1925

English local government in the 16th and 17th centuries

Lomasney, Ethel Catherine

Boston University

http://hdl.handle.net/2144/5563

Boston University
BOSTON UNIVERSITY
GRADUATE SCHOOL
Thesis

ENGLISH LOCAL GOVERNMENT in the 16th and 17th CENTURIES

Submitted by
Ethel Catherine Thomasney
(A. B., Boston University, 1916)
In partial fulfilment of requirements for
the degree of Master of Arts
1925
I. Pre-Tudor Period
   1. County
   2. The Justices of the Peace
   3. Feudal Courts
   4. Manor
   5. Franchise

II. Tudor Period
   1. Difficulties facing the Crown
   2. Blending of old and new
      a. County
      b. Manor
      c. Franchise
   3. Enlarged power of Justices of Peace
   4. Parish
      a. Ecclesiastical
      b. Civil
      c. Relationship of Justice of Peace to Civil Parish
      d. Social and Economic life of Parish

III. Summary
   1. Effect of English Local Government on the New World

IV. General Summary
I

PRE-TUDOR PERIOD
1. County

In Tudor England the history of local government is particularly important because of the changes introduced and because of the effect of the training of the new system of government on all Englishmen, especially those who were destined to take a leading part in local political developments in the new world. In order to present clearly the activities and changes in local government in the 16th and 17th centuries it is necessary to trace the rise and decline of various divisions of government in the pre-Tudor period, namely the county, manor, and franchise, and to review the situation confronting the Tudors when they began their efforts at centralization.

In utilizing the already established offices and machinery of government in the communities, the Tudors blended the old and the new, granting new duties of a civil nature to the localities whose organizations had been developed during the Middle Ages. Of these divisions of government the county logically receives first consideration, since up to the 16th century its power had increased in proportion to royal power.

The sheriff was the chief officer of the county in the pre-Tudor period, responsible for revenue, military force, police gaols, courts and execution of royal writs. In the reign of Edward III he was appointed by the Crown annually and by the time of Richard II was responsible for the appointment of the under sheriff and bailiffs of the hundreds.
and personally liable for them. Moreover in the reign of Henry II he was chief accountant of the Crown,--*"Governor of the shire, the captain of its forces, the president of its court, a distinctly royal officer." But it is apparent that gradually before the 16th century his power declined. For instance, new taxes and rates were imposed, with which he had little concern, so that the revenue which he collected became in time very little; his control over the military force of the county was lost with the appointment of lord lieutenants and finally he lost control over the effective police force of the county, also.

The county court, which had increased in importance with the position of the sheriff in the reign of Henry II declined with the decrease of the sheriff's power. The hundred court, too, which had jurisdiction similar to that of the county court and the sheriff's tourn decayed from the same natural causes as those which produced the decline of the county court. Even by 1327 proceedings of the sheriff in the tourns were viewed with some suspicion and in the reign of Edward IV sheriffs were forbidden to arrest and indictments must be delivered to justices of the peace.

So, even by the 12th century the central authority deemed it necessary to safeguard its interests against the sheriff and for this purpose primarily the coroner was appointed. By 1194 this office and its duties were dis-

tinct and in the 13th and 14th centuries there were four coroners in each county whose duties were wide. Since they were chiefly appointed to look after the interests of the Crown concerning the administration of criminal justice they held courts of record and kept rolls of value to the justice in checking verdicts of the hundreds. But their most important duty was to hold inquests in cases of sudden death under suspicious circumstances. Under the old law they received a fee for every inquest and their court declined with the hundred and county courts. Other officers of the county who had attained some power and dignity in the pre-Tudor period and whose position was changed materially during the 16th century were the High and Petty Constables. The High Constable had been appointed by the Court Leet of the Hundred, Liberty, or Franchise, and by the Assize of Arms in 1252 had been the conservator of the peace. In the 14th and 15th centuries the office had expanded so that he became the executive agent of the township and hundred. With the increase of power of the Justices of the Peace in the 16th century the petty constable became subordinated to the High Constable who in turn became the executive agent of the Justice.
2. The Justice of the Peace

The office of Justice of the Peace was not new in English local government but had existed ever since the Crown had attempted to bring all under the supreme authority of the state. Its importance increased as it became apparent that the ancient local system was not sufficient to keep order. For instance, after the Black Death in 1348 which caused so much misery and confusion in England it was necessary to extend the powers of the guardians of the peace to prevent widespread disorder. The ordinances even before this event show that there was determined effort to keep peace by gathering the police power into the hands of these officials. By 1360 the office was permanently established by statute in this manner:

"That in every county of England shall be assigned of the keeping of the peace, one lord and with him three or four of the most worthy in the county, with some learned in the law, and they shall have power to restrain the offenders, rioters, and all other barators, and to pursue, arrest, take and chastise them according to their trespass or offence; and to cause them to be imprisoned and duly punished according to the law and customs of the realm,——And the king wills that all general inquiries before this time granted within any seignories for the mischiefs and oppressions which have been done to the people by such inquiries, shall cease utterly and be repealed; and that fines which are to be made before Justices for a trespass done by any person be reasonable and just, having regard to the quantity of the trespass and the causes for which they be made."
It is sufficient to note that during the pre-Tudor period, through this office, a new class had arisen trained to administrative work, which lent itself readily later to the Tudor policy of consolidation. The Justices were of the middle class, residents of the county, cognizant of the conditions and traditions of the community, servants of the Crown, retaining enough local independence so that continental autocracy was checked in England and local powers of Englishmen were, even, through the development of this office, partly asserted.
3. **Feudal Courts**

In the 12th century feudal lords had the right to hold court for their tenants but by the 13th century these courts came to have less importance. It is obvious that if the principle of feudal courts had been maintained, allowing a series of one above the other, since the possessions of large land owners were scattered, these would have become a burden, and the attempt was given up. At the same time it was evident that the growth of the central power, extending the jurisdiction of the king's court rendered the feudal as well as the communal courts unnecessary.
Manors of the 12th and 13th century were tracts of land cultivated as a whole, varying in size, let to free and villein tenants. Later in the pre-Tudor period there was a political and judicial significance attached to the manor. The chief court of the manor, the Court Baron, was presided over by the Lord's Steward and various business was transacted there including contracts, trespass, libel, slander, assault.

The entire police force had been appointed by manorial courts and municipal corporations. Many Lords had their own gaols and small debts were recovered in the Court Baron. Affairs of agricultural concern, administration of the land, rotation of crops, management of quarries, pastures, and fisheries, breeding of stock, and care of cattle were under manorial jurisdiction. Questions of property rights, common field agriculture, and management of common pasture, in short matters that were of immediate interest in the daily lives of the tenants were taken care of in the various courts of the Lord. But these courts, especially the Court Baron, lost much of their power too, superseded by royal jurisdiction.
5. Franchises

Feudal ideas were paramount in politics in the Middle Ages, which meant distribution of power among the larger landowners and when Edward I came to the throne he found that royal rights had been usurped by private jurisdiction in the franchises. These were divided into the Palatinates and lesser franchises of which many were allowed to stand. The history of the Palatinate of Durham is to a great extent the history of the larger franchises, reaching the peak of its growth by 1536 and declining thereafter. Up to that period the judicial system of the franchises was more or less independent of royal control.

The lesser franchises retained power in the Middle Ages if they could show a title from the time of Richard I but by the 14th century they had gradually lost their popularity. The procedure of the courts of the franchise was archaic which accounts somewhat for the decline of the hundred and county courts also. But since the franchise was a kind of private property, it survived even though its usefulness was diminished. The most common of these franchises in the 15th century was the court leet—the right given to a private person to hold court to the exclusion of the sheriff to hold his tourn in some hundred. This franchise prevailed, looking out for the pecuniary interests of the Lord. Petty police cases and all cases conserving the peace were under the jurisdiction of this court. Especially important was the suppression of common nuisances which covered an
enormous range, positive and negative.

