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## Reorganization and Consolidation of County Governments in North Dakota

Lester Thomas Roach

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REORGANIZATION AND CONSOLIDATION  
OF COUNTY GOVERNMENTS  
IN NORTH DAKOTA

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A Thesis Presented in Partial  
Fulfillment of the Requirements  
for the Degree of Master of Arts

by

Lester T. <sup>Thomas</sup> Roach

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This thesis, submitted by Lester T. Roach  
in partial fulfillment of the requirements for the  
Degree of Master of Arts, is hereby approved by the  
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Lester T. Roach

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## INTRODUCTION

It will be the purpose of this study to prove the following points:

1. That there is a need for drastic economy in our county government. Taxes should be reduced but at the same time it is not desirable to deprive the people of our North Dakota counties of any of those functions of county government that are necessary to them.

2. That a large saving could be effected in county government costs by reducing the number of counties by means of consolidation. This study will endeavour to show that this could be accomplished as an orderly and progressive step in government; still maintaining the efficiency of that government.

3. That there is a need for reorganization of our present system of county government. That is, as our system now exists there is no executive head in county government affairs that it is possible to hold responsible for the economical and efficient conduct of county government. It will be shown that many of our elective offices in counties should be made appointive in order to make for a more responsible and economical administration of the affairs of those offices. This study will make definite suggestions regarding this proposed reorganization.

The data for this thesis have been gathered, first, in connection with the consolidation of counties and reducing the number of clerks and deputies therein, by questionnaires sent to

the county auditors of all counties in North Dakota; and second, in regard to the expenses of county government in North Dakota, from the report of the Tax Commissioner of North Dakota, Bulletin No. 2, February 1933.

Numerous articles and books have been made use of freely in connection with the consolidation of counties and reorganization of county government. A complete list of these articles and books will be found in the Appendix. Those books and articles quoted directly or in substance are listed in the footnotes.

In order to facilitate the study of these problems, this thesis will be divided into the following parts:

- I. Historical Origin of Counties
- II. General Need for Reorganization of County Government.
- III. Consolidation of the Counties of North Dakota.
- IV. Reorganization of County Government in North Dakota.

Chapter I  
HISTORICAL ORIGIN OF COUNTIES

In order that this study may present a clear basis for the need of consolidation of the counties of North Dakota, a short resume of the number, size and population of counties in the United States is presented here; followed by a table, included in the Appendix, of the average size and population of the counties in each of the forty-seven other states as compared with those of North Dakota.

The later part of this chapter deals with the historical origin of counties, and those of North Dakota in particular.

In 1923 there were 3,107<sup>1</sup> counties in the United States. The average number of counties in a state is about sixty-five. There are large variations. Rhode Island has five counties and Delaware three. Texas has two hundred and fifty three counties. Some of the large counties in the United States are: San Bernardino, California, with an area of 20,175 square miles; Coconino, Arizona, with an area of 18,623 square miles; and Nye, Nevada, with an area of 18,294 square miles.

The smallest county in the United States is New York county, New York, with an area of 22 square miles.

The usual area of counties is from 400 to 650 square miles.

The median population of counties in the United States is

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1. Fairlie and Kneier, County Government and Administration, Century, P. 64



about 20,000. The eastern states have counties of much larger populations than the counties of the western states. Texas has eighteen counties with less than 1,000 population.

When the counties of the United States are compared in area and population with those administrative units of Europe which most nearly resemble counties, it is found that European units of local government are much larger, both in population and area.

English counties average about 1,000 square miles in area with populations averaging 300,000. The units of France average 2,000 square miles in area with populations averaging 400,000. German units of local government average 10,000 square miles in area and have an average of nearly 2,000,000 population.

From this comparison it is shown that the United States is the only one of the major nations still operating small units of local government. This study means to show that a change should be made to larger units in order to govern more efficiently and economically.

Local government in the United States has developed from the institutions founded in the colonies, which were in turn brought to our shores by our English ancestors. In order to fully trace the historical origin of the present system of county government, it is necessary to go back to the ninth century in England where the various Anglo-Saxon kingdoms had been invited into the kingdom of England. For the purposes of local government the country was divided into shires, these into districts known as hundreds, and these, in turn, were again divided into townships. The shire was the ancient county. The control of the shire was vested in the

Earl, representing the royalty; the Sheriff, representing the Crown; and the Bishop, representing the church. The main governmental function of the shire was the dispensation of justice, the Bishop presiding over the court in all ecclesiastical cases.

After the Norman conquest the Earls retired from the active participation in control of the shire, and at the same time the separation of the civil and ecclesiastical jurisdiction led to the disappearance of the Bishop from the shire court. These changes raised the position of Sheriff to that of the principal officer in the county, as the shire came to be called.

Few changes were made in English local government during the reign of the Stuarts. At this time, when the first colonists began settling in America, the Sheriff still retained his status as the most important officer of the county. The Sheriff was chosen by the Crown, from a list of three, selected by the Privy Council. He was not eligible for re-election. His duties were those of holding court and presiding at the sessions that elected the members of Parliament. Often he would influence the election.

One other important officer was the Lord-lieutenant. This office was a survivor of the Earl, who was important in the early county government of England. The Lord-lieutenant's main duty was that of commanding the local militia.

The office of Coroner was also important. It was his duty to hold inquests over those supposed to have died by unlawful means.

"But the real work of county administration was now performed by the justices of the peace. There were from twenty to sixty of these in each county, chosen by the Lord Chancellor from the rural gentry. They were usually men of good family and property and some

ability, who discharged the burdensome duties practically without pay, but were recompensed by the social dignity and sense of authority conferred by the office."<sup>1</sup>

The main duties of these officers were judicial in handling petty cases and binding persons accused over to higher courts. They also had some administrative duties such as licensing ale-houses, regulating wages and apprenticeship and punishing those who refused to attend church.

Some of the functions that are now under civil administration were then under the administration of the church courts. Matters pertaining to marriage and divorce, proof of wills and administration of personal estates were among these functions.

This county--of the period of American colonization--was a highly centralized unit of government with the sheriffs and justices appointed and supervised by the central government.

It was only natural that the American colonists would in turn establish a system of local government in America patterned after that they had left in England. The colony of Virginia in 1634 was divided into eight counties, or shires as they were called at first. New Shires or counties were gradually organized. The county became the basis for representation in the colonial Assembly and the unit of military, judicial, highway and fiscal administration. The offices of the county were those of the sheriff, who also acted in the capacity of collector and treasurer; justice of the peace, lord-lieutenant and coroner. These officers were appointed by the

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1. Fairlie and Kneier, County Government and Administration, Century, Page 9.

governor of the colony on the recommendation of the justices of the peace. In 1650 three counties were established in Maryland and other counties in that colony were organized later.

In New England the town was a more important unit of local government than the county, although counties were organized. The New England town was a small urban center with an outlying rural district, and was governed by a town meeting of all citizens. Due to the geographical factors this unit of government seemed better fitted for New England. The county in New England was organized mainly for judicial administration. Massachusetts was divided into four judicial districts in 1636.

In 1643 four counties were definitely organized in Massachusetts as judicial and military districts. There was no sheriff but the office of county treasurer was established in 1654. The office was elective. The county later registered land titles, which was done at first by town clerks, and the office of county clerk was added to that of the other county officers to handle this work. In 1685 probate matters were turned over to the county courts.

The most important change in county government began in New York in 1691 with the establishing of elective county boards of town commissioners. This body consisted of a freeholder elected from each town to "supervise, levy and assess the local taxes for county purposes."<sup>1</sup> Here is the first creation of the office of county commissioner.

After the Revolutionary war no drastic changes were made in

county government except that more of the officers were elected by the people or appointed by the legislatures. This change was due to the fact that the people were suspicious of any executive who possessed broad powers. The whole tendency of government was toward decentralization of power, giving the electorate all power possible. The electors had to be taxpayers except in the state of Vermont.<sup>1</sup>

In the Northwest Territory the appointment of local officers was vested in the governor of the territory. The first county was organized in 1790 and the following officers were provided for: sheriff, coroner, treasurer, recorder of deeds, probate judge and justice of the peace.

Ohio was admitted as a state in 1802 and the offices of sheriff, coroner and justices of the peace were made elective. In 1804 the board of elective county commissioners was established in this state with administrative and fiscal powers.

Other states of the Northwest Territory organized counties as the basis of local government. When Illinois became a state fifteen counties were created.

States west of the Mississippi river, following the example of the older states, adopted the county as the unit of local government. However, some of these states organized townships as a sub-division of local government.

The tendency of all states was to extend the privilege of voting and hold more elections. Practically all of the old appointive offices were made elective and new elective offices were created.

