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BEGINNINGS OF REPRESENTATIVE GOVERNMENT IN NEW MEXICO¹

By LANSING B. BLOOM

A RECENT review of a book relating to Mexico stated, "it is universally admitted that the Mexican people as such have never exercised a voice in their governmental affairs." Many will doubtless assent to this sweeping assertion, but there are others who have studied back into the theory and practice of Spanish government who read Spanish-American history differently.

In New Mexico for example, which began her colonial history contemporaneously with the earliest of the thirteen colonies on the Atlantic seaboard, there were beginnings of representative government from that earliest time down to 1846.

In New Mexico, as in other parts of the new world, discovery was followed by exploration and exploration followed by colonization. As Hernando Cortez was the first "governor and captain general" of Nueva España, so Juan De Oñate was the Spanish king's first governor of "El Reino de Nuevo Mejico." As such, he engaged to colonize this northern frontier of the Spanish realm.

Now in the establishing of la Villa de Santa Fé de San Francisco, probably in 1609 or 1610 by Oñate's successor, Peralta, we meet the first indication of representative government; for a villa was a municipality descendant through past centuries of the Roman municipium and its citizens might be termed heirs of the Latin civitates. It had been through colonization and through the extension of the municipal system that Spain had been Romanized, and this process had been completed before the end of the first century of the Christian era. Each colony, whether civil or military, was a type of old Rome and was an integral part of the Empire. Municipal life, municipal customs, municipal law and administration were taken directly from the

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parent city. The inhabitants were treated as tenants, various taxes were levied on them, and on demand, they had to furnish requisitions in time of war; but on the other hand, the colonists were Roman citizens and might, if they so desired, go to Rome and exercise their rights as such.

It is true an early municipium received its laws from the Roman senate and that its whole form and process of administration were received from the mother country; and likewise Spanish colonists had no rights which had originated out of themselves or out of any popular government. The rights which they enjoyed through the civil fuero flowed from above; in theory all political power originated in the king.

Yet, as Blackmar points out "the towns must have made some progress in self government at an early date, for we find that the towns were granted popular representation in a general assembly about the middle of the twelfth century," which according to Hallam was a century earlier than the appearance of popular representation in France, England, Italy, Germany. In 1188 the towns were represented by deputies in a *cortez* held in Leon, "possibly the first occasion in the history of Europe when representatives of the towns appeared in such an assembly," while "the first known instance in Castile occurred in 1250."

Each king called the *cortez* of his realm whenever he wished, and none of the individuals called, whether nobles, ecclesiastics, or representatives of the villas, had the right to present themselves. That was left to the choice of the king, but the custom gradually became fixed that certain towns should have the privilege of being represented. Each member had one vote, but the number of representatives from the towns differed without being subject to a general rule. The towns themselves chose who should represent them, but the methods of choice were various. The *cortez* was allowed to make petitions to the king, each branch for itself, and to fix the sum of money that it would grant him. It had no true legislative functions, but the king sought its advice or its approval of his laws, and its influence was such that it was able to procure desired legislation.

At first thought it seems strange that the most flourishing epoch of the third estate, the free towns, should have been in the middle of the thirteenth century, yet the explanation is simple. As is well known, kingship was an evolution from nobility; and the king of Castile, for example, as an aid in getting the upper hand of the nobles, favored the towns. Their number and political importance increased; they received many new privileges; and they made their presence felt in national affairs through their representatives in the cortex. As the king's position became more secure the authority of the towns was reduced by him in various ways. Yet this decline was not uniform, for some of the towns, especially on the frontiers and on the north coast retained their earlier liberties, including popular election, down to the time of Ferdinand and Isabella, when the monarchy became most absolute. Also the municipal rights which had come down from Roman law and others which had been granted by Spanish kings and had become established by long continued custom were imbedded in the *Siete Partidas* which gradually became recognized as the principal law of the land and which, as applied to the Spanish colonies in America by the Council of the Indies were made specific in a multitude of details.

This glimpse into early Spanish history may be helpful in estimating the quality and degree of local government in New Mexico during the Spanish and American periods. This is possible because of the uniformity which we know to have prevailed throughout the Spanish colonies, supplemented by scattered data from local archives.

