on every cart and on every horse which went to the forest. A burgess might give part of his wood to anyone he pleased on this side of the Tyne but he might not sell it without licence from the forester. Wood was not required for fuel, for a burgess might dig turves for his hearth on payment of twopence for every cart that he brought to the work, while heath and reeds and undergrowth might be taken free, but not sold. The wood taken was used for the building of houses and ships. The increasing population of the bishopric and the example of the buildings erected by the bishops themselves created a relatively large demand for timber. In 1248 when certain manors were assigned to bishop Farnham on his retirement, as there was no timber on them, wood for the repair of the manor-houses and mills was allowed to him out of the forest of Auckland.¹¹⁰

At Wearmouth the staple articles of trade were salt and herrings, both essentials in medieval life which could not be obtained on inland manors without trade.¹¹¹

Neither Gateshead nor Wearmouth appear to have had markets as yet, but the very fact of the existence of a borough shows that commerce must have existed and was at the same time a reason for further trade. The inhabitants of the boroughs still carried on their own agriculture, but slight as the concentration of population was, it must have required larger supplies than could be produced from the town fields, and an exchange of corn and cattle from the country for articles to be bought in the town would naturally take place. In Boldon book there are further evidences of commerce. A very common service was that of carrying wine, which was one of the principal imports at Wearmouth and Hartlepool. Bishop Puiset brought columns and bases of marble from overseas, but that was an exceptional

¹¹⁰ Raine, *Hist. Dun. Script. Tres* (9 Surt. Soc. publ.), appendix, lxxvii.

¹¹¹ Greenwell, *Boldon Buke* (25 Surt. Soc. publ.), appendix, ii.

cargo.¹¹² Though marble was brought from abroad the quarries of the bishopric supplied the local demand for stone, and millstones were of local manufacture though they were also sometimes imported. The service of carrying millstones was very common; so was the carrying of wood; salt and herrings had to be carried by the villeins of Darlington.

At the end of the thirteenth century the only boroughs which had markets were Durham and Darlington, in which the markets and fairs belonged to the bishop,¹¹³ and Hartlepool, where the market and fair had been granted to William de Brus by king John, and confirmed by bishop Poor's charter of 1230.¹¹⁴ The Durham fairs were held on St. Cuthbert's days, March 20 and September 4, and on Whit-Tuesday: the market day was Saturday.¹¹⁵ The fairs of Darlington, which are mentioned at the beginning of the thirteenth century,¹¹⁶ were held for two days in February, on the first Monday in May, on Easter Monday, Whit-Monday, and November 10 of each year: the market day was Monday.¹¹⁷ Hartlepool fair was held for a fortnight at the feast of St. Laurence, August 10¹¹⁸: the market day was Wednesday.¹¹⁹

Bishop Bek (1283-1311) seems to have been a patron of the boroughs. He granted to Stockton in 1310 a fair for a week at the feast of St. Thomas of Canterbury,¹²⁰ December 29, and a weekly market on Wednesday. This grant was confirmed by bishop Matthew in 1602 and by bishop Cosin in 1666.

¹¹² Gaufridus de Coldingham, *loc. cit.*, cap. vii, p. 11.

¹¹³ *Placita de Quo Warranto*, p. 604.

¹¹⁴ Sharpe, *Hist. of Hartlepool*, p. 24.

¹¹⁵ Hutchinson, *Hist. of Durham*, II, p. 27n, Bishop Pilkington's Charter to Durham, 1565.

¹¹⁶ Greenwell, *Feodarium*, p. 148n.

¹¹⁷ 'Report on Market Rights and Tolls,' IV, p. 479.

¹¹⁸ Sharpe, *op. cit.*, appendix, Bishop Poor's Charter.

¹¹⁹ Hutchinson, *op. cit.*, III, p. 19.

¹²⁰ *Ibid.*, *op. cit.*, III, p. 122.

The original grants of the markets at Bishop Auckland, Gateshead, and Sunderland have not been preserved; probably they were founded in the early part of the fourteenth century. At Bishop Auckland the market day was Tuesday and the fairs were held on Ascension day, Corpus Christi day, and the Thursday before October 10.¹²¹ Bishop Morton's charter of 1634¹²² granted to Sunderland a weekly market on Friday, and fairs at the feast of SS. Philip and James, May 1, and at Michaelmas, September 29: this was a confirmation of fairs and markets which had long existed, and which continued to be held although the charter never came into force.

The evidence relating to the market and fair of Gateshead is derived from the statements of witnesses before the Council of the North in a suit brought in 1578 by the mayor and burgesses of Newcastle against Richard Nattress, mercer, of Gateshead, to prevent him from trading in the borough. There had been a market in Gateshead for raw produce, such as corn, beans, and peas, besides cattle, bread, salt, oatmeal, and such like. It was held twice a week, one of the days being Tuesday: as for the other a witness said, in the spirit of the White Knight in *Alice in Wonderland*, that 'howbeit although one of the said market days was kept upon the Saturday, yet Friday was accounted the market day by right.'¹²² The fair was held at Lammas (August 1) of each year, and this fair continued, at the last in a very feeble way, until 1853,¹²³ but the markets had not been held for some twenty years in 1578; they had been suppressed by the corporation of Newcastle when it annexed Gateshead in 1553 and never revived when Gateshead regained its freedom.¹²⁴

¹²¹ Hutchinson, *op. cit.*, III, p. 122.

¹²² Fordyce, *Hist. of Durham*, II, pp. 399, 417.

¹²³ *Arch. Ael.*, 2 ser. II, p. 226. Welford, *Newcastle and Gateshead*, II, pp. 504-505.

¹²⁴ See *post*.

Darlington and Bishop Auckland had the most important markets for corn and cattle in the bishopric. The markets of the other boroughs were only of importance to the immediate neighbourhood, but as early as 1315 Darlington market was attended by travelling merchants from distant parts, for whose protection the bishop issued a special proclamation,¹²⁵ and in the household books of the convent of Durham, which begin *circa* 1250, purchases at Darlington fair are frequently entered.¹²⁶ In 1620 it was presented in the borough court that the borough-men had neglected to attend the bailiff at the opening of the chief fairs, and it was therefore ordered that every borough-man of Darlington, on every chief fair day should appear himself or provide a sufficient substitute to appear at the tollbooth at nine o'clock 'with some decent weapon in their hands whereby they may be distinguished from other ordinary market people,' to attend the bailiff when he opened the fair.¹²⁷ In the course of the seventeenth century the people of Darlington succeeded in establishing¹²⁸ a fortnightly cattle market in spite of the opposition of Durham and Richmond, and a similar attempt was made at Bishop Auckland, but it failed.¹²⁹

All these markets, with the exception of Gateshead, continue to the present day. The Durham fairs and markets were granted to the new corporation by bishop James Pilkington's charter in 1565.¹³⁰ Similarly the market and fair of Hartlepool were granted to the mayor and corporation by Elizabeth's char-

¹²⁵ Hardy, *Registrum Palatini Dunelmensis* (Rolls series), I, p. 222.

¹²⁶ *Durham Account Rolls* (100 Surt. Soc. publ.), II, pp. 484, 494, etc.

¹²⁷ Longstaffe, *Hist. of Darlington*, 272n.

¹²⁸ *Ibid.*, p. 288. Allan MSS. quarto 15, Dean and Chapter Library, Durham.

¹²⁹ Hutchinson, *Hist. of Durham*, III, p. 353.

¹³⁰ *Ibid.*, II, p. 27n; cf. Exchequer: Depositions by Commission, no. 41, Easter 8 Jas. I, calendared in The Deputy Keeper's Report on the Public Records, vol. 38, p. 568.

ter of 1599.¹³¹ In the other boroughs the markets were leased by the bishop to private persons, who collected the tolls, until the boroughs were incorporated, when the markets were usually bought up by the corporation.¹³²

THE GILD MERCHANT.

It is an interesting but obscure problem whether there was ever a merchant gild in the city of Durham. Among the records of the city of Chester there is a document granted by Henry II of which the following is a translation:—'Henry (etc.) to his bailiffs of *Dunelina* greeting. We order that the burgesses of Chester shall be able to buy and sell retail at *Dunelina*, having and using the same customs which they had in the time of king Henry my ancestor, and the same rights and liberties and free customs there as they were wont to have then.'¹³³ If *Dunelina* is Durham this would indicate that a merchant gild had existed there for some time and that the gild of Chester was modelled on it. But Dr. Gross, although he has accepted the translation of *Dunelina* as Durham, has pointed out that it is probably an error, and that *Dunelina* ought to be *Dublina*, Dublin.¹³⁴ This correction seems to be confirmed by king John's charter to Chester which refers to the privileges in Ireland granted to the burgesses by his father king Henry.¹³⁵ As the charter quoted above is the only one known to have been given by Henry II to Chester it is probably the one alluded to in John's charter. All the circumstances of the case point to Dublin as the place meant. The trade between Chester and Ireland had existed since Saxon times and was very important,¹³⁶ whereas Chester is not known

¹³¹ Sharpe, *op. cit.*, appendix.

¹³² 'Report on Market Rights and Tolls,' *loc. cit.* Fordyce, *Hist. of Durham*, II, pp. 478-479.

¹³³ Report of the Historical MSS. Commission, 1881, p. 356.

¹³⁴ Gross, *The Gild Merchant*, I, p. 12n. ¹³⁵ Hist. MSS. Comm., *loc. cit.*

¹³⁶ Cunningham, *The Growth of English Industry and Commerce*, I, p. 93.

to have had close trading connexion with Durham. Moreover the see of Durham was never vacant in Henry II's reign, and therefore the king never had bailiffs in that city: it is unlikely that he would address such an order to the bailiffs of Durham while Hugh Puiset was bishop, the natural course would be for the king to inform the bishop of the privileges which he wished the burgesses of Chester to enjoy.

I have treated this question fully, not only because such a reference to Durham, if substantiated, would have been very valuable, but also because it has caused a slight error in professor Ashley's *Economic History*, in consequence of taking the statement in *The Guild Merchant* too literally. After giving a list, in which Durham is included, of the boroughs which received charters in Henry II's reign, professor Ashley adds, 'in all these charters the recognition of a merchant gild occupies a prominent place.'¹³⁷ But in the Durham charter, the substance has been given above, there is no reference to a merchant gild. No other grant of a merchant gild to Durham has been found. The existence of such a body has been inferred from some of the circumstances of the craft gilds, but the evidence is not clear and the matter may be more conveniently treated in dealing with the later gilds. The only certain example of a gild merchant in the bishopric occurs in the port of Hartlepool. Hartlepool's first charters have already been described. The third charter was granted by bishop Richard Poor and it is the only known instance of the grant by a bishop of Durham of a merchant gild.¹³⁸ It contains the following clauses:—

1. That the men of Hartlepool shall be free burgesses and shall hold their tenements freely by payment of a rent for all services.
2. That there shall be a yearly fair for fifteen days at the feast of St. Laurence, and a free market every week.

¹³⁷ Ashley, *Economic History of England*, I, pp. 71-72.

¹³⁸ Sharpe, *Hist. of Hartlepool*, appendix, where the charter is printed.

3. That the burgesses shall have liberties and free customs as free burgesses and shall enjoy the bishop's peace in all his lands.

4. That they shall have a mayor and a gild merchant as other burgesses have in the boroughs of the king of England.

Then follow four saving clauses :—

5. Saving the rights and customs owing to the bishops of Durham.

6. Saving the prise on wines such as the king takes in England.

7. Saving reasonable emption such as the king has in the boroughs of his barons, and that no hindrance shall ever be placed on the bishop's purchase of victuals in the borough.¹³⁹

8. Saving that the men of the bishop and the prior shall be free from toll in the borough.

This charter was confirmed by Ralph, prior of Durham,¹⁴⁰ saving the right of the convent to buy food in the borough, and saving the liberties of the convent contained in the charters of William and Robert de Brus. It is also confirmed by Peter de Brus,¹⁴¹ the guardian of Robert de Brus who was under age, saving the rights of his ward, and the liberties contained in the charters of William and Robert de Brus. These various confirmations show how complex was the question of the lordship of Hartlepool; particularly when the claims of the king are added to those of the bishop and Bruce. It was natural that, among all the conflicting claims on Hartlepool, the merchant gild, the one body which really belonged to the burgesses, should come to predominate in the ordinary affairs of the borough, especially during the Wars of the Roses when the overlordship of Hartlepool passed from hand to hand, until at the beginning of the sixteenth century it was disputed to whom it belonged or to what county it appertained.¹⁴² From the charter of incorporation granted by Elizabeth in 1599 it is evident that the governing body of a mayor and twelve capital burgesses was already in existence; their powers were only confirmed by the

¹³⁹ Bateson, *Borough Customs*, II, p. 166.

¹⁴⁰ Sharpe, *op. cit.*, pp. 69-70.

¹⁴¹ *Ibid.*, p. 24.

¹⁴² *Ibid.*, p. 48.

charter. They were probably the original governing body of the gild, which now became the corporation of the town.

None of the early records of the gild has been found but it has left its traces in the history of the town. In 1599 the common hall of the town was called the gild hall,¹⁴³ which is unusual in the county of Durham, where, as in Scotland, the name generally used is the tollbooth. After receiving the charter the mayor and burgesses of Hartlepool passed a resolution of thanks to lord Lumley, their lord, for his assistance in obtaining the charter,¹⁴⁴ and granted to him one half of the various fines in the borough, among which are specified 'the fines taken for making burgesses or free merchants.' The two courts which were annually held in the borough were called 'general gilds.'¹⁴⁵ The jury of twenty-four which was chosen and acted in them was 'the gild jury'—they were given a dinner for their pains. Apprentices were indentured at these courts. In 1673 an order was passed in a general gild,¹⁴⁶ which was entered in the corporation books: such an entry was unusual, and against it is written a reference to folio 12. This referred to the volume in which the records of the gild were kept but it had disappeared before 1816. The one order which remains, however, gives a clue to the later developments of the gild. It is a prohibition issued against persons not belonging to the trade companies of the town who exercised any of the sixteen enumerated trades, or any other trade, without licence. The second part of the entry directs that the companies of tradesmen shall hold quarterly meetings in their common hall, where with the consent of their wardens and the majority of those present they shall make rules for the better encouragement of their trades. From this it appears that the gild still survived in the form of a general meeting of the trade companies,

¹⁴³ *Ibid.*, p. 105.

¹⁴⁴ *Ibid.*, p. 74.

¹⁴⁵ From papers in the possession of the corporation of Hartlepool, which I was allowed to examine by the kindness of Mr. H. W. Bell, the town clerk.

¹⁴⁶ Sharpe, *op. cit.*, p. 84.

held from time to time to deal with the general interests of trade, at which meetings the mayor presided. The fines exacted from strangers were paid to the mayor and capital burgesses, and in 1675 the mayor was empowered to grant licences to strangers when the freemen would not work at a reasonable rate.¹⁴⁷ In 1716 the gild jury on behalf of themselves and the rest of the freemen and inhabitants of the borough petitioned the mayor and capital burgesses on the subject of the ruinous condition of the church and the town walls.¹⁴⁸ In 1722 a weaver was twice presented for working and trading although a foreigner and no freeman. In spite of the fact that the gild was still in existence in 1725 Sir Cuthbert Sharpe wrote in 1816 that, with the exception of the entry in the corporation books referred to above, 'no other record exists respecting the free trades . . . and on a subject so interesting to the inhabitants, even local tradition offers no reasonable conjecture.'¹⁴⁹ Nevertheless the influence of the merchant gild was still felt, for in 1835 the Municipal Commissioners reported that the freedom of the town might be obtained by serving a seven years' apprenticeship to a freeman of the borough.

The history of the gild merchant at Hartlepool is clear and connected in comparison with the mystery which surrounds the gild of Sunderland—if there ever was one. The doubt arises from a charter which was printed by Summers in his *History of Sunderland*, page 231. This charter was granted in 1246-7 by Henry III to the burgesses of Warnemouth.¹⁵⁰ Wearmouth was sometimes spelt Warnemouth, but so was Warenmouth (near Bamborough) in Northumberland, and it is probable that the charter was really granted to Warenmouth and not to Wear-

¹⁴⁷ *Ibid.*, p. 85; cf. Cunningham, *Growth of English Industry and Commerce*, II, p. 37n.

¹⁴⁸ Sharpe, *op. cit.*, p. 89.

¹⁴⁹ Sharpe, *Hist. of Hartlepool*, p. 84.

¹⁵⁰ *Cal. Charter Rolls*, I, p. 320.

mouth; because in the first place it was granted by the king although the see of Durham was filled at the time by bishop Nicholas de Farnham, to whom the burgesses of Wearmouth would normally apply for a charter. In the second place there is no reference whatever to the bishop of Durham or his officials in the charter. In the third place the sheriff of Northumberland is mentioned as 'taking distress in Warnemouth' and the sheriff of Northumberland had no authority in Wearmouth. The charter must therefore be applied to Warenmouth in Northumberland and not to Wearmouth in Durham.

THE ESTABLISHMENT OF THE TYPE.

