

**JOHN HOPKINS UNIVERSITY STUDIES IN  
HISTORICAL AND POLITICAL SCIENCE,  
SECOND SERIES, X. TOWN AND COUNTY  
GOVERNMENT IN THE ENGLISH  
COLONIES OF NORTH AMERICA. THE  
TOPPAN PRIZE ESSAY FOR 1883**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649752829

John Hopkins University Studies in Historical and Political Science, Second Series, X. Town and County Government in the English Colonies of North America. The Toppan Prize Essay for 1883 by Edward Channing & Herbert B. Adams

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.  
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

[www.triestepublishing.com](http://www.triestepublishing.com)

**EDWARD CHANNING & HERBERT B. ADAMS**

**JOHN HOPKINS UNIVERSITY STUDIES IN  
HISTORICAL AND POLITICAL SCIENCE,  
SECOND SERIES, X. TOWN AND COUNTY  
GOVERNMENT IN THE ENGLISH  
COLONIES OF NORTH AMERICA. THE  
TOPPAN PRIZE ESSAY FOR 1883**



X

# Town and County Government

IN THE

## English Colonies of North America

J F

# TOWN AND COUNTY GOVERNMENT IN THE ENGLISH COLONIES OF NORTH AMERICA.<sup>1</sup>

The Toppan Prize Essay for 1883.<sup>2</sup>

---

My researches in the Library of Harvard University have convinced me that the exact form which the local organization of each colony should assume depended on, (1) the economic conditions of the colony; (2) the experience in the management of local concerns which its founders brought from the mother-country; and (3) the form of church government and land system which should be found expedient.

---

<sup>1</sup>This line of research, a portion of the results of which are embodied in the following pages, was undertaken at the suggestion of Professor Henry W. Torrey, LL.D. This essay was written under the stimulus derived from Dr. H. B. Adams's paper on the Germanic Origin of New England Towns, *Studies, First Series, II.* Read before the Harvard Historical Society, May 9, 1881.—E. C.

<sup>2</sup>The Toppan Prize at Harvard is for the best essay on one of three subjects in Political Science. The essayist receives a prize of \$150, the gift of Mr. B. N. Toppan, of the class of 1858. Competition is open to graduate students who have pursued a regular course of study at Harvard University during the year preceding the award of the prize, and also to undergraduate seniors. The Toppan Prize was first awarded in the year 1882 to Frank W. Taussig, Ph. D. (Harvard, 1883), Instructor in Political Economy at Harvard College, for a monograph on "Protection to Young Industries in the United States," published by Moses King, Cambridge, 1883; 2nd edition, by G. P. Putnam's Sons, New York, 1884. Dr. Channing's Prize Essay was read before the Historical and Political Science Association of the Johns Hopkins University, February 22, 1884, and also, in abstract, at the first meeting of the American Historical Association at Saratoga, in September, 1884.—Ed.

## ECONOMIC CONDITIONS.

As to the first of these historic factors we find that the physical conformation of New England, with the exception of what is now the State of Maine, necessitated settlement on the coast, and on the banks of the two rivers which penetrated the country; and necessitated, also, the spreading thence into the interior where the colonists "made their slow and painful way, much of it through the thick underbrush,—the husband with an axe on his shoulder, and what he can carry of household appendages in a pack on his back." Besides, neither the soil nor the climate were such as tempted men to live in scattered dwellings, or to cultivate large tracts of ground; and, in fine, the "nature and constitution of the place" were favorable to concentrated settlement for purposes of trading, fishing, and manufacturing, and not for an extended cultivation of the soil.

Turn to Virginia and we find a country cut into fragments by large navigable streams, forming harbors far in the interior, where the English ship could exchange her cargo of manufactured goods for tobacco grown in the vicinity. There, too, the climate was suited to a rural life, while a rich and almost inexhaustible soil was favorable to the growth of tobacco, the production of which, in the first years of the colony, was so profitable that it was grown in the streets of the only village which then existed; and so profitable that it was only by means of the most stringent laws, brutally enforced, that farmers could be compelled to grow enough food for themselves and their laborers. Where such conditions prevailed towns did not spring readily into being, nor could men be forced, bribed, or persuaded to live in them when founded.

To the south of Virginia somewhat similar economic conditions prevailed, especially in North Carolina; but in South Carolina, and to a greater extent in Georgia, we meet with large tracts of land difficult of access, and with a soil that

produced no great staple like tobacco,—the cultivation of cotton in large quantities was not profitable until after the inventions of the cotton gin by Eli Whitney in 1792-. The climate of the upland portions of these colonies was suited to the shop, but that of the lowlands, while favorable to vegetation, was peculiarly fatal to the whites.

The physical formation of the middle colonies was favorable to either the town or county system of local government, and in each of them there grew up, in course of time, a great commercial town, the inhabitants of which seem to have differed materially in modes of thought and of life from the population of the surrounding districts, which was large, as both the soil and the climate were favorable to the extensive cultivation of breadstuffs.

#### LOCAL GOVERNMENT IN THE MOTHER COUNTRY.

The early settlers of New England belonged to the great middle class of old England, and they brought to their new home the ideas, energies, affections and hatreds of their ancestors. The early colonists of Virginia were purely English, but, while many of them belonged to the upper and middle classes of the mother country, there was, especially in early times, a large body of "servants," sprung from the lowest class of the English metropolis. After the introduction of negro slavery, this white slavery, for such it was, nominally went out of use; but the condition of the poor white, in colonial days, at least, was not much better than that of the white servant of an earlier date, or the negro slave of his own time. The result was that in Virginia the upper class took the reins of government into their hands at the start, and held them to the finish. In New England, on the contrary, the mass of the people, from the very earliest time, seized the control of affairs, fiercely resented any encroachment on what they considered their rights, and were the governing power



when the Revolution burst upon them.<sup>1</sup> The institutions of the two colonies had a common origin, but so different has been their growth that their similarity can be discovered only after the most careful and exhaustive research.

