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TOWN  
AND  
City Government  
IN  
PROVIDENCE.

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By GEORGE G. WILSON.

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1889.



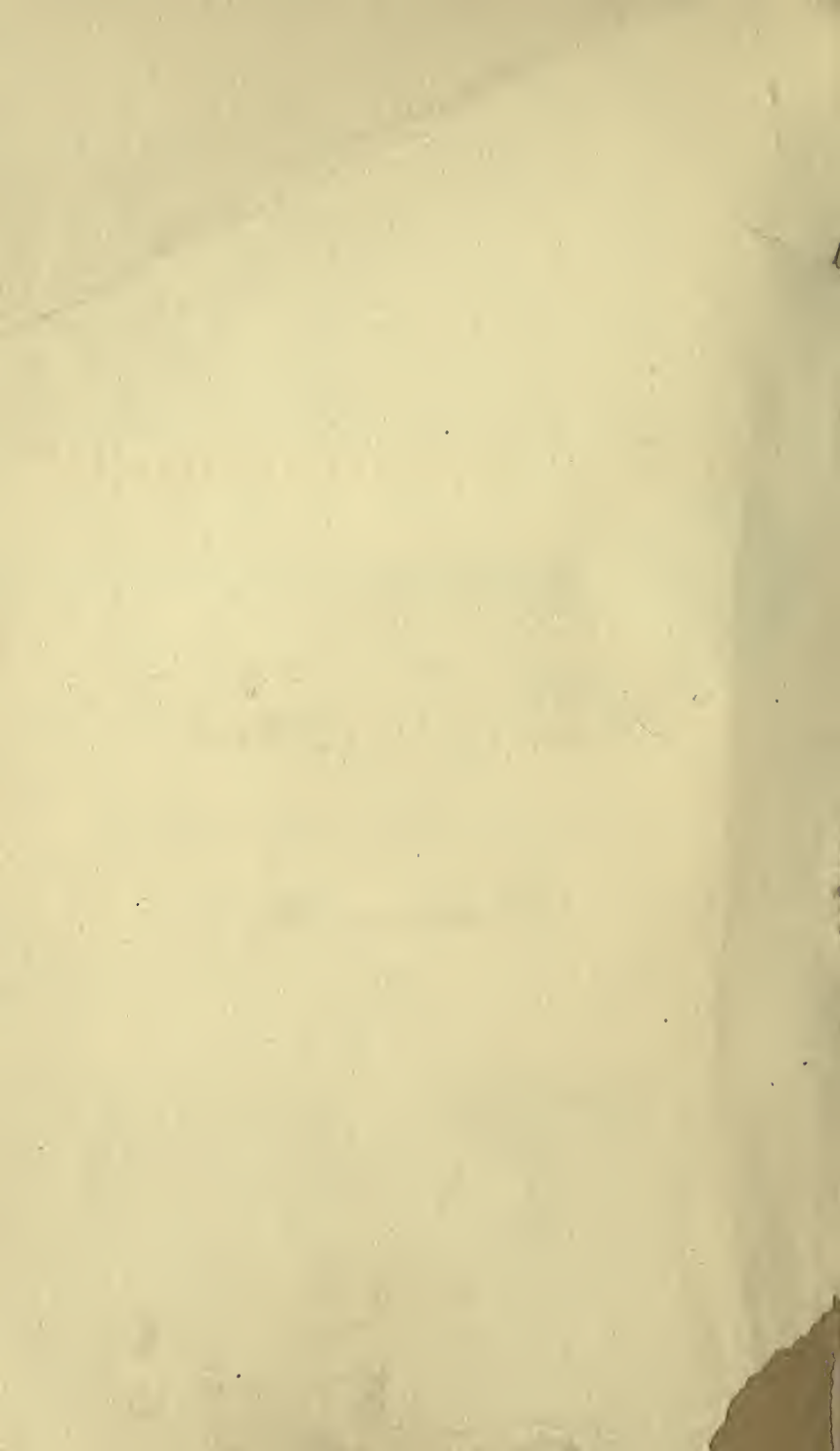
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TOWN  
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PROVIDENCE.

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By GEORGE G. WILSON.

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## Town and City Government in Providence.

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### EARLY SETTLEMENT.

The local government of New England has always been vigorous. In some sections, for many years, the civil power exercised both political and religious authority. The colonies along Massachusetts Bay partook largely of the nature of religious communities. It was the object "first to settle religion here, before profits or popularity."<sup>1</sup>

Discussions in regard to the nature and limit of civil powers characterized the seventeenth century. Even before the first of the New England colonists disembarked there was found among them "some appearance of faction which led to the agreement to submit to the government that should be established."<sup>2</sup> This early "appearance of faction" soon became a reality. Attempts to extend religious authority led to opposition, yet, for the most part, the religious element prevailed. In Massachusetts Bay colony the government was little less than theocratic. Here differences of opinion as to the functions of the civil magistrate in matters pertaining to religion became frequent. The expression of these ideas was deemed "dangerous" by the government and could not be tolerated.

Among those who dared to express an opinion in regard to the authority of magistrates as exercised at the "Bay" was

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<sup>1</sup> Young's Chronicles, p. 26.

<sup>2</sup> Mourt's Relation, p. 2.

NOTE.—Chapters I. and II. were read before the Rhode Island Historical Society, April 23, 1889.

The writer desires to acknowledge his indebtedness to those who have kindly placed at his disposal documents and other material bearing upon the history of the town and city, especially to Henry V. A. Joslin, City Clerk of Providence.

Roger Williams. His action in this and other "matters of conscience" led to his departure from the jurisdiction of Massachusetts Bay colony. In accordance with a suggestion from Governor Winthrop, Williams was led "to steer" his course to Narragansett Bay, "from the freedness of the place from any English claims or patents."<sup>1</sup> Arriving at Seekonk, he "began to build," but on information that he was in the edge of the "bounds" of Plymouth, he crossed the river and made his settlement at the head of Narragansett Bay. This place, in acknowledgment of divine leading, he called Providence.

In speaking of his settlement here, Williams says: "My souls desire was to do the natives good." "It is not true, that I was employed by any, was supplied by any, or desired any to come with me into these parts," nor did he desire "to be troubled with English company, yet out of Pity"<sup>2</sup> gave leave to several persons to accompany him. He did not desire to form a Puritan commonwealth. The settlement at Providence was not made with a definite purpose like that in the valley of the Connecticut river.

The neighboring colonies had received a measure of assistance from the parent community. The settlement at Providence was not made under any such favorable circumstances. The government under which the early settlers had lived before taking up their abode at the mouth of the "Mooshausic" river was near enough to interfere in any questions where its interest might be involved. The band who formed the early body of citizens brought with them no system of government resolving them into a "body politic." Money and supplies were wanting. There was no charter from a parent state upon which to base the authority for their acts. To institute a form of government under such adverse conditions would, at least, be difficult, but a still greater obstacle was to be overcome. The widely differing opinions of these settlers must be, in a meas-

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<sup>1</sup> Narragansett Club Pub., vol. vi., p. 335.

<sup>2</sup> Harris MSS., also R. 1. Hist. Tracts, No. 14, p. 53.

ure, harmonized. How difficult a task was before the organizers of the local government subsequent events amply showed. The early settlers at Providence were not so qualified by previous experience in municipal affairs as to make the solution of the problem of self-government easy. Of the first comers, William Harris alone seems to have had a knowledge of questions involving a considerable degree of education, so as to make him a rival and opponent of Williams on many occasions. There were some among those who came later who had held positions under the state and local governments, yet at no time in the early history of Providence did so distinguished men grace its councils as were among the early legislators of Massachusetts Bay and Plymouth Colonies. The lands about "Moshassuck" and at "Pawtuxet" Williams declares "were mine own as truly as any man's coat upon his back."<sup>1</sup> He might, then, as proprietor have ruled this region over which he had acquired possession. He did not reserve to himself "a foot of land, or an inch of voice in any matter, more than to servants and strangers."<sup>2</sup>

In this settlement there arose a peculiar condition of affairs. The proprietor of the land had parted with that and the power which it gave him; the settlers were without the jurisdiction of the neighboring colonies; at so great a distance from England the allegiance was merely nominal; a theocratic form of government did not suit their ideas. Whatever form of government was to be established must come from within.

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<sup>1</sup> Narragansett Club Pub., vol. vi., p. 263.

<sup>2</sup> Ibid.



## CHAPTER I.

### BEGINNINGS OF SELF-GOVERNMENT.

While Roger Williams was in Massachusetts he had maintained "that the natives are the true owners of the land," and that a grant from the king in England did not confer a title to lands in America. Acting upon this doctrine he purchased from the Indian sachems, Canonicus and Miantonomi, a tract of land along the "Mooshausick and Wanasquatucket" rivers. He admitted others "into the fellowship of his purchase."<sup>1</sup> Thus, at Providence, from its first settlement, there were the two fundamental characteristics of a State, a relation of men to the soil of a fixed territory and a measure of union between these men.

A broad general principle as to the nature of civil government had already been asserted by Williams. This was not in harmony with the views commonly held in Massachusetts, for one of the charges upon which Williams had been brought before the General Court was that he had divulged the dangerous opinion "that the magistrate ought not to punish the breach of the first table, otherwise than in such cases as did disturb the civil peace." After the land was acquired and distributed this new settlement was to solve the problem proposed in the "Model of Church and Civil Power" as to "what bounds and limits the Lord hath set between both administrations." Williams had become more and more convinced that the spiritual and civil authorities should be wholly separated. If, as has been said, the object for which emigration to New England was encouraged was in order that those who settled there might "lay out their estates, spend their time, labors and endeavors for the benefit of them that shall come after and in

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<sup>1</sup> R. I. Historical Tracts No. 14, p. 55.



desire to further the Gospel among those poor heathens,"<sup>1</sup> then Roger Williams in the settlement of Providence approached nearest to the ideal New England colonist, and was far from being a stranger "to the true New England spirit and the true New England theory."<sup>2</sup>

From the time of the settlement of Providence in 1636, to the adoption of "the code of 1647," this community seems to have passed through three phases of self-government: (1) government by mutual consent, (2) by majority of householders without delegated authority, (3) by majority with delegated authority.

The government by mutual consent was such as would arise among men few in number, associated together, with common interests. It naturally would not be of long duration. The interests of men breaking ground for a settlement would be sufficiently harmonious to admit of such a form of government. This seems to have been the case at Providence, for hardly had the summer of 1636 passed when Williams writing to Winthrop says, "Hitherto [consultation] and mutual consent have finished all matters with speed and peace,"<sup>3</sup> but now other influences began to appear in differences of opinion and "discontent." The mere "fellowship of purchase" and "mutual consent" were no longer sufficient for the government of this little community, and the inhabitants felt called upon "to be compact in a civil way."<sup>4</sup> This government by "mutual consent" yielded to one admitting of a more ready expansion.

This was found in the agreement brought about, as Williams says, by the discontent of "some young men (of whom we had much need) being admitted to freedom of inhabitation," who soon sought "freedom of vote also and equality, etc."<sup>5</sup> A fac-simile of the original compact, the foundation of an organized government in Providence, is as follows :

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<sup>1</sup> Young's Chronicles, p. 257.

<sup>2</sup> Porter, in *New Englander*, 1883, p. 305.

<sup>3</sup> *Narragansett Club Pub.*, vol. vi., p. 4. <sup>4</sup> *Ibid.* <sup>5</sup> *Ibid.*

We whose names are here  
 desirous to inhabit in the towne  
 Providence do promise to subiecte  
 in active or passive obedience. to all  
 such orders or agreements as shall be  
 made <sup>for publick good of vt, body in an orderly way</sup> by the maior consent of the fir.  
 Inhabitants manly of families. In  
 together into a towne fellowship and  
 others whome they shall admitt and  
 only in civill things /

Richard Stoll.  
 William <sup>mark</sup> Reynolds. <sup>mark</sup>  
 Hugh Brown John <sup>(i)</sup> Smith  
 John Wm ~~Wm~~  
 George Ammirat  
 Edward Cope <sup>mark</sup>  
 Thomas Angells <sup>mark</sup>  
 Jacob Emond  
 Francis Wecker <sup>mark</sup>  
 Benedict Arnold  
 John Wason

Acknowledgements are due for the use of the above cut, which appeared in the State Census, 1885.

Supplying the words effaced the agreement reads: "We, whose names are hereunder, desirous to inhabit in the town of Providence, do promise to subject ourselves in active and passive obedience to all such orders or agreements as shall be made for public good of the body in an orderly way, by the major consent of present inhabitants, masters of families—incorporated together in a Towne fellowship, and others whom they shall admit unto them only in civil things." Thirteen names are subscribed. The little settlement now became a community with an established form of local government. The authority was limited to "civil things," thus marking the most important departure from existing ideas as to the powers of the civil magistrate. Whether the householders had before this and subsequent to Williams' letter to Winthrop, in which he mentions the necessity of some form of government, adopted some civil compact or not the meagre records do not show. The expressions "inhabitants incorporated," "masters of families—incorporated together in Towne fellowship" would seem to imply some form of organization, and there can be no doubt that the limitation to "civil things" was binding before as well as after the agreement to which the thirteen subscribed.

Under this agreement there was secured to the "masters of families" and such as should be admitted to them the right of governing the little community. Questions in regard to land occupy the leading place in the town-meeting records. To these town meetings all public business was brought. Here it was discussed and decided. The town thus assembled sat as judge upon such cases as arose. Here Joshua Verin was tried, convicted and deprived of the "libertie of voting, for restraining of the libertie of conscience," in that he would not allow his wife to attend frequent week-day meetings at the house of Roger Williams. In the town meetings titles to land were confirmed and further divisions made. The securing by the town of a re-confirmation of the deed from the Indians<sup>1</sup>

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<sup>1</sup> R. I. Colonial Records, vol. i., p. 18.

and of the "Initial Deed" from Williams himself to his "loving friends and neighbours," shows that there was a growing idea that the lands and rights should be more definitely guarded from encroachment. The townsmen desired a clear and unequivocal title to the section upon which they were building. If this title in all its bearings had been made still more explicit many contentions would have been prevented. Thus in 1638 we find a proprietary association at Providence. In the possessors of the soil, the right to administer public affairs seems to be vested. How far the thirteen who signed the agreement to submit in civil things were admitted into the management of public affairs does not appear, but it is sure that they were politically dependent. The "privilege of inhabitation" did not carry with it the "right of voting." The vote resided in the householders and such as they should "admit unto them." While the "major part of the inhabitants of this Town of Providence" were the governing body, yet their authority over others extended only to "civil things."

