

The elaborate researches among early Teutonic and Celtic institutions, which formed the subject of a former article, are well reinforced by the labors of independent investigators into special subjects and particular localities—the skirmishers of the antiquarian army—who are already numerous, and whose ranks are receiving constant accessions. Prof. W. F. Allen, of the University of Wisconsin, has long been known as an American pioneer in these inquiries, and his monographs on the "Cottagers of the Middle Ages," the "Origin of the Freeholders," and kindred topics, have a value which has been recognized across the water, in the published testimonials of Sir Henry Maine, Mr. Seebohm, and the historian Freeman. A recent essayist in the "Nineteenth Century," having discovered a complete documentary history of a manor and parish in the county of Norfolk, draws therefrom a vivid description of the village life therein, five or six centuries since; not the least interesting of his revelations being the fact that in 1377, vendors of beer without the license of the lord of the manor were fined in the court leet. In "Scandinavia" (a Chicago monthly) for November and December, 1883, Prof. N. C. Frederiksen, formerly occupant of the chair of Political Economy in the University of Copenhagen, writes from his American home, at considerable length, upon the Landed System of Denmark; giving the results of his extended studies into this subject, from which it appears that the primitive cultivators of the soil were serfs, as was the case in other portions of Europe, although, as is well known, the feudal system was of comparatively late introduction into Denmark, and was not, when introduced, imposed on that people by conquest. Still more recently, in the latest number of the "American Law Review," Mr. Roger Foster, of New York, gives a *résumé* of some of the "Peculiarities of Manx Law," showing that the Isle of Man is, down to the present day, the conservator of a curious collection of archaic laws and cus-

toms, some of which, still practised there, have elsewhere been disused for centuries, and the study of which would apparently yield even richer returns than have the Brehon laws of Ireland or the customs of Indian communities. These are but a few instances of a wide-spread tendency toward mining in the depths of English and continental antiquities.

Not to be too entirely diverted from fields of investigation nearer home, certain students of these subjects have instituted a combined scheme of inquiry into the origin of our American institutions. The results of the work of this brigade of the antiquarian army are presented to the public under the auspices of the Johns Hopkins University. The titles of the monthly pamphlets issued during the past year, as shown in the footnote to this article, will indicate the extent and variety of the researches already made. Those who examine further than the titles will be agreeably surprised at the quality of most of the work thus far done, as well as at the abundance of opportunity for interesting researches found on this side of the Atlantic. It is simply one of the previously overlooked features of our national development, that all the early colonies within our present domain furnish valuable evidences of the origin and growth in various stages of institutions which have now become familiar.

The colony of Maryland was settled and established on the manorial principle, and the like system obtained to some extent in New York and Pennsylvania. In other colonies there was individual or company proprietorship, with various modifications. In two or three instances, of which Connecticut furnishes one, the settlements were made on the fundamentally democratic plan of independent towns or villages. Considering the variety of bases for these colonial settlements, it is surprising that the modern forms of our institutions show so much approach to uniformity.

In Maryland, the plan adopted was to erect every two thousand acres into a manor, each with a court baron and court leet. Many of these manors are still in existence, by name at least. Several of them were long since granted to and are still held by the Roman church or its societies. On all these manors the manorial courts were held; the authority therefor being ample, as the colony was professedly modelled after the palatinate of Durham, and the lord proprietor had in his province power equal to those of the king in his palace. The authentic, though incomplete, records of the feudal courts held in at least one of these manors, that of St. Clements', are preserved by the Maryland Historical Society, and are first brought to general attention in these

*JOHNS HOPKINS UNIVERSITY STUDIES IN HISTORICAL AND POLITICAL SCIENCE. Vol. I, 1883. I. An Introduction to American Institutional History; by Edward A. Freeman. II. The Germanic Origin of New England Towns; by Herbert B. Adams. III. Local Government in Illinois; by Albert Shaw. Local Government in Pennsylvania; by E. B. S. Gould. IV. Saxon Tithing-Men in America; by Herbert B. Adams. V. Local Government in Michigan and the Northwest; by Edward W. Bemis. VI. Parish Institutions of Maryland; by Edward Ingle. VII. Old Maryland Manors, with Records of a Court Leet and a Court Baron; by John Johnson. VIII. Norman Constables in America; by Herbert B. Adams. IX. Village Communities of Cape Ann and Salem; by Herbert B. Adams. XI. The Genesis of a New England State; by Alexander Johnston. XII. Local Government and Free Schools in South Carolina; by B. James Ramage.

