

**LOCAL LAW IN MASSACHUSETTS AND
CONNECTICUT: HISTORICALLY
CONSIDERED; AND THE HISTORICAL STATUS
OF THE NEGRO, IN CONNECTICUT; ALSO, A
SPEECH DELIVERED IN THE SENATE OF
CONNECTICUT, JUNE 22, 1864**

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Local Law in Massachusetts and Connecticut: Historically Considered; And the Historical Status of the Negro, in Connecticut; Also, a Speech Delivered in the Senate of Connecticut, June 22, 1864 by William Chauncey Fowler

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WILLIAM CHAUNCEY FOWLER

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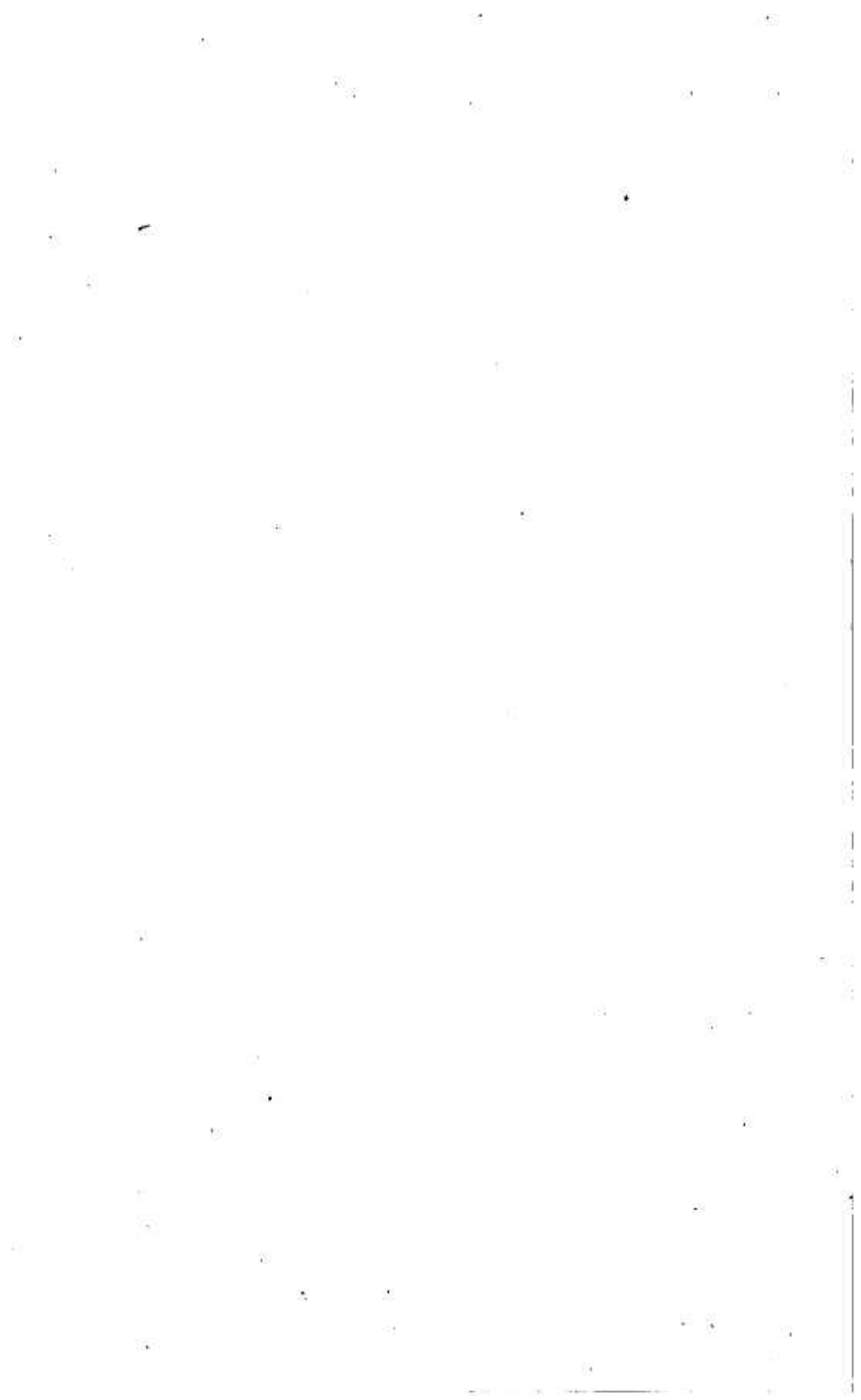
A SPEECH

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WILLIAM CHAUNCEY FOWLER, LL.D.



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WILLIAM CHAUNCEY FOWLER, LL.D.

PREPARED FROM THE NEW ENGLAND HISTORICAL AND GENEALOGICAL
REGISTER, WITH ADDITIONS.

ALBANY:
JOEL MUNSELL.
1872.

PREFACE.