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1. Fairlie and Kneier, County Government and Administration, Century, Page 24.

This resume of the history of county government brings this study up to the period of the organization of counties in the territory that later became a part of the present State of North Dakota.

The first organization of a county in the territory later included in North Dakota came after March 2, 1861, when President Lincoln signed the bill creating the Dakota Territory.

The first territorial officers were appointed by President Lincoln, and by June, 1861, the government was organized. The first legislature, elected the following September, was in session at Yankton from March 17 to May 17, 1862. It was this legislature<sup>1</sup> which made the first division of the territory into counties.

It was not until 1882 that the Dakota Territory assumed the boundary lines now encompassing North and South Dakota. However, as counties were created in territory now in the present State of North Dakota, the history of the organization of these counties will be followed from 1861 rather than from 1882.

The first counties in North Dakota were laid out on the Red river on the east and the western line of Range 62 on the west. Naming them in order from north to south, they were Kittson, Chippewa, Stevens and Sheyenne counties. The first three were wholly within the present North Dakota, but Sheyenne county extended<sup>2</sup> into what is now South Dakota.

Kittson county, in which the town of Pembina was located, was the only county with white inhabitants and very few of these were

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1. Hall, L.J.; County Boundaries in North Dakota; Thesis, University of North Dakota, 1919; Page 3

2. Hall, L.J.; County Boundaries in North Dakota; Page 6

citizens of the United States. St. Joseph was made the temporary county seat and county commissioners were appointed.

The act that established these counties was repealed in December, 1863, because it was found that all of the counties were in Indian territory and consequently not under the jurisdiction of territorial laws and courts.

New counties were organized shortly after this time but their importance was not so great as to necessitate being traced here.

The next important development was in 1872 when all of North Dakota east of the Missouri river and a large portion west of the river was divided into counties. In all there were twenty-seven counties wholly within the present State of North Dakota, and five partly within the state. The names of many of these counties are found on the map of North Dakota today. These counties are Pembina, Cavalier, Rolette, Bottineau, Renville, Grand Forks, Ramsay, McHenry, Foster, Sheridan, Cass, Kidder, Richland, Ransom, LaMoure, Logan, Burleigh, Mountrail, Williams and Morton. While these counties have not all maintained the boundaries as established by this act of 1872, yet it was in that year that many of the counties of North Dakota were christened.

"It is interesting to know the reason for this division of the unsettled and unsurveyed territory into counties, which are organizations presupposing some need for government and some means of operating administrative machinery.

"In order to facilitate the sale of bonds for the Northern Pacific railroad, counties were laid out and maps were made to give the impression of a well-settled and prosperous region,

supplying the new road with heavy traffic and thus assuring good returns on all investments in the bonds of the road. The capital was named Bismarck to flatter the new chancellor of United Germany and attract the favorable notice of German capital.<sup>1</sup>"

By the time North Dakota became a state--in 1889--it contained 53 counties. While the boundary lines of many of the original fifty-three counties have been changed and names dropped or added as these boundaries were changed, yet North Dakota, in 1933, has the same number of counties with which she entered the union.

In the chapter of this thesis on the consolidation of counties, the advisability of continuing to have such a large number of counties will be discussed.

This chapter can best be concluded by citing the opinions of two well-known students of local government.

"There is a growing feeling that there is need of revising county areas so as to increase their size. This would tend to reduce the cost of county government, since there is needless waste and unnecessary overhead cost where county officers serve a small county. With the improvement in highways and the use of new means of transportation, it seems that there is little need for counties of less than 1,000 square miles (except perhaps in extremely densely populated regions\*). In recasting county lines an effort should be made to encourage the development of communities with common economic and social interests. County areas might be revised either by a comprehensive reorganization state-wide in scope, or by

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I. Hall, L. J.; County Boundaries in North Dakota 1849-1916; P. 13

\* Parenthetical statement is the writer's.



consolidation of existing counties where local sentiment is favorable.

". . . While the plan of comprehensive regrouping of counties is to be preferred to the absorption of small counties by large counties, the obstacles to carrying out the former plan are such that more progress probably will be made by the latter method."<sup>1</sup>

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1. Fairlie and Kneier, County Government and Administration, Century, Pp. 66-67.

## Chapter II

### GENERAL NEED FOR RE-ORGANIZATION OF COUNTY GOVERNMENT

Franklin D. Roosevelt while governor of New York stated in an address, "The total expenditures of federal, state and local governmental units are about twelve or thirteen billions of dollars annually. The federal government spends about one third of this amount, state governments about thirteen per cent, leaving more than one half to be accounted for by our local units."<sup>1</sup>

The foregoing statement presents the problem of local government very effectively. Over one half of all taxes are spent by the local units of government. The question of how to relieve the tax burden is thus thrust directly on those administering the local units of government.

This study is concerned with the county as a unit of local government. The problem of this thesis is to point the way for substantial savings in county governmental costs. That there is need for such savings will be proven here.

As traced in Chapter I of this study, the framework of county government in the United States dates back to about 1670. It is astonishing how few changes have been made in the form of this government since that time. As will be later shown in this study, our modern inventions that facilitate travel and communication

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1. Address of Governor Roosevelt, "Reducing Rural Taxes," University of Virginia, July 6, 1931.

have seemingly made no difference to people in regard to re-organizing their county government to meet these changes. County governments have drifted along paying little or no heed to their extravagant costs and mounting tax burdens.

"The expenditures of local governments have increased at an astonishing rate. In 1890 local government in the nation cost \$487,000,000. In 1927, the last year for which complete figures are available, the cost of governmental units within states was \$6,454,000,000. It increased from a per capita cost of \$7.73 in 1890 to \$54.41<sup>1</sup> in 1927."<sup>2</sup>

In this same address figures are given showing where in that same period of time, 1890 to 1927, taxes increased sixty-five times while the valuation of the property increased thirty-five times and the population five and a half times.

Fairlie and Kneier state that the average cost of county government in 1913 was \$4.49 per capita.

In North Dakota in 1913 the taxes levied for county government were \$3,696,856 and the population of North Dakota was approximately 600,000, so the per capita cost of county government was approximately \$6. North Dakota, in 1932, with a population of 680,845, levied taxes for county government to the sum of \$9,676,876. This makes a per capita cost of \$14.21 for county government of North Dakota in 1932.

The county debt in 1922 was \$13.78 per capita in the United States. County debts in this year exceeded the state debts.<sup>3</sup>

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1. Address of Governor Roosevelt, "Reducing Rural Taxes," University of Virginia, July 6, 1931.

2. Ibid.

3. Fairlie and Kneier, County Government and Administration, Century, P. 421

Turning again to North Dakota it is found that the cost of general county government is excessively high, especially in counties of small population. General government is defined in the North Dakota Tax Commissioner's report of 1932 as "appropriations on account of county board, the general administrative offices of county government, judicial or court expenses, expense of assessors and assessments, State's Attorney, tax supervisor, elections and official bonds, also expense of maintenance of the county court house and amounts appropriated for additions and betterments."<sup>1</sup>

Billings county of North Dakota has a population of 3,140 and this population pays \$7.65<sup>2</sup> per capita for the cost of general county government and \$22.36<sup>3</sup> per capita for the cost of all items of county government.

Golden Valley county has a population of 4,122. The cost of general government (county) is \$5.92<sup>4</sup> per capita and \$14.47<sup>5</sup> per capita for all items of county government. However, Golden Valley is spending far less on highways than the average county. The average county of North Dakota spends \$4.35<sup>6</sup> per capita for highways. Golden Valley only spends \$1.93<sup>7</sup> for highway costs.

Turning to the larger counties, a different picture is presented. Barnes county with a population of 18,804 spends only \$3.31<sup>8</sup> per capita for general county government and \$9.17<sup>9</sup> for all items of county government. Cass county with a population of 48,735 spends only \$2.66<sup>10</sup> per capita for the cost of general

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1. Tax Commissioner's Report for 1932  
2. Ibid.      5. Ibid.      8. Ibid.  
3. Ibid.      6. Ibid.      9. Ibid.  
4. Ibid.      7. Ibid.      10. Ibid.

county government and a per capita cost of \$12.39<sup>1</sup> for all items of county government.

These comparisons show very conclusively that by grouping people in larger counties, the per capita cost of government can be lowered very drastically. Not only will the per capita cost of government be lowered but by having an area of more taxable property upon which to levy, taxes will be decreased.

County government is costing the people of North Dakota \$9.02<sup>2</sup> per capita, excluding the amount spent for highway construction and maintenance. This amount is far too high.

It is high time that a complete reorganization of county government be undertaken. As will be shown in Chapter III of this study, it is possible to effect large savings by consolidating the present number of counties in North Dakota from fifty-three to thirteen. Further information on the savings that can be made by this reorganization will be found in that chapter.

