

color and outline with absolute accuracy, and every design is accompanied by a reference. The Public Library in Boston has been marked for a copy of this splendid work (which was published by permission of the late Emperor, Alexander II., chiefly from the imperial *ex-châquer*) as a present from the author.

IN GOOD OLD COLONY TIMES.

The Colonial Laws of Massachusetts. Reprinted from the edition of 1672, with the supplements through 1686. Published by order of the City Council of Boston, under the supervision of William H. Whitmore, Record Commissioner. Boston. 1887. Pp. 395.

THE publication in 1672 was the third published revision of the colony laws, and was entitled 'The General Laws and Liberties of the Massachusetts Colony.' The next previous Revision was published in 1660, and the earliest of all in 1648; but of this last it is not known that any copies are extant. The production of the volume before us is most creditable to Mr. Whitmore, as well as to the city of Boston, by whose judicious and liberal appropriation the expense has been defrayed. The method employed was a photographic facsimile, corrected (as is necessary in such cases) by the most scrupulous and literal proof-reading.

This Revision is divided into subjects, or heads of laws, arranged alphabetically, so that it is easy to ascertain the statute law of the time on any subject considered in the Revision. Moreover, an abundant index (not only the original of 1672, but one for the present compilation) enables us to ascertain and refer readily to all that is in the book. As the legislation of the different years is generally in distinct paragraphs, with the date of enactment affixed, we can trace much of the earliest Revision, and some legislation prior to 1641. Under the title "College," for example, we have in the first paragraph the provisions made in the years 1636, 1640, and 1642 concerning Harvard College, and in the remaining paragraphs the contribution to that institution in 1659.

It has been suggested that the legislation of the colony was based upon the laws of Moses, and that its laws were merely transcripts of those laws. While this is measurably true of the very small portion embraced under the title "Capital Laws," it is altogether incorrect as to the rest of the Revision of 1672. In the title in question sixteen crimes punishable with death are enumerated in separate paragraphs, with a reference in the case of fourteen to certain books of the Old Testament, and generally to the chapter and verse, indicating that the respective crimes were punished with death by the Jews. Again, under the title "Indians," the first paragraph is as follows: "For settling the Indians' title to lands in this Jurisdiction, it is declared and ordered by this Court and authority thereof, that what lands any of the Indians in this Jurisdiction have possessed and improved, by subduing the same, they have just right unto, according to that in Gen. 1, 28, and chap. 9, 1, and Psal. 115, 16." With the exception of these two titles, a careful examination has not discovered in the whole of the Revision of 1672 any reference to any book of the Old Testament.

Nor in the other laws is there reference in terms to the laws of any other country. Though they are full of the principles and provisions of the English common law, there is but a single reference to any English authority. We find this under the title "Ships, Ship-Carpenters," the first paragraph of which

(probably a law of 1641) authorizes the appointment of "some able man to survey the work [of shipbuilding] and workmen from time to time, as is usual in England," etc. On the other hand, for intrinsic evidence that the colony laws were prepared by those who were acquainted with the laws of England, take the title "Lands, Free Lands":

"It is also ordered, and by this Court declared, [viz., in 1641], that all our lands and heritages shall be free from all fines and licenses, upon alienations, and from all heriots, wardships, liveries, primer-seisins, year, day and waste, escheats and forfeitures upon the death of parents, or -ancestors, natural, unnatural, casual, or judicial, and that for ever."

This shows most clearly how heavily to their knowledge the burden of feudal exactions in the mother country had oppressed the owners of lands, and the determination of the colonists to have none of them here; and the specific enumeration of the matters prohibited indicates an acquaintance with the laws relating to the conveyance and descent of lands, and the oppressive appendages of the feudal tenure. So the punishment provided for scolds—that they be "gagged, or set in a ducking-stool, and dipt over head and ears three times in some convenient place of fresh or salt water, as the court or magistrate may judge meet"—is substantially of the same nature as was imposed by the common law of England in like cases. Other instances might be adduced.

In 1647, in order clearly to determine the meaning of a clause in the "Common Liberties" of 1641—to wit: "Every inhabitant who is an householder, shall have free fishing and fowling in any great ponds, bays, coves, and rivers, so far as the sea ebbs and flows within the precincts of the town where they dwell," etc.—it was enacted that the proprietor of the land adjoining such waters shall have propriety to low-water mark, where the sea does not ebb more than a hundred rods. This Colony ordinance is the foundation of the rule of law now established by usage in New England, contrary to the rule of the English common law which limits the ownership to the line of high-water mark; the King owning the land over which the sea ebbs and flows.