The annals of Massachusetts and of Connecticut show that each of these commonwealths have been ever ready to maintain the right of local self-government. The rights granted in charters by the British Crown, in one era, and the rights reserved to the states in the Federal Constitution, in another era, were dearly prized by each commonwealth, as the basis of its local laws.

This love of local law, and the struggles to maintain it, are, in the following pages, set forth in a series of historical facts, in the hope that they would furnish lessons of wisdom for political students of this and future times. A like induction of facts from the annals of other states, of the *Old Thirteen*, would show that they too were animated by the same spirit to struggle for the same object.

Nor is there now any reason for the decay of that spirit, or the cessation of those struggles. After the states had ceased to be colonies, and had formed their own separate Constitutions, they proceeded in due time unitedly to form the present Federal Constitution, as supplementary to the State Constitutions. They so adjusted the Federal Constitution to the State Constitutions, that under a two-fold government the internal concerns of each state could be taken care of by local laws enacted by itself, while the external concerns of the whole could be taken care of by federal laws enacted by the states in congress assembled. Thus the states are separated as to one class of interests, and united as to another class. Thus too, as sepa-

rated, the states, each of them, can pass such local laws as it sees fit, within the limits of its reserved rights; and the states, as united, can pass such federal laws as they see fit, within the limits of their delegated powers. Under this two-fold government, with two sets of laws, with two sets of agents, the problem is to keep each state government on its own domain within the limits of its reserved rights, and to keep the federal government on its own domain within the limits of its delegated powers. If this problem shall not be worked out, our two-fold government may become the worst government on earth. If it shall be worked out, according to the original idea of the founders of the smaller republics, the separate states, and of the larger federal republic, the United States, it may become the best government on earth.

W. C. F.

DURHAM, CONN., 1872.

LOCAL LAW IN MASSACHUSETTS.

Local law is a relative term. It stands contrasted with imperial law. As used in this paper, it means the laws of the town as distinguished from the laws of the colony or state. Moreover, it means the laws of the colony or state as distinguished from the laws of Great Britain or of the United States.

PLYMOUTH COLONY.—THE RESIDENCE IN HOLLAND.

In 1608 a company of English separatists left their native country by stealth, to dwell in Amsterdam. Why did they leave the fruitful fields which they had cultivated, to dwell in a commercial city, inhabited by a strange people, speaking a strange language, and engaged in business foreign to their own? Because, as separatists from the Church of England they had felt or feared the pains and penalties of the imperial laws enacted by the British parliament. After residing in that city, where their religious opinions were tolerated for perhaps a year, why did they with their pastor, John Robinson, and their teaching elder, William Brewster, remove to Leyden? Because there were violent feuds between two other congregations of separatists, which threatened to embarrass them in their self-government as a church. After staying in Leyden about eleven years, why did they leave that "pleasant city," to brave the dangers of the ocean and to dwell in the wilderness exposed to savages? Because they could not practically carry out their principles of self-government as a church, and transmit them to their posterity, among a people to whom they were in danger of becoming assimilated, so that their children, instead of being English, would become Dutch. To preserve their nationality, their lan-

guage, and their cherished form of church government, they must leave Leyden.

After they had come to this resolution, "the world was all before them where to choose." Guiana, described in the glowing language of Sir Walter Raleigh, as an earthly paradise, was proposed to them. This locality they rejected, because it would expose them to the interference of the jealous and fiery Roman Catholic Spaniard, from whom Leyden had lately suffered so much. Zealand in Holland was proposed to them. But Holland was no longer acceptable as a place of residence. They cast their eyes across the broad Atlantic upon the new world. Here was the soil, here was "ample room and verge enough," where the germs of their civil and religious institutions could take root and expand fully without repression. They were "well inclined" to cross the ocean and take up their home in the colony of New Netherland, on the island of Manhattan, under the protection of the Prince of Orange and the High and Mighty Lords the States General. But this inclination on their part, though encouraged by the directors of the New Netherland company, was not destined to be gratified.

EXTRACT FROM THE PETITION OF THE DIRECTORS OF THE
NEW NETHERLAND COMPANY.

[From the original in the Royal Archives at the Hague; File entitled
Admiraliteit.]

Dated February 12, 1620.

"To the Prince of Orange, etc.

"Now it happens, that there is residing at Leyden a certain English Preacher, versed in the Dutch language, who is well inclined to proceed thither to live, assuring the petitioners that he has the means of inducing over four hundred families to accompany him thither, both out of this country and England, provided they would be guarded and preserved from all violence on the part of other potentates, by the authority and under the protection of your Princely Excellency and the High and Mighty Lords States General, in the propagation of the true, pure Christian religion, in the instruction of the Indians in that country in true learning, and in converting them to the Christian Faith, and thus through the mercy of the Lord, to the greater glory of this country's government, to plant there a new Commonwealth, all under the order and command of your Princely Excellency and the High and Mighty Lords States General."