

UM Libraries Depository



103204904008

UNIVERSITY OF MICHIGAN
LIBRARY

10007



This Thesis Has Been

MICROFILMED

Negative No. T-

136

Form 26

T H E E N G L I S H C I V I L P A R I S H

by

Benson Botts, A.B., B.S.

SUBMITTED IN PARTIAL FULFILMENT OF THE

REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

in the

GRADUATE SCHOOL

of the

UNIVERSITY OF MISSOURI

1916

Approved
M. J. Shepard

Approved by:
H. M. Trenchard
Prof. of History

378.7M71
XBG 59

C O N T E N T S

I.	Origin of the English Civil Parish	
	Introduction.	1
	Saxon Township.	3
	Anglo-Saxon and Norman Manor.	13
	The Ecclesiastical Parish.	14
II.	Development of the Parish from the Twelfth to the Sixteenth Centuries	
	Historical survey.	19
	Slow development ^{from the twelfth to} of the fourteenth century.	20
	Rapid development in the fourteenth century.	27
III.	The Tudor Parish and its Later Influences	
	Historical survey.	38
	Tudor Poor Laws.	43
	Parish Finances.	51
	Road Administration.	56
	Miscellaneous duties.	59
	Later Influences	66
	Bibliography.	

THE ENGLISH CIVIL PARISH

CHAPTER I

THE ORIGIN OF THE ENGLISH PARISH

English constitutional history, since the beginning of the political revolution in the seventeenth century, has been the subject of study of every civilized nation. This wide spread interest has resulted in a thorough search through English documents for every available source of information. There is however, one field of English institutional history that has received little attention, that is the development of the English civil parish before the seventeenth century. The origin of the parish in both civil and ecclesiastical forms has received some notice from the older constitutional writers, and recently has been made the subject of special studies. The Elizabethan parish has been fully treated in the general works and in monographs dealing with special functions. However, no writer has attempted to trace the consecutive development of the civil parish from its origin to the height of its activity in the seventeenth century. This development is peculiarly important from the standpoint of the growth of English nationalism, yet it has been entirely over-

looked.(1)

There seem to be two reasons for this neglect. One lies in the fact that feudalism and serfdom tended to subordinate every other interest to that of the lord. Consequently the students of English institutions from the twelfth to the sixteenth centuries have been attracted by the vast amount of material on the manor systems, and have found little to interest them in the weak undercurrent of local activity which survived the Norman Conquest and gathered strength as the feudal system decayed. The other reason for the lack of any consecutive account of parish development is that parish governmental activity before the sixteenth century rested almost wholly on a common law basis. Custom rarely finds expression in its own age, consequently the doings of men of villain status did not readily find their way into the learned dissertations of the Latin scholars.(2)

These conditions are responsible for a lack of interest in the subject; there are others that complicate the task of a student of local institutions. One of these is the multi-

1. Toulmin-Smith's work, *The Parish*, puts much stress on the origin of the parish, but is so controversial in tone that the subsequent development is lost in the maze of his long discussions.

2. Latin was the language of the law and of the courts until well into the fifteenth century. Occasionally statutes from the thirteenth to the sixteenth centuries put some duty or other on the smallest area of settlement, but the matter is stated so generally that one can get little idea of the machinery for carrying out these duties.

plicity of terms applied to the smallest area of administration. In Saxon times one hears of 'tun', and 'hamlet', 'by' and 'tything'. These survive the Conquest and to them are added 'vill', 'manor' and 'honour'. At a later period the term 'parish' is applied to the same area. All of these terms were used loosely by the old commentators, and it seems impossible to construct any theory concerning the status of any one of them that will hold good in more than one locality and for a limited period of time.

Of all these conflicting terms, parish seems to have had the most general application. Though having originated for ecclesiastical purposes, it was from the first identical in area and in constituency with one or another governmental unit. Merged with manor or town, as feudalism broke down before a rising tide of nationalism, one civil duty after another was put upon the only organism that retained any vigor in the local communities. Finally, when the Roman Catholic Church gave way before the same influence, the parish became wholly a secular institution. It is from the standpoint of the development of the parish as an undercurrent of a great national movement that it becomes an important subject for study.

THE SAXON TOWNSHIP

Any attempt to trace the English civil parish back to its origin leads into the intricacies of the controversies over the institutional life of the Saxons at the time of their

conquest of Britain; and the still more complex question of the extent of the influence of Roman and Celtic institutions on those of the early Saxons. Due to the fact that only indirect evidence can be brought in proof of any idea concerning the institutions of these early times, three schools of theorists have developed, the Teutonic, the Roman-Celtic, and finally the Modern. Out of their own struggle for political rights combined with their study of early Teutonic institutions, the theorists of the early nineteenth century evolved the "Mark Theory" of the origin of the Anglo-Saxon town.(1) They believed it to have been a settlement of freemen holding their land and cultivating it under a highly developed system of communism. They pictured these freeholders meeting regularly in their community to elect their officers, make their by-laws and to pass judgment in their own courts. They endowed them with the political rights which the men of the nineteenth century were struggling to secure.

Opposed to the Teutonic school was the Romano-Celtic theory. Under the influence of the study of Roman institutions, these writings held that the Saxon conquest found the economic unit of the Romans, the villa, still in existence in England. They believed that the conquest resulted merely in the change from Romano-Celtic to Saxon lords, and that the Roman villa with no great change in its organization became the Saxon

1. Andrews, Old English Manor, J.H.S. XII, 3.

manor.(1) They minimized Teutonic influence on English institutions, and regarded feudalism, on the continent as well as in England, as the development of a Roman institution.

The modern theory rejects the extreme view^s of both the older schools. ^{its advocates} ~~They~~ hold to the Teutonic origin of English institutions. ^{they} But, ^{also} reject the idea of the highly organized free government described by the Teutonic school as wholly out of accord with the primitive social conditions of the Saxons.(2) They hold that the conditions growing out of the conquest developed feudalism in England, and that the presence of a large servile class among the Celts made the transfer from Celtic lord to Saxon thegn a less radical change than earlier writers believed had taken place. (3)

The existence of these three schools emphasizes the fact that the organization and functions of the Anglo-Saxon township will always be a matter for conjecture. Documentary evidence is almost wholly lacking. The period is so remote and such radical changes have intervened that any attempt to do more than to advance a theory concerning the development of the township in Saxon times, that is fairly well supported by indirect evidence, is all that one can hope to accomplish.

It is generally held that the people of a race inherit political tendencies as they do physical characteristics or

1. Ashley, The Anglo-Saxon Township, Q. J. E., VIII, 356
2. Maitland, Domesday Book and Beyond, 147.
3. Ashley, The Anglo-Saxon Township, Q. J. E., VIII, 356.

mental types.(1) If this is true, and considerable proof can be found in world history to support such a theory, then in any study of the origin of English local government we must attach great importance to the early institutions of the Germans. From this standpoint Tacitus' Germania becomes a very important historical document. There are, however, two matters that must be taken into account: the incidents of time and of place. Tacitus wrote in the first century; the Anglo-Saxon conquest took place in the fifth and sixth. The second consideration is that the conquest of England must have created conditions far different from those of the German tribes which Tacitus describes in the second century.

The Germania represents the Teutons as a people having mixed habitations, each freeman living apart from the others in dwellings surrounded by small plots of ground.(2) The land was owned in common. That the people of the Mark occasionally met in general assembly to settle matters of a local concern is hardly open to doubt. They may have had local officers chosen by lot, as seems to have been the custom of the Germans; but Tacitus is far from clear upon this point. Certainly the Mark had no court of its own. There were four distinct classes of people ranging from noble to slave. The war leaders were chosen in the great council of the nation. At the same gather-

1. Whether this is scientifically correct does not especially concern us here.

2. Tacitus, The Germania. Translated by M. Hutton, Loeb Classical Library. 287.

ing the chiefs who administered law for the cantons and vil-
lages were selected. Each of these had a hundred assessors
assigned to them to act as his responsible advisers. These
were chosen from the people.(1)

Taking this as an approximation of the Saxon political
development in the second or even the third century, for
they were kinsmen of the Teutons, we still have two centuries
to bridge before the Saxons appear on British soil as its con-
querors. From another source we get information concerning
the development of a Teutonic people in the fifth century.
This comes from the laws of the Salian Franks. Among these
people the system of common cultivation described by Tacitus
had disappeared, but the right of settlement in the Mark was
determined in the community or by the king.(2) There was an
officer appointed by the king whose duty it was to collect
the royal revenue and to preside over the local assembly.
This assembly of the people met to discuss grievances and to

1. Tacitus, Germania, 281.

This assembly seems to have served as a court for the trial
of more serious crimes, while the court of the 'pagus' corres-
ponded to that of the English hundred. The latter seems to
have been the common court of the nation, for there is no
evidence to be drawn from the Germania to show that each vil-
lage had its court.

This is the picture of freedom that dazzled the Teutonic
School. It seems not to have been very different from the
political organization of the Iroquois Indians of America.
No doubt the 'Head' man was the elder of the tribe, as with
the American Indians, and his justice was that which could
find support in the customs of the people.

2. Stubbs, Const. Hist. 61.

make by-laws, but was in no sense a court of justice.(1) The Franks in point of contact, were nearer to the Saxons than were the Teutons of Tacitus' account, but the Saxons were more backward than their neighbors and it is not probable that their political development had advanced as far as that of the Franks. The Saxons must still have been a very primitive people at the time of the conquest of Britain.

Accounts of the Saxon invasion describe them as coming first in war bands under the leadership of their chief; then in a migratory manner after the fashion of primitive people.(2) We know that walled towns, villas and Roman baths went down before them, the evidences are still to be seen in England.(3) In some places they swept every vestige of Celtic population from the soil. As the tide of conquest moved toward the west they found a sparser population. Open places were settled by the conquerors, and adjustments followed close on conquest. Of the change thus affected history has no record. Place names

1. The Franks had a local court called the 'mallus' over which an officer called the Centenarius presided. The court seems to have been similar to that of the 'hundred' in England. Its presiding officer was elected by the national council, and was assisted in performing his duties by the legally qualified land-owners who served in the same capacity as the "Hundred assistants" of Tacitus' account. Stubbs, Const. Hist. VI, 61.

2. Bede, Ecclesiastical History, 23.

3. Bede gives an interesting if questionable account of the conquest. "Public as well as private structures were overturned; the priests were everywhere slain before the altars; the prelates and people without any respect of persons, were destroyed with fire and sword; nor was there any to bury those who had been thus cruelly slaughtered." Ec. Hist. 23.

indicate that Celtic population survived to a greater extent in the West than in the East; and the common use of Celtic household words proves that the women must generally have survived the conquest. Generations passed and neither conqueror nor conquered gave any hint in written form of the silent revolution at work on British soil. With the first light on Anglo-Saxon England we find manorialism in evidence. The fact that it is in the West and moving toward the East gives some support to the theory of the Romano-Celtic survival.

The Saxon township was the smallest area of settlement of the Saxon people. From indirect evidence we conclude that it was from the earliest time a unit in hundred and shire administration of justice and police. It had little organization of its own and needed little until the manor system was developed. The 'tun-moot' could not have been an organized and responsible body meeting at regular intervals to elect officers and transact business until the feudal lord had need of it for the regulation of the manifold manorial services.(1) The township had no court.(2) Its officers were the 'gerefa', the tithing man or chief pledge, and the common herdsman. (3) We may safely infer that all of them were chosen by lot.(4) The township shared in the administration of justice by sending its representatives to the meetings of the hundred court where they served as presentors of local offences, and some times as dooms-

1.Maitland, Domesday Book and Beyond, 148.

2.Pollock and Maitland, Hist. of Eng. Law,I, 567.

3.Maitland, Domesday, 147-148.