Chapter IV of this study will present a plan of executive reorganization of county government, making numerous recommendations to place the business of the government, in counties, on a truly business-like basis. Recommendations are made to take the administration of county government out of politics, to make most of the county offices appointive and thus assure competency in office rather than the office as a reward for favors done the party.

Too long has county government floundered along in a mire of inefficiency caused by an archaic and outgrown government.

County officers, their duties and method of securing office,

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1. Tax Commissioner's Report, 1932.

2. Ibid.

have not changed since 1670. Modern business methods have not yet been substituted for inefficiency. The result is enormous taxes and no proportionate increase in the benefits received.

Chapters III and IV will present plans for a logical, reasonable and efficient reorganization and consolidation of county governments.

### Chapter III

#### Consolidation of the Counties of North Dakota.

The size of the unit which can support a government depends to a considerable degree upon the amount of property available for taxation. When taxes become excessive one of two recourses is possible: either eliminate many of the functions being performed by the government or increase the amount of taxable property. The functions performed by most of the county officers must be carried on, but it is possible to increase the taxable property by increasing the size of our counties and at the same time reducing the cost of county government.

When North Dakota was admitted as a state there was considerable justification for a large number of counties. Methods of travel were slow and if the business of the county official was to be transacted, the distance that this official must travel could not be too great. Roads were poor and the only means of travel available to most towns or farms was the horse. There were few railroads, no telephones and mail service was inadequate.

These conditions have changed greatly. The use of the automobile and good roads enable the officer to cover, today, as much territory in two hours as he formerly could in a day. Telephones are used widely and the federal government has provided efficient mail service. Only a small percentage of the people living away from the county seat find it necessary to make special trips to transact official business. There is no good reason remaining why

the size of the county could not be greatly increased.

The idea of consolidating counties in order to reduce the cost of county government has been gaining favor with people, not only in North Dakota, but in many other states as well. So far there has been only one consolidation, this being in Tennessee. Hamilton county annexed a smaller county, James. The tax rate for county purposes in James was cut in half, its roads were improved and the county was able to have a longer school term. The courthouse of James county was used as a school. At present Meigs county, adjoining Hamilton, is petitioning to be annexed. The tax rate in Meigs county for county purposes is \$4.00 per \$100.00, while in Hamilton county it is only \$1.40 per \$100.00.

The Minneapolis Tribune reports Buffalo and Pepin counties (Wisconsin), described by the facetiously-minded as being too poor to support a poor-house, as weighing the possibility of cutting government costs by merging.

"To aid citizens in arriving at an intelligent decision members of the University of Wisconsin faculty made a survey. In a preliminary statement of findings they assured citizens that an annual saving of \$18,000 could be achieved through merging.

"Pepin county, a narrow, right-angled strip of territory capping one corner of Buffalo county, has a population of 7,450. Its 939 farms and its villages support a full complement of county officers and employes."<sup>1</sup>

The Denver Post reports: "Consolidation of three major Nebraska



panhandle counties into one--a proposal at first thought to be fantastic--moved a step closer to possibility as the Nebraska legislature advanced to third reading the Boelts bill to simplify this move.

"The counties in question, Cheyenne, Kimball and Deuel, have been vitally interested in this legislation since A. J. Carter, pioneer chappell rancher, came forward with his consolidation suggestion as an important economy measure."

The amount which would be saved in a year by consolidation has not been estimated, but it would save thousands of dollars in salaries alone.

The Nebraska bill requires forty per cent of the qualified voters in a county to initiate the proposal and a majority of those voting at the election to consolidate.

Alfred E. Smith, while governor of New York, recommended the consolidation of counties there. Surveys have been conducted in George and Florida in regard to the consolidation of counties.

In North Dakota the time is ripe for such a progressive step in county government. The state is in the midst of a depression, taxes are high and all of the people are firmly united in demanding that they be reduced. County consolidation will be an efficient way of helping to reduce the tax burden, and this fact makes the proposal for consolidation in North Dakota very timely.

That the effect of county consolidation may be better illustrated, it is suggested that the number of counties be arbitrarily reduced from fifty-three to thirteen. Effort has been made to keep

the proposed counties reasonably uniform in size and population and in no case cut across existing county lines. While this may be desirable in some cases when consolidating, the author feels that he is not familiar enough with the local conditions of each county to arbitrarily set aside boundaries that have been established by those seemingly conversant with local needs and conditions.

Further, no suggestions are made pertaining to the location of county seats, it being assumed that the city that offers the most advantages in position, railroad and road facilities, condition and size of courthouse will be selected.

The author wishes to state that he claims no infallibility in the grouping of the counties to be consolidated as outlined in this study. Those grouped here are for the purpose of better illustrating the possibilities in the savings in taxes that will be made by consolidation. While effort has been made to combine counties in a way that is the most logical and best, the reader should not confuse a mistake unknowingly made in grouping the counties, with the general purpose and arguments for county consolidation.

It is proposed that the following consolidations be made and the map inserted on the following page will illustrate the change more clearly:

County No. 1 to be made up of the area now included in Pembina, Cavalier, Ramsey and Walsh; No. 2, Nelson, Grand Forks, Griggs and Steele; No. 3, Traill, Barnes and Cass; No. 4, Ransom, Richland and Sargent; No. 5, Logan, LaMoure, Dickey, Emmons and McIntosh; No. 6, Burleigh, Kidder and Stutsman; No. 7, Sheridan, Wells, Eddy and Foster; No. 8, Towner, Rolette, Pierce and Benson; No. 9, McHenry,

Ward, Bottineau and Renville; No. 10, McLean, Mercer, Oliver and Morton; No. 11, Slope, Hettinger, Adams, Bowman, Grant and Sioux; No. 12, McKenzie, Dunn, Golden Valley, Billings and Stark; and No. 13, Divide, Williams, Mountrail and Burke.

First will be shown the savings that may be effected in salaries of county officials. The following table shows the savings that will result from this plan:

County	Population	Present Salaries	Proposed Salaries	Saving
1	66,000	\$52,390	\$18,000	\$34,390
2	56,000	48,870	18,000	30,870
3	81,000	43,790	18,000	25,790
4	41,000	37,020	18,000	19,020
5	53,000	58,070	18,000	40,070
6	54,000	40,110	18,000	22,110
7	32,000	43,390	16,600	26,790
8	41,000	46,120	18,000	28,120
9	71,000	52,640	18,000	34,640
10	53,000	47,070	18,000	29,070
11	41,000	58,300	18,000	40,300
12	45,000	52,410	18,000	34,410
13	54,000	49,210	18,000	31,210
TOTALS		\$628,390	\$232,600	\$395,790

The salaries of all county officers were reduced by the initiated law passed by the voters of North Dakota in June, 1932. Under this new law the following salaries are paid the Auditor, Superintendent of Schools, Treasurer, Sheriff, and States Attorney: in counties of 5,000 population or less, \$1200 per year; counties of 5,000-7,000 population, \$1300 per year; counties of 7,000-8,000 population, \$1400 per year; and in counties of a population of over 8,000, these officers shall be paid \$30 a year additional for each extra 1,000 of population, providing that the maximum salary to be paid to any of these officers shall not exceed \$2,400 per year.

The salaries of the Register of Deeds, the County Judge, and the Clerk of Court were reduced to the following amounts: In counties of a population of 5,000 or less, \$1,200 per year; in counties of 5,000-7,000 population, \$1,300 per year; and in all counties with a population of over 7,000, these officers are to receive \$30 per year for each additional 1,000 population, providing that the maximum salary to be paid these officers shall not exceed \$2,000 per year.

Under this salary schedule the 53 counties of North Dakota now pay out a total of \$628,390 each year for the salaries of these county officers. If the consolidation of counties as outlined in this paper were to be effected the state would pay out only \$232,600 each year in salaries of these county officers, providing for a saving of \$395,790 for this one item alone. There would be eliminated with the forty counties a total of three hundred and fourteen county officials, as well as an undetermined number of clerks and deputies.

Under the consolidation of counties each county officeholder, except in the county labeled No. 7, would receive the maximum salary provided by law. Since such a consolidation would result in a greater population for each county and thus raise the salary of the offices. Under the initiated law, a county must have a population of 41,000 if the Auditor, Superintendent of Schools, Treasurer, Sheriff, and States Attorney are to receive the maximum salary of \$2,400 per year. Each of the 13 combined counties would have such a population except No. 7, composed of Sheridan, Wells, Eddy and Foster, where the population would be 32,000. For the register of

Deeds, the County Judge, and Clerk of Court to receive the maximum salary under the law, there need be only a population of 30,000 and there would be such a population in each of the proposed areas.

