

there appeared a primary assembly; while the representative local assembly is still in its infancy. Local authorities in the South, and in the States which, like Nevada and Oregon, may be said to have adopted the county system, are generally executive officers and nothing more.

The third type is less easy to characterize than either of the two preceding, and the forms under which it appears in the middle and north-western States are even more various than those referable to the second type. Two features mark it. One is the importance and power of the county, which in the history of most of these States appears before any smaller division; the other is the activity of the township,¹ which has more independence and a larger range of competence than under the system of the South. Now of these two features the former is the more conspicuous in one group of States—Pennsylvania, New Jersey, New York, Ohio, Indiana, Iowa; the latter in another group—Michigan, Illinois, Wisconsin, Minnesota, the two Dakotas, the reason being that the New Englanders, who were often the largest and always the most intelligent and energetic element among the settlers in the more northern of these two State groups, carried with them their attachment to the Town system and their sense of its value, and succeeded, though sometimes not without a struggle, in establishing it in the six great and prosperous commonwealths which form that group. On the other hand, while Pennsylvania, New Jersey, and New York had not (from the causes already stated) started with the Town system, they never adopted it completely; while in Ohio and Indiana the influx of settlers from the Slave States, as well as from New York and Pennsylvania, gave to the county an early preponderance, which it has since retained. The conflict of the New England element with the Southern element is best seen in Illinois, the northern half of which State was settled by men of New England blood, the southern half by pioneers from Kentucky and Tennessee. The latter, coming first, established the county system, but the New Englanders fought against it, and in the constitutional convention of 1848 carried a provision, embodied in the constitution of that year, and repeated in the present constitution of

¹ Township is the term most frequently used outside New England: Town in New England.

1870, whereby any county may adopt a system of township organization "whenever the majority of the legal voters of the county voting at any general election shall so determine."¹ Under this power four-fifths of the 102 counties have now adopted the township system.²

Illinois furnishes so good a sample of that system in its newer form that I cannot do better than extract from a clear and trustworthy writer, the following account of the whole scheme of local self-government in that State, which is fairly typical of the North-west:—

"When the people of a county have voted to adopt the township system, the commissioners proceed to divide the county into towns, making them conform with the congressional or school townships, except in special cases. Every town is invested with corporate capacity to be a party in legal suits, to own and control property, and to make contracts. The annual town meeting of the whole voting population, held on the first Tuesday in April, for the election of town officers and the transaction of miscellaneous business, is the central fact in the town government. The following is a summary of what the people may do in town meeting. They may make any orders concerning the acquisition, use, or sale of town property; direct officers in the exercise of their duties; vote taxes for roads and bridges, and for other lawful purposes; vote to institute or defend suits at law; legislate on the subject of noxious weeds, and offer rewards to encourage the extermination of noxious plants and vermin; regulate the running at large of cattle and other animals; establish pounds, and provide for the impounding and sale of stray and trespassing animals; provide public wells and watering-places; enact bye-laws and rules to carry their powers into effect; impose fines and penalties, and apply such fines in any manner conducive to the interests of the town."³

"The town officers are a supervisor, who is *ex officio* overseer of the poor, a clerk, an assessor, and a collector, all of whom are chosen annually; three commissioners of highways elected for three years, one retiring every year; and two justices of the peace and two constables, who hold office for four years.

¹ See Constitution of 1870, Art. x. § 5, where a provision is added that any county desiring to forsake township organization may do so by a vote of the electors in the county, in which case it comes under the county system prescribed in the following sections of that article.

² Illinois has 102 counties, with an average population, in 1890, of 36,000; Iowa 99 counties, with an average population of 19,000. England (excluding Wales) has 40 counties, with an average population, in 1891, of 687,000.

³ There are English analogies to all these powers, but in England some of them are or were exercised in the Manor court and not in the Vestry.

