THE ENGLISH LOCAL GOVERNMENT BILL.

IN an article in a previous number of the POLITICAL SCIENCE QUARTERLY,[1] I endeavored to describe the condition of English local government at the present time. It was shown that the existing system, if system it can be called, is based on no general principle, but has grown up gradually, new authorities having been created to supply new wants with little attempt at symmetry of form or harmony of action. The gradual growth of these various authorities has brought with it a confusion of areas which makes the work of government extremely difficult and at the same time adds greatly to its expense. There has been hardly any attempt to make the areas of government coincide, or to make the smaller areas integral parts of the larger. Parishes are often in two counties, and a part of a municipality often lies in one poor-law union, a part in another. For nearly every purpose of administration, as the commissioners of the census pointed out in 1871, the country is divided up differently, no public authority paying much regard, in districting the country, to the divisions formed by the other authorities. The county of Bedfordshire may be taken as an example. With an area of 97,000 acres and a population of 41,000 souls, it

has one court of quarter sessions, and is divided into nine hundreds, seven petty sessional divisions, and eight lieutenancy sub-divisions. The police divisions, with two exceptions, coincide with the petty sessional divisions. The county contains three municipal boroughs; three urban sanitary districts; six rural sanitary districts, some of which stretch into adjoining counties; six highway districts, two of which stretch into adjoining counties; six burial board districts; four lighting and watching districts; 45 school districts, four of which run into adjoining counties; six unions, some of which overstep the county borders; 134 entire poor law parishes, and portions of three more. All these divisions overlap and interlace.[2]

[1] December, 1887; vol. ii, p. 638.

[2] M. D. Chalmers, Local Government, p. 19.

Not even is the same parish always contained within unbroken boundaries. In 1873 there were in one county more than seventy divided parishes, while one parish alone had ten outlying portions. That this irregular form of the parish is quite common is seen from the fact that in the entire country, at the same date, there were as many as 1300 divided parishes. Further, the same classes of areas are not by any means the same in extent or population. Thus the county of Rutland had 95,000 acres and 21,000 inhabitants, while that of Yorkshire contained nearly 4,000,000 acres and nearly 3,000,000 inhabitants. Some of the larger counties, however, are divided up into "ridings" and "liberties" which, for many administrative purposes, serve as counties. The same discrepancy in size and population is found in the unions and the parishes.

Almost every one of these areas, so irregularly formed, has its own authority, with duties to perform affecting usually only one branch of the administration, though the attempt has of late been made to consolidate several of the most important functions of administration in the hands of the authority of the union, *viz.* the board of guardians. The result, in the words of Mr. R. S. Wright, is that

> the inhabitant of a rural parish lives in a parish, in a union, in a county, and probably in a highway district. He is or may be governed by a vestry, a school board, a burial board, a highway board, the guardians, and the justices. There are a multitude of minor matters in respect of which the districts, authorities, and rates are or may be additionally multiplied and complicated in all the above cases.[1]

Nearly every one of these authorities has the power of levying taxes, and very often each has its own machinery for the collection of taxes. Mr. Goschen, in one of his speeches, said that he "received in one year 87 demand notes on an aggregate valuation of about £1100. One parish alone sent me," he says, "eight rate papers for an aggregate amount of 12*s.* 4*d.*"[2]

The system of areas and authorities has become simply a

[1] Wright's Memorandum, no. i, p. 33; cited in Chalmers' Local Government, p. 21.

[2] Local Government and Taxation in the United Kingdom (1882), p. 127.

chaos — "a chaos," in the words of Mr. Goschen again, "as regards authorities, a chaos as regards rates, and a worse chaos as regards areas." It is no wonder that local government reform is ardently desired. Were nothing else sought than an orderly administration, great changes would have to be made. But it is doubtful if a simple lack of theoretical symmetry would be sufficient to overcome the conservatism of the English, however desirable the reform might seem to outsiders. The present institutions are said by their defenders to be not so bad in actual practice as they appear to be. They work with tolerable efficiency and the people are accustomed to them. It is for these reasons that England has put up so long with a method of local government that leaves so much to be desired.