For further illustration of how savings would be made on the salaries of these officers, let us take county No. 1, composed of the present counties of Cavalier, Pembina, Walsh and Ramsey. At present these four counties are paying out \$52,390 a year in salaries of these principal county officers. Under a consolidated county the officers, though receiving the maximum amount allotted by law, would receive a total of \$18,000 p\_er year or a saving of \$34,390 to these four counties for the salaries of these principal officers.

In the case of proposed county No. 5 we have an excellent example of how savings could easily be made in the cost of county government. The counties of LaMoure, Dickey, Logan, Emmons and McIntosh have, even when combined, a population of only 53,000 people, or only 14,000 more than Cass county. These five small counties are at present paying out a total of \$58,000 in salaries for their eight principal officers.

Proposed county No. 11, made up of Slope, Bowman, Hettinger, Adams, Grant and Sioux, would have a population of 41,000--just equal to the population of Cass county. These six counties are paying \$58,300 a year for the salaries of the eight principal county officers. A consolidation would mean that only \$18,000 a year would have to be paid for the salaries of these officers, leaving a saving of \$40,300 each year on this one item--or in other words a saving

of \$1 per capita in the area.

Three of the counties in this area are affected by the forty-first amendment to the constitution of North Dakota which provides: "In counties having 6,000 population or less the county judge shall also be the clerk of the district court."<sup>1</sup>

Bowman, Slope and Sioux counties have these two offices combined. The other three counties of the state having these two offices consolidated are Billings, Oliver and Golden Valley. This was a good step toward more economical county government, but its provisions were not sweeping enough to make any appreciable difference either to the state or the counties affected. The saving effected amounts to only \$7,200 annually for all six counties.

Consolidation of counties from fifty-three to thirteen would, then, result in a saving of \$395,370 every year to the taxpayers by eliminating three hundred and fourteen county officers. When such a saving can be made from this one item alone, the plan should interest every student of government and every taxpayer.

In this connection it is well to add that in addition to saving money by the elimination of three hundred and fourteen office holders, the county offices should attract more capable candidates. In the smaller counties of North Dakota the offices pay a salary of only \$100 a month. This salary surely cannot attract the candidacies of the best business men of the county. In a period of normal business operation this statement is even more truthful. A man with any business that pays him at least a living wage cannot afford to

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1. Amendments to the Constitution of North Dakota, Article 41.

run for an office that pays such a small salary, necessitate a campaign with its expenses; and even if successful in the campaign he will be under constant fear of losing his position every two years.

By consolidating counties the salaries of the county officials would be raised to the maximum allowed by law except in the consolidated county No. 7, making the salary schedule \$200 a month for the States Attorney, Sheriff, Auditor, Treasurer and Superintendent of Schools; and \$166.66 a month for the Clerk of Court, the Register of Deeds and the County Judge.

An office offering a salary of \$200 a month or \$166.66 a month will surely attract better candidates than when offering \$100 a month. In this way the consolidation of counties would remove the cause of one well-deserved criticism of county government of North Dakota--namely, that the salaries of county offices are too low to attract capable business men.

The better the business ability of an officer, the more economical his office should be conducted and the more efficiently he will carry on his duties. The taxpayer will be the gainer.

The second way by which a saving will be made by consolidation will be in the salaries of clerks and deputies. Under this plan of consolidation, as outlined in this study, a saving of at least 25 per cent in the salaries of clerks and deputies in county offices could be effected. In April, 1932, a questionnaire was sent to each of the county auditors of North Dakota. This questionnaire asked the following questions: (1) What number of clerks and

deputies are employed in the office of each of the county officials?  
(2) What salary is paid each clerk and deputy? (3) How many months  
of the year is each employed?

Answers were received from every county in North Dakota. From these answers it was found that an approximate total of \$524,000 was being paid out each year in North Dakota counties for the salaries of clerks and deputies. It is not contended that \$524,000 was the exact amount expended for hiring clerks and deputies in the county offices of North Dakota in 1932. There was a chance for possible errors to be present in the interpretation of the questionnaire, both by the auditors and in turn by the author in interpreting their answers. Some examples of answers that had to be interpreted as best possible are: "Clerks are employed as needed,"<sup>1</sup> "Clerks are employed for certain times of the year,"<sup>2</sup> and "Extra help when needed, at \$2 per day."<sup>3</sup>

As much caution and fairness as possible was observed in making out the final figures. However, if any error was made it was far more likely to have been in estimating a lesser amount than a greater amount than was expended. The author feels that it is better to estimate a smaller amount than actually was disbursed for the reason that it will not be possible to accuse this study of over-emphasizing the cost of county government in order to show need of reform.

Assuming that the wages of clerks and deputies were cut 20 per

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1. Linton county questionnaire.
  2. McHenry county           "       .
  3. Nelson county             "       .



cent in 1933 as were the salaries of the county officials, there still remains the total of approximately \$420,000 that is spent for the hire of clerks and deputies.

A saving of 25 per cent of this amount would leave approximately \$315,000 for the purpose of clerk and deputy hire in the consolidated counties. This study proposes to show that this is a very liberal estimate to allow for clerk and deputy hire. The following facts will establish this contention.

It was found, as a result of the questionnaire, that there is no equal basis or schedule that counties of like area, population and valuation follow in determining the number of deputies and clerks needed in the county offices. Under the laws of North Dakota, the discretion as to the need of a deputy or clerk in a county office is left to the board of county commissioners except in the following instances: "Provided, further, that in counties having a population of over 17,000 the county commissioners shall appoint an assistant state's attorney or clerk with a salary of not less than \$600 per year, and in counties having a population of less than 17,000, the county commissioners may appoint an assistant state's attorney or clerk whose salary shall be fixed by the county commissioners."<sup>1</sup> Also, "In counties having fifty or more teachers under the supervision of the county superintendent, the county superintendent may appoint an office deputy for whose acts as such he shall be responsible, and the salary of such deputy shall be fixed by the board of county commissioners. Provided, in counties having one hundred or more teachers under

supervision of the county superintendent, the county superintendent shall be allowed one field deputy and one additional field deputy for each additional one hundred fifty teachers or major fraction thereof under the supervision of such superintendent;" and, "They shall possess educational qualifications of the county superintendent of schools and shall receive a salary equal to eighty per cent of the county superintendent's salary."<sup>1</sup>

It is only in these two cases that the hiring of a deputy is mandatory. In all other county offices the hiring of clerks and deputies and the salary to be paid to them is left entirely to the county commissioners. County commissioners, as all other elective officials, are often under obligation to certain factions and individuals within the county and consequently they are not always too mindful of the need when providing county officials with help.

Consolidation of counties would centralize the work of clerks and deputies. Some may have to work harder but the same number will not be needed as are now employed. Further, if the county manager system of county government is ever inaugurated in North Dakota, as discussed in Chapter IV of this study, he will see to it that help is only hired when needed.

That the employment of help in county offices, as now practiced, is neither logical nor economical is proven by the following illustrations gathered from the questionnaires<sup>2</sup> sent to the counties mentioned.

Billings county, area 1,168 square miles, with a population of 3,100, employed four deputies for each 10 months of the year,

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1. Chapter 104, Session Laws, 1929.

2. Questionnaire sent out by Lester T. Roach, April, 1932, and on file at the University.

paying them a total of \$3,200. Sioux county, area 1,114 square miles, with a population of 4,600, hired one deputy for twelve months at a total expenditure of \$1,300.

Billings county hired a deputy for twelve months in each of the following offices--Superintendent of Schools, Auditor and Register of Deeds. The Treasurer had a deputy for 5½ months. Sioux county hired a deputy only in the Auditor's office.

Billings county has \$2,897,129<sup>1</sup> of taxable property, while Sioux county has \$2,002,743<sup>2</sup> worth of taxable property. While Billings county, from this fact, may be able to afford a greater expenditure in county government, yet there seems to be no need for the additional expenditure. The area and population of a county should be, largely, the determining factor in the amount of work to be done at the court house. While the amount of taxable property forms some basis for the amount of work, yet the work does not increase proportionately with the amount of taxable property. A piece of property worth \$2,000 does not take any more work in recording, assessing or checking, than a similar piece valued at \$1,000. While true that a county with greater taxable wealth may require additional work, yet the amount of work will not increase in proportion. In the case of Billings and Sioux counties, the difference is so negligible that it certainly would not require the help of three additional deputies.

Logan county, area 997 square miles, with a population of 8,000, has taxable property valued at \$6,482,223.<sup>3</sup> This county

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1. Report of State Tax Commissioner 1932.  
2. Ibid.  
3. Ibid.

hired four deputies or clerks for eleven months of the year, paying out \$2,500 for this purpose. In contrast, Kidder county, area 1,386 square miles, with a population of 8,000, has taxable property of \$6,688,153.<sup>1</sup> This county hired eight deputies or clerks for eleven months of the year for a total of \$6,600.