"On the morning appointed for the town meeting the voters assemble, and proceed to choose a moderator, who presides for the day. Balloting for town officers at once begins, the supervisor, collector, and assessor acting as election judges. Every male citizen of the United States who is twenty-one years old, who has resided in the State a year, in the county ninety days, and in the township thirty days, is entitled to vote at town meeting; but a year's residence in the town is required for eligibility to office. At two o'clock the moderator calls the meeting to order for the consideration of business pertaining to those subjects already enumerated. Everything is done by the usual rules and methods of parliamentary bodies. The clerk of the town is secretary of the meeting, and preserves a record of all the proceedings. Special town meetings may be held whenever the supervisor, clerk, or justices, or any two of them, together with fifteen voters, shall have filed with the clerk a statement that a meeting is necessary, for objects which they specify. The clerk then gives public notice in a prescribed way. Such special meetings act only upon the subjects named in the call.

"The supervisor is both a town and a county officer. He is general manager of town business, and is also a member of the county board, which is composed of the supervisors of the several towns, and which has general control of the county business. As a town officer, he receives and pays out all town money, excepting the highway and school funds. His financial report is presented by the clerk at town meeting. The latter clerk is the custodian of the town's records, books, and papers. The highway commissioners, in their oversight of roads and bridges, are controlled by a large body of statute law, and by the enactments of the town meeting. Highways are maintained by taxes levied on real and personal property, and by a poll-tax of two dollars, exacted from every able-bodied citizen between the ages of twenty-one and fifty. It may be paid in money or in labour under the direction of the commissioners. One of the commissioners is constituted treasurer, and he receives and pays out all road moneys.

"The supervisor acts as overseer of the poor. The law leaves it to be determined by the people of a county whether the separate towns or the county at large shall assume the care of paupers. When the town has the matter in charge, the overseer generally provides for the indigent by a system of out-door relief. If the county supports the poor, the county board is authorized to establish a poor-house and farm for the permanent care of the destitute, and temporary relief is afforded by the overseers in their respective towns, at the county's expense.

"The board of town auditors, composed of the supervisor, the clerk, and the justices, examine all accounts of the supervisor, overseer of poor, and highway commissioners; pass upon all claims and charges against the town, and audit all bills for compensation presented by town officers. The accounts thus audited are kept on file by the clerk for public inspection, and are reported at the next town meeting. The supervisor, assessor, and clerk constitute a Board of Health. The clerk records their doings, and reports them at the meetings of the town.

"No stated salaries are paid to town officers. They are compensated according to a schedule of fixed fees for specific services, or else receive certain *per diem* wages for time actually employed in official duties. The tax-collector's emolument is a percentage.

"For school purposes, the township is made a separate and distinct corporation, with the legal style, 'Trustees of Schools of Township —, Range —,' according to the number by which the township is designated in the Congressional Survey. The school trustees, three in number, are usually elected with the officers of the civil township at town meetings, and hold office for three years. They organize by choosing one of their number president, and by selecting some fourth person for school treasurer, who shall also be, *ex officio*, their secretary. They have authority to divide the township into school districts. It must be remembered that the township is exactly six miles square. It is the custom to divide it into nine districts, two miles square, and to erect a schoolhouse near the centre of each. As the county roads are, in most instances, constructed on the section lines — and therefore run north and south, east and west, at intervals of a mile — the traveller expects to find a schoolhouse at every alternate crossing. The people who live in these sub-districts elect three school directors, who control the school in their neighbourhood. They are obliged to maintain a free school for not less than five nor more than nine months in every year, are empowered to build and furnish schoolhouses, hire teachers and fix their salaries, and determine what studies shall be taught. They may levy taxes on all the taxable property in their district, but are forbidden to exceed a rate of two per cent for educational or three per cent for building purposes. They certify to the township school treasurer the amount they require, and it is collected as hereafter described. This last-named officer holds all school funds belonging to the township, and pays out on the order of the directors of the several districts.

"The township funds for the support of schools arise from three sources. (1) The proceeds of the school lands given by the United States Government, the interest from which alone may be expended. (2) The State annually levies on all property a tax of one-fifth of one per cent, which constitutes a State school fund, and is divided among the counties in the ratio of their school population, and is further distributed among the townships in the same ratio. (3) Any amount needed in addition to these sums is raised by taxation in the districts under authority of the directors.