There is no reason to think that the Villa of Santa Fé lacked conformity in any important details with the laws of the realm as promulgated by the Council of the Indies and as later gathered in the *Recopilacion de las Leyes de las Indias*. As such the *cabildo* (council) was composed of an *alcalde ordinario*, four *regidores*, an *alguacil* and *escribano de consejo*, and perhaps also an *escribano publico* and a *major domo*. The *alcalde* and *regidores* were elective until after 1620, when the latter were made subject to sale, as the remaining offices had been since early in the sixteenth

century. All such officials, however, had to be land owners of the town and the elective franchise lay in the resident citizens. All meetings of the cabildo had to be held in the town hall, and at the capital of a province were presided over by the governor or his lieutenant, or in their absence by the *alcalde ordinario*. The *alcalde* had authority in the first instance in all cases civil and military. *Regidores* were forbidden to have an interest in any public occupation such as the *carniceria*. They were all to be land owners and were forbidden to have any sort of a retail establishment. When entrusted with public funds they had to give sufficient bond.

At the capital the office of *alguacil* was filled by the governor; in other towns by the *alcalde ordinario*. He was the executive officer of the court and the police officer of the town.

As to the *escribano*, who was a sort of combined notary public and clerk of court, it would seem that on the frontier of New Spain he was conspicuous by his absence.

The archives of the Indies will doubtless in time throw much light on such details in the early history of Santa Fé and of the whole province of New Mexico. Enough has been said, however, to show the evident intention in the laws of the Indies to make the local government indigenous, growing naturally out of local conditions. The attachment of citizens and officers was to the soil. On the other hand, the provincial officials were, all through the Spanish period, supposed to be detached from local ties and local support; their attachment was to be to the crown, to the Council of the Indies, and to the viceroy.

Besides the Villa of Santa Fé, the Spanish period saw also the establishment as villas of El Paso del Norte (1682), Santa Cruz de la Canada (1695) and Albuquerque (1706). It can hardly be questioned that all four of these villas had *cabildos*, although no data are at hand except as to Santa Fé. There were also *alcaldias* (consisting of an *alcalde* appointed by and representing the governor, and a *procurador*,) at Taos, Alameda, Jemez and Belen; and there were at least *alcaldes* for other settlements and for the Indian pueblos. For example, Miera y Pacheco, to whom we are

indebted for our best early maps, was for a time "alcalde of Pecos." The governor was jefe de alcaldes and any appeal from his decision was to the audiencia at Guadalajara.

In time the term *cabildo* fell into disuse and town councils were designated by the more democratic term *ayuntamiento*. The meager evidence available seems to indicate that what little representative government existed in New Mexico during the seventeenth century disappeared during the eighteenth century and was not revived until the Independent movement in New Spain began in 1810. At least in that year the governor of New Mexico had to summon a special electoral junta as he stated, "because of there being no *ayuntamiento* in all the province."

By a decree of the Spanish *cortez* dated May 23, 1812, all towns of 1,000 population or more were expected to have such councils, and at the time of Mexican independence 15 settlements in New Mexico were of that size. It is probable that many of these had at least what were known as "half *ayuntamientos*," soon after the receipt of that decree, while several of them may have had regular *ayuntamientos*. In 1821, for example, Albuquerque had a council consisting of an *alcalde*, three *regidores*, *procurador*, *sindico* and secretary. In an electoral junta at Santa Fé in January, 1822, the *ayuntamiento* of that villa was represented by the *alcalde primero nombrado*, 10 *regidores* and the *sindico-procurador*. On January 4, 1823, the four villas of Santa Fé, Santa Cruz, Albuquerque, and El Paso, were made the county seats of four *partidos* into which the province was then divided, and in these four counties were 18 *ayuntamientos* altogether. In fact, there is considerable evidence that all during the Mexican period a great deal of initiative was exercised in municipal affairs, though at the same time all such action was subject to review by the first provincial deputation and its successors. For example, the *ayuntamiento* of El Paso forwarded the proposal of one, Don Luis de Lujan, to establish a school of Spanish and Latin grammar in that villa. He offered to teach the children, looking to those interested to meet the cost. The deputation approved the offer and directed the *ayuntamiento* carefully to

supervise the school. A few months later the deputation vetoed a grant at Brasito which the El Paso ayuntamiento had made to an Anglo-American, John J. Heath.