Hardly any thirteenth century records of the boroughs remain except the charter of Hartlepool. It is clear, however, that the impetus given to the boroughs by bishop Puiset was maintained. The two ports and Stockton, which became a borough some time in the thirteenth century, had advanced beyond the point which they reached in Puiset's time. The grant of a gild merchant, and the elective mayors in Stockton and Hartlepool were steps towards municipal independence. If all had gone well the other boroughs might have followed in the footsteps of the ports and imitated at a distance the general course of municipal development. But this promising opening was destroyed by the Scottish wars which never ceased from the reign of Edward I to that of Henry VII. The bishopric suffered particularly from these invasions from the north. It was not, like Northumberland, so constantly exposed to raids that the people grew to be prepared for sudden warfare. In Durham there would be peace for a while till men felt secure; then suddenly an army fell upon them, burning and ravaging. During the first half of the fourteenth century, in spite of much misery, the boroughs struggled on and maintained their position fairly well; but the Black Death in 1349 completed the work of ruin.

which the Scots had begun and the boroughs sank into insignificance. Their early liberties were forgotten and when a partial revival of their fortunes began in the sixteenth century they were simply manorial boroughs.

From the pontificate of bishop Antony Bek (1283-1310) onwards, the records of the palatinate became fuller and more plentiful than they have previously been, and it is possible to discover in them faint traces of the prosperity and of the decay of the bishop's boroughs.

In 1293 the bishop, in replying to an inquisition *quo warranto*, said¹⁵¹ that he had markets and fairs at Durham, Darlington, and Norham, while the prior of Durham had the assizes of bread and beer at Elvet, and Robert de Brus had at Hartlepool, market and fair, the assizes of bread and beer, keelage from every ship, and prise of fish. This is all that relates to the boroughs in these proceedings and it is to be observed that only three regular markets and fairs were, as yet, established in Durham county.

A charter of liberties was obtained from the bishop in 1303 by the prior, the knights, and the lesser freemen of the palatinate, but the boroughs took no part in the movement.¹⁵² One of the clauses in the charter provides that 'No tolls shall be taken on sales and purchases except in vills merchant, and that all transactions in the open country shall be free.' This was directly contrary to the concentration of trade in the boroughs at which medieval merchants aimed. It indicates that bishop Bek for the sake of the tolls had been endeavouring to prevent trade beyond the boroughs, a policy which would explain the neutrality of the burgesses in the constitutional struggle.

The first general receiver's roll of the bishopric's temporalities belongs to the year 1308,¹⁵³ and accounts for a period when

¹⁵¹ *Placita de Quo Warranto* (Record Commission), p. 604.

¹⁵² Hardy, *Reg. Pal. Dun.* III, pp. 61-67; Lapsley, *op. cit.*, pp. 133-134.

¹⁵³ Greenwell, *Boldon Buke*, appendix, p. xxv *et seq.*

the see had been seized into the hands of the king (1305-7);¹⁵⁴ in consequence of this the payments from the boroughs are unusually small. Darlington and Auckland were in the king's hands during the first quarter: they were restored in the Michaelmas term, and the bailiff paid for them respectively forty pounds and six pounds. This is the first mention of the borough of Auckland. Durham city was in the king's hands for the first quarter, and for the two other terms the bailiff paid 66*l.* 13*s.* 4*d.* The borough of Stockton is also mentioned here for the first time; it owed to the bishop 20*s.* 6*d.* per term, but 11*s.* 3*d.* was released because it had been in the king's hands. Similarly 53*s.* 1½*d.* was released to Gateshead, which owed 47*s.* 0½*d.* per term. Wearmouth is not named, but the entry '63*s.* 4*d.* de firmis burgorum in quarterio de Easington praeter burgum Dunelm,' must refer to Wearmouth, as there was no other borough in Easington ward. There is no payment entered for Hartlepool, but forty shillings are released to Richard Maceon, of Hartlepool, for repairing the bishop's houses there. James Spicer farmed Durham city, and John de Saundon farmed Darlington and Auckland: no farmer is named for Gateshead, Stockton, or Wearmouth: probably they were not at farm at the time. The details of this roll have been given because it shows the situation of the boroughs rather more than a century after Boldon book. There were two new boroughs but conditions had not changed much, and the changes that had taken place are not represented in the roll; the bishop's boroughs were still far behind the royal boroughs of the rest of England, and they were destined to advance no farther. The general outlines of their constitution were now established as they were to remain until 1835. It remains to show what the outlines were before the Reformation and then to deal with the modifications which they underwent between the sixteenth and the nineteenth centuries.

¹⁵⁴ *Rot. Parl.*, I, p. 205.

[a] BURGAGE TENURE. The first Durham *inquisitiones post mortem* which have been preserved belong to the pontificate of bishop Lewis Beaumont (1318-1333). From that time onward the series is fairly complete but there are no inquisitions which name Hartlepool in the fourteenth century and only one which names Sunderland.¹⁵⁵

The complete formula of burgage tenure is, 'one burgage held in chief of the lord bishop by fealty and service and doing three suits at the lord bishop's court in the said borough at the usual terms and paying to the said borough eight-pence at the usual terms.' This was the regular 'borough custom'—the oath of fealty (which occurs as early as 1140), suit at the borough court, and a money payment. Occasionally the payment was not in money: in 1337 Thomas de Morton¹⁵⁶ held two burgages in Darlington by doing three suits at the tollbooth and paying yearly to the church of the town eight pounds of wax; while in 1373 William Jalker¹⁵⁷ held in Durham city five burgages in chief of the lord bishop, which he held by fealty, three suits at the lord's court at the tollbooth, 'and all other services for the said burgages as other burgesses do there for their burgages,' and he also held one burgage from the lord prior by fealty and the service of half a pound of cumin. In 1373 a reference occurs to carrying service for a burgage at Auckland,¹⁵⁸ but the entry is imperfect. The payment in money varies but it was rarely more than one shilling. It was called 'landmale' and was usually fourpence or sixpence, the former being considered the normal amount.¹⁵⁹ Landmale was one of the perquisites of the farmers of the borough and therefore in bishop Hatfield's 'Survey'

¹⁵⁵ Durham Cursitor's Records, Register II, folio 110. In the fourteenth century the borough of Wearmouth is called by its modern name of Sunderland.

¹⁵⁶ *Ibid.*, folio 51.

¹⁵⁷ *Ibid.*, folio 13 d.

¹⁵⁸ Durham Cursitor's Records, Register II, folio 90 d.

¹⁵⁹ Rot. Bury, m. 16 d, ann. 10.

of 1380 no enumeration is given of the burgages, except in Stockton where the entry is more detailed. In 1835 the land-male rent in the city of Durham was allowed to the mayor's wife by the bishop, by ancient custom.¹⁶⁰ The three yearly suits at the borough court were all that was obligatory on the more important burgesses and landowners whose inquisitions were taken. In Hatfield's 'Survey' the services of the lesser burgesses are given in the entries for Stockton.¹⁶¹ From these it appears that they were bound to attend the borough court held every three weeks, under penalty of a fine of sixpence.

Such were the obligations of the burgesses. Their privileges were their shares in the common fields, the power to make by-laws in the borough courts, and exemption from toll. The exemption varies in the different boroughs. The burgesses of Gateshead and Durham were by bishop Puiset's charters free from tolls throughout the palatinate, as were the burgesses of Hartlepool by bishop Poor's charter; the men of Auckland and Darlington were free of one another's markets only,¹⁶² and the men of Stockton were not completely free even from tolls in their own borough.¹⁶³ The men of the prior of Durham were exempt from toll throughout the realm by various royal charters, the earliest being granted by Henry II.¹⁶⁴

In 1344 the mayor and bailiffs of Newcastle upon Tyne replied to certain questions concerning their liberties and customs which had been addressed to them by the mayor, bailiff, and burgesses of Stockton.¹⁶⁵ As Newcastle was the mother town of all the bishop's boroughs this reply probably illustrates

¹⁶⁰ 'Report of Munic. Comm., 1835, Durham;' *cf.* Deputy Keeper's Report on the Public Records, vol. 38, p. 568.

¹⁶¹ Greenwell, *Bishop Hatfield's Survey* (32 Surt. Soc. publ.), p. 164.

¹⁶² Allan MSS., quarto 15, Dean and Chapter Library, Durham.

¹⁶³ 'Report of the Municipal Commission, 1835, Stockton.'

¹⁶⁴ Raine, *op. cit.*, appendix, pp. xlix, ccxviii.

¹⁶⁵ Brewster, *Hist. of Stockton*, p. 82.

their common customs. The clauses of general application are: that every burgess shall have his own mill, measure, and an oven in which to bake his own bread but not to bake for sale; he may receive his neighbour's bread into his oven, saving the right of the lord. He may grind at any mill. No strange merchant may buy or sell in the town except from a burgess. No huckster may buy anything before the fifth hour, under penalty for forestalling. The clauses in the charters are repeated which deal with the right of a son in his father's house, the enfranchisement of a villein, and the right of a burgess to dispose by will of property that he had bought.

The first part of the reply deals with port customs. There are two clauses dealing with the hosting of strangers: this hosting was fully organized in Newcastle but does not seem to have been much practised in Durham. Another clause states the right of every burgess to share in purchases from merchant ships although he was not present at the sale. There are provisions against forestalling: a regulation for the shipping within the harbour; and a duty on ships entering, in proportion to the value of their merchandize.¹⁶⁶ A clause dealing with the government of the town is referred to below.

Whenever a burgage changed hands the new burgess was admitted at the borough court, where he took the oath of fealty and paid a fine to the lord, after which he was entered on the rolls.¹⁶⁷ A man could only become a burgess in the fourteenth century by the grant, purchase, or inheritance of a burgage. The account in Hatfield's 'Survey' shows that he need not be resident in the borough, and that burgages were very much subdivided.

[b] THE BOROUGH OFFICERS.—The chief officer of each borough was the bailiff or provost who was appointed by the bishop. The

¹⁶⁶ Bateson, *Borough Customs*, I, p. 218n.

¹⁶⁷ Longstaffe, *Hist. of Darlington*, p. 272n.

charters in the Treasury at Durham show that the bailiff from *circa* 1150-1414 was usually a private burgess, appointed by the bishop, but holding no other office. From the grouping of the names of witnesses to charters there is some reason to think that there was a common council of the borough, whose members held the office in rotation. After 1414 the bishop seems to have taken a firmer hold upon the borough; from that date the appointment of the bailiff is enrolled in the chancery rolls, and he sometimes held other offices under the bishop. From this date the list of bailiffs is incomplete. The borough, however, was still leased to groups of citizens, probably representatives of the whole body. In early times there were frequently two and sometimes three bailiffs.^{167a} The bailiff was usually also one of the farmers of the borough, and after the payment of the farm he received all the various dues from the borough. This system was obviously open to abuse, but it was not reformed till 1501, when bishop Fox began to pay the bailiffs of Darlington, Auckland, and Gateshead, yearly salaries in lieu of the borough dues.¹⁶⁸ In the seventeenth century the old method of farming was modified in Durham, Hartlepool, and Stockton by the existence of their mayors, but it continued in Sunderland until the nineteenth century. It is not clear how the bailiff was remunerated when the borough was not at farm, or when he was not one of the farmers. A deputy bailiff is sometimes mentioned in later records.

The steward is closely associated with the bailiff in the more modern records of the boroughs, but originally he seems to have been the steward of the manor, who attended the borough court in a semi-official capacity. Sometimes the two offices of bailiff and steward were held by the same person, and sometimes the steward was the deputy bailiff or the representative of the farmer

^{167a} Information kindly given by Mr. K. H. Bayley.

¹⁶⁸ Raine, *op. cit.*, appendix, p. cccxcvii.

of the borough. No clear distinction is made in the various uses of the title of steward.

No early records of the borough courts have been preserved but those that remain from the sixteenth and seventeenth centuries show traces of customs which originated in a previous state of society. After the two chief officers who were appointed by the bishop, there come a number of minor officials who were chosen at the Easter meeting of the borough court. A herd and two or four grassmen; a bellman and two or four constables occur in all the boroughs. At Darlington there were four afferors and searchers of the market, tasters of ale, bread, and butter; two searchers of black leather, two of red; two searchers of weights, and four overseers of the town wells.¹⁶⁹ Similar searchers and tasters were appointed at Stockton and at Hartlepool, where there were also meters of corn, and keepers of the sands:¹⁷⁰ At Gateshead there was a town wait who played at the mowing of the common fields, four wainmen who collected a toll on loaded wains,¹⁷¹ and a serjeant of arrest.¹⁷² Bishop Egerton's charter to Durham in 1780 names the usual inferior officers, whose offices are elective.¹⁷³ The ports of Hartlepool and Stockton had other officials in addition to the above staff: it is sufficient to mention that there were commissioners for preserving the fisheries and for controlling the rivers and harbours, and that these officials were always appointed by the bishop.¹⁷⁴ At Hartlepool there seems to have been a long struggle in the fourteenth century¹⁷⁵ between the king and the bishop as to who

¹⁶⁹ Longstaffe, *op. cit.*, p. 272.

¹⁷⁰ Brewster, *Hist. of Stockton*, pp. 136, 139, 140. Corporation Papers, Hartlepool.

¹⁷¹ Churchwardens' Accounts, Gateshead. Mackenzie, *Hist. of Durham*, I, p. 83n.

¹⁷² *Valor Ecclesiasticus*, v, p. 300; Welford, *Newcastle and Gateshead*, II, p. 147.

¹⁷³ Hutchinson, *Hist. of Durham*, II, p. 53.

¹⁷⁴ Lapsley, *op. cit.*, appendix II.

¹⁷⁵ *Ibid.*, pp. 276-277

should appoint the custom-house officers: the bishop maintained his right, and as trade there fell away the king lost interest in the matter. But apart from these exterior officials the ports differed from the other boroughs. The position at Hartlepool has already been described. At Stockton there is no borough charter extant and the chief evidence is the reply of the mayor of Newcastle to the mayor, bailiff, and burgesses of Stockton, which has been quoted from above.¹⁷⁶ From this reply it appears that the mayor of Stockton already held the position that he occupied in later times as chief officer of the borough. One of the clauses is, 'the mayor of the town and the sounder part of the commonalty amongst them order whatsoever for the utility of the town shall seem fit to be ordered, and that which amongst them shall be ordered shall continue firm and established.' This refers to the close corporation which already existed in Newcastle, but such was not the case in Stockton, where all the burgesses took part in the borough meetings.¹⁷⁷ The ex-mayors received the title of aldermen but do not appear to have had any separate functions. The bailiff was appointed by the bishop, but he was an official of inferior importance, occupied chiefly with the collection of the bishop's dues; in later times the offices of bailiff and town clerk were usually held together by one man.

At Sunderland the distinctive characteristics of a borough almost disappeared, leaving only faint and confusing traces. In the seventeenth century a body known as 'the Freemen and Stallingers of the Borough' appears in the records of Sunderland. The first reference which perhaps alludes to them occurs in 1564, when in a royal survey of Durham it is stated that Sunderland is a fishing town containing thirty householders¹⁷⁸; thirty was the number of freemen and stallingers. In a law-suit in 1680

¹⁷⁶ Brewster, *Hist. of Stockton*, p. 116.

¹⁷⁷ 'Report of the Municipal Commissioners, 1835, Stockton.'

¹⁷⁸ *Cal. S. P. Dom. Eliz. Add.*, 1547-1565, p. 573.

the freemen and stallingers made good their claims to the right of pasture on the town moor as opposed to strangers.¹⁷⁹ The fullest account of this body was given in 1731 in the depositions taken on behalf of the plaintiffs in the case of Milbanke and Ettrick *v.* the Freeman and Stallingers of Sunderland, before the Court of Exchequer. The witnesses stated that there were twelve freemen and eighteen stallingers, who had always enjoyed rights of pasturage on the town moor, intack, and coney warren, namely, every freeman four cattle gates, *i.e.* pasture for four cows or two horses, and every stallinger one cattle gate, and the widows of freemen two cattle gates.¹⁸⁰ The freemen chose two or three grassmen out of the whole body who held office for one or two years. One of the grassmen, who was examined, stated that when he was appointed to that office he received from one of the freemen a book with several papers put in it, which belonged to the freemen and stallingers. When he received this book it was put into a bag and sealed up in the presence of the freemen, and had so remained ever since. Another deponent stated that the freemen, exclusive of the stallingers, held meetings at which they made by-laws and orders for the regulation of the common and for their other affairs, and that a clerk entered these orders in the book that they kept for the purpose, which was the book mentioned above. Evidence was also given that they possessed a common seal.

Throughout the eighteenth century the freemen and stallingers were involved in perpetual lawsuits over their claim to own the town moor; the other inhabitants of Sunderland vigorously maintained that they had only grazing rights, and that the soil belonged to the bishop, and could be leased by him. The last minute book of the freemen, which is still extant, was begun in 1764. By this time they regularly termed themselves 'the

¹⁷⁹ Levinz, *Reports*, II, p. 252.

¹⁸⁰ *Antiquities of Sunderland* (Sunderland Antiquarian Soc.), v, pp. 10-33.

ancient corporation of Sunderland. Their meetings are called by-laws, and were held at inns, as they had no hall or common meeting-place. The by-laws took place several times a year at irregular intervals, sometimes as often as twice in one month. An entry of 1766 orders that a strong chest with two locks be provided to hold the documents and books of the corporation, that the clerk should keep the chest, and that the two grassmen should each keep a key.¹⁸¹ The corporation had certain pews in the church, and a hospital or alms-house.¹⁸² The Municipal Commissioners in 1835 reported that, when a freeman died, his place was supplied by one of the stallingers, who was elected by the majority of the freemen. Vacancies among the stallingers were filled by inhabitants of Sunderland, who were similarly elected.¹⁸³ On being admitted, freemen used to pay 25*l.* and stallingers 6*l.* 5*s.*, but this payment had for some time been discontinued. Although the Municipal Commissioners did not report it, the newly elected stallinger was presented at the borough court by the freemen, and was admitted to his position by the steward on payment of 3*s.* 4*d.*¹⁸⁴ Freemen were similarly admitted at the court; if they failed to appear, they forfeited their position, and the bishop had a right to appoint new freemen in their stead. A freeman or stallinger might resign the position, giving a written agreement that he forfeited its privileges thereby.¹⁸⁵ Their revenues in 1835 were 60*l.* rent from the town moor, and 26*l.* from a pottery and two rope-walks. After the payment of the clerk's salary and other expenses the surplus income, if any, was divided among the corporation, but for the last 18 years they had been in debt, in consequence of a law-suit, and the surplus was absorbed in paying the debt. Their

¹⁸¹ *Op. cit.*, iv, pp. 22-35; extracts from the Minute Book are printed.