"All persons between the ages of six and twenty-one years are entitled to free school privileges. Women are eligible to every school office in the State, and are frequently chosen directors. The average Illinois county contains sixteen townships. The county government is established at some place designated by the voters, and called the 'county seat.' The corporate powers of the county are exercised by the county board, which, in counties under township organization, is composed of the several town supervisors, while in other counties it consists of three commissioners elected by the people of the whole county. The board manage all county

property, funds, and business; erect a court-house, jail, poorhouse, and any necessary buildings; levy county taxes, audit all accounts and claims against the county, and, in counties not under township organization, have general oversight of highways and paupers. Even in counties which have given the care of highways to the townships, the county board may appropriate funds to aid in constructing the more important roads and expensive bridges. The treasurer, sheriff,¹ coroner, and surveyor are county functionaries.²

"The county superintendent of schools has oversight of all educational matters, advises town trustees and district directors, and collects complete school statistics, which he reports to the county board, and transmits to the State superintendent of public instruction.

"Every county elects a judge, who has full probate jurisdiction, and appoints administrators and guardians. He also has jurisdiction in civil suits at law, involving not more than \$1000, in such minor criminal cases as are cognizable by a justice of the peace, and may entertain appeals from justices or police courts. The State is divided into thirteen judicial districts, in each of which the people elect three judges, who constitute a circuit court. The tribunal holds two or more sessions annually in each county within the circuit, and is attended at every term by a grand or petit jury. It has a general original jurisdiction, and hears appeals from the county judge and from justices' courts.

"To complete the judicial system of the State there are four appellate courts and one supreme court of last resort. Taxes whether for State, county, or town purposes are computed on the basis of the assessment made by the town assessor, and are collected by the town collector. The assessor views and values all real estate, and requires from all persons a true list of their personal property. The assessor, clerk, and supervisor constitute a town equalizing board, to hear complaints and to adjust and correct the assessment.

"The assessors' books from all the towns then go before the county board, who make such corrections as cause valuations in one town to bear just relation to valuations in the others. The county clerk transmits an abstract of the corrected assessment to the auditor of the State, who places it in the hands of a State board of equalization.

"This board adjusts valuations between counties. All taxes are estimated and collected on this finally corrected assessment. The State authorities, the county board, the town supervisors, the highway commissioners, the township school trustees, and the proper officers of incorporated cities and villages, all certify to the county clerk a statement of the amount they require for their several purposes. The clerk prepares a collection-book for each town explaining therein the sum to be raised for each purpose. Having collected the total amount the collector dis-

¹ The sheriff is the executive officer of the higher courts, with responsibility for the peace of the county. In case of riot he may call out the county militia.

² Ordinary police work, other than judicial, is not a county matter, but left to the township with its constables.

burses to each proper authority its respective quota. In all elections, whether for President of the United States, representatives in Congress, State officers or county officers, the township constitutes an election precinct, and the supervisor, assessor, and collector sit as the election judges.

"The words 'town' and 'township' signify a territorial division of the county, incorporated for purposes of local government. There remains to be mentioned a very numerous class of municipal corporations known in Illinois statutes as 'villages' and 'cities.' A minimum population of three hundred, occupying not more than two square miles in extent, may by popular vote become incorporated as a 'village,' under provisions of the general law. Six village trustees are chosen, and they make one of their number president, thereby conferring on him the general duties of a mayor. At their discretion the trustees appoint a clerk, a treasurer, a street commissioner, a village constable, and other officers as they deem necessary. The people may elect a police magistrate, whose jurisdiction is equal to that of a justice of the peace."¹

A similar picture of the town meeting in Michigan is given by another recent authority:—

"The first Monday in April of each year every citizen of the United States twenty-one years of age and upwards who has resided in the State six months, and in the township the ten days preceding, has the right of attending and participating in the meeting. The supervisor, the chief executive officer of the township, presides. He and the justice of the peace whose term of office soonest expires, and the township clerk, constitute the inspectors of election. After the choice of officers for the ensuing year the electors proceed from twelve to one, or three, as the case may require, to the discussion of town business. Complaint is perhaps made that the cattle in a certain part of the township are doing damage by running at large, a bye-law is passed forbidding the same under penalty not exceeding ten dollars.