But since 1832 the political condition of the country has been greatly modified. The balance of political power in Parliament has been taken out of the hands of the nobility and gentry and transferred, by gradual steps, to a constantly widening constituency. The power which the people have obtained over Imperial affairs they desire to exercise also over local matters, and this they cannot do under the present distribution of powers. The existing system is really dual: it combines the "county" and the "board" system. In the county system the chief authorities are the justices of the peace, who are still appointed by the government at London from among the most prominent men of the county. These officers, in the court of quarter sessions, form the deliberative and, so to speak, the legislative authority of the county, vote the county taxes and, acting singly or in petty or special sessions, perform a series of judicial and administrative duties. Before 1834 their duties were even more extensive than at present; in fact they were practically the only responsible officers in the rural districts. But the success of the Reform bill and the desire already evinced by the people to control local as well as Imperial matters led to the passage of the Poor Law Amendment act of 1834. This gave much of the control of the financial matters connected with the administration of the poor law into the hands of popular, elected representatives, who since that time

have been entrusted also with the care of sanitary matters, school matters and, in many cases, highway matters. These elected representatives, together with the justices of the peace as *ex officio* members, are organized as boards, and in these boards we have the second element of the present English system of local government. The elected members of these boards are not chosen by universal suffrage, but by the ratepayers, *i.e.* the occupiers and the owners of real property. The method of plural voting prevails very generally — one vote for each ratal up to £50, two for £50, and one more for every additional £50 up to £250. As the same person may vote as occupier and as owner, one person may easily have as many as twelve votes. The owners of the larger estates have thus a double advantage over the smaller ratepayers. In choosing the elected members of the boards they have an influence wholly out of proportion to their numbers; and in the *ex officio* membership of the justices, who belong to their class, they have direct class representation besides. Under the law of 1834, accordingly, the landed gentry still exercise great influence in local matters — a far greater influence than in Imperial affairs. This is one of the reasons why a change in the present system is so constantly and so vehemently demanded.

A second reason for this demand is the centralization of authority in the existing system. At the same time that the local government has become partly representative, the whole administration of local affairs has fallen more or less under a central control. In several important matters, such as the administration of the police force, the wishes of the county authority have to bow to the will of the authorities at London, while the various boards can hardly move at all without central approval. This almost complete destruction of the local autonomy of which England was in former times so proud is bitterly deprecated by some of her best men, and is undoubtedly exercising a great influence in bringing about the change which from present indications seems bound to come.

What now are the points to which special attention will have to be directed when this change is made? They are:

I. The readjustment of areas.
II. The reorganization and concentration of authorities.
III. The relaxation of the central control.
IV. The reform of local taxation.
V. The position of the municipalities.

I. *The Readjustment of Areas.* It must be decided what areas of the many now existing shall constitute the territorial bases of the new system. Regard must be had in such choice to the comparative vitality of existing institutions. "The very first rule which a statesman would set before himself in attempting so difficult a task would be the rule against destroying any institution which has real life."[1] If this rule be kept in mind, it would seem advisable to retain the county as the largest provincial area. County institutions, notwithstanding their unrepresentative character, have a real life by virtue of their historical associations and their actual condition. Of course county boundaries should be considerably modified. Where any county has outlying portions, these ought to be annexed to the counties to which they naturally belong, and the frontier line should be revised in accordance with natural conditions. It would also seem necessary to divide the largest counties or to adopt, for most administrative purposes, their present divisions of ridings and liberties as separate counties. The average size of a county at present may be represented by a square of thirty-three miles or a circle of eighteen miles radius; so that, as far as size is concerned, the counties or their present divisions seem well fitted to be the largest provincial areas.

The union also should be retained. For, notwithstanding the fact that it has no historical tradition in its favor, dating as it does only from 1834, it has still a real administrative life, and its abolition would be extremely difficult on account of its property interests and the administrative institutions connected with it. But if it be retained, it can be made use of only as an area intermediate between the county and the smallest divisions; for its size (the average union being represented by a square of

[1] Local Government and Taxation (1875), p. 73.

nearly ten miles or a circle of five and a half miles radius) makes it at the same time too large to be chosen as the smallest division and too small for the proper performance of all county duties. Further, if retained, it should be made to form an entire part of one county and not be allowed, as is the case at present, to spread over two or more counties and bring confusion into the system.

The selection of the smallest area offers greater difficulties. So far as the rural districts are concerned, the choice lies between the rural sanitary district and the parish. The latter has historical tradition in its favor, but the former exhibits the greater administrative life. Except as a school district, the parish has little life, and as a school district it is now separately organized. As a parish, it is actually little more than an area for the purposes of elections and taxation. But whichever of these two divisions be chosen, it should be charged with all the purely local services. If the parish be chosen, its boundaries should be so readjusted that each parish would form an entire part of the county, and it should have charge of the less important highways and of the sanitary administration. If it be decided to adopt the sanitary district, to it should be given the care of the schools, of the highways and of the various minor services attended to by the parish; and all other divisions should be abolished. The urban areas would not need to undergo great change. They should be made component parts of the union and of the county; and the parish organizations existing within their limits should form simple municipal wards, deprived of all administrative functions.