¹⁸² Report of the Municipal Commissioners, 1835, Sunderland.

¹⁸³ *Cf. Summers, Hist. of Sunderland*, i, 114.

¹⁸⁴ *Antiquities of Sunderland* (Sunderland Antiquarian Soc.), vi, p. 75.

¹⁸⁵ *Summers, op. cit.*, i, 117-119.

expenses were the repair of the almshouses, collection of rents, draining the moor, and paying taxes.¹⁸⁶

Sunderland was included in the Municipal Corporations Act of 1835, in spite of its very doubtful claims, and in spite of the opposition of the freemen and stallingers. As the borough had no mayor or other chief official to bring the act into force, the freemen were requested in turn to fill that office in the order of their seniority; four refused, but the fifth consented, and from this time the freemen and stallingers ceased to have any claim to be considered the corporation of the town.¹⁸⁷ Their wealth increased rapidly as the value of the moor, to which they clung tenaciously, rose with the expansion of Sunderland and the building of docks and railways. The freemen, however, made their position tolerable to their fellow-townsmen by giving largely to charities, and finally (in 1853) they made over the whole of their property and revenue to the building and endowment of an orphan asylum for children belonging to the parish of Sunderland.¹⁸⁸ Thus the ancient corporation of the freemen and stallingers came to an end.

The origin of the freemen and stallingers of Sunderland has long been a problem to local antiquaries. The answer to it is evidently closely connected with the history of the town moor. Nearly all the Durham boroughs had town fields with long and curious histories, and in considering the Sunderland town moor some help may be found in the analogy of other boroughs. At Gateshead in 1606 every burgess had two cattle-gates in the common fields, but the bailiff had four in virtue of his office.¹⁸⁹ This supports to some extent the theory that the freemen of

¹⁸⁶ 'Report of the Municipal Commissioners, 1835, Sunderland.'

¹⁸⁷ *Antiquities of Sunderland* (Sunderland Antiquarian Soc.), vi, pp. 43-46.

¹⁸⁸ Fordyce, *Hist. of Durham*, II, pp. 485-490; *Antiquities of Sunderland* (Sunderland Antiquarian Soc.), iv, p. 33.

¹⁸⁹ Documents relating to Gateshead in the Library of the Soc. of Antiq. of Newcastle-upon-Tyne. A.F. 43.

Sunderland were borough officers; they held the official share of pasturage, four cattle-gates. The herd and grassmen at Gateshead were appointed at the borough court, but the management of the common fields during the year was carried on by the select vestry or four-and-twenty.¹⁹⁰ After the borough court had ceased to meet at the end of the seventeenth century, the borough-holders continued to hold meetings twice a year, at which the herd and grassmen were appointed,¹⁹¹ and by means of these meetings they took the control of the common fields out of the hands of the four-and-twenty. At Darlington the history of the common fields was similar; the officers were appointed at the half-yearly borough courts, and the other business was managed at by-laws.¹⁹² In the borough the by-laws were almost the same as vestry meetings, but in the vill of Blackwell and Cockerton, which were within the parish of Darlington but had no vestries, by-laws were held for the management of the common fields, which were survivals of the early village meetings. Sunderland resembled these vill in its situation; it was a vill in the parish of Bishopwearmouth, but not the vill in which the parish church stood. In all probability the burgesses chose the officers of the common fields at the borough court, and managed their affairs at by-laws. Agriculture must always have been at least as important as trade in the little borough. The by-laws could deal with both sets of interests, and as the borough officers would be the presiding authorities at such meetings, the control of the common fields might in this way pass into their hands. The theory that the freemen were originally elective officers explains the fact that their pasture rights were not attached to any particular tenements.¹⁹³ In Gateshead, in

¹⁹⁰ Gateshead Churchwardens' Accounts.

¹⁹¹ 'Report of the Municipal Commissioners, 1835, Gateshead.'

¹⁹² Longstaffe, *Hist. of Darlington*, pp. 272, 290, 292.

¹⁹³ Differing in this from the freemen and stallingers of Holy Island. See Raine, *North Durham*, p. 161.

Darlington, and elsewhere in the palatinate, the right of pasture in the common fields belonged to the owners of ancient burgages; in Sunderland, however, the freemen were elected from the stallingers, who were elected from the inhabitants at large without any such restriction.

It is impossible to treat the freemen entirely apart from the stallingers, and in considering the latter again light may be obtained from the records of other places. The stallingers of the north corresponded to the 'tensers' or 'censers' of the south, persons who did not belong to the merchant gild, but who obtained licence to have a stall and trade in a privileged borough by a money payment to the corporation or lord of the borough. They have been described in the following words: 'It is not easy to define the exact status of the tensers. They were certainly considered as an inferior body of burgesses, and might comprise three classes: (1) those not able or not willing to enter one of the gilds; (2) traders waiting to be admitted burgesses; (3) ex-burgesses fallen from the higher status through misfortune.'¹⁹⁴

Now the stallingers of Sunderland were in due course promoted to be freemen; so far therefore they belong to the second of these classes. Stallingers frequently occur in the records of Scottish burghs, which the Durham boroughs resembled in many respects. In the *Leges Burgorum* 1124-53 a clause runs as follows:—'Every stallinger (*stalangiator*) shall either pay a fine according to what may be agreed upon with the provost or shall give a half-penny every market day.'¹⁹⁵ In the *Articuli Inquirendi in Itinere Camerarii*—c. 1329, one of the questions is:—'Do stallingers (*stallagarii*) buy and sell in the burgh freely like burgesses, or if not, with whose permission.'¹⁹⁶ In the first

¹⁹⁴ Hibbert, *Influence and Development of English Gilds*, appendix, pp. 146-156.

¹⁹⁵ Innes, *Ancient Laws and Customs of the Burghs of Scotland*, p. 18.

¹⁹⁶ *Ibid.*, p. 124.

of these quotations the stallingier makes a payment to the provost, the officer of the burgh, and therefore is presumably licensed by the burgesses; but the second shows that stallingers might be licensed by other authorities, *i.e.* by the lords of mesne burghs. In Sunderland there appears to be a compromise between the two; the freemen present the new stallingier at the bishop's court, where he makes a payment to the bishop's steward.

But another point arises. If the stallingers were not burgesses—not even necessarily inhabitants of the borough,—how did they come to share in the common fields? In an attempt to explain this, reference must again be made to Darlington. In 1524 the Chancery of Durham issued several decrees relating to the common fields of Darlington,¹⁹⁷ from which it appears that the burgesses and the tenants of the villis of Bondgate-in-Darlington, of Blackwell, and of Hurworth in the next parish, all had claims in the common fields. The people who wished to become stallingers of the borough of Sunderland would be chiefly the inhabitants of the neighbouring villis, who might have vague claims on the common fields lying between the villis and the borough; when they became prospective freemen they would be able to enforce such claims to the extent of obtaining a small share in the common.

The limitation of the number of stallingers may be accounted for by the fact that they were regarded with suspicion by the full burgesses, as men who enjoyed their liberties without bearing their burdens.¹⁹⁸ As for the limitation of the number of freemen, it may be explained as follows. Whatever trade Sunderland possessed in the thirteenth and fourteenth centuries was lost in the fifteenth, when the town dwindled to a mere

¹⁹⁷ *Rot. II Wolsey*, ann. 4 curs. 73; *ibid.* ann. 16 Henry VIII, m. 5 d.; *ibid.* 20 Henry VIII, m. 2, d.

¹⁹⁸ Bateson, *The Records of the Borough of Leicester*, I, p. xxxiii.

fishing village, which in 1564 had only seven cobles. As the commerce of the borough disappeared completely, the number of burgesses dropped off, until only the governing body was left, which still appointed stallingers for the sake of the entrance money, while the stallingers accepted the position for the sake of the pasture. The control of the common fields now became the sole business of the borough officers. When trade revived in the seventeenth century their original functions had been forgotten.¹⁹⁹

[c] COURTS HELD IN THE BOROUGHS.—The great court of the borough was held three times a year at the same time as the halmote courts of the manor, and at this court all burgesses were obliged to be present under penalty of a fine. The ordinary court was held every three weeks, and only the lesser burgesses were required to attend it. No early records of these courts have been preserved, but the book of the borough court of Darlington which was begun in 1612 was extant in 1850 and extracts were made from it by Mr. W. H. D. Longstaffe in his *History of Darlington*.²⁰⁰ The book has since disappeared, but from these extracts, supplemented by Surtees's *History of Durham*,²⁰¹ the organization of the borough court may be reconstructed as it was much earlier than the period when the records were written. Before the meeting of the Easter court the borough-men of Darlington elected 'grieves' or 'sergeants of the court,' giving their votes in the order in which the burgages lay in the streets. The number of grieves is not specified. These grieves presented offences at the court before the bailiff and a jury of twelve burgesses. It is not stated how the jury

¹⁹⁹ Webb, *English Local Government, The Manor and the Borough*, II, p. 200n.

²⁰⁰ Longstaffe, *op. cit.*, pp. 285-295. For the borough court at Durham see Exchequer Depositions by Commission, no. 41, Easter 8 Jas. I, calendared in the Deputy Keeper's Report on the Public Records, vol. 38, p. 568.

²⁰¹ Surtees, *Hist. of Durham*, III, p. 357.

was appointed; at Stockton the jurors were chosen by the mayor and summoned by the steward of the court. In Brewster's *History of Stockton* (1827) the whole process of summoning and holding the borough court at that time is given.²⁰² This court was held by the mayor, and not by the bishop's bailiff, as in the other boroughs except Hartlepool, but the forms were probably common to all the courts. After 1660 the borough courts were officially entitled 'the Court Leet and Court Baron of the lord bishop,' but before that time they were called simply 'the Borough Court.' Their jurisdiction combined that of the courts leet and baron; in the opinion of professor Maitland, view of frankpledge was not held in the north, and thus the court leet had not its distinctive feature.²⁰³ The borough court was competent to pass by-laws for the regulation of the borough, and to inflict penalties for any breach of them.²⁰⁴ Burgesses were admitted, and minor breaches of the peace tried, while the jurisdiction of the court over debts of less than 40s. lasted into the nineteenth century. In the grants of the farm of the borough only the 'curia burgi' is mentioned, and the distinction which was afterwards made between the court leet and the court baron seems to have been part of the process of squaring the customs of the palatinate with those of the rest of the kingdom which went on after 1536.

The profits of the borough court formed part of the revenue of the borough specified in the grants to farmers of the borough. A number of these grants occur in the fourteenth century, but they are usually very brief, stating little more than the sum for which the borough is farmed.²⁰⁵ The borough was granted out to farm at the halmote court of the manor within which it lay;

²⁰² Brewster, *op. cit.*, pp. 130-144.

²⁰³ Maitland, *Select Pleas in Manorial Courts* (Selden Soc. publ.), p. xxxn.

²⁰⁴ Cunningham, *Growth of English Industry and Commerce*, I, pp. 213-214.

²⁰⁵ Dur. Curs., no. 32, m. 8 d.; *ibid.*, no. 12, fol. 161; *ibid.*, fol. 191 d; see *Victoria County History Durham*, II, p. 254.

the fullest entry of such a grant occurs in 1395 at Darlington, in which it is stated that the farmers are to hold 'the oven of the borough with the soken of the same the court of the borough, the soken fines, amercements, and services of the same, with the other courts there It is granted also that they have power to arrest and punish and adjudge all trespasses against the peace of the said borough. And likewise that they may have the office of marshal to their own use with the profits of the same so that no sheriff or marshal or other bailiff shall intrude himself unless by default of the same firmars during their term.' Escheat and forfeiture of lands are excepted in the grant.²⁰⁶

The other courts mentioned above were the market courts of marshalsea and piepowder. In boroughs which were not at farm these courts were held by the sheriff, acting as marshal or clerk of the market.²⁰⁷ A grant of this office, together with the custody of the ulnage seal, occurs in 1448.²⁰⁸

These were the regular borough courts, but there were also in several of the boroughs little independent franchises. The rector was frequently lord of the manor in his glebe, and held a court for his tenants. This was the case in Gateshead²⁰⁹ and in St. Nicholas's parish in Durham,²¹⁰ and a similar claim seems to have been made for the lands of the collegiate church of Darlington,²¹¹ although the affair is obscure. In Gateshead there was also the franchise of the hospital of SS. Edmund and Cuthbert the Confessors, which was appropriated to the nunnery of St. Bartholomew in Newcastle-upon-Tyne.²¹² The prioress held a

²⁰⁶ Dur. Curs., no. 13, fol. 166 d.

²⁰⁷ Lapsley, *op. cit.*, pp. 36, 291; Dur. Auditor, 1, no. 1.

²⁰⁸ Hutchinson, *Hist. of Durham*, II, p. 14n.

²⁰⁹ *Arch. Ael.*, 2 ser. VII, p. 219.

²¹⁰ *Reg. Pal. Dun.*, II, p. 1194

²¹¹ Longstaffe, *op. cit.*, pp. 201n, 202.

²¹² *Victoria County History Durham*, II, p. 119.

court in Gateshead for her tenants.²¹³ Framwellgate was separate from the borough of Durham, and had a bailiff and court of its own.²¹⁴ The court of the borough of Elvet was held by the seneschal of the prior, and that of the little borough of St. Giles by the master of Kepyner hospital.²¹⁵

[d] CHARTERS OF MURAGE.—There are several examples of charters granted by various bishops to the burgesses giving them the right to levy tolls on goods brought into the borough, the proceeds to be devoted to the repair of the walls and streets of the town.²¹⁶ Such charters were granted on several occasions to Durham²¹⁷ and Hartlepool, and once to Gateshead. The grants to Hartlepool were made to the mayor and burgesses, who were in a position to collect the tolls. At Durham, however, the charter was simply addressed to the ‘burgesses and other honest men of the city.’²¹⁸ It appears from an inquisition of 1386 that these tolls were collected and administered by a committee of the burgesses themselves, and that the collectors in this case had been appropriating the funds to their own use; the other burgesses had no remedy against such misdealings except an appeal to the bishop.²¹⁹ In Gateshead the single charter, dated 1423, is directed to the parson (rector) of Gateshead, together with John Vescy, chaplain, John Gildford, esquire, and John Cok, these being the four principal inhabitants of the borough. The charters contain elaborate lists of the goods on which toll might be collected, and the sums which might be exacted. Nothing was left to the discretion of the grantees.²²⁰

²¹³ Court Rolls, portfolio 171, no. 5.

²¹⁴ Surtees, *Hist. of Durham*, IV, (2), p. 74.

²¹⁵ Court Rolls, portfolio 171, no. 6.

²¹⁶ Lapsley, *op. cit.*, p. 36.

²¹⁷ *Rot. Fordham* ann. 3, m. 4, curs., no. 32; *Rot. Skirlaw*, ann. 11, m. 21, curs., no. 33.

²¹⁸ *Rot. II Hatfield*, ann. 33, m. 13, curs., no. 31.

²¹⁹ *Rot. Fordham*, ann. 5, m. 8, curs., no. 32.

²²⁰ Welford, *Newcastle and Gateshead*, I, p. 271.

[e] EPISCOPAL SURVEYS.—Two 'Surveys' of the bishop's demesne manors dated *c.* 1380 and 1418 have been preserved. The second of these, bishop Langley's 'Survey' is of little use with regard to the boroughs of the bishopric.²²¹ It is incomplete, as there are no entries for Stockton and Hartlepool; the only part of the borough of Durham which is entered is Framwellgate, and there are only three or four notes for Gateshead scribbled at the end of the book. The manors of Darlington and North Auckland are surveyed in full, but the boroughs are not mentioned. The only borough entry is that for Sunderland, which is identical, as far as it is legible, with the entry in bishop Hatfield's 'Survey.'

Bishop Hatfield's 'Survey' *c.* 1380 is not very satisfactory in its account of the boroughs.²²² Stockton is the only place in which a list of burgesses is given, although the burgage holdings of Sadberge are given in full.²²³ This is particularly disappointing in the case of Darlington, as the borough does not seem to have been at farm at the time of the 'Survey,' the grant of 1395 to Ingilram Gentil being written in at the end of the entry in a later hand. At Darlington there were common lands held by the tenants, which paid nothing to the lord, although they were in the lord's waste. This is the only instance in which the common lands of a borough are mentioned in the 'Survey.'

A typical entry is that for North Auckland (Bishop Auckland):—'Johannes Burdon, Johannes Pollard et socii sui, firmarii de Aukland, ten. dictum burgum cum firma burgi exeunte de burgo, cum tolneto fori et mercati; curiae burgi cum proficuis, cum duobus molendinis de North Aukland, Bycheburn

²²¹Rentals and Surveys, portfolio 21, no. 29.