publications. They bear date as early as 1659, and they curiously illustrate the faithfulness with which the English institutions of the time are reproduced in Maryland. A comparison between them and the records of the court leet of the English manor of Hitchin in 1819, presented by Mr Seeböhm in his work previously noticed, is instructive. The manorial court of St. Clements' exhibited an attempt at the fundamental work of defining the boundaries of the manor, each tenant being required to mark the bounds of his holding. The "jury and homage" are regularly sworn at each session; and the alienations by tenants, the successions of heirs, and the reliefs due to the lord of the manor upon alienations and descents, are entered of record. In 1670, a "paire of stocks, pillory and ducking stoole," as "instruments of justice," were ordered to be provided "by a general contribution throughout the manor." In 1692, the Church of England was established by law in Maryland, and the colony was divided into parishes, each ruled by its local government. These parishes still remain, but they now serve ecclesiastical purposes only. Prior to the Revolution, they were the principal means of management of local affairs. Parish records to a great extent, from dates early in the eighteenth century, are still extant. Tobacco was in that century the staple product, and the standard means of raising parish revenue and of paying clerical and other dues. The glebe was a common feature. The parish was generally, as far as practicable, copied from its English prototype. This institution was the educator of the people in political affairs, fitting them to take their part in the Revolution. It was, however, a natural effect of that great change to prejudice the people against such an authority as that of the church, and the parish soon lost all its political influence.

The plan of government originally intended for South Carolina, by Locke and Shaftesbury, was also manorial. The province was to be a palatinate, divided and sub-divided into seignories, baronies, and manors, with courts leet in the manors, precinct courts, county courts, and a provincial parliament. This government was but nominal, and in some unknown and unexplained way a system of localized government by the people grew up in its stead. The introduction, after a time, of the established church, resulted in the adoption in 1704 of a parish system, which was perfected by legislation in 1706. As in Maryland, the local parish government was at first civil as well as ecclesiastical. The evolution of the parish, through the "district" organization, into the modern county, is succinctly set forth by Mr. Ramage. Free schools

were early a feature of the South Carolina system, and the parish government from the first gave attention to the education of the people. In 1712, a free school was established in Charleston. About the same time, a colony from Dorchester, Massachusetts, transplanted to the Palmetto State, took with them their free school institutions, and in a Carolina parish, in their new village of Dorchester, the divorced "town and parish were reunited." It was not till 1811 that the state assumed control of the schools and made the system general.

In New England settlements, there were manifest survivals of other and quite different features of old English institutions, among them the Village Community. Several of the settlements were on this basis, so far as concerned the tenure of land, and the adoption of such of the means of local government as were consistent with the idea of rule by the people. The title to the land was usually vested in a company of proprietors, who stood in place of the individual proprietorship in a manor. The settlements were nearly of a pure "village" type, with house-lots assigned to families, out-lots or fields to individual cultivators, common fields for general use, and large tracts reserved for common use as pastures, wood-lots and hunting-grounds. Such was the constitution of the settlement at Salem, Massachusetts. Such had been the plan of the earlier settlement at Cape Ann, which was deserted because Salem offered better facilities for pasturage in common. "A common for pasture was Salem in its historic origin, and a common for historical browsing does Salem yet remain," says Prof. Adams; and his pages justify his simile. The town-lots were laid out with narrow river fronts, extending back for some distance, like the early French settlements in Louisiana and Michigan: a peculiar form, to which the attention of our antiquarians will doubtless be soon directed. The records of the proprietary of Salem, still extant, show the ordering of the cultivation of the "common fields," restrictions upon the alienation of allotted fields, and regulations of the cutting of timber. Town herdsmen watched the grazing of cattle on the town pastures, assisted by the town dogs. In the setting apart of fields for the use of the clergymen of the town of Salem, is seen a survival of the assignment of every tenth acre or lot belonging to the ancient village or manor to the parish priest, which was the origin of the church's tithes. Those who came from England as paupers were obliged to "work out their freedom," or serve their allotted term, before receiving any assignment of land for themselves. (Compare Seeböhm

