

Early Beginnings: Local Government ^[1]



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Early Beginnings

In pre-Revolutionary North Carolina the county was the primary political, as well as geographical unit. The colony relied heavily upon the county for administration of local government. Justices of the peace ^[2], as a body or court, administered the affairs of the county. These were men of standing and most often men of substance, and generally the leaders in their communities. Independence from England brought no major changes in this system. In the early days of statehood, justices were appointed by the governor to serve for good behavior; however, in making his appointments the governor relied on recommendations from the General Assembly. The members of the legislature from a given county had a powerful voice in the selection of justices of the peace for their county. This appointment input also gave legislators a good deal of influence in the government at the county level.

As a group, justices of the peace in a county formed a court known as the Court of Pleas and Quarter Sessions ^[3]. Any three justices, sitting together, constituted a quorum for the transaction of business. It was common practice for the justices to meet each January, select a chairman, then elect five of their number to hold the regular sessions of the court for the year. During its early existence, the Court of Pleas and Quarter Sessions appointed the county sheriff, the coroner, and constables. Later these offices became elective positions with the sheriff and coroner elected from the county at large and constables from captain's districts (a militia-mustering area). Justices of the peace were also responsible for appointing a clerk of court, a register of deeds, a county attorney, a county trustee (treasurer), a surveyor, and overseers or wardens of the poor.

The Court of Pleas and Quarter Sessions had dual responsibilities; it performed judicial as well as administrative functions. The administrative duties of the justices of the peace included the assessing and levying of taxes; the establishing and maintaining of roads, bridges, and ferries; the granting of licenses to taverns and controlling the prices charged for food; and the erecting and controlling of mills. Through their power of appointment, justices supervised the work of the law enforcement officers, the administrative officers of the court, the surveyor, and the wardens of the poor. Taxes were collected by the sheriff.

In its judicial capacity, the Court of Pleas and Quarter Sessions heard civil cases (except those assigned by law to a single justice or to a higher court). The court was responsible for probate, dower, guardianships, and the administration of estates and had jurisdiction in criminal cases in which the punishment did not extend to life, limb, or member.

The county itself was a single political unit; there were no townships; and the Court of Pleas and Quarter Sessions, through its appointive and administrative powers, exerted strong control over county affairs. However, it should be emphasized that at this time the voters had no direct control over the court and thus no direct control over county government. Such was the situation until the end of the Civil War.

When the Constitution of North Carolina was rewritten in 1868 ^[4], the drafters, many of whom were acquainted with local government systems in other parts of the country, devised a new and more democratic plan of organization for the counties.

Although the position of justice of the peace was retained, the old Court of Pleas and Quarter Sessions was eliminated. Its judicial responsibilities were distributed between the justices and the North Carolina Superior Court. Its administrative work was assigned to a board of county commissioners composed of five members elected at large by the voters of the county. The county commissioners were made responsible for public buildings, schools, roads and bridges, and the financial affairs of the county, including taxation. The wide appointive powers of the Court of Pleas and Quarter Sessions were not transferred to the board of county commissioners. Instead, the voters of the county elected the sheriff, coroner, clerk of court, register of deeds, surveyor, and treasurer. The sheriff continued to serve as tax collector.

Each county was divided into townships - a distinct innovation - and the voters of each township elected two justices of the peace and a clerk who served as the governing body of the township. Under the county commissioner's supervision, the township board was responsible for roads and bridges and for the assessment of property for taxation. Each township had a constable and each had a school committee.

This long ballot system was consciously constructed to favor the Republican Party. The support of this party lay in the newly enfranchised blacks who had been slaves only three years before, from native whites of small means who had opposed secession and remained loyal to the Union throughout the Civil War, and from a relatively small number of prominent citizens who believed that the state's shattered fortunes could be recovered only through cooperation and understanding between the races and accommodation with the dominant national political party. The ballot was intended to destroy forever the political power of the landowners, professional people, and merchants who had dominated state government, and thus local government under the old system, for nearly a century. Although most of the people were

disenfranchised by the Fourteenth Amendment ^[5] to the Constitution of the United States because they had "engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof" by actively supporting the Confederacy, they formed a new political party called the Conservative Party devoted to restoring as much of the pre-war social and governmental system as was possible under the circumstances. The new system of county government contained in the Constitution of 1868 became one of their targets.

Seven years after the Constitution of 1868 ^[6] established the county commissioners and township systems, political control shifted to the conservatives. At a constitutional convention in 1875, the Constitution of North Carolina was amended to authorize the General Assembly to modify the plan of county government established in 1868. The legislature was quick to exercise its authority in this matter. The board of county commissioners was not abolished, but members were to be chosen by the justices of the peace of the county rather than by the people at large. While the commissioners retained their responsibilities, decisions on matters of substance could not be put into effect without the concurrence of a majority of the justices - all of whom were elected by the legislature. The justices were made responsible for conducting all elections. In more than a few counties, the board of commissioners was also made subject to legislative appointment.

This troubling arrangement lasted for twenty years. In 1895, the right of the people to elect county commissioners was restored in most counties, and the necessity for approval of the board's decisions by the justices of the peace was repealed. Townships were stripped of their powers, but they were retained as convenient administrative subdivisions, primarily for road building and maintenance purposes. Finally, in 1905 the people of all 100 counties ^[7] regained direct control over the board of commissioners through the ballot box.

References and additional resources:

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