²²²Greenwell, *Bishop Hatfield's Survey* (32 Surt. Soc. publ.).

²²³The Wapentake of Sadberge was treated as a separate county from Durham, and a county court was held at the vill of Sadberge. The burgage tenements entered under Sadberge in the *Survey* may have been those in Hartlepool. Lapsley, *op. cit.*, pp. 85*n*, 195. *Bishop Hatfield's Survey*, pp. 194-197.

et les Byres, cum tolneto cervisiae de West Aukland, cum communi furno de North Aukland, red. *p.a.* 26*l.* 13*s.* 4*d.*

Darlington was the most valuable of the boroughs at this time, and had a higher farm than even Durham. It was worth 90*l.* in 1380, and was farmed for 93*l.* 6*s.* 8*d.* in 1395. The farm of Gateshead was 22*l.* Sunderland, called by its modern name, had formerly been worth 20*l.*, but now only brought 6*l.*, a fall which is eloquent of the suffering caused by the Black Death. The value of the free rents (landmale) of the borough was 32*s.* 8*d.* Durham, like Auckland, was farmed by a number of the burgesses for three years, rendering *p.a.* 80*l.* In Stockton the free rents were divided into two parts, one consisting of the payments of burgesses within the borough, the other those of the burgesses beyond the borough. The sum was 22*s.* 11½*d.* The total farm of the borough was 106*s.* 8*d.* A toll called 'towrist' occurs among the sources of revenue which were leased to the farmers. In Hartlepool the bishop owned a windmill, the common oven, and a house, but nothing else is entered.

Such was the position of the boroughs at the end of the fourteenth century. Newcastle-upon-Tyne was now a great independent corporation, and in all other parts of England the boroughs were increasing in independence and importance. Cases of formal incorporation had already occurred. But the boroughs of Durham had slipped back, rather than advanced, on the road to self-government since the thirteenth century. At Hartlepool and Stockton a beginning had been made in obtaining elective officials, and there was a certain amount of self-government in the borough courts and at the meetings to manage the common fields, but on the whole the general form of government established was so entirely under the bishop's control that the Durham towns would scarcely justify their title as boroughs if it were not for the development of industrial corporations within them, which is such a curious feature of their later history.

THE CRAFT GILDS AND TRADE COMPANIES.

Durham is the only town in the bishopric where records of craft guilds now exist.²²⁴ The ordinary of the weavers' gild dated 1450^{224a} is the earliest now extant, and the gild had probably been in existence as a private association for some time before it received confirmation.²²⁵ The officers of the gild were the two wardens. On Corpus Christi day all the members were to walk in procession and play the play 'that of old tyme longes to yair crafte.' There were penalties for using deceit in the craft, for tempting away another man's customers, and for taking to apprentice a Scotsman or a Scotswoman. The last rule seems to have been the one which the authorities were most concerned to enforce. In 1447 there are recognizances given by the cordwainers and the fullers for the observance of the rule against Scotsmen.²²⁶ The ordinary of the cordwainers is dated 1458,^{226a} but there is no further reference to the fullers' gild before the Reformation.

Other pre-Reformation guilds were the barbers, which had an ordinary dated 1468, the butchers 1520, the goldsmiths 1532, and the skimmers and glovers, which was in existence before 1507.²²⁷ All the guilds whose ordinaries have survived walked in the Corpus Christi procession and played their plays. They had usually two wardens, to whom disputes between the gild brothers were referred for arbitration or licence to go to law. There were rules as to prices, and the times when members might work, and the rules against taking Scottish apprentices or taking the livery of any lord except the king or the bishop were

²²⁴ At the beginning of the seventeenth century there existed an ordinary of the butchers' gild dated 1403.

^{224a} Dur. Curs., no. 44, m. 9.

²²⁵ *Victoria County History Durham*, II, p. 255. Deputy Keeper's Report on the Public Records, vol. 38, Append., p. 568.

²²⁶ Dur. Curs., no. 45 m., 23 d.; *ibid.*, 46 m., 23 d.

^{226a} Hutchinson, *op. cit.*, 16n. ²²⁷ Surtees, *op. cit.*, IV (2), 21 *et seq.*

common to all. The rules against working on holy days do not seem to have been well observed, judging by a proclamation which the bishop issued in 1489 to the clergy of the diocese, ordering them to take measures against the artificers and workmen who worked on public feast days in the churchyards, even during divine service.²²⁸

In 1468 the seneschal of the borough of Durham held an inquisition on the disputes between the two branches of the weavers' gild, the woollen weavers and the chalon weavers, as to the articles which they might respectively manufacture; to the woollen websters were assigned 'woollen clothes, plain lymen, carsay, sek cloth, and haircloth,' and to the chalon websters, 'coverings, tapestry work, say, worsted motleys, twilled work and dyaper,' each branch to make only the articles assigned to it, under penalty of 5*l*.²²⁹

The religious gild of Corpus Christi in Durham, with which the craft gilds were closely connected, was licensed by bishop Langley in 1436, to be held in the church of St. Nicholas in the market place. Among its founders were the constable of the castle, the receiver-general, and the clerk of the chancery. It was probably to the aldermen of this gild that Thomas Billingham leased the spring in the market-plate in 1450.²³⁰ The charter of 1565 incorporated the city under the government of an alderman and twelve common councillors, a form of government which was probably borrowed from the Corpus Christi gild, and in 1626 an old seal of the borough and a mace were discovered in St. Nicholas's church.²³¹ These are some slight proof of the influence of the gild, which supplied to some extent the lack of a corporation; unfortunately no records of

²²⁸ Raine, *op. cit.*, appendix, p. cclclxxvii.

²²⁹ *Victoria County History Durham*, II, p. 243; curs., 50 m., 6 d.

²³⁰ Hutchinson, *Hist. of Durham*, II, p. 296*n*.

²³¹ Surtees, *op. cit.*, IV (2), p. 159.

it survive except an account of the procession of the guilds on Corpus Christi Day.²³² Their common membership in the religious gild united the crafts and trained them in the habit of acting together, having somewhat the same effect as the existence of a gild merchant.

After the Reformation the number of incorporated companies increased rapidly. The tanners received their charter in 1547, the carpenters, the glovers,^{232a} and the drapers and tailors in 1549, the mercers, grocers, haberdashers, ironmongers, and salters in 1561.²³³ The last is an example of the miscellaneous companies which are found in the small north country towns. The object of such a company was chiefly to prevent strangers from trading in the town without apprenticeship; the actual conditions of the trades were little attended to, and such a company soon lost all connexion except its name with any special trade. In the seventeenth century several of the ancient guilds obtained new charters, which incorporated them as trade companies, *e.g.* the weavers 1600, the fullers 1635, the masons 1638,²³⁴ the barbers and ropemakers 1655.

The first formal incorporation of the city of Durham took place in 1565, when bishop Pilkington granted a charter to the burgesses. The boroughs of Durham and Framwellgate were incorporated as one city, under the government of an alderman and twelve burgesses. The first alderman and burgesses were appointed by the charter. The twelve burgesses were to hold office for life; they were to elect twelve more burgesses who held office for one year, and the body of twenty-four formed the corporation and was empowered to elect the mayor and the future

²³² Fowler, *The Rites and Monuments of Durham* (107 Surt. Soc. publ.), p. 107.

^{232a} Deputy Keeper's Report on the Public Records, vol. 38., Append., p. 568.

²³³ Surtees, *op. cit.*, iv (2), pp. 20-25. ²³⁴ Hutchinson, *op. cit.*, II, p. 16n.

councillors, if they pleased the bishop. The alderman and burgesses, however, only held office during the bishop's pleasure ('*dummodo episcopo Dunelmi pro tempore existenti aliter visum non fuerit*'), and if the alderman was not elected before sunset on October 4th, the bishop was to appoint him. The weekly markets and the fairs, with the court of piepowder, were made over to the new corporation.²³⁵

To obtain this charter was the first step taken by the trade companies of Durham for the common welfare. It indicates that they were beginning to be conscious of their power, and they continued to exert it, for in 1602 they obtained from bishop Tobias Matthew a more ample charter, in which the position of the trade companies is clearly shown. The charter re-enacts the incorporation of Durham and Framwellgate under the title of the mayor, aldermen, burgesses, and commonalty of the city of Durham and Framwellgate; the corporate body have the power to plea and be impleaded, to hold land up to the value of 100 marks, and to have a common seal. The first mayor is appointed; future mayors are to be elected, to hold office for one year during good behaviour, and after the term of office to become aldermen for life. Twelve aldermen are appointed to hold office for life. The mayor and twelve aldermen are to choose twenty-four burgesses from the twelve 'arts, mysteries or crafts,' two from each gild, namely, two from the mercers, grocers, haberdashers, ironmongers, and salters; two from the drapers and tailors; two from the skimmers and glovers; two from the tanners; two from the weavers; two from the dyers and fullers; two from the cordwainers; two from the saddlers; two from the butchers; two from the smiths; two from the carpenters and joiners; and two from the freemasons and rough masons. The twenty-four were chosen yearly by the mayor and aldermen on October 3rd. The mayor, aldermen,

²³⁵ *Ibid.*, *loc. cit.*, *et seq.*

and twenty-four formed the common council, and met yearly at the gild hall or tollbooth on October 4th to elect a new mayor. All the revenues and powers formerly held by the alderman or the bailiff were made over to the new corporation. The clauses which made the officers dependent on the bishop's will were dropped.²³⁶ The charter received the royal confirmation in 1605; this was a safeguard on the part of the burgesses, who feared the bishop and hoped in this way to win the support of the king.

The companies named in the charter were those which were most powerful in Durham at the beginning of the seventeenth century. The goldsmiths' gild, which existed in 1532,²³⁷ is not mentioned, but later in the century it appears as the incorporated company of goldsmiths, plumbers, glaziers, potters, painters and braziers, and is called the plumbers' and glaziers' company by the Municipal Commissioners in 1835. The barbers, whose ordinary dated from 1468,²³⁷ had sunk into insignificance, but in 1655 the incorporated company of barbers and ropemakers was formed, and continued to exist in 1835. The curriers and chandlers were incorporated *c.* 1570.²³⁸ They also were still in existence when the Municipal Commissioners visited Durham, but they had never obtained representation on the corporation. The fullers and dyers split into two companies after the granting of the charter. Each of the two companies had one representative on the corporation, and when in 1811 the dyers' company became extinct, their representative was given to the smiths.²³⁹

The burgesses had some difficulty in obtaining possession of the privileges contained in their charter. Bishop Matthew died in 1606, only four years after it was granted, and his successor, bishop William James, was very unwilling to acknowledge the

²³⁶ *Ibid.*, II, p. 23n.

²³⁷ Surtees, *op. cit.*, IV (2), pp. 20-25.

²³⁸ Hutchinson, *op. cit.*, II, p. 21.

²³⁹ Report of Municipal Commissioners, 1835, Durham.

liberties which the burgesses of Durham had obtained. The complete story of the struggle in which the burgesses gained the observance of their charter has never been traced, and the records are fragmentary. In a letter to the earl of Salisbury bishop James complained of the claims advanced by the townsmen of Durham 'who in their pride usurp things never granted and challenge things not grantable.'²⁴⁰ The bishop obtained a decree in the Court of Exchequer in 1610 against the mayor and corporation of Durham,²⁴¹ awarding to him and his successors

²⁴⁰ *Cal. S. P. Dom.*, 1603-10, p. 573.

²⁴¹ Surtees, *op. cit.*, iv (2), p. 159. The depositions in this suit give part of the history of the burgesses' struggle for independence. It was deposed that about fifty years ago, *i.e.* 1560-61, Lawrence Hayles obtained a grant of the belliwick of Durham from the bishop. The companies and citizens of Durham objected to Hayles, who was removed from his office. Soon after this some of the burgesses travelled to London, probably, though this is not stated, to obtain a charter from the bishop. On their return the burgesses and freemen elected William Walton as alderman and chief head of the corporation. The chief officer was called the alderman until seven years ago (1602-3) when the title was changed to mayor. The alderman held the borough court and appointed the officers. He received the profits of the court, the landmale rents, tolls, etc., and accounted for them to his successor; he also paid a rent from them to the bishop.

In 1595 a fine of 30*l.* was paid for the renewal of the aldermanship and the alderman and his associates compounded with the bailiff of Durham for the profits of the borough court.

In 1600 the citizens refused to acknowledge the powers of two clerks of the market who had been appointed by the bishop, claiming that the mayor had now the right to appoint those officers. Following on this the burgesses obtained from bishop Tobie Mathew the charter of 1602, but one of the witnesses stated that he 'hath heard the said Reverend Father say openly that he did never repent him more of any thing he did than of that grant, for he said he was abused therein by Hugh Wright, his solicitor, who had procured more to be inserted and put into the said grant than by him was intended or meant to be granted. And this examine hath heard Thos. Pearson one of the pretended aldermen of the same city and one of the defendants divers times very ridiculously and scornfully say they had nothing in their grant which was not paid for.'

Bishop James ignored the charter, and appointed a bailiff, Edward Hutton, whom he ordered to hold the borough court. The court met at the tollbooth

the borough, tollbooth, fairs and markets of Durham. The office of mayor of Durham was an unpleasant one at this time, and in 1608 Hugh Wright, who was elected, paid a fine of 20*l.* for his refusal to hold office.²⁴² In 1617 James I visited Durham²⁴³; he was received on his entrance into the city by the mayor, who referred in his speech of welcome to the king's first visit to the city in 1603, when he had 'found this city inabled with divers liberties and privileges,' which he had been graciously pleased to confirm under the great seal of England. An apprentice then presented to the king some verses which described the grievance of the city; the liberties which had been granted by 'the great

at 9 o'clock in the morning. Edward Hutton appeared as the bishop's bailiff and John Richardson as the steward. Hutton handed a white staff to Robert Harrison, yeoman, 'saluting him thus, "God give you good success in your office."' Probably Harrison was a constable, but Hutton's good wishes were not fulfilled, for before the proceedings began 'Mr. Patterson offered to pull the said Edward Hutton out of his place but could not.' Hutton read a proclamation issued by the bishop, probably to authorize his proceedings, but this only made matters worse. Richardson stated that 'after the attempt to pull the said Hutton out of the chair came Robert Surtees and William Hale in swaggering fashion, the first throwing off his gown, the other in boisterous manner accompanied with Thomas Pearson, John Heighington and Mark Forster, other of the defendants, and with very great violence and disorder the said Robert Surtees and William Hale pulled the said bailiff and this deponent out of their places, and the said William Hale did cast away this examine's books which he brought for that court and scattered his papers therein, and hindered the said bailiff and this examine as steward to keep the said bishop's borough court; and although the said bailiff did civilly entreat them to desist their disturbances, they, mutinously enraged, did hale, pull and draw the said bailiff, this examine, and the said Robert Harrison out of the said tollbooth and thrust them down the stairs and out at the door . . . some crying "Put them in the stocks," others of them crying, "Thrust them into the Pant" or "Break their necks down the stairs." or words to that effect.' (Exchequer: Depositions by Commission, no. 41, Easter term 8 James I, calendared in the Deputy Keeper's Report on the Public Records, vol. 38, append. p. 568; from notes kindly lent by Mr. K. H. Bayley.)

²⁴² *Arch. Ael.*, 1 ser. III, p. 127.

²⁴³ *Ibid.*, pp. 125-126.

prelate which of late adorned her dignities,' and confirmed by the king himself, had been attacked by the present bishop,

'Man's might
Hath greater force than equity or right.'

The verses concluded by imploring the king's pity and aid for the oppressed corporation. The effect of this appeal is not recorded, but according to tradition the king took up the cause of the burgesses, and scolded bishop James violently for his aggressions.²⁴⁴ There seems to have been a pause in the struggle over the charter, but in 1622 the meeting for the election of a mayor was adjourned as no one would stand for the office,²⁴⁵ and in 1624 and 1625 several persons were fined for refusing to hold office when elected. In 1627 bishop Neile granted to Ralph Allinson the office of bailiff of Durham,²⁴⁶ but the succession of mayors continued. After bishop Neile's death in the same year three bishops, Montaigne, Howson, and Morton, rapidly succeeded each other. As they did not hold the see long enough to pursue a settled policy of opposition to the burgesses the liberties of the city were at length established. By the time that bishop Morton was consecrated in 1632 the political and religious state of the kingdom was too serious for the bishop to indulge in minor squabbles with his people.

The corporation was only once afterwards interfered with by the bishop, in 1684, when bishop Nathaniel Crewe, in imitation of James II's proceedings against the borough charters, obtained the surrender of the charter of Durham.²⁴⁷ He granted a new one in its stead, which has been lost. Its existence, however, was very brief; at the Revolution it was annulled on the grounds of some technical flaw in the surrender of the old charter, which was at once revived and came into operation again.

²⁴⁴ Longstaffe, *Hist. of Darlington*, p. 127. ²⁴⁵ *Arch. Ael.*, *loc. cit.*, p. 128.

²⁴⁶ Surtees, *op. cit.*, iv (2), p. 159; Hutchinson, *op. cit.*, II, p. 30n.

²⁴⁷ Hutchinson, *op. cit.*, II, pp. 31-32.