Boroughs were franchises that had been granted charters which allowed free development of their constitutions. Undifferentiated leet jurisdiction was common in these franchises and a definite line was not drawn between the executive and judicial business of the courts.

In summary, therefore, in the pre-Tudor period although many of the institutions and communal officials had lost their authority and power and had been subordinated and adapted to the growing jurisdiction of royal authority yet they did not cease entirely to exist and kept alive the idea of communities exercising self-government under judicial forms, subject only to law. Moreover, they provided the Tudors with officials and machinery of government long established, which they utilized in developing their centralized scheme of government, by which, although granting a liberal degree of local self-government they reached and controlled all parts of the realm.
II
TUDOR PERIOD
1. Difficulties Facing the Crown

In Tudor England, as in the continental countries of the same period, in order to cope with the difficulties facing the Crown and to preserve law and peace throughout the country some scheme of centralizing control had to be evolved, and the part played by the local government in the general plan by which the Tudors kept order and progressively gathered authority and power into their own hands is of undeniable importance. For instance, in suppressing at least two of the chief hindrances, in the 16th century, to a powerful central control, the local government was directly employed. First, the feudalism that had arisen in the 15th century, that of the great nobility, which might have caused the Crown embarrassment, was definitely checked in that the manors were not chosen as the civil units to carry out the enlarged duties of the state. Secondly, since the Reformation, warfare had been waged against Catholics and Dissenters. The maintenance of the new relationship between church and state in England was entrusted to the localities and punishment of any cases of recusants also.
2. **Blending of Old and New**

The manner in which the Tudors accomplished their purpose consisted of utilizing the already established offices and machinery of government of the local communities. In some cases the mediaeval power of the local officers was diminished considerably while the influence and importance of others was greatly increased. Thus there was a blending of the old and the new—new duties of a civil nature given to the communities by the Tudors, who made use of the organization which had been developed during the Middle Ages to accomplish their project. At the same time much local administrative power was retained and since the entire process was tinged by the resistance of the old to the new, a unique development resulted which has affected the course of public law and government in England to this day.

At first glance we might conclude that the central government was working toward absolutism, in the 16th century, based on royal power, since on the continent this was accomplished. For instance, in France the central authority was supported by a strong standing army completely under the control of the government and the people had no voice in the work of governing. All was done by agents of the central administration, appointed directly, and all self government was suppressed. While in England, although royal power progressed to a certain point, the local government retained much administrative freedom and was the stronghold of the people against
absolutism. New government officials did not entirely supersede the older, but it is this blending of the old and the new, which produced some curious effects, that is extremely important to the future of English local government. This can be shown easily in more detail. For instance, sheriffs, coroners, county and hundred courts, still functioning by the 16th and 17th centuries, represented the counties and officials already affected by 12th and 13th century royal centralization. Manorial jurisdiction, courts, leet and franchises are old feudal ideas modified by 12th and 13th century royal centralization, too. These all have a definite place in the scheme of government of the 16th and 17th centuries with the franchises still performing as exceptions to the general development.

Most important of all in this blending of the old and new orders were the Justice of the Peace and the parish. The former, directly responsible for the King's peace, continued the royal control established earlier, and became the man of all work for the Tudors. It will be necessary to note their additional powers and the distinction between their administrative and judicial duties which resulted in their new organization. Moreover, there is a new relationship between them and the parish, the most important unit of local government. Formerly entirely ecclesiastical, the parish was now utilized by the Tudors for civil duty. In our review of the parish as an ecclesi-
historical unit the reasons why the Tudors found it most workable for their purpose will be apparent and the social and economic aspects of the parish in the 16th and 17th centuries present a view of its vigorous life which was another reason for Tudor recognition. Finally, after a consideration of the relationship between the new organization of the Justices of the Peace and the Parish, and the changes in powers and duties of the other officers, the transition from an ecclesiastical unit to a civil unit with administrative power will have been completed.

b. County.

By the 16th century the communal courts and officials were still a part of the local government and although the importance of the courts of the county and hundred had decreased, the officials still exercised a great deal of control, and considering strictly the legal side of the constitution, were most important in the new program of the 16th and 17th centuries. First, the sheriff, whose duty was the execution of royal writs and who, therefore, set in motion the royal courts, secondly, the coroner who aided in detection of crimes at inquests, and thirdly, the high constable to whom were subordinated the petty constables and who was the agent of the Justices, still functioned. However, the appointment and legal status of some of these officials had changed and since the decay of the older communities, the hundred and township, the personal importance of the Justices increased.
with the custom now prevailing of his presentment to the court. And so in the county, by the 16th century, we see the older mediæval forms based on shire and hundred courts blended with the later development of local government, closely connected with the new power of the justices of the peace. It is abundant proof of the method of the Tudors, utilizing already established forms and officials, especially the latter, in arranging the new system to suit their needs.

The boundaries of the county were lasting and definite and even though a parish might overlap a county boundary, the officials knew where their jurisdiction ended. The fifty-two counties in England and Wales at the time of Henry VIII differed in area from 100 to 2,600 square miles, with convenient local subdivisions. In general, compared with the parish, the government and administrative duties of the county were well defined and simple.

During the 16th century the sheriff was still the chief officer of the county, administering justice, executing all process, conserving the peace, but he had begun to delegate many of these duties to a deputy. In addition lower officials known as bailiffs or deputies were appointed to help execute the processes of justice. The Sheriff still presided over the county court whose chief business was the recovery of small debts and about which much is not known except that most of its power was probably taken over by
the Commission of the Peace.

During the 16th century the High Constable had exercised some duties later given to Justices of the Peace, relative to orders to the Petty Constable and sentence for vagrants. The High Constable was appointed by the Quarter Sessions, after the Court Leet of the Hundred, Liberty, or Franchise had fallen into disuse, for one year usually. In the 17th century his new function was connected with levying the County Rate. The sums must be obtained by him from the Petty Constable and handed over to the Clerk of the Peace or the County Treasurer.

Finally the Coroners completed the list of county officials, differing in appointment, being elected by the free-holders, for life. Their duty was still to hold inquests when death was arrived at under suspicious circumstances and they were empowered to commit for trial those against whom the Jury at the inquest returned a verdict.

Most important of all in the civil administration of the county was the Commission of the Peace, appointed by the King and comprising the most distinctive feature of the English constitution. The Justices acted individually, as magistrates, jointly with one other or more, and collectively at the General Sessions of the entire county. They worked through the Quarter Sessions which all were supposed to attend and which became the greatest authority of the county. In addition to the enormous amount of criminal jurisdiction, civil administration with regard
to repair of bridges, maintenance of the King's gaol, building and maintenance of House of Correction, fixing of wages, licensing of traders, sanctioning of special levies for various parish needs, was under the control of this court.

The Justices were ordered to group themselves so that they would have special jurisdiction over local divisions, probably the Hundreds, meeting in Special Sessions, dealing with everything except trials requiring a Jury and expenditure pertaining to the county as a whole. There were, besides, informal meetings to appoint Overseers of the Poor and Surveyors of the Highways and to carry out all their administrative duties connected with the new statutes regarding relief of the poor, labourers and apprentices, and vagrancy. All these offices were not obligatory, with the possible exception of Justices of the Peace. The High Constable may not have been able to avoid service, either. There was no salary attached except the fees which they collected, and in the case of the sheriff this seems to have been enough. The High Constable received little and the Justices were paid only for attendance at Sessions.

