

representatives in Congress, no electors for the Presidency, except those chosen in States by State voters. The only means of granting Federal suffrage to citizens in a Territory would be to turn the Territory into a State. This would confer a power of self-government, guaranteed by the Federal Constitution, for which the Territory might be still unfit. But it would do still more. It would entitle this possibly small and rude community to send two senators to the Federal Senate who would there have as much weight as the two senators from New York with its six millions of people. This is a result from which Congress may fairly recoil. And a practical illustration of the evils to be feared has been afforded by the case of Nevada, a State whose inhabitants number only about 40,000, and which is really a group of mining camps, most of them already abandoned. Its population is obviously unworthy of the privilege of sending two men to the Senate, and has in fact allowed itself to sink, for political purposes, into a sort of rotten borough which can be controlled or purchased by the leaders of a Silver Ring. It would evidently have been better to allow Nevada to remain in the condition of a Territory till a large, settled and orderly community had occupied her surface, which is at present a parched and dismal desert, where the streams that descend from the eastern slope of the Sierra Nevada soon lose themselves in lakes or marshes. On a review of the whole matter it may safely be said that the American scheme of Territorial government, though it suffers from the occasional incompetence of the Governor, and is scarcely consistent with democratic theory, has in practice worked well, and gives little ground for discontent even to the inhabitants of the Territories themselves.

CHAPTER XLVIII

LOCAL GOVERNMENT

THIS is the place for an account of local government in the United States, because it is a matter regulated not by Federal law but by the several States and Territories, each of which establishes such local authorities, rural and urban, as the people of the State or Territory desire, and invests them with the requisite powers. But this very fact indicates the immensity of the subject. Each State has its own system of local areas and authorities, created and worked under its own laws; and though these systems agree in many points, they differ in so many others, that a whole volume would be needed to give even a summary view of their peculiarities. All I can here attempt is to distinguish the leading types of local government to be found in the United States, to describe the prominent features of each type, and to explain the influence which the large scope and popular character of local administration exercise upon the general life and well-being of the American people.

Three types of rural local government are discernible in America. The first is characterized by its unit, the Town or Township, and exists in the six New England States. The second is characterized by a much larger unit, the county, and prevails in the southern States. The third combines some features of the first with some of the second, and may be called the mixed system. It is found, under a considerable variety of forms, in the middle and north-western States. The differences of these three types are interesting, not only because of the practical instruction they afford, but also because they spring from original differences in the character of the colonists who settled along the American coast, and in the conditions under which the communities there founded were developed.

The first New England settlers were Puritans in religion, and sometimes inclined to republicanism in politics. They were largely townsmen, accustomed to municipal life and to vestry meetings. They planted their tiny communities along the sea-shore and the banks of rivers, enclosing them with stockades for protection against the warlike Indians. Each was obliged to be self-sufficing, because divided by rocks and woods from the others. Each had its common pasture on which the inhabitants turned out their cattle, and which officers were elected to manage. Each was a religious as well as a civil body politic, gathered round the church as its centre; and the equality which prevailed in the congregation prevailed also in civil affairs, the whole community meeting under a president or moderator to discuss affairs of common interest. Each such settlement was called a Town, or Township, and was in fact a miniature commonwealth, exercising a practical sovereignty over the property and persons of its members — for there was as yet no State, and the distant home government scarcely cared to interfere — but exercising it on thoroughly democratic principles. Its centre was a group of dwellings, often surrounded by a fence or wall, but it included a rural area of several square miles, over which farmhouses and clusters of houses began to spring up when the Indians retired. The name "town" covered the whole of this area, which was never too large for all the inhabitants to come together to a central place of meeting. This town organization remained strong and close, the colonists being men of narrow means, and held together in each settlement by the needs of defence. And though presently the towns became aggregated into counties, and the legislature and governor, first of the whole colony, and, after 1776, of the State, began to exert their superior authority, the towns (which, be it remembered, remained rural communities, making up the whole area of the State) held their ground, and are to this day the true units of political life in New England, the solid foundation of that well-compacted structure of self-government which European philosophers have admired and the new States of the West have sought to reproduce. Till 1821¹ the towns were the only

¹ Boston continued to be a town governed by a primary assembly of all citizens till 1822; and even then the town-meeting was not quite abolished,

political corporate bodies in Massachusetts, and till 1857 they formed, as they still form in Connecticut, the basis of representation in her Assembly, each town, however small, returning at least one member. Not a little of that robust, if somewhat narrow, localism which characterizes the representative system of America is due to this originally distinct and self-sufficing corporate life of the seventeenth century towns. Nor is it without interest to observe that although they owed much to the conditions which surrounded the early colonists, forcing them to develop a civic patriotism resembling that of the republics of ancient Greece and Italy, they owed something also to those Teutonic traditions of semi-independent local communities, owning common property, and governing themselves by a primary assembly of all free inhabitants, which the English had brought with them from the Elbe and the Weser, and which had been perpetuated in the practice of many parts of England down till the days of the Stuart kings.

