

Defects in Constitutions of Municipal Corporations

Royal Commission on Municipal Corporations (1835) [Added by [Marjie Bloy Ph.D.](#)]



The Victorian Web

literature, history, & culture in
the age of Victoria



[[Victorian Web Home](#) → [Political History](#) → [Social History](#) → [Religion](#) → [Science](#) → [Economics](#)]



After the passing of the 1832 [Reform Act](#) the next logical step in the reform of the constitution was that of the Municipal Corporations. There were about 250 of these towns, each of which at some time in the past had received a Royal Charter to have its own council or corporation. There were great variations in how the corporations were chosen and how they functioned but in over 180 of them, only the members of the Corporation were allowed to vote. Normally they re-elected themselves or brought friends and relatives onto the council. The Commission found generally that power was held by a small number of people because so few townsmen could vote. They also found evidence of corruption with the council members becoming rich at the expense of the town's inhabitants.

Following the same procedures that had been adopted for the investigation of the [Poor Laws](#), in July 1833 the [Whig](#) government set up a Royal Commission to investigate the working of local councils. The Commission's secretary was Joseph Parkes, a radical lawyer. 285 towns were investigated, most of which were found to be unsatisfactory. As a result of the Commission's findings, a Bill was drawn up and brought to the House of Commons by [Lord John Russell](#) in June 1835.

The Bill went through the House of Commons without too much difficulty but the House of Lords proved more difficult. Most of the closed corporations were controlled by [Tories](#) and the Tory peers claimed that the Bill was an attack on privileges and property. They had used the same reasons to oppose the abolition of rotten boroughs during the 1832 Reform Act campaign. The Lords made some amendments to the Bill but, thanks to the efforts of the [Duke of Wellington](#) and [Sir Robert Peel](#), the Tory Lords were restrained from throwing out the Bill altogether. The legislation went onto the Statute Book in September 1835.

The following extracts from the Report explain some of the worst defects of local government:

71. The most common and most striking defect ... is that the corporate bodies exist independently of the communities among which they are found. The Corporations look upon themselves, and are considered by the inhabitants, as separate and exclusive bodies; they have powers and privileges within the towns and cities from which they are named, but in most places all identity of interest between the Corporation and the inhabitants has disappeared. This is the case even where the Corporation includes a large body of inhabitant freemen: it appears in a more striking degree, as the powers of the Corporation have been restricted to smaller numbers of the resident population, and still more glaringly, when the local privileges have been conferred on non-resident freemen, to the exclusion of the inhabitants to whom they rightfully ought to belong.

73. The importance which the privilege of electing Members of Parliament has conferred upon Corporate Towns, or rather upon the governing bodies there, and the rewards for political services, which are brought within the reach of the ruling corporators, have caused this function to be considered in many places as the sole object of their institution. In some Boroughs this right has survived all other traces of municipal authority. The custom of keeping the number of corporators as low as possible may be referred to this cause, rather than to the desire of monopolizing the municipal authority, which has been coveted only as the means of securing the other and more highly prized privilege.

Hence a great number of Corporations have been preserved solely as political engines, and the towns to which they belong derive no benefit, but often much injury, from their existence. To maintain the political ascendancy of a party, or the political influence of a family, has been the one end and object for which the powers intrusted to a numerous class of these bodies have been exercised. This object has been systematically pursued in the admission of freemen, resident or non-resident; in the selection of municipal functionaries for the council and the magistracy; in the appointment of subordinate officers and the local police; in the administration of charities entrusted to the municipal authorities; in the expenditure of the corporate revenues, and in the management of the corporate property. The most flagrant abuses have arisen from this perversion of municipal privileges to political objects. The Commissioners have generally found that those Corporations which have not possessed the Parliamentary franchise, have most faithfully discharged the duties of town government, and have acquired, more than others, the confidence and good-will of the communities to which they belong. This has been the case in some, even where the ruling bodies are strictly self-elected, and where the general character of their constitutions is open to the objections ... common to the great majority of Corporations. Very few large corporate towns were without Members of Parliament, even before the Reform Act, so that many instances cannot be given from among them. The Corporations of Leeds, Lynn and Doncaster may be cited as turning their attention to their municipal duties more sedulously than the majority. Among the small towns, deserving the same character, we refer to the Corporations of Louth, Bideford, Maidenhead, Beccles, South Molton and Stratford-upon-Avon.