These changes, it seems to me, must unquestionably precede and furnish the basis for a thorough-going reform. Similar changes had to be made both in France and in Prussia when their local government systems were reorganized to suit modern conditions.

Until the introduction of the Local Government bill, now before Parliament, none of the plans proposed attempted to make any radical change in existing areas. They all preserved the county in its present condition, form, and size, and most of them

at the same time retained the union without attempting to have it form an entire part of one county. None of them attempted to simplify the system either by abolishing superfluous areas or by combining the smaller divisions into larger districts. As regards areas, the *status quo* was in every case preserved. The present bill, which was brought into Parliament the middle of last March, is hardly more satisfactory in its treatment of this problem. As the London *Times* says, in its issue of March 20, "the government have approached this question tentatively and tenderly." As the future provincial area, in the first place, they have taken the county as it stands, making no attempt to equalize the dimensions of the different counties. Some attempt, it is true, has been made to straighten boundaries: it is provided that towns and urban districts lying in two or more counties shall hereafter belong to that county in which the majority of their population reside, while rural sanitary districts shall, if necessary, be so divided as hereafter to fall wholly within county lines. Whether those portions of the old districts which have been separated in order to make the districts conform to county lines shall be joined to districts already existing within the county, or be made independent districts, is to be decided by the new county authority. The other areas, *i.e.* the unions and the parishes with their school administration, are to be left in their present condition. The bill provides, however, for the change of parish boundaries by the new county authority in conjunction with the Local Government board at London; so that it will be possible to make the parishes, and consequently the unions, which are composed of a given number of parishes, compact areas and at the same time component parts of the counties.

It cannot be said that this is an altogether satisfactory solution of the question. England will have, as before, the county, the union, the petty sessional division, the urban and the rural sanitary district, and the parish. All that is gained is that each sanitary district will form part of a single county. The union may still extend, in many cases, over the boundaries of the county, and the parish may continue to intersect the boundaries of both county and sanitary districts. The measures proposed

by the bill are steps in the right direction, but it may well be questioned whether they are sufficient. Until the union and the parish are brought into line, England will lack that territorial symmetry and simplicity, without which as a basis good government is so difficult. The permission to alter boundary lines, which the new bill gives to the new county authority, should be changed into a command. It has already been ascertained in England, by repeated experience, that permissions to change boundaries are so sparingly used as to result in little improvement.

II. *Reorganization and Concentration of Authorities.* All the work of the county should remain, as at present, in the hands of the county authority. County work might logically be made to include the care of the poor, but it would probably be unwise to abolish the union with its authorities. All work of more local character, however, should be given to the authorities of the smallest rural divisions and of the municipalities. All other authorities should be abolished. The care of sanitary matters might be taken from the guardians, in whose hands it is at present, and given to the authorities of the smallest rural divisions, as in this country. Further, the authorities in the smallest rural division, whether this division be sanitary district or parish, should be fewer in number and should receive a more concentrated organization. A plan of this sort was worked out by Mr. Goschen in his Rating and Local Government bill of 1871. He proposed the formation in each parish (the parish being chosen as the smallest rural division) of a parochial board, which should have the powers now exercised by the overseers of the poor, the inspectors of lighting, the highway surveyors and the nuisance authorities. The chairman of the board, elected in the same way as the other members, was to be practically the mayor of the parish. Mr. Goschen might have gone further. Such a board should also act as the school authority, where a school authority is required, and as the board of health. By a scheme of this sort, the entire local administration in the smallest localities would be concentrated in the same hands. Each locality would have a distinct budget of its own, in place

of the separate budgets of each of the present separate and independent authorities, and some sort of order would be introduced into the parish administration.

The organization of these county, union and parish authorities is a matter of the greatest importance. It is here that the greatest change from the present system will have to be made if the demand for local representation in all local matters is complied with. At the present time, as has already been shown, it is the justices who wield the greatest power of any of the local officers. So far, most of the reform propositions evince great reluctance to deprive them of this power. Notwithstanding their unrepresentative character, the justices themselves are not unpopular. Of the present county system, it has been said, and truly, that it is "doubtful if in many counties it is possible to attain, consistently with efficiency, very much more economy than is at present exercised in the administration of the county rate."[1] And again:

> Few will deny that more intelligence and public spirit is to be found in the county magistracy, whether assembled at quarter sessions or acting *ex officio* on various mixed boards, than is manifested by the elective delegates of the parishes.[2]

On this account most of the bills so far brought into Parliament have made provision for the retention of a certain number of magistrates on the proposed county board. But in view of the desire of the English people to exercise a direct control over their local affairs, it is doubtful if any bill will be satisfactory which does not take away from the justices most of their administrative powers and transfer these powers to the board or boards composed altogether of popular representatives.[3]

Such a transfer is the logical sequel of the Municipal Corporations act of 1835 and of the Reform bills which have changed the balance of power in Parliament; it accords, in principle, with the

[1] Local Government and Taxation in the United Kingdom (1882), p. 89.

