

PART XV

Structure of Local Government

55. The County and Its Government



Mrs. Eva W. Davis, Old Courthouse Museum, Vicksburg, Miss.

THE NATURE OF THE COUNTY

COUNTIES, unlike cities, blanket the map of the United States. They are subordinate to the State. As a political unit the county has an independent governing body and enough financial power to carry out the functions that have been assigned to it by the State government. There are only a few classes of regions in the United States that do not have typical counties: (1) those such as New York City, where the county governments are dependent upon the city governments; (2) those such as San Francisco, where

the government is termed that of a "city-county"; (3) those such as St. Louis, which are "independent cities" outside counties; (4) those such as Armstrong County, South Dakota, which are termed counties but which have no organized government; and (5) those such as Yellowstone Park, which are federal zones.

There are 3,049 counties in the United States (those in Louisiana being called "parishes"). They range from three in Delaware to 254 in Texas. Counties also vary greatly in size; the smallest is Arlington, Virginia, with twenty-four square miles, and the largest is San Bernardino, in California, with 20,131 square miles, about half again as many as in Connecticut, Rhode Island, and Massachusetts combined. In general the counties in the far western States are larger than those elsewhere in the nation. The average county is about 1,000 square miles in area, or would make a square a little more than thirty miles on a side.

Counties also show great variations in their population; according to the 1950 census they range from 227, in Loving County, Texas, to 4,508,792, in Cook County (Chicago), Illinois. Four other counties—Los Angeles (California), Wayne (Michigan), Allegheny (Pennsylvania), and Cuyahoga (Ohio)—each contain more than one million people, and a considerable number have more than one hundred thousand. The average county, however, has a population of about fifty-five thousand, and the majority of American counties have fewer people than this number. Indeed, most counties in the United States do not contain a single city with more than ten thousand people. Thus, whereas certain American counties have large urban populations—in 1950 only nine States had more people than Cook County—most counties have fewer than 50,000 people, and are fundamentally rural in character. The predominantly rural aspect of most counties plays an important role in fashioning their political needs and activities.

The county is an important unit in little more than the political sense; in fact, its possession of other sorts of unity is founded upon its political unity in virtually every case. It is a geographic unit chiefly in the sense that it has boundaries separating it from other counties; however, these boundaries ordinarily are only surveyors' lines, so that the landscape on either side of a county line varies little. It is rarely a social unit, for in most cases the people in one county do not live differently from the people in the next county. The county may be an economic unit at least so far as local merchandising is concerned, when the county seat is the one important retailing center of the county; however, so far as production is concerned the county is unlikely to be an economic unit because neighboring counties are apt to produce the same type of commodities. In general, then, a county has a sort of unity only in relation to government.

This unity refers of course to the formal structure of government. It is also related to the structure of the major political parties: the county is an important unit in party organization. County party chairmen together

The Former County Court House of Warren County, Mississippi, at Vicksburg.
An expansive flowering of Ante-Bellum Southern architecture, showing the great importance of the County then (and also now) in Southern society.

often dominate the party organization of the entire State; delegates to State conventions are often apportioned by counties. The strength of political parties at the county level may be attributed to at least two of the features of county government. One is that authority is so diffused among the various offices in the county government that a strong party organization—often called the “court house gang”—may readily fill in the power vacuum in the formal structure of the government. The other is that the non-partisan examination system for filling administrative posts is perhaps weakest at the county level of government, so that a party organization may strengthen its position in county politics through the number of government offices it may have awarded to the party faithful.

THE NATURE OF COUNTY GOVERNMENT

An agent and creature of the State

The county, as noted in a previous chapter, is a creature and an agent of the State. It is established chiefly to carry out functions or policies of the State at the local level. Counties serve as geographic units for the administration of justice, the collecting of taxes, and the conduct of elections. County governments perform tasks in connection with such State activities as education, welfare, liquor control, and soil conservation. They possess only those powers that are delegated to them by the States, either by constitutional provision or by legislative enactment. Hence, except when they are based on the State constitution, these powers may be added to, subtracted from, or even abolished, at the will of the State legislature.

