

**THE GENESIS OF THE
MASSACHUSETTS TOWN, AND
THE DEVELOPMENT OF TOWN-
MEETING GOVERNMENT, PP 4-94**

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VARIOUS

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"Such was the common-law English vestry, and its close resemblance both in function and method of procedure to the New England town-meeting is obvious. . . .

"Towards the close of the sixteenth century and during the early years of the seventeenth, the vestry underwent a singular fate; for while on the one hand, and in the Established Church, it was as a civic and political force systematically suppressed or made to perish from disuse,¹ on the other hand, among the non-conformist and Puritan elements it developed, until, ceasing any longer to be known as the vestry, it became the church itself,—or, as it was subsequently called, the congregational society. And it was in this transmuted form that the vestry came to Massachusetts, leaving its name behind, but bringing with it its forms and its officers,—its notices and its public meetings, its constables, its way-men and its tithing-men.²

"The Massachusetts congregational society, thus developed out of the vestry, under its new conditions and in process of time itself developed in the most obvious way into government by town-meeting. The society was a unit in itself,—at once a religious fold, a debating society, and a social club. Democratic to the last degree, it had, besides its articles of faith, its prudential machinery, its rules controlling the admission of members, and its forms of procedure. In other words, it was a theological commonwealth, from which, if not subjected to outside interference, the evolution in due time of a political republic might have been predicted with certainty. Such, then, was the line of development, or rather the course of evolution,—the vestry, the congregational society, the New England town-meeting; and this, as already pointed out, can be distinctly traced through the common nomenclature of officers, as well as through the records of the particular town."

Having completed this paper, I sent copies of it to our associates, Messrs. Goodell and Chamberlain, as I knew they had given much study to the subject, and I was anxious to have my conclusions subjected to their criticism. These copies were in due course of time returned to me by both gentlemen with long and friendly letters, for which, though they satisfied me completely that my theories would not bear examination, I felt greatly obliged. After reading their letters it was obvious to me that I had, by no means for the first time, fallen into the error of generalizing from insufficient data, and that whether Messrs. Goodell and Chamberlain were or were not

¹ May's Constitutional History, chap. xv.

² Channing's Town and County Government; Adams's Tithing-men and Norman Constables.

right in their own conclusions, it was necessary for me to go over the ground again in a wholly different way.

The method of investigation I then adopted is sufficiently set forth in the paper I now submit; and I make this preliminary statement merely to express the obligation in this matter I feel myself under to our two associates. The conclusions reached, such as they are, are my own; but, as will readily be seen, they are much more nearly in accord with those heretofore expressed by Messrs. Goodell and Chamberlain, and by them incorporated in the Proceedings of the Society,¹ than with the views of investigators of another school.

I will merely further add, that, following the precedent set by Mr. Deane, — a most excellent precedent it seems to me, set by one than whom no higher authority can be appealed to in this room, — following, I say, the precedent set by Mr. Charles Deane in his discussion with the late Professor Parker in 1869,² I have sent copies of the paper I am about to submit to Messrs. Chamberlain and Goodell, as well as to our librarian, Dr. Green, and to Professor Channing, — who also have given much attention to this subject, — and have asked those gentlemen to come here to-day and freely express their opinions both on the methods I have pursued and the results I have reached. What we want, of course, is a statement of historical conclusions which will stand criticism of the severest description. It is easy to invent theories and to advocate particular views of this or any other disputed problem; but the truth of the matter can only be reached after every conceivable theory has been advanced and subjected to the test of investigation.

I now submit the following paper on —

*The Genesis of the Massachusetts Town, and the Development of
Town-meeting Government.*

There has for some years been a noticeable tendency among antiquarians and students of history, to find in the usages and customs of New England town life traces and remnants of forgotten communal systems peculiar to earlier stages of civil and political development. By those composing one section

¹ 2 Proceedings, vol. v. pp. 265-280, 320-331.