4.Stubbs, Const. Hist.VI,45.

men of the court. We have no direct evidence of the time when these courts became regular; but the law of Ine of Wessex requiring that all persons wronged take their cases to the proper court for trial, indicates that law courts were just coming into use as a means of settling private difficulties. (1) The three matters of common jurisdiction were manslaughter, wounding, and cattle stealing. The last was by far the most common, judging from the amount of legislation on the subject in the Saxon codes. The township also sent its representatives to the shire reeve's court where that officer of the king must have enforced the frankpledge and the duty of attending the meetings of the fyrd. Here also the fines due the king for failure to comply with the 'fyrd faereld' must have been collected.(2)

In police administration the township must have had

1. Pollock and Maitland, Hist. of Eng. Law, I, 37.

The following extract from a law of Edward, A.D. 920, would indicate that regularity in court procedure did not come until just before the Conquest if then. -Cap. 11. "I will that each reeve have a gemot always once in four weeks, and so do that every man be worthy of folk-right; and that every suit have an end, and a term when it shall be brought forward. If that any one disregard, let him make bot as we before ordained." Stubbs, Select Charters, 64.

2. The responsibility of the kinsmen for the peace of their tribe or family finds expression in a number of Saxon laws, but the means by which they were held to their duty in this respect is not clear. William put that duty on the sheriff in his bi-ennial tourn, and thus on the basis of survival of Saxon local custom one can argue that the same duty belonged to the sheriff in Saxon times. Thorpe, Ancient Laws.

The following extract from the laws of Ine, A.D. 690, provides for the fines for neglecting the fyrd. "If a gesithcund man owning land neglect the fyrd, let him pay cxx shillings and forfeit his land; one not owning land lx shillings; a ceorlish man xxx shillings as fyrdwite." Stubbs, Select Charter, 62.

some share, for a law of Edgar put the responsibility of taking the first steps toward detecting cattle theft on the township.(1) The hue and cry was also of Saxon origin, though we have no hint from Saxon laws as to how it was carried out. In the matter of taxation the Saxons seem to have advanced beyond their kinsmen on the continent. The Danegeld had been assessed as a national tax in some parts of England since the time of Alfred the Great, but here again we have no direct evidence as to the mode of assessment. The township must have been the unit of assessment as it was so evidently the unit of settlement of the Anglo-Saxon people.(2)

From these various sources let us revive a free township of the tenth or eleventh century. Here is a settlement of some twelve or more families owning the land and cultivating it in common. They live in houses of single rooms crudely built and daubed with mud. These houses, each with its little

1.The legal process in proving cattle theft seems to have been more clearly defined in Saxon law than any other matter. A law of Edgar provides that a man bringing cattle home should 'turn them in the common pasture' with the witness of the township. If he fails to do so, the townsmen are to give information to the elder of the hundred after five nights, and the man who bought the cattle will forfeit them. If the townsmen fail to report the matter, then their herdsman is flogged. Maitland, Domesday Book and Beyond, 147.

2.The complete returns concerning the property in Edward the Confessor's reign secured by the Domesday Survey would indicate that William used a local machinery already in existence in England in making the assessment of property. Both Medley and Round have proved from the Cambridge returns that the vill was the basis of the assessment. Might we not argue from this fact that the vill was the old Saxon unit for the purpose of taxation?

plot of ground, straggle along a village road leading to the nearest market town. The people are a simple folk without learning and with few interests beyond their narrow round of rural tasks. Twice a year their representatives attend the sheriff's tourn and leet to make the report for their community concerning frankpledge and the fyrd; to present any crime committed; and, in all probability, to pay the Danegeld tax. Once a month six of their number attend the meetings of hundred court and there present such cases of cattle theft or breach of peace as have occurred within their boundaries. Perhaps they are called on to declare the custom of their town, a great day in the experience of that man who stands before the hundred court as the representative of his community. If they have a church in their midst they have some common duty concerning it, and in any case they pay tithes or some other church tax at irregular intervals. There is no town meeting in the sense of a regularly held or organized moot. Some matter of common concern may have led to all the people assembling to decide what should be done. Perhaps some question concerning the division of new land or the cultivation of the old might come up. This would scarcely occur more than once or twice in a generation. Even these slight responsibilities decreased as sake and soke usurped hundred jurisdiction, and the payment of Danegeld pressed heavier on the free owner until he gave up his land in feudal tenure to the lord who collected the tax.

There is little in this description beyond the existence of community interest and activity, to show the relation of the township of the tenth century to the civil parish of the sixteenth.

THE ANGLO-SAXON AND ROMAN MANOR

The Saxon manor is as vague in outline as the Saxon township; its relation to the civil parish scarcely more direct. Growing out of the circumstances of the invasion, little by little it took over the economic, religious and civil interests of the Saxon people. The economic arrangements of the manor were already superseding those of the free township in the time of Bede. The Saxon earls as early as the latter part of the seventh century were founding their own churches and appointing their own priests.(1) In the laws of Edward the Confessor, we have evidence that the jurisdiction of the hundred was giving way before the sake and soke of the feudal lord,(2) and the records of Domesday Book prove that in the eleventh century the manor and not the vill paid the Danegeld. (3) All this, however, was irregular. There was no Saxon manorial system; the status of one manor, in all probability, was not that of another. In the eastern counties at the time of the Norman Conquest there

1.Selden, The History of Tithes, 261.

2.Maitland, Domesday Book and Beyond, 87.

3.Maitland, Domesday Book and Beyond, 122-123.

was a borderland where feudal manor and free village overlapped. There the freemen owed suit to the court of one lord, had commended themselves to ^{an} other, and yet were doomsmen of the hundred court.(1)

The Norman Conquest changed this condition. Norman law took no account of free villages; and the ultimate effect of the Conquest was to push the mass of Saxon freemen down to villain rank. William and his successors standardized the manorial system.(2) What has been incidental before tended to become fixed under Norman rule. As feudalism grew stronger, nearly all the functions of the Saxon towns were taken over by the feudal lords. Police, taxation and all matters of local administration, though nominally under the control of the court baron, were really in the hands of the feudal lords. It was in these matters, police, taxation and local administration that the functions performed by the manor make a close approach to those of the civil parish.

THE PARISH

The church parish, out of which the civil parish grew, was probably the last of these institutions to develop in England. The origin of the English ecclesiastical parish is still a mooted question. One group of writers attribute it

1. Ibid,

2. Stubbs, I, 312.

to ecclesiastical organization; another holds that there was no establishment, but that the parish grew up to meet the needs of a rural population.(1) There is little proof to be brought in support of the first theory. It seems to be based solely on the fact that Theodore of Tarsus as Archbishop of Canterbury reorganized England into dioceses and parishes, and generally gave form to the ecclesiastical organization of the English Church.(2) There is no question but that such organization took place. That the parish was instituted in such manner is contrary to the spirit of English institutions.

A number of circumstances indicate that the second theory is correct. It was the policy of the Roman Catholic Church in the seventh century to make use of the pagan temples as Christian churches in the newly converted territories.(3) So after the conversion of Ethelbert of Kent we read that they "builded and repaired churches". (4) Some of these must have been pagan

1."The term 'parocciae' is applied by Innocent I in his letter to Decentius (A.D. 416) to country districts without the city." Riechel, Rise of the Parochial System in England,1.

2.Stubbs, Constitutional History, Vol.1,260.

3.Selden, The History of Tithes, 252.

"When, therefore, Almighty God shall bring you to the most revered Bishop Augustine, our brother, tell him what I have upon mature deliberation on the affairs of the English determined upon, viz., that the temples of the idols in that nation ought not to be destroyed.---For if those temples are well built, it is requisite that they be converted from the worship of devils to the service of the true God". Bede, Ec.Hist. 52.

4.Selden, The History of Tithes, 251, Bede, Ec. Hist.37.

temples. We know from Bede's account that the early church organization took the form of the 'episcopi clerus', the simplest form of the cathedral church. The bishop and his clergy resided together; the priests being sent out to minister to the scattered churches, but returning to the seat of the bishop as their place of residence. (1) In this arrangement we have the beginning of the parochial system in England. If there were church houses, whether of pagan or Christian origin, there must have been fairly well recognized areas of ministration for each priest, which were determined by the areas of settlement. We have already seen that the tun was the normal area before the manor developed. It seems beyond question that in the eastern counties, where the free village must still have predominated, these first Christian parishes would have as their bounds those of the free village communities.

There are many of the characteristics of the parish, lacking in the 'episcopi clerus', which developed later. Bede gives an account of two Saxon earls building churches on their estates and inviting the Bishop of York to consecrate them. (2)

1. Ibid. Selden seems to regard this as the beginning of the parochial system, but Reichel, in his Rise of the Parochial System in England, regards the lay foundations as the beginning of the parish. 2.

2. Clark, in his "History of Tithes", gives the following account of an early lay establishment taken from Bede. "Not very far from our monastery, about two miles off, was the country house of one Puch, an earl. It happened that the man of God (Bishop John of Beverly) was at that time invited there to consecrate a church." 25.

Here, undoubtedly, we have the beginning of the lay foundation of parishes in England. This movement went steadily on through the eighth, ninth and tenth centuries keeping pace with the growth of Saxon feudalism. It was accelerated in the seventh century by Theodore of Tarsus who, in order to encourage the founding of churches, granted the privilege of appointing the incumbent to the lay founder.(1) As Christianity spread and the nobles of considerable estates saw the advantage of having a resident priest to minister to their families and dependents, parish churches in the modern sense became very common. In many cases the boundaries of such parishes would be identical with those of the manor. The owner would endow such an establishment with glebe land of from five acres to a hide, such payments as 'church scot' and 'soul scot' (2) would be set aside for the priest; and, finally, one third of the manorial tithes were added to the endowment.(3)

Thus the development of the parish may be divided into four stages. The first was that of the loosely organized 'episcopical clerus' already described,(4) the second was that period when the great nobles built their churches and employed or dismissed the priests at will, the so called 'headless clergy'. This period lasted approximately to the year 800. The next period was that of episcopal control and protection, when the priest

1. Clarke, The History of Tithes, 21.

2. Hunt, The English Church in the Middle Ages, 23.

3. Selden, The History of Tithes, 259.

4. Selden, The History of Tithes, 251.

had a definite status,(1) and could not be appointed or removed except by the consent of the bishop. The last stage was when the lay endowment included the grant of an estate which, with fixity of tenure, gave him a recognized position as an officer of the church, the power of 'parsonship' or 'rulership'. The last stage was not reached until the twelfth century.(2)

The position of the parish priests under these lay establishments is significant of the part the parish was to play in later English history. Their status was defined by both ecclesiastical and civil law, and in a limited sense they were both temporal and ecclesiastical officers. It was the parish priest with the reeve and four men who represented the tun in the local courts, his testimony was necessary in the procedure in taking up strays. (3) By canon law, as has already been shown, the parish priest could be appointed and removed only by the consent of the bishop. On the other hand, the right of nomination held by the lay founders must have been a very real power. In their capacity as 'beneficed clergy' the parish priests had the administration of parish finances including, beside the endowment, such payments as 'church-scot', 'Rome-fech', 'plow alms' and tithes.(4) There was a provision in Anglo-Saxon law that the tithes should be divided into three parts: one third was to go to the mother church; one third to the up keep of the parish church; and one third to the parish poor. Here we have

- 1.Reichel, The Rise of the Parochial System,2.
- 2.Reichel, The Rise of the Parochial System,2.
- 3.Law of Edward the Confessor, Maitland, Domesday Book,148.
- 4.Thorpe, Law of King Edmund,(994) Art II.

the beginning, in this provision for the poor, of that secular duty that was to characterize the civil parish of a later period.(1)

There is little to show the relation of parish and town before the Norman Conquest, except in the matter of boundaries. Their constituency was the same, but that had no special significance yet. The parishes were often co-terminous with the manors, the manors, in some instances, with the earlier townships. The identity of each in function is at first quite distinct. With changing conditions each tends to merge into the other until in the seventh century both the earlier organizations have disappeared. The ecclesiastical parish survives as a separate organization, and the civil parish emerges as the unit of local government.