Functions of county governments

The functions of county governments are primarily administrative. It is true that counties do have a few legislative powers, in declaring policy respecting a limited number of fields, but by and large they administer policies that have been expressed by the State legislature. Of course, the various officials of the county government may impress their own policies, and those of the voters, upon the policies of the State government, through the methods by which, and the degrees to which, they implement State legislative enactments. That the primary functions of county governments are administrative is confused by the fact that the leading agency of most county governments is an elective board composed of several members, for usually such a body—Congress, or a State legislature—is regarded as a legislature. A related paradox is that many individual officers of the county government, such as the sheriff, the coroner, and the clerk, most or all of whose assigned duties are administrative, are also elected.

Regional variations in the importance of counties

The importance of counties in the United States varies greatly from one region to another. In New England, for example, counties are relatively unimportant. In that region the chief political unit subordinate to the State is the town; as an illustration, in some New England States the legislative

districts are based not on counties but on the towns. By contrast, in the South Atlantic States the counties are very important, exercising numerous functions at the local level. It is probably significant that southern States have been among the boldest in experimenting with the structure of county government. The difference between these two extremes may be ascribed to their settlement in colonial times: New England was settled by religious groups who founded towns, but the South was settled by less solidly organized groups. In the Middle Atlantic States counties are important, but less so than in the South. West of the Appalachians the importance of counties depends to some extent upon which of the original thirteen States furnished their earliest leading groups. In Ohio, first populated by New Englanders, counties are less important than they are in Mississippi, colonized by southerners. In most States of the trans-Mississippi West, counties are rather important if only because towns are few.

THE AGENCIES OF COUNTY GOVERNMENT

The typical county government includes a bewildering array of agencies for the performance of governmental tasks. In general, no one of these agencies possesses ultimate authority in the county; rather, each of the principal agencies stands upon the same plane as all of the others. For this reason county government is often termed "headless." Moreover, there is no separation of powers among these agencies; any of them may be authorized to wield legislative, executive, and judicial powers.

The county board

Title and Composition: The most prominent agency in almost all county governments is a body composed of several members and known generally as the "county board." A tabulation published by the Census Bureau in 1947 disclosed that there were then more than twenty-five different names for the county board in various counties across the nation. According to this tabulation, in more than five-sixths of all counties this agency was called either a board of commissioners, a board of supervisors, a county court, or a commissioners court.

Apart from their titles, there are four principal types of county board, as determined by their composition: (1) a board of commissioners or of supervisors, comprising officials entrusted solely with the government of the county; (2) a board of town or township supervisors, made up of officials who manage both the governments of towns or townships and the government of the county; (3) a board of judge and commissioners, whose presiding officer also holds a judicial position but whose other members deal only with the government of the county; and (4) a board consisting of a judge and justices of the peace, all of whose members hold judicial office and share in the government of the county.

Besides these four main types there are five others, all infrequent. Table 41 shows the number of counties in which each of these types appears, the total number of members of the boards of each type, the average number

per board, and the number of board members per 10,000 population under each type. It can be seen that boards of commissioners or of supervisors are the commonest form of this agency, since they exist in two-thirds of all American counties. Of the six States whose boards consist of town or township supervisors, four—Illinois, Michigan, Nebraska, and Wisconsin—are among the North Central States; the other two—New Jersey and New York—are Middle Atlantic States. Judge-and-commissioners boards are found in some or all of the counties of Alabama, Georgia, Kentucky, Tennessee, and Texas—all southern States—and in Oregon. Judge-and-justices-of-the-peace boards prevail in Kentucky and Tennessee, and the minor types are also found chiefly in the South.