"A bridge may be wanted in another part of the township, but the inhabitants of that road district cannot bear the expense; the town meeting votes the necessary amount not exceeding the limits of law, for the laws restricting the amount of taxation and indebtedness are very particular in their provisions.

"The electors may regulate the keeping and sale of gunpowder, the licensing of dogs and the maintenance of hospitals, and may order the vaccination of all inhabitants. The voters in town meeting are also to decide how much of the one-mil tax on every dollar of the valuation shall be applied to the purchase of books for the township library, the residue going to schools.

"The annual reports of the various township officers charged with the

¹ "Local Government in Illinois," by Albert Shaw, LL.D., in *J. H. U. Studies*, Baltimore, 1883.

disbursement of public moneys are also submitted at this time. In short, whatever is local in character and affecting the township only is subject to the control of the people assembled in town meeting.

"Yet we may notice some minor differences between the New England town meeting and its sister in Michigan. In the latter the bye-laws and regulations are less varied in character.

"This is due to the fact that in the West that part of the township where the inhabitants are most numerous, the village, and for whose regulation many laws are necessary, is set off as an incorporated village, just as in nearly all the central and western States. These villages have the privilege, either directly in village meeting or more often through a council of five or more trustees, of managing their own local affairs; their police, fire department, streets and waterworks. In some States, however, they are considered parts of the township, and as such vote in town meeting on all questions touching township roads, bridges, the poor and schools."¹

The conspicuous feature of this system is the reappearance of the New England Town meeting, though in a somewhat less primitive and at the same time less perfect form, because the township of the West is a more artificial organism than the rural Town of Massachusetts or Rhode Island, where, until lately, everybody was of English blood, everybody knew everybody else, everybody was educated not only in book learning, but in the traditions of self-government. However, such as it is, the Illinois and Michigan system is spreading. Recent legislation in California, Nebraska, and other western States permits its adoption. It is already established in the two Dakotas, and seems destined to prevail over the whole North-West.²

In proportion to the extent in which a State has adopted the township system the county has tended to decline in importance. It is nevertheless of more consequence in the West than in New England. It has frequently an educational official who inspects the schools, and it raises a tax for aiding schools in the poorer townships. It has duties, which are

¹ "Local Government in Michigan," by E. W. Bemis, in *J. H. U. Studies*, Baltimore, 1883.

² In Switzerland the rural Gemeinde or Commune is the basis of the whole self-governing system of the Canton. It has charge of the police, the poor, and schools, and owns lands. It has a primary assembly, meeting several times a year, which discusses communal business and elects an administrative council. It resembles in these respects an American Town or Township, but is subject for some purposes to the jurisdiction of an official called the Statthalter, appointed by the Canton for a district comprising a number of communes.

naturally more important in a new than in an old State, of laying out main roads and erecting bridges and other public works. And sometimes it has the oversight of township expenditure.¹ The board of county commissioners consists in Michigan and Illinois of the supervisors of all the townships within the county; in Wisconsin and Minnesota the commissioners are directly chosen at a county election.

I pass to the mixed or compromise system as it appears in the other group of States, of which Pennsylvania, Ohio, Indiana, and Iowa may be taken as samples. In these States we find no Town meeting. Their township may have greater or less power, but its members do not come together in a primary assembly; it elects its local officers, and acts only through and by them. In Ohio there are three township trustees with the entire charge of local affairs, a clerk and a treasurer. In Pennsylvania the township is governed by two or three supervisors, elected for three years, one each year, together with an assessor (for valuation purposes), a town clerk, three auditors, six school directors, elected for three years, two each year; and (where the poor are a township charge) two overseers of the poor. The supervisors may lay a rate on the township not exceeding one per cent on the valuation of the property within its limits for the repair of roads, highways, and bridges, and the overseers of the poor may, with the consent of two justices,² levy a similar tax for the poor. But as the poor are usually a county charge, and as any ratepayer may work out his road tax in labour, township rates amount to very little.