The middle colonies were settled by a heterogeneous population: Dutch, Swedes, and English Puritans, Churchmen, Catholics, and Quakers, while the colonies to the south of Virginia were settled either as she herself had been, or by Scotch, Palatines, Huguenots, and English of all religions and degrees. The middle colonies gravitated towards the form of government that obtained in New England or Virginia, as proximity to one or the other dictated, while the local organization of the Carolinas was of a mixed character such as would naturally have been produced by the manner of their settlement. New England and Virginia dominated the continent, and it is to the political education of their founders that I now call attention. This education was acquired at the town council, the county court, and the parish meeting. The two first are well-known, but parish government in the early part of the seventeenth century, I believe, has never been satisfactorily explained; and, therefore, I will give the results

---

<sup>1</sup>There was an aristocracy in Massachusetts in 1775, as well as in Virginia. In the latter colony the aristocracy was the ruling class and upheld the cause of the colonists as against the crown, while in the former the aristocracy shared its political rights with the great mass of the people, and, when called upon to take one side or the other, went to Nova Scotia. Does not this desertion of the New England aristocracy, when coupled with the patriotic behavior of their peers in Virginia, account for the jealousy of Washington in certain quarters at the outset of the Revolution; and does it not also account for the fact that, of the first five presidents, four came from Virginia? It would also be interesting to inquire how much influence the fact that the New England aristocracy was an aristocracy of mere wealth—derived for the most part from mercantile pursuits, while that of Virginia was a landed aristocracy—may have had at the outbreak of the Revolution.

of my investigations which, it must be remembered, have been confined to the Library of Harvard University.<sup>1</sup>)

The first thing that I wish to make clear is the meaning of the word parish as understood by the common and educated Englishman of 1600. For, whatever the true historical meaning of the word *parish* may be, it is reasonably certain that in England in 1600, it was used synonymously with *town*, and that it conveyed to the mind of the parish officer of that day very much the same idea as did the word *town*, that is, it was to him a territorial distinction. For instance, note the use of the two words in the following extract: "Memorandum that this year a thousand five hundred and eighty one by the consent of the *parish* of Stowmarket there was ground made to Thomas Kyndersley and Thomas How of the ground commonly called the *town ground* of Stowmarket for the term of three years paying to the *churchwardens* . . . and the *town* further doth condition;"<sup>2</sup> and also note the fact that the churchwardens of Kingston-on-Thames paid 6 d. "for bringing the town pot;" and that, according to Toulmin Smith, "In country church-yards where there has never been any 'town,' in the modern sense, inscriptions will be found, both of old and recent date, naming the *parish*, *township*, or otherwise as the *town*." So much for laymen, now let us see how the law writers of the time used the words.

<sup>1</sup>The best description of parish government in the olden time is Toulmin Smith's *Parish*; but the book should be used with great caution as Mr. Smith is an enthusiast. I wish it to be understood that I am greatly indebted to this book, and I here give a general reference to it. But all the authorities cited in the text have been carefully examined by me, and have often been found to have been strangely twisted by Mr. Smith, an example of which is given on page 19; and, furthermore, a great many of these examples have been used by Mr. Smith and myself to elucidate different matters. The best description of the English parish at the present day is to be found in "The State and the Church," by the Hon. Arthur Elliot in The English Citizen Series.

<sup>2</sup>History of Stowmarket, p. 133.

William Lambard, writing in 1582, says: "The minister or curate of the *parish*, and the constable, headborow or tithingman of the *town* to which any popish recusant is sent shall enter the name in a book to be kept in every parish for the purpose."<sup>1</sup> Sir Edward Coke in his description of "hue and cry," given further on, always uses the word town, while Sir Thomas Smith in describing the same thing invariably writes parish; while Coke in the "Institutes" speaks of "*towns* and *parishes* within any shire, riding or *town corporate*." Now, what was a town or parish?

The word for town in old law books is vill, thus "*Chescun burgh és un vill*" is translated "every borough is a town." Now as to the meaning of vill or town or parish, Lord Coke says that "every place shall be called a vill if it does not appear to the contrary, *but that it shall not be so accounted where there is not and never was a PAROCHIAL CHURCH.*"<sup>2</sup> So every parish should be intended to be but one vill, but nevertheless there might be more than one vill in a parish or more than one parish in a vill.<sup>3</sup> The following extract will, perhaps, show this point more clearly: "And all the judges in the exchequer chamber over-ruled it to be good enough for since it was first laid that trespass was done at *Hurley*, which shall be understood a *town*, and then the defendant speaks of the *parish aforesaid*, they shall be understood all one, and two former judgments were cited accordingly for the word aforesaid couples them."<sup>4</sup> Sir John Fortescue says: "that the boundaries of those vills are not ascertained by walls, buildings or streets; but by a compass of fields, large districts of land," etc., and Selden, in commenting on the passage, says:

<sup>1</sup> Lambard, *Constables*, p. 68.

<sup>2</sup> Coke on Littleton, 115.

<sup>3</sup> *Ibid.*, 125; *Fleta*, 4 c. 15, s. 9; *Coke's Reports*, V., 67 a; Selden, *de Dec.*, c. C. 53, p. 80.

<sup>4</sup> *Hobart's Reports*, 6. For additional cases of the use of the words by lawyers. See *Bulstrode's Rep.*, I., 60. See also *Hobart's Rep.*, 41—*Welsh vs. Wray*.