[2] *Ibid.* p. 67.

[3] Such a change would not by any means involve the abolition of the office of justice of the peace, for these officers exercise judicial as well as administrative functions.

reforms which have been accomplished on the continent; it is in line with the political trend of the century. The administrative duties now discharged by the justices could be transferred with little change to the new authorities. The new representative county authority would have charge of the finances of the county, of lunatic asylums, of certain highways and bridges, and of the county police; while licenses might be attended to by the county, parish and urban authorities in somewhat the same way in which they are now attended to by the quarter and petty and special sessions.

If the local boards, to which the administrative functions now discharged by the justices are to be transferred, are to be elected, as is proposed, it will be necessary to decide what shall be the property qualifications of their members and electors. At the present time only ratepayers vote, but plural voting gives the larger ratepayers a disproportionate influence in local administration. Most of the reform plans have adopted the present system of voting, and have demanded from the candidates for election to the county board a higher property qualification even than is at present demanded of the guardians. But if the reform is to accord with the demands of the people, plural voting must be abolished, and the property qualification for membership in the local boards must certainly not be greater than is now required in the case of the guardians of the poor. The qualification for elector may, perhaps, remain unchanged for the present, although the adoption of universal suffrage seems only a question of time.

The adoption of the election system will necessarily raise the further questions: — (1) What area within the county is to elect the representatives on the county board? The plans which have been proposed previous to this year have put forward as the election district the union, the petty sessional division, the parish, and a ward to be formed out of a combination of several parishes. None of these areas, with the exception of the petty sessional division, is co-terminous with the county, and therefore none, with this exception, could with propriety be taken as the election district. But the choice of the petty sessional

division would introduce into the problem of areas an entirely new element, and make it even more complicated than before. (2) What shall be the method of election? All previous reform plans have sought to introduce the principle of indirect election, the guardians of the poor being ordinarily selected as the intermediate body. The introduction of indirect election seems to me unwise, because it is foreign to the English law, and because it has not worked as well as was anticipated here in America; but, if it is to be introduced, there is still a grave objection to making the guardians electors. The guardians of the poor are elected in the parishes without any reference to county matters, and it does not seem wise to give officers chosen for other than county purposes the power to choose the representatives of the localities on the county board.

The new bill treats most of the questions here outlined in a very satisfactory manner. It provides for a fairly complete separation of judicial and administrative affairs; it provides for representative authorities; the qualifications for elector and for eligibility are the same as in the municipal boroughs (payment of rates and residence within the borough, or in place of residence a larger than the usual ratal); plural voting is abolished; the election district is to be a portion of the county, designated for this special purpose in accordance with the population; and the election of the county authority or "council," as it is called, is to be direct. At least the greater part of the county council is to be constituted by direct election, one county councillor being chosen in each election district. But in addition to the elected councillors, the council is to contain a number of "selected members," equal to one quarter of the whole number of the county councillors. These are to be chosen by the elected councillors from among the ratepayers. They are to serve twice as long as the elected councillors, *viz.* for the term of six years, one half of their number being renewed every three years. Finally, each council is to have a chairman, who is *ex officio* a magistrate. The whole plan of organization of this new authority is evidently copied from the Municipal Corporations act of 1835,[1] which formed a town coun-

[1] Re-enacted, with its amendments, in 1882.

cil on about the same lines as those laid down in the bill under consideration; and the recognized success of that act has undoubtedly had great weight with the framers of the new bill.

An examination of the duties assigned to the new county authority shows that England, if this bill becomes a law, will take a long step in the track already trodden by the countries of the continent. The bill provides for an almost complete separation of administrative from judicial functions. The judicial functions of the justices of the peace are left practically unchanged; but almost all their numerous administrative duties are henceforward to be performed by the new authorities, chief among which is the county council. The bill provides that this new body shall attend to the levying of the county rate and the financial administration of the county; shall maintain the county roads and bridges, the lunatic asylums and industrial and reformatory schools; shall execute the laws relative to the registration of vital statistics, weights and measures, and the adulteration of foods and drugs, *etc.* — in a word, shall discharge almost all the administrative duties which are now attended to by the justices of the peace in quarter sessions. The bill also proposes a considerable decentralization in certain branches of administration, in that it throws on the county councils the decision of various matters now regulated by the provisional orders of the Local Government board at London, and asks that discretion be given to the executive to devolve upon these same county councils, by means of orders in Council, all administrative duties relating to the localities now performed either by the Privy Council or by some one of the various executive departments of the government. Finally, the county councils are to have large powers in the settlement of the boundaries of the new county district.