Very different were the circumstances of the Southern colonies. The men who went to Virginia and the Carolinas were not Puritans, nor did they mostly go in families and groups of families from the same neighbourhood. Many were casual adventurers, often belonging to the upper class, Episcopalians in religion, and with no such experience of, or attachment to, local self-government as the men of Massachusetts or Connecticut. They settled in a region where the Indian tribes were comparatively peaceable, and where therefore there was little need of concentration for the purposes of defence. The climate along the coast was somewhat too hot for European labour, so slaves were imported to cultivate the land. Population was thinly scattered; estates were large; the soil was fertile and soon enriched its owners. Thus a semi-feudal society grew up, in which authority naturally fell to the landowners, each of whom was the centre of a group of free de-

for a provision was introduced, intended to satisfy conservative democratic feeling, into the city charter granted by statute in that year, empowering the mayor and aldermen to call general meetings of the citizens qualified to vote in city affairs "to consult upon the common good, to give instructions to their representatives, and to take all lawful means to obtain a redress of any grievances." Such primary assemblies are, however, never now convoked.

pendants as well as the master of an increasing crowd of slaves. There were therefore comparatively few urban communities, and the life of the colony took a rural type. The houses of the planters lay miles apart from one another; and when local divisions had to be created, these were made large enough to include a considerable area of territory and number of land-owning gentlemen. They were therefore rural divisions, counties framed on the model of English counties. Smaller circumscriptions there were, such as hundreds and parishes, but the hundred died out,¹ the parish ultimately became a purely ecclesiastical division, and the parish vestry was restricted to ecclesiastical functions, while the county remained the practically important unit of local administration, the unit to which the various functions of government were aggregated, and which, itself controlling minor authorities, was controlled by the State government alone. The affairs of the county were usually managed by a board of elective commissioners, and not, like those of the New England towns, by a primary assembly; and in an aristocratic society the leading planters had of course a predominating influence. Hence this form of local government was not only less democratic, but less stimulating and educative than that which prevailed in the New England States. Nor was the Virginian county, though so much larger than the New England town, ever as important an organism over against the State. It may almost be said, that while a New England State is a combination of towns, a Southern State is from the first an administrative as well as political whole, whose subdivisions, the counties, had never any truly independent life, but were and are mere subdivisions for the convenient dispatch of judicial and financial business.

In the middle States of the Union, Pennsylvania, New Jersey, and New York, settled or conquered by Englishmen some time later than New England, the town and town meeting did

¹ In Maryland hundreds, which still exist in Delaware, were for a long time the chief administrative divisions. We hear there also of "baronies" and "townlands," as in Ireland; and Maryland is usually called a "province," while the other settlements are colonies. Among its judicial establishments there were courts of pypowdry (*piè poudré*) and "hustings."

The hundred is a division of small consequence in southern England, but in Lancashire it has some important duties. It repairs the bridges; it is liable for damage done in a riot; and it had its high constable.

not as a rule exist, and the county was the original basis of organization. But as there grew up no planting aristocracy like that of Virginia or the Carolinas, the course of events took in the middle States a different direction. As trade and manufactures grew, population became denser than in the South. New England influenced them, and influenced still more the newer commonwealths which arose in the North-west, such as Ohio and Michigan, into which the surplus population of the East poured. And the result of this influence is seen in the growth through the middle and western States of a mixed system, which presents a sort of compromise between the County system of the South and the Town system of the North-east. There are great differences between the arrangements in one or other of these middle and western States. But it may be said, speaking generally, that in them the county is relatively less important than in the southern States, the township less important than in New England. The county is perhaps to be regarded, at least in New York, Pennsylvania, and Ohio, as the true unit, and the townships (for so they are usually called) as its subdivisions. But the townships are vigorous organisms, which largely restrict the functions of the county authority, and give to local government, especially in the North-west, a character generally similar to that which it wears in New England.