² Proceedings, 1869-1870, p. 188.

of this school, — a school the thought and conclusions of which are the indisputable result of deep research, — an ancient and honorable lineage has been devised for town institutions, — a lineage running back through Anglo-Saxon to Germanic sources, and the primitive tribal and communal arrangements described by Tacitus. The town has thus been derived by direct descent from the "tun," while the folk-mote is found to have been the origin of the town-meeting. A noticeable example of this treatment is that striking passage in his "History of the English People," where the late John Richard Green points out the geographical birthplace and very cradle of both town and folk-mote, on the shores of the North Sea and the Baltic; just as some explorer, acting as a guide, might point out to wondering tourists a tiny lakelet, the source of some mighty river.¹

The New England town-meeting was, and still is, the political expression of the town; and probably there is no single American institution which, since De Tocqueville made it famous half a century ago, has excited so much and very wide-spread interest and admiration. In dealing with it statesmen, philosophers, historians, and orators have seemed to vie in words of commendation. The town-meeting has, in fact, been the one feature in American polity which no one has as yet seen fit to criticise adversely. Naturally, therefore, what may be called the genesis of the town-meeting has proved a peculiarly interesting matter of investigation to those in America composing the school of students just referred to.²

My attention has recently been drawn to this subject in the course of a careful study of the records of an individual Massachusetts town, while preparing a volume now passing through the press. However it might be with other towns in New

¹ Green's *History of the English People*, vol. i. p. 13.

² See the following papers in the *Johns Hopkins University Studies*: Freeman's *Introduction to American Institutional History*; Herbert B. Adams's *The Germanic Origin of New England Towns*; Saxon Tithing-Men in America; Norman Constables in America; Channing's Town and County Government in the English Colonies of North America; Andrews's *The River Towns of Connecticut*. Also, Johnston's *Connecticut*; Hosmer's *Samuel Adams*; and the papers of Messrs. Chamberlain and Goodell in *2 Proceedings*, vol. v. pp. 285-290, 320-331, on "The New Historical School and the Origin of Towns in Massachusetts."

England, I found absolutely nothing in the case of this town (Braintree) to support the theories referred to. While undoubtedly, as Mr. Freeman has observed in another connection, the institutions of every one of the older Massachusetts towns "are part of the general institutions of the English people, as those again are part of the general institutions of the Teutonic race, and those are again part of the general institutions of the whole Aryan family"; yet, while a general resemblance, however striking, is in itself no evidence of descent, it is easy to give altogether too great weight to similitudes and analogies. In approaching an investigation of this sort, therefore, it is well to bear in mind a remark of Sir Henry Maine in his first lecture on Village Communities, that it is "the characteristic error of the direct observer of unfamiliar social or juridical phenomena, to compare them too hastily with familiar phenomena apparently of the same kind"; and Sir Henry further adds that "the greatest caution must be observed in all speculations on the inferences derivable from parallel usages."

But while the Braintree records afforded no support to remote genetic theories, the examination of them soon made it apparent that, for reasons presently to be stated, Braintree was not one of the towns in the history of which the subject could be advantageously studied. It was equally clear that it could be studied only in the original records of some properly selected towns; for the indications all were that the advocates of remote descent had fallen into the not uncommon error of looking too far afield for that which was in fact close at hand. Accordingly, in order to secure a sufficiently wide basis for generalization, I examined the original records, church as well as town, of Hingham, Weymouth, Dorchester, Dedham, and Cambridge, as well as those of Boston. All of the towns named, organized prior to 1636, are among the original Massachusetts towns; and the evidence on the subject of the genesis of the town and town-meeting government, to be derived from their records, it is the object of this paper to set forth in detail.

The evidence thus obtained is to my mind conclusive, that both town and town-meeting government, as seen in New England, are sprung from a simple English germ, fructifying in New England soil; they are, in fact, autochthonous,—the

natural product of a foreign seed developing under new circumstances and conditions, religious, social, material and political, local and general. Indeed, so far from there being any evidence in the records of these towns that the Massachusetts town and town-meeting government were derived from ancient Saxon and Germanic sources, — the “tun” and the “folk-mote,” — it seems clear that the town was merely a convenient though somewhat vague designation of adjacent territory for proprietary, religious, political, and military purposes, while the town-meeting, as a form of municipal government, came into existence gradually during the first twenty years of the settlement, and through a process of evolution, or rather of reproduction, as simple as it was natural.

To show clearly the evidence on which these conclusions are reached, it will be necessary to quote freely from the original records of the towns I have named; and those of Dorchester will be taken first, for the reason that, besides being one of the oldest of the Massachusetts towns, its records, both church and town, are complete and peculiarly full and instructive; indeed it may fairly be questioned whether there is any Massachusetts town in the history of which the gradual development of New England town government can be more advantageously studied than in that of Dorchester.¹

On the first written page of the Dorchester records [5] those connected with the settlement are referred to as “the planters in Dorchester,” and on the succeeding page a certain agreement is recorded as having been made “by the whole consent and vote of the Plantation.” The settlement of Dorchester Neck, now South Boston, is reckoned from Sunday, June 1st, 1630; but the town records do not begin until 1633, and the following agreement is entered under date of the 8th of October of that year, as “made by the whole consent and vote of the plantation”: —