Notwithstanding these great changes, the bill does not see fit to transfer to the new county councils all the administrative powers at present possessed by the justices of the peace. On the contrary, it proposes to apportion between the new authorities and the justices certain powers which, according to the view taken by the present government, partake at the same

time of a judicial and of an administrative character. Thus the general direction of the police force of the county is to be given to a joint committee of the county council and the quarter sessions, while the chief constable of the county is still to be appointed, controlled and dismissed by the quarter sessions. The granting of licenses for the sale of liquor is treated in very much the same way. The county council is to divide the county into licensing divisions, in each of which there is to be a licensing committee of not less than six elected representatives of the county council and of a number of "selected members" equal, at least, to a third of the whole committee. These licensing committees and the justices of the peace are to share the determination of all license questions: questions of policy and expediency falling within the competence of the committees, while questions of law, such as legal incapacity to receive a license or forfeiture of a license, are to be decided by the justices. From the decision of the committee, refusing to renew a license, appeal may be taken to the county council, which must, however, confirm the action of the committee unless it is satisfied that the license, for some special reason, ought to be renewed. In the case of a refusal to renew a license granted before the passage of this act, compensation must be paid to the former licensee. Finally, the question of Sunday (holiday) closing is put under the control of the county council for the whole of the county or any portion thereof.

In addition to the county council, the bill provides for district councils. The district councillors are to be elected in the same way and by the same electors as the county council, *i.e.* by the ratepayers of each district, each ratepayer having one and but one vote. The councils are to preside over the affairs of the districts of which the county will be composed after existing sanitary districts shall have been modified as proposed by the bill. They are to take the place of all the various local boards at present existing under different names in the local government districts, with the exception of the town councils in the municipal boroughs, which are to retain their own peculiar organization. In the rural districts the duties of these boards are

mainly sanitary; in the urban they are a little more extensive, including such municipal matters as the care and improvement of the streets and the beautifying of the town. In all the districts almost all the duties of the parishes, except those relating to the public schools, are transferred to the new district council, so that except as school district the parish in future will be little more than an area for elections and taxation.

It will be seen, from this brief sketch of the authorities to be created, that the present bill does not sufficiently concentrate the local powers. The poor authorities and the school authorities will remain practically intact. The substitution of the new district council as sanitary authority in the rural sanitary districts is simply the addition of another authority to the list of those now in existence, since the sanitary administration of the rural districts is at present in the hands of the guardians of the poor. If the bill becomes law the number of authorities will not be materially lessened. The number of rates to be collected will remain about the same, and it will be little easier to make up a budget of all the expenses of a given section of the county. The bill does not sufficiently simplify areas nor does it sufficiently concentrate local powers. The great change it makes is this: the county government is made more representative and the relative power of the smaller ratepayers in the local elections is increased. But this is precisely what the English people want. Their conscious grievance is not the unsymmetrical and confused character of the present system, but the unrepresentative character of their local government.

III. *The Relaxation of the Central Control.* Over the county administration little central control is exercised. What there is is confined to the police and to pauper lunatic asylums; and here the central control is justified by the fact that the Imperial exchequer contributes half of the expense if, on inspection, it is found that the provisions of the law have been complied with. In the board system, however, the central control is very extensive, embracing the subordinate personnel of the service as well as the finances and the general administration of all the services attended to by the various local boards. The existence of so

strong a control is one of the objections offered to the present system of local government, and yet it will be very difficult to dispense with it, or even to relax it sensibly, and at the same time preserve that administrative uniformity and efficiency which its formation was intended to secure. It has sprung, as has been said, "from a popular eagerness to employ the powerful machinery of central legislation and administration to compass some end which is ardently desired"; and these ends, it may be added, cannot safely be assumed to have been yet attained. The central control cannot well be lessened "until the more backward parts of the country have placed themselves on a level with the more advanced; and the example of municipal corporations shows how little self-reform can be trusted, and how much self-government may gain by Imperial intervention."[1]