If Kidder county had paid the same wage level as Logan county, the expenditure would only have been \$5,000 for the year. However the author has no quarrel on that point. The salaries should be determined by local conditions, i.e., board and room may cost more in one county seat town than the other. Whenever help is actually needed it should be paid well. Criticism is directed at the fact that one county with population, area and wealth the same as the other county hires twice as much office help.

McIntosh county with an area of 1,003 square miles, a population of 10,000 and assessable property of \$6,889,074,<sup>2</sup> hired five deputies or clerks for nine months of the year at an expenditure of \$2,300. LaMoure county, adjoining McIntosh on the north, area 1,147 square miles, with a population of 11,500, has assessable property of \$12,316,870.<sup>3</sup> This county hired 12 deputies or clerks for ten months of the year at a cost of \$10,400.

In this instance we have all factors the same except the amount of taxable property. It is conceded that the extra amount would occasion some extra work. Yet it is hardly believable that the difference is great enough to account for the employment of seven extra people.

These are illustrations of the conditions revealed by the

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1. Report of State Tax Commissioner 1932.  
2. Ibid.  
3. Ibid.

questionnaires. Counties of like population, area and wealth hire a different number of deputies. There are many smaller instances of the difference that can be revealed only by going through the questionnaires. The table on the following page will help to illustrate the number of smaller differences in the employment of help.

This situation is not true of every county in the state but the conditions revealed raise the question of whether or not the method of hiring deputies and clerks should not be changed. The fact that some of the counties of North Dakota do not show any variance in the number of helpers employed does not mean that these counties do not have too many workers for the amount of service required.

The questionnaire clearly shows the need for the institution of an executive head in our county government. This phase of the problem is discussed in Chapter IV of this study.

The plan of consolidation of counties proposed in this study calls for the elimination of forty court houses.

The maintenance of the fifty-three court houses of North Dakota, including the cost of the janitor, amounted to \$244,955<sup>1</sup> in 1932. (N.B.) To this figure must be added the sum of \$66,617.50<sup>2</sup> that was expended for betterments<sup>3</sup> of the court houses. While \$50,000 of this amount was spent by Ward county, yet this total must be figured as representative because other counties

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1. Report of State Tax Commissioner 1932.

2. Ibid.      3. Ibid.

N.B. In four counties, Emmons, Hettinger, Traill and Ward, the figures submitted included other items. However \$244,955 can be accepted as representing fairly accurately the cost

of maintaining these court houses.

Court House

from year to year may have to spend a large amount of money in order to keep their court houses in good condition.

Therefore the fifty-three counties of North Dakota spent over \$300,000 in 1932 to maintain these court houses. Cass county spent \$12,000<sup>1</sup> for the maintenance of its court house. This figure should be fairly representative of the amount that would be spent for the maintenance of a court house in a consolidated county because Cass county has a population of 48,000 and its court house is perhaps the largest in North Dakota. Accepting this liberal amount as a basis for computation, thirteen consolidated counties would need only \$156,000 for this maintenance. This is allowing a very liberal estimate. A saving of \$150,000 yearly could be estimated from the elimination of forty court houses. This is in itself a very strong argument for consolidation.

Some may argue that since the money has been spent to build these court houses, this money would be wasted by abandoning these buildings. This argument is beside the point. If a consolidated county can save \$25,000 a year by the elimination of two, three or four court houses, these buildings will soon be paid for by the saving.

In some county seats these buildings may be used as school houses. In the case mentioned in this study of the consolidation in Tennessee, the abandoned court house was used for school purposes.

The court house might be used in some towns as an office building. While the type of court house in North Dakota is often

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1. Report of State Tax Commissioner 1932.

CLERKS AND DEPUTIES IN COUNTY OFFICES

A table of comparisons showing the differences in the number of deputies and clerks employed in counties of like population, area, and taxable property.

COUNTY	Renville	Sheridan	McHenry	Bottineau	Emmons	Grant
Popu- lation	7,263	7,373	15,439	14,853	12,467	10,134
Area Square Miles	899	996	1,888	1,681	1,563	1,681
( $\$$ )Value Taxable Property	5,821,- 940	5,418,- 617	11,319,- 624	13,108,- 845	9,262,- 330	7,900,- 548
Trea- surer	1--12mo. 1--2mo.	1--7mo.	2--12mo.	2--12mo. 1--9mo.	1--8 mo.	1--12mo. 1--6mo.
Auditor	2--12mo.	1--12mo.	2--12mo.	4--12mo.	1--12mo.	2--12mo.
Supt.of Schools	1--12mo.	1--12mo.	1--12mo. 1--6mo.	2--12mo.	1--12mo.	1--12mo.
State's Attorney	1--12mo. half-day	none	1--12mo.	1--12mo.	none	none
Register of Deeds	1--12mo.	1--12mo.	1--12mo. 1--when needed	3--12mo. 1--1 mo. 1--12wk.	1--12mo.	1--12mo.
Sheriff	1--12mo	none regular- if needed	1 deputy 1 jailor	1--12mo.	none	one
Clerk of Court	none exc. during court	none	\$250 allowed	\$200 allowed	none	none

that of the old traditional dome type with most of the space occupied by enormous corridors, yet some counties have built those patterned more closely after a modern office building. These buildings could be converted easily into office buildings.

Many counties wish to build memorial buildings in honor of the war dead. Vacated court houses could be used for this purpose. They would require some remodeling in order to provide a dance floor or basketball court as is needed in most cases, but this could be accomplished.

Other uses of vacated court houses might include a storage warehouse or city hall. Some counties have old dilapidated structures for court houses that will occasion no loss or regret at being abandoned.

From this discussion it can be seen that the disposal or vacating of the court houses will not prove to be a serious obstacle in the path of consolidation of counties.

It has been argued that with a reduction of the number of counties, the mileage cost for county officials, particularly the sheriff and Superintendent of Schools, would be increased. Such will not be the case because while it is true that the Sheriff or Superintendent of Schools would have to cover more miles in a larger county, yet when it is considered he is traveling this extra mileage because of the elimination of two, three or more officials, his mileage is not as great as the combined total of the former Sheriffs and Superintendents under a system of many small counties.

Under this point, it would seem advisable that the Sheriff in a consolidated county locate his deputy sheriffs at advantageous points in the county. These deputies need not be on salaries



unless the amount of business would warrant such expenditure. They might be placed on a fee and mileage basis in order to reduce expenses. The prevalent use of the telephone and its wide network makes such a plan easily operative. The Sheriff would be able to reach a deputy within a few minutes for any purpose he desired. This plan is not at all foreign to county government. In many states all of the county officials are not located at the county seat, sometimes being placed in some other city or town more advantageously situated with respect to the peculiar business of the county official.

Further savings in the cost of county government by consolidation of counties would be possible by buying road machinery for larger areas of highways. Particularly would this be true in respect to large road machines such as graders or tractors. These machines require the expenditure of large sums of money for their purchase--often they are used only for a few days throughout the year. By being able to use these machines for a greater number of days, they would be more economical in their use. Also, the same machine could be used in a county three or four times the size of the former small counties, eliminating the purchase of many similar machines as practiced under the government of small counties.

It is impossible to determine the amount of saving possible by this plan, yet it can easily be perceived that a substantial economy is possible.

The machinery has been set up by the legislature of North Dakota whereby counties can consolidate. The agitation for this law was brought about because of the desire of many citizens of

Grant and Sioux counties to consolidate these two counties. A vote probably will be held at the 1934 primaries to determine whether or not these counties shall consolidate.

<sup>1</sup>  
This law provides the following steps:

"Twenty per cent of the legal voters of any county can petition their county commissioners and the board of county commissioners of the county to which they desire that their county be annexed or united within ninety days before the next statewide primary election for state and county officers. It shall then be the duty of the county commissioners to put this matter to a vote of each of their respective counties. A majority vote in the petitioning county shall be sufficient for consolidation and a majority of 60 per cent of the electors in the county petitioned."<sup>1</sup>

The act also provides that parts of counties may petition to be consolidated with adjoining counties, provided that the voters of the remaining portion of the county also petition another county for consolidation or annexation.

This allows the people of districts in counties to consolidate their part of the county with a county to which they have a closer relationship, rather than being forced to consolidate with a county which they may feel is too far distant from their district. This fact should help to encourage counties to consolidate.

"Nominations received by any candidate or candidates for county office in a petitioning county at an election when the question of consolidating said county is voted upon, shall be null and void if the consolidation of such county is approved as provided for in this

act, and no county officers shall be elected in such county at the general fall election."<sup>1</sup>

The foregoing section provides for the automatic elimination of the officers of the petitioning county in case of the success of the consolidation at the polls.

