

**COLONIAL IMMIGRATION
LAWS: A STUDY OF THE
REGULATION OF IMMIGRATION
BY THE ENGLISH COLONIES IN
AMERICA**

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Colonial Immigration Laws: A Study of the Regulation of Immigration by the English Colonies in America by Emberson Edward Proper

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EMBERSON EDWARD PROPER

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LAWS

A STUDY OF THE REGULATION OF IMMIGRATION BY
THE ENGLISH COLONIES IN AMERICA

BY

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PART I GENERAL SURVEY

CHAPTER I

INTRODUCTORY

THE settlement and growth of the American Colonies, though carried on under English control and largely supplied by British subjects, was by no means confined to the inhabitants of that realm. America offered attractions to the daring and discontented, the oppressed and persecuted of all Europe. Especially to the thrifty of all classes did the new world hold out tempting inducements. And so people of many nationalities and widely varying customs and creeds were among the early settlers; the lowlands of Holland, the plains of France and the valleys of Germany and Switzerland each contributed to that band of sturdy immigrants, the American colonists.

It is doubtful whether England could have held this vast territory if she had pursued a policy of exclusion in its colonization. True, the other maritime powers of Europe, at the beginning of the seventeenth century, were in no condition to compete with her in this field; but it is improbable, when we consider how comparatively feeble the colonies would have been had they depended for settlers on England alone, that she could have resisted the encroachments of France and Holland, or that she would have deemed it worth the effort.

The early idea that America was the much desired East, or, at least, a country of marvelous resources, whose river

beds were lined with gold and precious gems, led to a very natural national exclusiveness. Every new discovery was thought to be a veritable treasure house, and naturally the sovereigns of the different countries deemed it prudent to reserve all rights for themselves and their liege subjects.

With the abandonment of the pursuit of gold, however, after a century of mutual encroachments and petty warfare, came greater liberality in the admission of foreigners. English leaders began to realize that there were fortunes in the natural products of their American grants, if properly developed. But this meant a permanent residence by actual settlers instead of temporary occupation by bands of adventurers, and the early years of the seventeenth century were rife with schemes of colonization. Settlements were made in the face of the greatest obstacles and received every encouragement from the crown.

The economic theories of the time, however, made national greatness depend on a dense population, and England could ill afford to spare the requisite quotas of people to build up prosperous and populous colonies; accordingly we find the genesis of American cosmopolitanism in the early charters granted to the colonizing companies, which gave the promoters permission to transport not only liege subjects, but all such strangers as might be willing to present themselves.¹

¹ "And we do further . . . grant by these presents, to and with the said Treasurer and Company and their Successors, that it shall be lawful and free for them and their assigns at all and every time and times hereafter, out of our realm of England, and out of all other our Dominions, to take and lead into the said voyages, and for and toward the said plantation . . . and to abide and inhabit there in the said Colony and Plantation all such and so many of our loving subjects, or any other strangers that will become our loving subjects, and live under our obedience, as shall willingly accompany them in the said voyage and Plantation," Charter of 1609 granted to London Co. by James I. *Charters and Constitutions of the U. S.*, ii, 1900.

The charter granted to the Mass. Bay Company in 1629 by Chas. I. contains a similar clause. *Ibid.*, i, 983.

Some one has aptly said that the seventeenth century found the old world and its people so heartily tired of each other, that a partial separation was inevitable. The conditions in Europe were such that many of its inhabitants were moved to abandon their country, their homes, and their friends, and to seek a habitation in some other land; and so, like their ancestors before them, they turned their faces westward, with the great immigration to America as the result.

It is a part of the work of every historian who writes a history of America to point out the general conditions in Europe which induced thousands, during the seventeenth and eighteenth centuries, to forsake their old homes and to seek new ones beyond the ocean. It will be our purpose to study this immigration from the American side; especially to ascertain the attitude of the colonial governments, which were for the most part controlled by English settlers, toward the immigrants from other countries or toward those of religious and political creeds different from their own; in short, to ascertain their efforts to encourage, or to regulate and restrict immigration.

Historians have classified the European conditions which led to the great migration under three categories: Religious, Political and Economic. In like manner we may group the American conditions, both natural and artificial, which attracted or discouraged immigration, under the same heads, and find the exact opposites of the European conditions. Thus religious intolerance and persecution in Europe was one of the prime factors for the discontent, the unrest, and the widespread desire for emigration, in many cases making the latter an absolute necessity for self-preservation.

On this side of the water we shall find that toleration in matters of religion was one of the strong and attractive inducements held out by the founders and afterward by the governments of the colonies to draw settlers to their juris-

dictions, while at the same time we shall see that intolerance in some of the colonies served as a most effective check to restrict and even prohibit the immigration of settlers who might otherwise have been attracted to those places. Again, while despotic governments and political and legal inequalities drove thousands from their homes in the old world, the promise of mild government and a guarantee of political and civil rights were held out by several of the colonies as special inducements to encourage the peopling of their lands. Similarly the economic conditions of America were the exact counterpart of the European: There unoccupied land was scarce and subject to a thousand petty and vexatious burdens; here the poorest peasant might obtain more than he could cultivate, and subject to no burdens except a mere pittance as quit-rent. In Europe labor was cheap and in the distribution of wealth secured barely enough to maintain itself; while America offered not only a maintenance, but a competence to the industrious and thrifty laborer.

Although our purpose is to study the regulation of this colonial immigration exclusively from the American standpoint, we shall find ourselves compelled to observe it more or less in connection with the European conditions, for the reason that the colonial governments were not free to deal with this question as they chose. Subject, as most of them were, to the control of some proprietor or proprietors, and in the last resort, as all of them were, to the Crown of England, their legislation on immigration must of necessity conform to the ideas and wishes of these superior powers, and in many cases was but the continuation or elaboration of the founders' policy, or a co-operation with some project of the home government.