The authors of the new bill recognize the difficulties of making any great change and therefore approach this subject of the central control with great caution. Changes are nevertheless proposed in two directions. (1) The control at present existing is largely decentralized. In many matters its exercise is taken from the central authorities and transferred to the county authorities. That is, many supervisory powers over the localities, especially the urban localities not boroughs, which are now exercised by the Local Government board at London, are given absolutely to the new county councils; and provision is made for the transfer to these same county councils, by orders in Council, in case there is no opposition on the part of Parliament, of all the administrative powers over the localities now exercised by the Privy Council or by the central executive departments. The Home secretary, however, is to retain a sensible control over the county police. (2) In certain matters the present central control is to be extended over authorities which are not now subject to it. The county authority, for example, is not to borrow money in future without the consent of the Local Government board at London; the officers of this board are to audit the accounts of county officers and of almost all the

[1] Local Government and Taxation (1875), p. 69.

other local officers; and the district councils are left under the same restrictions as at present. The result of these changes will be to subject all parts of the country to about the same central control, and, at the same time, to decentralize in many directions the control at present exercised.

Further, the bill proposes to discontinue the "grants in aid" on which a large part of the present control over the county administration is based. These amount at the present time to about £2,600,000. At the same time, the bill proposes to transfer to the counties the fees obtained from a long list of licenses together with "contributions from personalty," as they are called, which are to be obtained from the Imperial probate duties. The amount of money so to be transferred exceeds, however, by about £3,000,000 the customary grants in aid, so that if the new bill is passed the counties will be the gainers by quite a large amount. They will receive the entire product of the licenses, which will continue to be collected by the officers of the internal revenue (for whose work, however, a commission will be charged), and they will also receive a portion of the "contributions from personalty," which are to be distributed among the various localities according to their comparative need.

Nothing is said in the bill about the grants now made by the Imperial government for the purpose of furthering the cause of public education, but since the bill does not attempt a reorganization of the educational system, these will in all probability continue in about the same proportions as at present.

IV. *The Reform of Local Taxation.* This question is one which is indissolubly connected with the question of local expenses. Indeed, all the changes that need to be made would affect local expenses rather than local taxes. The taxes are quite satisfactory at the present time. They are "rates," based on the poor rate and levied on the occupiers of real property. The great objection to the present rates is that there are too many of them. As has been shown, almost every one of the numerous authorities now in existence has the power of levying rates, so that there is a special rate for every local expense. It is felt by many that there should be only one or two rates,

from the proceeds of which the entire expense of the local administration should be defrayed. If this were the case, all that would have to be done in the way of reform would be to distribute the expenses of the different services fairly among the different localities. The mode of distribution would depend upon the number and character of the authorities which were left in existence. If these were the county council, the board of guardians, and the parish or urban authority, the problem would be susceptible of an easy solution. The expenses of the county and those of the union could be apportioned among the parishes and urban localities. If the sanitary district were allowed to remain in existence, its expenses could be apportioned in like manner. If the purely local authorities, *i.e.* those below the union, were consolidated in somewhat the way suggested by Mr. Goschen in 1871, the local rate would then pay the local quotas of the expenses of all the superior districts, such as the county and union and sanitary district (if that were retained), and also the purely local expenses of the locality itself. Of course the apportionment of the county, union and district expenses among the various localities, if made on the basis of valuation, might lead, by reason of variations in the rate of valuation in different parishes, to unfair results. A parish which valued its property at a smaller rate than the other parishes would not pay its fair share of the apportioned expenses of the county union and district. This difficulty has been experienced already with regard to the expenses of the union, some of which are apportioned among the parishes, and has led to the establishment of assessment committees of the guardians to hear and decide appeals from parishes which claim to have been aggrieved in the quota assigned them. Some such plan might be adopted for equalizing the valuations of the smallest divisions in apportioning the expenses of the county, *etc.*,[1] or provision might be made for the assessment of the property in each parish by county assessors. By either of these means it

[1] This is the plan adopted in the United States. The expenses of the county are apportioned among the towns, which raise the money needed by a local tax and pay their quotas to the county. The county authority acts as a board of equalization of the valuations of the different towns in the county.

would be possible to have all the property in the county assessed in accordance with the same rule of valuation. Neither of these plans would completely exclude the possibility, or even the probability, of a variation of valuations in the different parishes, since the members of the county board of equalization, or the county assessors, belonging of course to particular parishes, would be inclined to favor their own parishes at the expense of others. But the only plan that would completely do away with the inequality of which I speak would be the abolition of all apportioned taxes and the introduction of a separate system of taxation, or at least of valuation, for each district in which taxes are to be collected. This would be no improvement upon the present system.