CHAPTER II

THE DEVELOPMENT OF THE PARISH FROM THE TWELFTH TO THE SIXTEENTH CENTURIES

The English civil parish was an outgrowth from three institutions, the Saxon tun, the manor, and the ecclesiastical parish. It came into existence gradually and almost imperceptibly. It acquired a function here or dropped an old parish duty there, as changing conditions brought a new responsibility or relieved it of an old one. It was the product of two movements. The earlier of these was the centralizing policy of the

1. Burn, The History of the Poor Law, 2.

Norman kings. William the Conqueror and the stronger of his successors adopted the policy of keeping in their own hands many of the functions that belonged to the feudal lords on the Continent. Thus the local communities in the matters of taxation, keeping the peace, and maintaining the local fyrd were often made responsible bodies and quite independent of manorial jurisdiction. The other movement was the awakening of a national self consciousness on the part of the English people, which became apparent with the first successes of the Hundred Years' War. The struggles between king and nobles in the thirteenth century, resulting in Magna Charta and a representative parliament, must have been important factors in welding the English nation together. It had no doubt been a gradual development, but England seemed suddenly to spring into life. The new nationality was most apparent in political affairs. Nevertheless, the Lollard movement and economic conditions resulting from the Black Death were working a revolution more slowly but just as surely in rural England.

THE PARISH FROM THE TWELFTH TO THE FOURTEENTH CENTURIES

The English civil parish from the twelfth to the fourteenth centuries, however, had no recognition in English law. This was the period of highest feudal development, consequently nearly all local activity apart from the workings of the

manor system disappeared. During the twelfth century there was little change in rural England beyond the fixing of manorial customs and exactions. It took the Normans a remarkably short time to adjust themselves to English conditions. A Norman nobility supplanted the Saxon aristocracy. The Saxon thegns sank to a lower level, and the Saxon freemen were soon merged with the villain class. Where the manor system had been incidental before it now became regular.

Economic conditions were rapidly adjusted after the Conquest, and, during the following century, made little change. The exactions of the manorial lords became fixed in the early part of the period and remained unchanged until the fourteenth century. The Normans introduced a better system of national finance and thus made taxation more regular and more profitable to the government. The weight of this system bore most heavily on the rural communities and was an important factor in pushing the Saxon freemen down to villain status. Some new industries were introduced by the Norman artisans who came in the wake of the Conquest, but these made no perceptible change in the economic conditions in the twelfth and thirteenth centuries.

William I held a firm hand over his feudal lords. His successors, however, were not strong enough to maintain such control. Consequently by the middle of the twelfth century English feudalism had reached its height. Shire and hundred

courts had almost ceased to meet and the administration of justice had passed into private hands. The customary court of the manor was presided over by the lord's steward who was sole judge. This court was held for the adjustment of the economic affairs of the manor. Only those of villain status were required to attend its meetings.(1) Criminal jurisdiction was given over to the lord in leet court, where the view of frankpledge was also held.(2) The court baron, presided over by the lord or his representative, took over the civil jurisdiction of the hundred.(3) In this court the freeholders were the judges.(4) Thus the administration of justice passed into private hands, except such cases as had been taken over by the church courts, and the few matters over which the national courts had jurisdiction. Finally, the feudal levies of the lords supplanted the local fyrd. Feudal decentralization was at its height.

This condition did not last long. Henry II soon brought the feudal lords under his control through a system of national courts co-operating with local juries. The king's justices in eyre rapidly took over all the important matters of juris-

1. Stubbs, Const. Hist. I, 451-452.

2. Pollock and Maitland, Hist. of Eng. Law, I, 532. It is doubtful if the distinction between villain and freehold courts was made before the reign of Henry III, Ibid, 531.

3. In many instances the hundred courts passed into private hands. Maitland, Domesday, 92.

4. Stubbs, Const. Hist. I, 103.

diction leaving the manor court shorn of power. Shire and hundred court were again put in operation.(1) Henry's judicial reforms left the feudal lords permanently weakened in their most important function. In another respect also he weakened the feudal system. Henry's vast possessions made it necessary for him to carry on many wars. For the defence of the English border, however, he revived the old Saxon fyrd. In place of the feudal levies of an earlier period the scutage tax was put on the landholders in commutation of military service. By the end of Henry's reign feudalism in England was little more than a system of land tenure and taxation.

The civil parish had no organization at this period that could be distinguished from that of the manor.(2) But after the middle of the twelfth century the justices in eyre, or other officers of the crown, now frequently coming into the local communities, put new functions upon its citizens. Even in the matter of church administration there is no evidence of an organized vestry; though undoubtedly the parishioners were called together occasionally to consult with the incumbent about matters concerning the repair of the church.(3) It is true that the freemen assembled in court baron and vills in customary court, but both were presided over by the

1.Maitland, Domesday, 148.

2.Maitland, Domesday, 148.

3. Pollock and Maitland, Hist. of Eng. Law, I, 613.

lord or his representative. Even the latter could scarcely be considered a free assembly of the people.(1)

While the civil parish was lacking in any organization of its own it was steadily growing more important as an area for the administration of a centralized government. Through the twelfth and thirteenth centuries the township was important as the basis for the assessment of national taxes. William the Conqueror made use of its local machinery in the Domesday Survey. Commissioners were sent from shire to shire to question the representatives of the townships and hundreds. In shire meetings the eight men, the old Saxon provision for the representation of the town in the matters of justice, appeared before them and made their sworn statement concerning ownership of land and the status of men within their community. (2) This survey was the basis of a number of tax levies, and this method of making assessments was used until the fourteenth century.(3)

In the matter of Police administration the responsibility of the local community developed quite rapidly during this period. William gave definite status to the institution of frankpledge when he required that every freeman should have a

1. Pollock and Maitland believe that the distinction between free and villain courts came after Henry III, Ibid. 531.

2. Maitland, Domesday Book, 148.

3. Stubbs gives an account of a tax assessed in 1198. A knight and clerk were sent into each county to report on extent, liability and tenure of land to be taxed. These officers with the sheriff in each county were to call before them among other representatives, "the reeve and four men of each township whether free or villain.

pledge bound to produce him in court.(1) Henry I required that the sheriffs should hold 'tourn' twice a year in each hundred when every man subject to the frankpledge was supposed to appear in court. This custom probably proved burdensome, so the practice grew up of having only the chief pledges appear.(2) These men made their reports, presented offences committed against the peace of the kingdom, and produced the members of their own tithing who had broken the law.(3) The system of frankpledge in the twelfth century required every man of twelve years or over to be in tithing. This consisted of a group of ten or twelve men bound by oath to keep the peace. Each of these had a chief pledge who came in course of time to be their representative. (4) If a member of a tithing failed to appear before the court when accused of a crime then the tithing or township was amerced by the sheriff. When the view of frankpledge was strictly enforced by officers of the king it became a powerful instrument for the enforcement of law and order in every community. Under a weak king the lords in their leet courts subtracted the view of frankpledge from the courts under royal control, consequently police duty was often neglected.

1. Pollock and Maitland, Hist. of Eng. Law, I, 88.

2. Ibid, 570.

n 3. This custom seems to have been the origin of the jury of presentment provided for in the Constitutio of Clarendon.

d 4. There is no direct evidence as to how the chief pledge was chosen. Lambard holds that the office of petty constable was the same as that of chief pledge. Toulmin-Smith declares that the ancient custom was to choose the constable in leet court. Toulmin-Smith, The Parish, 119.

Henry II devised a splendid instrument for the enforcement of local police responsibility in his circuit court and jury system. The duty of detecting criminals, of raising hue and cry, of presenting its offenders in court were strictly enforced on the township by the judges. Amercements for failure to meet these obligations were assessed with a heavy hand.(1) The final development of the police responsibility of the township in this period was an ordinance of 1233. This provided that four men keep watch and ward in every township throughout England.(2)

The police administration of the township was further provided for with the creation of a new office, that of constable. The first provision was for a high constable of the hundred who had the important military duty of raising and overseeing the equipment of the militia.(3) To this was added a general oversight over the local police regulations. Later, another officer, the petty constable of the town or parish, was created to assist the high constable in the performance of of both of these functions.(4) Toward the latter part of the

1. Pollock and Maitland, Hist. of Eng. Law, I, 565-565.

2. Ibid, 565.

3. An ordinance of 1252 decreed that in every township a constable in each hundred to convene the 'jurata ad arma' should be appointed, and in 1253 there is a provision that arms necessary for the presentment of malefactors are to be provided at the cost of the township. Pollock and Maitland, Hist. of Eng. Law I, 565.

4. "The High-Constables are and may be chosen and made either by the Justices of the Peace at their quarter sessions, or by the presentment of the grand inquest in the Leet as the course and custom of the place is. The petty Constables, are, and may be most properly chosen, by the Steward of the Leet himself, or the presentment of the inquest in the Leet". Sheppard, The Offices and Duties of the Constables, 13-14.

century the local areas were being held more strictly to account in matters of road improvement,(1) equipment for military service (2), and the enforcement of police duties including watch and ward. The officer whose duty it was to see to these various matters was the high constable of the hundred. Another responsibility was fixed on the local communities in the reign of Edward I. Under this law an inquest made up of a certain number of representatives from each subdivision of the hundred was required to meet at stated times and make reports before the coroner.(3) This movement marks the close of the thirteenth century.

RAPID DEVELOPMENT OF THE CIVIL PARISH IN THE FOURTEENTH CENTURY

A wonderful change came over England in the fourteenth century. It found its fullest expression in the reign of Edward III. Edward was a truly national king. Uninfluenced by for-

1.The Statute of Winchester provides "that highways leading from one market town to another shall be enlarged, where bushes, woods or dykes be; so that there be neither dyke, tree, nor bush, whereby a man may lurk to do hurt, within two hundred feet of the side, and two hundred feet of the other side of the way". The same law provides that the constable make regular returns on the state of the highways. Toulmin-Smith, The Parish, 105.

2.By a law of Edward II every parish was required to furnish one foot soldier equipped and armed for sixty days. Toulmin-Smith, The Parish, 18.

3.The Statute of Exeter provided that inquests be held before the coroner by representatives of all the subdivisions of the hundred. There were to be eight men from every parish, six men from each township, and from each hamlet four men by whom the inquiry was to be made. Toulmin-Smith, The Parish, 35.

eign favorites, as his predecessors had been, he became the embodiment of the energy and ambition of the England of his day. Reviving the old Norman claim to French territory, Edward with an army of knights and hardy English bowmen invaded France. The armies that won Crecy and Agincourt were organized as national forces, not as a feudal array. They were made up of English yeomen, a class of freemen that was steadily increasing in numbers and energy. During the same period the House of Commons assumed a bolder tone. Foreign wars necessitated Parliament being called often, consequently the Commons secured more complete control over national finances. The king's ministers by process of impeachment were made responsible to the Parliament. Finally, in the election of Henry of Lancaster to the throne, the English Parliament assumed a position of importance in governmental affairs that it did not again realize until the closing years of the seventeenth century.(1)

While England was still rejoicing over Crecy, another event more important for its economic and social results occurred. This was the Black Death. Breaking as it did into the nicely ordered economic arrangements of the manor it threw all England into chaos. Labor which had been a drug on the market, suddenly became very valuable. As a result men could no longer be held to rents, fines and escheats. Villainage was at last broken from its anchorage in the soil. The free laborer able to

1. Cheyney, Industrial and Social History of England.

go when and where he pleased was the result. It is almost impossible to conceive what a change this was. Centuries had come and gone and the peasants for generations had gone on the same road of rural tasks. They had cultivated the same number of strips in the same way, and lived in the same huts generation after generation. In the same way they had attended the lord's customary court, and in dull apathy had submitted to his idea of justice. After the Black Death, courts no longer met for the peasants refused to attend. The old system of cultivation broke down to meet the demands of a free laboring class. By the sixteenth century the English villain class was a thing of the past.(1)

The Black Death with its social and economic results was not the only influence at work in rural England in the fourteenth century. A spirit of inquiry, of questioning the old order of things was abroad in the land. The church as well as the manor had been shaken to its foundations by the Black Death. New men had to be hastily ordained to take the place of those who had died of the plague. The church had grown wealthy and indifferent. There was a rude awakening to corruption in church offices. Wycliff and men of his views went about the country preaching to the people in their own language. They attacked the unholy lives of the clergy and the mercenary spirit of the church organization. There was a very evident impatience with papal control which resulted in Edward III refusing longer to pay the papal

1.Cheyney, Industrial and Social History, Ch. v.

tribute.