77. In the few boroughs in which the powers of local government are vested in a numerous body of freemen, the general character of the governing body is vitiated by the defects of its organization, which have already been pointed out. The exclusive and party spirit which belongs to the whole corporate body, appears in a still more marked manner in the councils by which in most cases it is governed. It has been stated that the members of these councils are usually self-elected, and hold their offices for life. They are commonly of one political party, and their proceedings are mainly directed to secure and perpetuate the ascendancy of the party to which they belong. Individuals of adverse political opinions are, in most cases,

systematically excluded from the governing body. Since the repeal of the Corporation and Test Acts, and the removal of the civil disabilities of the Catholics, very few instances occur in which either Catholics or Dissenters, who often form a numerous, respectable and wealthy portion of the inhabitants, have been chosen into the governing body of the corporation. These councils, which embody the opinions of a single party, are entrusted with the nomination of magistrates, of the civil and criminal judges, often of the superintendents of police, and are or ought to be the leaden in every measure that concerns the interests and prosperity of the town. So far from being the representatives either of the population or of the property of the town, they do not represent even the privileged class of freemen; and being elected for life, their proceedings are unchecked by any feeling of responsibility. The discharge of the functions with which they are entrusted, is rendered difficult by the dislike and suspicion which the manner of their election inevitably entails upon them.

78. To this system may be traced the carelessness often observed in the execution of their duties; and persons well qualified for the council are excluded, sometimes for want of vacancies, sometimes through the rejection of the electing body, some times through the refusal of such persons to identify themselves with a system of which they disapprove. The common council of the city of London presents a striking exception to the system of self-election for life, and it affords a remarkable instance of the absence of those evils which we refer to it. The common councilmen of this city are annually elected by a numerous constituency, yet changes seldom happen among them. The important requisites of experience in the functionary, and the power of control in the electors, are there effectually united, and produce that efficiency and confidence which are wanting in most other corporate towns. The history of the common council of London is that of a body which has watched vigilantly over the interests of its constituents, and for a long series of years has studied to improve the corporate institutions with great earnestness, unremitting caution, and scrupulous justice.

79. It is part of the general system of close Corporations that all their affairs should be managed with the strictest secrecy, sometimes secured by oaths administered to the member of the common council. The inhabitants who are subject to the authority of the Corporation, have frequently very imperfect information, as to its nature and extent; they are ignorant whether it derives its sanction from prescription, from charters, or from bye-laws; and the only mode by which they can obtain information is often through the troublesome and expensive process of an application for a *mandamus* or *quo warranto*. The bye-laws which are made, as well as those which are repealed, are seldom published, and the public is generally unacquainted with their provisions, except from common rumour. This ignorance is sometimes shared by the members of the Corporation. Hence violations of the charters and bye-laws have been often made with impunity.

83. In some cases the duties of the mayor have been totally neglected, either from want of capacity or from want of will; occasionally from non-residence. At Hartlepool, where the mayor is chosen in rotation from the capital burgesses, many of whom are non-resident, it sometimes happens that the mayor never attends even to be sworn into office. At Winchester, the present high steward was chosen mayor during an important litigation in which the Corporation was involved. He was the son of the patron, and was admitted a freeman the year before his election as mayor. The mayor was *ex officio* a member of the committee for conducting the litigation; but he appointed a deputy, and entered on the records of the Corporation a protest of his ignorance of all relating to it. At Durham, the mayor of the year 1831-2 refused to render the usual account of receipts to the common council. The mayor of Grampound left the borough upon its disfranchisement [in 1819], and the corporation books and accounts have not been found since. No new mayor was elected after the disfranchisement, until the year in which the present Commission issued. In some boroughs, the same mayor is continued from year to year; and in others, as at Cambridge and Tenby, it has been the custom to elect two or three persons in rotation. The effect of entrusting the election to the freemen, constituted as those freemen now generally are, is to degrade the office in the estimation of the persons to be governed. At Maidstone, the election is merely a struggle to try the strength of opposing parties without any personal preference, and bribes are given by persons wishing to avoid being elected.