To the authors of the present bill, the problem of local taxation and expenditures seems to have presented difficulties too great to be overcome. No thorough-going reform is attempted. A large number of rates will still be collected, though not so many as are collected now. The expenses of the county and, in part at least, those of the union will still be apportioned among the parishes, and will be paid from the county and poor rates; and the district expenses are to be defrayed as at present, *i.e.* special rates for special expenses will continue to be levied as now on special parts of the districts in addition to the ordinary district rates. The only important change made by the new bill is the partial transfer of the expense of the support of the poor from the union to the county. Each county is hereafter to pay fourpence per day for every in-door pauper supported in the unions of the county.

It can hardly be said that this is a satisfactory solution of the intricate problem of local taxation and expenditure. It must be noted, however, that one important change is proposed in the administration of the local finances, in that both county and county district are to prepare annually local budgets, which shall include all local expenses and receipts except those for schools and for the poor — which, it will be remembered, are attended to by separate authorities. Since most of the duties of the parish are to be transferred to the district councils, the result

will be that for most purposes of the financial administration each locality will have its own budget, which will contain almost all of the expenses of the locality. This will produce a more orderly state of things than can be attained under the existing arrangement.

V. *The Position of the Municipalities.* So long as municipalities exist within the boundaries of the county and union, their relations with the larger districts must be put on a more satisfactory basis. At present, as has been shown, a borough may be in two counties and may form part of two or more unions, or two unions may exist in one borough. Again, the borough may contain several parishes, or parts of parishes, which have their own officers for the purposes for which the parish exists. Further, if there are public board-schools supported by the locality, the school board is an authority separate and distinct from the town council; and even when the borough boundaries coincide with those of a poor-law union, the guardians of the poor form another authority separate from the town council. At the present time, the larger boroughs are compelled to contribute but little to the expenses of the county; but the smaller boroughs are simply parts of the county, like the other districts, and bear to it the same relation as the other districts, except that they often have charge of the borough police force and of the sanitary administration. What is needed in the case of the largest boroughs is their complete exclusion from the county and the union and the grant to them of county and union powers. In such case the town council should also have the charge of the schools. The boroughs would then have an independent and compact local organization. With the smaller boroughs it would not be possible to go so far, though even in the smallest of them it would seem that the care of the schools might be put into the hands of the town council.

As regards the relation of the boroughs to the counties, the new bill proposes greater changes, perhaps, than in any of the matters that have been considered. In the first place, it exempts the ten largest cities in the kingdom (exclusive of the metropolis, which is dealt with separately) from the jurisdiction of the

authorities of the counties in which they are situated and confers upon the municipal authorities all the powers to be exercised in the rural counties by the county councils. These boroughs, however, must still contribute to the expenses of the county for the criminal courts. All other boroughs are to form part of the county in which they are situated, as is now the case, and their relation to the county is almost the same as that of the other urban districts. To this rule one exception is made: those boroughs of over 10,000 inhabitants now having a borough police shall hereafter retain this branch of the administration in their own hands. The police force of those boroughs having less than 10,000 inhabitants, on the other hand, is hereafter to form part of the regular county police, which, it will be remembered, is in charge of the county authorities. As county districts, the boroughs not exempted from the county and the other urban districts will be given a proper representation (according to population) in the county council and will be obliged to contribute their fair share to the county expenses. Finally, every borough with over 50,000 inhabitants is to form a separate licensing division under a licensing committee formed of members of the county council. But if the county councillors for the division do not amount in number to six, the licensing committee is to be recruited by the nomination of additional members of the town council. This licensing committee is to have all the powers of the licensing committees described above.[1]

The bill leaves the relations of the boroughs to the unions and to the parishes unchanged. The result is that the various branches of local administration are but little more concentrated in the borough than in the other localities. In no borough will the town council have charge of the administration of public charity or of the schools. These matters will still be attended to by the guardians and the ordinary school authorities. Further, the existence of parishes within the boroughs will still remain as a source of confusion. It is hard to see why the parish organization should not be abolished in the borough and all local powers put in the hands of the town council.

[1] Page 323.

London, as I have said, is dealt with in a separate part of the bill. It is proposed to make of the metropolis, which lies at present in parts of four counties, a new county — the county of London — with the usual county council as the local authority. This council of the county of London is to take the place of the present metropolitan board of public works and is to attend to most matters of an administrative character affecting the metropolis as a whole. Within this metropolitan area, it would seem, though the bill is not absolutely clear on this point, that the present parishes and united groups of parishes are to form metropolitan county districts with the usual district councils at their head instead of the present vestries and boards. The city of London is to be left in almost its present condition; *i.e.* it will bear about the same relation to the county of London that is borne to the rural counties by boroughs having charge of their own police. The bill proposes, however, to keep the control of the metropolitan police in the hands of the Home secretary, as at present.