The fact that all the county officials except the Coroner were appointed by the King and removed when he pleased shows the place of the county now in the scheme of government. The Lord-Lieutenant and Sheriff had become directly the Crown's representatives and the Justices were subject to the Court of the King's Bench.
Undoubtedly there were certain obligations that the central authority intended the county to assume and through its officers and courts the Crown desired to enforce service to the state. For instance, when armed force was needed, the entire county must furnish its share; necessary taxes for the government, as aids, subsidies and a land tax were levied on the county; maintenance of courts, gaols, and bridges was its duty. Through court procedure, consisting of presentment, indictment, trial and sentence, the work of prosecuting laxness of parochial and manorial officers, as well as private individuals, went on. But the right of appeal to the Superior Court of Quarter Sessions proves the fact that the county officers were controlled by a Court of Law and that their orders were in the nature of judicial decisions--so we see self-government still in a community under judicial form, subject only to law.

However, it must not be assumed that the county in the 16th and 17th centuries was entirely concerned with the execution of justice, according to the law of the land. Administration of the county as the officers saw fit was granted much more than has been indicated, and there was a large amount of self-government in connection with the civil administration. By taking over the work of the communal courts, becoming police officers, making presentment to the higher courts, the county officers, old and new, relieved the community of a tremendous burden. On the continent a new official class was created for these
duties, but in England older officers, residents of the community, were stripped of their old powers and fitted in to the new program.

b. Manor

We have seen that the feudal Manor of the 15th century in England was dangerous to royal control, and that the great nobility was definitely suppressed and manorial jurisdiction was reduced to estate management and agricultural concern. Nevertheless, although an exception to the rule of the county, the manor, in the local government of the 16th and 17th centuries, has more importance than is often granted it.

In the first place, the entire police force was still appointed by manorial courts and municipal corporations. Fines were suppressed partly by the courts of private Lords, many having their own gaols, and small debts were recovered in the Court Baron. Administration of the land, including rotation of crops, management of quarries, pastures, and fisheries, breeding of stock, were in the 16th century under the control of the manor. Owners who controlled the soil could levy tolls and duties and rivalled the counties and parishes in this respect. The courts became confused with General sessions of the Peace and with others such as the Court of Pleas and Borough Court of Record, but there should still be some account taken of the Manor courts, which were decidedly not the royal courts, in reviewing the local government of these centuries.

By the end of the 17th century there was still some
authority vested in the old jurisdiction of the manor. A
proof of this is found in some of the peculiar offices ex-
isting under strange titles. Aleconnors, Swine ringers,
Common Drivers retained authority, not from the parish or
the county, but from the manor. Arrangements were made con-
cerning questions of property rights, common field agricul-
ture, and management of common pasture, in variously named
courts connected with the Lord of the Manor, which were not
created by an Act of Parliament.

This Court Baron was still a private court forming a
part of the property of the Lord. Summoned by his steward,
it was presided over either by him or the Lord and all tenants
were obliged to attend. The duty of the court was to enforce
the customs of the manor and all decisions were legally
binding on Lord and tenants. The manorial officers who were
appointed annually were the Reeve, the collector of the Lord's
fines and quit-rents, the Hayward, who took care of waste,
the Common Driver, a Swineherd, and Surveyor of Weights.
Complaints and disputes were heard in these courts which
were called every three weeks and might be held anywhere in
the manor.

The Court Baron had jurisdiction over common field
agriculture and common pastures and wastes that still sur-
vived. Fisheries, wiers, and banks of rivers and channels
that might lead to the collection of tolls provided more
business. Even the variety and choice among crops in the
three strip agricultural system involved a great deal of
consideration. Pleas of debt, succession to property, presentments of common misdemeanors such as assaults and trespasses in the fields were brought into the courts of the manor. In short, the extent of the administrative business in connection with agricultural operations and common affairs of the inhabitants in this organ of local government in the 16th and 17th centuries is obvious.

C. Franchises

In tracing the mediaeval forms of local government retained in the Tudor system and adapted to the needs of the new centralized control, mention, at least, should be made of the franchises. There remained the larger franchises such as the County Palatine which exercised justice in the king's name and the smaller ones which had individual existence and whose jurisdiction was that of the leet and which were not supervised by the Justices of the Peace. In the county at large these courts leet still existed as private property looking out for the pecuniary interest of the Lord, and their jurisdiction was now supervised by the Star Chamber. They were considered a useful part of the government.

The courts of the franchise, whether leet, baron or customary, still functioned under the old process of the 13th century and although decaying, by the 16th and 17th centuries still administered, in cumbersome fashion, the Lord's will and King's justice. Petty police cases that had been previously under the jurisdiction of this court,
together with all cases conserving the peace, were taken over by the Justices. Since the court leet was not given the new statutory assignments, there was left to it only the Assize of Ale, Manorial Market, use of highways, and common nuisances.

Boroughs as franchises still existed in the 16th and 17th centuries and although undifferentiated leet jurisdiction was still common there were now separate courts for civil business, a separate class of individuals, and a line drawn between the executive and judicial business of the courts. Sometimes in the more advanced boroughs were found separate Courts of Quarter Sessions and a separate Commission of the Peace. Therefore, in the 16th century the communal officials and franchises kept alive the legal ideas and institutions of the earlier period side by side with the newer developments and continued the idea of judicial forms in self-government which affected clearly the history of local government in England.
3. Enlarged powers of Justices of Peace.

when Henry VII, by legislation, and by reliance on the support of the solid element of the population, established a closer control over local administration, making use of this existing machinery, he made certain that there would be a review of the acts of the justices by the central authority since they must present statements of their indictments, attainder, conviction and outlawry. Justices could be punished for neglect or violation of their duties by the Crown. And the Tudors, in their policy, did not overlook the need of creating responsibility in one office for the administration of justice in the whole county. Thus the Justices gained authority over sheriffs, bailiffs and jurors, involving examination and punishment for neglect of duty. Moreover, the powers of the Privy Council included control over internal administration and this meant over the Justices of the Peace. There are instances where the Council, informed of maladministration in a county, called the Justices to order. They were reprimanded, ordered home, and punished. Many assizes and writs, both general and specific, relating to their duties in keeping order were issued. For instance, in 1538, the Justices were thanked for previous effort and ordered to continue to protect the county from those who supported the Roman Church. In addition to ecclesiastical matters, regulation of prices, care of defectives and public health, police control and naval obligation, purveyance, and anything either judicial or administrative
that came into the realm of the Justices, were subject to the supervision and control of the Council. Thus it was established that in the scheme of the Tudors the Justices did the real work making the direct connection between self-government in the communities and the central organization, by which the Tudors were reaching every part of the country and effecting peace and order that were sadly needed.

If not appointed directly by the King, the power of appointment of the Justices emanated from the central government. There was little material compensation, amounting only to a few fees and expenses when in session; nevertheless the office was desirable. It offered an opportunity to the gentry to gain political and personal aggrandizement in the community and even if it were not compulsory would probably have been sought after. It was necessary in the reign of Henry VI to receive an income of twenty pounds a year, to be qualified, and generally, later, the amount of property was considered when appointments were made. This insured the office to the rising middle class, which was the objective of the Tudors.

This judicial work of the Justices was important since they must work on the presentment at the Quarter Sessions to punish a breach of the law, using the existing machinery and old judicial forms. The value of their charge to the jury was evident and working through the familiar procedure of the law courts they had no other devices than presentment and indictment. They could only punish breach of the
law. However, since the main work of the local government was done by them and the parish, in its vestry and officials, they naturally attained administrative functions. As has been pointed out, the older medieval officials, sheriffs, coroners, and constables were not omitted from the plan, although their duties were not the same as before.

