

200 Years of New Hampshire Counties

1771-1971

Leon W. Anderson

Two centuries ago, New Hampshire citizens fought for creation of county government.

- They demanded it to bring justice within their reach.

For some 90 years after New Hampshire got its own government in 1680, all justice was centered at Portsmouth. The high and secondary courts all sat in that seaport Capital City.

This was fine and fair in the beginning years, when the population ran from 4,000 to 10,000, virtually all residing in the seacoast area, around Portsmouth, Dover, Hampton and Exeter.

But by the 1760s, settlers had reached into all sections of New Hampshire, as we now know it. While the seacoast population had grown to nearly 35,000, yet another 30,000 were planting roots and raising families in more distant places, even 100 miles west to the Connecticut river, and 150 miles northward, into what is now Coos county.

A decade before the Revolutionary War, the provincial Legislature of less than three dozen members began demanding that justice be brought closer to the people. They argued that travel to Portsmouth was not only too far, but actually beyond their reach, because of the time involved in walking, or riding horseback, often over unimproved trails and make-do roads.

There was also the vitally important matter of registering property ownership and recording of deeds and sales.

--asteriks--

The showdown developed in 1769. The legislators pressured John Wentworth, the royal Governor who had just commissioned Dartmouth College into being, for his consent to establishment of county government. They went so far as to refuse to vote further state government taxes, to enforce their will.

So Governor Wentworth and his Council were forced to bow to this popular demand. They joined the Legislature (which then had no Senate) in passage of a bill dividing the state into five counties, on April 29, 1769, but with a string attached. Wentworth and his Council, which used to serve as the upper half of the Legislature, won a compromise agreement that the counties would not be put into operation until the King, over in England, had also approved the law.

New Hampshire's county government then hung in abeyance for nearly two years, and it was not until March 19, 1771, to be exact, that it received the required royal blessing.

This historic county government statute declared it was enacted:

"Because of the great increase of the inhabitants of this Province, and the remote situation of many of them from Portsmouth, where the Courts of Judicature are now held, have rendered the administration of justice very expensive and difficult, and in some cases almost impractical. The people are not of sufficient ability to travel so far."

--asteriks--

Governor Wentworth named the counties after Lords then in power in distant London. First, encompassing Portsmouth and the seacoast, there was Rockingham. Then came Strafford, Hillsborough, Cheshire and Grafton.

The five other Granite State counties were formed by the Legislature after the state had become settled from its Revolutionary War adjustments, with its own permanent constitution. There followed Coos from Grafton, Dec. 24, 1803; Merrimack from Rockingham and Hillsborough, July 1, 1823; Sullivan from Cheshire, July 25, 1827, and Belknap and Carroll from Strafford, Dec. 23, 1840.

First off, each county got a courts system, with a clerk, sheriff and recorder of public documents.

Within a short time, as the colony formed its own rebellious government in 1776, the Legislature named the sheriffs, each court chose its own clerk, and the people annually elected the treasurer and recorder of deeds.

When the permanent state constitution took force in 1784, the "President" and Executive Council appointed the sheriffs. By this time the executive group also named judges of probate and registers of probate for each county.

In the 1792 wholesale revision of the constitution the title of Governor replaced that of President, and an article requiring judges and sheriffs to retire at 70 became effective and continues to this day.

--asteriks--

County solicitors came into being at the turn of the 19th century, and in 1958 their titles were constitutionally changed to County Attorney.

By 1842, three county road commissioners were annual elected in each county. In 1856 the Legislature eliminated the word "road" from this title, and gave the commissioners general supervision over county affairs, including the care of town paupers, and their handling of roads continued for another two score years.

It was from this point that county government grew into political prominence and prestige.

By 1877, the people had become fed up with legislative mishandling of county government, of all things.

The Republicans packed county positions with their favorite politicians with such ardor that when the hapless Democrats infrequently won legislative controls, they ousted the incumbents in wholesale lots. And then the Republicans returned tit for tat, as quickly as they regained the Governorship and control of the General Court.

