

COLONIAL GOVERNMENT

In addition to the brief account of the government of each colony in our narrative of the settlements, an account must here be given of colonial government as a whole.

The thirteen colonies are usually grouped, according to the form of government, into three classes--the Charter, the Royal, and the Proprietary; but recent historical criticism has reduced these three forms to two, the Corporation and the Provincial.¹ The corporation was identical with the charter form, and at the opening of the Revolution there were but three, including Massachusetts² the other two being Rhode Island and Connecticut. The provincial forms included the proprietary colonies, Maryland, Pennsylvania, and Delaware, and the royal colonies, Virginia, the Carolinas, New Hampshire, New York, New Jersey, and Georgia.

So variable were the forms of colonial government that but two colonies remained under the same form from the time of their founding to the Revolutionary War. These two were the chartered colonies of Rhode Island and Connecticut. It will be noticed that at the close of the colonial period the royal form of government predominated, seven of the thirteen being of this class. The movement against the chartered and proprietary colonies that brought about this condition was begun late in the reign of Charles II, was kept up for half a century, and ended in 1729 when the Carolinas became royal provinces. One colony, Georgia, was founded after this time, and, after flourishing for nineteen years as a proprietary colony, was passed over to the Crown (1752) according to the terms of its charter. Massachusetts was the first to fall a victim to this new policy, losing its charter in 1684. On receiving its new charter, in 1691, Massachusetts became a semi-royal province, and is by some writers placed in a class by itself. New York, New Jersey, and the Carolinas passed into royal hands during this crusade, and even the governments of Pennsylvania and Maryland were each for a short time taken from their respective proprietors.

By leaving out of consideration the two self-governing colonies, Rhode Island and Connecticut,³ we find the colonial governments strikingly uniform. Each consisted of three organs,⁴ (1) the governor, appointed by the Crown or by the proprietor, or proprietors, (2) the council, also appointed by the Crown, and (3) the assembly or house of representatives, elected by the people. These three, corresponding to the king and the two houses of Parliament, resembled the British government.

The governor directly represented the Crown or the proprietor. His position was a most difficult one to fill. Representing a higher power, by which he was appointed and from which he had explicit instructions, he nevertheless owed a duty to the people over whom he was placed, and the interests of the two were so conflicting as to keep the governor in a constant turmoil. The powers of the governor were extensive. He could convene, prorogue, or dissolve the legislature, or veto any of its laws. He had command of the militia, and he appointed many officials, such as judges, justices of the peace, sheriffs, and the like, and, especially in the early period, he had industrial, commercial, and ecclesiastical as well as political duties; but in one respect he was ever held in check--he had no power over the public purse. Many of the governors were honest men and faithful to their duties; but others, and perhaps the majority, were profligate men, the fruits of the spoils system of that day, who sold the offices at their disposal, and who cared little for the welfare of the colonists.

The council consisted usually of twelve men, though in Massachusetts there were twenty-eight, and in early Maryland but three. They had to be residents of the colony in which they served, and they were usually men of station and wealth. Appointed by the same power that appointed the governor, they usually sided with him in his conflicts with the assembly. The functions of the council were threefold,—it was a board of advisers to the governor, it constituted the upper house of the legislature, and it frequently formed the highest court of the colony. In Massachusetts, after 1691, the council was elected by a joint ballot of the legislature, called the General Court. In the other provincial colonies it was appointed by the Crown or the proprietors.

The assembly, or lower house of the legislature, represented the people and was elected by them. It had the chief legislative power; but its acts could be vetoed by the governor, or be set aside by the Crown within a certain time after their passage. But the assembly held the key to the situation by its sole power of taxation. To this right the assembly of every colony clung with jealous tenacity. Through the exercise of this right the colonies may be said to have been self-governing, and their liberties were secure so long as they could retain this sole right of taxing themselves. For many years the British government wrestled in vain with the problem of how to get an American revenue at the disposal of the Crown. The governor, representing the Crown, and the assembly, representing the people, were in frequent conflict during the whole colonial period; and the assembly usually won through its one all-powerful weapon—a withholding of supplies. On many occasions the assembly would refuse to grant the governor his salary until he had approved certain laws it had passed, though often his act was in direct violation of his instructions. Nor was it infrequent that the assembly grew arrogant and meddled in purely executive affairs, such as military matters, the appointment of officials, and the like, all through its power over the purse.

The legislature in every colony was bicameral, except in Pennsylvania and Georgia, in each of which it consisted of a single house. This bicameral system had its model in Parliament, but it seemed to spring up spontaneously in America. It began in Massachusetts in 1644, when the assembly or deputies first sat apart from the council or magistrates, and the two bodies henceforth remained separate. Other colonies soon followed the example, until all the legislatures came to be divided, except in Pennsylvania, where the governor's council had no legislative functions after 1701, and in Georgia. In Connecticut and Rhode Island, and in Massachusetts before 1684, the people elected the governor, and, aside from the Navigation and a few other restrictive laws, were practically independent of the Crown.