The accomplishment of the Justices was completed individually, collectively, and in a group. Although a single justice had extensive powers, civil, criminal, and administrative, with one or more others he could do much more. The criminal jurisdiction of one or more justices was most important. Statutes aided him with regard to hunting and preservation of game, vagabonds and gypsies, robbers of gardens and horse thieves. If the peace were broken by rioters, he could take means to restore order, even to the point of arrest. Lombard says that he must be watchful lest he do injustice and record should be sent of the matter to the Exchequer. Two or more Justices could certify to the Council if they were hindered by a jury in keeping peace. There is plenty of detail of law in executing this duty and many statutes concerning the bail of prisoners. In addition to all the power that one Justice had, two or more could deal with offences against a statute and punish those who evaded the subsidy.

Civil jurisdiction of one or more was not so important, relating to the settlement of disputes between master and servant or apprentice. Two or more could decide certain
petitions between lords and commoners.

The administrative duties were those added in the 16th century. If the church wardens or constables of the parish defaulted, the Justice was empowered to levy the rates. Testimonials to seamen who had been shipwrecked, to soldiers and sailors from abroad, for relief on the way, were granted by an individual justice. He must see that the statutes relating to trade were observed and grant certificates for unloading and selling corn, and for the manufacture of malt. Concerning religion, in Elizabeth's reign, he reported to the Council any attempts to restore the Church of Rome and non-attendance at the state church. Two or more Justices had wider duties including supervising the enforcement of the Poor Law, binding apprentices, licensing diseased persons to go to Bath or Buxton, issuing regulations in time of the plague, and assessing hundreds for robberies.

The Quarter Sessions still contained the old mediaeval procedure of charge to the jurors when the entire county met to give information. Both ecclesiastical and lay causes were brought into these courts and so most of the business of the county was included. However, since the work of the justices was increasing they must take independent action on many cases, at the Session. They had appellate jurisdiction, too, in appeals against rates of the church wardens. Presentment was now more in the hands of the High Constable and a new process in the 16th century
was conducted with a jury and this was the beginning of the distinction between judicial, and administrative, criminal and county jurisdiction of the Justices.

One Justice had been chosen by the King to be Custos Rotulorum to keep the rolls of the peace. Since the Justice was responsible for the records, when a clerk was necessary, he was appointed by the Justice. In 1545 a law was passed: "every Custos Rotulorum for the time being shall, at all times hereafter... nominate... all... persons which hereafter shall be clerks of the peace... and to give and grant the same office... of the clerkship of the peace to such able persons instructed in the laws of this realm as shall be able to exercise and occupy the same."

Often this clerk sued in the King's name and for this and other business received small fees. He was paid a small sum for his attendance at sessions. It is evident that as the power and duties of the Justices increased they probably hired private clerks and even though the staff was scanty they could utilize the old officials in the communal and franchise courts. The new parochial organization, taking the place of the old hundred, town and leet, made the necessity for an enlarged clerical staff less.
4. Parish

"The parish", writes Bishop Hobhouse, "was the communi-
ty of the township organized for church purposes, and subject
to church discipline, with a constitution which recognized
the rights of the whole body as an aggregate, and the right
of every adult member, whether man or woman, to a voice in
self-government, but at the same time kept the self-govern-
ing community under a system of inspection and restraint by
a central authority outside the parish boundaries".

a. Ecclesiastical

As an ecclesiastical group before the 16th and 17th
centuries the parish was definitely a part of the entire church
organization and since the worship of all living within its con-
fines was the same, ties of religion gave it complete unity.
This compact group soon realized the advantages of its organi-
zation for preserving order, and it became the original
administrator of relief for the poor. The importance of
this burden cannot be over-emphasized since during the
Tudor reign advantage was taken of the local machinery so
that the parish became the civil administrator in this
regard.

For its own purposes the central church defined the
limits of the parish, of which the center was the local
church. The building may be accounted for in various ways,
but it belonged now to the adult men and women living with-
in the parish. This indicates that repair and rebuilding,
maintaining services and general upkeep were the obligation of the parishioners. There was a curious distinction made between the upkeep of the chancel, which came under the jurisdiction of the rector, and the nave, which was the responsibility of the parishioners, although this partition of duty was confused at times, owing to differences in practice that had arisen. The point is that members of the parish took pride in their joint ownership and were willing and proud to do their share. It was evidently not necessary to plead with or force these groups to contribute to the upkeep of the church and its fixtures. By 1280 they were responsible for vestments, chalice missal, processional cross, paschal candle, and ornaments of the church, and the scope of their duties was later enlarged. All was done reverently, too, and the fact that this unity of purpose came from within the parish indicates a spirit of cooperation that resulted in the parish being chosen later by the central authority as the agency to keep the king's peace and maintain the laws. It is pleasant to view the interest and readiness of all adults, men and women, to carry on their affairs, and their pride in keeping up and adding to the wealth of their property. It must have been well done since there was not much interference from central authority.

Many of the officers of the old ecclesiastical parish were carried over to the local government of the 16th and 17th centuries with powers of some diminished while extensive additions were made to the duties of others. Let us first consider these officers in the parish of pre-reformation
days when their activities revolved around the church.

The parson was, of course, the resident ecclesiastical head of the local church, but in running the business of the parish he was no more than chief parishioner. However, with regard to finances he did have a definite tithe and a field of expenditure which we shall note later. Personally, he might obtain the requisite preparation for the universities. A certain democracy prevailed then in existing opportunities to young men to become members of the clergy. From Pollack and Maitland may be obtained a clear statement of their peculiar legal status in that they were subject to special rules of ecclesiastical and temporal law. The ecclesiastical law regulated many affairs, such as marriage and divorce, for every layman and punished him for various offences, but the priest was more closely bound to the Church since it could suspend him from office and deprive him of his living. It is not necessary to account for the other clergy, the curates and chaplains, mentioned in church wardens' accounts.

Chief among the representatives of the people, by the 15th century, were the church wardens, who were chosen to carry out the work of the parish, for which there was common purpose and intelligent organization. They were elected annually by all adult members, men and women, at a meeting presided over by the parson, and they probably numbered two for each year. Although they had not civil duties to perform until late in the reign of Henry VIII, yet in administering the business of the church there was plenty
to concern them. Their chief duty consisted in seeing that
the money due the parish was paid, that it was taken care of
and expended judiciously. Farming and trading came into
the realm of their duties since gifts made to the parish
were of all kinds, and must be sold or rendered profitable
by the wardens. They must raise funds and supervise special
work, and they were obliged to turn over to the archbishop
those who had been morally delinquent. It was a tremendous
task to take charge of the varied capital of the church,
and to control entirely the repair of the church and its
buildings. Too, loans to the poor must be made and careful
account of them kept. Their personal financial difficulties
must have been numerous, but the absence of fraud and the
good-will and cooperation of the parishioners prevented
them from becoming too involved. The people undoubtedly
believed that the property of the parish was really theirs
and that their wardens were their agents appointed for the
upkeep of their property, and for the purpose of making a
profit from it.

The office of clerk, regularly ecclesiastical, was
next in importance. Poor young clerics received these ap-
pointments since there was most often a definite salary at-
tached. His chief duty was that of "waterbearer", carrying
the holy water to each house of the parish. Also, he must
have the church and altar ready for mass and assist the
priest at the service, and general care of the church build-
ing, such as sweeping floors and removing snow were his.
Often he performed the duties of scribe for the parish, and taught the children not only in matters religious, but also their letters and music. There were, besides, sextons, schoolmasters and bell-ringers, whose occupation is apparent. It is important to note the employment, at different times, of masons, carpenters, candlemakers, bookmakers, painters, in short, any mechanics whom the people needed to keep their church in proper condition.