The infliction of bodily punishments for offences appears to have been left, within certain limits, largely to the discretion of the magistrates. Under the title, "Punishment, Torture," it is declared that none are allowed that are inhuman, barbarous, or cruel. Yet the language of the law would seem to leave the way open for the infliction of such punishments. The provisions are, that

"no man shall be beaten with above forty stripes for one fact at one time, nor shall any man be punished with whipping except he have not otherwise to answer the law, unless his crime be very shameful, and his course of life, vicious and profligate; and no man shall be forced by torture to confess any crime against himself or any other, unless it be in some capital case where he is first fully convicted by clear and sufficient evidence to be guilty, after which, if the case be of that nature, that it is very apparent there be other conspirators or confederates with him, then he may be tortured, yet not with such tortures as are barbarous and inhuman."

We can gather from these statutes striking illustrations of the great difficulty, if not impossibility, of extinguishing, or entirely suppressing, the instincts, impulses, affections, and passions of a neighborhood or people by legislation. Take, for example, the laws and regulations for the observance of the Lord's day. One would suppose that if, in any community, such regulations would be scrupulously and

willingly obeyed, it would be in this colony, where at first only church members could be freemen, and only freemen could vote. Yet, in 1653, a law was passed (which appears in the Revision of 1672, title "Sabbath") punishing the violations of such regulations first with admonition and then with fine, and persistent violations with fine or stripes, in the preamble to which law were set forth the objectionable practices it was desired to prevent. Five years later, in 1658, the practices evidently continuing and perhaps increasing, an additional statute was passed, contemplating fine or corporal punishment, with the following preamble:

"Whereas, by too sad experience, it is observed, the sun being set, both every Saturday and on the Lord's day, young people and others take liberty to walk and sport themselves in the streets or fields, in the several towns of this Jurisdiction, to the dishonor of God and the disturbance of others in their religious exercises, and too frequently repair to public houses of entertainment, and there sit drinking, all which tends not only to the hindering of due preparation for the Sabbath, but as much as in them lyeth renders the Ordinances of God unprofitable, and threatens the rooting out of the power of Godliness and procuring the wrath and judgment of God upon us and our posterity; For prevention whereof it is ordered," etc.

In the autumn of 1675 a remarkable statute was passed—in some respects the most remarkable in the volume—entitled "Provoking Evils." It is an act of profound humiliation and confession of the sins of the people, a sincere repentance therefor, and a declaration of the evils which have justly provoked the anger of the Almighty. It shows the terror of the colonists, and illustrates, in a somewhat exaggerated way, their methods in like cases. The preamble, too long to quote here, is followed by twelve sections setting forth and punishing the "provoking evils" which are to be avoided in future: (1) a neglect of discipline in the churches, especially respecting children; (2) the wearing of long hair or of periwigs by some men, and immodest hairdressing by women; (3) pride in apparel; (4) the open meeting of Quakers, with their damnable heresies and abominable idolatries; (5) a profane turning of the back on the pulpit before the close of service; (6) boyish disorderliness in church; (7) "common swearing and cursing"; (8) excessive drinking; (9) a woful breach of the Fifth Commandment; (10) idleness "(which is a sin of Sodom)"; (11) "oppression in the midst of us, not only by such shopkeepers and merchants who set excessive prices on their goods,—but also by mechanics and day laborers who are daily guilty of that evil"; (12) a loose and sinful custom of riding from town to town, with tavern frequenting by both sexes under pretence of attending lectures. The judgment that people of sound orthodoxy to-day would pass upon the foregoing, illustrates one of the differences between public opinion in 1675 and in 1888.

We close with the remark that the whole volume contains matters of great interest to those who take pleasure in studying the building up of the colonies in New England, and especially the Massachusetts Colony. It is hardly a stretch of the imagination to think that by means of this facsimile—resembling even in the appearance of the paper the edition read by the men of 1672—we catch more readily their spirit and that of the Colony, and understand more intelligibly their laws. For this we renew our thanks to the city of Boston, and to the Senior Record Commissioner, whose services on behalf of local history and antiquities are ever gratuitously at the disposal of his townsmen.