This limitation naturally drew men to the little settlement over whom their consciences exercised little influence. Undesirable settlers came. Disputes were frequent. There was a lack of interest in any form of government. Non-attendance at the "Towne meeting" became so common that a fine was imposed to secure more prompt and more general response to the call. That all questions of public interest and many in which personal rights only were involved should be decided by the vote of a majority of the "inhabitants orderly assembled," necessitated too frequent meetings and the burdens of this form of self-government became too great to be borne. Frequent and spirited disagreements among the settlers led neighboring colonists to call Providence the home of misrule or no rule. The town too felt the need of a form of government possessing greater energy. A committee was appointed to devise a plan for settling "the many differences" amongst the "louving friends and neighbours."

An attested copy of their report <sup>1</sup> bears the date of July 27, 1640, and to it thirty-nine names are subscribed as "laying themselves down as subjects to it." By this new form of government, "five disposers" were to "meete every month-day uppon General things" at the call of "the Clerke" who was to hold his office for one year. The "five disposers" were to hold office for three months. "The Clerk" was to summon "the generall towne together every quarter," or if any man considered himself to have such "differences with any of the five disposers which cannot be deferred till general meeting of the towne, then he may have the Clerk call the towne together at his [discretion] for a tryall." It was also provided that "as formerly hath bin the liberties of the town, so still, to hould forth liberty of Conscience."<sup>2</sup> This clause limits the magisterial power to civil things. The provision for summoning a general town meeting at the request of one man shows how little authority was vested in the "disposers" and that cases involving any serious "differences" would still be referred to the meeting of the inhabitants.

Subject to this appeal to the town the "five disposers" were authorized to fix bounds, "betrusted with disposeall of lands and also of the townes Stockes, and all Generall things." They were not to admit any as "townesmen" until a six days' notice had been given to "the Inhabitants." Those who were admitted were to subscribe to this plan of government. They also had power to give "every man a deed of his lands, lying within the bounds of the Plantation, to hould it by for after ages." They might call certain "delinquents" to account by arbitration and provided for a complex system of thus settling questions.

Every man that had not "paid in his purchase money for his Plantation" was to "make up his 10s. to be 30s. equal with the first purchasers." In case a "hue and cry" was

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<sup>1</sup> City Clerk's office.

<sup>2</sup> R. I. Colonial Rec., vol. i., p. 28.

raised, all were to join in pursuit of the "delinquent." As in England, if the "hubbub" was raised without "just cause," the penalty fell upon the one who raised the cry, and that imprudent one must satisfy the men "for their time lost in it."<sup>1</sup>

This agreement seems to have been the form of government in accordance with which the town acted for several years.<sup>2</sup> Many minor questions and such as would not meet with serious opposition might be settled by the "disposers." In these cases the town collectively would be relieved from a mere formal action upon matters in which they were of one mind, as in the admission of desirable settlers and in carrying out such plans as were known to be generally approved. Yet should any one object to the action he might "at the Generall towne meeting have a tryall," or if he deemed the matter such as could not be "deferred till the general meeting of the towne," he might have "the Clerk call the towne together." Thus what power had been delegated might revert to the town at the will of a single inhabitant. Callender speaks of this government of the settlers at Providence as "according to a model drawn up by some of themselves as most suitable to promote peace and order in their present circumstances; which, however, left them in a very feeble condition."<sup>3</sup>

The feebleness of this form of government became more and more evident. Providence was threatened with dangers from without and within. The neighboring English colonies laid claim to territory within the jurisdiction of the town. They were inciting the Indians to war. The Rhode Island colonies were refused admission to the New England Union. The Dutch were near at hand ready to take advantage of the unsettled state of affairs.

Within the little town discord prevailed. Appeals from

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<sup>1</sup> R. I. Colonial Rec., vol. i., p. 30.

<sup>2</sup> Staples, Annals, 44.

<sup>3</sup> Historical Discourse, 97.

the decisions of the "disposers" and "arbitrators" were made. The authority of the town itself was denied and defied. Bloodshed followed attempts to enforce law. A body of the colonists seceded and placed themselves under the protection of Massachusetts. Thus the authority of an unfriendly colony was brought to the very doors of the town. Williams himself, wearied by the strife, feared he would be forced to remove to "little Patience" island.<sup>1</sup> There were those who denied the authority of Providence to make laws for its own government. The lack of chartered powers was made the ground of many lawless actions against the town. Lechford in speaking of Providence, says: "This is within no Patent as they say; but they have of late a kind of government also of their owne erection."<sup>2</sup> This "government of their owne erection" was no longer deemed sufficient. Aquidneck had already taken action toward procuring a charter. Providence joined with that Island in this effort and Roger Williams was sent to England to secure from the home government the right to hold and govern the region which they had obtained from the Indians.

#### CHARTER OF 1643-4.

Williams returned from England in the autumn of 1644, bringing with him a charter for "The Incorporation of Providence Plantations in Narragansett Bay in New England." Under this title were included the towns of Portsmouth and Newport as well as Providence. As represented to the Earl of Warwick and Commissioners it was the desire of the inhabitants of these towns "to have their hopeful Beginnings approved and confirmed, by granting unto them a Free Charter of Civil Incorporation and Government; that they may order and govern their Plantation in such a Manner as to maintain Justice and peace, both among themselves, and towards all Men

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<sup>1</sup> Narragansett Club Pub., vol. vi., p. 141.

<sup>2</sup> Plaine Dealing, p. 96.

with whom they shall have to do.”<sup>1</sup> In accordance with this desire they were granted the charter “to encourage the good Beginnings of the said Planters—Together with full Power and Authority to rule themselves and such others as shall hereafter inhabit within any Part of said Tract of land, by such a form of Civil Government as by voluntary consent of all, or the greater Part of them, they shall find most suitable to their Estate and Condition.” There was a later clause which provided “that the said Laws, Constitutions and Punishments, for the Civil Government of the said Plantation, be conformed to the Laws of England, so far as the Nature and Constitution of the place will admit.” This last proviso was thus left to the interpretation of the colonists and amounted to a mere recommendation that the laws made follow as closely as possible those of England. By this charter the broadest civil authority was conferred upon the struggling communities. As Arnold briefly says, “At their own request their powers were limited to civil matters. Beyond this a silence more significant than language proclaimed the triumph of soul-liberty.”<sup>2</sup>

Williams in a letter written in 1669, looking back to the time before the charter was secured says, “our Government and Civil order which, at first, both here and at Rhode Island, we kept up upon Grace and Favor (until God was pleased to help me to procure a charter from the Parliament,) was all mere nothings and nullities and we lived in no order but Rout.”<sup>3</sup> This charter of 1643 introduced a new element into the acts of the town governments. These were no longer “mere nothings and nullities.” They were based upon and recognized the authority of England. Under date of “19th of 11 mo., 1645,” those who receive a quarter share of land “promise to yield active or passive obedience

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<sup>1</sup> R. I. Colonial Records, vol. i., p. 144.

<sup>2</sup> History of R. I., vol. i., p. 201.

<sup>3</sup> To John Whipple, Jr., Aug. 24, 1669.



to the authority of [King and Parliament] [The State of England] established in this colony, according to our charter, and to all such wholesome laws and orders, that are or shall be made by the major consent of the Town of Providence."

Although the towns in the territory incorporated under this charter did not unite under one general government until more than two years and a half had passed by, yet it doubtless gave to the town governments, from the first, an element of stability which they had not before possessed. It confirmed their right to the territory which they occupied, and thus secured a place for this colony among its neighbors as also under the royal protection. There was not sufficient harmony among the different towns or among the inhabitants of the individual towns to bring about a union under a general government till 1647.

Thus at Providence previous to the year 1647 the settlers were governed by mutual consent, by the will of the majority of the householders, by this same majority with certain delegated functions, and also under this same form modified by the recognition of the fact that their power to govern themselves in civil things was granted by the authority of England. Each of these steps removed the settlers farther from the phase of government in which no civil restraint influenced their action. This political growth at Providence took place under what would naturally be considered the most unfavorable circumstances. It would almost seem that in this little settlement the words of Aristotle, after twenty centuries, are again echoed, and that "man is, by nature, a political animal."<sup>1</sup> Cotton says, "Banishment in this country is not counted so much a confinement as an enlargement, where a man doth not so much loose civill comforts as change them."<sup>2</sup> However Williams may have "counted" his banishment, it is certain there had been a great change in both form and nature of his "civill comforts" since Massachusetts had permitted his "enlargement" in 1636.

<sup>1</sup> Politics, 1, 2, §9.

<sup>2</sup> Cotton's Answer, p. 8.



## CHAPTER II.

### TOWN DEVELOPMENT.

The lack of a spirit of harmony among the towns incorporated under the name of Providence Plantations prevented the adoption of a general government till 1647. These towns had been largely independent of each other both in origin and in efforts at self-government. The towns upon Rhode Island had a form of government from the beginning of the settlement. Providence had been forced from time to time, and reluctantly, to take some steps to secure civil order. Warwick maintained that it had no power to establish any form of government without the sanction of the ruling power in England.

Within the chartered territory there was upon Rhode Island a "Democracie or Popular Government," as it was called, at Providence such a form of government as events had compelled the settlers to adopt, and at Warwick none at all. Disputes and contentions were common among these towns, yet dangers from without, discords within, and a feeling that their interests were, in a measure, the same, led to a union of the different towns under a general government, in 1647.

Providence was until this time, so far as other New England settlements were concerned, a wholly independent town. It acknowledged the authority of the English crown alone. Its position frequently excited the hostility of neighboring colonies. By the charter of 1643-4 the independence of the town was rendered more secure. Williams says "now the country about us was more friendly, and wrote to us and treated us as an authorized colony; only the differences of our consciences obstructed." In 1647 some of the powers hitherto residing in the town are handed over to the general government so far as to secure a degree of efficiency in its administration. Whatever concessions were made, neverthe-

less, were well guarded. The inhabitants of Providence in their instructions to the committee who were to take part in the organization of the general government say they desire "to hold a correspondency with the whole colony" at the same time reserving "full power and authority to transact all our home affairs" and "to have full authority to choose, ordain, authorize, and confirm, all our towne officers." These officers were to be responsible to the town and there was to be no "intermixture of generall and particular officers."<sup>1</sup> Although little power would thus be given up by the town, yet it gave evidence that there was a willingness to establish a general government by which an authority, differing from that of the town and from the acknowledgment of a mere allegiance to England, would be brought into town affairs.

The Simple Cobbler of Aggawam gave voice to the almost universal opinion of his time when he said, "How all Religions should enjoy their liberty, Justice its due regularity, Civil cohabitation, moral honesty, in one and the same Jurisdiction, is beyond the Artique of my comprehension."<sup>2</sup> In the territory incorporated under the name of Providence Plantations that form of government which seemed so far removed from possibility was to be tested. To establish a government upon the principles of broadest liberty, delegates and inhabitants from the settlements about Narragansett Bay assembled at Portsmouth May 19, 1647. Some of the towns were anxious to withhold as much power as possible from this assembly, while Warwick must look to this body for authority sufficient to administer its local affairs. By the acts of this assembly the towns of Providence, Portsmouth, Newport and Warwick became a sort of confederation, bound together in a very loose way, as their subsequent falling apart showed. In this convention, nominally of all the inhabitants of the towns, the "Code of 1647," establishing a legislative, executive and

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<sup>1</sup> R. I. Col. Rec., vol. i, p. 43.

<sup>2</sup> Simple Cobbler of Aggawam, p. 17.

judicial system for the colony, was adopted. By this assembly it was agreed "that the form of government established in *Providence Plantations* is DEMOCRATICALL; that is to say, a Government held by the free and voluntarie consent of all, or the greater part of the free inhabitants."<sup>1</sup> The code secured religious freedom by enacting that "all men may walk as their consciences persuade them, every one in the name of his God."<sup>2</sup> The laws were, for the most part, based upon English statute law, yet there seems to have been no hesitancy in departing from English precedent when the "nature and constitution of the place" demanded it. With the adoption of this code the towns might be said to be established.

"Providence Plantations" was now the legal name for the colony. It included not only the settlement begun by Roger Williams, but the islands in the Narragansett Bay and parts of the adjoining mainland. Providence was now merely one of the towns of the colony, though the authority of the general government over the town was very limited. The union rendered the local government more stable, and secured for it greater respect both within and without the town. Providence was entitled to nominate officers for the General Assembly and to representation in that body. The town was empowered to refer, to a General Court consisting of the President of the colony and assistants from the towns, such matters as were too weighty for the consideration of the town courts. To the General Court was also entrusted cases between town and town, between inhabitants of different towns and between citizens and strangers. The President of the colony was to have the general oversight of the "order and course of Law" in the colony. The assistants representing the towns in the General Assembly were *ex officio* conservators of the peace in their respective towns.<sup>3</sup> To the towns, all laws passed by

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<sup>1</sup> R. I. Col. Rec., vol. 1, p. 156.

<sup>2</sup> Ibid p. 190.

<sup>3</sup> R. I. Col. Rec., vol. 1, p. 192.

the General Assembly must be submitted, and these laws must be ratified by the inhabitants of the towns before becoming legally binding. A town might propose a law, which it desired, to the General Assembly. If there approved, it was submitted to the other towns before going into effect. The Assembly and General Court met in different towns, and in this way the inhabitants were brought into a closer relation to the general government.

#### TOWN ORGANIZATION.

The town of Providence retained, after the adoption of the "Code of 1647," nearly all the powers of self-government which it had had before. The people of the colony were the final law-makers of the colony. The inhabitants of the town still administered the internal affairs of the town. The judicial power was exercised by the town in all cases where merely local interests were involved. In some cases there might be an appeal to the General Court. The execution of town orders was entrusted to the town officers as were also some of the orders of the General Assembly. There was a charter of incorporation granted to the town of Providence by the General Assembly in 1649. In effect, it was merely a confirmation of powers already exercised by the town and there seems to have been no action taken upon it by the inhabitants on that account.