Number of Members: The number of members on county boards ranges from one, in all Arkansas and some Georgia and South Carolina counties, to eighty-two, in Dane County, Wisconsin. The commonest numbers, embracing almost three-quarters of all counties, are three and five. The size of the board is related to its composition; boards consisting of town or township supervisors are on the average more than six times as large as boards of commissioners or supervisors, and boards consisting of judges and justices of the peace are on the average more than four times as large. This fact helps to account for the exceptional size of the boards in such States as Tennessee, Illinois, and New Jersey. In each of twenty-six States all county boards are the same size.

TABLE 41. NUMBER AND CHARACTERISTICS OF COUNTY GENERAL GOVERNING BODIES¹

Character of Membership	Number of Counties	Number of Members	Average Number of Members Per County	Number of Members Per 10,000 Inhabitants
Board of commissioners or supervisors	2,012	7,993	4.0	1.0
Board composed of town (township) supervisors	297	7,616	25.6	5.1
Judge and commissioners	350	1,666	4.8	1.8
Judge and justices of the peace	193	3,300	17.1	8.0
Single judge	86	86	1.0	2.5
Plural-member court	75	359	4.8	0.7
Single non-judicial officer	32	32	1.0	0.5
Non-judicial ex officio body	4	21	5.3	0.6
Executive and town (township) supervisors	1	7	7.0	0.2
Totals	3,050	21,080	6.9	1.8

¹ United States Department of Commerce, Bureau of the Census, *Governmental Organization No. 2. County Boards and Commissions* (Washington: Government Printing Office, 1947). One county, Nantucket (Massachusetts), has since 1952 been counted as a township; another county, East Baton Rouge Parish (Louisiana), has been combined with the city of Baton Rouge and is counted as a city. At the same time one new county, Los Alamos (New Mexico) has been created. Consequently there are now 3,049 counties, whereas in 1947 there were 3,050.

Election: Most county boards in the United States are popularly elected. However, there are several methods for choosing board members in terms of geographic representation. The usual method, one that prevails in about three counties out of ten, is to elect each member from a separate district in the county. Another common practice is to elect some members at large from the county and others from individual districts. A third way is to elect all members at large, with the requirement that candidates either reside in a specific district or be nominated by the residents of a given district. In one county out of ten, the board members are elected from towns or townships. Finally, in some counties all board members are elected at large, with no proviso concerning district representation. A few board members in Alabama, Connecticut, Georgia, and South Carolina are appointed by some other official or officials.

Terms and Presiding Officers: Terms of office for board members range from one year to eight years. In almost three-quarters of all counties, however, members serve for either two- or four-year terms, the four-year terms in many cases overlapping. In thirty-two States all county board members have terms of the same length; eight of the States in which variations exist are in the South. Each county board has a presiding officer, whose identity and means of selection ordinarily depend upon the type of the board. Boards of supervisors or commissioners generally name their own presiding officer, who serves for only one year or at the pleasure of the board. Boards composed of a judge and commissioners or a judge and justices of the peace have a judge—usually a probate judge—as presiding officer, whose term is based upon that of his judicial office.

Functions: The functions of county boards, although they differ greatly from one State to another, are primarily executive or administrative. Many boards do have certain powers that may be termed legislative. Most important among these legislative powers are those of drafting a budget, levying taxes, and appropriating money. Whereas such fiscal powers at the national and State levels are important means for declaring and executing policy, on the county level they are not so significant since they involve primarily the fulfilling of tasks assigned to the county by the State legislature. Some county boards also have a certain amount of ordinance-making power that results in the enactment of a subordinate kind of law.

One leading executive or administrative function is that of appointing other administrative officials. This power is often limited by State requirements that particular officeholders in each county must be elected by the people.

County fiscal boards

In some or all of the counties in eleven States the fiscal needs of the counties are handled not by the county board but by a separate agency. In five States—Maine, New Hampshire, Massachusetts, Connecticut (all in New England), and South Carolina, the State legislature performs these tasks. In New Hampshire these duties are assigned to the county convention, or legislative delegates from the towns, for each county; in Connecticut, to the

State representatives and senators from each county; and in Maine, Massachusetts, and South Carolina, to the entire State legislature, although in these States it may be assumed that the representatives from each county will have exceptional influence respecting the affairs of their constituencies.