For all this work money must be raised, and although in some cases it is a mystery how so much could have been obtained, yet we can figure out some means of revenue. For the parson, the system of tithes provided income, "the tenth part of all fruits and profits justly acquired, owed to God in recognition of His supreme dominion over man, and to be paid to the ministers of the Church". Since the parson must repair the chancel and maintain "hospitality" for the poor, he had plenty of opportunity to spend what he received. However, the money that the church wardens used was raised by the community, and came from three sources—voluntary assessments, joint voluntary gifts, and individual gifts left in trust to the wardens for the general support of the church. The parish itself voted the voluntary assessment in the form of a tax, proportional to the parishioners and to meet some unusual situation. More commonly collections were made, by the consent of the parish, usually three a year, or more when they needed money for specific purposes. Fees were obtained by the wardens for
burial, for use of the best cross, bier and lights for funerals, and for letting of pews when church seats became common. It is significant that the parishioners themselves suggested these means of raising money, agreed in general consent or not, and did the work, too, either themselves or through their wardens.

Gifts were made in sums of money, and in kind, of all sorts, such as a hive of bees, live stock, malt, barley wheat, herring, brass dishes and plate, and rosaries. Many of these were sold when the indication was that the donor desired it. Those given for special purposes were kept and bede rolls of the givers made.

Even before the 16th century, when parishioners must by law perform definite duties, such as care of roads and bridges, they utilized their local organization for common and social purposes. There was often a church house, rather a club house, where parish meetings were held, and where they met socially. Many times it was rented out to add to the income of the parish, and, of course, the wardens made all arrangements concerning it. Most prominent of the social affairs held in the church house was the church ale at which they combined business and pleasure, since the ale and cakes were sold for the benefit of the church and the occasion evidently was popular. Often more extensive feasting took place, and a collection was taken up.

From this church ale and other like festivities, it easily became the custom for church wardens to sell ale to
swell the parish funds. Also, since the "blessed bread" was made in the church house, by degrees a bakery was developed. Brewing and baking were then carried on for the benefit of the parish. Community mills and forges, common fields for pasture, common provision for good water supplies were not unknown. They were accustomed to unity of purpose and endeavor in the community.

Mediaeval guilds should not be overlooked in recounting the life of the parish. They were not divorced from religious observances, and the social guilds certainly took the place of the modern benefit societies. They did the work of hospitals, guardians of the poor, almshouses. When parishioners suffered accident or needed temporary assistance of any sort, they were always at hand. The brotherhood tie, recognized by the parish, expressed in the work of the guilds in pre-reformation days, took care of the people. Even when general needs were apparent, such as building roads, repair of bridges, additional clergy, the guilds contributed generously.

Thus the parish, an ecclesiastical unit in mediaeval England, when the church was one, in community life, presents an almost Utopian group owning church property and administering its affairs wisely through its representatives. Thus as an estate, a unit of ecclesiastical administration and as a group of families organized for social purposes and relief of the poor, the parish provided machinery easily utilized by the Tudors in the transition from an ecclesiastical to a
civil unit.

b. Civil Parish

Assuming that the parish was never truly a civil unit before the Reformation, but as an ecclesiastical group performed many duties for the administration of which we look to the state today, it was due to the new relationship between church and state in the 16th century and deliberate legislation on the part of Henry VIII and Elizabeth that it became definitely secular and the unit of government in England. The first illustration of this point was in relief of the poor which had been taken care of by the ecclesiastical parish voluntarily. With the weakening of the church, and need for poor relief certainly not on the wane, the parish was specifically designated in the 16th century for this work. Too, the central government in the Middle Ages had felt little concern over repair of the highways, but in the 16th and 17th centuries statutes were passed by which officers of the parish, now civil, undertook the upkeep of the roads. Because of the pressing economic situation, trade and labour must be carefully regulated by the Tudors, and the parish was chosen as the organ to enforce these statutes of the government.

In attempting to explain the rise of the parish as a secular unit thus we may deduce first that the Tudors were forced to decide on some area and local group which would help administer and be responsible for the new program. Secondly, the parish, although without written constitution,
uncertain as to boundaries, and although connected with townships, manors, boroughs, hundreds, and counties, in confused fashion, for many reasons presented itself as most satisfactory to fit into the Tudor scheme. For one thing, because of its previous loose connection with the civil authorities it had retained a vigorous independent life and since it had not been subjected to the courts to any extent there were no precedents to interfere with desirable new interpretation of the regulations. In another respect the parish was prepared to become a civil administrator; as a group it was a corporation, accustomed to ownership of property, and the work and training of the church wardens in the administration of that property established an activity that made a perfect setting for the Tudors. All members of the ecclesiastical parish had taken a lively interest in their affairs, and the result was that a self-sufficing, self-governing body had been trained to apparent usefulness. Moreover, the government was unwilling to grant any power to the Lords of the Manor since it was to its benefit to decrease the feudalism strengthened in the manorial courts of the fifteenth century. It is obvious, then, that Elizabethan statesmen took advantage of the parish, an organization, ecclesiastical in origin, granting it regulation of its political affairs, commanding it to maintain peace and order, so that they might evolve a local system which would perform its share in the scheme by which the central government would penetrate every corner of the realm in
establishing its power and authority.

The first legislation of importance which foreshadowed the definite civil powers given the parish was in 1536 when dispensing private alms was forbidden. The parish was instructed to set beggars to work and relieve the impotent. Also the clergy were ordered to ask for alms to be collected by the church wardens. A common box was provided in the church and voluntary alms giving was encouraged. In the reign of Edward VI, by statutes, children of the parish must be apprenticed and registers of those needing relief must be kept by parson and church warden. There is indication that contribution was no longer to be arbitrary. By Philip and Mary more elaborate legislation was favored making the parish responsible for highways. Surveyors were chosen by constables and wardens and for six days members of the parish must turn out with tools and carts to mend the roads.

These statutes were more or less preliminary to the poor law passed in Elizabeth's reign which finally fixed the parish as a secular unit. Machinery was organized for relief of the poor, for raising rates and supervision was given to justices of the peace. If the parish could administer poor relief well it was but a step definitely to relegate to it extermination of vermin, upkeep of highways, investigation of recusants, and care of disabled soldiers and sailors. Not only did the Tudors employ the established officers of the parish, but at least two new offices were created, overseers of the poor and surveyors of the roads. These were
still chosen by the parish, were unpaid and under the di-
rection of Justice of the Peace. Other services were per-
formed by the Parish Priest and individual parishioners for
the good order of the community. Among these were the well
master whose duty was to keep the well in repair and the
supply of water sufficient; the ale taster took charge of
the beer and bread of the parish; the examiner or searcher
of broadcloth examined all woolen material to protect the
purchaser; clerk of the market regulated time for trading
and inspected weights and measures. The other parish ser-
vants, clerk, beadle, and sexton still were connected with
the church.

There is still some doubt concerning the earlier ap-
pointment of the churchwardens and other officials. At
first the parish as a whole met in the church, later in
the vestry. Finally, in some communities, a certain in-
fluential group came to represent the rest of the parish,
holding office for life and were known as "the vestry." By
the 17th century they appointed the wardens and super-
vised much of the conduct of their affairs.

In summarizing the new duties of the officials of the
parish there is conclusive evidence of the utilization of
Tudors of the parish in their program of central control.
First, the duties of the church wardens indicate that the
parish was to be responsible for conformity in religion
since nonattendance at church on Sunday was subject to
fine, levied by law, collected by the wardens and lists
of Roman Catholics and Dissenters were given by them to
the court. Persons who did not bring their children to
be christened within a month of birth were liable to fine
also. The church wardens were ordered to provide in every
church "a comely and honest pulpit", keep a register of
dates of weddings, christenings and burials and must pro-
vide books relating to the doctrine of the church. Keep-
ing accounts of all money received and paid out and pre-
sentment of offences within the jurisdiction of the church
courts was still a part of their obligation. Personal con-
duct of parishioners even to the parson, refusal to pay the
Church Rate were under their supervision. Even in con-
junction with the vestry they drew up regulations concern-
ing seats in the church.