The law also provides that county commissioners whose terms of office do not expire at the time of consolidation shall act at all regular and special meetings of the board of county commissioners of the adjoining county as it is constituted after the consolidation. However, they shall have no vote on matters arising within the territory of the adjoining county. They shall receive the same compensation as before, and if a vacancy occurs it shall not be filled.

The county will be re-districted at the first meeting of the county commissioners following the date of consolidation. The commissioners from the petitioning county shall be considered as commissioners at large.

The law also provides that each county shall be responsible for its own debts.

"The territory which constituted the petitioning county shall continue and remain in the same legislative district until the next apportionment of the state for legislative districts."<sup>2</sup>

The provisions of this law provide the machinery for consolidation. The next step is to acquaint the electors with the advantages and savings of such consolidation.

However, it is believed that even with such a good law as has

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1. S. B. 221, Session Laws of 1933, Section 8  
2. S. B. 221, Session Laws of 1933, Section 16

been provided, attempts at consolidation would frequently be blocked by the voters of the county seat of the petitioning county. These citizens too often would be more interested in attempting to retain the court house because of its supposed advantages to the city and forget the savings for the entire county that could be effected.

It is doubtful if the presence of the court house and the county officers attached to it bring any considerable trade to a city. Few individuals have occasion to visit a county seat to transact official business. During the course of a sensational court case people may flock to the county seat; such occasions are exceptional, however, and do not justify the maintenance of fifty-three court houses. Likely ninety-five per cent of all official business can be transacted by use of the mails.

In order to provide a way making consolidation of counties possible without the interference of too many local groups seeking to keep the county seat at their town because of its imagined values, it is suggested that the Constitution of North Dakota be amended, placing with the legislature the power of changing county boundaries without the consent of the counties affected.

To some this suggestion may seem to go too far in removing local autonomy. However, it must be remembered, as is pointed out in the introduction of Chapter IV, that the county is a sub-division of the state, created by it and always subject to its decrees. Moreover, the total result must be considered. If, by giving the legislature the power to re-establish county boundaries and provide for consolidation, the people of North Dakota can be saved large

amounts in taxes and have a more efficient form of county government, the suggestion is justified.

It will only be through action of the legislature that speedy action will be assured. This power should be given to it.

To sum up the arguments for the consolidation of counties, as advanced in this chapter:

(1) North Dakota has the same number of counties as she had when she entered the Union in 1889. Due to the invention of speedier and more economical modes of travel, distance has become relatively shorter than in 1889.

County boundaries were established on the assumption that the county seat should be easily accessible to all people within the county; that the distance should not be so great that the officers of the county could not easily reach its boundaries within a reasonable time. These boundaries were in most cases laid out in 1889. Forty miles that year was a good day's drive. Today it is very easily accomplished in two hours.

It seems, then, only a logical step to change the boundaries of the counties of North Dakota, reducing their number so as to encompass territory much larger.

(2) This consolidation of counties would cut down the cost of county government considerably. The first saving would be accomplished through the elimination of 314 county officials. This would result in a saving of \$395,790 every year. A saving of at least \$125,000 a year could be effected by a business-like method of hiring deputies and clerks on a basis of work to be done and not political rewards to be given.

The elimination of forty court houses in North Dakota would result in an added saving of \$150,000.

The consolidation of counties as presented in this chapter should show conclusive evidence of a saving of \$682,000 a year or approximately 20 per cent of the cost of general county government, (N.B.) in North Dakota in the year of July 1, 1931, to June 30, 1932. This saving is figured on the reduced salary schedule for county employes under the law initiated June 29, 1932, while the cost of general county government for the year July 1, 1931, to June 30, 1932, was compiled while the salaries of county officials were 20 per cent higher. The saving on the hiring of deputies and clerks as outlined in this chapter also is figured on a 20 per cent salary reduction. Computing the salaries of county officials, clerks and deputies as of the period mentioned above, the total savings would be \$775,000 or approximately 23 per cent of the cost of general county government as compiled for July 1, 1931, to June 30, 1932.

As also mentioned in this chapter the improved personnel of county officers that will result because of the higher salary schedule would place the conduct of county business on a much higher level.

These facts should convince students of government of the immediate need and desirability of county consolidation.

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#### I. Report of State Tax Commissioner, 1932.

N.B. Under the head of "general government" in the report of the State Tax Commissioner are include appropriations on account of the county board, the general administrative offices of county government, judicial or court expense, expense of assessors and assessments, State's Attorney, tax supervision, elections and official

(N.B. continued) bonds, also expense of maintenance of the county court house and amounts appropriated for additions and betterments. To this sum (cost of general county government), for the purpose of this computation, have been added the amounts appropriated for the Sheriff's office and Register of Deeds (listed in tax report under "Protection of Person and Property"), plus the amount appropriated for the county superintendent's office (listed in the tax report under "Education"). The total amount figured, cost of general county government plus the others mentioned, is approximately \$3,383,000.

## Chapter IV

### REORGANIZATION OF COUNTY GOVERNMENT IN NORTH DAKOTA

The county is a subdivision of the state. It exists in order to conduct more easily the administration of the government of the state. This point must be made clear at the beginning, for many local politicians resist the reorganization of county government with the indignant cry that "local autonomy must be preserved." Just how true this plea is can be shown easily by examining the duties of the various county officials.

The States Attorney is a direct agent of the state and his main duty is to prosecute violators of state laws.

The Sheriff is the police officer of the state and his duty is to serve legal papers of the state judiciary system and to arrest the violators of state laws.

The duty of the Coroner is to examine the bodies of those supposed to have died by unlawful means. If anyone is suspected, the suspect will be prosecuted by the state.

The county judge probates and administers estates under the laws of the state and in county courts of increased jurisdiction, has charge of civil and criminal cases that he is empowered to hear.

The clerk of court is an agent of the state in that he keeps the minutes of court proceedings and orders, issues processes or writs in law suits and has custody of the records and the county



seal.

The auditor and treasurer work together in collecting taxes for the state.

The superintendent of schools supervises the schools of the county that are all classified and governed by state laws and aided financially by the state.

The register of deeds files all transfers of property under state laws.

Thus the county politicians cannot resist a reorganization of county government on the plea of preservation of local autonomy.

The county is the direct agent of the state and as such should be more closely supervised by the state.

The chief criticisms of county government in North Dakota, besides the fact that counties should be consolidated, are:

1. County officers are responsible only to the electorate, who are unable to efficiently supervise the conduct of county affairs by the ballot alone. No executive has been provided in county government.

2. The electorate have no valid criteria by which to judge the worth of a candidate for the office for which he is running. Consequently county offices should be made appointive.

3. The governor of the state is responsible for the enforcement of the laws of the state. The States Attorney and Sheriff are directly concerned with enforcing state laws and they should therefore be appointed and removed by the governor.

The basis for these criticisms will be discussed in the first part of Chapter IV.

The small chart below illustrates very clearly the present organization of county government in North Dakota. On election day the voter is confronted with at least ten offices that he must do his civic duty in helping to fill by voting.

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ELECTORS

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Sheriff	State's Attorney	Clerk of Court	Treasurer	County Judge
Register of Deeds	Coroner	Commis- sioners	Auditor	Supt. of Schools

After the election the people have absolutely no means of knowing whether or not the office is being conducted efficiently and well. True, the voter can journey to the court house and visit the officer, yet he has no way of knowing what is being done. Furthermore, few citizens would take upon themselves the task of trying to determine how economically the county affairs were being conducted.

No officer has been designated by law to act as an executive in county government and as yet no office has been created for this duty.

The county commissioners are the closest approach to a county executive that county government has. However, an examination of their duties reveals the weaknesses of likening this board to an executive.

First of all, North Dakota boards of county commissioners are composed of three or five members. Here is the first obstacle

to overcome in likening this board to that of an executive. Experience has proved that any responsibility placed upon more than one person is in danger of being unfulfilled. The responsibility can be shifted from one member of the board to another. Furthermore, commissioners are elected from districts of the county and consequently they are too often tempted to legislate for the benefit of their own district instead of the county as a unit. Their pork barrel methods of providing their districts with the same number of roads and bridges may be likened to the activities of the members of congress.

Under Section 3276 of the Compiled Laws of 1925, the county commissioners are given the power to superintend the fiscal affairs of the county and supervise the conduct of the respective county officers. This is the closest approach to a full executive power that can be found in the state statutes. However, as pointed out in the two preceding paragraphs, the very nature of the organization of the board precludes any true executive administration.