In the administration of parish affairs a new sense of responsibility and proprietorship led to the organization of the parish vestry and its representatives, the church wardens.(1) The priest from being the 'bank' of the community became an object of suspicion. Money was voted by the inhabitants and collected by special officers chosen by them.(2) It was spent under the supervision of representatives of the parishioners known as "wardens of the goods".(3) The church wardens and collectors came into existence in the fourteenth century in

1. Pollock and Maitland, Hist. of Eng. Law, 614.

2. Toulmin-Smith tells of an interesting case recorded in the Year Book, 44 Edward III. A distraint made by collectors chosen at a meeting of the parishioners was the subject of a suit. The only issue allowed to be raised in the case was whether the parish had voted the rate in parish meeting. The right to make such a rate binding, and to authorize its collectors to distrain was not brought in question. This would seem to prove that the parish vestry as a corporate body was of earlier origin than 1371, the date of the case. The Parish, 179.

n Pollock and Maitland mention the same case but think it doubtful if the resolutions so passed by a parish vestry bound anyone who had not assented to it.

An earlier record points to a thirteenth century origin. "In 1275 the town of Graveley contracts with a mason for the repair of the wall of the church; he is to have 3s.2d. for the work and a garb of wheat from every house." Pollock and Maitland, Hist. of Eng. Law, I, 614.

3. "Wardens of the Goods" pertaining to the church is found in the rolls of Parliament as early as the fifteenth year of Edward III. Toulmin-Smith, The Parish, 61.

Gibson on visitation (1717) "Churchwardens were, by their original office, only to take care of the goods, repairs, and ornaments of the church; for which purpose they have been reported a body corporate for many hundred years." Toulmin-Smith, The Parish.

"The Churchwardens be officers put in trust for the behoof of their Parish, therefore, also, are they not enobled with any other power than for the good and profit of the parish." Lambard, Duties of Constables, 72.

response to a need for some responsible body to take charge of the valuable church goods, vestments and vessels. It was their duty to look after the expenditure of the very considerable sums of money collected and disbursed for repairs, supplies, and such matters.(1) The recognition of the vestry as a corporate body, and the election of church wardens and collectors marks the transition of the parish from an ecclesiastical unit to a recognized civil area.

The repair of the church house or any of its appurtenances was generally provided for by a levy on both real and personal property made by the parishioners in a meeting held for that purpose.(2) The assent of the majority of the parishioners present at such a meeting bound all of those of the parish to the payment of the rate. Moreover, the collectors chosen by the parish meeting were legally constituted officers whose mandates must be obeyed. The parish was also the area for local taxation for various purposes. Roads and bridges were often

1. Pollock and Maitland, Hist. of Eng. Law, I, 613.

2. "By ancient usage, which had become universal in the thirteenth century, the parson or incumbent of the parish would lay the cost of maintaining the fabric and furniture of the church upon the owners of land in the parish; and it became the general practice for the parson to summons from time to time all those interested in the matter to a parish meeting for the purpose of raising and duly apportioning the necessary expenses. No wonder that such a gathering presently extended the sphere of its activity. Redlich and Herst, Local Government in England, 28.

Cannan gives an instance of a rate being levied in 1379 for the repair of a church roof which was assessed on both real and personal property. Ten pounds was raised by an assessment of 6d. on each carucate of land, 1d. on each head of cattle, and every ten head of sheep. History of the Local Rates, 16.

constructed at the expense of the parish,(1) and in some instances public utilities provided by it.(2)

The parish as an area for national taxation became more important as feudalism weakened. After 1334, a tax known as "Tenth and Fifteenth" was voted by Parliament. It was a national tax of one tenth of the value of personal property in cities, boroughs, and in the royal domain, and one fifteenth of the value of that of the rest of the country. After 1334 it became fixed in amount; and, instead of being assessed on each individual according to their personal property, was estimated at a certain amount from each county or parish.(3) As

1. A case illustrating these various functions is recorded in 1370. A parish meeting had voted ten pounds to repair the church. One of the parishioners objected to a distraint for 9s. levied on him, on the ground that the collection could only be enforced by the ordinary, and that he had not voted for the rate. The collectors pleaded custom which had always existed 'time out of mind'. In giving the decision one of the judges said, "There is a custom through the whole country which the laws call bylaws, that is, by assent of neighbors to levy a sum to make a bridge, a causeway, or a sea wall, and by their assent to assess each neighbor at a certain sum, for which they may distress". He also held "that the assent of those present at a properly summoned meeting bound those who were absent".

2. In the Ipswich records for 1495 the following entry is made: "Assessors and collectors (were to be appointed) in each parish for a moiety of a tenth and a fifteenth for the repair of the mill, the whole sum being £18.4s.5d." Cannan, Hist of the Local Rate.20.

Another instance of this function is to be found in the record of the western seacoast parishes. Here the parish owned and rented a salt pan. Nichols's Illustrations.

The pot in which the parish ale was brewed is constantly referred to in the parish records of the sixteenth and seventeenth centuries.

3. Cannan, History of the Local Rate,13.

the value of property fluctuated it became the custom to assess a lump sum on each community. The rate was then determined by the collectors, an officer nominated in some instances by the parishioners. (1) There was redress from arbitrary assessment through appeal to the courts, (2) or to a special jury appointed from the hundred. (3) In the reign of Henry VI the duty of seeing that unauthorized taxes were not assessed on the people was put on the constables. (4)

In the matter of police administration the parish made little advance beyond more detailed statutory control. (5) Laws defining breach of peace were passed in Edward III's reign. Evidently the disorders of the time required such measures to enable the local officers to meet the needs of the situation. The form of holding the view of frankpledge seems to have be-

1. Ipswich records, May 30, 1488, -"An assessment shall be made for a 10th and a 15th for the king, and assessors and collectors nominated in each parish". Cannan, History of the Local Rate, 19.

2. In a case tried in 1354 before the Barons of the Exchequer, a woman by the name of Joanna, claimed that she had been wrongfully assessed, and asked that she be assessed at the same rate as the men of the town. The Court of Exchequer, by jury trial, upheld her assessment. Ibid, 14.

3. The inhabitants in two hundreds in Cornwall, claiming that they have been over assessed under the false pretenses pray that an inquiry, by "a jury of twelve men of the hundred" be granted them. (Rolls of Parliament, 3 Hen. V, A.D. 1415) Toulmin-Smith, The Parish, 20.

4. Ibid.

5. According to Lambard the office of petty constable was first instituted in the reign of Edward III.

come very exact and the court was probably conducted according to rules of procedure provided by the king's courts.(1) Attendance on local courts was still enforced, and articles of inquiry were drawn up by the king's officers for the aid of the local

1. The manner of holding the view of frankpledge is described in the publication of the Selden Society, the Court Baron, 93f.

"Court of View of Frankpledge holden at Weston on Thursday next after the feast of St.Luke, in the fourteenth year of King Edward III. (A.D.1340)

Essoins.-John Pomy-of (suit to) the Views- by Robert Clerk.
Henry Pike- of the same- by Roger Moody,
Faith pledged.

"Here shall the steward charge the frankpledge with the articles that are to be presented at his court, and shall speak as follows to the presenters, and the beadle shall hold a book in his hand and the steward shall say: Hold (up) your hands. Ye shall loyally enquire among yourselves and loyally present all the articles of which ye shall be charged on behalf of the King and the lords of this court to be the best of your knowledge. So help you God in the day of judgment."

Many of the subjects of inquiry are so illuminating on the subject of local police activity that I have given them at the risk of overbalancing this paper.

The inquiries were made as follows:

"First whether ye the presenters be all here as ye should be; and if not tell us of the defaults.

"Whether all those who owe suit to this season be here; and if not, present the defaults.

"Whether all those who are twelve years old and upwards be in a dozen; and if not tell us who has harboured them since.

"Whether hue and cry hath been levied among you in an affray of the peace, and if the parties were duly attached by the suit of the dozen.

"Whether blood has been shed among you; how and by whom, and whether the parties have been attached.

"Whether any perpresture has been made in the vill or the fields, as for instance a dung heap placed in the high street to the nuisance of the country, or a wall raised by one neighbor upon (the land) another or on the kings highway,--that this day it may be abated.

"Whether any paths to the church, the mill, or the common spring be destroyed; and by whom.

"Whether there be among you any who rob in the woods or on the King's highway, and who be their maintainers.

juries. Amercements for failure to perform the duty of presenting offences and refusal to act as domesmen were strictly enforced by the justices on eyre.(1) In case of sudden death, the constable, notified by the churchwardens, summoned a jury of fifteen or eighteen men from the surrounding parishes, who, in the presence of the coroner, made the inquest.(2) Another parish duty dating back to the reign of Edward II was that of providing one foot soldier, equipped and armed, for sixty days' service.

The attempt to regulate the new economic arrangements by statute law put another responsibility on the parish. The Statute of Laborers passed in the reign of Edward III put the duty of forcing men to work on the local church organization. Under this law the parish priest became a civil officer.(3) Laws aim-

"Whether there be among you any who harbour folk contrary to the assize, for often it chanches that such harbourers and receivers murder their guests by night."

After all these matters and many more have been put before the sworn men they sent out to fine out about these matters.

In one of the cases brought before the court a man charged with assault "prayeth that this may be inquired". Then "an inquest of six good and lawful men thereof, charged and sworn, say upon their oath that the said Walter (the one accused) on the said day was in the wars with Hugh Spencer and is not guilty of the said charge". The case was won by Walter.

Toulmin-Smith quotes a passage from the Rolls of Parliament (36 Edw.III, No.24) to prove that the procedure of the local courts was determined by the higher courts". The articles of inquiry to be made at the above courts (local) were required to be published and made known to all, "avowedly" to the end that the people should have knowledge on all the points, so that they might the better regulate their conduct. The Parish, 19.

1. Toulmin-Smith, The Parish, 19.

2. Ibid, 372-373.

3. By provision of the Statute of Laborers (23 Ed.II) the priests were required to compel the laborers to work "on pain of suspension and interdiction."

period, since its legal status in the matter of local taxation was so well established in 1370. The office of parish collector and that of churchwarden are both recognized by law at about the same time. With this local organism the parish was able to provide for all necessary expenditures for keeping up the church furniture, repairing bridges, roads or sea walls, or even the purchase or repair of some community necessity such as a mill or a town pot. Then too in the matter of national taxation the responsibility of making the local rate was put upon the local assessor who was in some cases at least, named by the community.