In six other States, four in the South—Arkansas, Florida, Georgia, and Tennessee—and two in the Midwest—Indiana and Michigan—some or all of the counties have distinct boards at the county level for the management of their finances, to a greater or lesser degree. In Indiana, for example, the voters of every county choose a separate county council that appropriates money for county operations, fixes the tax rate, and arranges for the borrowing of money. The creation of these distinct fiscal bodies probably reflects public mistrust in county boards and the consequent decision to separate taxing and appropriating powers from spending powers.

Other county boards and commissions

In every State except Maine and New Hampshire (and, of course, Rhode Island, which has no organized county governments), the State constitution or State laws, or both, authorize the establishment of other county boards or commissions for the performance of specific tasks. These boards and commissions are not to be confused with the governing bodies of special districts; they do not have any corporate or quasi-corporate status, and are subordinate in one way or another to the county board. Members of these boards may be selected in any of a number of ways. They may be popularly elected; appointed by a related State agency, a court, the county board, or some other body; or serve *ex officio*. Sometimes part of the members of a given board may be chosen by one of these methods and part by another. In a handful of cases the method for choosing board members is not specified.

Such special function boards have been authorized for dealing with a host of tasks; in Illinois, for example, these tasks include airports, assessment, defense, elections, health, highways, hospitals, justice, libraries, personnel, planning, schools, veterans, and welfare. In some instances the creation of these boards is mandatory upon the counties; sometimes, it is discretionary.

Principal officials of the county

A number of the functions of county government are performed not by boards or commissions but by offices headed by individuals. The numbers and types of these offices vary from State to State and even from county to county, although in some States the constitution or the laws require that a specified office exist in each county of the State. The method for choosing these officials, their terms of office, their powers and duties, differ likewise from one county to another. Throughout the country as a whole the number of kinds of such officials is legion. However, because almost all counties perform particular tasks, certain among these officials are found in virtually every county.

The Sheriff: The sheriff is probably the most important single officeholder in the typical county government. In most counties the sheriff is chosen in

a popular election, which in many instances is non-partisan. Partisan elections for the sheriff's office may be significant enough in populous counties to have an important influence upon national elections when the two coincide; it is generally agreed that the defeat of Senator Scott Lucas of Illinois, Democratic floor leader, in his campaign for reelection in 1950 was largely brought about by voters' repugnance for the Democratic candidate for sheriff in Cook County. Often a number of candidates put themselves forward for this post, despite the comparatively low salary. However, many sheriffs are also paid fees for a variety of tasks, such as serving warrants and transporting accused persons from the point of their arrest to the county jail, so that the total income may be very large.

The sheriff has three principal types of duty. In the first place, he is the head of the county police forces, obligated to maintain the peace and to protect persons and property. The sheriff exercises this duty in rural parts of the county. However, in counties that have an important metropolitan center the office of sheriff may be rather insignificant, partly because only a small portion of the county falls under his jurisdiction, and also because the city police forces are often far better equipped than he to investigate crimes. Yet, since most American counties do not have a city with as many as 10,000 people, the sheriff is still an important police official in most of the country.

The second type of duty involves the sheriff's tasks with relation to the county court. For example, he must see to it that accused persons and witnesses are present for criminal cases. In this respect he is in fact an officer of the county court, and subsequently an officer of the State government as well as of the county. Finally, the sheriff is in charge of the county jail, concerned with the maintenance of the physical plant and the needs of the prisoners.

The Coroner: Another county officer associated with the detection of crime and the punishment of criminals is the coroner, whose principal task is to investigate deaths that appear to result from other than natural causes. To carry out this task the coroner is ordinarily not very well equipped himself, for although the position really calls for a physician it is rarely occupied by one. Hence the coroner must frequently engage the assistance of a doctor in his investigations. The coroner is also empowered to summon a jury to which he submits testimony in cases of mysterious deaths. Having weighed the testimony the jury decides whether the death resulted from a crime. If such is the decision, the evidence is then turned over to the district attorney's office for prosecution.