The consideration of all matters of local government first came before the town meeting. In this assembly, at Providence, those who had been admitted to the privilege of a vote decided what action should be taken. Mere residence in the town did not constitute a man an inhabitant, nor did the privilege to inhabit the town always carry with it the right to vote. Before a man could become an inhabitant in the town of Providence it was generally necessary that he should petition for that right and that the petition should be granted. This bound the petitioner to active and passive obedience to the laws ordained by the majority of the freemen, and usually such as

were admitted were allowed to vote. In all cases they were eligible to some of the minor town offices and to service upon the jury, and sometimes had certain rights to undivided lands. Regulations in regard to who should vote varied at different times. The freemen generally formed a close corporation for the management of local affairs, though it would appear that the line between those who were not freemen and those who were was not always closely observed. Those not freemen occasionally voted when they were not hindered; therefore the General Assembly passed a law that if anyone not a freeman should vote he should be fined £5.<sup>1</sup> The moral character of those desiring to be admitted to dwell within the town was scrutinized, but religious belief was not considered.<sup>2</sup> The "privilege of inhabitation" was not a prerequisite for service as a town officer. In 1656 anyone, even if not an inhabitant, is ordered to fulfill the duties of such position as he may be elected to by the town. An act of May 15, 1658, makes the very general declaration "that all those that enjoy lands in the jurisdiction of this Town are Freemen."<sup>3</sup> A gradual extension of the franchise in Providence took place during the first half century of its existence as a chartered town, though who should vote and who should not was not always clear apparently to the minds of the voters themselves. The statement that "the laws are passed by the votes of the inhabitants of the Town of Providence" seems, in general, to be true.

The town meetings at Providence were held for many years in such places as would have astounded the inhabitants of some of the neighboring colonies. The records sometimes show that the meetings were held "under a tree by the water side before Thomas Field's house." In unpleasant weather a private house afforded the town a meeting place. The town clerk was at first appointed at each meeting; afterwards he

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<sup>1</sup> R. I. Col. Rec. vol. 2, pp. 58,190.

<sup>2</sup> Municipal Court Rec. June 17, 1682.

<sup>3</sup> Town Rec. Book No. 1.

held office for a longer period. When John Whipple became town clerk his house became a favorite place for holding town meetings. There seem to have been two reasons for this choice. The town clerk's house was centrally located and a customary place of resort and Whipple who as the records say, "keeps a house of publick Entertainment,"<sup>1</sup> no doubt found "town meeting days" among the most profitable of the year. Whether in open air or under cover convenience alone seems to have determined the place of these meetings. Whenever the town of Providence assembled in a church it was because it was the most available place and not because there was any idea of a union between the religious and secular powers.

A man who deemed he had business of sufficient importance to warrant the calling of a town meeting might have such a meeting called. Sometimes he was to pay "the cost of the meeting" if the business was such as concerned him alone. The regular meetings were summoned by a town officer and those not present at the time of the meeting were subject to a fine.

The business transacted at these meetings was various in its nature and involved all the subjects in which the inhabitants might be interested. The first business seems to have been the election of town and general officers. A moderator, clerk, two town deputies, town sergeant, treasurer, town council of six, and assistants and commissioners for the General Assembly and General Court were the officers elected at the earlier town meetings after the adoption of the code. Jurymen, grand and petty, surveyors, haywards, waywardens and other minor officers are elected at later meetings. Some of these offices are subject to frequent change both in name and holders. The relations of the town to other colonies and towns, the discussion of measures proposed by the general government, local improvements and administration, division of lands, settling of certain questions arising between the

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<sup>1</sup> Municipal Court Rec., 1682.

inhabitants, and other items occupy the minds of the townsmen assembled.

Ten were at first necessary to make a quorum. Seven was in 1657 made a sufficient number to transact business legally.<sup>1</sup> Williams says there are "many purchasers who ordinarily do not and others that will not come to our Towne Meeting." This state of peace pervaded the meetings for a time, but the very nature of the inhabitants themselves and the questions considered would prevent its long continuance. When questions involving personal interests, especially land questions, were considered, the meetings seem to have been "rich in debate." Many were "far from being swift to hear and slow to speak." Williams says, "Our peace was like the peace of a man which hath a tertian Ague. Every other day, yea, sometimes every meeting we were all on fire and had a terrible burning fit ready to come to blows about our lines."<sup>2</sup> In 1667 two town meetings were held and two sets of officers elected, each claiming to be lawfully chosen. Gradually this "headiness," as Sir Henry Vane calls it, subsides. The common interest and general welfare are more and more respected, though discord and tumult at town meetings continue, sometimes so great "that the moderator was put upon to dissolve the meeting."<sup>3</sup> There can be no doubt that vigor generally characterized the local assemblies at Providence.

The officers elected at the town meetings performed the usual duties appertaining to their respective positions, and sometimes exercised special functions delegated to them by the town.

The moderator was usually chosen first. It was his duty to preside at the meeting and to use his judgment in accepting the engagement of such town officers as were elected. Some-

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<sup>1</sup> Town Rec., October, 1657.

<sup>2</sup> Letter of Williams. R. I. Hist. Tracts, No. 14, p. 37.

<sup>3</sup> Town Meeting Rec. 1693.



times "engagements"<sup>1</sup> were not considered satisfactory, and refused because of the character, age, or political condition of the one elected. The assistant of the town, beside his duties in the General Assembly, might call town meetings and perform such duties as belong to the moderator. He was also coroner for the town which he represented, yet if he happened to be the nearest assistant, he might be called upon to perform the duties of coroner in another town. The assistant was also *ex officio* a member of the Town Council.<sup>2</sup> The presiding officer at Providence also appears under the name of chief officer, head officer, general assistant, and warden.

The town clerk was to keep a record of the meetings, to record deeds and land evidences and "other publick matters transacted in the town."<sup>3</sup> He was also to keep a record of marriages, births, and deaths.<sup>4</sup> It seems to have been the duty of the clerk to warn and provide a place for the town meetings when that was necessary. One clerk served in the town, the council, and proprietors' meetings for many years. The proprietors used the same record book as the town till 1718. The records of the actions of the town council are separated from the general records soon after King Philip's War, during which many of the town records were lost.

The office of town treasurer seems sometimes to have been merely honorary. In one report the treasurer says "he has received nothing as Town Treasurer and therefore he can give no other account."<sup>5</sup> In January, 1679, an audit committee was appointed. This committee consisted of five, and a majority of their votes was necessary in favor of any expenditure by the town before it could be made. Apparently this

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<sup>1</sup> "Engagement," corresponding to oath of office in other colonies, given because some of the inhabitants could not submit to the "forms and ceremonies of the Church of England, or take or subscribe the oaths and articles made in that behalf." Charter, 1663.

<sup>2</sup> R. I. Col. Rec., vol. ii., p. 28.

<sup>3</sup> Mass. Hist. Soc. Col. xix. 189.

<sup>4</sup> R. I. Col. Rec. vol. 3, p. 362.

<sup>5</sup> Town Meeting Rec. vol. 1.



committee performed its duties faithfully, for three months later the town finding "the power committed to the said Auditt, doth too much abridge the Towne of their power," declared that a vote of the town legally met should be necessary for the disposal of "the Towne's moneys or Towne's Stock."<sup>1</sup> The town treasurer usually performed such duties as the office demanded, though just how he disposed of the taxes when received in beef, pork and pease is not fully explained.

The town deputies,<sup>2</sup> two in number, sometimes called town magistrates, with the assistant seem to have been the chief officers. It is stated that "Two deputies were appointed from time to time whose duties were to call town meetings, to preside in them, to settle disputes and to see their orders executed."<sup>3</sup> They certainly seem to have been a kind of court for settling some causes and for granting some privileges and rights. Questions in regard to land came before them when not of sufficient importance for the town council. Town deputies do not continue under the charter of 1663.

Officers having duties somewhat similar to those of the moderator, clerk, treasurer and deputies seem to have been appointed very soon after the town was settled. In the earliest records we find mention "of him that gave warning" for the town meeting, who Williams says is "named the officer."<sup>4</sup> The second entry in the town records reads "that a Treasurer should be appointed for receiving, and as the Towne shall appoint, for expending the Towne's stock." On "the 3 die of the 10th month" [1636] it is ordered that if any be absent from the town meeting "he who keeps the books for that month is to observe, and take notice who is wanting, and present his name to the Towne."<sup>5</sup> In the following year two men "were deputed" to exercise such authority as the town

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<sup>1</sup> Town Meeting Rec. vol. 3, Jan. 27, 1679.

<sup>2</sup> Town Deputies seem to be officers peculiar to R. I.

<sup>3</sup> Mass. Hist. Col. ix. 183.

<sup>4</sup> Narragansett Club Pub. vol. vi. p. 5.

<sup>5</sup> Town Rec. Book I, R. I. Col. Rec., vol. 1, p. 15.

could not easily exercise as a body,—the laying out of lands which had been granted and some minor duties. The functions of these officers were enlarged and continued under the government of 1647. Besides these offices other minor duties had been performed by men chosen by the town before the union of the settlements in 1647. The adoption of the “Code of 1647” served to formulate and render stable the forms of government already existing, while it rendered necessary still greater delegation of power.

The offices of moderator, clerk, treasurer and town deputies might be said to be a continuation of those which were in 1647, in a measure, established though under different titles. Further delegation of power had not so clear a precedent to recommend it as had been found for the above.

There had been a certain kind of police organization in the town before 1647. There was a regulation for raising a “hub-bub.” The “arbitrators” and “disposers” appointed under the agreement of 1640 were to exercise their authority to secure the public peace. The election of a constable is a long step in the direction of delegated power, yet the town seems to have taken this step soon after it became a chartered community. The constable seems to have been the especial police authority of the town. He had a general oversight of the order in the town. When an objectionable person is known to be within the limits of the town the constable usually brings such person before the court and if he is sentenced to be removed, the constable escorts the objectionable one to the borders of the next township where he entrusts him to the constable of that town. The authority of the constable does not seem to have been respected as the town desired at first, for in 1649 it was ordered “that the constable shall have a staff made him whereby he shall be known to have the authority of the Town’s Constable.”<sup>1</sup>

While the constable was more especially the criminal officer

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<sup>1</sup> Town Records, 27 of 2 mo., 1649.

of the town, the civil processes were not left unserved. These were entrusted to the town sergeant. Apparently this office was not established until after that of the constable, and it was a somewhat higher office, though their duties were not distinctly defined. The town sergeant was generally the executive officer of the meetings of the town, and at these his presence is required. A town order says, "he should be at every Towne Meeting, give his attendance upon the Towne Court."<sup>1</sup> He sometimes received some pay for his services. Occasionally he "warns the town meetings," and not infrequently his duties and those of the constable seem to be identical, but gradually they become more and more distinctly marked.

Among the other early officers appointed at Providence were the haywards, generally two in number. They were to view the fences<sup>2</sup> and to settle disputes arising from neglect to keep up sufficient fences. Besides these duties strictly belonging to the haywards or hedgewards, they seem sometimes to have had the care of the woods upon the common and undivided lands, and occasionally the pound was also under their care.<sup>3</sup> There was a pound established at Providence as early as 1652. Doubtless the cattle had found some of the fences defective before this time. The haywards with nearly the same duties continue for many years.

Under the Charter of 1643-4 and in accordance with an order of 1647 each town of "Providence Plantations" was to elect a Town Council to consist of six men, also to appoint surveyors of the highways and military officers and "to provide carefully for the relief of the poor, to maintain the impotent and to employ the able." Of this Town Council Callender says: "Each town chose a Council of six to manage town affairs, having trial of small cases but with appeal to court of the President and Assistants."<sup>4</sup> Lechford says

<sup>1</sup> Town Records, Book No. ii. Oct. 8, 1659.

<sup>2</sup> Town Records, June 2, 1656; Oct. 27, 1656.

<sup>3</sup> Town Records, 1652; Town Meeting Rec., No. 3, July 27, 1687.

<sup>4</sup> Historical Discourse.

of New England in general, "every towne almost hath a petie court for small debts and trespasses under twenty shillings."<sup>1</sup> The Town Court at Providence seems to have followed the New England model thus far, for in June, 1656, it is ordered that the Town Court "try cases under 40s."<sup>2</sup> Lechford also says that "Probates of Testaments and granting of Letters of Administration are made and granted in the generall or great quarter Courts."<sup>3</sup> The power of probate resided for a time in the head officer, who, together with the two town deputies and three men chosen by the town, made up the Council. Unlike those towns where the powers of probate resided in the "general or great quarter Courts," at Providence the Town Council itself was a kind of court of probate in which the assistant was judge. Chief Justice Duffee says, "The town councils of the several towns were from the first courts of probate."<sup>4</sup> The "Code of 1647" infers that it is the duty of a property-holder to dispose by will of his possessions, and if he fails to do this, the Town Council is to draw up a form of will in accordance with which it is to be divided. This function of the Town Council of Providence seems to have been exceptional. An entry in the town records shows that still other judicial powers were entrusted to the Council. It declares, "First, all actions, all cases shall be tried by six Townsmen as in the Nature of a Jury, yet with the Liberty of not being put on swearing."<sup>5</sup> Occasionally appeals are taken from the Council's decision, and the question is brought before the town meeting. The decisions were sometimes submitted to the town for confirmation.<sup>6</sup> Ignorance of the law, in some instances, seems to have been

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<sup>1</sup> *Plaine Dealing*, p. 25.

<sup>2</sup> *Town Records*, June 2, 1656.

<sup>3</sup> *Plaine Dealing*, p. 39.

<sup>4</sup> *Gleanings from Judicial History of R. I.*, p. 32.

<sup>5</sup> *Town Rec.*, Oct. 8, 1655.

<sup>6</sup> *Town Rec.*, Oct. 1, 1657.

a sufficient ground for acquittal in cases brought before this court.<sup>1</sup>

Besides its judicial powers the Town Council seems, previous to 1563, to have had a general oversight in the care of the poor, to have regulated such military arrangements as the town undertook<sup>2</sup> and to have granted licenses. Through the town deputies the Council was brought into a kind of advisory board for the laying out of lands and highways, and sometimes they considered the advisability of admitting to inhabitation such as had taken up their residence within the town limits. Through the assistant who represented the town in the General Assembly and was *ex officio* a member of the Town Council, this body was brought into closer relation to the general government and obtained a better knowledge of state affairs. Many matters requiring official action and not of sufficient importance to warrant the calling of a town meeting were left to the Council.