The matter of the parish police responsibility made little advance beyond a considerable increase in responsibility due to more varied and exacting laws being passed by Parliament. The coroner's jury was chosen from the parish, and it was the churchwardens' duty to inform the constable - who remained the principal police officer - of cases of sudden death. As a unit in court administration the parish took over the old township responsibility of presenting offences at the meetings of the local courts. In the matter of the local militia the parish became a unit in the organization and equipment of the men who served in that capacity. Finally, the parish was made a responsible body in the enforcement of the Statutes of Laborers. Here the priest had the civil function of enforcing the laws thrust upon him. Before the end of the period Parliament

ed to force the villains into the old order of things were passed and repassed during the next hundred years. Their enforcement, however, was now put upon the courts as more and more severe penalties were exacted.(1) Another matter beginning to be put upon the parish as a civil function even at this early date was the care of the poor. The disturbed economic moving about, relieved the manor lords of the responsibility of providing for the poor among their own villains. The monasteries were becoming corrupt and consequently lax in their performance of such duties. Hence, a new problem was coming into existence as early as the reign of Richard II. By enactments of his reign and that of Henry IV, we find that the duty of providing for the poor was put upon the parish.(2)

Thus in the later middle ages we see the parish emerging out of the decaying organism of the manor as the important institution of local government. It is not only an area in the central government, such as the old township had been, but it is an organized and self governing community with regard to the administration of some of its own affairs. The meetings of the vestry as a corporate body must have come quite early in the

1. Cheyney, Industrial and Social History, Ch.v.

2. By act of Parliament (15 R.II,c.6) "It was required, that in every license to be made in the chancery, of the appropriation of any parish church, it should be expressed, that the diocesan shall ordain, according to the value of such church, a convenient sum of money to be paid and distributed yearly of the fruits and profits thereof, to the poor parishioners, in aid of their living and sustenance forever." Burn, The History of the Poor Law, 3-4.

had attempted on more than one occasion to fix the responsibility of poor relief on the parish.

Those writers on English institutions who have found the origin of the English civil parish in the establishment of the Elizabethan Poor Law had surely overlooked this fourteenth century development of the parish.

CHAPTER III

THE TUDOR PARISH AND ITS LATER INFLUENCE

There was no distinct innovation in the civil parish of the Tudor period. England has few instances of a revolutionary change in government. Certainly the Elizabethan parish is not one. Conclusive evidence proves that the English lawyers and commentators of that time did not consider the institution a new one.(1) The interchangeable use of parish and town in con-

1. The survival of the Saxon town in the Elizabethan parish has been discussed with more acrimony than the importance of the subject seems to warrant. Too much stress has been put by Toulmin-Smith and others on the technicalities involved in the question with the result that the truth has often been obscured. It seems quite plain that the town of Saxon times had no organization, but as an administrative area in hundred and shire it had quite important functions to perform even in that primitive age. Under manorial usurpation it lost nearly all of its old responsibilities except police and taxation. As feudalism weakened, however, these old functions with many new ones were gradually put back on the local community. In order to carry out these duties an organism arose first in relation to church property, which gradually took over the various matters of local concern or those enforced on it by the central government.

Channing gives a long discussion on this question in his *Town and County Government*, and finally arrives at the conclusion that in the sixteenth century 'town' and 'parish' were convertible terms, whatever the historical meaning of the words might be. *J.H.S.*, 2nd. series, I, 11.

nection with civil functions shows that the people considered that they had for centuries had a continuous existence for civil purposes.(1) It has already been shown that civil functions were performed by the parish in the fourteenth century; and since townsmen were usually parishioners of one church, vestry meeting was also town meeting.(2) Since the vestry and its representatives performed some civil functions from the time of their origin, there could have been no revolutionary change in the sixteenth century.

We have already seen how the most absolute of the kings of the middle ages in their struggle against the decentralizing influences of feudalism had put duties on the local communities and had held them responsible by amercement for their faithful performance. This had been enforced by the judges on eyre. as the manor system broke down under social and economic pressure the tendency was for these duties to be increased. Gradually the locality gained somewhat in organization to meet these new demands. The Tudor period, however, was marked by the most rapid accretion of both responsibility and organization until, finally, in the reign of Elizabeth, the parish

1. "Lord Coke expressly says, that the 'inhabitants of a town without any custom, may make bye-laws for the reparation of a church, or a highway, or of any such thing which is for the general good of the public; and in such cases the greater part shall bind the whole, without any custom'. The word 'town' is here used, as before explained for parish". The case involved a destraint made and authorized by vote of the parish. Toulmin-Smith, *The Parish*, 47.

2. Stubbs, *Const. Hist.*, I, 96.

emerged as a fully developed area of rural government with manifold duties and a fully developed organism for their performance.(1)

The accession of Henry VII brought in a new era. The war of the Roses completed the prostration of the old feudal aristocracy, and thus closed the last chapter of mediaeval England. The modern age, marked by new conditions and new problems, began with the Tudors. Henry VII was a far-sighted, practical business man, typical of the merchant class of his day. He had no sympathy with the old feudal aristocracy, and soon set about depriving it of its last semblance of power. Conditions favored Henry's idea of government. New sources of revenue arose or were devised, so that Parliament was seldom called. Peace was assured by marriage alliances, commercial arrangements, and a firm executive government at home. Government offices were filled with men chosen for their ability rather than for high birth, and an era of strong though often arbitrary government was instituted. What was true of Henry VII was true, in the main, of his successors. It was a period of wonderful governmental activity along every line. Custom and common law were rapidly supplanted by statutory regulation. Conditions which for centuries had been determined by natural laws now came under government control. The statute books of the time bulge with laws on every subject. In the realm of local government the recent development of the powers of the justices of the peace had created an effective machinery for the control of local affairs.

1. Pollock and Maitland, Hist. of Eng. Law, I, 560.

Closely related to the governmental activity was the new intellectual movement, for the Tudors were patrons of the New Learning. The influence of the Italian Renaissance reached England in the reign of Henry VII. By the accession of Henry VIII England had become the center of the humanist movement of the North. Literature which had suffered a decline since the time of Chaucer was again revived. Education for the upper and middle classes became general. So great was the fame of the English scholars that students from foreign countries were attracted to the English universities. The final culmination of the movement was the splendid literature of the Elizabethan Age.

The reformation was an outgrowth of English humanism. Agitation for reform in the church began with Wycliff and the Lollards, but failed at that time to accomplish its aim. Their influence, however, continued to be felt for generations, and Wycliff's translation of the Bible was an important factor in the later movement. The teachings of the humanists aroused a religious enthusiasm such as England had not felt for generations, but this did not bring about any decided change in the church until the time of Edward VI. However, it is from the standpoint of the reformation as an executive policy that it is important in the matter of parish development. The growth of English nationalism tended to weaken the influence of the papacy. The wealth of the Roman Catholic Church and the corruption of its ministry had been the subjects of attack since the time of Wycliff. Neither monasteries nor churches were meeting the de-

mands of the age, and the church courts were notably lax in their enforcement of morals.

The break with the Catholic Church was the result of a personal quarrel between Henry VIII and the pope, but the permanent results of the reformation were due to the attitude of the English people toward the church. The suppression of the monasteries could not have been accomplished if the influential classes had not been in sympathy with the policy. After the break with the papacy, Henry became the head of the church. Appeals to Rome were forbidden, and all payments to the pope were stopped. The clergy as appointees of the king became secular officers often giving as much time to civil as to religious duties. Edward carried the reform of ritual and doctrine much farther than his father had done, but this work was all undone with Mary's succession to the throne. The restoration of the Roman Catholic Church seems to have met with little resistance at first, but the feeling against it grew stronger with each year of Mary's reign. With the accession of Elizabeth there was a strong reaction in the direction of protestantism.

religious? Elizabeth with her freedom from secular bias of any kind was the ideal ruler to complete the political reformation. Neither doctrine nor belief had much weight with her; church organization was all important. Under Elizabeth the church became strictly a national institution with very definite functions to perform. Laws passed by Parliament regulating the ritual

were strictly enforced by both civil and ecclesiastical procedure. The doctrine of the church was defined by the same body. Attendance on church services was compulsory; and in order that outward conformity of both priests and laymen might be complete a special commission was established to supervise the enforcement of ecclesiastical law. It was the subordination of the church to the national interests that wrought the most direct change in the parish.

Other influences were important in the changes which came about in England in the sixteenth century. This was the era of the expansion of world commerce, and England was the leader in the movement. Other industries quickened by this impulse took on new life. Old methods of farming slowly gave way after the Black Death and sheep raising became the principal industry. The policy of enclosing farm lands for purposes of cultivation had begun in the thirteenth century. This movement was now greatly accelerated by the profits derived from the new industry; consequently thousands of small land holders were dispossessed. Efforts were made by Parliament to check the movement, legislation to that end being passed year after year. But these laws were dependent for enforcement on the very class they were intended to control, hence little was accomplished. The most evident result from enclosures was a great increase in the number of dependent and vagrant poor.

TUDOR POOR LAWS

It was in the matter of poor relief that the parish first

emerged from its quasi-religious character into a recognized civil unit. Even back in Anglo-Saxon times the duty of caring for the poor had been put upon the parish or the monastery, and had been enforced by both canon and civil law. However, it was then regarded as a religious function. As the church grew wealthy and corrupt, civil laws were passed and repassed requiring the parish as a religious organization to make some provision concerning its poor. It was not until the wholesale confiscation of monastic and chantry property in the reign of Henry VIII and that of Edward VI that the church organizations were freed from their responsibility in that respect. Economic conditions hastened the change. Enclosures were going on apace and industries were being better organized. This process eliminated the old and inefficient who had found employment under the lax economic arrangements of the manor system, or had been the recipients of the alms of the monasteries. In 1495 a law was passed to suppress vagrancy. It required the impotent beggars to return to the hundred of their birth, or where they were best known, and not to beg outside of its limits. A later enactment put the responsibility of arresting or putting vagrants to work on the "constables, householders and head officers of any town"(1) a rather vague statement of legal responsibility. Moreover this made no provision for caring for the impotent poor nor the means to be used in making sturdy vagabonds self-supporting. As a result of the failure to pro-

1. Burn, The History of the Poor Law, 30.

vide for these contingencies another law was passed by Parliament in 1535-6. This provided for voluntary contributions for the support of the poor and made some provision for work for the sturdy beggars. The responsibilities including the ministers and churchwardens. Every parish in default might be fined a pound a month by quarter sessions.(1)

Conditions must have grown rapidly worse after the suppression of the monasteries, for in the first year of the reign of Edward VI a new enactment was made which was much more severe than the earlier laws. Sturdy vagabonds might be given as slaves for two years to any man claiming them, or even for life in some instances. It further provided that the impotent poor should be housed at the expense of the "cities, boroughs and villages", and were to be maintained by charity. The manner of meeting this responsibility was left with the local community.(2) This act was of short duration, however, being

1. The following quotation shows the confusion of local terms at that period, and illustrates the lack of knowledge on the part of the central government as to how the matter of local enforcement was to be carried out. "All the governors and ministers of every of the same cities, shires, towns, hundreds, wapentakes, lathes, rapes, ridings, tithings, hamlets, and parishes as well within liberties as without, shall not only succor, find, and keep all and every of the same poor people by way of voluntary and charitable alms,--but also-- cause and compel all and every the said sturdy vagabonds--- to be set and kept to continual labor in such wise as by their said labours they and every of them may get their own living with the continual labor of their own hands." Any parish failing to meet its responsibility might be fined a pound a month. It is significant that only the parish is mentioned in this statement.