These shennanigans became outright scandalous when the Democrats got back into the state saddle for a first time in 20 years, in 1874. The Legislature promptly "addressed" all county officials, including even the judges, out of office. And the brazen conduct was compounded in 1876 when the Republicans got back into power and kicked all the Democratic county officials back where they came from!

--asteriks-----

An 1876 constitutional convention proposed constitutional amendments to remove appointment of sheriffs, solicitors and registers of probate from the Governor and Council, and put them up for popular election. The voters promptly approved this adjustment in an 1877 referendum.

The voters at the same time repealed the constitutional authority of the Legislature to "address" these officials out of office for political reasons. The people, in other words, decided they themselves would handle whatever future oustings of county officials might be considered desirable, at the polls.

-asteriks---

John Parker of Portsmouth set an early pattern for New Hampshire's more colorful sheriffs.

Nathanial Adams relates in his 1824 Annals of Portsmouth that while Sheriff Parker never married, he was partial to widows and fathered many orphans.

Parker became the first sheriff of Rockingham county in 1771, and continued in office when the revolutionary colonial government broke with England in 1776. He also became U. S. Marshal for New Hampshire when the present federal government was organized in 1889, and filled both jobs until his 1891 death at 59.

Said Historian Adams of Parker:

He held these offices during life, and discharged the several duties of them with fidelity and care. He likewise had the direction of an insurance office and conducted the business of it with accuracy and skill.

He never married, but his house was the asylum of the widow and orphans, and the children he took the charge of, were nourished and educated with paternal care. His benevolence was not confined to his relations, but extended in many instances to strangers, who partook largely of his bounty.

In the walks of private life, his virtues were conspicuous. He was a social companion, an accomplished gentleman, and a disinterested friend.

--asteriks---

A couple of sheriffs staged a sensational revolt against the Legislature in 1813, and got bounced for their temerity.

This occurred when Governor John Taylor Gilman of Exeter and his Federalists regained state controls and kicked the Republican (as the Democrats first were labelled) judges out into the cold and appointed friendly legal lights.

Gilman and his Federalists (who became Whigs in the 1830s and finally the present Republicans in the late 1850s) abolished the Superior Court of Judicature and replaced it with a Supreme Judicial Council and a Circuit Court of Appeals, for the alleged purpose of expediting clogged court dockets with more judges.

When the fall terms opened, two of the ousted judges sat as usual and their county sheriffs served them, claiming the Legislature had no right to replace judges without due cause.

--asteriks---

So Governor Gilman called the first special session ever held by New Hampshire's General Court, for October 27, 1813.

He cited former Justices Richard Evans of Portsmouth and Clifton Claggett of Litchfield as the culprits, along with Sheriff Josiah Butler of Rockingham county, and Sheriff Benjamin Pierce of Hillsborough, father of President Franklin Pierce, and an old Revolutionary general who later became a two-term Governor.

Butler and Pierce were particularly insulting. They told the new Chief Justice Jeremiah Smith of Exeter and Justice Caleb Ellis of Claremont to their faces that they would not recognize their authority.

The special session speedily voted the unruly sheriffs out of office, and the ex-judges ended their rebellion. The legislators found that the ex-jurists had not made any legal decisions and ruled they would not be penalized if they ended their rebellion, which they did.

The public had gleefully flocked to the scenes of the two courts trying to sit in the same buildings, but no violence erupted. Peace ensued as the new sheriffs did their bouden duty. And this first special session of the Legislature became forgotten and lost in history, until recently resurrected by this writer's research.

Three years later when Republican Governor William Plumer of Epping and his party recaptured the state government, they promptly ousted the Federalist judges and restored the old Superior Court of Judicature.

--asteriks--

While the first five counties were formally formed in 1771, Strafford and Grafton remained attached to Rockingham for two more years until they were deemed ready to function. It was not until Febranary 5, 1773 that the Legislature gave them operating status as of June 5, 1773, with a four months deadline for erection of a courthouse and "prison", which was readily met.