and Ross, on the primitive serfdom of the agricultural classes among the early Germans.) Plymouth was also settled as a community, and yet retains traces of the community features, among them being the commons known as Town Lands. The familiar name of "Boston Common" indicates a similar survival, to some extent. The same is true of Hadley, Northampton, and other Connecticut River towns, where even now the residents of the town cultivate their several fields in the alluvial valley, which are laid out side by side like the ancient "acres" or divisions of the virgate. In all these towns, the village pound, that oldest of Saxon institutions, was one of the earliest features. From the beginning, too, every town had its Norman constables and its Saxon tithing-men. If at or soon after its earliest settlement, one of these village communities found any officer necessary, it was first of all the constable. The powers often conferred upon this officer by vote of the "selectmen," to keep watch and ward, and to observe the entry into the community of all strangers, were but reproductions of the authority specially delegated to the English constables, by the statute of Winchester, in the thirteenth century. The tithing-man was another link connecting the New England town with the Old England parish. As utilized in the colonies, these officers had many functions in common. Principally, however, while the constable watched the conduct of people in their public relations and acts, the tithing-man supervised their conduct in private life. He looked after the home, the family, and the church; he cared for the morals of the community, and "was personally responsible for the character and the conduct of all the households in his neighborhood." The Saxon tithing was a unit composed of ten or more families, whose supervisor was the tithing-man. This was one mode of practically enforcing the mutual duties imposed by the system of Frank-pledge. So in Massachusetts, the original tithing-man was the head man of a neighborhood of about ten families. It was natural that his care for the morals of his neighbors should put him on duty to enforce the Sunday laws, by preventing travel or work, requiring attendance at church, and preserving decorum and order in the sanctuary.

These town and community institutions found opportunities for a special development in Connecticut. In most of the colonies governmental authority had its origin in some royal grant or charter, under which the institutions mentioned grew up with little if any governmental interference, and with considerable governmental encouragement. In Con-

necticut, however, no such outside authority operated either to encourage settlement or originate government. The initiative in all respects was taken by the town itself. It grew spontaneously. An organized town, with its families, its officers, and its primitive petty institutions, was transported to a new locality in the wilderness; another followed, and then another. Each in its new home renewed its organization and perpetuated its local institutions. These diminutive states, each an example of the sovereignty of the people, united at once for common defence; and within three years they had organized into a "Genrall Corte." How they adopted, in 1638, the first American constitution, and afterward accepted a royal charter, using it only to strengthen themselves as a free people and to better develop the institutions of a free people, is well told in Mr. Johnston's pamphlet.

The later aspects of these American institutions find their best expression in the new communities of the West; and these are well illustrated in the Johns Hopkins papers on Local Government in Illinois, and Local Government in Michigan and the Northwest. Mr. Shaw's clear statement of the double origin of the institutions of Illinois, and his explanation of their development into a compromise system, had the honor of a first publication in the "Fortnightly Review." Towns found their earliest opportunities for free natural development in Michigan, which was the first of the Northwestern states to adopt the town-meeting system of local government. Illinois, drawing her early settlers in part from the Northern and in part from the Southern Atlantic states, was impressed by the peculiarities of both sections, and a want of homogeneity resulted. The influences of the governmental survey of the public lands into townships, and of the direct encouragement to public education provided in the Ordinance of 1785, operated in favor of a system of local government by townships. In 1848, legislation promoted the formal adoption of this system, by allowing counties, by popular vote, to put it in force; and this privilege, exercised at once by nearly all the counties in the northern portion of the state, has been since claimed by many southern counties which had at first used the county system introduced from Virginia. The tendency thus exhibited toward uniformity in the local institutions of Illinois, is an interesting feature of the subject.

Pennsylvania affords another instance of the operation within the same territory of diverse influences. Under the rule of the Duke of York, an elaborate code of laws had in general brought town and local self-government into prominence. Under the proprietorship

of Penn, a different system prevailed. His charter authorized a division into counties, and the erection of manors. Though manorial features were not largely introduced, the county became the unit of civil authority and power. Out of these opposing forces there grew, after the Revolution, a modified system, occupying a middle ground between the New England town policy and the county administration of the South; in which the influence of the county seems to predominate, though not to the exclusion of local control over such especially local matters as highways and bridges.

The series of Johns Hopkins pamphlets is appropriately opened with an "Introduction to American Institutional History," by Edward A. Freeman, the historian. The publication of the series was encouraged, if indeed it was not directly inspired, by Mr. Freeman himself, when, in his visit to America in 1881, he took an active interest in the researches which these pamphleteers and other students were then making. His prophecy, in this introduction, that their efforts would result in accomplishing "something for the scientific study of Comparative Politics," is justified by the character and extent of the investigations already made public, as stated only imperfectly in this review. The interest and the benefit of these antiquarian delvings extend far beyond the field of the mere antiquarian. It is reported that Indian legislators are now preparing for Hindoostan a new system of local self-government, modelled largely after the American pattern; so that the primitive Aryan stock is to have the benefit of all the development and progress which its representatives have accomplished under the educating force of time and circumstances. If undertaken, such an enterprise will be materially aided by such publications as this Johns Hopkins series for 1883, and other similar studies which are promised during the current year.

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