2. Cannan, Hist. of Local Rates, 58.

replaced by a law passed in 1551. This provided the method to be followed in carrying out the act. There was to be a church meeting to be held for the purpose of choosing two collectors whose duty it was to solicit subscriptions at the church door the Sunday following their election. If any of the parishioners able to give to the fund refused, they might be sent to the bishop for reformation. The act also provided for registration of all inhabitants, householders and all needy beggars. It required that a record be kept of the amount subscribed by each parishioner; this was making a close approach to a compulsory rate. (1) Finally, in 1562 compulsory payment was enforced through the justices of the peace who were given the right to punish by imprisonment those who refused to respond to the bishop's exhortation. The successive laws of Elizabeth's reign were more detailed and more specific as to how they should be carried out. This exact supervision resulted in moulding parish organization to meet the demands of the central government. They must have been fairly successfully enforced, for their scope was greatly extended during this period. There are two notable instances of this. One measure passed in 1572 was for the relief of poor prisoners in the county jails. This sum was to be assessed on the parishes by the justices in quarter sessions, and was to be levied on each parish by the churchwardens at a certain rate for each Sunday. (2) It was not

1. Ibid, 59.

2. Prothero, Select Statutes, 99.

paid over to the county officers, however, but once a year.(1) The burden of providing for the needy soldiers of the realm was put upon the parish in much the same way. There was the provision that the parishioners might by 'agreement' fix the rate, but if they failed it was to be determined by the churchwardens and constables of the parish. Finally, if both these methods failed the assessment was to be fixed by the justice of the peace residing in the parish.(2) A further extension of the poor law was a provision for raising the money necessary for erecting houses of correction in every county, and for supplying them with necessary materials for setting the "valiant beggars" to work. The justices fixed the rate and had charge of the enforcement of this act. They were also to appoint collectors and governors of the poor. Thus the parish became an area of the county in the support of work houses for the poor and was thus relieved of one of its most troublesome duties.

There were other enactments concerning the poor, but all these earlier laws that had proved effective found a place in the Elizabethan Poor Law of 1597. (4) This provided for four overseers of the poor to act with the churchwardens in carry-

1. Nichols's Illustrations, Churchwardens Accounts.
2. Cannan, The History of the Local Rates, 67.
3. Ibid, 65. Persons refusing to pay this tax are threatened with a double rate and distress which indicates that it is pure-ly a tax.
4. The Elizabethan Poor Law of 1601 is usually the one quoted, but it is just a reenactment of the law of 1597 with a few minor changes.

ing out the provisions of the law.(1) With the consent of the justices of the peace they were to provide employment for children and for adults who had no occupation or means of support. If the parish was not able to keep its own poor then the justices were to assess the necessary sum to make up the deficit upon other parishes in the hundred.(2) The law provided for another sum to be raised for the aid of the impotent poor and for apprenticing poor children. All these assessments were to be made in accordance with the ability of the parish to pay. Another provision of the act was that the judges in quarter sessions should provide for houses of correction and

(3) ?
8

1. Just how the overseers of the poor were chosen is not clear from the text of the law; "The church wardens of every parish and four substantial householders there, being subsidy men, or, for want of subsidy men, four other substantial householders of the said parish, who shall be nominated yearly in Easter week, under the hand and seal of two or more justices of the peace in the same county, whereof one to be of the *quo rum*, dwelling in or near the same parish, shall be called overseers of the poor of the same parish". Toulmin-Smith thinks the parishioners elected these officers and that the justices commissioned them. Judging from the spirit of the law it is more probable that they were appointed by the justices.

2. The text of the law is quite clear upon this point. "If as the said justices do perceive that the inhabitants of any parish are not able to levy upon themselves sufficient money for the purpose aforesaid,"they shall and may tax, rate, and assess as aforesaid any other of other parishes, or out of any parish within the hundred where the said parish is, to pay such --sums of money to the churchwardens and overseers of the said poor parish-- as the said justices shall think fit". Cannan, Hist. of the Local Rates, 72.

3. The following record taken from the churchwarden's accounts, Wigtoft, Lincolnshire, is interesting as an illustration of this provision. "Vicesimo tertio maii 1602, Anno regine

and all things necessary for putting the valiant beggars, for whom these were provided, to work. They were also to make all necessary rules and regulations for the control of such houses. This enactment, reissued in 1691, became the basis of all subsequent legislation on this subject for both England and America until the twentieth century.

The earlier laws had left the detail of enforcement, and the ways and means of raising money largely in the hands of the local communities. Evidently, from the churchwardens' records of the time, some of the parishes met their full responsibility, others took no action whatever. They became narrowly exclusive under these acts. The poor of other parishes were jealously excluded in many instances and the needy suffered accordingly. The general effect of these acts, however, was to develop an intense local patriotism and a jealous

Elizabeth quadragesimo Quarto. It is agreed and concluded, by John mason, of Wigtoft, labourer, with Thomas Seyms & Xtofer Baker, off the said town, husbandmen, collectors of officers of the poor---, that be the said John, his executors, administrators, or assigner, shall and will, fro tyme to tyme hereafter, during the term of seven years now next following, for & in consideration of 6s. 8d. to him in hand paid, keep and manteyn Susan Baker with meat, drink, clothing, & all things necessary for a servant, during the--tyme, wch said Susan, the said overseers, with the consent of the residue of the inhabitants have placed as servant to the said John, for the fore-said term.

interest in local affairs that was on the whole beneficial. The tendency in the series of the Elizabethan laws was toward centralizing the responsibility for poor law enforcement in the hands of the justice of the peace either as individuals or acting together in quarter sessions. The laws were now enforced,(1) but this policy eventually weakened the parish as a governmental unit.

PARISH FINANCES

The poor law put a new responsibility on the parish as a civil unit, but it still retained many old functions extending back to the earliest times. One of these was its responsibility for tax assessments. Through the sixteenth century the parish remained the area for the assessment of national taxes now being imposed at more regular intervals. Commissioners were appointed whose duty it was to choose local officers to direct the work of "sessing and levying the tax". (2) Besides the taxes for national purposes still being levied as "fifteenths and tenths", there were levies for various special purposes. The "hurt and maimed soldiers" mentioned above were cared for by a tax levied in a lump sum on the parishes by the justices of the peace. The constables were the collectors of this fund

1. Nichols's Illustration, 247. The records become much fuller now, and payments for houses of correction and supplies of materials for "setting the poor to work" are added to the items of sums of money given to this or that poor person.

2. Prothero, Select Statutes, 31.

and were personally responsible for its payment.(1) A tax of a more general character imposed by the state was for the relief of the prisoners in the King's Bench and Marshalsey and the local jails. Another assessment of like nature was for the support of local almshouses and hospitals. (2) In general these taxes were assessed in lump sums, the parish being left to devise the means of raising the necessary money. This policy resulted in developing a vigorous parish organization.(3)

Besides the various assessments made at the behest of the central government the parish had many local expenditures to provide for. The list of these grows longer and longer as the dates of the parish registers approach the seventeenth century.

(4) Since the responsibility of meeting these various demands

1. "These (county treasurers) are to receive of the high constable of the hundreds quarterly the sums of money rated and taxed by the justices of the peace upon every parish for the relief of sick, hurt, and maimed soldiers and mariners. And if in case there be any default by the petty constables, or high constables in the levying of the sums, or in the payment of them over, so as thereby they may make any forfeitures; these officers may levy the same forfeiture by sale of the offender's goods. Sheppard, Offices and Duties of Constables, 181.

2. Ibid, 181

3. Ware, The Eliz. Parish, J.H.U.S. 26, 90.

4. Ware gives an interesting list of parish expenditures:
The ordinary upkeep of the church and its appurtenances.
The finding of clerk and sexton.
The care of the poor.
Maintaining local roads and bridges.
Purchasing and repair of parish armor, and mustering of parish contingents.
Contributions for prisoners and maimed soldiers.
Keeping of the parish butts and stocks
the destruction of frugiverous birds and animals.

for money rested with the parish officers or vestry, various expedients were resorted to rather than impose a rate upon the inhabitants. Hence parish finances of the sixteenth century become varied and consequently very interesting.

The sources of revenue for this period ranged through endowments, gifts and voluntary payments to church ales, fairs, and fines. The first source of revenue given above if not the greatest was certainly the most stable in character. It arose from gifts of lands, houses, money and livestock bestowed by benevolent persons on the parish. Sometimes the gift was made in the life of the donor, more often by will. Various motives were responsible for these endowments, but one which can be very definitely assigned was the Queen's Injunction of 1559 which required "parsons diligently to exhort their parishioners and especially when men make their testaments", to give to the poor fund of the parish. These parish endowments were of two kinds, those devoted by the donor to some special purpose such as keeping up a certain number of poor, the maintenance of the parish clerk or some other well established parish responsibility. The other took the form of gifts to the parish to be used at the direction of the vestry. The revenue of the latter could be apportioned for various purposes or assigned by the vestry to the support of some definite charity or office.(1)

1. "Item, of the benevolence of the Right Honourable Earle Keymoule, lord high Chancellor of Scotland. Given to the children of the hospital at his decease- five pounds".

Other sources of parish revenue were derived from voluntary payments made at certain seasons of the year such as Easter, Christmas or at some other special season or day. These were called offerings or gatherings and sums so raised were used for the expense of the communion, for the parish poor or for other specified purposes.(1) In wealthy parishes this often constituted the most considerable source of revenue.(2)

During the early part of the sixteenth century the practice grew up of raising money for various parish purposes by holding church ales. These often lasted for several days. It was customary for gifts of beef, chickens, eggs and such matter to be secured from the parishioners. Ale was brewed, dishes borrowed and all the preparations for a season of feasting carried out. Music, plays and more questionable forms of enter-

"Item of Mr. Gregory Baker of Windsor, as a legacy given by Mr. Samuel Baker of Westminster, by his last will one hundred pounds". Churchwardens' Accounts St. Margaret's Westminster. Nichols's Illustrations, 40.

Money so secured"was invested in some business, land or stock rather than loaned out at interest, though there are some instances of money being borrowed at 10% interest. More often parish money was loaned without interest on good security". Sometimes a pawnbroking establishment was kept up. Ware, The Elizabethan Parish, 68 and 69.

1. "The following records from St. Margaret's Westminster illustrate this source of revenue.

"Also received in offerynge money to the sacrament of the autar, 2d."

"Item, offered on Crispany and Crispanary Day, 11d."p.8.

2. "Item, to Mr. Thomas Maurier by appointment of the committee of the Honourable Commons House of Parliament, of the money collected at their fast the 18th of February, 1628, to be distributed by him according to their direction, twenty-eight pounds and ten shillings". Churchwardens' Accounts, St. Margaret's Westminster, Nichols's Illustrations. 38.

tainment were provided.(1) Invitations were sent to the neighboring parishes and it was a point of honor for persons attending to pay for and of course consume the greatest amount of food. The revenues derived from this source were considerable often amounting to several pounds.(2) Two influences worked against the parish ale, one was that disorders were apt to result from overindulgence, and the justices of the peace worked constantly to discourage them.(3) The most forceful influence against them, however, was the growth of Puritan sentiment which would not countenance the indulgence thus encouraged. The holding of fairs was a kindred expedient for raising money and has continued to be used to the present time. It was conducted in much the same manner as the church ale, but did not have such objectionable features.

The miscellaneous sources of parish revenue run on through an interminable list. There was pew rent and mortuary dues, fines for refusal to take office and fines by the church officers for sins of omission and commission. There were fees for

1. Ware, The Eliz. Parish, J.H.U.S. 26,p 71.

2. "Sometimes the church ale appears on the wardens accounts as yearly events bringing in a yearly income. Sometimes they were given to raise money for some special purpose, as rebuilding the church tower, recasting the bell, raising money for purchase of material to give work to the poor, or buying a silver communion cup. Frequently sums were raised as clerk ales, sexton-ales, etc., where money was to be used to pay these officers". Ibid.70.

"Also were usually held at or near Whitsuntide and are often called Whitsun-Ales or May-Ales". Ware, The Eliz.Parish, J.H.U.S. 26,p 71.

3. Ibid, p.74

ringing the church bell and for burials in the church yard.

There were fees for recording marriages and births.(1)

The range of these endowments, fees, and other sources of revenue are as varied as the parishes to which they belonged. Parish registers in the South and East teem with the lists of expenditures and revenues, those of the North and West are sometimes pitifully meager in these details.

The records of the expenditures of the parish for civil purposes are enlightening as to the duties now performed by that institution. None of the records available were earlier in date than the middle of the fifteenth century, and in those of that early time there were few instances of civil duties performed. But from the early part of the 16th century evidences of such duties began to appear in the church wardens' accounts and increase very rapidly until the eighteenth century.