The difficulty in drawing a line between the civil
and ecclesiastical duties of the wardens is apparent. How-
ever, the typical oath taken when sworn into office, by the
archdeacon is as follows:

*"You that be chosen to be Church Wardens of this
Church or chappelle for this next yere doe swere by Godde
and they holly Gospell before you laide, that you shall
execute the said office effectuallie and diligently to
the advancement of Godde's glorie and the commoditie of
this Churche and parische. The Quene's Injunctions and the
Ordiniare's monicions ye shall observe, and in so far
as you listhe cause others to observe; and the violators
of the same you shall duly and without all parcialitie present and detecte the Quene's Highness Commissioners for causes Ecclesiasticall within the Dioces or to the inartes and sworne men or to the Chauncelor. And you shall yeilde and give up at the yere's ende a faithfull and true accompte of all somes by yowe received and laide out for the use of this Churche; and all suche somes of money Church implements furnishings and bookees as then shall remayne and delyver to your successors. So God you helpe by Jesu Christ."

If the wardens were negligent of their duty they might be suspended and if excommunicated must pay heavy courts fees before reinstatement. After the ecclesiastical courts lost power, by 1647, the Justices of the Peace exercised supervision over the Wardens who became the chief parochial officers for carrying out the work of the Tudors. Considered the representatives of the parish they were associated with the constable in carrying out duties connected with ale houses, vagrancy, profane swearing, keeping of the Sabbath and with the surveyor of the high ways in repair of bridges and roads and they were ex officio overseers of the poor. Even where more than one town was contained within a parish, the jurisdiction of the wardens extended over the whole parish. In enforcing numerous statutes repressing drunkenness they were associated with the petty constables, the fines for which were used for the poor. The ale house keeper was fined for allowing a man to
sit drinking in his house and if he sold without a license or asked too much for his beer.

Duties for relief or poor prisoners in the county gaol, for the relief of poor prisoners in the King's Bench and Marshalsea, and for the county hospitals and almshouses and for the relief of maimed soldiers were levied now by statute, assessed by Justices of the Peace and collected by the churchwardens. Moreover, repair of school houses, supervision of pedlars, extinction of vermin, burial of unknown corpses, provision of muskets and powder and equipment and payment of soldiers who served for the parish were more of their civil duties.

On the petty constable of the parish depended the keeping of order and peace and in a period of so much restlessness his importance should not be minimized. Lombard says, "By the ancient custom of the realm, there is a great officer called the Constable of England who by means of the high authority which he had, was a principal stay unto the King's government. The lower Constableness is a very finger of the hand of the Constable of England." It is evident that originally the office was not held by statute but by custom. In the hundred by the 13th century constables were chosen to view the arms, raise the hue and cry, and take charge of watch and ward. In the township certain tithing-men had been chosen for administrative duties—from these one might have been called constable and given the duty of maintaining peace, responsible to the central government.
The Tudors granted him more and different administrative duties and became the police power for the parish.

The constable was elected and sworn in the Court Leet or in the Quarter Sessions in the 17th century and was under the jurisdiction of the sheriff, the coroner, and the bailiff of the liberty or the high constable of the wapentake. By general commission now he was under the supervision of the justices and became more closely connected with them as the sheriff declined in power. He was not concerned with the parish as a whole but his power extended over only one of the townships of the parish.

As keeper of the peace the constable had extensive and arduous duties, unpleasant many times and involving physical hardship. If groups of people assembled he must distinguish whether it were lawful or not and force them to dispense if he decided it were necessary. Complaints were heard by him and on his decision arrests were made. He must protect the statute from violation, prevent unlawful games, tippling in the alehouse, eating flesh on fast days, force parents to apprentice their children and hold master and servants to the wages agreed upon by the justices. Moreover, his duty included presenting for trial those who broke the laws of the land and sometimes he inflicted the punishment. Rogues and vagabonds must be whipped for begging or destroying property. In case of fire he protected goods. When labour was needed for a particular work the constable forced the parishioners to do their share. All
punishments inflicted by the justices of the peace were car-
ried out by him and he must appear before them twice a year
besides attending monthly meetings of the administrative
officers of the parish and four times a year the Court of
Quarter Sessions.

If weapons were drawn in his presence or an affair
seemed to be growing dangerous the constable was under ob-
ligation to interfere. Sometimes he was injured, but he
was protected by law if he slew a man in performing his
duty. Offenders were presented by him at the Quarter Ses-
sions, but he must be careful not to exceed the limits of
his authority or disobey the orders of the justices.

Since all were bound to take their turn at the watch
it became the duty of the constable to warn individuals of
their responsibility and he utilized the "hue and cry" to
pursue suspects. At his call all the inhabitants must take
part and if a murderer or a thief escaped the township was
assessed. It is evident that the constables could not
shirk their duty in this regard and also could not afford
to let a man escape while in their custody.

Since the office was rather disagreeable and unpaid,
high qualifications could not be demanded. Of course the
constable must be able to read and write, be of good char-
acter and a strong, able man. Service was compulsory, and
the manner of election varied from nominations by the bai-
liffs of the liberty to taking turns from house to house,
and since constables were very essential to the justices
they could be sworn in by them until a meeting of the next Quarter Sessions, if necessary because of death. It is apparent that the office was the lowest in the parish although by the 17th century men of the social standing of the surveyor and church warden were serving.

One other important though disagreeable duty should not be overlooked, that of collecting rates due for Surveyor's Money, county bridges, King's household, and other rates connected with county or state. These rates were uncertain and constituted a constant grievance and were difficult at times to collect.

In summary, therefore, this office of constable was burdened with duty, connected closely with the administration of the justices, church wardens and surveyors, and gave opportunity for service to all capable men of the parish.

In the reign of Queen Mary a statute was passed by which the parish was responsible for the upkeep of the main roads while the by-roads were still left to the care of private individuals. It became necessary to appoint a director or superintendent of the work and so was created the new office of surveyor of highways for the parish, who was chosen by the constable and wardens and sometimes by the vestry up to 1691, but thereafter by the justices from a list recommended by the officials and inhabitants of the parish. The duty of serving was incumbent on every member of the parish and of course there was no particular train-
ing or technical knowledge acquired before taking up the office. After 1691 reports and accounts were made by the surveyors to the local Justices from whom orders were received for work to be done. Extra money was supplied by a highway rate granted by the Justices in Quarter Sessions and fines were collected by the Surveyor levied for neglect of any inhabitant to perform his required duty on the roads or bridges.

It has been pointed out that the constables warned the parishioners of their obligation to work on the roads. Carts, oxen, horses, and tools were furnished by those labouring. Often the work was not well done; individuals and even the parish as a whole neglected the roads and bridges and were heavily fined. Draining ditches were filled up, fences were not built or repaired and the difficulties following enclosures often blocked the roads. Bridges were of wood always needing care, the larger ones being looked out for by the county, smaller ones by the parish. Probably the smallest possible amount of work was done an effort of the central government to keep the bridges and roads in good condition through the parish and this new official was not entirely successful.

