

B. TERRITORIAL LOCAL GOVERNMENT

(1) URBAN LOCAL GOVERNMENT

The period from 1830 to 1840 was one of important constitutional developments in England, not the least of which was the passing of the Municipal Corporations Act of 1835. This Act, which to all intents and purposes marks the beginning of modern municipal government in England, swept away practically the last remnants of medieval municipal organization, and gave the municipalities the charters under which they have developed up to the present. In 1839 Governor Hobson was charged with taking over New Zealand on behalf of the British Crown, because it was evident from the actions of the New Zealand Company that New Zealand would soon become an important colony of British residents. It was therefore natural that in drawing up his instructions the British Government should consider the development of local governing institutions in the new colony. Hobson was therefore instructed, among other things, to provide for local governing bodies with powers similar to those enjoyed by local authorities in England. The wording of his instructions is as follows: "And we do hereby give and grant to the Governor of our said Colony of New Zealand for the time being full authority . . . to issue . . . proclamations dividing our said Colony into districts, counties, hundreds, towns, townships, and parishes." These proposed divisions were the divisions which were in operation in England. For obvious reasons Hobson did not put these instructions into operation. The country was not extensively settled and there were very few organized settlements. It soon became clear, however, that with the distances which separated the settled parts of the Colony some more effective means of local administration would have to be developed. Matters requiring immediate attention, say, in Wellington, had to be referred to Auckland, the seat of the Government, before they could be finally dealt with. This was at times a very lengthy process.

The people themselves were strong supporters of the idea of local self-government. The first band of settlers to leave England for New Zealand under Edward Gibbon Wakefield's scheme of colonization, before leaving, agreed to entrust certain powers of government to a committee of their own members. On 14th September, 1839, a provisional constitution was drawn up in England and actually signed by the immigrants before departure. This group of settlers was bound for Wellington. Their constitution provided among other things, for a president and a committee of twenty-five with taxing powers. This committee, which was known at the Council of Colonists, held its first meeting in the Colony on 2nd March, 1840, at Petone. Although strictly illegal, this was the first real local government in the Dominion. The Council of Colonists, however, had scarcely begun to operate before it came in conflict with Hobson. The Council had endeavoured to exercise some judicial powers, and the aggrieved person had appealed to Governor Hobson. Hobson immediately sent the Colonial Secretary of the day to Wellington, with thirty soldiers, to suppress the Council as an illegal and treasonable association. The colonists immediately agreed to dissolve the Council, but demanded the protection of the Government of the day. Hobson dissolved the committee, but did not replace it. With the further development of Wellington it became more and more apparent that some form of local administration for purely local affairs was necessary. Since those who were behind the New Zealand Company, and therefore behind the Wellington settlement, were among those who had been prominent in the English reform movements of the "thirties" of the last century, they would never be satisfied with anything less than some form of democratic institution for their own local government.

In 1842, therefore, the first Municipal Corporations Act was passed, a number of the provisions of which were copied from the English Act of 1835, and were not peculiarly suited to New Zealand conditions. The Attorney-General of the day, in moving the second reading of the Bill, said that from the physical character of the country it was possible for New Zealand to be settled at various points, almost all of them at a distance from the capital. For this reason, he said, it was quite essential that each settlement should be given the full power of regulating its own local affairs. The central Government would thus be relieved from the necessity of much petty legislation, while at the same time the prosperity of the country at large would be promoted by the friendly rivalry which would spring up among various settlements entrusted with the unfettered management of their own local affairs. This speech, delivered so early in the history of the new Colony, stated quite succinctly the real *raison d'être* of local government. The ordinance was an essentially far-seeing, if unfortunate, measure. The Preamble to the Bill is one of the best statements of the real place and purpose of local government in a democratically governed country. It is well worth quoting in full: "Whereas it is necessary that provision should be made for the good health and convenience of inhabitants of towns and their neighbourhood, and whereas the inhabitants themselves are best qualified as well as by their more intimate knowledge of local affairs as by their more direct interest therein, effectually to provide for the same, and whereas the habit of self-government in such cases has been found to keep alive the spirit of self-reliance and respect for the laws, and to preparation for the due exercise of other political privileges, be it therefore enacted, &c." This is altogether a most remarkable statement. It was such a far reaching statement at the time that the *New Zealand Gazette and Wellington Spectator* stated that "the men who put these sentences together seem ready for a long stride towards republicanism."

The Ordinance provided for an elected Council to consist of twelve Aldermen, with a Mayor to be elected by the Aldermen. It is also interesting to note that the Aldermen were elected for two years, half the members retiring each year. A property franchise was laid down, although there was a provision that any person could by payment of 20s. to the returning officer obtain a right to vote, even although he had no rateable property in the borough in question.

The Act gave to the local authority control of the harbour beacons and lighthouses which were within its territorial limits. This provision was one of the reasons for the disallowance of the Act, it being held in England that the maintenance of these facilities came within the jurisdiction of the Admiralty, and consequently could not be delegated by the Governor to the municipalities. Another very interesting provision of the Ordinance was that enabling the Corporation to take over as its property, immediately after the first Council election, all land within the limits of the borough, except Crown land, Native reserves, and land sold, or about to be sold, to private persons. Because this particular provision conflicted with the rights of the Crown in regard to Native lands, another reason was provided for the disallowance of the Ordinance by the English authorities.