ROAD ADMINISTRATION

Among the duties mentioned in the church warden's records there are a few that illustrate the relation of the Tudor parish to the town. One of these is the care of roads. Keeping the roads in England had always been a local duty inseparable from landholding. In the early middle ages it had been provided for by the '*trinda necessitas*' which made the repair-

1. Ware, The Elizabethan Parish, Ware's account of these minor dues is very interesting.

ing of bridges and keeping the roads contingent on land holding. This responsibility was met by the manor lords during the middle ages, until the decay of the manor courts in the fourteenth century. Then the duty of enforcing the upkeep of the roads was put upon the constables.(1) Under this arrangement the people of the community became responsible for the repair of the roads but were dependent on such local arrangements as they themselves could devise. In the reign of Henry VIII an enactment by Parliament provided that in conformity with the old law and custom a tax might be levied by the constable on inhabitants "toward remedying the decayed bridges and adjoining parts of highways". (2) This seems to have proved only a partial remedy from the complaints made concerning the condition of the roads. It was not until the reign of Mary that a complete highway act was passed.

The Statute passed in the reign of Philip and Mary put the entire burden of caring for the king's highway upon the parish. It provided for the election of two surveyors of the parish every year, whose duty it was to superintend the work. The labor was to be supplied by the parishioners on the basis of land held, every man not a hired servant who was able to labor was compelled to do so. Four days were set aside every year by the church wardens and surveyors for the performance of the work.(3)

1. Toulmin-Smith, The Parish, 105

2. Ibid, 106.

3. The following extracts from the General Highway Act of

In addition to the labor put upon the roads, the parishes made contributions in money for the construction of roads and bridges.(1) The duty of enforcing the performance of these functions was put upon the justice of the peace in quarter sessions, but the local officers for the performance of these duties were elected? Hence, they were responsible to the parish.

Philip and Mary's reign give some of the details of the road administration provided for.

"The constable and church wardens are to appoint four days for the amending of the highways, and shall openly in the church the next Sunday after Easter, give knowledge of the same four days, and upon the said days the parochians shall endeavour themselves to the amending of the said ways and shall be chargeable thereunto as followeth: That is to say, every person for every plough land in tillage or pasture that he or she shall occupy in the same parish, and every other person keeping there a draught of plough, shall find and send, at every day and place to be appointed for the amending of the ways in that parish as is aforesaid, one wain or cart, furnished after the custom of the country with oxen, horses or other cattle, and all other necessaries meet to carry things conveninet for that purpose, and also two able men with the same upon pain of every draught making default 10s., and every other householder, and also every cottager and labourer of that parish able to labour and being no hired servant by the year shall, by themselves or one sufficient labourer for every of them, upon every of the said four days". Cannan, History of the Local Rate, 7.

1. "Item, paid to Winford brigo and Bruddike, 73".

Wigtoft Lincolnshire, Nichols's Illustrations, 240.

"Item, received of the constables of this parish which they collected from the inhabitants of the same, upon an assessment made towards the repairs of Chirfey Bridge, as by a particular thereof appeareth £ 19, 11s, 3d."

St. Margaret's Westminister, Nichols's Illustration, p.44.

"Item, given by the consent of the Worshipfulls of the parish of the church, money towards the repairing of the highway towards the Eye-Cross, as by gadering book of Mr..... and so forth, three pounds". St. Margaret's Westminister, Nichols's Illustrations, p.11.

MISCELLANEOUS DUTIES

Besides its duties to provide for the poor, to keep the highways and bridges in repair and to meet its financial obligations to the central government the parish gradually acquired a number of new functions covering a wide range of service. The parish records are illuminating in this respect. Among the most interesting of these are the measures taken to protect the health of the community. The duties of this nature became very important in time of a pestilence, killing dogs, quarantining those affected with the disease, providing carts for disposing of the dead and expenditures for disinfectants are some of the functions performed by the churchwardens acting as an improvised board of health.(1)

Other protective functions were performed such as destroying pests. Destructive birds and animals were sometimes the subject of royal decrees or parliamentary enactment. But always it was the duty of the churchwardens to see that such

1. "Item, to John Welch for the killing and carrying away of dogs during the plague, and for putting them into the ground and covering the same, 3s. 2d". St.Margaret's Westminster, Nichols's Illustrations, 17.

"Item, to the painter of Totehit Street for painting of certain blue crosses to be fixed upon sundry houses infected, 6d". Ibid, 17.

"Paid for the apparitor for bringing a note to keep diseased people forth of the town, 4d". Ibid, 149.

"Item, to Walter Hall bricklayer, for his work in building the pesthouse as appeareth by his bills and for material 548. 4s.". Ibid, 40.

"Paid the carpenter for a barrow to carry the people that died of sickness to bury them 5d."

Parish Account of Putney (Surry), Toulmin-Smith, The Parish, 524.

"Paid for pitch, rosin and frankinsense 1d.", Ibid, 524.

laws were carried out.(1) Another duty of similar nature was performed by at least one parish; that was to provide fire engines or buckets.(2)

Furnishing protection for health and property was not the only protective duty of the parish. The sea coast districts kept beacon fires for the mariners. The cost of building the fire and paying a man to watch it was met by the parish.

The parish was still a unit in the national system of military service. This seems to have been the best enforced of all the national functions imposed on the local community. The records of the most remote parishes have item after item concerning armor feathers for arrows and sums of money paid out to the soldiers for appearing at muster or going out on service.(3)

1. "Paid for 16 dozen sparrows, 1s.4d" "Paid to a man earnest to take 100 dozen sparrows, 6d". Great Wygstoff, Leicestershire, Nichols's Illustrations, 149.

2. "Paid for bringing back the engines from Whitehall when the fire was there, 6s." St. Margaret's Westminster, Nichols's Illustrations, 65.

"Item, to John Russell for making good the leathern buckets that were spoiled and lost when the Earle of Arlington's house was burned, £4.17s." Ibid, 72.

3. "Paid more than was gathered by Mr. More towards the setting out of XII men to New Haven, 15th of August, 1562". St Margaret's Westminster, Nichols's Illustrations, 16.

"Item for the new feathering of the shefes of arrows for the soldiers above said 2s." Ibid.

"To them that wore the town armor, two days at 8d. per day, 7s". Records of Kingston on the Thames, Toulmin-Smith, The Parish, 15.

"To the soldiers for their wages more than we gathered, 2d." Ibid.

"To James Allison and four others for carrying the armor at the coronation £1.3s.4d", Ibid.

One of the most interesting of the old parish duties still kept up was the perambulation. The date for this performance was set by the churchwardens and often a feast was provided by them for the participants. It consisted in a company of parishioners usually including the churchwardens and the parson going the rounds of the parish to establish the boundary lines. By this method these lines were kept fresh in the minds of the inhabitants.

Another duty somewhat similar in nature but of much more recent origin was that of keeping a register of births, marriages and death. A law was passed in the reign of Henry VIII providing that the churchwardens and parson should provide a book for keeping such a record.(1)

Other important records were made at the direction of the churchwardens. Lists of indigent poor had to be furnished under some of the Poor Law Enactments. Lists of parishioners and an estimate of their goods were more generally kept as the objects for which the parishes were taxed increased in number.(2) Final-

1. An injunction issued by Cromwell in 1538, (30 Henry VIII) first established the keeping of parish registers as an official duty. The provision was renewed and enforced by the injunction of Edward VI in 1547. Nichols's Illustrations.

2. "Item, for a quier of paper, for the clerke to make weekly certificates unto the court of all buryals and christenings." St. Margaret's Westminster, Nichols's Illustrations, p 231.

"4th of Sept. 1707. Ordered, that every person or inhabitant within this parish shall, at the next parish meeting bring in a particular of how many acres he had in Tillage within the Parish. Toulmin-Smith, The Parish, 526.

ly the churchwardens were the depositories for charters, copies of laws affecting the communities and records of all important transactions in which the parishioners as a body shared.

One of the last functions to develop was that of holding a court.(1) This was called the Court of Conscience and it too seems to have devolved on the churchwardens. It was the means whereby petty scandal and minor offences against morality were dealt with. The penalties were usually fines paid to the parish or to some particular cause which the parish was supporting.(2)

The meeting place for all these parish activities was the church. Here all the records were kept. Business meetings of all kinds were held in the vestry of the church and it was also the store house for the parish armor and sometime for the par-
son's grain. The ecclesiastical courts often met in the body of the church and the ales were held in the yard unless there was a church tavern. The ministers sometimes opposed this secularization of the church house but they were helpless. The English church had become wholly subordinated to local and national

1. "Item, for taking out the order of Parliament for reading the bill for a Court of Conscience", 7s. St. Margaret's Westminster, Nichols's Illustrations.

2. The following extract illustrates the operation of the Court of Conscience:

"The fourth day of April, in 1568, in the presence of the Court of Conscience, the whole parish of Twickenham, was agreement made betwixt Mr. Packer and his wife, and Hewe Rytte and Sicylys Daye, of a slander brought up by the said Rytte and Daye upon the aforesaid Mr. Packer".

interests. Its local organization had been turned over to secular purposes.(1)

As the duties of the churchwardens increased the vestry clerk's functions became more important. This was an elective office chosen by the vestry and paid such salary as they specified. He had important and varied duties connected with the transactions of the vestry and churchwardens and their committees and boards.(2)

Another officer originating even earlier than churchwarden's was that of constable. He retained all his old functions as principal police officer of the parish and in addition was collector for some of the national taxes put upon the parish. More detailed police laws especially those providing for the enforcement of the Poor Laws put many new details upon

1. Ware, 9.

"The 10 day of April 1568, was agreement made between Thomas Whytt and James Hirne; and have consented that whomsoever giveth occasion of the breaking of Christian love and charity betwixt them, to forfeit to the poor of the parish 3s.4d.;Toulmin-Smith, The Parish, 524.

2. Toulmin-Smith gives the following as some of the duties of the clerk:

- "To attend on (Highway) composition days"
- "To make the books for ditto (Highway Rate Book) and notices"
- "To summons defaulters"; and all business relating thereto"
- "To make books for church and Poor rates"
- "To attend the Court Leet; and all business relating thereto"
- "To attend all special sessions, and all business relating thereto"
- "To make lists of Officers to be returned to the magistrate, and other places; and notices to the parties.
- "Notices of Vestries, and copies; and answering all letters
- "Attending magistrates to get rates conformed; and notices
- "Taking the examination of paupers, and making out all orders of removal; and advising with the officers in all business

the constable. On the other hand due to the subordination of his office to that of the Justices of the Peace his importance as an executive officer was declining.

The number of parish officers steadily increased as the sixteenth century advanced. Overseers of the poor were added by the last poor law enactment of the period. Collectors, an office as old as that of churchwarden, increase in number as new funds have to be raised by the parish Highway Surveyors. Way wardens and dyke reeve become familiar titles in parish records as the duty of caring for the roads is more effectively enforced.

Finally even the minister becomes a secular functionary. Announcements concerning vestry meetings, days set aside for road improvement or meetings of special committees were made by the minister from the pulpit. Commands of Justices of the Peace and higher constables reached the parishes in the same way. And, most important of all, royal injunctions and Parliamentary enactments applying to the parish or any of its citizens were read from the pulpit.(1) Nor did the parson's responsibility end here. It was his duty as an officer recognized by civil as well as canon law to exhort his parishioners to obedience to the regulations thus put upon them. For failure to perform his duty in this respect, he might be cited

"To attend vestries, and all parish meetings, including all committees.

"Later they have duty of making out lists of voters for the overseers, also jury lists. Toulmin-Smith, The Parish, 207.