The representative system of government, as we have assumed all along in our narrative, was common to all the colonies, though it was not introduced in Georgia before 1752. It began in Virginia with the first meeting of the burgesses in 1619; it was introduced in Massachusetts in 1634, in Plymouth and Maryland in 1639. The system of representative government was allowed, but not required, by the early charters. But after it had sprung up spontaneously in various colonies, it was recognized and ratified by the later charters, as in those of Connecticut and Rhode Island, and the second charter of Massachusetts, though it was not mentioned in the New York grant. The franchise came to be restricted by some property qualifications in all the colonies, in most by their own act, as by Virginia in 1670, or by charter, as in Massachusetts, 1691.⁵ In no colony was universal suffrage to be found.

In the judicial system the justice of the peace stood at the bottom. In most cases he was appointed by the governor, and he tried petty civil cases only. Next came the county courts, before which were tried civil cases involving sums to a certain amount and criminal cases not involving capital punishment. The highest colonial court was usually composed of the governor and the council. But in some colonies the governor appointed a body of judges for this function, while he and the council acted as a court of appeals. In certain cases, also, a further appeal could be made to the Privy Council in England.

A practice of the colonies was to keep an agent in England to look after their interests. This practice originated in Virginia about 1670, and was soon followed by other colonies. Sometimes the same agent represented two or more colonies, as in the case of Franklin. The duties of these men were similar to those of modern diplomatic representatives. To the English Board of Trade, which became a permanent institution after 1696, nearly all colonial questions were referred, and the board reported them to the king, or to a committee of the Privy Council. It was to this board that the colonial agents presented the interests of their respective colonies, and their efforts did much toward bringing about a closer fellowship between the mother country and the colonies. This good feeling between them was at its best about the year 1750.

In methods of local government the colonies were less uniform than in the general government. As stated in our account of Massachusetts, the old parish of England became the town in New England. The people, owing to the necessity of guarding against the Indians and wild animals, and to their desire to attend the same church, settled in small, compact communities, or townships, which they called towns. The town was a legal corporation, was the political unit, and was represented in the General Court. It was a democracy of the purest type.⁶ Several times a year the adult males met in town meeting to discuss public questions, to lay taxes, to make local laws, and to elect officers. The chief officers were the "selectmen," from three to nine in number, who should have the general management of the public business; the town clerk, treasurer, constables, assessors, and overseers of the poor. To this day the town government continues in a large measure in some parts of New England. The county in New England was of much less importance than the town. Its business was chiefly the holding of courts of law, the keeping of court records, and the care of prisoners.

In Virginia, which may be taken as the type of southern local government, the county, first called the shire, was the unit of representation. The large plantations rendered the compact settlement impossible. At first the parish was the local unit, but it soon gave way to the county. The chief county officer was the sheriff, appointed by the governor. Next to the sheriff stood the "colonel," whose duties were largely military. The counties were divided into parishes which were governed by vestries, whose duties were largely ecclesiastical. Local government, judicial and administrative, was chiefly in the hands of a county court, whose members, usually prominent planters unlearned in the law, were appointed by the governor. This court gradually came to do the business formerly done by the parish. Instead of the town meeting, as in New England, the Virginians had their "court days," on which the people of every rank would gather on the green about the courthouse to transact private business, to engage in sports, and to listen to stump speeches.

In South Carolina there were parishes, but neither counties nor townships. In the Carolinas the governor and legislature found it almost impossible to govern the mountainous districts, and they were aided by bands of "regulators" organized for the purpose.

In Maryland the "hundred" was the unit of representation till 1654, when it gave way to the county. The officers of the hundred, except the assessor, were appointed by the governor. Maryland discarded the term "hundred" in 1824, but Delaware, having adopted it, retains it to this day. In Delaware the "levy court," composed of the assessors, justices, and grand jurors, met once a year to fix tax rates.

The middle colonies borrowed from both New England and the South; they adopted a mixed system of county and township government. In New York the township was the local unit, and not till after the English conquest was the county organized. Under English rule the town meeting was instituted, but with less power than in New England. They chose "overseers," instead of "selectmen," and other officers. After 1703 they chose a "supervisor" to manage the affairs of the township and he was also a county officer as a member of the county board of supervisors, which met once a year.

In Pennsylvania the county was at first the only organization for local government.⁷ It had charge of the non-judicial, as well as the judicial, business. This was at first among the duties of the court, but at length it was placed in the hands of commissioners elected by the people. As the population increased the township was organized to aid the county in local matters, such as the care of highways, the assessing of property, and the like; but the county remained the administrative district and the unit of representation. Nearly all the states organized since the Revolution have adopted the mixed system of New York and Pennsylvania.