84. The method of appointing the Recorder is often very objectionable. At Newport, in the Isle of Wight, the recorder is appointed formally by the Crown on the nomination of the whole corporation, but practically on the dictation of the patron. On one occasion, a nobleman was chosen recorder there, whose connexion with the Corporation consisted in his being a trustee for the managing the property of a deceased patron. At Woodstock, the recorder's office has been vacant for several years, because the patron's nominee was opposed. The Recorders of some boroughs are elected by a constituency of freemen. At Berwick-upon-Tweed, a Recorder so chosen, tries capital felonies. This officer also unites functions in some cases, which are improperly joined. This occurs when he lives in the neighbourhood and discharges the duties of a resident magistrate, at the same time that he is by virtue of his office, the presiding judge of the Criminal Court. In many instances he performs no duties whatever, and his nominal connexion with the borough is only a form through which he exercises over it an unwarrantable control.

The charters have often empowered the Recorder to appoint a deputy. The exercise of this power is occasionally useful; but the practice of appointing a deputy permanently to discharge all the duties of the Recorder is very mischievous. Not only is the appointment placed in the hands of an irresponsible individual, but the difficulty of finding qualified persons to fill the situation is increased. Many persons would accept the office of principal, who would decline the office of deputy.

89. The party spirit which pervades the Municipal councils, extends itself to the magistracy, which is appointed by those bodies, and from their members. The magistrates are usually chosen from the aldermen, and the aldermen are generally political partisans. Hence, even in those cases in which injustice is not absolutely committed, a strong suspicion of it is excited, and the local tribunals cease to inspire respect. The corporate Magistrates, generally speaking, are not looked upon by the inhabitants with favour or respect, and are often regarded with positive distrust and dislike.

90. The corporate magistrates are often selected from a class incompetent to the discharge of judicial functions, and the consequence has been a great defect in the administration of justice. At East Retford, a respectable witness who had been clerk to the magistrates, declared that one of the magistrates was in the habit of conversing familiarly with the culprits brought before him, and endeavoured to impress them with the idea that he was performing an unwilling office. On one occasion he saw the magistrate fighting with a prisoner, and struggling with him on the floor. At Malmesbury, the magistrates are often unable to write or read. At Wenlock blank warrants have been signed by the magistrates: in one case a blank warrant of commitment was granted by mistake, instead of one of apprehension, and the constable had it in his possession for several weeks before he executed it. The jurisdiction of the borough magistrates at Wenlock is exclusive; it extends over 17 parishes, and contains a population exceeding 17,000 persons.

Even when the corporate magistrates belong to a superior class, they are often selected from the senior aldermen only, who, from age and infirmities, soon become incapable of performing the functions of their office, while a mistaken notion of dignity keeps them from resigning it.

92. The evils resulting from the ignorance and inefficiency of the borough magistrates are heightened by gross defects in other parts of the judicial system. The juries of the borough courts are often exclusively taken from the freemen, who, besides being composed of an inferior class, are strongly tainted with party feelings. Northampton furnishes a strong instance of this. At Carmarthen, verdicts are frequently given against justice, from party bias. The population of that town is 10,000, but the jurors are chosen from a small body of 178 burgesses. At the spring assizes of 1833, a true bill was found by the grand jury of the borough for a capital felony. The grand jury consisted of 20 burgesses; of these, 17 belonged to the Corporation party, and the foreman was the committing magistrate. The panel of the petty jury contained 46 persons belonging to the Corporation

party, 12 of the defendants' party, and only two neutrals. An application was made to the judge, to order the indictment to be tried in Carmarthenshire. The trial took place there, and the defendants were acquitted. The very answer to this statement was given by one of the sheriffs, who said that there was not a sufficient number of respectable persons of the defendants' party, to enable them to summon a grand jury equally from both sides, and that the Petty jury was summoned from those burgesses who had not attended the previous assizes. At Haverford West, where none but burgesses can serve on the juries, there are only 141 burgesses, and not 50 who are fit to serve on them: the juries there have been openly reprimanded by judges and magistrates for improper acquittals of burgesses upon criminal prosecutions; the practice has not been checked by such reprimands, and the general opinion is, that it is "impossible to convict a burgess."