THE ACROPOLIS OF ATHENS.

Die Akropolis von Athen, nach den Berichten der Alten und den neuesten Erforschungen. Von Adolf Boetticher. Mit 132 Textfiguren und 36 Tafeln. 8vo, pp. 295. Berlin: J. Springer; New York: Westermann. 1888.

If we make use of a trite publisher's phrase in saying that "this book supplies a long-felt want," it is because in the present case the words are literally true. It is thirty-four years since the first and best edition of Beulé's 'L'Acropole d'Athènes' was published, and although successive excavations have put that further and further behind the times, it has still remained the best handbook of the Acropolis ever written. The second edition, which appeared eight years later, contained merely the substance of the first in more condensed and popular form, and was therefore of less value to scholars. Indeed, incredible as it seems, in view of the attractiveness of the subject, Beulé is the only modern writer who has devoted an entire book exclusively to the Acropolis; and of those who since his time have written upon Athens, none have superseded him on his own ground. Breton's 'Athènes' (1861) is so largely inspired by Beulé's book as to be little more than a weak reflection of it; of Dyer's 'Ancient Athens' (1873) the Acropolis occupies but a small portion, and that based mainly upon Beulé, with the addition of an excellent description of the Dionysiac Theatre; Wachsmuth's 'Stadt Athen,' the first volume of which appeared in 1874, has as yet treated the Acropolis only topographically; and Burnouf's 'La Ville et l'Acropole d'Athènes' (1877) was so evidently written in a spirit of hostility towards Beulé, and with a view to opposing him at every point, that the author allowed his prejudices to run loose, and thus spoiled what otherwise might have been a valuable book.

Yet the need of a new work on the subject which should summarize the results of the later excavations, and give to general readers, in accessible form, the changes in facts and theories brought about by these excavations, has been growing greater with every year. When Beulé wrote, the Dionysiac Theatre had not been discovered; the terrace on the south side of the Acropolis, on which we now see the remains of the sanctuary of Asklepios, was still covered with a heap of refuse soil thrown over from the excavations above; the Temple of Niké Apteros had been reconstructed, but its connection with the Propylæa had not been made clear; the floor of the Parthenon was still encumbered with remains; several of the old Turkish houses were still standing on various parts of the citadel; the excavations for the museum east of the Parthenon, which brought to light many fragments of early Greek art, were not begun; Michaelis had not published his exhaustive work on the Parthenon. The accomplishment of all these undertakings would have warranted the publication of a new book some years ago, but the investigations conducted by Dr. Dörpfeld and the Greek Archaeological Society during the last five years have been in many respects more important, as regards results, than those of the thirty years preceding. The discovery of a temple of Athena, hitherto entirely unsuspected, in the very middle of the Acropolis, has upset many pet theories regarding the early history of the place, and he who seeks his knowledge of it from Beulé to-day gets what is indeed antiquated. Naturally it is impossible that everybody who is interested in the subject should be able to follow all these excavations, and only special students can hope to keep pace with the literature to which they give rise. When, therefore, such a student takes the trou-

ble to bring together the results of these investigations, and to publish them in an attractive and easily accessible form, his book is an offering that will be welcome to many. Our only regret is that such a book should have appeared finally in German instead of English.

Herr Boetticher, who, by the way, is not to be confounded with the author of the 'Tektonik der Hellenen' and the 'Untersuchungen auf der Akropolis, in 1863,' to whom we believe he is in no way related, has already proved his qualification to undertake such a task by his beautiful volume on 'Olympia,' which is by far the best guide to and commentary upon the large volumes of photographs of the excavations that has yet appeared. An architect by profession, his archaeological spurs were won in the German expedition to Olympia, of which he was a member. Upon his return to Germany, he wrote a book which in a popular style described the history of Olympia in antiquity, and the excavations carried on there in recent times, especially, of course, the famous work in which he shared, giving at the same time a summary of the theories to which these investigations had given rise. His book was carefully and thoroughly done, and found such ready reception that a second edition was called for shortly. This success encouraged him to try a similar book on the Acropolis of Athens, with the result that we have before us.

