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1931

COUNTY GOVERNMENT IN NEBRASKA
Elizabeth S. Senning

Historical Survey

County government as it exists in the United States today has evolved from the English system adopted by the early American settlers in colonial times. When transportation was difficult and people lived to themselves in a small community, the county represented to them not only their principal form of local government, but it also was the local agency of the state government as such was almost the only way in which government touched the people. As the United States grew, and westward expansion took place, new states were admitted to the union and new counties formed within the states.

The Beginning of Counties

Time went on and Nebraska became the goal for the settlers who had found that the new territory was something more than the Great American Desert which early geographies had pictured it to be. In 1854 Congress passed the bill to organize Nebraska territory. In November 1854, the acting territorial governor issued a proclamation establishing the boundaries of the eight original counties and appointing places and officers of election in the designated precincts. These counties were Burt, Washington, Dodge, Douglas, Cass, Pierce (afterwards Otoe), Forney (afterwards Nemaha), and Richardson. The next year, 1855, the territorial legislature provided for the organization of sixteen more counties, redefined the boundaries of the original counties, located county seats and changed the names of two counties. Succeeding legislatures changed boundaries, provided for the organization of new counties, and divided original counties. The passage of a legislative act establishing a county did not necessarily mean that the county had been or would be established. The act creating Lancaster county was approved March 5, 1855, while the first steps to perfect a county organization were not taken until the fall of 1859.

County Names

Looking over the names of the ninety-three counties of Nebraska as they exist today, there are seen traces of national, state and local history in the titles which the counties bear. From Washington, named after the father of his country, in the eastern most part of the state, to Sioux county in the west, to which was given the name of the famous Indian tribe; from Sheridan on the north, bearing the name of the renowned general of the Civil War, Phil Sheridan, to Furnas on the south, named for an early governor of Nebraska, history appears in every county name.

Territorial Days

The simplicity of county government, in territorial days of Nebraska, reflected the pioneer life of the time. In 1854 the county officers were appointed by the territorial governor. The next year, the territorial legislature provided for the election of "one probate judge, one register, one sheriff, one treasurer, and one surveyor for each county" and a county superintendent of schools. In 1856 the legislature provided for the election of county commissioners, justices of the peace and constables. It is significant that the first county officers considered necessary were the three whose duties dealt primarily with ownership of property - the probate judge, the register and the surveyor, the treasurer who had charge of the collection and distribution of public funds, and the sheriff whose duty it was to keep order.

The State Constitution and the County

Nebraska has two systems of county government, the county-precinct type and the township-supervisor type. The county-precinct type was adopted by the first counties to be organized. The constitution of 1875 provided for township organization of all counties in which the electorate might desire it. Section 5, of Article 9 of the constitution of Nebraska provides that "The legislature shall provide by general law for township organization, under which any county may organize whenever a majority of the legal voters of such counties voting at any general election shall so determine...." The law making this provision of the constitution effective, was passed in 1883. Twenty-seven counties have taken advantage of this law and established the township form of government; while the other sixty-six have the county-precinct or commission form of government. Contrary to the constitutions of most of the states, the constitution of Nebraska leaves the government of the county largely to the discretion of the legislature. It cannot be emphasized too often that Nebraska is one of the very few states of the United States which can change its county government by statute and is not compelled to pass a constitutional amendment to make progressive changes.

County Officers

Supervisors and Commissioners:- To carry on the business of the county, county officials are elected by the people to perform certain duties. In the first place, and most important of all, is the county board. In counties under the township form of government, the members of the county board are known as supervisors. One supervisor is elected from each of the seven supervisor districts, or, at the option of the electors, one may be elected from each of the townships. In commission governed counties, except in Douglas county, there are three commissioners, elected by the county as a whole. Supervisors and commissioners have practically the same duties and powers and in both cases are commonly known as the county board. The county board has in its charge all of the real and personal property of the county, and manages all county funds. It lays out, alters or discontinues county roads. It causes taxes to be levied and collected annually, and builds or repairs county buildings when necessary.