The very close connexion of the corporation with the trade companies is shown by the fact that some of the corporation records were found among the papers of the drapers company.²⁴⁸ The representation of the companies on the town council gave the corporation of the city some of the aspects of a merchant gild. The town hall was sometimes called the gild hall, and the council meetings were called general gilds. At these meetings affairs relating to the whole body of trade companies in the town were dealt with; but it is very doubtful whether this is really a survival of a merchant gild. It is more probable that it was the result of the great influence which the trade companies possessed on the constitution of the new corporation, and possibly in part a survival of the Corpus Christi gild.

The position and the weakness of the mayor in relation to the trade companies was shown at a meeting held in 1639 to discuss the preparations for Charles I's reception in Durham.²⁴⁸ It was arranged that the companies should each pay certain sums agreed upon. Besides the companies which were represented on the town council, the number of vinters and tavern-keepers and the number of bakers were assessed; these were probably small companies which had not obtained formal incorporation. On the strength of this assessment the mayor advanced the money for the king's reception, but when he tried to recover it, the companies refused to pay, and arbitrators who were appointed decided against the mayor's claims.

The history of the companies may be gathered from their various suits against foreigners.²⁴⁹ They continually struggled to prevent strangers from setting up their trades sufficiently near the members' places of business to compete with them, and in this way they gradually extended their jurisdiction²⁵⁰ over

²⁴⁸ Surtees, *op. cit.*, iv (2), p. 160.

²⁴⁹ *Arch. Ael.*, 2 ser. II, pp. 165-170, 208-215.

²⁵⁰ *Ibid.*, pp. 206-207. Burgesses of any of the boroughs within Durham could become members of the companies.

Elvet, the parishes of St. Mary-le-Bow and St. Mary-the-Less, and the extra-parochial district of the cathedral and the castle. The inhabitants of these places were rendered eligible for office on the corporation by bishop Egerton's charter of 1780, but the districts themselves were not incorporated in the borough until the Municipal Corporations Act of 1835.

The combinations of different trades within one company did not work very well, and there was a tendency among the companies to split up when nothing was going on, although they amalgamated again when unity seemed profitable. There is a list of the companies whose members voted at the election in 1675 of members for the county.²⁵¹ Nineteen companies are named, but of these the fullers, dyers, cloth-workers and felt-makers were one company in 1602 and also in 1835: the plumbers and glaziers had joined the potters, painters and braziers in 1780, and the smiths and cutlers had also probably united. In 1730 the society of cutlers and bladesmiths²⁵² claimed to be an ancient corporation whose by-laws were confirmed by bishop Cuthbert Tunstall (1529-1560). They repudiated an agreement which had been made with the society of smiths and lorimers, whereby the members of each company might become free of the other on payment of a small fee. In the same year an agreement was made between the smiths and the lorimers that no smith should take a journeyman who was a lorimer or *vice versâ*. In the charters of 1602 and 1780, however, and before the Municipal Commissioners, only one company of smiths appeared, and the separate company of cutlers is not mentioned either in 1780 or in 1833, when the other companies who were not represented on the town council put forward their claims.

No sooner was the city of Durham incorporated than an agitation began to obtain for it representation in parliament.²⁵³

²⁵¹ Hutchinson, *op. cit.*, II, p. 45n. ²⁵² *Arch. Ael.*, 2 ser. II, pp. 171-172.

²⁵³ *Victoria County History Durham*, II, p. 171n.

In this the burgesses were strongly opposed by the bishops, and the struggle lasted until the Commonwealth, when in 1654 the city of Durham sent a representative to Westminster.²⁵⁴ After the Restoration bishop Cosin was able to abolish the innovation for a time, but in 1673, during the vacancy of the see after his death, the freeholders of Durham were at last successful, and obtained two members for the county and two for the city of Durham, this being the last grant of representation before the Reform Act of 1832.

The two members for the city of Durham were elected by the mayor, aldermen, and freemen of the borough. This new privilege had a great effect on the trade companies, making their old commercial exclusiveness an important factor in the politics of the town. The freedom of the borough could only be obtained through the companies, either by birth or apprenticeship.²⁵⁵ All the sons of a member of the mercers or drapers companies were entitled to take up their freedom at the age of twenty-one, but only the eldest son in the other companies. Members of the companies which were excluded from the town council had the same right to vote as those of the twelve represented companies. The freedom was never sold and rarely presented as a gift. Those who had not the birth qualification could only obtain it by apprenticeship, and as the value of the freedom rose in consequence of the vote attached to it, various frauds were practised to evade the seven years' apprenticeship. In order to prevent these evasions the mayor and town council in 1728 passed a series of seven by-laws.²⁵⁶ The first two were framed to prevent foreigners from trading in the borough. The other five were directed against those who tried to obtain the freedom of the

²⁵⁴ Hutchinson, *op. cit.*, II, p. 45; 'A List of Knights and Burgesses who have represented the County of Durham in Parliament' (Sunderland, 1830).

²⁵⁵ 'Report of the Municipal Commissioners, 1835, Durham.'

²⁵⁶ Hutchinson, *op. cit.*, II, p. 33*n*.

borough without serving for it. They enacted that the mayor and at least one alderman, together with the wardens and stewards of the several trade companies, should hold four meetings in the year at Martinmas (November 11th), Candlemas (February 2nd), Mayday, and Lammas (August 1st), at which meetings the names of candidates for the freedom of the borough were to be called over and approved by the mayor and aldermen and the stewards of the respective companies. No freeman was admitted unless his name had been called and approved at three such meetings, and written by the town clerk in a book kept for the purpose. Penalties were laid on any freeman who took an apprentice in a clandestine manner, merely in order that he might obtain the freedom, and not to teach him a trade, and also on the mayor and the stewards of the companies if they admitted freemen improperly. The validity of these by-laws was tested and confirmed in 1757, in the case of Robert Green, who was admitted to the company of masons without having been called at the three general gild meetings. The court of King's-bench decided that the by-laws were legal,²⁵⁷ and had been continually observed since 1728; judgment was given against Robert Green, and the power of the mayor and corporation to make by-laws was confirmed.

At this period political feeling in the city of Durham was very strong, and it was not long before the corporation was tempted to use its power for other purposes than maintaining the restrictions on the franchise. In the general election of 1761 for the first parliament of George III, John Tempest, of Wynyard, and Henry Lambton, of Lambton hall, were elected to represent the city of Durham; a third candidate, Ralph Gowland, of Durham, being defeated.²⁵⁸ The election took place in April, and in June Henry Lambton died. The political excitement in the country at that time was very great. The

²⁵⁷ *Ibid.*, p. 34n.

²⁵⁸ Hutchinson, *op. cit.*, II, pp. 37, 46n.

Seven Years' War was drawing to an end. The young king was entering upon his first contest with the elder Pitt. There had just been a general election, and political feeling in the city of Durham was at its height. The new candidates were John Lambton, brother of the late member, the head of the old Whig family of Lambton, and Ralph Gowland, who had been defeated in the previous election. On October 5th Pitt resigned office. On October 13th²⁵⁹ the mayor of Durham, with a few of the aldermen and common council-men, held a meeting which repealed the by-laws of 1728. Another meeting of the same persons was held on November 2nd, at which the names of over 200 persons were called and enrolled by the town clerk. These newly-made freemen voted at the poll which was held from December 7th to December 12th;² Gowland was elected by a majority of twenty-three, practically the whole of the newly-made freemen having voted for him.

These proceedings were very much disliked in the town. Lambton became a popular hero, and on his petition to the House of Commons in 1762 it was declared that the creation of the new freemen was illegal, and that Lambton was duly elected. Thus the matter ended so far as the representation of the city was concerned, but the action of the mayor naturally led to violent dissensions among the principal citizens of Durham, who in the ordinary course of events formed the corporation. These quarrels culminated in 1766, when quo warranto proceedings were taken against the mayor, whose election was declared illegal.²⁶⁰ Several of the aldermen were removed by the same proceedings, or resigned, and the remaining number being insufficient for the election of a new mayor, for which a majority of seven aldermen was required, the charter lapsed, and the city remained without any settled form of government until 1780.

²⁵⁹ Hutchinson, *op. cit.*, II, p. 36; 'A List of Knights and Burgesses,' pp. 43-45.

²⁶⁰ Surtees, *op. cit.*, IV (2), p. 17.

Several petitions were presented to bishop Richard Trevor (1752-1771) requesting that a new charter might be granted. The feeling of the majority of the burgesses seems to have been in favour of a simple renewal of the old charter, but a petition has been preserved²⁶¹ which embodies a request for two alterations, namely, (1) that the two representatives of each company should be elected by the company, and not, as heretofore, chosen by the mayor and aldermen, 'the same having been productive of many mischiefs, expensive law-suits, and other very disagreeable incidents and is of great detriment and oppression to the said several companies and fraternities, who by such means are not represented by two such persons . . . as they would respectively desire;' (2) that the three unrepresented companies, the carriers and chandlers, the ropers and barbers, and the goldsmiths, plumbers, pewterers, potters, glaziers, and painters, should have the same representation on the town council as the other companies. Although these alterations appear reasonable and convenient, the petition was neglected, and the new charter differed from the old one only in a very few points.²⁶² The common councilmen were still chosen by the mayor and aldermen, and the three excluded companies were still unrepresented when the Municipal Commissioners visited the city,²⁶³ although one of the old companies, the dyers, had become extinct. The companies had by that time lost all connexion with trade, and were only of importance as a means of obtaining the franchise and of sharing in the rents of the inclosed town moor.

No evidence has been discovered of craft gilds existing in any borough of the palatinate except Durham before the Reformation. There were several religious gilds, but very little is known con-

²⁶¹ Hutchinson, *op. cit.*, II, p. 37n.

²⁶² *Ibid.*, II, pp. 38-56. The chief difference was that the members of the companies were chosen a week after the election of the new mayor, instead of being chosen the day before the election, by the old mayor and the aldermen.

²⁶³ 'Report of Municipal Commissioners, 1835; Durham.'

cerning them. There was a gild of St. Anne at Bishop Auckland,²⁶⁴ and a gild of St. Giles²⁶⁵ in the little borough of St. Giles which belonged to Kepyer hospital. A gild of the Holy Trinity in Elvet, which had an alderman and a gild hall is mentioned by Surtees,²⁶⁶ but does not appear among the Durham gilds in the gild and chantry certificates of 1548. It is interesting to observe that there are traces of two religious gilds at Gateshead, which had afterwards the most important trade companies in the bishopric excepting those of Durham. The gild of St. John²⁶⁷ was mentioned in 1490, and may possibly have been founded in 1421. The gild of St. Cuthbert²⁶⁸ was in existence in 1541, but was then apparently on the verge of dissolution.

It remains to consider the trade companies which existed in the Durham boroughs during and after the sixteenth century.

No trace of such a body is to be discovered at Bishop Auckland. The condition of the little town during the rest of its history is briefly summed up by Leland²⁶⁹: 'The towne self of Akelande is of no estimation, yet is ther a praty market of corne.' Except for its market and a few burgage holders, Auckland lost all claim to be considered a borough. Darlington was not visited by the Municipal Commissioners in 1833; according to a modern authority 'in Darlington practically no remnant of municipal organization survived in 1689.'²⁷⁰ But this statement ignores the fact that trade companies, which were the chief feature differentiating the Durham boroughs from the country townships, existed at Darlington throughout the seventeenth and eighteenth

²⁶⁴ Raine, *Ecclesiastical Proceedings of Bishop Barnes* (22 Surt. Soc. publ.), pp. lxiv, lxiii.

²⁶⁵ Barmby, *Memorials of St. Giles, Durham* (95 Surt. Soc. publ.), p. xxxv.

²⁶⁶ Surtees, *op. cit.*, iv (2), p. 81.

²⁶⁷ Longstaffe, *Memoirs of Ambrose Barnes* (50 Surt. Soc. publ.), append., p. 260; Welford, *Newcastle and Gateshead*, I, p. 267.

²⁶⁸ *Durham Wills and Inventories* (2 Surt. Soc. publ.), I, pp. 117, 119.

²⁶⁹ Leland, *Itinerary* (ed. 1770), I, p. 72.

²⁷⁰ B. & S. Webb, *English Local Government, Manor and Borough*, p. 199n.

centuries, although in a rudimentary form. In 1577 articles were agreed upon in the borough court for the occupation of cordwainers 'by the burgesses and commonalty of the borough town of Darlington.'²⁷¹ All followers of the occupation were to assemble once a year, on October 25th (St. Crispin's day) at the toll-booth to elect two wardens. The wardens, however, were under the control and supervision of the bailiff and borough court. There were various rules as to apprenticeship, times for work, foreign workmen, and so forth. Any person of the occupation might obtain leave to set up in the town by paying a fine, which was shared between the bailiff and the company, and 'making a dinner according to his ability to the masters of the Occupation,' but an apprentice had only to give the dinner and to pay 12*d.* to the wardens and 12*d.* for registration. This was a private and informal company, which, as far as can be ascertained, received no charter of incorporation from the bishop. The articles were confirmed in 1638 and again in 1710 by the whole company of cordwainers of Darlington and the bailiff of the borough for the time being. The company seems to have become by degrees more independent of the borough court, as in 1737 it was agreed that all fines should be paid to the company, and not to the bailiff. There was a company of smiths of similar constitution, which was formed in 1628.²⁷² In 1661 licence was granted by the bishop to a grocer to trade in Darlington, although he had not served an apprenticeship, but no other trace of a grocers company has been found.²⁷³ In 1745 the tanners of the borough provided a dinner for the cordwainers,²⁷⁴ but it is not clear whether the former were an acknowledged company.

The trade companies of Gateshead were second only to those of Durham in importance. Their development was probably

²⁷¹ Longstaffe, *Hist. of Darlington*, pp. 282-283.

²⁷² *Ibid.*, p. 289.

²⁷³ *Ibid.*, p. 291.

²⁷⁴ *Ibid.*, p. 283.

due to the continual menace of Newcastle,²⁷⁵ which forced the burgesses of Gateshead to unite in self-defence. It is curious to observe the effects of the policy of statesmen on the little distant boroughs. As the resignation of Pitt in 1761 brought about the downfall of the mayor and corporation of Durham, so in Edward VI's reign, the determination of the duke of Northumberland to make himself supreme in the north nearly destroyed the borough of Gateshead altogether. In March, 1553, the see of Durham was dissolved, and the support of the burgesses of Newcastle was purchased by uniting Gateshead to that city.²⁷⁶ The death of the king in July prevented Northumberland from proceeding any further in his designs, and the acts dissolving the bishopric were repealed in April, 1554,²⁷⁷ but the corporation of Newcastle lost no time in annexing the neighbouring town, and when the project was renewed in 1575, the petition of the inhabitants of Gateshead against the bill shows a lively sense of what they had escaped.²⁷⁸ The most important clauses of the petition are:—

(3) Whereas it is said in the same bill that every inhabitant of Gateshead serving with a freeman in Newcastle in any art or mystery shall be afterwards deemed as a freeman, which is no benefit to the town of Gateshead, for they will never take any of the town of Gateshead to be their prentices, neither suffer, by virtue of their private orders which they have among themselves, any of Gateshead to take a prentice. Whereof it will ensue that the poor men of Gateshead, becoming aged and cannot take apprentices, shall be driven to beg when they are past labour, so that of free burgesses they shall be brought into extreme bondage.

(4) By reason of the said statute, if it proceed, the sons and prentices of the inhabitants of the town of Gateshead shall never be made free,

²⁷⁵ See Dendy, *The Company of Hostmen of Newcastle* (105 Surt. Soc. publ.), p. 29; *Newcastle Merchant Adventurers* (93 Surt. Soc. publ.), I, pp. xli, 47, 53-54, 57, 78, 98, 151, 168, 197, 201, 207, 220, 263.

²⁷⁶ *Victoria County History Durham*, II, pp. 33-34; 7 Edw. VI, cap. 10; Welford, *Newcastle and Gateshead*, II, pp. 293-299.

²⁷⁷ 1 Mary, cap. 2; Welford, *op. cit.*, II, pp. 305-310.

²⁷⁸ *Arch. Ael.*, 2 ser. VII, p. 222.

so as in continuance of time the town shall be dispeopled, and so of an ancient borough shall be made a desolate place.

(5) Whereas every stranger coming into the town did first agree with the bishop and the company of his occupation before he was suffered to occupy, this benefit by this bill is meant to be taken both from the bishop and the artificers of the town.'

The burgesses of Gateshead succeeded in defeating the proposed bill by winning over to their interest Sir William Fleetwood, the escheator of the see, which was vacant.²⁷⁹ They gained their point by their religious orthodoxy, for while Gateshead was a pillar of the reformed church, Sir William declared that the burgesses of Newcastle were all papists.

The first of the companies to receive episcopal confirmation was the company of barkers and tanners, 1557. No other charters or evidences have been discovered of companies before 1575, the date of the petition, but from its wording it is evident that there were other companies which had existed for some time.²⁸⁰ Probably they were in the same rudimentary stage as those of Darlington, but pressure from Newcastle made their members seek for authoritative confirmation of their privileges. Foiled in the attempt to annex the town, the corporation of Newcastle in 1578 brought the suit against Richard Nattress which has been referred to above.²⁸¹ The Corporation claimed that they had the sole right of trading on both banks of the Tyne, but the witnesses on behalf of the defendant gave evidence that trade

²⁷⁹ *Ibid.*, p. 226; *Cal. S. P. Dom.*, 1547-1580, pp. 517-519.

²⁸⁰ Accounts of the trade companies of Gateshead are to be found in *Victoria County History Durham*, II, p. 256; *Gentlemen's Magazine*, 1862, vol. XIII, p. 164 *et seq.*, an article by W. H. D. Longstaffe; and Boyle, *Vestiges of Old Newcastle and Gateshead*, pp. 226-227*n*. Boyle gives the best account of the charters, of which the greater number are in the possession of the borough holders of Gateshead and not open to inspection.