So much for the history of the subject; a history far more interesting in its details than will be supposed from the rough sketch to which limits of space restrict me. Let us now look at the actual constitution and working of the organs of local government in the three several regions mentioned, beginning with New England and the town system.¹ I will first set forth the dry but necessary outline, reserving comments for the following chapter.

¹ The word Town, which I write with a capital when using it in the American sense, is the Icelandic *tún*, Anglo-Saxon *tūn*, German *zaun*, and seems originally to have meant a hedge, then a hedged or fenced plot or enclosure. In Scotland (where it is pronounced "toon") it still denotes the farmhouse and buildings; in Iceland the manured grass plot, enclosed within a low green bank or raised dyke, which surrounds the baer or farmhouse. In parts of eastern England the chief cluster of houses in a parish is still often called "the town." In the North of England, where the parishes are more frequently large than they are in the South, the civil divisions of a parish are called townships.

The Town is in rural districts the smallest local circumscription. English readers must be reminded that it is a rural, not an urban community, and that the largest group of houses it contains may be only what would be called in England a hamlet or small village. Its area seldom exceeds five square miles; its population is usually small, averaging less than 3000, but occasionally ranges up to 13,000, and sometimes falls below 200.¹ It is governed by an assembly of all qualified voters resident within its limits, which meets at least once a year, in the spring (a reminiscence of the Easter vestry of England), and from time to time as summoned. There are usually three or four meetings each year. Notice is required to be given at least ten days previously, not only of the hour and place of meeting, but of the business to be brought forward. This assembly has, like the Roman Comitia and the Landsgemeinde in four of the older Swiss Cantons, the power both of electing officials and of legislating. It chooses the selectmen, school committee, and executive officers for the coming year; it enacts bye-laws and ordinances for the regulation of all local affairs; it receives the reports of the selectmen and the several committees, passes their accounts, hears what sums they propose to raise for the expenses of next year, and votes the necessary taxation accordingly, appropriating to the various local purposes—schools, aid to the poor, the repair of highways, and so forth—the sums directed to be levied. Its powers cover the management of the town lands and other property, and all local matters whatsoever, including police and sanitation. Every resident has the right to make, and to support by speech, any proposal. The meeting which is presided over by a chairman called the Moderator—a name recalling the ecclesiastical assemblies of the English Commonwealth²—is held in the town hall, if the Town possesses one, or in the principal church or schoolhouse, but sometimes in the open air. The attendance is usually good; the debates sensible

¹ I find in Massachusetts one town (New Ashford) with only 125 inhabitants, and one (Pittsfield) with 17,281. But both in this and other New England States most towns have a population of from 1200 to 2500.

² The presiding officer in the synods and assemblies of the Scottish Presbyterian Churches is still called the Moderator. This is also the president's title in the synods of the American Presbyterian churches, and in the councils of the Congregationalist and associations of the Baptist churches.

and practical. Much of course depends on the character and size of the population. Where it is of native American stock, and the number of voting citizens is not too great for thorough and calm discussion, no better school of politics can be imagined, nor any method of managing local affairs more certain to prevent jobbery and waste, to stimulate vigilance and breed contentment.¹ When, however, the town meeting has grown to exceed seven or eight hundred persons, where the element of farmers has been replaced by that of factory operatives, and still more when any considerable section are strangers, such as the Irish or French Canadians who have latterly poured into New England, the institution works less perfectly, because the multitude is too large for debate, factions are likely to spring up, and the new immigrants, untrained in self-government, become the prey of wirepullers or petty demagogues. The social conditions of to-day in New England are less favourable than those which gave birth to it; and there are now in the populous manufacturing States of Massachusetts, Rhode Island, and Connecticut comparatively few purely rural towns, such as those which suggested the famous eulogium of Jefferson, who eighty years ago desired to see the system transplanted to his own Virginia:

“Those wards called townships in New England are the vital principle of their governments, and have proved themselves the wisest invention ever devised by the wit of man for the perfect exercise of self-government, and for its preservation. . . . As Cato then concluded every speech with the words ‘*Carthago delenda est*,’ so do I every opinion with the injunction ‘Divide the counties into wards.’”