The salary of members of the county board varies according to the population of the county. In Douglas county each member receives \$2500 a year and is required by law to devote his entire time to the business for which he is elected. In the more sparsely populated counties the average salary is five dollars per day for the time actually employed, and there is sufficient time for the members to engage in some other business. Meetings of the board are frequent or infrequent according to the practice of the county and the amount of business to be done. Some boards depend upon their recording officer, the county clerk, to do a great deal of the routine business. At the beginning of the year, the county board prepares an annual budget which cannot exceed the sum derived from authorized taxes. The office of member of the county board offers little in the way of salary or political advancement. However, the office is an important one in the administration of county government and should have competent men and women in the position.

County Attorney:- A county office which is often sought by young lawyers who wish to enlarge their acquaintanceship and also get valuable experience in the prosecution of criminal cases, is that of county attorney. The county attorney files complaints against persons guilty of misdemeanor, appears in court to prosecute and defend on behalf of the county, and gives legal advice to the county board and other county officers. As a prosecuting officer he enforces state laws, and as such he is an agent of the state. As advisor to the county board he is purely a local officer. Thus two angles of his duties run counter to one another. For instance, if the

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county attorney must enforce a state law which is unpopular in his county he may incur the enmity of his constituents. Many experts in government suggest that the county attorney, and in fact most of the other county officers, should be selected by appointment rather than by popular election. The salary of the county attorney varies from \$400 to \$4,000 annually depending upon the population.

County Superintendent:- In Nebraska the office of county superintendent of schools has become especially attractive to women. At the present time there are about twice as many women as men holding the office. The only educational qualification is that the incumbent must hold at least a first grade certificate. The superintendent must visit each of the schools in the county at least once a year, make an effort to improve methods of instruction, and see that the buildings and grounds of the district schools are kept up as well as financial means will allow. The county superintendent cooperates with the state superintendent in the matter of courses of study, licensing of teachers, and examinations of both students and teachers. It can be safely stated that there is closer cooperation between the county superintendents and state superintendent of public instruction than there is between other state and county officers. Moreover, due to the interest of parents and teachers in the welfare of the schools, the county superintendent can more easily keep in touch with the state of the community than most of the other county officers.

County Assessor:- Once each year every property owner comes in contact with the county assessor. The office of county assessor was created in 1903 when a general revision of the laws relating to taxation was made. Before that time assessments were made by precinct, township, city or village assessors as the case might be. To actually carry on the details of the work of assessment the county assessor is aided by precinct assessors who are elected every two years, except in cities of over 4,000 inhabitants and in Douglas county where the local assessors are appointed by the county assessors, a system which is recommended by tax experts as being much more effective than by having the precinct assessors elected. In Nebraska there is a provision of law which makes it possible for the people of a county, if they wish, to abolish the office of county assessor and give the duties of his office to the county clerk. About one-third of the counties have voted to make the county clerk the assessor. In counties having a population of five thousand or less the annual salary of the assessor is \$250. The largest salary is paid in Douglas county where the yearly compensation is \$3,000.

County Clerk:- Closely associated with the office of county assessor is that of county clerk, who, as stated above, is the assessor in certain counties. The county clerk is required to attend all sessions of the county board and record its proceedings, to keep the county seal, countersign all warrants, preserve and file all accounts acted upon by the county board and keep a record of the work done upon county roads. In Douglas county the county clerk is ex-officio comptroller of the county. In counties of less than 8,000 inhabitants the clerk acts as clerk of the district court; in other counties the clerk of the district court is elected once in four years. The records of the county's business are in the office of the clerk, and as custodian of the county's business a knowledge of business methods and a sense of detail are quite essential. In counties of less than 16,000 inhabitants the county clerk acts as register of deeds. In the other counties there is a register of deeds who preserves all records, books, maps and papers concerning real estate in the county. His duties are of a technical nature and his accuracy in recording real estate transactions is most important.