The Town Council of Providence previous to the Charter of 1663, seems in a large measure to give the town interests a representation proportional to their importance. Although all the members of the Council were in the last analysis chosen by the inhabitants of the town, yet as members of the Council the assistant especially represented the interests of the state, the two deputies the interests of the proprietors, and the remaining three members the general town interests. The relative importance of state, landholders and people of the town would be, as shown in the Town Council, as one, two and three. It would be difficult to conceive how the settlers could have obtained a better system than this which they naturally evolved.

#### TOWN GOVERNMENT UNDER THE CHARTER OF 1663.

After the adoption of the Charter of 1663 the Town Council undergoes a change both in the interests represented and in its

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<sup>1</sup> Town Rec., July 4, 1655.

<sup>2</sup> R. I. Col. Rec., vol. i., 153.

functions. By the General Assembly it is ordered "That each towne is impowered to appoynt a day for election of ther towne officers and to elect as to chouse Towne Counsell men, so many as to make up sixe with the Assistants." The number of assistants which Providence was to send to the General Assembly was changed from one to three. Therefore the Town Council of Providence was to be made up of three state officers and three men chosen by the town to fill up the number to six. The two town deputies, who had been *ex officio* members of the Council, are no longer members of this body and cease to be elected. Until 1681 six was the usual number of councilmen. It was then increased to nine, thus giving the town interests twice as great a representation as those of the state. About this time the Council seems to have fixed upon a "sett time" for its meetings which were to be "upon Every first wensday in Each month for this ensueing yeare."<sup>1</sup>

While the Town Council retained the jurisdiction which it had before 1663, it gradually assumed new functions. Some of the power that had previously been exercised by the town deputies passed over to the Town Council. It now became the one probate authority, where questions were not referred to the town meetings. With an increase of population came an increase of public business which was more and more left to the Council. It now looks to the character of such as take up their residence in the town, and if necessary orders the constable or sheriff to present such persons.<sup>2</sup> The Council sometimes makes a form of will in cases where men die intestate.<sup>3</sup> It interferes with matters before considered merely personal,<sup>4</sup> though it is not suffered to extend its powers far in this direction.

By the act of March 1, 1664, the towns were empowered to choose in addition to this important department of town

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<sup>1</sup> Municipal Court Rec., Jan. 25, 1680, Mar. 25, 1678.

<sup>2</sup> Municipal Court Records, June 17, 1682.

<sup>3</sup> Municipal Court Records, May 27, 1680. Town Rec. June 18, 1698.

<sup>4</sup> Town Meeting Records, No. 1, Feb. 20, 1700.

government—the Town Council—“alsoe a Clarke, Treasurer, Constable and Sargant; and that sayd officers shall receive ther ingagement from one of the Assistants.”<sup>1</sup>

Of these offices that of the assistant was somewhat like that of a justice of peace in the town. Deeds might be signed in his presence, and contracts made so that they would “be as authentic to all intents and purposes unto the party receiving of the deed as if every man of the town did particularly set his hand and seal.”<sup>2</sup> The duties of the constable were the same as before receiving the charter of 1663. He might also be required to act as a fence-viewer.<sup>3</sup> The duties of clerk, treasurer and sergeant remain practically unchanged. The number of constables and sergeants sometimes varies.<sup>4</sup>

Besides the officers ordered by the colony to be chosen, the town chose such others as it deemed needful for its internal administration. Haywards are from time to time elected, water-bailiffs are appointed to care for the harbor and anchoring grounds, a town sealer of weights and measures is elected towards the latter part of the seventeenth century.<sup>5</sup> The clerk of the market is a less common officer. As there had been provisions made for a “faire to be annually kept,”<sup>6</sup> this officer was to have the general charge of its arrangements. Overseers of the general fields<sup>7</sup> were appointed to see that the fences about the common were kept in repair, that cattle are not pastured there contrary to town orders and that other general regulations are enforced. Justices of peace do not commonly occur before the year 1700 when the town meeting records show that “John Dexter hath this day in the open

<sup>1</sup> R. I. Col. Rec., vol. ii., p. 27.

<sup>2</sup> Town Rec., June 4, 1666.

<sup>3</sup> Ibid, March 28, 1664.

<sup>4</sup> Town Meeting Rec., June 6, 1686 also 1693.

<sup>5</sup> Town Meeting Rec., No. 1, June 5, 1699.

<sup>6</sup> Town Meeting Rec., Sept. 23, 1696.

<sup>7</sup> Town Meeting Rec., No. 1, Jan. 27, 1696-7.



meeting given engagement to the office of Justice of peace and received his commission."<sup>1</sup>

In addition to these minor officers there were waywardens and surveyors of the land. These surveyors of the land were at first chosen in the town meeting and performed such of the duties of the town deputies as had not passed to the Town Council and waywardens. They were to lay out and have the general charge of the assignment of lands. After a few years these officers, whose duties made them the executive officers of the proprietors, came to be elected by them, and the records declare that the "Purchasers and Proprietors of this town being met together have chosen Capt. Arthur Fenner and Tho: Olney surveyors to lay out lands and doe what further the surveiors are to doe."

The waywardens were the surveyors of the highways.<sup>2</sup> As in the case of the surveyors of the lands there were usually two in number. They are sometimes called surveyors of the highways or men "to see the repairing of the highways."<sup>3</sup> They performed many of the duties entrusted to the selectmen in other New England colonies. While they were to see to the laying out and construction of new roads, and that the inhabitants did their proportionate amount of the work, they were also to see that the highways were not "damnified by buildings or other hindrances." The waywardens were chosen in open town meeting. This name for the officers does not seem to have been common in New England outside of Providence.

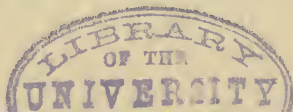
Thus far there have been presented the general features of the government at Providence before the 18th century. The important subject of land administration has been considered only in a general way. In almost every case questions in regard to land had hastened the development of those forms of local government which appeared in Providence during the period before 1700.

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<sup>1</sup> June 18, 1698. They are elected by the General Assembly for many years.

<sup>2</sup> Town Rec. June 7, 1669. Town Meeting Rec. June 7, 1686.

<sup>3</sup> Town Meeting Rec. June, 1685.



## LAND-HOLDING.

The land had first been purchased by Roger Williams from the Indians. Subsequent Indian claims to sections over which the original deed gave Williams the title, were frequently settled by additional payments. The title to the land was then, at first, in Williams alone.

He soon received the twelve other settlers into the "fellowship of his purchase," affirming that he did "freely and fully, pass, grant and make over equal right and power of enjoying and disposing the same grounds and lands unto my loving friends and neighbors."<sup>1</sup> William Harris, one of his "loving friends and neighbors," thus describes this transfer: "Seeing actually and immediately he did put us into equal possession of the same with himself, each one with like rights and powers to dispose thereof as ours and his."<sup>2</sup> Though his companions were put into "equal possession" and became freeholders, yet Williams found that this did not prevent discord, for he says, "there was hardly ever in New England, William Harris, his equal, for monstrous evil in land business and matters of disorder as to civil government."<sup>3</sup>

In the assignment of land, Williams seems to have had the first choice, and subsequent allotments were made as impartially as possible. Sometimes, as was the custom, it was decided by lot "where every man should lie."<sup>4</sup>

The landed rights of a full proprietor at Providence, seem to have embraced a "home lot" or place for a dwelling, a "six acre lot" usually a tract of arable land at some little distance, and a right to a sufficient amount of the "general land" to make up one hundred acres and also if there should be a division of the "common lands" a share in this division.

The "home lot" or "home share" usually contained about five acres. It had a frontage of 100 to 125 feet on the

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<sup>1</sup> "Initial Deed," Town Rec.

<sup>2</sup> Harris MSS. Letter 1667, R. I. Hist. Soc.

<sup>3</sup> Letter 1667, R. I., Hist. Tracts, No. 14.

<sup>4</sup> Mourt's Relation, p. 25, Town Rec., Mar. 14, 1661.

“Towne Streete” which ran “along the river side” and, therefore, extended well back from the highway. These lots were not always of the same proportions but always long in proportion to their width thus making the settlement compact along the street.

The “six acre lots” were somewhat remote from the town and where the soil was considered best adapted to tillage.

The share in the other lands, usually about eighty or ninety acres, was laid out by the town deputies or by the town surveyors so as not to interfere with the claims of others. Sometimes these lots were not laid out for some years after the other allotments were made.

Shares in meadow lands were held and sometimes these were granted by the town in exchange for other lands which the inhabitant might surrender. “Warehouse lots” too were not infrequently granted to such as would use them in the interests of trade. Other lots are sometimes granted under special conditions.

An old deed shows the general character of the divisions. It signifies that the town has laid out and delivered to the grantee “as his purchase right, certain parcels of land according to the parcels of other Purchasers, namely, a five acre house lot, sixty acres, twenty acres, six acres and five acres”<sup>1</sup> and “also a spot of meadow about one and one-half acres also about three-fourths of an acre of meadow,” making in all ninety-eight and one-fourth acres “more or less” according to the survey.

This was the usual amount of land to which the purchaser had a title in the town. Besides this he had certain rights in subsequent divisions of land and to the use of the common lands or “general fields.” Some other lands were considered the property of the town as a whole. Proceeds from the sales of these lands passed into the general treasury, not to the proprietors.

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<sup>1</sup> Town Records, Sept. 25, 1661.

Regulations and orders involving land interests especially fill many pages of the early records. It was, soon after the division of the lands, ordered "that none sell his lot granted in our Liberties to any person but to an Inhabitant without consent of the Town."<sup>1</sup> Nor did those who thus purchased land acquire a right to all the unsold lands in the limits of the town, for they were told that "they must not think that they bought and sold the right to all the lands and meadows in common and 100 acres presently and the power of voting and all for 30s."<sup>2</sup> If after obtaining land they did not occupy it, they might be fined,<sup>3</sup> or the land might revert to the town, as the record says, after eighteen months "fall into the Town's hand again."<sup>4</sup> Exactness in the use of terms describing lands is not characteristic of the early records. The following is exceptional: "the right of Commoning within the Commons of this Town of Providence, that is to say, for Commonage for cattle, privileges for fire wood, for Building timber, for timber for fencing, etc., but no claim to be laid to any land thereby."<sup>5</sup> Right of commoning might be granted in proportion to the amount of land held, as in the case of the "quarter-right purchasers," who have "the right of commoning according to the said proportion of lands,"<sup>6</sup> or it might be a special privilege as upon petition of "John Smyth" it is ordered "that the said John Smyth shall have liberty for feeding four Cattle and taking of firing and fencing, etc., untill the Towne shall see Cause to the contrary,"<sup>7</sup> and in some cases is forbidden altogether,<sup>8</sup> while instances where rights to land are much confused are not infrequent. In general it may

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<sup>1</sup> Town Rec., 3 die of the 10 month.

<sup>2</sup> Letter of Williams, R. I. Hist. Tracts No. 14.

<sup>3</sup> Town Rec., 3 die of the 10 month.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid, Oct. 3, 1666.

<sup>6</sup> Ibid, 19th 11 mo., 1645,

<sup>7</sup> Ibid, Jan. 27, 1659.

<sup>8</sup> Ibid, Oct. 27, 1659.

be said that the land system at Providence was more simple than that in many sections of New England.<sup>1</sup>

Ownership of land was usually made the basis of taxation in the early years, for this was the source of the town's income. Its inhabitants were not capitalists nor were they supported by outside aid. Thus they order "That a Rate shall speedily be Levied upon ye inhabitants of this Town on all such who hath Right of Commoning this Towne-shippe of Providence."<sup>2</sup> These rates are sometimes payable in beef, pork and pease,<sup>3</sup> and sometimes in "peage" or wampum. The inhabitants were on certain occasions ordered to bring in "their own account of their property," the town orderly assembled might fix the amount which each man was to pay, but the more usual method was to appoint a number of men to assess the inhabitants.<sup>4</sup> Taxes in Providence were always for civil purposes within the colony limits.

The town writing to Sir Henry Vane in 1654 say, "Sir, we have not known what an excise means; we have almost forgotten what tithes are, yea, or taxes either, to church or commonwealth."<sup>5</sup> In this colony they had never been "consumed with the over-zealous fire of the (so-called) godly christian magistrates." While the records of the neighboring colonies teem with references to religious deportment those of Providence are marked by the absence of any except civil ordinances. One writing of Massachusetts said, "In seven years, among thousands there dwelling, I never saw any drunk, nor heard an oath, nor [saw] any begging, nor Sabbath broken."<sup>6</sup> This could not be said of Rhode Island. Punishment of "notorious and customarie swearers and cursers"<sup>7</sup> was provided for, and it was also thought wise, as there had been "some

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<sup>1</sup> Nation, Jan. 10, 1878, p. 23.

<sup>2</sup> Town Meeting Rec., No. 3, Feb. 25, 1678.

<sup>3</sup> R. I. Col. Rec., vol. 1, p. 481.

<sup>4</sup> R. I. Col. Rec., vol. iii. p. 22. Town Rec. March 25, 1661.

<sup>5</sup> Nar. Club, Pub., vol. vi. p. 268.

<sup>6</sup> Hugh Peter's case impartially considered.

<sup>7</sup> R. I. Col. Rec. vol. i. p. 314.

incivility" on the first day of the week, to refer the question to the town as to whether it would not be advisable to submit to the town the question of granting the children and servants a day "to recreate themselves."<sup>1</sup> Seldom indeed were measures of any kind taken in regard to purely religious questions. This separation of secular and religious power was a cardinal principle of the founder of the town. Of Roger Williams Neal quaintly says, "had he never dabbled in Divinity he would have been esteemed a great and useful man."<sup>2</sup> While this may be true, the town of Providence has no reason to regret that "dabbling in Divinity" led its founder to a firm belief in the separation of church and state.

#### SURVIVAL OF ENGLISH INSTITUTIONS.

In the system of local administration established before the close of the 17th century, the settlers at Providence showed a peculiar capacity for self-government. It would be unwarrantable to consider this system a result of conscious imitation of English and Teutonic institutions, while it would be equally unreasonable to say there was in this system no manifestation of race tendencies.

The place chosen for the first settlement, near a spring, was the most suitable and natural. The name given to the town was somewhat exceptional in its character. It was the expression of personal gratitude to God which led Roger Williams to call the place "Providence." It was not in remembrance of his home across the sea. It does not call to mind favors from any patron at the English court. It does not describe any physical peculiarity of the place nor hand down the name of the aborigines who once occupied the region, as do the names of so many New England towns.

It is true that the religious spirit of Williams had prompted him to call the place Providence, yet in the development of its government the religious element is of little importance. The

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<sup>1</sup> R. I. Col. Rec., vol. i., p. 280.