The County Clerk: The county clerk is an official whose duties vary widely from one State to another. In most counties the clerk is elected, but in a few he is appointed by some other officer or agency. The chief tasks of the clerk revolve about the recording and custody of non-judicial public documents, especially deeds to real estate and mortgages. Beside these fundamental duties clerks may be assigned any of a great number of unrelated obligations. Clerks are often important election officials, charged with such

functions as preparing the ballots. A clerk may be empowered to issue licenses for different sorts of business undertakings. Sometimes he is the secretary of the county board, keeping the minutes of the meetings and drafting agenda for board sessions; with these powers he has the opportunity of becoming the most powerful official of the county government. He may have certain financial powers such as those of examining the accounts or even of drawing up the budget. In small counties he may also serve as clerk of the county court, although this is often a separate office, with duties that are outlined below.

The Clerk of the County Court: The clerk of the county court is actually an officer of the State government, but since most State court systems are divided into districts along county lines, clerks are chosen according to counties. Most court clerks are elected; a few are named by the courts. The chief task of the court clerk is to make and preserve a record of court proceedings. This is a very important duty, if only because the records of court cases must be available for study by the judges of an appellate court in the event a case is appealed. Obviously court records must be exact. Court clerks may also have the duty of summoning prospective jurors for trials.

Finance Officers: Most counties have at least one officer concerned primarily with the finances of the county government; large counties have several such officers. The most important of such officers are the tax collector, who gathers taxes frequently not only for the county but also for State and local governments; the treasurer, who has custody of county funds; the assessor, who appraises property for tax purposes; the controller, who studies all planned expenditures to determine if they are authorized by law, and who strives for financial efficiency in the administering of the laws; the auditor, who examines expenditures after they have been made, to insure that they have been legal; and the budget director, who drafts the budget. In many instances the duties of two or more of these offices will be united in a single person because the county is not sufficiently populous to keep more than one person busy at these tasks.

Superintendent of Schools: Most counties today have a superintendent of public schools. His functions differ considerably from one State to another, depending largely upon the relations between the school system and the county government. In many cases his powers are limited to the schools in the rural districts, since the incorporated cities have their own superintendents. The county superintendent serves as an intermediary between the State board of education and the district school superintendents. He shares in the appointing of new teachers, helps select textbooks, and oversees the maintenance of academic standards. Often the county school superintendent is an elected official, although he may be chosen in a non-partisan election, or be named by the county board of education. State law generally provides certain qualifications for holding this office, mainly along the lines of a minimum amount of education and a minimum number of hours of college courses in school administration and supervision.

County reform: the county manager

In about a score of American counties, sometimes under authority extended by general law and sometimes under home-rule arrangements, the post of county manager, or chief executive officer, has been created. This post strongly resembles that of city manager: the incumbent is appointed by the county board, is presumably non-partisan and in fact "non-political," and is made administrative chief of the county government. Probably his most important task is the drafting of the budget, in consultation with agency heads. He may also function as purchasing officer for the county government, and may furthermore supervise public works. He is expected to serve as the general manager of the county government. The creation of this office is an attempt to concentrate administrative power and responsibility upon a single person. Some counties with managers, notably Los Angeles County in California, do appear to provide examples of unusually efficient government at their levels.

QUESTIONS AND PROBLEMS

1. What is the size of your home county? Are there any consequences of its size that you regard as unfortunate? What are they? Are these problems typical of many other counties?
2. List the functions commonly performed by county governments.
3. Describe the different methods of electing county supervisors.
4. Besides the county boards, are there other county-wide political and administrative bodies in one or more States?
5. Describe the present role and function of the sheriff in the United States.
6. Read the article on "sheriff" in an encyclopedia. How does the sheriff's role in America differ from that of the English sheriff of the Middle Ages?
7. List, and describe in two sentences, the functions of three other common county officers besides the sheriff.
8. Describe in a paragraph the principal governing agency of your home or college county. Is it a common type in the United States?