The overseers of the poor were descendants of the alms collectors of the old ecclesiastical parish even in the time of Edward III. Originally poor relief had been taken care of in this unit and had not been considered an obligation of the state. However, by successive acts in
Elizabeth's reign the duty of caring for the poor became a civil obligation and in its administration needed more than the churchwarden who primarily collected the rate. So by an act of 1583 the overseers were appointed to ask for alms, distribute them to the poor and keep registers of all their receipts and expenditures. The office was considered an honorable one, pooremen usually serving, was unpaid, and by the 17th century was under the control of the Justices who were prompted by the central authority. Even by 1698 it was definitely no longer ecclesiastical, and if elected by the vestry was appointed under the seal of the Justices. It is a prominent link in the chain which connects the central government with the local unit of government. Before this the overseers had some ecclesiastical duties in connection with the obligation of the churchwardens to compel conformity to the state church.

Poverty was considered almost a crime by the government. This is readily seen in the statute providing punishment for rogues and vagabonds. But they could not avoid the fact that some poverty was involuntary and for this provision of employment must be made. Too, the state realized that some were not able to work and that it was its duty to care for these impotent.

The extensive duties of the overseers are best seen in reviewing the poor law of 1598, which first of all provided for weekly aid to the impoverished. Wives of impressed soldiers, the infirm, insane and diseased were included in
this list. Of course a good deal of time and effort was spent in attempting to force the aid of relatives of any of these. Moreover, each parish was wary of adding to its burden and careful watch was kept that laborers or any others who might become a burden to the parish should not take up residence there. Many times the parishes tried to throw off their responsibility and little heed was given to family ties, which often caused hardship and suffering.

By this same act the parish must provide raw materials, keeping a stock on hand for the employment of the destitute. It was the overseer's duty to raise this stock of flax, hemp, wool thread, and iron. The economic difficulties of many labourers were such that they could not save for misfortune of any sort and these were greatly helped by this aid. The overseer gave it out, kept account of it, and should have seen that it was done properly when returned. Unfortunately, the duties of the office were so many that this last detail was not always carried out carefully.

Houses for the destitute were built by the parish, now, by statute. Care must be taken that others besides the family were not supported or kept in these cottages. The supply of houses was not always enough and the overseers were kept busy providing lodging for the poor.

The Tudors desired that all should have opportunity for training for employment. So children of the poor must be apprenticed at the age of seven—the girls most often
to domestic service. The overseers were in a way trustees and guardians of these young people, since the detail of the provision was theirs.

In the ecclesiastical parish it had been customary to will property of all sorts to the parish which had been administered by the church wardens. In the 16th and 17th centuries the overseers must aid the wardens in this regard, and it is clear that the Justices through the Court of Quarter Sessions were helpful too.

Besides the property left for the use of the poor, fines for breaking laws and the poor rate were consigned for relief of the poor. For instance, in the reign of James I fines for breaking the game laws went to the poor, as well as those collected for playing unlawful games and drinking heavily in the alehouses. During Cromwell's government in 1655, Lord Fairfax was fined in the following entry: "...the Constables and Overseers of Gillinge to heavy 5 s. on the goods of Lord Fairfax to be distributed to the poor according to Ordinance of Parliament, for that it hath been proved that he was present when Tho. Carlton, Auth Chapman and others acted as a comedy or stage play at Gillinge at Christmass last." The overseers themselves did not go unpunished and it is evident that the government intended that there should be no persons privileged to break the law with impunity.

To insure the prompt administration of the poor law the overseers had to meet with the churchwardens once a
month on a Sunday, in the church. The Justices insisted on attendance at these meetings and kept in touch with the work of the overseers. Behind the Justice was the Central Government keeping him to high standard in its effort to enforce the law. But by the end of the 17th century there were so many destitute, the duties of the overseer had been increased to such an extent, that it seems hardly likely that this system of poor relief was highly effective. Although overseers were men of standing in the community, yet because the office was unpaid, and the ordinary incumbent had his own personal affairs to attend to also, it is evident that more efficiency would have been obtained through the efforts of a trained permanent official.

C. Relationship of Justice of Peace to Parish

The justice of the peace served to link county and parish, being probably the most prominent member of the parish and at the same time a very important county official. In county or court affairs he was expected to aid the parish in its difficulties and to him it appealed when in trouble. Too, always he was appointed by commission of the King and secured the control of the central government over local authority. Whatever hardship individuals suffered from administration of the statutes, the justice must have been able to act more fairly since he ought to have first hand knowledge of conditions and of the inhabitants of the parish of which he was member.
It seems evident that generally his work went well and that he really attempted to lighten the burdens of the community. This was important since from him the officers of the parish had to obtain warrants to present offenders at the Quarter Sessions.

There were three statutes in the administration of which the Justice came closest to the parish, the poor law, the statute concerning labourors and apprentices, and the law relating to rogues and vagabonds. First, with regard to the poor law, reports were made by the Justices to the Justice of the Assize every three months. If there was any indication of neglect of duty on the part of the Justices the King knew of it. In the meantime they spent much time assessing the rate for poor relief and hearing petitions from objecting individuals or parishes.

The rate of wages for labour was arranged by the Justices and he was empowered to levy a fine if an employer gave higher wages than those specified. Two sessions must be held for the execution of the labourer and apprentices act which he was bound to attend. Apprentices, when bound out must be signed for by him and all officials of the parish connected with the administration of the act were responsible to him.

Rogues and vagabonds were pursued and apprehended vigilantly in the 16th and 17th centuries. Statutes relating to this attempt to force all into employment were administered by the Justice and two or more Justices had
full power to hear and determine in all cases. Houses of Correction were established, first to set the poor to work, later becoming more like gaols. If the central government hoped to clear up the prevailing conditions by statutes, these should be enforced rigidly by even the lowest officials. Petty constables then were kept hard at work by the Justices.

In the addition to controlling administration of the law and the above mentioned officers of the parish, the Justice inspected the work of the surveyors and was the executive of the repair of highways and bridges. Recusants must take their oath of allegiance before him and one justice alone could force suspects to take the oath and fine for non-attendance at church. Two Justices could license alehouse keepers, were in charge of overseers of woolen cloth, and could assess parishes, if it were necessary, for the relief of one who had been robbed.

Then, since there were new problems relating to poverty and vagrancy partly because of the breakdown of the feudalism of the Middle Ages, the state definitely employed the justices to supervise and correct the parochial officials who were to administer the new statutes designed to cope with these problems.

d. Social and economic life of civil parish.

The social and economic life of the parish presented problems which the government attempted to meet with statutes, many times shortsighted, and which did not success-
fully solve the difficulties, especially economically. The parish as an ecclesiastical unit had taken care of its own life without much government supervision, and still in the 16th and 17th centuries on the officials of the parish rested the burden of work. They were aided perhaps by the fact that little was hidden from them.

Many social evils arose from the prevailing drunkenness of the period. In spite of regulations licensing alehouses and supervising the condition of the imbibers who were to be allowed to loiter in them, even on Sunday, there appears to have been unnecessary disorder arising from overindulgence. On the Sabbath, too, especially in the 17th century the parish officials and Justice of the Peace attempted to restrict football and dancing, the most popular amusements of Englishmen of this time. Forced to give up these "heathen" practices, men resorted to furtive pleasures, gambling, dice, to which they rather instinctively turned.

Public health did not seem a matter of much official concern. Insanitary conditions were the rule, and too often the plague resulted. In such an event, Justices of the Peace took measures, carefully watching places where the plague was likely to break out and trying to hold it in check by a sort of quarantine. There seems to have been no attempt to alleviate conditions with the idea of prevention. Mental illness was regarded coldly and often lunatics were classed as paupers and treated with little
consideration.

Of all crimes, stealing was most conspicuous, and although police control was of an amateur sort, offenders were diligently apprehended. The constable presented all offences in addition to the professional informers who had resulted from the practice of paying a part of the fine to the individual furnishing information. Since there were few prisons, the ducking stool, pillory, public whipping or branding, and even the gallows sufficed for punishment. For certain offences, such as insolence and undutiful conduct, there was particular punishment, perhaps public penance in church.