<sup>2</sup> History of New England, vol. i. p. 144.

absence of this element especially distinguishes Providence from other New England settlements. The comparatively slight influence of the religious over the civil authority made the government different from the English in its nature. Here there was no vestery, no parish and no tithes. Rarely had a community of Englishmen been so isolated and so independent. They were permitted to work out for themselves an unsolved problem in civil government to find whether civil power could be fully maintained apart from the interference of the spiritual authority. The village communities of England afford no parallel in their development to the "lively experiment" <sup>1</sup> tried at Providence.

In the allotment of land they follow not consciously but yet naturally old Germanic customs. There was the *mark* of the village i. e. a place for the dwelling, the common for wood and pasture and the arable mark for tillage. Like their ancestors, too, they often changed the land which they had taken up for other unoccupied land, only it must be with the town's permission. The dwellings were also placed according to the manner described by Tacitus "quisque domum spatio circumdat." <sup>2</sup> The home lot at Providence gave ample evidence that there was no lack of a spirit of individuality. Each lot usually contained a house with a lawn in front of it, a garden back of the house and an orchard, and still farther back the family burial place. The owner of the lot seems to have had the independence of the Germanic "house-father." <sup>3</sup> In course of a few years the land taken up by the settlers was confirmed to them by the town, and further grants were made by deed from the town seeming to follow the old transition from *folcland* to *bocland*. Market Square has probably been public property from the time of the first settlement as there is no deed of that tract. <sup>4</sup> In the regulations in regard to the

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<sup>1</sup> Charter of 1663.

<sup>2</sup> Germania cap. 16.

<sup>3</sup> Ross, Land-Holding Among Germans, p. 17.

<sup>4</sup> City Documents, 1887, Auditors' Rep. 106.

common lands there are many parallels to Germanic and English laws.

The officers elected at Providence were usually such as the town, for the better management of its affairs, was compelled to entrust with power. The "hue and cry" was not long raised. The powers of the town constable and town sergeant were much the same as those of English constables and sheriffs. Both were as among the Anglo-Saxons elective offices.<sup>1</sup> These officers sometimes proclaimed the statutes established by the general assembly as did the Anglo-Saxon sheriff<sup>2</sup> the royal orders. When the constable conducted a criminal from the town he passed him over to the constable of the next town, who, if necessary, was to conduct him to the constable of the next town, and in this manner the criminal was to be escorted until he arrived at his destination, thus closely following the English custom.<sup>3</sup> In the Haywards, so called not from duties in regard to the hay but as wards of the hedges or fences, the old institutions again appeared, but swineherds and many of the minor officers do not seem to have been appointed at Providence until the 18th century. The election of two surveyors or overseers of highways was common in England,<sup>4</sup> as was also the impressment of men for the mending of the roads. All the town officers were as in the native country to be chosen from inhabitants of the town.<sup>5</sup>

The meetings of the town in open air would seem to point to very early customs. That the settlement at Providence did not grow up around a meeting house was almost wholly due to the character of the settlers themselves. The consideration of matters by those assembled in town meetings is much after the fashion of the old English county court where questions were decided by *conclamation*.<sup>6</sup> It had been no unusual proceed-

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<sup>1</sup> Kemble, Saxons in England, vol. ii., p. 165.

<sup>2</sup> Ibid, p. 233.

<sup>3</sup> Lambard, Justice of Peace, p. 52.

<sup>4</sup> Lambard, Justice of Peace, p. 36.

<sup>5</sup> Madox Firma Burgi, p. 279.

<sup>6</sup> Palgrave English Commonwealth, part I, cap. 21.



ing in England to have deeds given and acknowledged and contracts made in the presence of the people,<sup>1</sup> or as the Providence Records express it, "read in the ears of the town" and recorded "in the face of the town." The laws concerning residence in the town also follow earlier laws. Indeed in all departments there are agreements in regulations and customs which are something more than mere coincidences, yet surely not the result of any conscious imitation of English or Teutonic institutions.

#### INTERRUPTION OF TOWN FUNCTIONS.

The government developed during the last half of the 17th century at Providence involved frequent union of jurisdictions almost incompatible,<sup>2</sup> yet it continually grew stronger. Williams said he felt obliged to tolerate some evils for the common good.<sup>3</sup> It was indeed fortunate that this great-souled man was permitted to spend nearly fifty years in the town which he had planted and done so much to foster. There were interruptions to the onward movement which has been described. Frequent discussions had taken place within the town itself. Sometimes the political activity of the inhabitants became so great that two town meetings were necessary to give it scope. In these meetings two sets of officers were elected and each claimed the right to serve.<sup>4</sup> The general assembly was called upon to decide which was lawfully chosen. In 1651 Coddington returned from England with a commission as governor for life over the islands of Aquedneck and Conanicut.<sup>5</sup> The little colony of Providence Plantations fell apart at once. "The government of the towns, not indeed each one by itself, but by twos in combination, was resumed."<sup>6</sup>

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<sup>1</sup> Historical Eliensis, cap. xxxiv.

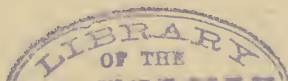
<sup>2</sup> Municipal Corporations Report, England, 1835, p. 41.

<sup>3</sup> The Bloody Tenet, p. 85.

<sup>4</sup> R. I. Col. Rec. 1667.

<sup>5</sup> Colonial Papers, 1650, March 27, April 11.

<sup>6</sup> Foster Town Government in R. I., J. H. U. Studies, p. 21.



Although the town government was interrupted by this episode it was not materially changed in form, and when Coddington's commission was revoked the towns returned to their previous colonial organization.

King Philip's war fell heavily upon Rhode Island, and its effects were for some years very evident. Although Providence had never been surrounded by a palisade, *tun*, *zaun* or hedge for its protection, it had thus far escaped attack from the Indians who were by no means few in this region. Williams himself says "one would meet with a dozen Indian towns in twenty miles."<sup>1</sup> During this war Providence suffered from the Indian ravages, and martial law gave place to the town government, and matters concerning "watching, warding, scouting" and the like, which were the most important at this time, were by the town meeting referred to a "Counsell of war."<sup>2</sup> After the war was finished the usual form of government was resumed.

Many changes were made in the local administration during the rule of Edmund Andros. The whole colony of "Rhode Island and Providence Plantations" became a "mere county" in the grand division of New England over which Andros's power extended. The union of the towns was no longer continued. The towns fell back upon their original forms of self-government to some extent. The English institution of selectmen was now impressed upon them, and it was voted "that the town do choose five men who shall be termed selectmen." These were "by his Excellency [Andros] appointed justices of the peace,"<sup>3</sup> and had about the same powers as had been entrusted to the constables and other officers. They also exercised many of the functions of the town council. After Andros was removed from power it was declared by the colony that "we have thought it most safe for the keeping of

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<sup>1</sup> Young's Chronicles, p. 280.

<sup>2</sup> Town Meeting Rec., Mar. 4, 1677.

<sup>3</sup> Ibid, June 6, 1687.

the peace of our Colony to lay hold of our Charter privileges establishing our officers according to their former station.”<sup>1</sup> Thus the towns reverted to their former system of administration modified but little by this interference on the part of the home government. Selectmen cease to be chosen at Providence and the officers of 1685 are again elected. Dissensions still arise, officers sometimes refuse to take their “engagements” or oaths of office, but in general the government continues its course of development, and may, in 1700, be said to have attained a settled form.

This government had become established in spite of unfavorable circumstances. In the ancient and mediæval municipalities the government was more usually called upon to provide for a growth from within the town itself. In America the greatest increase was for many years from without the town limits and in the case of Providence these accretions were far from harmonious. Every change in the form of government was made with extreme reluctance. The resultant of these forces, so different in their nature, acting at Providence, was rather along the line of general Teutonic development than in accord with that of any particular time or place. While it is remarkable that this particular form of local administration was established it is likewise remarkable that in the midst of such divergent opinions any government at all was established. Neighboring colonies stood ready to extend their jurisdiction over the country about Narragansett Bay and had it not been for the influence of Williams, no doubt, would have accomplished their object. An English scholar speaking of the Rhode Island settlers and the development of its government recently said, “out of this material was formed a vigorous and progressive commonwealth, whose institutions were shaped in obedience to her actual wants, and bore no trace of any fanci-

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<sup>1</sup> J. C. Brown MSS., No. 14, vol. iii.

ful theory or exclusive temper.”<sup>1</sup> Here the theory of religious freedom had been vindicated. Here it had been shown “How all Religions should enjoy their liberty, Justice its due regularity, civil cohabitation moral honesty, in one and the same Jurisdiction.” The system was not perfected but fifty years of trial had shown its adaptability to meet the wants of a community in which the principle of separation of civil and religious authority was fundamental.

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<sup>1</sup> Doyle, Puritan Colonies, vol. i, p. 180.

## CHAPTER III.

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### PERIOD OF MUNICIPAL GROWTH, 1700-1830.

At the beginning of the eighteenth century the municipal government of Providence had attained a definite form. The exercise of town functions now became more and more regular. Interruptions and marked changes in the system of administration, such as those of the earlier years, no longer appear. While in the neighboring colonies religious controversy was taking on a new phase in Rhode Island the civil and religious authorities had learned to recognize the limits of their respective powers. Massachusetts found it necessary to pass laws to prevent emigration.<sup>1</sup> Providence refused many who applied for admission to citizenship. In 1700 Providence had a population of about 1,200 and it steadily increased until at the end of the century it numbered more than 7,000. Gradually the inhabitants began to build at a distance from the "Towne Street." Churches were built and the different denominations worshiped unmolested by the civil power. The town was again taxed in the same ratio as before King Philip's War. It had recovered its former position in the colony in respect to importance.

In the early years of the eighteenth century intercourse with the neighboring colonies becomes more frequent. Commerce begins to occupy the minds of the inhabitants of the little settlement so favorably situated at the head of the bay. The proprietors complain that "There is a continual pressing upon the town by people for grants of warehouse lots by the salt water side along the town street."<sup>2</sup> This spirit of commerce became stronger as the century advanced. Governor Cranston in 1708 speaks of the strong inclination the youth have for the sea. Scarcity of good land, the number of harbors and abundance of ship timber makes ship building a leading industry. Samuel

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<sup>1</sup> Acts and Resolves, vol. i., 1694 and 1700.

<sup>2</sup> Town Meeting Rec. July 27, 1704.

Davis in his diary, 1789, says: "Ships of great burden, 800 tons and more, are built at Providence, thirty miles from the ocean."<sup>1</sup> Indeed Providence at one time surpassed New York in the magnitude of its shipping interests.<sup>2</sup> Wealth increases and banks are established. The town ceases to be a mere agricultural community.

#### THE PROPRIETORS.

Land questions become less important. The class desiring "warehouse lots by the water side" become more numerous. The interests of the "purchasers and proprietors" are no longer the same as those of the majority of the inhabitants. The proprietors become a class by themselves. From 1718 they hold their meetings apart from the town, and have a separate clerk and records. These meetings of the proprietors were held as early as 1653 for the Records mention "Acts and Agreements made and concluded upon by the Purchasers in their several meetings."<sup>3</sup> Such meetings were legalized as early as 1682.<sup>4</sup> The proprietors make certain orders in regard to the common lands, as in 1709, that "no strangers, nor any other person who is not interested in the common of our plantation in his own right shall cut and carry away or make improvement of any cedar or pine timber"<sup>5</sup> without an order from the purchasers. In a division of the common the proprietors are to have "their proportionable part thereof, according to quality and quantity."<sup>6</sup> Committees are chosen by the proprietors "for the dividing of those common lands in Providence aforesaid, called the stated common."<sup>7</sup> At first all the townsmen of Providence were proprietors, but soon their number was exceeded by those who had no share in the common lands. In a town meeting of the whole body of the inhabitants the interests of the proprietors suffered

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<sup>1</sup> Mass. Hist. Soc. Proc. ii., 29.

<sup>2</sup> Staples Annals, p. 351.

<sup>3</sup> Town Records, 28 of 2 mo. 1653.

<sup>4</sup> Public Laws, R. I., May 3, 1682.

<sup>5</sup> Town Meeting Rec., Feb. 6, 1709-10.

<sup>6</sup> Moses Brown Papers, March 13, 1722-23.

<sup>7</sup> Ibid.

and they were forced to hold independent meetings, and at these meetings the surveyors of the lands were after a time elected. The number of proprietors never exceeded one hundred and one, as Staples says, and they held meetings as late as 1836. In them were vested the rights to common lands, and as these lands became less and less in extent the power of the proprietors, as a body, waned, and at length ceased to be felt.

#### FREEMEN.

Besides the proprietors there were owners of land not entitled to any share in the division of common lands. The proprietors and these freeholders, together with their eldest sons, constituted the voting class of the town. An act of 1723 declares that "no person whatsoever shall be admitted a freemen of any town in this colony, unless the person admitted be a freeholder of lands, tenements or hereditaments in such town where he shall be admitted free, of the value of forty shillings per annum, or the eldest son of such freeholder."<sup>1</sup> The amount necessary to qualify an inhabitant to vote varies from time to time, especially on account of the fluctuations in the value of paper money. At length the qualification becomes fixed, and only those having a \$134 freehold estate, or one yielding \$7 per annum<sup>2</sup> are allowed to vote<sup>3</sup> by virtue of their property, while the eldest sons are permitted to vote as sons of freeholders. Rarely inhabitants were admitted freemen "by courtesy." A careful record was kept after a time of those admitted "by producing deed" and as "eldest son." Bancroft, speaking of Rhode Island, says "it attached the franchise, 'not to the inhabitant,' but to the soil; and as a wrong principle always leads to practical error, it fostered family pride by a distant imitation of the English law of primogeniture."<sup>4</sup>

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<sup>1</sup> Digest 1730, p. 131.

<sup>2</sup> This is an interesting survival of the forty shilling freeholding qualifications which was instituted in England as early as 1430, [Stubbs, vol. iii., p. 111,] and this property requirement still survives in Rhode Island.

<sup>3</sup> Digest 1798.

<sup>4</sup> History of U. S. iii., p. 69.