¹ Mr. Bemis says: — "Inasmuch as many of the thousand or more townships of a State lack the political education and conservatism necessary for perfect self-control, since also many through lack of means cannot raise sufficient money for roads, bridges, schools, and the poor, a higher authority is needed, with the power of equalizing the valuation of several contiguous towns, of taxing the whole number for the benefit of the poorer, and of exercising a general oversight over township expenses. . . . All educators earnestly advocate county and State control of schools, that there may be uniformity of methods, and that the country districts, the nurseries of our great men in the past, may not degenerate. But two influences oppose: the fear of centralization on the part of the small towns which need it most, and the dislike of the rich cities to tax themselves for the country districts." — "Local Government in Michigan," *ut supra*, p. 18.

² Justices are elected by the people for five years, and commissioned by the governor of the State.

"In Iowa," says Mr. Macy, "the civil township, which is usually six miles square, is a local government for holding elections, repairing roads, testing property, giving relief to the poor, and other business of local interest. Its officers are three trustees, one clerk, a road supervisor for each road district, one assessor, two or more justices of the peace, and two or more constables. The justices and constables are in a sense county officers. Yet they are elected by townships, and if they remove from the township in which they are chosen, they cease to be officers. The trustees are chosen for three years, but their terms of office are so arranged that one is chosen each year. The other officers are chosen for two years. If there is within the limits of the township an incorporated town or city, the law requires that at least one of the justices shall live within the town or city. The voters within the town or city choose a separate assessor. The voters of the city are not allowed to vote for road supervisors nor for the township assessor; they vote for all other township officers. . . ."

"The trustees of the township have various duties in the administration of the poor laws. An able-bodied person applying for aid may be required to work upon the streets or highways. If a person who has acquired a legal settlement in the county, and who has no near relatives able to support him, applies to the trustees for aid, it is their duty to look into the case and furnish or refuse relief. If they decide to furnish it, they may do so by sending the person to the county poorhouse, or by giving him what they think needful in food, clothing, medical attendance, or money. If they refuse aid the applicant may go to the county supervisors, and they may order the trustees to furnish aid; or if the supervisors think the trustees are giving aid unwisely they may order them to withhold it. In all cases where aid is furnished directly by the trustees to the applicant they are required to send a statement of the expense incurred to the auditor of the county, who presents the bills to the board of supervisors. All bills for the relief of the poor are paid by the county, and the supervisors if they choose may take the entire business out of the hands of the trustees. But in counties where no poorhouse is provided, and where the supervisors make no provision for the poor, the trustees are required to take entire charge of the business. Yet in any case the county must meet the expenses. The trustees are the health officers of the township. They may require persons to be vaccinated; they may require the removal of filth injurious to health; they may adopt bye-laws for preserving the health of the community and enforce them by fine and imprisonment."¹

In most of these States the county overshadows the township. Taking Pennsylvania as an example, we find each county governed by a board of three commissioners, elected for three years, upon a minority vote system, the elector being

¹ *A Government Text-Book for Iowa Schools*, pp. 21-23.

allowed to vote for two candidates only. Besides these there are officers, also chosen by popular vote for three years, viz. a sheriff, coroner, prothonotary, registrar of wills, recorder of deeds, treasurer, surveyor, three auditors, clerk of the court, district attorney. Some of these officers are paid by fees, except in counties whose population exceeds 50,000, where salaries are usually provided. A county with at least 40,000 inhabitants is a judicial district, and elects its judge for a term of ten years. No new county is to contain less than 400 square miles or 20,000 inhabitants.¹ The county, besides its judicial business and the management of the prisons incident thereto, besides its duties as respects highways and bridges, has educational and usually also poor-law functions; and it levies its county tax and the State taxes through a collector for each township whom it and not the township appoints. It audits the accounts of townships, and has other rights of control over these minor communities exceeding those allowed by Michigan or Illinois. I must not omit to remark that where any local area is not governed by a primary assembly of all its citizens, as in those States where there is no Town meeting, and in all States in respect to counties, a method is frequently provided for taking the judgment of the citizens of the local area, be it township or county, by popular vote at the polls upon a specific question, usually the borrowing of money or the levying of a rate beyond the regular amount. This is an extension to local divisions of the so-called "plebiscitary" or *referendum* method, whose application to State legislation has been discussed in a preceding chapter.² It seems to work well, for by providing an exceptional method of meeting exceptional cases, it enables the ordinary powers of executive officials, whether in township or county, to be kept within narrow limits.