“Imprimus it is ordered that for the general good and well ordering of the affairs of the plantation there shall be every Monday before the Court by eight of the Clock in the morning, and presently upon the beating of the drum, a general meeting of the inhabitants of

¹ The first book of Dorchester Town Records, covering the period from 1632 to 1653, is printed with the Fourth Report (Document 9 — 1880) of the Boston Record Commissioners. The early church records were printed separately by the Society in 1891.

the plantation at the meeting house, there to settle (and set down) such orders as may tend to the general good as aforesaid; and every man to be bound thereby without gainsaying or resistance. It is also agreed that there shall be twelve men selected out of the Company that may or the greatest part of them meet as aforesaid to determine as aforesaid, yet so as it is desired that the most of the plantation will keep the meeting constantly and all that are there although none of the twelve shall have a free voice as any of the twelve and that the greater vote both of the twelve and the other shall be of force and efficacy as aforesaid. And it is likewise ordered that all things concluded as aforesaid shall stand in force and be obeyed until the next monthly meeting and afterwards if it be not contradicted and otherwise ordered upon the said monthly meeting by the greatest part of those that are present as aforesaid."

Several things are noticeable in this order, and among others the use of the words "inhabitants of the plantation," — a form of expression frequently found in the records from which quotations will be made. The word "inhabitants" now has a popular and accepted sense, signifying all those living or dwelling in a given territory; in the seventeenth century it had a wholly different and well understood legal meaning much more limited in character, — in the language of Coke, "forasmuch as he manures lands by that he is resident"; in other words, the common law was well settled that a man was an "inhabitant" of a place, whether he had his house there or somewhere else, when he had land in occupation in that place and was interested in the management and well being thereof; and otherwise he was not an "inhabitant."¹

It is next to be observed that in the method of managing common business affairs provided in this order there is nothing suggestive of the vestry or the quarter session, or any other local governing board known in English political or constitutional history. It is the commercial enterprise which comes into prominence. The "planters" representing the ownership of the "plantation" meet and agree upon certain rules and a method of doing business; and in so doing they follow closely the system outlined in the charter of the colony. The planters, being in this case the body of inhabitants, are the General Court of the plantation, or town; and they in this General Court, subsequently called a town-meet-

¹ Toulmin Smith's *The Parish*, p. 478; *Channing's Town and County Government*, p. 12.

ing, choose certain of their number to act as a species of executive committee, exactly as the General Court of the colony elected the Board of Assistants. The planters occupied the position of the body of stockholders in a modern business corporation, while the "twelve men selected" were the board of directors.

Neither in all this was there anything novel or calculated to excite surprise. It was the usual method of business procedure then in vogue in such cases, and that in accordance with which the charter of the colony was itself framed; and the appointment of committees of a general body to give special attention to matters of common concern is not only an expedient which would naturally suggest itself, and indeed force its way into practice, but it has been referred to as "one of the most ancient as well as one of the most striking and practical of the characteristics of English institutions," and it might be added of civilized human institutions; for while Toulmin Smith uses the language just quoted in connection with the English vestry,¹ Sir Henry Maine, speaking of those parts of India in which the village-community is most perfect, and in which there are the clearest signs of an original proprietary equality, says that authority is there lodged in the Village Council, which is always viewed as a representative body, and not as a body possessing inherent authority.² The Village Council of the East, bearing a name, whatever its real number, which recalled its "ancient constitution of Five persons," was analogous to the selectmen of the New England town; and both were ordinary and obvious organizations which naturally evolved themselves out of the business needs of any community those composing which undertook to manage their own affairs.³

¹ The Parish, p. 227.

² Village Communities, Lecture IV.

³ The late Richard Frothingham is authority for the statement (Proceedings of the American Antiquarian Society, October, 1870, p. 33) that the following from the Charlestown records is the earliest entry ever made in any Massachusetts town-book indicating the formation of a board of selectmen:—

"An order made by the inhabitants of Charlestowne at a full meeting for the government of the Town by Selectmen.

"In consideration of the great trouble and charge of the inhabitants of Charlestowne by reason of the frequent meeting of the townsmen in generall and that by reason of many men meeting things were not so easely brought into a joynt issue. It is therefore agreed by the sayde townsmen joyntly that these eleven men whose names are written on the other syde, (with the advice of Pastor and Teacher desired in any case of conscience,)