## THE DIVISION OF THE TOWN.

As the population increased and commerce and trade assumed greater importance, the interests of the inhabitants became more diverse. "The compact part of the town" began to feel the need of different regulations for its government from those adapted to the remoter portions. At the beginning of the eighteenth century the town of Providence included nearly all of the northern part of the present State of Rhode Island west of Narragansett Bay and the Seekonk River. As the portions of the territory at a distance from the village of Providence became settled, the inhabitants found it difficult to go ten miles or more to town meeting, nor were the same town laws suited to all sections. The settlers at a distance did not wish to be taxed for improvements in the more thickly populated section. In 1730 a petition was presented to the General Assembly praying that a committee might be appointed to "divide the town of Providence into three or four parts as they should think most proper."<sup>1</sup> This division was made setting off about three fourths the territory under the town names of Smithfield, Scituate and Gloucester.

The limits of the town were now sufficiently restricted to render the town government effective for a time. Lack of common interest, on account of the rapid growth of the compact portions of the town, leads to the setting off of Cranston in 1754, and Johnston in 1759, North Providence was set off in 1765 and in 1767 a part of it was again annexed to Providence. The division of Rhode Island into counties had but little influence upon the town government. "The compact part of the town of Providence" was always the ruling section and by and for this part the laws and regulations were largely made.

The spirit which had led to these divisions was for the most part sectional. The extreme individualism which had manifested itself in the seventeenth century in the earlier years of the eighteenth century broadens, to some extent, into a town spirit. The settlers begin to realize more strongly their common interests. The town meetings are devoted more to the discussion of general affairs. Lots are set apart by the town for a "training field,

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<sup>1</sup> Town Meeting Rec., April 27, 1730.



burying ground and other public uses.”<sup>1</sup> Regulations are made with reference to the growth of the town. More ready and more generous provision is made for highways.<sup>2</sup> Tax assessors are chosen. Town officers, when called upon to render much service, are paid. Public spirit becomes stronger, the government becomes more stable and at the beginning of the eighteenth century the town might be said to have attained to a measure of municipal self-consciousness.

#### EXERCISE OF TOWN FUNCTIONS.

The system of government was now completely established. Its development to the time of the adoption of the city charter was accompanied by an increasing tendency to centralization and delegation of power. The townsmen more and more occupied in business were willing to leave the management of minor local affairs to the officers elected at the town meetings. The business transacted at these meetings is more and more of a routine sort. The officers increase in number and less frequently decline to serve, resolutions in regard to local improvements occupy more space in the town records, and disputed land questions become less frequently matters for town action. Such miscellaneous matters as occasionally come before the meetings are usually acted upon by the whole body and are not, unless it be necessary, left to committees during the earlier years of the 18th century. Committees become more frequent during the latter years of the town government. The variety of questions discussed covers the range of town affairs from taxes upon land to bounties upon rats. For “the encouragement of good manners, etc.,”<sup>3</sup> certain inhabitants petition that no bounty be allowed for squirrels killed on the first day of the week. It is voted that “no oysters or shells should be taken up or caught under the bridge at Weybossett,” under penalty of a “20s fine.” The town meetings decide that geese shall not trespass upon the common,<sup>4</sup> that swine shall not roam about,<sup>5</sup> that if water breaks forth from the cellar of a house upon the east side of the “Towne Streete” the

<sup>1</sup> Town Meeting Rec., 1700.      <sup>2</sup> Ibid June 2, 1701.

<sup>3</sup> Ibid Jan. 24, 1723-24.      <sup>4</sup>Ibid Jan. 27, 1720-21.      <sup>5</sup> Feb. 6, 1710-11.



owner "should as soon as he conveniently can make some subterraneous Passage for sd water by which it may be conveyed into the River of this Town."<sup>1</sup> At a special meeting in 1762 action was taken to secure the supervising of "all kind of stage plays or theatrical shows"<sup>2</sup> In 1776 it is voted that the "Market House be entirely shut up and not opened on the Sabbath Days."<sup>3</sup> The first entry in the ninth book of Town Records is a description of the "Great Storm of 1815." Many and various are the questions considered in the town meetings.

Although so many matters are discussed in the town meetings yet, at the same time the duties of the Town Council are increased. It retains its probate and other judicial functions. It forbids the destruction of fish and the pollution of rivers,<sup>4</sup> has the oversight of the public market, regulates the "Town Watch and the Police of the Streets and Public Places,"<sup>5</sup> exercises the authority of a board of health and quarantine,<sup>6</sup> establishes "an assize of bread," sees to the laying out and paving of streets,<sup>7</sup> when the school system is established has certain authority over the management of the schools, in time of war exercises certain military powers, considers petitions of those desiring to inhabit the town, cares for "the poor, imbecile and insane," has certain authority over town lands and property beside many minor functions. The Town Councilmen seem usually to have been able men and to have performed their duties satisfactorily to the voters. An important change seems to have taken place in the *personnel* of the Town Council in the early part of the eighteenth century before the town was divided. The assistants no longer sit with the Councilmen to consider town affairs and six men are elected "for the Town Council." Later a State law fixes the number of the Town Council and leaves out the assistants.<sup>8</sup> It is stated that the reason for this change was because the General Assembly did not consider it wise to allow cases to be appealed from the town to the General Court which might be composed of those who in their capacity as town officers had already decided upon the case.<sup>9</sup>

<sup>1</sup> Town Meeting Rec., Jan. 27, 1735.    <sup>2</sup> Ibid July 19, 1762.

<sup>3</sup> Ibid Oct. 24, 1776.

<sup>4</sup> Digest 1719, p. 110.

<sup>5</sup> Town Meeting Rec., Nov. 1825.    <sup>6</sup> Ibid 1739.    <sup>7</sup> Ibid 1784.

<sup>8</sup> Digest 1767, p. 87.    <sup>9</sup> Ibid 1767.

Although the Town Council considers so many matters, yet the execution of most town orders is left to the regular town officers. The officers during the first thirty years of the eighteenth century are much the same as during the last decade of the preceding century. After the erection of the new "county house" in which the town meeting was held in 1732, there seems to have been a steady increase in the number of officers elected. The Moderator and Treasurer perform the same duties as in earlier years. The Town Clerk is required to attend to the registration of those qualified to vote. The duties of both Clerk and Treasurer become more arduous as the town grows.

The officers having judicial functions are elected as in the early days of the town. Grand and petty jurors are chosen and after 1742 the system of drawing jurors for the inferior court is adopted. In case of suits against the town, a town attorney is sometimes appointed.<sup>1</sup> Increase of legal business leads to the making of a law for the appointment of a notary public.<sup>2</sup> The assistants and justices of peace in each town formed a kind of criminal court for small cases.<sup>3</sup>

Taxes were ordered by colony and town and "rate makers" appointed to assess these taxes. For a time the assessments were paid to the town treasurer, the town serjeant or town constable sometimes assisted in collecting them,<sup>4</sup> but at length a tax collector was appointed for this purpose. This collector was generally allowed a certain per cent. for the gathering of the taxes. The assessors or rate makers were also paid for their services, but a record of 1751, after enumerating the assessors appointed, states that "the above named assessors have generously offered to assess the Rates of this Town for the year ensuing without fees."<sup>5</sup> Occasionally a poll tax was ordered.<sup>6</sup> Toll taken by the mills was also a matter of town regulation.<sup>7</sup> On account of "continual increase in expenses" a "Town

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<sup>1</sup> Town Meeting Rec. June 2, 1735, Dec, 5, 1750.

<sup>2</sup> R. I. Acts and Resolves, 1751-2, p. 40.

<sup>3</sup> Public Laws 1730, p. 113.

<sup>4</sup> Town Meeting Rec., June 4, 1739. <sup>5</sup> *Ibid.*, June 5, 1758.

<sup>6</sup> *Ibid.*, Nov. 29, 1757. <sup>7</sup> *Ibid.*, Sept. 20, 1764.

"Audit" was appointed in 1758.<sup>1</sup> This was a committee chosen to inspect and approve accounts and exercised considerable power in the fiscal management of the town.

The Town Council had certain powers over the highways, but so far as these were not delegated to special officers by the Council the management of highway affairs was entrusted to the town officers. Surveyors of highways are appointed from time to time. Sometimes they are two in number, in 1718 increased to six, and later a larger number are chosen to exercise their authority in specified sections of the town. During the last half of the 18th century more attention is given to the highways, overseers of the bridges, are appointed, committees are chosen to prevent encroachments on public property,<sup>1</sup> pavements are cared for,<sup>3</sup> and side-walks are ordered.<sup>4</sup> A gradual increase of public spirit manifests itself in the whole highway administration.

While the Town Council guards carefully against receiving any into the town who may become chargeable to it, yet the town cares for such as are in destitute circumstances.<sup>5</sup> This care is exercised by the overseer of the poor, an officer elected almost from the beginning of the 18th century.<sup>6</sup> A work house was also early established, with an overseer to have it in charge. In the latter part of the century a town hospital was found necessary. Matters in regard to health, quarantine arrangements and pest houses are under the general supervision of the Town Council, whose orders are executed through town officers appointed for the purpose.

The protection of the town from fire does not seem to have been an object of particular care before 1754. Then arrangements were made for the purchase of an engine.<sup>7</sup> The destruction of the Court House by fire in 1758 caused the town to take more decisive measures. In June, 1759, a fire department was organized with three Fire Wards "to have the general charge of the department, and eight "Fire Constables" who were more especially the executive officers. After 1768 the "Fire Wards" were called "Presidents of the Fire Wards" and the "Fire Constables" were known as the "Fire Wards." The numbers also

<sup>1</sup> Town Meeting Rec., Aug. 29, 1758.      <sup>2</sup> *Ibid.*, June 6, 1782.

<sup>3</sup> *Ibid.*, Sept. 6, 1784.      <sup>4</sup> *Ibid.*, Sept. 24, 1784

<sup>5</sup> *Ibid.*, Apr. 28, 1729.      <sup>6</sup> *Ibid.*, June 7, 1714.      <sup>7</sup> *Ibid.*, 1754.

sometimes vary. Men were also chosen to have charge of the "town engines" and other apparatus. Others were to have charge of the removal of goods and still others were appointed to "pull down buildings" in order to check the spread of fire. These services were almost wholly voluntary. The organization in the same general form continued till 1854.

The clerk of the market came to be a regularly appointed officer after 1775.<sup>1</sup> Several attempts had been made to establish a "town market" before that date, but unsuccessfully.<sup>2</sup> The town had the general oversight of this market and later established a fish market also.<sup>3</sup> Over both of these markets and the wharves of the town the authority of the clerk of the market extended.

With the growth of the town the police regulations became more and more explicit. The Town Council makes more definite rules.<sup>4</sup> The offices of constable and sergeant were important. A law provides that holders of these offices shall be "men of competent estate" and an act declares that "no freeholder within this colony shall be arrested by any person that is not a freeholder in said colony,"<sup>5</sup> and even then certain conditions must be observed. The constables were as in the preceding century to have charge of the "watching of the town" and were advised by the Town Council. There was not so much a change as an enlargement of the functions of constables and sergeants.

There were various other officers performing duties necessitated by the growth and change in the nature of the town industries and occupations. The attempt to make Rhode Island a hemp and flax growing colony<sup>6</sup> led to the appointment of a "Hemp and Flax Viewer." At first his duties extended only to the viewing of hemp, but in 1732 flax was added to the list. With the decline of these industries the office disappears.

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<sup>1</sup> Town Meeting Rec., June, 1775.

<sup>2</sup> *Ibid.*, Apr., 1758. June, 1759, Aug., 1771.

<sup>3</sup> *Ibid.*, June 2, 1794.

<sup>4</sup> *Ibid.*, June 2, 1735.

<sup>5</sup> R. I. Col. Rec. III, p. 447.

<sup>6</sup> Public Laws, 1730, p. 144.

Vendue Masters were ordered to be chosen by a law of 1719.<sup>1</sup> This officer was elected at the annual town meeting to have general charge of auction sales in the town. Toward the close of the eighteenth century auctioneers also began to be chosen by the inhabitants.

Officers to secure just weight and measure and to prevent cheating in quality were appointed sometimes by town, sometimes by colony order. "Corders of Wood" are chosen after 1734,<sup>2</sup> two "Surveyors and Measurers of Boards and Plank Timber and slitt work and Shingles and Clapboards"<sup>3</sup> in 1732, three "cullers of hoop stuff"<sup>4</sup> sealers and packers of pork, gaugers of casks, and sealers of weights and measures in 1737. Sealers to determine the quality of leather were chosen after 1746. "Viewers of fish, oil and whale-bone" were elected in 1732. In 1738 two men are chosen "scavengers." Ten fence viewers are among the officers of 1725. The number frequently changes. Five "hog constables" are chosen in 1716, but they are not regularly appointed in the following years. In 1759 the election of "field drivers" removes the necessity for further election of "hog constables." The duties of the "field drivers" were about the same as those of the "cattle reeves" of parts of Massachusetts or the "pound drivers" of eastern Connecticut. They continued to be chosen after the city government was inaugurated till in 1855, that year their election was postponed, and since has not taken place.<sup>5</sup> Pound keepers were regularly elected and are still among the city officers. Other minor officers were from time to time appointed, sometimes to care for special emergencies. Some of these officers were not chosen because the town felt a need of them, but rather to secure a uniform standard for trade throughout the colony, and as such they were to perform duties not strictly the result of town development. After officers were once established the general administration remained the same to the time of the adoption of the city charter, in 1832.

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<sup>1</sup> Public Laws, 1719, p. 111.

<sup>2</sup> Town Meeting Rec., June 3.

<sup>3</sup> *Ibid.*, Junn 5.

<sup>4</sup> *Ibid.*, June 7.

<sup>5</sup> City Council Rec., 1855.

THE REVOLUTIONARY PERIOD, 1763-1790.

At the beginning of this period Providence had grown to be a town of about 4,000 inhabitants and the seat of considerable commerce. As the area of the town becomes less through division of the original territory a greater unity of spirit arises among the townsmen. The inhabitants feel a pride in the town. In 1764 Rhode Island College, now Brown University, through the efforts of certain citizens, is moved to Providence. The streets are widened. Elegant churches are erected. The town has an appearance of prosperity and public spirit is not wanting.