--asteriks--

When the present Executive Council was created in 1784, the five members were elected one each from the five counties. Counties were also at first the basis for election of the 12-member State Senate.

The present county legislative delegations were created in the 1792 constitutional adjustments, for the initial purpose of raising taxes from the towns to defray county government expenses.

-asteriks----

The N. H. Register said in 1821:

In case of the absence of the Attorney General from any term of the court, said (county) solicitor is to receive \$60 compensation for each term he may discharge said duties, to be deducted from the salary of the Attorney General (who got \$600 yearly).

--asteriks---

County government functions were reduced by the 1937 Legislature. This was done by creation of the State Department of Welfare and a State Police agency. The bulk of county welfare supervision was shifted to the state, and the responsibilities of sheriffs were diminished.

These reforms met with stiff opposition and ran the legislative session into an unprecedented August 20 adjournment.

---asteriks----

County government has been increasingly under challenge in recent years. The N. H. Municipal Association urges its functions be taken over largely by the state, for the principal purpose of shifting county government costs from the municipalities to the state government.

The in-depth survey of all New Hampshire governmental operations made by the prestigious Brookings Institution in 1932, contained recommendations for multiple county government improvements, some of which have been implemented over the years by the Legislature.

The late Publisher James M. Langley of the Concord Monitor, issued a pamphlet in 1948 calling for abolition of county government, but he warned Chapters 71 and 72 of the Second Part of the state constitution must be revised to achieve that goal.

-asteriks----

The 1828 Legislature gave counties authority to operate farms to support the poor, but it was several years before they began to flourish. The county farms replaced the town poor farms, utilized to house and feed paupers.

A 1902 history of Granite State public financing by Maurice H. Robinson for the American Economic Association said:

The most important of the miscellaneous sources of county revenue are the extensive farms which the several counties acquired about the middle of the 19th century and have since operated. Upon these farms are supported a part of the county poor, and the revenue from them, when well managed, is considerable.

--asteriks---

County Sealers of Weights and Measures held sway for many years, and kept their jobs over long periods. The 1909 legislative Red Book said, for example, that Sealers Samuel F. Morrill of Concord, Erastus V. Cobleigh of Lancaster, and Virgil A. Wright of Keene had been in office for 32 years each and were still going strong.

The 1917 Legislature abolished these positions and created a state weights and measures agency, with the late Harold A. Webster of Holderness the first director at \$2,500 a year.

-asteriks---

Eight of the 10 counties now elect commissioners biennially by three districts. Only Carroll and Strafford still choose their commissioners at large. Back in 1933, Hillsborough and Belknap were first to have district commissioners created by the Legislature.

-asteriks-----

Cheshire county has the distinction of electing the first women officials.

In the 1920 biennial election, just after federal enactment of women suffrage, Miss Ella F. Gee of Keene became Cheshire Register of Probate, after 40 years as a clerk in that agency. She continued in office until her death 17 years later.

Cheshire set another feminine record in 1922 by electing Miss Grace A. Richardson of Keene, popular executive of a private charitable agency, as the state's first woman county commissioner, with five reelections.

Belknap elected the first woman Register of Deeds in 1924. She was Miss Elizabeth H. Sanborn of Laconia, veteran courts and legislative stenographer, who then held the post for 22 years until voluntary retirement.

--asteriks---

This modest history of county government was prepared by Legislative Historian Leon W. Anderson for the N. H. Association of Counties, as the bicentennial feature of its annual fall meeting, September 25, 1971.

President Edward J. Lobaeki of Peterborough,
Hillsborough commissioner.
President-elect Harold R. Knight of Durham,
Strafford sheriff.
Vice President Mrs. Edith E. Holland of Exeter,
Rockingham Register of Deeds.
Secretary-Treasurer, Henry T. Spear of Gilford,
Belknap commissioner.

**200 YEARS
OF N.H.
COUNTIES**

1771 - 1971

By LEON W. ANDERSON