Not only are these changes inadequate to bring order into the present chaos of metropolitan institutions, but it seems unwise to burden the Local Government bill with provisions regarding the government of London; and as the provisions regarding the metropolis form an independent part of the bill, it is the opinion of several of the London papers that the government will consent to drop, for the present, its plans concerning London and confine itself to local government reform in the rural counties. This would certainly be a wise course, for the reorganization of the metropolis is a subject of sufficient importance to demand separate treatment.

Such are the points in which reform is most needed in the present system of local government in England, and such are the reforms proposed by the new Local Government bill. Inadequate as these reforms appear from the standpoint of administrative science, which demands greater changes in the direction of simplification of areas and concentration of local powers, it cannot be denied that they remedy that fault in the

present system which the English people find most objectionable — taxation without representation or without sufficient representation. Hence the almost complete absence of opposition to the bill, except as to a few details; and hence the probability that the bill will become law when these details have been satisfactorily modified. But if it does become law, no student of English political institutions can believe that England has taken her last step in local reform; or that the system of government established by this bill will prove as satisfactory to the Englishman of the future as it appears to the Englishman of to-day. On the contrary, the first assault against English tradition having been successful, we may expect further reforms, by which that simplicity of form and ease of action will be obtained which is at present so lacking in England and which is so characteristic of the countries on the continent.

The political effects of the present bill can hardly be overestimated. The great movement for popular control of local affairs which began with the Poor Law Amendment act of 1834 will have attained almost its fullest possible development. The only further step that can be taken is the adoption of universal suffrage in the local elections. When this has been taken, England, with her practically universal suffrage for parliamentary elections, will have placed herself, whether for good or for evil, by the side of the United States and France. The problems which we have had to solve in this country and which France is at present attempting to solve will be forced upon England as well. If they are satisfactorily solved, the operation of the new law will be extended to Scotland and Ireland, and the most legitimate grievance which underlies the home-rule movement in the latter country will cease to exist. The justices of the peace, in all parts of Great Britain, will go the way that has been trodden by almost every aristocratic official class, and the Irish will at last be allowed to take into their own hands the power of which they have so long been deprived. Of course local autonomy is not synonymous with particularistic legislative power, which is the dominant idea of the present home-rule movement. But the management of local affairs will afford those in whose

hands it is placed a vent for their political activity, offer them a means of remedying many existing abuses, and do much to reconcile the Irish people to the present "union" — without which the great British empire would lack that national unity which we have so long been striving to attain in America.

Notwithstanding, therefore, the insufficiency of the administrative reforms proposed by the new bill, its passage will be fraught with political consequences of the greatest importance. The aristocratic government which has so long shaped the destinies of England will disappear almost completely and give place to that government by the people whose progress during the last century has been so universal and appears to be so irresistible; and the particularistic demands of a part of her people will have been satisfied without endangering British unity or checking British political development.

FRANK J. GOODNOW.

TENURE AND POWERS OF THE GERMAN EMPEROR.

PROBABLY there is no subject of public law which stands in greater need of scientific statement to the American public than the tenure and powers of the German Emperor. I do not mean, of course, from the standpoint of practical interest, but of scientific knowledge. It is not an easy topic to treat. The commentaries of von Rönne, Mayer, Zorn, Laband and Schulze make it possible, however, to gain a clear and reasonably complete view of the subject.

The Tenure of the Emperor.

I take, as my point of departure, the proposition that the German *imperium* is not a sovereignty but an office. The sovereignty, according to the most authoritative commentators upon the constitution, is in the Federal Council (*Bundesrath*), not in the Emperor.[1] The Imperial office was created by a conscious and deliberate agreement between the German princes (*i.e.* the monarchs of the twenty-two states), the representatives of the three free cities, and the representatives of the people. It owes its legal existence to a clause in the Imperial constitution, which reads: "The presidency of the Union belongs to the King of Prussia, who bears the name German Emperor."[2] An amendment to the constitution, in the manner prescribed therein for such a case, may therefore deprive the King of Prussia of this office. Article 78 of the constitution provides that amendments to the constitution may be made by agreement of the Federal Council and the Imperial Diet (*Reichstag*), provided less than fourteen of the fifty-eight voices in the Federal Council object to the propositions. In the case of a right expressly reserved by the constitution to a state, the consent of that

[1] Laband, Staatsrecht des deutschen Reiches, I, 197.

[2] Reichsverfassung, Art. 11: "Das Präsidium des Bundes steht dem Könige von Preussen zu, welcher den Namen Deutscher Kaiser führt."