The county commissioners are themselves elected officers. As in all small political units they are elected with the help of various factions and on the same ticket as many of the county officers. While county officers in North Dakota are elected on non-partisan ballots, yet various officers support each other and have a ticket, in a sense of the word. It is therefore too much to expect the commissioners to exercise a scrutinizing control over the affairs of other elected officials. Moreover, the commissioners have not the power of removal over county officials. This must be done by the governor, as explained on Page of this

chapter.

The first problem of the reorganization of county government is to provide a true executive for county government.

The second criticism as listed in the beginning of this chapter is that the electorate has no valid criteria by which to judge the worth of candidates running for county offices. The voter may know a few of the candidates personally, some he knows by sight, others by hearsay and some of the candidates are total strangers to him. Under such circumstances a good choice is a matter of luck.

When it is considered that the voter is filling county offices that require the services of trained accountants, expert attorneys, efficient school administrators and reliable peace officers, the task is usually beyond the ordinary capabilities of the electorate. No private enterprise would consider for a moment filling offices that required such trained men by the hit and miss methods that are used in county government.

It is proposed in this study to make county offices appointive in order to secure the selection of capable and trained men for these offices.

Third, the States Attorney and Sheriff are elected to enforce the laws of the state and to prosecute violators of these laws. Elected officials are often too prone to observe local sentiment and disregard the violation of state laws. These men often are elected by local factions on their express promise of overlooking some local violations of the law. In order to provide for a rigid enforcement of the laws of the state, it is proposed here that

the governor be given the power to appoint the States Attorney and Sheriff. This would enable the governor, who must enforce the laws of the state, to appoint the local officers who are in sympathy with his efforts. The people of the state could then hold him directly responsible for good government. If the electorate feel that the governor has not given the state an administration that has faithfully executed the laws of the state, then they may remove the governor at the next regular election or earlier by the recall.

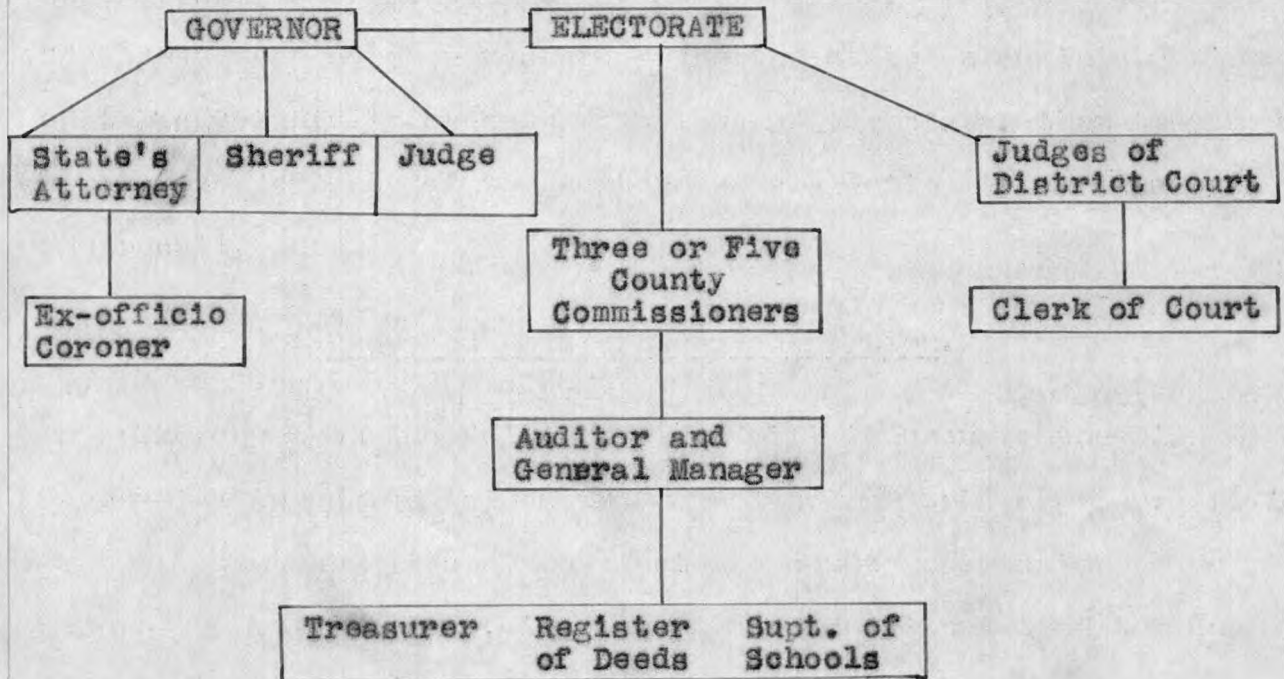
#### Proposed Plan of Reorganization.

The chart on the following page will illustrate the plan of reorganization as explained in the balance of this chapter.

It is proposed that the electorate elect the county commissioners as heretofore by districts, in order that each district of the county will be fairly represented. These commissioners will, in turn, appoint the county auditor who will act also as county manager. By confronting the voters with only one office to fill at a county election, the electorate will take much more interest in the election. They will know that the duties of the officer elected are going to be policy-forming and checking on the county manager. This will spur them to carefully study his recommendations for the office, and by having only one office to fill instead of ten or more, the spotlight of public opinion will be focused on this man.

The auditor and county manager will be appointed by the three or five commissioners. He will be selected because of his recog-

CHART SHOWING PROPOSED PLAN FOR REORGANIZATION OF COUNTY GOVERNMENT.



nized business ability and training. He will be subject to removal at any time without cause by the board. It may be objected by some that the county manager should be removed only for definite cause and his case subject to judicial review. However, it is felt that if the board and the county manager can no longer work harmoniously together a new manager should be chosen. While true that the dismissal of the manager may be unjust, yet there must be harmonious co-operation between him and the board.

It shall be the duty of the county manager to supervise all fiscal affairs of the county. As auditor it is his duty to audit all claims against the county and submit the same to the board of county commissioners for their approval. The auditor, being an elective official and not having the powers of a county manager, under the present plan has not the incentive to closely examine and question the bills presented to him. If given the powers of a county manager he would supervise more closely the expenditure of county funds. County bills are now subject to verification by the county commissioners. If the duty were placed squarely on the county manager to conduct county business efficiently and economically, a double check would be provided.

The county manager will be better informed as to what types of supplies to purchase for the county. He will take the time and effort to inform himself of the best and most economical supplies to buy. Under the present system the board of commissioners purchase by bid all supplies for which the expenditure for the year exceeds three hundred dollars, the bid being let to the lowest responsible bidder. However, the courts have decided that the

lowest responsible bidder does not necessarily mean the acceptance of the lowest bid. The board can take into consideration the responsibility of the bidder. The board has a large degree of discretion in letting contracts. Furthermore, the board, having other business matters of its own to look after and meeting only once or twice a month, cannot always know the best materials to purchase.

A county manager would devote a great deal of his time to determining the best and cheapest supplies to purchase.

The auditor now has to prepare the county budget. It is well that he be given the power also to slash appropriations wherever he deems it advisable. He is now an elected official and there is no incentive for him to try to reduce the amounts spent by the county. If he were a county manager it would be to his credit to administer county government economically and well.

The county commissioners, by the passage of a recent law,<sup>1</sup> now have charge of all poor relief in the county, with each commissioner responsible for his own district. As the commissioner has other duties to attend to he cannot spend much time administering poor relief. One county has hired an official to<sup>2</sup> look after poor relief for the whole county. Under a county manager system of government it would be his duty to administer this relief and he would provide a closer check on the expenditures than under the present system.

The county manager would have the power to appoint the

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1. H.B. 343, Session Laws, 1933  
2. Grand Forks County.



register of deeds, treasurer and superintendent of schools. As stated before, the duties of the treasurer and register of deeds make it necessary that a good bookkeeper or trained accountant be placed in charge. Too often it happens that someone is elected to the office who has had no previous training for such work. Appointment of these officers by the county manager would assure the occupant of the officer being a trained official.

The county superintendent is made appointive by the county manager because it is felt that the local supervision of schools is desirable. Due to the fact that the state superintendent of schools is an elected official, he is not always as well qualified as he should be. It is desirable to keep the control of the schools out of politics as much as possible. Appointment by the state superintendent of schools might possibly involve too much politics. There are many well qualified school men in every county and the county manager surely can pick a very efficient man from the group.

It is further recommended that the clerk of court be selected by the judges of the district court. There is no possible argument for selecting this official by an election. The duties of this officer are distinctly interwoven with our court system in that he issues all court notices and processes, enters orders and judgments, keeps minutes of daily court proceedings and draws jurors and keeps records of witnesses. Laymen have no way of knowing if the duties of this office are being fulfilled efficiently. The judges of the district court are the only ones qualified to know if the office is being conducted well, inasmuch as all the work is done for these judges.