The plan followed is substantially the same as in the 'Olympia,' that is, the subject is treated chronologically rather than topographically. Of the four parts into which the book is divided, the first is an historical sketch of the Acropolis, more especially from the downfall of paganism to the present day; the second describes it from the earliest times to the end of Cimon's administration; the third is devoted to the age of Pericles and Pheidias, and the last takes us from the year 400 B. C. into the period of Roman dominion. In this way the author gives us, as far as is possible from ancient accounts and modern investigations, a picture of the Acropolis at each of the epochs described; and the statues and reliefs which excavations have brought to light are mentioned not in the order of their discovery, but according to the epoch in which they were erected. Beulé, it will be remembered, followed the topographical method, beginning with the Propylæa and describing everything known about that locality, of whatever period, and proceeding thence towards the Parthenon.

Boetticher's book lacks the brilliancy of Beulé's; it has none of the fine descriptions which made that book such attractive reading, and it is not calculated, like that, to inspire enthusiasm for the subject in the mind of him who does not already feel it; but those who go to the book simply for information, to learn what archaeologists of the highest standing know and think about the Acropolis to-day, will not be disappointed. The author says at the outset that his aim is not to produce any new doctrines, but to make as clear as possible a summary of the opinions of those who have made especial studies of the various monuments there; and the care and intelligence with which he has done this, entitle his book to high commendation. The skill with which he has stated the gist of a whole library of essays will save students an enormous amount of unnecessary reading. Investigations and discoveries upon the Acropolis are described down to the very month in which the book must have gone to press, some of the statues unearthed in 1886 figuring among the illustrations; and there is even a brief statement from Dörpfeld of his latest investigations in the Dionysiac Theatre, the results of which have not yet been publish-

ed officially. Herr Boetticher's professional instincts have led him to give minute descriptions of each of the buildings from a technical point of view, in which architectural terms and measurements play so large a part as to be somewhat confusing to the layman, and therefore prevent the book from being popular in the most general sense; yet this very feature will give it additional value to architects and others who wish more than a superficial treatment of the subject.

Herr Boetticher has, in common with many of his countrymen, one tendency of which the reader should be warned beforehand, and that is a disposition to accept the latest theory as the best, merely because it is the latest. It is only on such grounds that we can understand his following Dörpfeld unquestioningly through the revels of the latter's imagination; for readers of the later numbers of the *Mittheilungen des Instituts in Athen* have learned that between Dörpfeld the investigator and Dörpfeld the theorist there is a breach which few of us are able to jump. A rather amusing instance of this tendency occurs in the description of the western pediment of the Parthenon. Those who are familiar with Carrey's drawing of this pediment will remember that near the right end of the group are two figures (usually numbered S T), one of which is seated in the lap of the other, and nude. Both are gone now, and Carrey's drawing has not left it clear whether this nude figure was male or female. Opinion at present inclines to the belief that it was male, and the popular interpretation of Aphrodite in the lap of Thalassa has gone under. So great is the fascination of the present "topical" theories, by which half the figures in the two pediments are being resolved into personifications of rivers, clouds, and mountains, that Löschke in 1884 published an essay to show that the figures S T could be none others than Herakles sitting in the lap of Melite, the object of one of the lusty hero's innumerable amours, and, at the same time, the personification of the district in which stood his principal Athenian shrine! Then the adjoining figure, Q, becomes Demeter Kurotrophos, taking care of the two children of this union, who stand at either side of her. As Herr Boetticher ingeniously remarks, this group forms "ein Familienbild, noch intimer als sie die attischen Grabsteine zeigen"; and yet, in spite of its manifest absurdity, in spite of the shockingly inartistic character of such a conception, he accepts it enthusiastically, and thinks that "jetzt erst kommt Leben und Zusammenhang in die Gruppe."

As an offset to this, however, it is gratifying to note that, notwithstanding the general upheaval of old and established opinions regarding the Acropolis which the recent investigations have occasioned, he still stands by Penrose's theories of the curvatures in the horizontal lines, and declares that Durm's attempt to prove them the result of accident was not borne out by the facts.

The illustrations form a considerable and important portion of the book, there being 168 in all. Many of them, and particularly the architectural drawings, will be of great assistance to the reader, and the plates give a very attractive appearance to the book. Two of the plates and twenty-five of the illustrations in the text were derived by permission from Durm's 'Die Baukunst der Griechen' in the second volume of the 'Handbuch der Architektur.' More of the plates were taken from Stuart and Revett's 'Antiquities of Athens' and the 'Ancient Marbles in the British Museum'; and while Stuart's drawings are always interesting to compare with the present condition of the Acropolis, we