Want of space has compelled me to omit from this sketch many details which might interest European students of local government, nor can I attempt to indicate the relations of the rural areas, townships and counties, to the incorporated villages

¹ See Constitution of Pennsylvania of 1873, Arts. xiv. xiii. and v. The average population of a county in Pennsylvania was, in 1890, 78,000. There are sixty-seven.

² As the primary meeting is in England dying out in the form of the parish vestry, so the plebiscitary method seems to be coming in to meet the now more democratic conditions of the country. See Chapter XXXIX. *ante*.

and cities which lie within their compass further than by observing that cities, even the smaller ones, are usually separated from the townships, that is to say, the township government is superseded by the city government, while cities of all grades remain members of the counties, bear their share in county taxation, and join in county elections. Often, however, the constitution of a State contains special provisions to meet the case of a city so large as practically to overshadow or absorb the county, as Chicago does the county of Cook, and Cincinnati the county of Hamilton, and sometimes the city is made a county by itself. Of these villages and other minor municipalities there are various forms in different States. Ohio, for instance, divides her municipal corporations into (a) cities, of which there are two classes, the first class containing three grades, the second class four grades; (b) villages, also with two classes, the first of from 3000 to 5000 inhabitants, the second of from 200 to 3000; and (c) hamlets, incorporated places with less than 200 inhabitants.¹ The principles which govern these organizations are generally the same; the details are infinite, and incapable of being summarized here. Of minor incorporated bodies therefore I say no more. But the larger cities furnish a wide and instructive field of inquiry; and to them three chapters must be devoted.

¹ *Ohio Voters' Manual*, Appendix K. Ohio contained in 1888: Cities—1 first class, first grade, 1 first class, second grade, 1 first class, third grade, 2 second class, first grade, 1 second class, second grade, 9 second class, third grade, 23 second class, fourth grade; Villages—34 first class, 395 second class; Hamlets—32, besides 785 unincorporate places or towns.

CHAPTER XLIX

OBSERVATIONS ON LOCAL GOVERNMENT

It may serve to clear up a necessarily intricate description if I add here a few general remarks applicable to all, or nearly all, of the various systems of local government that prevail in the several States of the Union.

I. Following American authorities, I have treated the New England type or system as a distinct one, and referred the North-western States to the mixed type. But the European reader may perhaps figure the three systems most vividly to his mind if he will divide the Union into three zones—Northern, Middle, and Southern. In the northern, which, beginning at the Bay of Fundy, stretches west to Puget Sound, he will find a primary assembly, the Town or township meeting, in preponderant activity as the unit of local government. In the middle zone, stretching from New York to California, inclusive, along the fortieth parallel of latitude, he will find the township dividing with the county the interests and energy of the people. In some States of this zone the county is the more important organism and dwarfs the township; in some the township seems to be gaining on the county; but all are alike in this, that you cannot lose sight for a moment of either the smaller or the larger area, and that both areas are governed by elected executive officers. The third zone includes all the southern States; in which the county is the predominant organism, though here and there school districts and even townships are growing in significance.

II. Both county and township are, like nearly everything else in America, English institutions which have suffered a sea change. "The Southern county is an attenuated English shire with the towns left out."¹ The Northern township is an

¹ Professor Macy, "Our Government," an admirable elementary sketch for school use of the structure and functions of the Federal and State governments.