The executive of a Town consists of the selectmen, from three to nine in number, usually either three, five, or seven. They are elected annually, and manage all the ordinary business, of course under the directions given them by the last preceding meeting. There is also a Town-clerk, who keeps the records, and minutes the proceedings of the meeting, and is generally also registrar of births and deaths; a treasurer; as-

¹ See an interesting account of the town meeting thirty years ago in Mr. J. K. Hosmer's *Life of Samuel Adams*, chap. xxiii. An instructive description of a typical New England Town may be found in a pamphlet entitled *The Town of Groton*, by Dr. S. Green, late Mayor of Boston.

sessors, who make a valuation of property within the Town for the purposes of taxation; the collector, who gathers the taxes, and divers minor officers, such as hog-reeves¹ (now usually called field drivers), cemetery trustees, library trustees, and so forth, according to local needs. There is always a school committee, with sometimes sub-committees for minor school districts if the Town be a large one. Some of these officers and committees are paid (the selectmen usually), some unpaid, though allowed to charge their expenses actually incurred in Town work; and there has generally been no difficulty in getting respectable and competent men to undertake the duties. Town elections are not professedly political, *i.e.* they are not usually fought on party lines, though occasionally party spirit affects them, and a man prominent in his party is more likely to obtain support.²

¹ Mr. R. W. Emerson served in this capacity in his Town, fulfilling the duty understood to devolve on every citizen of accepting an office to which the Town appoints him.

² When a Town reaches a certain population it is usually transformed by law into a City; but occasionally, while the City is created as a municipal corporation within the limits of a Town, the Town continues to exist as a distinct organization. A remarkable instance is furnished by the Town and City of New Haven, in Connecticut. New Haven was incorporated as a city in 1784. But it continued to be and is still a town also. Three-fourths of the area of the town and seventeen-eightieths of its population are within the limits of the city. But the two governments remain completely distinct. The city has its mayor, aldermen, and common council, and its large executive staff. The town meeting elects its selectmen and other officers, 152 in all, receives their reports, orders and appropriates taxes, and so forth. Practically, however, it is so much dwarfed by the city as to attract little attention. Says Mr. Levermore: "This most venerable institution appears to-day in the guise of a gathering of a few citizens, who do the work of as many thousands. The few individuals who are or have been officially interested in the government of the town, meet together, talk over matters in a friendly way, decide what the rate of taxation for the coming year shall be, and adjourn. Not one-seventieth part of the citizens of the town has attended an annual town meeting; they hardly know when it is held. The newspapers give its transactions a scant notice, which some of their subscribers probably read. The actual governing force of the town is therefore an oligarchy in the bosom of a slumbering democracy. But the town is well governed. Its government carries too little spoil to attract those unreliable politicians who infest the city council. If the ruling junto should venture on too lavish a use of the town's money, an irresistible check would appear at once. Any twenty citizens could force the selectmen to summon the town together, and the apparent oligarchy would doubtless go down before the awakened people."—"The Town and City Government of New Haven," in *J. H. U. Studies*, Fourth Series.

The student of Roman history will find in this quaint survival of an ancient assembly some resemblance to the *comitia curiata* of Rome under the later Republic. But the American survival is the more vigorous of the two.

Next above the Town stands the county. Its area and population vary a good deal. Massachusetts with an area of 8040 square miles has fourteen counties; Rhode Island with 1085 square miles has five; the more thinly peopled Maine, with 29,985 square miles, has sixteen, giving an average of about 1100 square miles to each county on these three States, though in Rhode Island the average is only 217 square miles. Similarly the populations of the counties vary from 4000 to 30,000; the average population being, where there are no large cities, from 20,000 to 40,000.¹ The county was originally an aggregation of Towns for judicial purposes, and is still in the main a judicial district in and for which civil and criminal courts are held, some by county judges, some by State judges, and in and for which certain judicial officers are elected by the people at the polls, who also choose a sheriff and a clerk. Police belongs to the Towns and cities, not to the county within which they lie. The chief administrative officers are the county commissioners, of whom there are three in Massachusetts (elected for three years, one in each year), and county treasurer.² They are salaried officers, and have the management of county buildings, such as court-houses and prisons, with power to lay out new highways from town to town, to grant licences, estimate the amount of taxation needed to defray county charges,³ and apportion the county tax among the towns and cities by whom it is to be levied. But except in this last-mentioned respect the county authority has no power over the Towns, and it will be perceived that while the county commissioners are controlled by the legislature, being limited by statute to certain well-defined administrative functions, there exists nothing in the nature of a county council or other assembly with legislative functions. The functions of the county are in fact of small consequence: it is a judicial district and a highway district and little more.