The events centering about the war of the Revolution furnished ample ground for the manifestation of this town spirit. In resistance to the first acts of British oppression by means of forced taxation, Providence took a decided stand. Providence had supplied her quota of troops in the colonial wars, had felt the hand of England's foes in the injury to her commerce, but when a tax was demanded the independent spirit of the founder of the town re-asserted itself. The inhabitants looked to the privileges granted them by their charter, and in their instructions to the representatives in the General Assembly, in 1765, declared that "As a full and free enjoyment of British liberty and of our particular rights, as colonists, long since precisely known and ascertained by uninterrupted practice and usage from the first settlement of this country down to this time, is of unspeakable value, and strenuously to be contended for, by dutiful subjects of the best frame of government in the world, any attempts to deprive them thereof, must be very alarming and ought to be opposed, although in a decent manner, yet with the utmost firmness."<sup>1</sup> The same spirit pervaded the entire body of instructions. The resolutions of Providence occupied a column and a half in the Boston papers of August 19th, 1765. Later, the people of Providence agreed to assist Boston by money and troops in her resistance. In 1768 they extended a vote of thanks to the author of the "Farmers Letters," who had done so much to arouse the country to a sense of its dangers. In 1769 the town acted vigorously to secure measures for the repeal of the taxes on "paper, glass, &c."

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<sup>1</sup> Town Meeting Rec., Aug. 13, 1765.

In 1773 the town declared "Insomuch as the British Parliament have undertaken to raise a Revenue in the American Colonies by a duty upon Tea; We, the Freemen of the Town of Providence, legally assembled in meeting cannot be silent on so interesting and alarming occasion."<sup>1</sup> They fear to pay any tax lest it may be yielding the right to impose a duty. They claim their right to property, and assert that a tax upon tea is taking their property without their consent, and that no tea should be unloaded at Providence, that if the principle of self-imposed taxation be given up the assemblies would be rendered useless and recommend that committees of correspondence be appointed by the colonies. The town requested the Town Council to reject those applying for privileges of inhabitation, unless they be in sympathy with the American cause.<sup>2</sup> Inhabitants of the town in 1772 burned the schooner "Gaspee," which had been stationed in the Naraagansett Bay to enforce the British laws. Though the participants in this affair were generally known, a liberal reward did not lead to their disclosure to the English authorities. The opposition was, for a long time, at Providence, not toward the King or the nation, but toward the ministerial authority. In May, 1776, what is known as the "Rhode Island Declaration of Independence," proceeded from the General Assembly and received the hearty sanction of the town of Providence. The town did not need to contend for a more liberal form of self-government and would not suffer the liberty which it had to be taken away.

During the Revolutionary period, the town authority over military affairs is extended. The general questions of war are considered in town meeting. The particular arrangements in regard to the enrolling and equipment of troops, construction of fortifications and the like are left to the Town Council. The town which had said that the "laying and apportioning of taxes was a most tender and delicate part of government"<sup>3</sup> does not hesitate to impose heavy rates upon its inhabitants. The necessity of making special announcements to the inhabitants leads to the appointment of "Town Cryer" in 1772. The police regulations become more

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<sup>1</sup> Town Meeting Rec., Dec. 4, 1773.

<sup>2</sup> *Ibid.*, Aug., 1774.

<sup>3</sup> *Ibid.*, Apr. 19, 1777.



strict. Two special constables are chosen "to take care that the first day of the week be kept according to law,"<sup>1</sup> a committee of three is appointed "to draw up rules to regulate a watch in the compact part of this town and see what they can agree with three men to watch for a night."<sup>2</sup> Some other features of the local government were slightly modified, but in general the Revolution did not change the form of local administration.

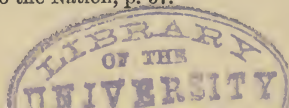
#### PAPER MONEY.

Providence suffered much during the Revolution through the injury to her shipping interests and at the same time another growing evil made itself felt in the paper money system. Arnold Green speaking of an earlier period, says: "There were witches at Salem, there were pirates at Newport; Gorton was at Warwick; and before long perhaps the most ominous danger of all, there was paper money everywhere."<sup>3</sup> The desire for paper money had been a mania in Rhode Island. In 1710 an issue had been made to defray the expenses of the expedition against the French Colonies. Repeated issues had been followed by depreciation. The necessities of the Revolutionary War led to the issue of more paper money. Vain attempts were made to regulate prices, in this falling currency, by law. Providence, the centre of trade for the northern section of the colony, suffered most from the fluctuation in prices and addressed a memorial to the General Assembly "in the strongest terms" protesting against farther issues, but laws continued to be made in order to float the money and enforce its acceptance. Out of these grew the celebrated case of Trevett vs. Weeden. On account of the vigorous opposition of Providence, attempts were made to lessen her power in the General Assembly by reducing her representation.

A continuation of paper money making and the consequent depreciation in its value worked to the advantage of those who had debts to pay, and to the disadvantage of the creditors. The rural districts were largely in debt to the town of Providence for supplies furnished by its merchants. The selfish interests of the

<sup>1</sup> Town Meeting Rec., June 4, 1764.      <sup>2</sup> *Ibid.*, Nov., 1764.

<sup>3</sup> The Township—New England's Gift to the Nation, p. 37.



country and town were therefore directly opposed. The remoter sections of the town of Providence itself objected to the expenditure for the improvement of the "compact portion." There sprung up a bitter hostility between town and country, leading almost to bloodshed.

The town naturally desired a stable form of government under which its commerce might be secure, and therefore was in favor of joining with the other states in the adoption of the Constitution. Without the support of the national government the commerce could not be protected. Rhode Island was but "a little empire," without sufficient power to maintain its own existence. The country considered its interests to lie in directly opposite direction from those of the town and became anti-federalist, while the town was strongly federalist.

#### PEACEFUL DEVELOPMENT, 1790-1832.

During the early years of the town agriculture had been the leading occupation. In the eighteenth century commerce grew and after a time outstripped, in importance, the agricultural interests. In the latter part of the same century manufactures began to develop, and as foreign commerce declines the inhabitants more and more turn their attention to manufacturing pursuits. The town came to be managed for the interests of the "compact portion" where the population was centered. "The Providence Association of Mechanics and Manufacturers," organized in 1789, did much to promote the growth of the town. Steamboats began to be employed upon the Bay. Wealth increased. The town gained more than 10,000 inhabitants in forty years.

As population and wealth increased, greater attention was given to town improvements. The highways were made wider and straightened, and side-walks were constructed. Weybosset Bridge was in 1792 made more than twice its former size, and a "sufficient draw" was inserted. Provision was made for lighting the streets, and some attention was paid to sewerage. Highways on the west side of the town were improved by town order. Business gradually left its old center, the "Towne Streete." The Town Council was more and more occupied in meeting the needs of the growing town in the line of public improvements.

As early as 1663 a grant of land had been made for school purposes. Action was occasionally taken upon school matters by the town, but without much effect. In 1752 a committee was "chosen and appointed to have the care of the town school house and of appointing a school master to teach said school." The expenses of the schools were defrayed by private contributions and tuition until about 1767, when there began to be a movement toward free schools. This was slow, and during the war almost ceased. After 1787 school committees were regularly appointed, but no efficient system was adopted till after 1800. During the early years of the nineteenth century, the educational interests of the town began to receive a measure of careful attention.

The town schools were strictly non-sectarian and did not as in some sections of New England move in accordance with the religious ideas of the major portion of the town. They grew up almost as independently as any of the town institutions and were established only when necessity demanded better provisions for education. For a time separate schools were maintained for the colored children. In 1828 the schools were much improved by re-grading. During these years the general management of the school system was in the hands of the Town Council.

Each step in the progress of the town brought an increase of duties to the local administration. Providence had in 1825 come to be a city of nearly 16,000 inhabitants. The increase of numbers had made the transaction of business in the town meeting difficult and unsatisfactory. Many remained away from these meetings. The town began to be less efficiently managed than in its earlier days and a change in the system of government was demanded.

The movement to secure a new system of local administration was made with that reluctance which characterized the steps toward other changes in the governmental system of Rhode Island. The question was agitated and at a meeting of the town April 16, 1828, it was at length resolved "that it is expedient that the town of Providence be invested with the usual power and authority granted to City Corporations." A committee was

appointed to draw up such a form of government as would meet the requirements of the town. Their report shows the influence of the neighboring corporate city of Boston. Fifteen hundred copies of the report of this committee were "ordered printed and circulated."<sup>1</sup> Another committee was appointed to estimate the expenses of a form of city government<sup>2</sup> and other committees were frequently chosen.

In 1830 the General Assembly granted to the town a charter of incorporation with the provision that it should not go into operation unless adopted by a three-fifths vote of the freemen. The ballot was to be by ticket, signed with the name of the freeman voting, if in favor of the charter having the word "*Accept*," and if rejecting having the word, "*Not*."<sup>3</sup> When the vote was taken it was found that out of more than 700 freemen voting only a slight majority was in favor of the specified change in the local government and the charter was rejected. Staples speaking of this failure to adopt the charter, says: "Probably the town government, having withstood this attack, would have existed some years longer had it not been for the riot, as it is called, in September, 1831."<sup>4</sup> In order to put down this riot it was necessary to call upon the Governor and troops for assistance. Blood was shed. It was believed by many that this unfortunate affair might have been prevented had it not been for the lack of efficiency in the town government. Action was at once taken to secure the adoption of a charter and at a meeting on November 22, 1831, there were 459 freemen who voted for it and only 188 against. In accordance with the act of the General Assembly the charter was to go into effect June 4, 1832.

Thus in less than two hundred years the town passed through various phases of self-government. For the first few years after 1636 deriving their authority purely from the consent of the inhabitants, not even knowing as has been said whether the English government would recognize them at all. After the grant of the charter of 1643-4 looking to that as the source of

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<sup>1</sup> Town Meeting Rec., Aug. 21, 1828.      <sup>2</sup> *Ibid* Oct. 1, 1828.

<sup>3</sup> *Ibid* No. 10, Nov., 1832.

<sup>4</sup> Annals of Providence, 396.

their authority and after 1647, by the union of the towns, the town was subject to the laws made by the colony. With some changes and interruptions the inhabitants continued to acknowledge the authority of the town, colony, and England till 1776 when by the "Act of Independence" allegiance to England was set aside and for a time only town and colony officers were recognized. On the union of the colonies under the Articles of Confederation a third power was again introduced. When the Articles of Confederation ceased to be binding the inhabitants of the colony acknowledged merely the local and colonial authority. After the adoption of the constitution in 1790 the United States government was recognized. As the town organization did not wholly pass away on the adoption of the City Charter in 1832, the inhabitant of Providence now lives under laws passed by the town, city, state, and national governments

## CHAPTER IV.

### PROVIDENCE UNDER THE CHARTER.

When Providence adopted a charter, in 1832, there were somewhat more than 17,000 inhabitants within its territory of about five and one-half square miles. It had an extensive trade and manufactures were rapidly growing. There was in the community a prevailing idea that a form of government stronger than that of the town was needed and a manifest desire to adopt the form presented. Although the population of Providence in 1832 was more than 17,000, yet at the time of voting for the charter less than 700 freemen cast their ballots. This was only about one-fifth of the male population of legal age. The reason for this small vote is found in the restriction of the suffrage to the \$134 freeholder.

In the resolutions adopted at a mass meeting at Newport in 1841<sup>1</sup> it was estimated that those having a right to vote under the property qualification were less than one-third of the male population over twenty-one years of age. Only about one-third of this number usually voted, therefore the management of public affairs was in the hands of about one-ninth of those who would have been qualified to vote in the more liberal states. This was the result of the continuance of the government organized under the charter of Charles II, in 1663. The proportion of voters in the town of Providence was somewhat less than in the state as a whole, because of the large number engaged in trade and manufactures. The population increased slowly during the first decade of the city's existence. Many young men left the city and state on account of the restricted franchise. A movement to secure an enlargement of the suffrage naturally met with support in Providence. The governing body was reluctant to part with any of its privileges. The "Dorr War" followed, and at length a more liberal constitution was adopted. By this "Constitution of

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<sup>1</sup> May 5, 1841, Sec. 9.

1842" any male qualified by residence and age might, even if not a property holder, upon payment of a registry tax of one dollar, vote for civil officers of state and towns, "Provided, That no person shall at any time be allowed to vote in the election of the city council of Providence, or upon any proposition to impose a tax, or for the expenditure of money in any town or city, unless he shall within the year next preceding have paid a tax assessed upon his property therein, valued at least at one hundred and thirty-four dollars"<sup>1</sup> It is then to be remembered that during the first ten years of the Providence city government only \$134 freeholders and their eldest sons voted. After 1842 the mayor, city treasurer, harbor master, overseer of the poor, superintendent of health, justices of peace, school committee and ward officers are elected by registry and property voters, while the aldermen and councilmen are still elected by those having the freehold qualification or taxed upon property to the amount of \$134.

The transition from the town to a city government is an interesting period in the municipal history of Providence. In accordance with an act of the General Assembly the town was divided into six wards. A freeman was appointed by the Town Council to call a meeting of the voters of his ward. Seven were necessary to constitute a quorum for the transaction of business in these little town meetings. First a warden was chosen to preside, after his election a clerk of the ward was chosen and then the voters proceeded to the election of the city officers. These were four Common Councilmen from each ward, a Mayor who must be a resident of the city, and six Aldermen, one from each ward. After several changes in the manner of election, the Aldermen are now chosen by the wards which they severally represent and must be residents of said wards. All of these officers must have the property qualification as voters and only those thus qualified can vote for Councilmen and Aldermen at the present time. After the ballots were cast at this first election of city officers, they were counted, sealed, certified by the ward clerk and sent to the Town Council. On June 4, 1832, the Town Council assembled at the State House. The

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<sup>1</sup> R. I. Constitution, 1842, Art. 2, § 2.

president of this body administered "the oath of office or affirmation prescribed by law" to the Mayor and Aldermen-elect and in this act the powers of the Town Council pass to that board. The Mayor then administers the same agreement to the Common Councilmen-elect<sup>1</sup> and the city government of Providence is inaugurated. The Mayor, Aldermen and Common Council in convention forming the City Council elected a city clerk. "His Honor the Mayor then addressed the City Council at some length in a most able and eloquent manner, after which the City Council separated and the Mayor and Aldermen retired to the Senate Chamber."<sup>2</sup> The Common Council remained in the Representative's chamber and proceeded to elect a president and clerk. When this was done they reported their action to the Aldermen and in a joint session of the two boards, the other city officers, so far as possible, were elected and the city government of Providence was organized.