Representation in a wider sphere than that of municipal affairs was accorded New Mexico when the Spanish cortez of 1810 was summoned. In that body one member was to be from the Province of New Mexico. By action of a special electoral junta assembled in Santa Fé on August 1, 1810, Don Pedro Bautista Pino was chosen to represent the province and he actually took his seat in that body. His "Noticias Historicas de Nuevo Mejico," submitted to the cortez, is even today a valuable book. Don Pedro returned home after Ferdinand dissolved the cortez in 1814, but upon summons for a new cortez in 1820 he was re-elected and made the journey as far as Vera Cruz, where for financial reasons he turned back. In 1821 again New Mexico elected a deputy to the cortez for 1822-3, the choice this time falling upon Don José Antonio Chavez, but the final achievement of independence by Mexico made his attendance unnecessary.

Towards the close of the Spanish period New Mexico formed part of "the internal province of the west," with capital at Durango, and in the legislative body which assembled there (upon the re-establishment of constitutional government in 1820) New Mexico was represented by a former militia captain, Don Lorenzo Gutierrez, as deputy. In the summer of 1823, while the form of government for New Mexico was still undecided, the deputation at Durango proposed that New Mexico join with the provinces of Nuevo Vizcaya, Sinaloa and Sonora, in a "federative state," and the deputation at Santa Fé sent representatives to Chihuahua to help effect such an organization. As arranged in the Acta Constitutivo of the national federation, Durango, Chihuahua and New Mexico were made the "internal state of the north." The state legislature was to consist of five deputies each from Durango and Chihuahua, and one from New Mexico, and Chihuahua City was to be the capital. New Mexico accepted the plan, though asking two additional deputies, and proceeded with the election. Primaries were

held on March 21st, 1824, county elections on the 28th, and the electoral junta meeting in Santa Fé on April 6th selected Don Jose Bautista Vigil as deputy, with Manuel Armijo as alternate. The deputation raised the necessary funds by assessing "individuals of the first class" 25 pesos and "individuals of the second class" 10 pesos each. This arrangement, however, was short lived, as Durango and Chihuahua were soon afterwards made states and New Mexico made a territory of the Mexican Republic.

Meanwhile, immediately upon establishment of Mexican independence, New Mexico took steps to institute her provincial government. In the first election of deputies there was no *eleccion secundaria*, as the province had not yet been divided into counties, but each of fourteen *alcaldias*, including El Paso, sent an elector to Santa Fé late in January, 1822. The electoral junta assembled in the "sala de cabildo" of the *ayuntamiento* of Santa Fé in the presence of that body and with Governor Facundo Melgares presiding.

The choice of a deputy to congress for New Mexico fell upon Don Francisco Perez Serrano y Aguirre, the first representative to the national capital of a series which was to extend to 1846.

The same electoral junta on the following day elected seven deputies and three alternates who were to constitute the first provincial deputation. This little group, likewise was the first of an unbroken succession of legislative bodies which functioned throughout the Mexican period, 1822—46, while New Mexico was a province, territory, department, and again territory of the Mexican nation. As the *ayuntamiento* administered in the municipal affairs, so the deputation operated in the wider sphere for New Mexico as a whole, and no one can read the minutes of its sessions during this twenty-five years without realizing that its deliberations and legislative enactments affected every line of common weal.

Too far removed to take anything but a nominal part in matters of national interest, receiving pitifully small assistance from beyond their own borders, the citizens of New Mexico during the Spanish and Mexican periods were

thrown almost entirely upon their own resources. It would be an easy matter to draw unfavorable comparisons with the more advantageously situated states of the American union, but when the conditions which the early New Mexicans had to face, and the meagre resources and facilities with which they had to do are rightly estimated, the results which they obtained loom up impressively, nor is it so material that they received the forms of government in town and province ready made from king or cortez as is the fact that they made those forms their own by adaptation and use.