²⁸¹ *Arch. Ael.*; 2 ser. II, p. 226. For instances of the hostility of the Newcastle companies to Gateshead see Dendy, *The Company of Hostmen of Newcastle* (105 Surt. Soc. publ.), p. 29; *The Merchant Adventurers of Newcastle* (93 Surt Soc. publ.), vol. I, pp. 47, 54, 57, 78, 98, 151, 197, 207, 220.

had always been carried on in Gateshead; it was the flourishing state of the borough that provoked the jealousy of Newcastle.

The trade of Gateshead was not suppressed, and in defence of their rights several companies obtained charters before the end of the sixteenth century. The weavers received their charter in 1584; the officers of this company were the alderman and wardens. The company was falling into decay in 1691, when it was ordered that persons not capable of the trade might be admitted on payment of 20s. for ignorance and 20s. for admittance.

The dyers, fullers, blacksmiths, locksmiths, cutlers and joiners or carpenters were incorporated in 1595, a year of great activity among the companies. The number of miscellaneous trades which united in this company were probably acting from motives of self-defence, as the carpenters and smiths were particularly obnoxious to the Newcastle corporation, who endeavoured to prevent any men of these trades, except freemen of Newcastle, from working on ships in the Tyne. Several examples of the arrest of Gateshead carpenters and smiths before 1649 are given by Ralph Gardiner in his attack on the Newcastle corporation.²⁸² The company petitioned bishop Edward Chandler (1730-1750) to maintain their privileges against foreigners.²⁸³ This was one of the two surviving companies in 1833.²⁸⁴

The drapers, tailors, mercers, hardwaremen, coopers and chandlers were incorporated in 1595.²⁸⁵ This was the most powerful company in the town. An agitation for a new charter was begun in 1646, after the dissolution of the bishopric. The charter, which was obtained in 1658, incorporated the company

²⁸² R. Gardiner, *England's Grievance Discovered* (1655), pp. 90-91.

²⁸³ Gateshead Legal Documents, Lib. Soc. of Antiq. of Newc., A.F., p. 43.

²⁸⁴ 'Report of the Municipal Commissioners, 1835, Gateshead.'

²⁸⁵ *Rot.* 1 Matthew, m. 7, ann. 1.

under the title of the wardens and commonalty of the town and borough of Gateshead, a title which afterwards gave rise to some confusion, as it was thought to refer to a municipal corporation.²⁸⁶ The books of the company, which are still extant, contain entries dating from 1645, but were regularly kept from the granting of Cromwell's charter.²⁸⁷ After the Restoration, this charter was valueless, but the company obtained a new one in 1661 from bishop Cosin. This company and the carpenters were the two surviving in 1833, having only five members between them.

The date of the charter of the cordwainers company is usually given as 1602, but there is an entry of the confirmation of their fellowship on the Chancery Rolls of 1595.²⁸⁸ The company²⁸⁹ presented a petition to bishop Chandler against the number of strangers who practised the trade in the town without serving an apprenticeship.

The freemasons, carvers, stonecutters, sculptors, brick-makers, tilers, bricklayers, glaziers, painters, stainers, founders, nailers, pewterers, founders and plumbers, millwrights, saddlers, bridlers, trunkmakers and distillers of all sorts of strong waters and other liquors, were incorporated in 1671. A company of this description was practically a form of insurance for the businesses included in it against new establishments. Thus there appear to have been only two distillers in the town; by getting their trade included in the charter, they obtained power to levy a fine upon anyone who attempted to set up a distillery in the town, and, if he refused to pay, they could take legal proceedings against him.

²⁸⁶ Brockett, 'An Exposure of the Attempt of 54 Individuals to Hoodwink the House of Lords' (1835), pp. 12-15. *Cal. S. P. Dom.*, 1656-1657, pp. 199, 284; 1657-1658, pp. 142, 218, 225, 238.

²⁸⁷ In the Gateshead Free Library. Printed as a supplement to *Northern Notes and Queries*, 1907.

²⁸⁸ *Rot. 1 Matthew*, m. 16, ann. 1.

²⁸⁹ Gateshead Legal Documents, *loc. cit.*

If an old letter, which has been several times printed, is genuine, the formation of this company was no better than a job between an influential burgess of Gateshead, Robert Trollope, architect and mason, and the bishop's officials.²⁹⁰ From the letter it appears that 'the trunkmaker' had offered to each of the officials a new trunk if they would put him in the charter. Trollope was also interested in the grocers, who offered 20*l*, but eventually were not included, and the saddlers and bridlers, who were included, though the price is not stated. Naturally, this affair aroused considerable opposition, and a petition was drawn up in 1692 by a number of plasterers, carpenters, wallers, glaziers, slaters, bricklayers, and millwrights of Gateshead against the new company,²⁹¹ which, as they complained, had been formed by certain confederates. The company, however, maintained its position for a time, and there remains the record of a suit brought against it in 1692 by the widow of a glazier, who did not belong to the company.²⁹² The company had ordered him to desist from working, and had fined him. The fine was not paid when he died, and his widow denied the right of the company to levy it.

The last of the Gateshead companies was that of the grocers, apothecaries, and pipemakers, which was incorporated in 1676, but only existed for two years; it was vigorously opposed by the company of tailors and drapers, who obtained a decree in the Durham Chancery in 1678, ordering the surrender of the grocers' charter. In 1683 the drapers' company took further proceedings against the grocers.²⁹³

From these facts it appears that throughout the seventeenth century the trade companies were vigorous and were able to maintain a profitable monopoly. The books of the company of

²⁹⁰ Boyle, *loc. cit.*; Surtees, *Hist. of Durham*, II, pp. 112-113*n*.

²⁹¹ Gateshead Legal Documents, *loc. cit.*

²⁹² *Ibid.*

²⁹³ Records of the Company of Drapers, *loc. cit.*, p. 29.

drapers were kept regularly throughout the eighteenth century, the last admittance being in 1825, while the accounts were kept until 1830. The activities of the company were of various kinds. Its moral object, as the minutes record, was 'that we may be made truly happy, or at least civil one towards another,' and though this ideal was never attained, a considerable income was drawn from the fines for misbehaviour at the rather turbulent quarterly meetings, which were held in the anchorage adjoining the parish church. All members were obliged to attend the funerals of their fellows, and the widows were pensioned if they required it. With regard to trade, the company devoted itself to maintain the rules of apprenticeship, and waging war against all non-members who exercised any of the six trades within the company. There are no signs of any attempt to regulate the conditions of trade in such matters as the hours for work, holidays, prices and wages. The freedom of the borough belonged to all full members of the companies of Gateshead.²⁹⁴

All that is known of the trade companies of Hartlepool has been related in considering the merchant gild. Companies of the type of the Darlington fellowships seem to have existed there. The freedom of the town could be obtained by apprenticeship,²⁹⁵ and the companies retained some traces of having originated within the merchant gild.

There were no trade companies in Stockton, and the freedom of the borough could only be obtained by possession of a burgage holding.²⁹⁶ In 1677 the company of drapers and tailors of Durham petitioned against a charter of incorporation which the men of Stockton were endeavouring to obtain.²⁹⁷ It is not clear whether this was a municipal charter, or, as is perhaps more probable, a charter for an incorporated company. In any case

²⁹⁴ 'Report of the Municipal Commissioners, 1835, Gateshead.'

²⁹⁵ *Ibid.*, Hartlepool.

²⁹⁶ *Ibid.*, Stockton.

²⁹⁷ Brewster, *Hist. of Stockton*, p. 120.

the opposition of Durham was successful, and nothing more is heard of it.

The case of Sunderland has been dealt with above; there were no trade companies in the town.

It has been shown how the boroughs originated in the twelfth and thirteenth centuries in a normal manner, how their development was arrested in the fourteenth and fifteenth centuries, partly by the jealousy of the bishops, partly by the calamities of war and plague, and how in consequence they did not follow the lines on which the other municipalities developed. In the guilds and trade companies the burgesses found scope for the development of a certain amount of municipal self-government. Once they had obtained the bishop's sanction, and even before that in many cases, the control of the companies lay in the hands of the burgesses themselves, and thus the companies became the municipal, as opposed to the manorial institutions of the boroughs. In Durham and Hartlepool the corporations originated in the guilds. In Gateshead and Darlington, where incorporation was not obtained, the companies were the only form of municipal self-government. Stockton had no trade companies, because it alone of the Durham boroughs had obtained a certain amount of municipal independence at a comparatively early date.

Some of the boroughs of Northumberland, *e.g.* Morpeth and Alnwick, exhibit the same curious combination of the manor and the guild. The group of boroughs in Northumberland and Durham in which freedom could be obtained by apprenticeship, although the borough had only manorial courts, stands isolated between the simply manorial boroughs and the municipal corporations.²⁹⁸ This peculiar development may be attributed to the decline of the boroughs in the fourteenth and fifteenth centuries, when the manorial type was established, while their subsequent

²⁹⁸ S. and B. Webb, *English Local Government, Manor and Borough*, book II, *Manor and Guild*, p. 186 *et seq.*, p. 199n.

revival made it necessary for them to find some new organs of independent development.

The trade companies flourished during the seventeenth and the first part of the eighteenth centuries, but when the industrial revolution began to alter the whole scheme of things in Durham they very quickly disappeared, except in the city of Durham, where the political franchise belonged to the members. The age of monopolies had passed, and the privilege of sharing in the common fields, the only other advantage attached to membership, was not of much value, and was always grudged to the companies' freemen by the burgage holders. Hence the Municipal Commissioners found only slight traces of the companies in 1833, except in the case of Durham city, where several of the companies still survive as private associations.

THE PAROCHIAL ASPECT OF THE BOROUGHES.

The Durham boroughs were so slightly differentiated from the townships that it is impossible to give a true picture of their constitution without a sketch of the parochial organization of Durham. This is particularly necessary because the development of the boroughs was very much influenced by a characteristic feature of parish life in the north, the select vestry of twelve or twenty-four members. Close vestries of this kind occur sporadically all over England, but they are normal in London, Westminster, Bristol, and the northern counties. It would be out of place to attempt to deal here with the whole question of the origin of these vestries. The generally accepted theory is that there were some cases in which the close vestry was a survival of the leet jury, and that in other parishes a limited vestry was chosen in imitation of these juries by the parishioners.²⁹⁹ The early records of the boroughs are too scanty for it to be possible

²⁹⁹ S. and B. Webb, *op. cit.*, book I, chap. v, vi, and viii, where the whole question is fully discussed.

to determine how the close vestry originated in each case, or to trace its history before the beginning of the sixteenth century. The power of the churchwardens and four-and-twenty in the different boroughs was influenced by the situation of the parish church, being much greater when it stood within the borough. This was the case in the parishes of Durham city, Elvet, St. Giles, Gateshead and Darlington. Hartlepool, Stockton, and Bishop Auckland had chapels, depending on the churches of the parishes of Hart, Norton, and Auckland St. Andrews; Sunderland had no separate ecclesiastical establishment until the beginning of the eighteenth century.

In the small parishes lying within Durham the importance of the four-and-twenty was diminished by the existence of the corporation, which performed those functions of levying rates and acting as trustees for charities, which fell to the churchwardens and vestry elsewhere. In the parish of St. Nicholas the mayor, aldermen, and principal inhabitants appointed twenty-four persons in 1655 'to lay on all sesses for the poor.'³⁰⁰ This case is noteworthy because as a rule the four-and-twenty seem to have doubted their competence to administer the poor law, and to have left it to the local justices of the peace.³⁰¹

Elvet lay in the chapelry of St. Margaret, where in 1477 the two churchwardens, with the consent of all the parishioners, granted that John Hoton, who had presented an antiphonary to the church, should keep the gift for life, if it was returned to the chapel after his death. In 1489 the two 'proctors or churchmasters' are mentioned in a conveyance; and in 1493 there were four of them. At this time they acted with the consent of all the parishioners.³⁰²

The records of the little borough of St. Giles, which after the dissolution of Kepyner hospital passed to the family of Heath,

³⁰⁰ Surtees, *op. cit.*, iv (2), p. 50.

³⁰¹ Webb, *op. cit.*, p. 215.

³⁰² *Arch. Ael.*, 2 ser. II, pp. 24-26.

and thence by marriage to the Tempests,³⁰³ begin in 1579, and show the churchwardens and four-and-twenty managing the whole business of the parish and the common moor.³⁰⁴

The four-and-twenty of Gateshead were the most notable of the north country close vestries. Their origin is unknown, but it may have been connected with the chantries in the parish church. In 1330 Alan, the priest, founded a chantry of the Virgin in the church, of which the commonalty of Gateshead were to be the patrons. The grant was confirmed in 1403, when the right of election to the chantry was given to twelve, ten or eight honest citizens of Gateshead.³⁰⁵ In 1544 the bailiff and commonalty of Gateshead claimed the patronage of the chantry of the Holy Trinity in the hospital of St. Edmund the Confessor.³⁰⁶ The body of burgesses who appointed the incumbents of these chantries may have afterwards developed into the four-and-twenty.

The charter of murage granted in 1423 to the rector of Gateshead, together with the principal chantry priest and two laymen, has already been referred to. It is possible that the laymen were the churchwardens, but this is a very early date for them to be exercising purely secular functions.³⁰⁷ The earliest churchwardens' accounts are a few fragments dating from 1490.³⁰⁸ In 1501 there were four churchwardens, who appeared at the visitation of the archbishop of York, during the vacancy of the see.³⁰⁹ The regular churchwardens' accounts begin in 1626-27, when

³⁰³ Barmby, *Memorials of St. Giles, Durham* (95 Surt. Soc. publ.), pp. xxviii-xxix.

³⁰⁴ *Ibid.*, many references.

³⁰⁵ Welford, *Newcastle and Gateshead*, I, pp. 73, 236.

³⁰⁶ *Ibid.*, II, p. 216.

³⁰⁷ Hobhouse, *Churchwardens' Accounts of Croscombe* (Somerset Rec. Soc., 1890), p. xv.

³⁰⁸ Longstaffe, *Memoirs of Ambrose Barnes* (50 Surt. Soc. publ.), append., pp. 260-262.

³⁰⁹ Raine, *Eccles. Proc. Bishop Barnes* (22 Surt. Soc. publ.), append., p. xviii.

the close vestry of the rector and four-and-twenty was fully established.³¹⁰ They levied rates for the repair of the church, maintained the streets and wells of the town, had a large share in the control of the common fields, and were, in short, the executive body in the affairs of the town. The churchwardens, grassmen, wainmen, overseers of the poor, and other town officials were chosen by them on Easter Tuesday.

The gentlemen of the four-and-twenty were members of the oldest and wealthiest families in Gateshead. During the Commonwealth they were cavaliers, while Mr. Thomas Weld,³¹¹ the minister, was installed by the sequestrators in 1647, and was, of course, a parliamentarian. The four-and-twenty, who still controlled the government of the town, made a vigorous effort in 1656 to obtain the appointment of a lecturer of their own way of thinking, to administer to them the sacraments, from which they were debarred by Mr. Weld. The rulers, however, were on the side of the minister, and in 1658 the four-and-twenty of Gateshead were discharged by an order in council,³¹² which appointed a new four-and-twenty, including Weld, who had not sat with the previous one. The fact that the intervention of the central government was required to remove the four-and-twenty shows how strong their position was, for the town had been held by the parliamentarians since 1644. In this quarrel between the minister and the four-and-twenty it is not clear which party was the more popular in the town. There was a considerable amount of dissent in Gateshead, but on the whole the four-and-twenty seem to have had the support of their fellow burgesses, and when the list of the close vestry was remodelled in 1661, the names of those ejected appear again. When they lacked this support the

³¹⁰ Moor Ede, *Newcastle Weekly Chronicle*, June 1 and 8th, 1889; Webb, *op. cit.*, pp. 217-219; *Arch. Ael.*, 2 ser. VIII, p. 222 *et seq.*; Longstaffe, *op. cit.*, append.

³¹¹ *Dic. Nat. Biog.*, art. 'Thomas Weld.'

³¹² *Cal. S. P. Dom.*, 1657-1658, pp. 251, 330, 360.

position of the four-and-twenty was not so impregnable. It is not stated how the new list of 1661 was drawn up, but the changes had shaken the constitution of the old body. In 1676, in consequence of the complaints brought against the vestry for slackness and inefficiency, a general meeting of the parishioners was held, at which a new four-and-twenty was elected, and stricter rules for attendance were drawn up.

At the beginning of the nineteenth century, the four-and-twenty were still exercising their old powers, but with various limitations. The control of the common fields had passed to the borough-holders, and vestry meetings open to all parishioners, were held from time to time, at which all sorts of parish business was transacted. In 1820 a select vestry of twenty was elected at these parish meetings to deal with the poor law administration, and this body continued to be elected annually till 1836. An attempt was made in 1833 to induce the four-and-twenty to resign their powers to this select vestry, but it was unsuccessful. In 1835-6 the borough was incorporated and the administration of the poor law passed to the guardians. The four-and-twenty after this sank into insignificance, being simply attached to the parish church of St. Mary's, in which they appoint three of the four churchwardens. The only public function that they continue to exercise is the appointment of overseers of the poor in that parish, a right which was attacked at various times in the nineteenth century, but never lost.