This New England system resembles that of Old England

¹ The average population of a Massachusetts county is 160,000, the two smallest counties having only 4369 and 3268 respectively, the largest 484,780.

² In Rhode Island there are none but judicial officers for the counties. In Vermont I find besides judges, a state attorney, high bailiff, and county clerk. In Massachusetts all judges are appointed by the governor.

³ The chief items of county expenditure are those for judicial purposes, including the maintenance of buildings, and for roads and bridges.

as the latter stood during the centuries that elapsed between the practical disappearance of the old County Court or Shire Moot and the creation by comparatively recent statutes of such intermediate bodies and authorities as poor-law unions, highway districts and boards, local sanitary authorities. If we compare the New England scheme with that of the England of to-day, we are struck not only by the greater simplicity of the former, but also by the fact that it is the smaller organisms, the Towns, that are most powerful and most highly vitalized. Nearly everything belongs to them, only those duties devolving on the counties which a small organism obviously cannot undertake. The system of self-governing Towns no doubt works under the supervision of a body, the State legislature, which can give far closer attention to local affairs than the English parliament can give to English local business. But in point of fact the State legislature interferes but little (less, I think, than the Local Government Board interferes in England) with the conduct of rural local business, though often required to deal with the applications which Towns make to be divided or have their boundaries altered, and which are frequently resisted by a part of the inhabitants.

The system which prevails in the Southern States need not long detain us, for it is less instructive and has proved less successful. Here the unit is the county, except in Louisiana, where the equivalent division is called a parish. The county was originally a judicial division, established for the purposes of local courts, and a financial one, for the collection of State taxes. It has now, however, generally received some other functions, such as the superintendence of public schools, the care of the poor, and the management of roads. In the South counties are larger than in New England, but not more populous, for the country is thinly peopled.¹ The county officers, whose titles and powers vary somewhat in different States, are usually the Board or Court of county commissioners, an assessor (who prepares the valuation), a collector (who gathers

¹ Georgia, with 59,475 square miles, has 137 counties; Alabama, with 52,250 square miles, has 66. Speaking generally, the newer States have the larger counties, just as in England the smallest parishes are in the first settled parts of England, or rather in those parts where population was comparatively dense at the time when parishes sprang up.

the taxes¹), a treasurer, a superintendent of education, an overseer of roads — all of course salaried, and now, as a rule, elected by the people, mostly for one or two years.² These county officers have, besides the functions indicated by their names, the charge of the police and the poor of the county, and of the construction of public works, such as bridges and prisons. The county judges and the sheriff, and frequently the coroner, are also chosen by the people. The sheriff is everywhere in America neither an ornamental person, as he has become in England, nor a judge, with certain executive functions, as in Scotland, but the chief executive officer attached to the judicial machinery of the county.

In these southern States there exist various local divisions smaller than the counties.³ Their names and their attributions vary from State to State, but they have no legislative authority like that of the Town meeting of New England, and their officers have very limited powers, being for most purposes controlled by the county authorities. The most important local body is the school committee for each school district. In several States, such as Virginia and North Carolina, we now find townships, and the present tendency seems in these States to be towards the development of something resembling the New England Town. It is a tendency which grows with the growth of population, with the progress of manufactures and of the middle and industrious working class occupied therein, and especially with the increased desire for education. The school, some one truly says, is becoming the nucleus of local self-government in the South now, as the church was in New England two centuries ago.⁴ Nowhere, however, has

¹ Sometimes, as in Louisiana, the sheriff is also tax collector.

² In some States some of these officials are nominated by the governor. In Florida the governor appoints even the board of five county commissioners. *Constit. of 1886, Art. viii. § 5.* The other county officers, viz. clerk of circuit court, sheriff, constables, assessor of taxes, tax-collector, treasurer, superintendent of public instruction, and surveyor, are elected by the people for two or four years (§ 6).

³ In South Carolina the parish was originally a pretty strong local unit, but it withered away as the county grew under the influence of the plantation system. The word "parish" is in America now practically equivalent to "congregation," and does not denote a local area.

⁴ Virginia has moved in this direction. See the interesting Treatise (published since the first edition of this book) of Mr. George E. Howard, on the *Local Constitutional History of the United States.*