Treasurer:- Another office whose records involve the interest of the entire county is the treasurer who receives all money belonging to the county. He pays out funds only upon warrants. In January and June of each year he is required to

publish in a county newspaper a tabulated report of the affairs of his office showing receipts and disbursements. His books are audited by state county treasurer examiners once in two years. Since the automobile became such an important part of the life of the country the county treasurer has the additional duty of licensing all motor vehicles in the county and issuing all drivers' licenses.

County Surveyor:- When one speaks of motor vehicles, the next thought is naturally of roads and an essential part of road making is the survey which is made by the county surveyor. He estimates the cost of contemplated county improvements for the county board and supervises such improvements. In counties of over 50,000 population the county surveyor acts as highway commissioner.

County Judge:- The county judge presides over the county court. This court handles matters of probate, settlement of estates, appointment of guardians and minor criminal cases.

County Sheriff:- The oldest county office in England still exists in the United States and in Nebraska at this time there is more of a race for this office than for any other in the county, namely the office of county sheriff. He has the custody of the county jail and prisoners, executes writs and other legal processes, keeps the peace and attempts to prevent crime. He must attend sessions of the district court and is required to secure evidence for all crimes, arrest criminals and investigate infractions of the law. When he arrests those who have violated state law he is acting as an officer of the state.

These then are the county officers who carry on the business of the county in Nebraska - from three to eight members of the county board, judge, attorney, superintendent of schools, assessor, clerk, treasurer, register of deeds, clerk of the district court in some counties, surveyor and sheriff. The salaries are invariably small and are fixed according to the population of the county. County officers are elected because of personal popularity or vote-getting ability rather than because of fitness for the position for which they are elected.

Functions of the County

The duties of the county cover a wide range of activities, including administration of justice, welfare work, highways, taxation, health, elections and education. Perhaps the most important function is that of the administration of laws relating to revenue and taxation. The state legislature prescribes by law the taxing system of the state, and gives to the counties certain duties in carrying out the provisions of the revenue laws. In the first place money must be raised by taxation for defraying such expenses as salaries of county officers, building and repair of buildings belonging to the county, support of the poor, expenses of courts and education. On the other hand the county administers certain state laws and regulations. County officials apply the tax levies made by the state, collect the state taxes and transmit the money to the state. The county also makes levies for townships, cities, town and school districts, collects the taxes and pays over the money to these local subdivisions. The chief source of income is the general property tax which is levied on all real and personal property, except property belonging to the state and its subdivisions and some other exempted property. The assessment and collection of taxes are given over largely to the county for all taxes, state and local.

One of the more recently developed activities of county government is that of welfare. Very little was done by the county in Nebraska in promotion of health until the last decade. A statute passed in 1921 created county boards of health, consisting of the sheriff, the superintendent of public instruction, and a resident physician. The sheriff acts as quarantine officer, the superintendent as secretary and the physician as medical adviser. The work of the board of health consists of the control of contagious diseases, the abatement of nuisances, and the relief of the sick poor.

Poor relief is another phase of public welfare which is attracting interest in Nebraska. The county poor farms are under the control of the county boards which appoint the superintendents of the farms. About half of the counties have poor farms. In the other counties, paupers, if there are any, are kept in boarding homes. The inmates of the county farms are usually aged persons. The exceptions are few. Children, according to law, cannot be admitted; mothers are cared for by mothers' pensions; mental cases, if there is space for them, go to state institutions; and destitute families are cared for in their homes by the county board. It has been found that counties maintaining their paupers in boarding homes do so at less expense and with better results than those maintaining poor farms. Many mothers apply for and are granted mothers' pensions. The juvenile court has original jurisdiction in these cases. After a petition is filed, the case is investigated by juvenile court officers, who recommend the granting or rejection of the petition. A hearing is then held by the court and the county attorney is present to represent the county. Witnesses are summoned, if necessary, to testify in the case. If the petition for relief is granted, the county board is ordered to pay the amount specified by the court, at such times as the order may indicate. The law fixes the maximum amount at ten dollars per month for each child, though no more than \$50.00 a month can be drawn regardless of the number of children. The legislature of 1931 passed an act making it possible for counties to have county welfare boards.