The history of the close vestry which is best known and underwent the most striking incidents has been recapitulated here as an example of the close vestries of the north. That of Darlington was similar, but is mentioned as early as 1507,³¹³ when an indenture leasing some church property was made by the four 'masters of the fabric of the collegiate church of Darlington,' with the consent of the four-and-twenty electors. A certain

³¹³ Longstaffe, *Hist of Darlington*, p. 267n.

proportion of the four-and-twenty represented each of the townships of the parish of Darlington. Three of the churchwardens were chosen on Easter Tuesday by the four-and-twenty, the fourth being appointed by the minister.³¹⁴ The four churchwardens were made the governors of the grammar school by queen Elizabeth's charter of 1563, in which it was provided that they should be elected by the twenty-four most approved and discreet inhabitants of the town.³¹⁵ The four-and-twenty therefore had a considerable amount of control over the grammar school, as well as the various other duties which they had in Gateshead, but they did not appoint the officers of the borough; the borough court still met and that work was done in it.

A curious feature of both these bodies is that they respectively used a common seal. In 1719 an old brass seal was discovered by some workmen who were digging a well in Carlisle, bearing the inscription 'S. Beate Marie de Gathesevid.' A fragmentary impression of it was found attached to a will dated 1427. The device is the Salutation of the Virgin.³¹⁶

The churchwardens of Darlington affixed a common seal to a deed in 1507.³¹⁷ The seal bore the inscription 'Sigillum Commune de Dernington,' and the device of the Virgin with the Child in her arms, seated under a canopy. The spelling 'Dernington' occurs in the thirteenth century chronicle of Gaufrid de Coldingham.³¹⁸ As the seal bears the figure of the Virgin, although the church was dedicated in honour of St. Cuthbert, it is possible that the seal originally belonged to the borough rather than to the church.

The church authorities in the boroughs of Hartlepool and

³¹⁴ Allán MSS., quarto 15, Dean and Chapter Library, Durham.

³¹⁵ Longstaffe, *op. cit.*, pp. 256-260, 258n.

³¹⁶ Brand, *Hist. of Newcastle-upon-Tyne*, I, p. 488n; II, plate ii, no. 1.

³¹⁷ Longstaffe, *op. cit.*, 267n. The seal is engraved. See also *Proc. Sec. Ant. Newc.*, ser.

³¹⁸ Gaufrid de Coldingham, *Hist. Dun. Scrip. Tres*, p. 14.

Stockton were of comparatively little importance. St. Hild's church at Hartlepool, although actually a chapel, dependent on the parish church of Hart, was as ancient and important as the mother church. Its affairs were controlled by the corporation, who made orders for the church in 1599, repaired the fabric, and appointed two churchwardens.³¹⁹

The chapel of St. Thomas the Martyr was founded at Stockton *c.* 1230 by agreement with the vicar of the parish church of Norton.³²⁰ In the deed twelve laymen and two clerks agreed to be responsible for an annual payment to the vicar. There are no further references to the twelve, and it is not known whether they played any part in the history of the borough. By Act of Parliament in 1713 Stockton was created an independent parish.³²¹ It was provided that there should be a vestry consisting of twelve persons, to maintain the fabric of the church, make by-laws, and attend to the other necessary business. The twelve were to be elected at an open vestry meeting and were to hold office for three years, when their successors were elected at another open vestry. Vacancies during the three years were to be filled by similar elections. The churchwardens and other parish officers were to be appointed 'as they have hitherto been.'

The chapel of St. Anne, at Bishop Auckland, had no separate records from those of the parish church of Auckland St. Andrews.³²² In 1603 James I founded, or re-founded the grammar school³²³ at Bishop Auckland, appointing twelve governors, who were obliged to be inhabitants of the parish. The school was closely connected with the chapel, and the twelve may have been taken over from the ecclesiastical part of the foundation. The churchwardens administered the various charities in the town.

³¹⁹ Corporation Records. ³²⁰ Brewster, *Hist. of Stockton*, append. 1, no. 3.

³²¹ *Ibid.*, append. 1, no. 4. ³²² Fordyce, *Hist. of Durham*, 1, p. 553.

³²³ *Victoria County History Durham*, 1, p. 396.

At Sunderland there was no place of worship belonging to the established church until 1719, when the borough was erected into a separate parish from Bishopwearmouth by Act of Parliament.³²⁴ The vestry consisted of twenty-four persons having freehold property of the annual value of 10*l.*, to be elected at open parish meetings, once in three years, as at Stockton. The arrangements of the newly created parishes show the influence of the close vestry system of the old parishes.³²⁵

Except where a mayor and corporation existed, the churchwardens and four-and-twenty were the executive body in the boroughs during the seventeenth and the earlier part of the eighteenth centuries. All that was done in the way of town government,—repairing the streets, levying rates, relieving the poor,—was done by them, after the powers of the bailiff and borough court had fallen into decay. The ecclesiastical organization of the parish had existed before the boroughs were created, and, as the boroughs dwindled, in a different form it came into prominence again.

THE TOWN FIELDS.

The importance of the town fields in the little semi-agricultural boroughs was very great, but it is impossible to deal with their history here, except in the briefest manner, as practically nothing has been done in the way of research concerning it. All the Durham boroughs had their common lands, although the history of some of them has almost disappeared.

³²⁴ Hutchinson, *op. cit.*, II, p. 524. Before the Reformation there was a chantry of the Virgin in the borough. Summers, *Hist. of Sunderland*, I, p. 251.

³²⁵ There was this important distinction between the four-and-twenty of Gateshead, for instance, and the vestry of Sunderland, that vacancies in the former were filled by co-option, and there was never an election, except in very exceptional circumstances, whereas the four-and-twenty created by Act of Parliament was elected by the inhabitants at regular intervals.

About the commons of Bishop Auckland nothing is known save that they were inclosed by award in the Durham Chancery in 1671-2.³²⁶ This was the only authority required for inclosure in Durham in the seventeenth century. In the eighteenth century it was still sometimes resorted to, but it was more usual to obtain an Act of Parliament, which was the only method of inclosure in the nineteenth century.

The common fields of Darlington are mentioned in bishop Hatfield's 'Survey' of 1380.³²⁷ The free tenants held them and rendered nothing, although they were part of the lord's waste. The dispute of the burgesses of Darlington and the husbandmen of Bondgate over their rights of pasture on Brankinmoor and elsewhere have been alluded to above. At the beginning of the seventeenth century the word 'burgage' in Darlington might mean either a house in the town or a close or holding in the arable land of the town.³²⁸ Inclosure went on in the parish of Darlington throughout the century, and the town fields, both arable and pasture, were divided by award between 1666 and 1669.³²⁹ A burgess was entitled to four beast-gates in the common pasture.³³⁰ Any owner of a burgage in the town who was entered on the rolls of the court had a right to share in the common fields.³³¹ The bailiff had a special allotment in virtue of his office, and other grants on the moor were sometimes made in return for services; for instance, in 1619 Richard Patteson was ordered in the borough court to make a bridge over the small stream that divided the parishes of Hurworth and Darlington, or forfeit the cowgate which had been granted to him in return for that service.³³² The management of the fields was in the hands of the bailiff and jurors of the borough court,³³³ but after the Restoration, when the holding of the court became

³²⁶ *Victoria County History Durham*, II, p. 259.

³²⁷ See *ante*, p. 136.

³²⁸ Longstaffe, *Hist. of Darlington*, p. 55.

³²⁹ *Ibid.*, pp. 114*n*, 192*n*.

³³⁰ *Ibid.*, p. 261.

³³¹ *Ibid.*, p. 272.

³³² *Ibid.*, p. 40.

³³³ *Ibid.*, p. 136.

irregular, they were controlled to a great extent by meetings or by-laws of the principal burgesses,³³⁴ probably simply vestry meetings of the four-and-twenty.

Little is known of the commons of the city of Durham, beyond the fact that they lay in Framwellgate, and were inclosed by Act of Parliament in 1801.³³⁵ Every freeman of any of the trade companies had a right of pasture in the common fields. The bishop received one sixteenth of the land, when it was inclosed, and all mining rights, as lord of the manor. There was never any doubt as to the lord of the common fields of the Durham boroughs. The cases of Sunderland and Hartlepool were exceptional, but in all the other towns the overlordship of the bishop was never disputed. Similarly the Dean and Chapter of Durham were the acknowledged lords of Elvet and Crossgate, and, when Elvet moor and Crossgate moor were divided by Act of Parliament in 1769 and 1772, they reserved the mining rights and a rent of 6*d.* per acre.³³⁶

Gilesgate moor, the common of the little borough of St. Giles, was divided by Act of Parliament in 1817.³³⁷ The

³³⁴ *Ibid.*, pp. 237, 292.

³³⁵ *Victoria County History Durham*, II, p. 260; 'Report of the Municipal Commissioners, 1835, Durham'; Surtees, *op. cit.*, IV (2), p. 12. In the suit of 1610 it was stated that Durham moor, the Sands, Denkepool at the back of Claypath, the Willows, and wastes adjoining Framwellgate were common lands held by the mayor and corporation, who annually rode the boundaries. Grassmen were appointed by the mayor in the borough court, and citizens, inhabitants, burgage holders, and freemen had right of common and the right to take turf and whins. For this common land the corporation owed no suit at the bishop's halmote court, but for the intack or cow pasture they did suit at the Chester-le-Street court. The grassmen impounded foreigners' cattle and presented trespassers at the borough court. With the consent of the mayor they might cut and sell whins. (Deputy Keeper's Report, vol. 38, p. 568.) The local inclosure acts are preserved in the library of the Literary and Philosophical Society, Newcastle-upon-Tyne.

³³⁶ *Victoria County History Durham*, II, p. 260; Surtees, *op. cit.*, IV (2), p. 74.

³³⁷ Surtees, *op. cit.*, IV (2), p. 58.

marquis of Londonderry, by descent from the family of Tempest, was lord of the manor, and received one sixteenth of the moor and the mining rights. Before its inclosure the pasturage of the moor was managed by the churchwardens and four-and-twenty of St. Giles parish church. In 1701 they drew up a table of qualifications for admission to the right of pasture.³³⁸ Anyone who was qualified by birthright or by serving an apprenticeship in 'the Street' (Gilleygate) was entitled to six beast-gates on the moor on payment of 12s., 2s. per gate. Strangers purchasing or inheriting a house in the street and residing there paid 10s. per gate, and other inhabitants or strangers 1l. per gate. The churchwardens and four-and-twenty chose two grassmen annually, whose accounts are preserved. St. Giles was a parish rather than a borough in everything except the fact that the right to pasture on the common might be obtained by apprenticeship.

The long and curious history of the Gateshead town fields has never been fully worked out, and it will be best for the purposes of this essay to confine the account of them to the period subsequent to the sixteenth century, when the facts are fairly clear. During the seventeenth century the common fields were controlled, as at Darlington, by the four-and-twenty, acting sometimes in the borough court, and sometimes at vestry meetings. The last bailiff of the borough was appointed in 1681.³³⁹ After his death, when the meetings of the borough court were discontinued, the borough holders, *i.e.* the owners of burgages in the borough, took the control of the common fields into their own hands. They held meetings in May and October to deal with the business. At the spring meeting two stewards were elected to keep the accounts and records, and four grassmen to allot the stints on the moor. The freemen of the trade companies of

³³⁸ Barmby, *op. cit.*, p. 2.

³³⁹ Report of the Municipal Commissioners, 1835, Gateshead.

Gateshead had equal rights of pasture with the borough-holders, but the number of such freemen dwindled, and the common fields continued to be administered by, and for the borough-holders. In 1809 and 1814 Acts were obtained for inclosing the town fields in two separate portions, the bishop receiving his sixteenth, and the rest of the land being shared among the freemen and borough-holders.³⁴⁰ In 1817 Gateshead fell was created a separate parish and inclosed.³⁴⁰ The fell had originally been the bishop's forest, but the burgesses of Gateshead had grazing rights on it, which were compensated for by a share in the inclosure. After the Municipal Commissioners had visited Gateshead, when the town was included in the Act and incorporated, an outcry was raised against the borough-holders.³⁴¹ It was contended that the common fields had really belonged to the borough as a whole, and not merely to the owners of burgages as their private property. A compromise was arrived at, by which the borough-holders gave up the Windmill hills, a part of their possessions, and retained the rest, which they still hold.

The borough of Hartlepool was the only municipality in the bishopric which obtained possession of its common lands without acknowledging the overlordship of the bishop. From 1834 to 1841 Hartlepool was without any form of internal government, as the charter of Elizabeth had been allowed to lapse.³⁴² During this period of anarchy there were many encroachments on the common fields, the town moor and Farwell field, which had never

³⁴⁰ *Victoria County History Durham*, II, p. 260.

³⁴¹ There is a considerable amount of local literature on this subject, all of a very partisan character. See two tracts, 'The Investigation of H.M. Commissioners into the state of the borough of Gateshead' (1833), and 'An Exposure of the Attempt of 54 Individuals to Hoodwink the House of Lords' (1835), both by W. H. Brockett; also 'Local Records of Gateshead,' published annually from 1840 to 1854 in connexion with *The Gateshead Observer*, of which Brockett was part proprietor.

³⁴² Sharp, *Hist. of Hartlepool*, supplement, 1851.

been inclosed. The town was reincorporated in 1850, and in the next year an Act was obtained by which the corporation were enabled to dispose of such of the common lands as it was desirable to sell, paying compensation to the freemen and widows of freemen, and to turn the remainder into public recreation grounds. Under Elizabeth's charter the common fields had been controlled by the mayor and common council. The freemen by birth, gift, or apprenticeship, and their widows, had the right to pasture one horse and one cow on the commons.

The common fields of Stockton were inclosed by award in 1662; the rest of their history is a blank.³⁴³

The history of the town moor of Sunderland has already been related. It is to be observed that this was the only borough, except Hartlepool, which claimed not merely to have pasture rights, but actually to own the common fields.

When the history of the various town fields emerges from the haze which surrounds it in early times, the arable land had been separated from the pasture. The boroughs had reached the stage at which every burgess had a right to turn out a certain number of cattle simply in right of his freedom, and at which larger grazing rights were possessed only by the officers of the borough.³⁴⁴ The earlier stage, at which pasture rights were proportionate to holdings in the arable land, had been passed, and the idea of the common fields as corporate property had begun to be entertained, but the case was complicated by the presence of the bishop as lord of the manor. Instead of conceiving that the fields were the common property of the borough, the burgesses inclined rather to look upon them as the property of the bishop, over which they could individually claim prescriptive rights, but which they were under no obligation to treat as property held in trust for the borough as a corporate whole. At

³⁴³ *Victoria County History Durham*, II, p. 260.

³⁴⁴ Maitland, *Township and Borough*, pp. 47, 196.

the time of the Municipal Reform Act this idea was warmly insisted on by the borough-holders in Gateshead, and explains their obstinate attitude in the face of the newly-awakened spirit of incorporation. On the other hand, in Sunderland and Hartlepool, where the commons were not inclosed until later in the century, the theory of corporate property was fully realized and acted upon when the inclosure did take place.

THE LATER HISTORY AND INCORPORATION OF THE BOROUGHES.

The century between 1750 and 1850 was a period in which all the conditions of life in Durham were completely altered by the industrial revolution. The old machinery of local government which survived from medieval times broke down entirely under the strain of modern developments; the aspect and population of the towns were altogether changed, and new forms of government had to be called into existence to cope with the new state of affairs.

In the middle of the eighteenth century the old order of things still existed. In the three towns which possessed corporations, Durham, Hartlepool, and Stockton, the respective mayors were justices of the peace, and presided at petty sessions in the towns.

The mayor of Durham was elected from among the twelve aldermen at a meeting of the common council on the Monday after Michaelmas.³⁴⁵ A week later the new mayor and the aldermen chose the twenty-four common councillors from the trade companies, as described above. The aldermen, who held office for life, were elected by the mayor and common council from among the burgesses, when there were any vacancies, but ex-mayors became aldermen in virtue of having held office. The mayor and common council elected a recorder, a town clerk, and two serjeants-at-mace, and appointed four constables of the

³⁴⁵ 'Report of the Municipal Commissioners, 1835, Durham.'

borough. With the exception of the serjeants, the officials were not required to be burgesses, but the mayor, aldermen, and common council-men were obliged to be burgesses and to reside within the boundaries of the city. The mayor and common council made by-laws and regulations, and administered the common funds. The tolls of the market were leased by the bishop to trustees for 'the mayor of Durham and his successors.' It was usual for the mayor to render an account of the receipts to the common council, but on one occasion he refused to do so. The mayor was clerk of the market, and held the borough court, the jurisdiction of which was restricted to debts under 40s., nuisances in the streets, etc.

At Hartlepool the town officers were the mayor, the recorder, the town clerk, and one serjeant-at-mace.³⁴⁶ They were elected by the twelve capital burgesses on the Monday after Michaelmas. The twelve filled up vacancies among themselves by co-option. The mayor and corporation held two principal meetings in the year, which were called general gilds, one at Michaelmas, when the mayor and other borough officers were elected, and the other at Easter, when the gild jury of twenty-four was chosen.³⁴⁷ The mayor and corporation were authorized by their charter to punish offences against the laws which they might make for the government of the town, and no clear distinction seems to have been made between the general gilds and the court which was held twice a year by the recorder.³⁴⁸ The latter was also the steward of the borough on behalf of the lord of the manor of Hart, which belonged in the eighteenth century to the earls of Scarborough, and after 1770 to the family of Pocock, being held in chief by the bishop.³⁴⁹ The court was thus a curious mixture of the borough court, the manorial court, and the gild meeting. The

³⁴⁶ 'Report of the Municipal Commissioners, 1835, Hartlepool.'