With increasing unemployment, statutes were passed to meet the wide spreading terror of the community, vagrancy. The impotent were licensed to beg while those who were physically able and who avoided work were publicly disgraced. Houses of Correction had been established to provide work and punishment for these latter. The administration of the statute dealing with vagrancy was a duty of the Justices who often sent them back to their last place of residence, to fasten the responsibility for them on the proper community. Much of the burden of administration fell to the lot of the Petty Constable, however. Licenses were granted to those who had a legitimate reason for wandering from place to place.

Constantly cooperating with the local government the central authority enforced the law passed in Elizabeth's
reign, known as the Statute of Labourers and Apprentices. This statute seemed to have defeated the ends it was supposed to serve since unemployment continually increased. Everyone must learn a trade and apprentices were bound so early that there were many misfits. Workers were forced to remain in a certain community, and natural competition was hindered by the regulation fixing wages. Guilds had lost their power by the 16th century, the standard of artisans had declined, and economically, chaos existed.

It was the duty of the Justices to prevent speculation by comparing, after investigation, the stock of grain as well as the market for it. When a scarcity was reported, exportation was forbidden and in time of great dearth a community petitioned the Council for relief. Then a careful search was made of granaries and if any grain were found it must be furnished for market.

However, to the young and vigorous, life in the 16th and 17th centuries in the English parish might have been fairly enjoyable. By law every cottage must have four acres which, together with day wages, some spinning and weaving offered opportunity for a fair living. But if the labourer lost his holding, if prices advanced with wages remaining stationary, if he became ill, there was no recourse but to parish alms, and relief of the poor, described in connection with the work of the Justices constantly increased in the parishes.

In summarizing the parish as a unit of local govern-
ment, considering that England, at the beginning of the 18th century was using over fifteen thousand parishes as agents for the local administration of the poor law, that their administrative functions, in addition, were many, that the financial importance of these corporations was immense, we may realize the important part they played in English constitutional life. The personal relationship of the inhabitants to their parish was vital since everybody was supposed to "belong", and whether rich or poor, he felt the power of the parish in his everyday life. To the rich it embodied authority for taxation and the future existence of the poor depended on the administration of the poor law within local confines. All were subject to labour each year for the commonwealth and must aid in running down fugitives from justice. The more solid citizens might be called to the underpaid, and often unpaid, public service. It is apparent that to the development of the English constitution and to individual Englishmen, the parish, when it had been fully organized as a civil unit, was of paramount importance.
III

SUMMARY
III Effect of Development of English Local Government on the New World.

Englishmen who colonized the new world, as all immigrants, brought with them, besides language, manners, literature, and customs, a political heritage consisting of institutions, officials, and a state of mind toward local self-governments that had been in the process of development for centuries in England but which had been emphasized and made clear in the 16th and 17th centuries under Tudor management. Therefore, the importance and interest to Americans of tracing local government in Tudor England is obvious.

Four English colonies show directly how much Englishmen in America continued the system of local government with which they were familiar. For instance, in Virginia, where local government corresponded most nearly to the English plan, the county was organized in much the same way as the English county, with justices of the peace appointed by the governors chosen from the most influential families.

The same close identification as in England, between the civil and ecclesiastical side of town life, was apparent in the towns of the colonies, especially in New England. The fact that the English Parish during the Tudor period had been made civil produced a great influence on the New England town. Everyone was a member of the church and the commonwealth. The development of the town meeting comes directly from the habit acquired in the old English parish of the parishioners running the business of their own community. Old parish
officiés remained, the parson, church warden, constable, and clerk whose duties though differing in many respects, contained still the germ of the ideas which had brought about their existence in England. To be sure, the new physical environment, economic development, and difference in the relationship of church and state in the new world produced necessarily changes in the system of local government, and certainly the New England town was less under the control of the central government and farther removed from superior ecclesiastical supervision than the English parish.

Besides definite political institutions and officials developed by the 16th century in England, these English colonists brought with them a spirit of individual liberty that had been affected and enlarged by their training in local self-government. It is true that the colonists, especially in their contests with the central authority in England, often read into English precedents exaggerated ideas of Englishmen's rights but that does not lessen the tribute owed to the heritage of English local traditions and institutions which had been developed by the 16th century and which Englishman in America utilized to the full.
GENERAL SUMMARY
General Summary

I. Pre-Tudor Period.

The rise and decline of the divisions of local government in the pre-Tudor period, namely, the county, the manor and the franchises were reviewed. In the case of the county the position of the Sheriff, the High and Petty Constables and the importance of the county court were explained. A separate account was given of the establishment and development of the office of the Justice of the Peace in this period.

The necessary decline of feudal courts coincident with the growth of the King's court was pointed out. In the manor, the Court Baron, too, lost much of its power, being superseded by royal jurisdiction.

In the franchises there was a division into the lesser franchises and the Palatinates. The Palatinates reached the climax of their power in the 14th century. Of the lesser franchises; the court last survived with diminished power.

An attempt was made to show that, although many of the institutions and communal officials of the pre-Tudor period had been subordinated to the growing royal jurisdiction, they existed still and provided the Tudors with long established officials and machinery of government.

II. Tudor Period.

The difficulties facing the Tudors resulted in a scheme of centralizing control in which the part played by the local government was important. In blending the old and new,
the Tudors utilized the established offices and machinery of
government and so we reviewed again the County, Manor, and
Franchises. More space was given to the enlarged power of
the Justices of the Peace and the parish as a civil unit in
the 16th and 17th centuries.

The duties of the Justices were arranged in criminal,
civil and administrative groups ending with their work in
sessions and their new organization.

After reviewing the parish as an ecclesiastical unit
showing the existence of a local organization administering
its own affairs, the next point was the manner in which the
Crown converted the parish into a civil unit in the 16th and
17th centuries. In this connection it was necessary to in-
dicate the new duties of the officials, the relation of the
Justice of the Peace to the parish and some aspects of its
social and economic life.

III. Effect of English Local Government on the New World.

The heritage of Englishmen colonizing the new world
included political institutions, old officials and an
attitude toward local self government that had been empha-
sized in the 16th and 17th centuries under the Tudors. The
close identification between the system of self government
in England and the American Colonies was pointed out. Finally
the spirit of individual liberty obtained by training in
local self government in England during these centuries had
much to do with shaping the political history of the new
world.
BIBLIOGRAPHY

* Office of Justice of the Peace in England in its Origin and Development by Charles A. Beard.
  Published by Columbia University Press 1904.

* Parish Life in Mediaeval England by F. A. Gasquet.
  Published by Benziger, New York, 1906.

* History of English Law, Volumes I, II and IV by W. S. Holdsworth.
  Published by Methuen & Co., London 1903.

* Eirenarcha by Lambarde.
  Published by R. Newbery, London 1581.

* History of English Law by Sir Frederick Pollock and Frederick W. Maitland.
  Published by University Press, Cambridge 1895.

* Seventeenth Century Life in Country Parish by Eleanor Trotter.
  Published by University Press, Cambridge 1919.

Elizabethan Parish in its Ecclesiastical and Financial Aspects by S. L. Ware.
Published by Johns Hopkins University Studies on Historical and Political Science, Baltimore, 1908.
Published by Longmans Green & Co., London 1906.

The Kings Highway by Beatrice Webb.
Published by Longmans Green & Co., London 1912

Manor and Manorial Records by N. F. Hone.
Published by Methuen & Co., London 1906.

Published by Macmillan Co., London 1908.

The starred books were used extensively.