#### THE CITY GOVERNMENT.

The mayor of the city was to be "the chief executive magistrate thereof," with power of "a justice of the peace within the city," also of the sheriff and other officers "in preserving peace and good order." By virtue of his office the mayor is president of the board of aldermen and city council though having only a casting vote. If he deems it necessary he may call a meeting of the Board of Aldermen or Common Council, or both and submit to them such measures as seem expedient at any time. It is the duty of the mayor to inspect the conduct of the subordinate officers of the city government. He now has a veto power though an act may be passed over his veto by a three-fifths vote of each board. He may repeal certain licenses and suspend officers for good reasons. The tendency to centralize power in the hands of the mayor has not been strongly manifest, as in many cities,

The mayor and aldermen "compose one board." The mayor is the presiding officer. Since 1863, a president of the board

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<sup>1</sup> City Council Rec. 1, June 4, 1832.      <sup>2</sup> *Ibid.*

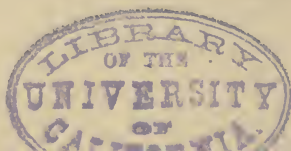


has been elected who presides in the mayor's absence and in case of his absence, death or disability becomes acting mayor. The board inherits the powers of the old town council as the statute says: "the mayor and aldermen shall exercise the executive powers of said city generally and the administration of police."<sup>1</sup> They count the ballots cast by the voters and give certificates of election under the hand of the city clerk; provide for military protection and armories; have the charge of bridges, laying out of streets, health, poor, registration, granting of licenses and appointing of auctioneers. The police department is under their control only so far as limited by the refusal of the common council, to make appropriations, likewise lighting of the streets (except electric lighting). As a board of health they consider nuisances, see to the removal of garbage and cleaning of the streets, and quarantine arrangements besides many minor functions. Although efforts have many times been made to remove power from the board of aldermen they have not been successful.

As in case of the board of aldermen the common council "may determine the rules of its proceedings, judge of the election of its own members, and in case of failure of elections, or of vacancy by death, absence or disability, may order a new election." These powers together with the election of its officers and committees constitute all its exclusive jurisdiction; all other powers are exercised by the concurrent or joint action of the two boards. Measures which originate in the common council requiring the concurrent action of the board of aldermen may, if passed, be vetoed by the mayor, and then must be passed by a vote of three-fifths of the members in each board. The same is true of like measures of the board of aldermen, but this board has exclusive jurisdiction in many and important matters. In cases where the boards meet in convention, as each ward has four councilmen and one alderman, a united action of more than five-eighths of the common councilmen may secure the passage of any measure requiring only a majority vote of the convention.

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<sup>1</sup> Chap. 598, Sec. viii.



Matters relating to finance, highways, fire department, police, schools, sewers, parks, lamps, and water, and some of less importance requiring concurrent action, come before the common council. In some of these departments the authority of the council extends only to the approval of appropriation bills; in others they have equal authority with the board of aldermen. The joint standing committee of the city council are made up of one alderman and four common councilmen. In all cases where a joint action of the two boards of the city council is required the common council has the preponderance of power as to number of votes.

The mayor, aldermen and common council in their "joint capacity"<sup>1</sup> are styled the city council. In this body, together with the officers elected by them, the general fiscal, prudential and municipal management of city affairs is vested. The powers of the city council include those not granted to other departments of the city or belonging to the state government. As a large number of the officers of the city are elected by this body it indirectly exercises an extended authority. By this board are appointed the city clerk, chief of police, officers of the municipal and police courts, city solicitor, recorder of deeds, auditor, city engineer, commissioner of public works, superintendents of buildings and lights, fire department officers, sealers, inspectors and other important and minor officers. Through its committees the city council also exercises much authority over the general conduct of city affairs.

There are two city courts, (1) the municipal court, (2) the police court. In these courts the general judicial powers of the city reside. To these courts passed the judicial power of the town council at the adoption of the city government.

The municipal court exercises the probate authority of the city. From this court letters of administration proceed. By it guardians are appointed, and before it other matters of like nature come. This court is "open at all times for receiving and hearing complaints against truants and absentees from school."<sup>2</sup> A judge and clerk of this court are annually elected by the city

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<sup>1</sup> City Ordinances, 1887, 2.

<sup>2</sup> City Ordinances, chap. xxxiii.

council. This court has both original and appellate jurisdiction in cases involving offences against city ordinances, though as a matter of fact, at present, outside of what might be called its probate business, it is more occupied with cases involving its appellate jurisdiction. An interesting evidence of its relationship to the town council is shown in the provision that where the judge of the municipal court is "related within the ninth degree to a party in any cause" the board of aldermen may elect one of their number to act as judge in such case.<sup>1</sup>

The police court, according to the city charter, "shall consist of so many of the justices of the peace of said city, not exceeding three, as shall be annually elected by concurrent vote of the city council."<sup>2</sup> It has original jurisdiction in offences against ordinances of the city council and board of aldermen where the fine or penalty does not exceed a fixed amount. Any one of the justices chosen may hold this court. They may also commit to the county jail, house of correction, or reform school. Appeal from this court lies in the municipal court.

There is also a city solicitor, who is the legal adviser of the city officials, is counsel for the city in actions against it, and is to attend to the drafting of legal instruments required by the city. He is the successor of the old town attorney sometimes appointed in earlier days. This office was created in 1853.

In 1876 the office of public administrator was instituted. This officer, as well as the solicitor, is elected by the city council. It is the duty of this officer to administer the property within the city limits, which may be left by any person who dies intestate, "not having known husband, widow, or next of kin." These courts, the solicitor, and public administrator constitute the general judicial authority of the city.

What might be considered the record department of the city has three divisions. At the head of the first is the city clerk; of the second, the recorder of deeds; and of the third, the city registrar. The city clerk, elected by the city council in convention, is clerk of the same, and also of the board of aldermen and of

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<sup>1</sup> Statutes, R. I. 598, § xi.

<sup>2</sup> *Ibid* § xii., compare Boston Charter, 1882.

the town meeting "held concerning the Dexter Donation." These offices of the city clerk closely resemble those of the town clerk who, elected by the freemen, was clerk of the town meeting, and the town council as well. The city clerk is keeper of the records of the city, except such as by law are entrusted to other departments. He performs the duties incumbent upon town clerks, except the recording of probate actions, deeds, and births, marriages and deaths. The city clerk keeps a list of qualified voters, certifies certain elections, keeps the plats of the streets, has charge of the issue of certain licenses, prepares the "*City Manual*," and superintends the printing ordered by the city council and is the custodian of the city seal, and has besides many minor duties.

The record of land evidences, conveyances, and others of like nature required to be kept by law, are under the supervision of the recorder of deeds.

The city registrar is the keeper of the records of marriages, births and death. He is also to perform such duties as are performed by town clerks relative to the militia.

In the early days of the town the "hue and cry" was occasionally raised. A town sergeant had been chosen as early as 1651, and constables were elected from time to time. In 1775 a watch was established. The town resorted to various means to secure peace and good order. The force employed to guard the town was usually small for the territory, and efficiency was generally wanting. During the first year of the city's existence, two watches of twelve men each patrolled the city. In 1833, the office of city marshal was created, and he was put at the head of this force. The regulations governing the watches were frequently changed. In 1851, ten men were appointed as day police. Under the able administration of Mayor Thomas A. Doyle the department became more efficient. In 1866 the office of chief of police was instituted and that of city marshal discontinued. The chief of police is at the head of the department and is appointed by the city council. The force consists, in addition to the chief, of deputy chief, captains, lieutenants, sergeants and clerk of police, appointed "by the mayor, by and with the consent of the

board of aldermen," and of police constables, who are appointed "by the chief, by and with the consent of the mayor and board of aldermen." "The mayor may assign any of said police constables to act as detectives, superintendent of hacks and drays, or patrolmen at his discretion." The management of the whole force, so far as not inconsistent with the laws of state or city, is in the board of aldermen, subject only to the approval of the appropriation by the common council.

The fire department of Providence was, until 1854, a voluntary organization. At this time, in accordance with an order of the city council, it was superseded by a paid department, consisting of a board of engineers, one chief and five assistants, and four hundred and fifty firemen. The next important change in this department was made in 1885, when it was ordered that the fire department consist of a chief engineer, a deputy chief engineer, and not exceeding four assistant engineers, to be appointed by the city council and such other officers as should be appointed by the chief engineer, acting under the advice of a committee of five members of the city council, making the chief the responsible head of the department. By his rules and regulations were to be made subject to the approval of the committee. Since 1867 three presidents of the fire department have been annually elected, under the provision that one shall be the chief engineer, who may give direction for the pulling down of buildings and take like measures for checking the progress of a fire. Officers for this purpose were elected for many years before 1867. In 1881 the office of fire marshal was created. It is the duty of this officer to investigate the cause and extent of fires within the city limits and submit the result of his investigations to the city council.

The mayor and aldermen are by virtue of their office the board of health of the city, though the superintendent of health is elected by the people. The mayor and aldermen also have charge of quarantine arrangements and appoint undertakers and coroners.

The board of aldermen have the general care of the poor through a committee and to them the overseer of the poor,

elected by the people, makes a monthly report, and a yearly report is submitted by the same officer to the city council. The care of the Dexter Asylum is wholly under control of this board.

The financial management of the city is under the general control of the city council and most expenditures require the sanction of both boards with the mayor's approval. The city treasurer is elected by the plurality vote of the people. The auditor and assessors of taxes are elected by the city council. Until 1868 taxes were gathered by a collector who received a certain per cent. on the amount obtained. At that time taxes were ordered to be paid at the office of the city treasurer. The work of the departments which have to do with the financial management of the city is not much different from that in other cities.

The development of a department, which should have charge of the public improvements in the city, has been subject to more than usual change. Surveyors of highways were appointed from 1832 to 1872 with about the same duties as before the adoption of the city charter, though some of their duties pass to the city engineer in 1869. In 1872 three highway commissioners were appointed to have the general supervision of the highways and the old office of surveyors was discontinued. A superintendent of public buildings was appointed in 1868 and has for his duties the general oversight of public buildings, fences and other structures. The city engineer performs the usual duties belonging to that office. Water commissioners were chosen from 1869 to 1880 when the supervision and control of the water works, sewerage, engineer and highway departments passed to a board of public works consisting of three commissioners appointed for three years. This same tendency to centralization in general management again manifested itself by the transferring of the powers possessed by the board of public works to a single commissioner of public works, elected Feb. 11, 1889, with a three years term.

Since Providence became a city more careful attention has been given to the development of a system of education. In 1832 a school committee of twenty one members was elected. Since 1838 a superintendent of schools has been regularly appointed. At the present time committees are chosen in the

several wards and these together with a committee of the city council have the general management of the public schools.

A harbor master is elected on a general ticket, port wardens by the city council. Overseers of the city pumps, pound keepers, fence viewers, corders of wood and other officers of the town survive in the city. A city messenger and city sergeant are also elected by the city council together with such other officers as are from time to time found necessary. The fire marshal, several special constables, weighers, inspectors, truant officers, appointed by the board of aldermen, perform duties formerly entrusted to the town council.

Although the city charter has been amended and revised so that it now has the form of a much patched instrument the general system of government has remained the same. The powers of the old town council on the adoption of the charter passed to the mayor and board of aldermen except such as were delegated to the city courts. The mayor at first had but little more power than the president of the town council but this has increased with the growth of the city. The freemen in ward meetings elect common councilmen who in theory represent the people in the city council. To the the common council are referred such measures as formerly needed the approval of the town. The city council is the theoretically an assembly of the inhabitants of the town and performs such duties and exercises such powers as formerly belonged to the freemen in the town meeting assembled. Modifications in the form of government have indeed taken place but they have usually been made with extreme reluctance and not until the necessity of the time demanded change and have not been for the purpose of testing new theories of municipal administration.

#### THE TOWN MEETING.

In the midst of this city government the old town organization still exercises some of its function; for a single purpose town meetings are annually held. In 1824 Ebenezer Dexter dying, left a greater part of his property to the town to be administered under certain restrictions requiring a meeting of not

less than forty freemen of the town. Therefore annually on the third Saturday in December, a town meeting is held in which those qualified to vote for the city council may take part. This meeting is warned according to the regular form, the time of assembling is proclaimed by the ringing of four church bells and at the appointed hour or as soon as forty freemen are present the meeting is called to order. Afterwards a moderator is chosen who is then sworn by the city clerk who is *ex-officio* clerk of the town meeting. The warrant for the meeting is read and the regular business proceeds. The moderator calls for the reading of the minutes of the last meeting, the commissioners on the Dexter Donation appointed at the last meeting make their report, the city treasurer renders his account of the property of the Dexter Donation, the mayor and aldermen and the superintendent of the asylum appointed by them make their report, a committee is appointed for the ensuing year, (these committees have always been of men especially prominent in the city and able managers), a vote of thanks is by the town meeting extended to those who have had the affairs of the donation in charge during the preceding year; such other business is transacted as is necessary and the meeting adjourns.

The mayor and aldermen, as successors of the old town council, have the general oversight of the Dexter Asylum, provided for in the will of Mr. Dexter.

They receive a report of its condition each week and one of their number also visits the Asylum weekly. On "quarter days" the mayor and aldermen hold a meeting at the Asylum for consideration of business concerning it and having finished this in the language of the records "The Mayor and Aldermen accompanied by the officials present make a minute and particular examination of the Asylum and inquire into the condition of the several inmates." Thus in the midst of the complicated city administration the old town meeting still survives affording an opportunity for the comparison of systems old and new.

Thus has been traced the general development of the municipal government in the town and city of Providence. In reviewing this movement toward a more highly organized system of government there is ever evident that extreme reluc-



tance to change in the management which characterized its early days. The process of change which took place in the eighteenth century by the division of the town has been followed by re-annexation and the city has grown in area as well as in wealth. The little settlement of 1636 has become a large city. The town, at first subject to difficulties from without and within, lacking a form of government, overcame these difficulties, established a system of government, and has modified it by the adoption of a charter and its subsequent amendments. The government of Providence has always been strictly local. It has not followed "the present tendency—more strongly marked in other parts of the country than in New England—to disregard localities and organize municipal governments on a general and uniform plan"<sup>1</sup> without considering where it will lead, whether to the system of communes of France or to something less adapted to local needs, yet there has always been in Providence a gradual progress toward a more highly developed form of municipal administration, and in spite of the direful predictions of the seventeenth century the separation of the civil and religious authorities has been proven not only possible in the management of local affairs but also in the broader field of government of the state and nation.

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<sup>1</sup> City Government of Boston, Bugbee, Johns Hopkins Studies, V. 132.