102. The police belonging to Municipal Corporations is for the most part very sufficient, and for supplying the deficiency, resort is had to local Acts. The superintendence of the police and the powers necessary for watching, paving, lighting, cleaning and supplying the towns with water, instead of being entrusted to the municipal authorities, are for the most part committed by these Acts to various independent bodies; although none of these towns are too extensive to be embraced by one system of municipal government; for instance, every quarter of the town of Bath is under the care of a separate board, except one, which is totally unprotected. Much confusion results from this divided authority. The powers of local taxation, and the superintendence of matters so closely connected with the comfort and well being of the inhabitants, which are now exercised by these bodies, appear to belong precisely to that class of objects for which corporate authority was originally conferred; but great dissatisfaction would prevail among the inhabitants, if these powers were entrusted to the Municipal Corporations as at present constituted. In several towns much apathy is now shown by the inhabitants with respect to the municipal benefits conferred by these Acts; in Southampton, where the consent of the inhabitants is required to bring them within the powers of a local Act, nearly half of the town has refused the benefit of it. Great jealousy often exists between the officers of police, acting under the Corporation and those under the Commissioners of these local Acts, and the corporate body seldom takes any active share in the duties of the board, of which its members form a part. At Bristol, a notoriously ineffective police cannot be improved, chiefly in consequence of the jealousy with which the Corporation is regarded by the inhabitants. At Hull, in consequence of the disunion between the governing body and the inhabitants, chiefly arising out of a dispute about the tolls and duties, only seven persons attended to suppress a riot, out of 5,000 who had been sworn in as special constables, and on another similar occasion none attended. At Coventry, serious riots and disturbances frequently occur, and the officers of police, being usually selected from one political party, are often active in fomenting them. In some instances, the separate and conflicting authority of the Commissioners is avowedly used as a check and counterbalance to the political influence of the Corporation. At Leeds, no persons are elected Commissioners of Police whose political principles are not opposed to those of the Corporation.

An ineffectual attempt to obviate the evils resulting from the want of a well-organized system is made in some towns by subscriptions for private watchmen. At Winchester, after a local Act had been obtained, its powers were found to be insufficient, and the town is now watched by private subscription, to which the commissioners contribute £100 from the rate. The superintendence of the paving and lighting, &c., of the various towns is in the same unsatisfactory state, but, in this branch of police, the want of a single presiding authority leads perhaps to less evil and inconvenience.

110. In general, the corporate funds are but partially applied to municipal purposes, such as the preservation of the peace by an efficient police, or in watching or lighting the town, &c.; but they are frequently expended in feasting, and in paying the salaries of unimportant officers. In some cases, in which the funds are expended on public purposes, such as building public works, or other objects of local improvement, an expense has been incurred much beyond what would be necessary if due care had been taken. This had happened at Exeter, in consequence of the plan of avoiding public contract, and of proceeding without adequate estimates. These abuses often originate in the negligence of the corporate bodies, but more frequently in the opportunity afforded to them of obliging members of their own body, or the friends and relations of such members.

111. Some Corporations consider that their property has been vested in them solely as trustees for the public; but, in most cases, this truth is acknowledged only when forced on their attention, is received with difficulty and qualification, and is continually forgotten. Few Corporations admit any positive obligation to expend the surplus of their income for objects of public advantage. Such expenditure is regarded as a spontaneous act of private generosity, rather than a well-considered application of the public revenue, and the credit to which the Corporation, in such a case, generally considers itself entitled, is not that of judicious administrators, but of liberal benefactors. Even in these cases, party and sectarian purposes often prevail in its application.

112. From this erroneous but strongly rooted opinion, that the property of the Corporations is held in trust for the benefit of the corporate body only, distinguishing that body from the community with which it is locally connected, the transition is not difficult to the opinion that individual corporators may justifiably derive a personal benefit from that property. At Cambridge, the practice of turning the Corporation property to the profit of individuals was avowed and defended by a member of the council.

In conclusion, we report to Your Majesty that there prevails amongst the inhabitants of a great majority of the incorporated towns a general and a just dissatisfaction with their Municipal Institutions; a distrust of the self-elected Municipal Councils, whose powers are subject to no popular control, and whose acts and proceedings being secret, are unchecked by the influence of public opinion; a distrust of the Municipal Magistracy, tainted with suspicion the local administration of justice, and often accompanied with contempt of the persons by whom the law is administered; a discontent under the burthens of local taxation, while revenues that ought to be applied for the public advantage are diverted from their legitimate use, and are sometimes wastefully bestowed for the benefit of individuals, sometimes squandered for purposes injurious to the character and morals of the people. We therefore feel it to be our duty to represent to Your Majesty that the existing Municipal Corporations of England and Wales neither possess nor deserve the confidence or respect of Your Majesty's subjects, and that a thorough reform must be elected, before they can become, what we humbly submit to Your Majesty they ought to be, useful and efficient instruments of local government.