1. Ware, The Eliz. Parish, 32.

before either church or secular courts and punished.(1)

Under the influence of this movement to subordinate all other interests to the well being of the nation the Tudor parish divested itself of its old religious functions and gradually took over one civil duty after another. Sometimes it is a matter which local intelligence recognizes as a governmental function and proceeds to organize as such. Often it is a duty imposed from above. The administration of poor relief, highways and local finance necessitated the creation of new offices or the imposing of new duties upon the old. The vestry, consisting of all the rate payers met regularly and its transactions became more important. There were annual elections to be held, reports to be heard and passed on and by-laws to be made.(2)

The churchwardens (3), an office created in the thirteenth

1. Ware quotes the following figure concerning the relation of church and state: "Allegiance to both was in its nature as indistinguishable as are the sides of a triangle, of which any line indifferently may form a side or a base according to the angle of approach of the observer". The Eliz.Parish, 9.

2. "It is ordered that there shall be from henceforth a monthly meeting held on the first Sunday in every month, after evening services, for the reliefe of the poore, Repairs of the church and the Highways, and the better government of the said parish according to the direction of her law and that every order shall be put into wrighting and be fairly entered in a Booke kept for that purpose". Toulmin-Smith, The Parish, 526.

3."In the parish of St.Margaret's Westminister, the churchwardens are chosen according to the antient customs of the sayde parish (tyme out of mind) the Thursday immediately before Whitsunday, after this manner following:

"There is a bell appointed to be tolled by which the parishioners have notice, and thereupon do repair unto the church, to see the churchwardens which be going out of their office deliver up their accompts and ballance moneys; and also to understand who be chosen churchwardens for the year ensuing. Then they have

century for ecclesiastical purposes became the general administrative board of the parish. They were the representatives of the vestry in the performance of all duties requiring the consent of the parish. They assessed all taxes acting under the commands of the vestry, received all payments of money not otherwise provided for. Under the direction of the vestry considerable sums were expended by the churchwardens for purely local purposes. They were also the local executors for the enforcement of both canon and national laws with regard to attendance on church service, observance of the correct ritual by both pastor and people, and the proper conduct of both while in church.

a table set in the chancell, at which the doctor or minister of the parish and the rest of the vestry-men do sit, and thither the churchwardens in being bring their accompts fairly engrossed, and bound up in vellam together with the balance moneys; the antient vestrymenn at the upper end of the table receiving thesame, and inspecting at least the totall summes of what hath been received, what paid, and what remains to adjust the sayd churchwardens accompts. They then order and appoint some that have already executed the same office of churchwardens to audit the sayd accompt, and within one moneth to make report thereof, unto them. This being done the vestry men adjourne from thence into the vestry roome, and there take out of this the records of the names of the former overseers of the poore, the names of eight or tenne persons and set them down after this manner:

A. B.
C. D.

always setting down the younger of the present churchwardens first; then they debate the fittest man for that office; and soe every one crossing those whom they judge the most meet, they that have the most crosses carry it. As soonas this is done, they give the paper into the hands of the minister, who immediately goeth therewith into the readingpew, and there in the open church, and in the audience of the parishioners present, publisheth and declareth the names of the persons elected

LATER INFLUENCE OF THE TUDOR PARISH

With the final enactment of the great Elizabethan Poor Law in 1601 the English civil parish reached the height of its importance as a governmental unit. The development of English nationalism had at last brought every class and every area into some share in the work of accomplishing national unity. Intense activity of every sort marked all departments of government and the parish had its full share in this movement. One civil duty after another had been put upon its officers until in the extent and variety of its functions it far surpassed the county in importance.

This movement had come about gradually. It was the result of a general shifting in local institutions in response to a great national development. Old established governmental institutions which had existed for centuries slowly gave way under the influence of economic and social changes. Even the Roman Catholic Church, an institution hoary with age, broke down under the same influence. A new nation with new interests and ideals had emerged out of the chaotic conditions of the fourteenth century and in the Tudor period had reached its majority. No department of government better exemplified this fact than the civil parish.

churchwardens, to the end that they may have notice of same. After this the churchwardens expired doe use to invite the doctor or minister, together with the vestrymen, and other antient inhabitants of the parish, to a supper at the charge of the said churchwardens.

N.B. the churchwardens chosen after this form were adjudged to be the right churchwardens, by a decree of the commissary Dr. Exton, and afterwards by a court of delegates, against Baker and Edwards, who were chosen by some of the inhabitants

But an element of reaction had already been introduced. a tendency evident throughout the Tudor period toward centralization had resulted in the Justices of the Peace, appointees of the Crown, being given considerable authority in the matter of local administration. The form of parish organization was set for the next two hundred years by Tudor legislation. The later tendency was for the Justices to be given ever increasing powers in the matter of local activity. They not only had the power to see to the enforcement of parish duties but in many instances appointed officers of the parish. While retaining the old form of parish organization, the parish officers were gradually dispossessed of much of their real responsibility and corruption and decay resulted. Select vestries took over all important matters of parish control and soon became mere political rings. The poor laws were administered in the interest of the officers rather than for the welfare of the poor. This condition lasted until the latter part of the nineteenth century when, under the influence of Gladstone a movement for local government reform was begun.(1) A bill

in the church porch. St. Margaret's Westminster, Nichols's Illustrations, 68-69.

1. Mr. Gladstone declared (1894) that "We ought to avail ourselves of the old parochial division of the country, and to carry home to the minds of the peasants and agricultural labourers the principles and obligations, and to secure fully to them the benefit of local government". Redlich and Hirst, Eng. Local Govt., 210.

was introduced into Parliament providing for a return to the old theory of local responsibility in all local activity. The Parish Councils Act of 1894 carried out the pledges of the liberal party to restore the old parochial divisions of the county for purposes of local government.

BIBLIOGRAPHY

ANDREWS, C.M. The old English Manor. Johns Hopkins University Studies XII.

ASHLEY, W. J. The Anglo Saxon Township. Quarterly Journal of Economics, VIII. Opposed to the Teutonic School. Holds that the dependent rather than the free township was the rule.

BURN, RICHARD, The History of the Poor Law 1786. A review of poor legislation from the earliest times. Somewhat rambling.

The Justice of the Peace and Parish Officer.

Very detailed. Written for the use of country justices who had little knowledge of the law.

CANNAN, EDWIN, The History of Local Rates in England. A very clear and scholarly treatment of local taxation.

CHANNING, EDWARD, Town and County Government in the English Colonies of North America, John Hopkins University Studies, I. Valuable for its discussion of the meaning of the term 'Parish' in 1600.

CHADWICK, EDWARD P., Industrial and Social History of England. Valuable for its treatment of these conditions in the fourteenth, sixteenth and eighteenth centuries.

CLARK, REV. HENRY WILLIAM, History of Tithes, 1891. An interesting and valuable discussion of the subject. From the standpoint of the civil parish more valuable than Selden's work on the same subject.

GRAHAM, ROSE, The Taxation of Pope Nicholas IV, English Historical Review 23. Of little value beyond explaining the purpose of the taxation.

HUNT, WILLIAM, The English Church in the Middle Ages. Has little of value on the parish.

LAMBARD, WILLIAM, Duties of Constables, Borseholders, Tythingmen, and such other Low and Lay Ministers of the Peace, 1602. This book was the seventeenth century authority on the duties of local officers. Detailed but poorly arranged.

LINGARD, JOHN, History and Antiquities of the Anglo Saxon Church. Of little value on the subject of the parish.

MAKOWER, FELIX, The Constitutional History and Constitution of the Church of England.

MAITLAND, FREDERIC W., The Constitutional History of England
Township and Borough
Domesday Book and Beyond. The last is very valuable for the periods of Edward the Confessor and William the Conqueror. The Township and Borough is a special study of little value for the student of the parish.

MAITLAND and BAILDON, The Court Baron, Selden Society Publication. Local studies, very valuable especially on feudal period.

NICHOLS, JOHN, Illustrations of the Manners and Experiences of Ancient Times in England, 1795. A Collection of churchwardens accounts in the fifteenth and sixteenth centuries. There are accounts from seven churches, those of St. Margaret's, Westminster being the most valuable. It also contains articles on parish registers and a tabulation of church properties.

POLLOCK and MAITLAND, A History of English Law, 2 vol. Gives little on the parish, but is the least biased and most trustworthy general work dealing with the subject.

REDLICH and HIRST, Local Government in England. Deals mainly with the modern parish.

PROTHERO, G.W., Select Statutes, 1559-1625.

REICHEL, REV. OSWALD, The Rise of the Parochial System in England, Exeter Diocesan Transactions, 1905. An excellent work on the ecclesiastical parish. Little of value on the civil parish.

ROUND, J. H. Feudal England.

SELDEN, I., The History of Tithes. The authority of this subject. Of little value for the civil parish.

SHEPPARD, WILLIAM, The Offices and Duties of Constables, Borseholders, etc., 1641. Is largely taken from Lambard.

TACITUS, The Germania, Loeb Classical Library. Translated by M. Hutton.

THORPE, BENJAMIN, Ancient Laws and Institutes of England. Contains laws enacted under the Anglo Saxon kings, from Athelbert to Cnut. These are translated. The Latin texts of the laws of Edward the Confessor, William the Conqueror and Henry I are given.

TOULMIN-SMITH, The Parish, covers the entire field of parish development, but is so biased as to be untrustworthy.

WARE, The Elizabethan Parish in its Ecclesiastical and
Financial Aspects, Johns Hopkins University Studies, XXVI.
For the subject it treats of, the best material on the Eliza-
bethan parish.

WEBB, SIDNEY and BEATRICE, English Local Government. A
study of present day conditions. Excellent.



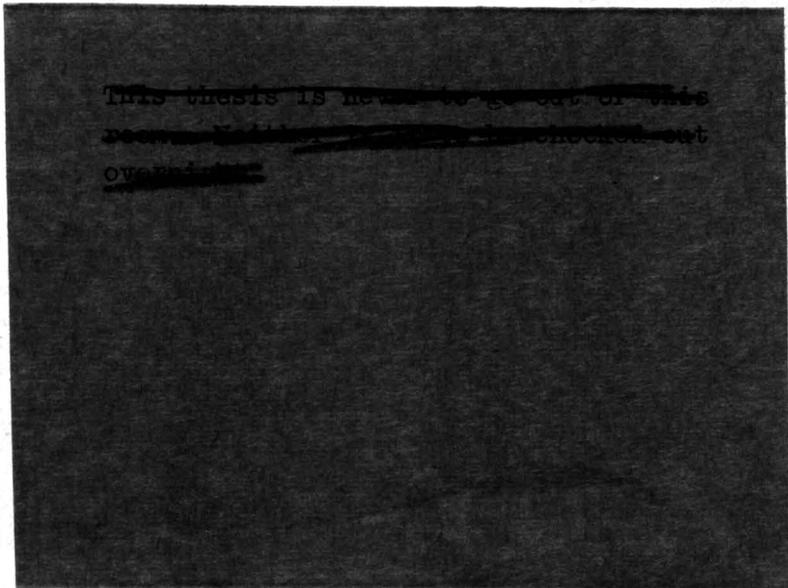
010-100693322

RECEIVED

191916

UNIVERSITY OF MO.

318.11
XB659



~~This thesis is now to be put in this
book. No other books checked out
overnight.~~

mut0389specs

MU Libraries
University of Missouri--Columbia

Digitization Information Page

Local identifier mut0389

Capture information

Date captured	07/2013
Scanner manufacturer	Zeutschel
Scanner model	OS 15000
Scanning system software	Omniscan v.12.4 SR4 (1947) 64-bit
Optical resolution	600 dpi
Color settings	24 bit color
File types	tiff

Source information

Content type	text
Format	book
Source ID	
Notes	

Derivatives - Access copy

Compression	Tiff:compression: 1
Editing software	Adobe Photoshop CS5
Editing characteristics	
Resolution	300 dpi
Color	gray scale / color
File types	pdf
Notes	blank pages removed in pdf