³⁴⁷ MSS. Corporation Records. ³⁴⁸ Sharpe, *Hist. of Hartlepool*, p. 62.

³⁴⁹ *Ibid.*

confusion amongst these different assemblies may be attributed to the very limited number of the inhabitants of Hartlepool. The jury of twenty-four would probably be the same, even if all these courts had ever been held separately and clearly realized apart from one another. But even if this ever was the case, the distinctions had been quite obliterated by time. In the eighteenth century the court was called the Court Leet, View of Frankpledge, and Court Baron of the mayor and burgesses of Hartlepool.³⁵⁰ The relative positions of the corporation and the lord of the manor were never very clearly defined. The tolls and harbour dues belonged to the mayor and corporation by charter, but half of the profits had been granted to the lord of the manor ever since the charter of 1599 was obtained by the good offices of lord Lumley, the lord at that time.³⁵¹ The mayor annually rendered account of the tolls. His accounts were examined by four auditors appointed by the corporation, and the books were laid open for inspection on court days.³⁵²

At Stockton the mayor was elected on the Tuesday after Michaelmas day by all the burgesses of the borough.³⁵³ As the only way of becoming a burgess was the possession of one of the seventy-one burgages within the borough, the number of electors was not usually more than fifty. The rules as to the right of voting when a burgage was divided were elaborately drawn up in 1699.³⁵⁴ Only one vote attached to each burgage, except in the case of the mayor, who had two votes. When the burgage was divided, the vote was passed to each of the co-owners in turn, according to fixed rules of seniority. A burgage-holder who was dividing his burgage might, however, reserve the vote to himself, so long as he retained any part of the burgage. No one might have more than one vote, however many burgages he held,

³⁵⁰ MSS. Corporation Records.

³⁵¹ Sharpe, *op. cit.*, p. 74.

³⁵² *Ibid.*, p. 102n.

³⁵³ 'Report of the Municipal Commissioners, 1835, Stockton.'

³⁵⁴ Brewster, *Hist. of Stockton*, pp. 121-124.

except the mayor, as above. Any burgess might be elected mayor. The ex-mayors received the title of aldermen, but had no special functions.³⁵⁵ A second meeting was held twenty-one days after Michaelmas, at which three auditors, the serjeant-at-mace, and other officers of the borough, such as leather searchers, corn meters, and the rest, were appointed. The offices of recorder and town clerk were usually held jointly by the steward of the manor of Stockton, who was appointed by the bishop, but the mayor and burgesses might choose a recorder who was not also the steward. Two courts³⁵⁶ were held in the year by the mayor and the steward, under the title of the Court Leet with View of Frankpledge and Court Baron of the Lord Bishop of Durham. In 1770,³⁵⁷ when the opinion of serjeant Walker, concerning the borough court was taken by the mayor and burgesses, efforts were made to distinguish between the business of the court leet and that of the court baron; but it is evident that this was a late development, and that, as in the other boroughs, no distinction had been made, and the whole of the business had been transacted at the same court, where the orders of the corporation were also made; it was, in fact, a survival of the mediæval borough court. The mayor was clerk of the market. The tolls, rents, and anchorage and plankage dues, were leased by the bishop to the corporation in trust for the improvement of the town.³⁵⁸

Petty Sessions were held throughout the eighteenth century in the other boroughs of the bishopric by the magistrates of the neighbourhood; but this was simply for convenience, and had no particular connexion with the borough government.

³⁵⁵ 'Report of the Municipal Commissioners, 1835, Stockton.'

³⁵⁶ Brewster, *op. cit.*, p. 129. The Municipal Commissioners stated that eight courts baron were held in the year for the recovery of debts under 40s. Brewster wrote in 1829.

³⁵⁷ Brewster, *op. cit.*, p. 144.

³⁵⁸ 'Report of the Municipal Commissioners, 1835, Stockton.'

Having dealt with the boroughs which had some form of corporation, it is necessary to take next the borough which received a charter, but did not act upon it. In 1634 bishop Morton granted a charter to the burgesses of Sunderland, whereby they were incorporated under the title of the 'Mayor, Aldermen and Commonalty of the Borough of Sunderland.'³⁵⁹ The corporation were empowered to hold lands, to have a common seal, to hold a court every three weeks before the recorder for actions, quarrels and debts not exceeding 40*l.*, and to make laws for the regulation of the borough. They were to hold weekly markets and two annual fairs, with all tolls and perquisites. The corporation consisted of a mayor, twelve aldermen, and twenty-four common council-men. The first officers were named in the charter. Their successors were to be elected on the Friday before the Monday after Michaelmas day, and were to hold office for one year. These privileges were to be held of the see in fee-farm on payment of 13*s.* 4*d.* per annum. This charter is interesting as showing what the bishop of Durham considered a model borough in the seventeenth century, but it had no further value, for there is no record that any election took place under it, and it immediately became obsolete. Political feeling at the time seems to have been very strong in Sunderland, which was parliamentary, while the rest of the bishopric was, as a whole, for the king. Possibly the charter was a move made by the cavalier party, and disowned by their opponents when their strength increased. Yet the charter has a certain importance in the history of Sunderland, as it was one of the pieces of evidence which induced the Commissioners of 1833 to include the borough in the Municipal Corporations Act.

The borough continued to be leased by the bishop to different landowners of the neighbourhood from the fourteenth to the

³⁵⁹ Fordyce, *Hist. of Durham*, II, p. 399; Summers, *Hist. of Sunderland*, I, pp. 335-372.

nineteenth centuries.³⁶⁰ During the eighteenth century the lessees were the family of Lambton, and the only court in the borough was the court baron held by the lessee. After its brief period of incorporation Sunderland was only distinguished from a purely manorial borough by the survival of the freemen and stallingers, who have been discussed above.

Of all the boroughs of Durham, Darlington preserved its medieval organization most completely. The bishop continued to appoint a bailiff for the borough, and the court which has already been described was still held there twice a year in the early part of the nineteenth century.³⁶¹

The two other boroughs of Gateshead and Bishop Auckland did not retain their early character so completely. At Bishop Auckland the bishop's steward held two copyhold courts in the year, and a court baron for debts under 40s.³⁶² The township was not leased, but had become purely manorial.

At Gateshead a bailiff was not appointed after 1681, and the borough courts ceased to be held. The halmote court of the manor of Gateshead was held yearly, however, by the lessees of the manor.³⁶³ The jurors of this court were the borough-holders, and the court transacted much the same business as the borough courts elsewhere. Freemen of the companies were not eligible as jurors of the court, and did not attend the dinner which was given to the jurors on court days.³⁶⁴ The court seems to have taken the place of the bailiff's court when the latter ceased to be held, and performed the same functions as those ascribed to the

³⁶⁰ Hutchinson, *Hist. of Durham*, II, p. 518n; Fordyce, *op. cit.*, II, p. 397-399; *Dur. Curs.*, no. 25, fol. 166 d.

³⁶¹ Longstaffe, *Hist. of Darlington*, pp. 271-272; Surtees, *op. cit.*, III, p. 357n.

³⁶² Parson and White, *Directory of Durham and Northumberland* (1825), I, p. 227.

³⁶³ MSS. in the possession of Mr. E. Dodds.

³⁶⁴ 'Report of the Municipal Commissioners, 1835, Gateshead.'

bailiff's court in 1575.³⁶⁵ In 1772 the inhabitants of Gateshead petitioned the bishop to appoint a new bailiff, but he never did so.³⁶⁶

The half-obsolete manorial courts were sufficient for the ordinary affairs of the boroughs so long as they were merely little country towns with very limited trade and hardly any manufacturers, but as soon as the mineral resources of the county began to be developed and factories sprang up, the old authorities proved as inefficient as the village constables, who were the only police force.

The first of the local Acts for the regulation of the various boroughs was obtained by the city of Durham in 1790, and amended in 1822.³⁶⁷ By this Act commissioners were appointed for the paving, cleansing, lighting, watching, and regulating of the city. The mayor, aldermen and recorder were *ex officio* members of the commission. The qualifications of a commissioner were the possession of freehold property worth 40*l.* a year, or 500*l.* personal property. They were empowered to raise funds by a rate on houses and gardens, and a toll on conveyances passing through the town. The toll was collected at toll-bars, erected by the commissioners. The commissioners were about 120 in number, and included the dean and chapter of Durham; vacancies in their number were filled by co-option. They appointed four officers of the peace, to supplement the exertions of the constables, and were empowered to raise the number to twenty-four if necessary. The powers of the commissioners continued in force until 1848, when by the Public Health Act they

³⁶⁵ 'There are wholesome constitutions, etc., made in the courts of Gateshead by the bailiffs and burgesses, and the same . . . well kept.' 'The bailiff hath his office by patent from the bishop, a part whereof is to punish the offenders.' *Arch. Ael.*, 2 ser. vii, p. 219.

³⁶⁶ 'An Exposure of the Attempt,' etc. (1833).

³⁶⁷ 'Report of the Municipal Commissioners, 1835, Durham.'

were transferred to the corporation, which was constituted a Board of Health.³⁶⁸

The next local Act was obtained by Gateshead in 1814, to appoint commissioners for the town with similar powers to those of the Durham commission. This commission, however, only lasted about twenty years, as in 1836 its powers were transferred to the new corporation.³⁶⁹

Stockton, being one of the ports of the bishopric, had a number of local Acts relating to the conservation of the river Tees, which do not fall within the scope of this essay.³⁷⁰ The town itself in 1820³⁷¹ obtained an Act for lighting, cleansing, etc., under which 94 commissioners were appointed, besides the mayor and aldermen, who sat on the commission *ex officio*; vacancies were filled by co-option. In 1822³⁷² an Act for lighting the town by gas was obtained. The powers of the commissioners only extended over the borough, which was not more than a quarter of the parish, although the town, in the popular sense, covered the whole township of Stockton, and was rapidly spreading over the rest of the parish. The inconveniences resulting from this limitation of the powers of the commissioners became more and more serious, until in 1852 an Act was obtained which extended the boundaries of the borough, and transferred the powers of the commission to the corporation.³⁷³

The first local Act for Darlington was obtained in 1823, and by it 127 commissioners were appointed. The commission, however, did not work well, while the town increased rapidly and stood in great need of sanitary regulation. In 1850, on the petition of the inhabitants, a local Board of Health was appointed under the Public Health Act, and the powers of the commission were transferred to it.³⁷⁴

³⁶⁸ Fordyce, *op. cit.*, I, p. 343.

³⁶⁹ *Ibid.*, II, p. 776; Investigation by H.M. Commissioners, etc. (1833), p. 12.

³⁷⁰ Brewster, *op. cit.*, pp. 161, 220.

³⁷¹ 1 Geo. IV, *cap.* lxii.

³⁷² 3 Geo. IV, *cap.* xxxiii.

³⁷³ Fordyce, *op. cit.*, II, p. 158.

³⁷⁴ Longstaffe, *op. cit.*, pp. 321, 329.

The conservation of the port of Sunderland and the river Wear had been regulated by Act of Parliament and vested in commissioners since 1716³⁷⁵ but the borough did not obtain a local Act until 1826,³⁷⁶ when one of the usual type was passed. 172 commissioners, a clerk, and a surveyor were appointed. Considerable inconvenience was caused by the fact that the township of Bishopwearmouth was controlled by a separate Act and commission. By the Borough of Sunderland Act of 1851 all the powers of these and other local commissions were vested in the corporation.³⁷⁷

Although there were several Acts for the port and pier of Hartlepool, there was none which regulated the affairs of the town before 1835.³⁷⁸

There are no local Acts relating to Bishop Auckland. By the Reform Act of 1832, Gateshead, Sunderland and South Shields were created parliamentary boroughs. This was the first recognition of the claims of South Shields, which had for centuries been struggling against the jealousy and oppression of Newcastle, but which had never been able to win even the nominal position of a borough.

The Durham boroughs in 1833 showed many layers of survivals. There were first the still undivided common fields, the relics of the early township, held tenaciously by bodies whose origin had long been lost. Then there was the ancient semi-manorial jurisdiction of the borough court. This had become more completely manorial in later times, when the bailiffs for the most part were no longer appointed, and the courts had been assimilated to the court leet and court baron of other parts of the kingdom. Next came the trade companies, the survivals of the period of municipal monopoly, which were now also almost

³⁷⁵ Hutchinson, *op. cit.*, II, pp. 522-523.

³⁷⁶ 7 Geo. IV, *cap.* 120.

³⁷⁷ Fordyce, *op. cit.*, II, pp. 483-484.

³⁷⁸ 53 Geo. III, *cap.* 25; 2 William IV, Amendment and further Act.

extinct. Finally, there were the modern commissioners, who were striving to cope with the needs and difficulties which arose from the rapid expansion of the ancient boroughs. The boroughs which were visited by the Municipal Commissioners and included in the Act of 1835 were Durham, Gateshead, Stockton and Sunderland. Hartlepool was also visited, but was not included in the Act. Bishop Auckland and Darlington were not visited.

The Municipal Commissioners were not received with unqualified enthusiasm. In Durham, as elsewhere, the measure was supported by the Whigs and opposed by the Tories. The corporations of the city of Durham and of Stockton, however, seem to have been resigned to the visitation. The strongest opposition was made in Gateshead and Sunderland, where there were still undivided common lands in the hands of private bodies. In these boroughs also there was considerable difficulty in bringing the Act into force, as there was no mayor. The local Whigs carried the day, however, and the incorporation took place.

The commissioners elicited some information about the common seals of the various boroughs, which may be supplemented by the researches of the local historians. The seal of the city of Durham was given to the corporation by Matthew Pattisonne, the son of a burgess, in 1606. An engraving of it is given in Hutchinson's *History of Durham*, II, p. 43. The inscription is, 'S Commune Civitat Dunelmie.' The central figure is St. Cuthbert standing under a canopy, above which are the sun and moon. A memorandum was made in 1626 of the finding of an old town seal of tin in St. Nicholas's church at Durham, but no impression of it has survived.³⁷⁹ The fact that Gateshead possessed a common seal was strongly insisted on by the reformers, who obtained the visit of the Municipal Commissioners; and proportionately minimised by the

³⁷⁹ Surtees, *op. cit.*, IV (2), p. 159.

borough-holders.³⁸⁰ In fact, some attempt seems to have been made to get rid of the seal altogether. It was, however, produced and inspected by the commissioners. The inscription on it was, 'Sigillum Burgi de Gateshead,' surrounding a gate-tower. There was evidence that it had been used in 1561, and it was referred to in the petition of 1772 to the bishop of Durham. An older seal of Gateshead³⁸¹ is engraved by Brand (*Hist. of Newcastle*, II, plate 2, no. 11) from a deed dated 1561: it bears the figure of the Virgin holding the Child and seated on a gate-tower. The inscription is much mutilated, but Brand conjectured that it ran, 'Sigillum Comune de Gatys-hedde.' In the suit between the mayor of Newcastle and Richard Nattress in 1578, one of the witnesses deposed that the borough of Gateshead possessed a common seal.³⁸²

The only common seal of Sunderland was that used by the freemen and stallingers³⁸³; their modern seal bore the device of a quadrant.

Darlington obtained a charter under the Act in 1867.³⁸⁴

Bishop Auckland has never been incorporated, and is now an urban district.

Hartlepool, after the old charter had lapsed in 1834 as stated above, passed through a period of anarchy. In 1840 the old charter was renewed, and in 1850 the town obtained a fresh charter under the Act of 1835.³⁸⁵

Thus ended the isolation of the Durham boroughs. At last they had been swept out of the little backwater of the palatinate and had joined the general stream of national development. Their later history has been marked only by the usual local

³⁸⁰ Brockett, *Tracts* (see p. 91); 'Report of the Municipal Commissioners, 1835, Gateshead.'

³⁸¹ Brand, *op. cit.*, I, p. 479.

³⁸² *Arch. Ael.* 2 ser. II, p. 226.

³⁸³ See p. 130.

³⁸⁴ Vine, *English Municipal Institutions*, p. 125.

³⁸⁵ Sharpe, *Hist. of Hartlepool*, supplement, 1851.

bickerings and jealousies on the one hand, and the usual adaptation to local needs on the other. Durham still retains something of its old character as a quiet country town, but the other boroughs are great industrial centres, and those which have sprung up most recently, such as South Shields, Jarrow, and West Hartlepool, owe their position entirely to their industries.

The history that has been traced through this essay shows a long series of calamities;—the ravages of the Danes, which destroyed the once mighty kingdom of Northumbria, the destruction wrought by William the Conqueror, the usurpation of Cumin, the Scottish raids repeated again and again, the Black Death, the Wars of the Roses, the insurrections of the sixteenth century, and the Great Rebellion. Durham is not a county which can look back upon a prosperous past and regret the good old times. Until the Restoration it might be called the cock-pit of England. Again and again the signs of budding prosperity were destroyed by war or plague, and consequently very few traces of the little boroughs which struggled so obstinately against misfortune are to be found in the great black modern towns of the palatinate. Ugly and desolate-looking as they are, they have at length attained the material prosperity that so long escaped their predecessors; but in the sudden coming of the new order of things the old has almost disappeared. Such records as remain have been examined and put together here, and with all diffidence a few attempts have been made to fill in the gaps by conjectures of that unsatisfactory kind which can neither be proved nor disproved.