These boards, which will serve without compensation, are "to investigate all the facts and conditions in any matter relating to public welfare in the county and take every reasonable action to promote, develop, and secure for the county, adequate social service programs, to include particularly measures for the prevention of dependency, delinquency and defectiveness". The county board of public welfare is expected to work closely with the State Department of Public Welfare, and where the county can possibly afford to do so, a trained social worker will be employed to act as juvenile probation officer, supervisor of mothers' pensions; to investigate cases of poor relief and all cases of divorce where children are involved, and to perform other duties necessary to promote the social welfare of the county.

The administration of justice by the county is one of the functions which sooner or later touches every citizen. In the first place there are the justices of the peace. In the counties not under township organization, there is elected a justice of peace in each precinct biennially; in counties under township organization there are two justices of the peace elected biennially in each city or village having one thousand inhabitants or over. The jurisdiction of the justice of the peace is limited to the district where the justice is elected and where he resides. In general the cases in which the justice of the peace has jurisdiction cannot exceed the sum of \$200. The cases in which a justice of the peace has jurisdiction include administering of oaths, taking acknowledgments of deeds, solemnizing marriage, actions for trespass, and the like. Above the court of the justice of the peace is the county court, presided over by the county judge who is elected for a term of four years. The county court is the office where wills are probated, estates administered, and guardians for minors appointed. The county courts also have

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minor criminal cases. The county judge may serve as juvenile judge in the absence of the district judge.

The general conduct of elections is also a function of the county. The county clerk has charge of the furnishing of ballots, the appointment of election officials, the canvassing of the vote, voting by mail and applications of sick voters for ballots.

The control and government of county roads is under the direction of the county board. It is the duty of the highway commissioner, appointed annually by the county board, to have all main travelled dirt roads dragged regularly. He must also see that the public highways are kept free from weeds. In counties of more than 50,000 population the duties of the highway commissioner are performed by the county surveyor.

In the matter of school administration the county is divided into as many districts as seems necessary. Boundaries of school districts may be changed upon the petition of one-half of the legal voters of the districts concerned.

Suggested Reforms in County Government

The foregoing paragraphs give some idea of the business in which the county is engaged. The 1930 report of the Nebraska state tax commissioner shows that the counties of the state spend twenty cents of the tax dollar for their own purposes. It is generally conceded throughout the United States that county government is much less efficiently managed than city or state governments. Certain reforms have been suggested by which the expense of county government could be decreased and the efficiency increased. These are:

(1) State supervision of local finances. Many states have statutes which provide that counties shall furnish detailed financial data from all the offices. These statistics are then compiled and printed for the use of the citizens of the state. In Nebraska it is impossible to get complete financial facts on any county business without writing to each county for statements. In 1927 and 1929 the Nebraska legislature had under consideration bills providing for state supervision of finances of counties, but the bills failed to pass.

(2) Consolidation of counties. Since transportation facilities have eliminated distance to a great extent, it has been suggested that counties might consolidate. Two or three small counties could become one county. Tennessee has tried this plan successfully. The Nebraska legislature of 1931 introduced a bill providing for consolidation of counties in Nebraska but the bill was indefinitely postponed.

(3) The county manager. Since city manager government in cities has worked so effectively it is suggested that the county board should hire a county manager "who should be all of the minor officers rolled into one...with such assistants and bureau heads as may be really needed". The county board would be elected but receive no compensation. The county manager would carry out the order of the county board, and all of the other county officials for which the electors now vote would be administered.

Conclusion

County government is one which almost every voter can study first hand. Visits to county offices and talks by county officers to study groups are both instructive and interesting. The county jail, the county poor farm, and the county court house are too often of no concern to the average voter. Interest of the electorate in county government would without doubt tend toward making the conduct of county business more efficient. A day at court or my visit to the county poor farm would make an interesting report to your club.