It should therefore be their privilege to appoint the person to fill this office.

In answer to critics who may be afraid that this step would involve the judges in politics, it can be pointed out that the office of clerk of court is so uninfluential that no possible political connections could be built up or even the temptation offered.

It is the duty of the governor to see that the laws of the state are faithfully executed. That these laws be enforced, the governor is dependent upon the help and co-operation of the county officers entrusted with enforcing these laws, namely the State's Attorney and Sheriff. Under our present system of county government the governor has absolutely no voice in choosing these two men who are to form an integral unit in the enforcement of state laws. While true the governor has the power to remove from office any county officer guilty of misconduct, malfeasance, crime in office, habitual drunkenness, gross incompetency or neglect of duties, such cases have to be very extreme in nature. A governor is naturally unwilling to remove anyone from office that has been selected by a majority of the voters of the county. Any officer so removed is entitled to a hearing and judicial review so the cases are long and tedious. It would be far better to give the governor the power to appoint these officers himself.

A closer study of the duties of these two officers will be sufficient evidence for their appointment by the governor.

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1. Compiled Laws of 1913, 1925 Supplement, Section 685.

"The State's Attorney is public prosecutor and as such is required to attend district court to represent the State in all prosecutions of public offenses.<sup>1</sup>"

"The State's Attorney is primarily a p<sub>u</sub>blic prosecutor in criminal cases, acting in this respect distinctly as an agent of the state government. He also acts as legal advisor to the county board and county officers. In view of his principal functions, it may be urged that this officer should be appointed by the governor or attorney general, as the direct representative of the state government.<sup>2</sup>"

This recommendation made by the Illinois constitutional convention sums up the problem admirably well. All too often the violators of state laws are allowed to go free because of the sympathy of the local State's Attorney for the local men or because of their connection with his local faction.

All criminal prosecutions are brought in the name of the state. The State's Attorney is the direct representative of the state in the prosecution and as such he should be directly responsible to a state officer.

Because the duties of the state's Attorney are distinctly those of a state officer, this study recommends that he be appointed by the governor and subject to removal by him at any time.

The governor of Florida appoints<sup>3</sup> the State's Attorney for a four-year term. The state of Montana pays<sup>2</sup> half of the State's Attorney's salary. This recommendation is, therefore, no new

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1. Manual for State of North Dakota, 1932, p. 87.

2. Constitutional Convention Bulletins, Published by State of Illinois, p. 1022.

3. Fairlie and Kneier, County Government and Administration, Century, p. 143.

4. Ibid. P. 144

departure in county government.

"The Sheriff is the executive officer of the county and as such is responsible for the preservation of the public peace; he serves civil and criminal processes and makes return thereon; he makes arrests with or without a warrant.<sup>1</sup>"

If the sheriff is lax in his duties, the general enforcement of all laws in the county will suffer. The sheriff is just as distinctly an agent of the state as is the state's Attorney. Indeed the work of each requires that they work in close harmony.

In order that state laws be enforced, the governor should appoint the sheriff of the county. If the laws of the state were not enforced, the responsibility could be laid directly to the governor. This would be a decided step in the reform of our present system of law enforcement.

"The judge of the county court presides over the county court. He hears and determines questions arising in connection with the probating of wills and the administration of decedents' estates and has jurisdiction over guardianship of minors and incompetents. . . . Where the county court has increased jurisdiction, the county judge in addition to the above duties has concurrent jurisdiction with the district court in all civil actions involving an amount in controversy of \$1,000 and in all criminal actions below the grade of felony.<sup>2</sup>"

In the consolidated counties with their increased population,

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1. Manual for State of North Dakota, 1932, p. 87  
2. Ibid. p. 87.

it is recommended that the county court be given increased jurisdiction. This step would mean that only attorneys-at-law could become county judges. This would raise the qualifications for the office and insure better trained occupants of the office.

In order that a well qualified man fill the office, it is recommended that he be appointed by the governor from a list of men nominated by the State Bar Association. The nomination by the State Bar Association would take the appointment out of the political arena and insure the appointment of an attorney of high professional standing.

The judges of the courts should be men above reproach. It is felt that by appointing the county judge in this manner, in place of electing him, there is more assurance of securing a man of good repute.

The coroner is, next to the sheriff, the oldest of our<sup>1</sup> county officers. "It is an ancient office of the common law." The principal duty of this officer is to hold inquests over the bodies of persons whose deaths are supposed to have been due to violence or other unlawful means. This procedure is distinctly different from a trial. It is not necessary that any person accused of murder be present, and if one is present he has no right to produce witnesses or cross-examine those who testify nor to be represented by counsel unless at the pleasure of the coroner. The coroner instructs the jury on law.

The laws of North Dakota state no qualifications for this

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1. Black's Law Dictionary, p. 272

office, and consequently a laymen can occupy it although it is usually filled by an undertaker. Certainly a layman or undertaker or even a doctor is not qualified to conduct an inquest involving knowledge of law. The recommendation of this study is that the state's attorney be made the ex-officio coroner. If any person is held for the crime, it is the duty of the state's attorney to prosecute this person; consequently it would be far better if he had charge of the case from the beginning.

In Nebraska the state's attorney is ex-officio coroner.<sup>1</sup>  
In Connecticut, the judges of the superior court appoint for each county, upon recommendation of the state's attorney, a coroner who must be an attorney at law.<sup>2</sup>

Therefore, in making this recommendation, this study proposes no untried step in county government.

#### Conclusion.

The recommendations made in this chapter were made in order that the county government of North Dakota may have an executive head, one upon whom is placed the direct responsibility for the efficient conduct of county government and the economical administration of its business. County government has too long been without an official head upon whom the people can rely for good government.

It has been recommended that county offices be filled by appointment rather than election in order that these offices may be filled with men properly qualified to conduct the business of

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1. Fairlie and Kneier, County Government and Administration, p.152  
2. Ibid. p. 151

the office. In making the offices of the state's attorney and the sheriff appointive by the governor, the laws of the state will be better administered and any laxity in their enforcement can be laid directly at the feet of the governor.

It is believed that if this reorganization, as proposed in this chapter, is accomplished, the county government of North Dakota will not only be more efficiently administered but more economically as well.

It is hoped that students of government will continue research upon the recommendations made in this chapter in order that information be disseminated among the electorate and public opinion molded to the point where reorganization and consolidation of counties in North Dakota will become an accomplished fact.



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**APPENDIX**

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TABLE SHOWING THE NUMBER, AREA AND POPULATION OF  
COUNTIES IN THE UNITED STATES

STATE	Number of Counties	Total Area of State (Sq. Miles)	Total Population	Average Population Counties	Average Area Counties
Alabama	67	51,279	2,646,000	39,493	750
Arizona	14	113,810	435,000	31,000	8,130
Arkansas	75	52,525	1,854,000	24,720	700
California	58	155,652	5,677,000	97,000	2,683
Colorado	63	103,658	1,035,000	16,430	1,594
Connecticut	8	4,820	1,606,000	200,000	603
Delaware	3	1,965	238,000	79,000	621
Florida	67	54,681	1,468,000	21,910	816
Georgia	161	58,725	2,908,000	18,062	365
Idaho	44	83,354	445,000	10,114	1,894
Illinois	102	56,043	7,630,000	74,804	549
Indiana	92	36,045	3,238,000	35,196	392
Iowa	99	55,586	2,470,000	24,960	561
Kansas	106	81,774	1,880,000	17,736	771
Kentucky	119	40,181	2,614,000	21,882	338
Louisiana	64	45,409	2,101,000	34,390	710
Maine	16	29,895	797,000	49,813	1,868
Maryland	24	9,941	1,631,000	67,916	414
Massachusetts	14	8,039	4,249,000	303,500	574
Michigan	83	57,480	4,842,000	58,337	685
Minnesota	87	80,858	2,563,000	29,460	930
Mississippi	82	46,362	2,009,821	24,510	565
Missouri	115	68,727	3,629,000	31,565	598
Montana	57	146,131	537,000	9,421	2,563
Nebraska	93	76,808	1,377,000	14,806	826
Nevada	17	109,821	91,000	5,353	5,470
New Hampshire	10	9,031	465,000	46,500	90
New Jersey	21	7,514	4,041,000	192,429	358
New Mexico	31	122,053	423,000	13,645	3,944
New York	62	47,654	12,588,000	20,330	768
North Carolina	100	48,740	3,170,000	31,700	487
North Dakota	53	70,183	680,000	12,830	1,324
Ohio	88	40,740	6,646,000	75,523	463
Oklahoma	77	69,414	2,396,000	31,117	901
Oregon	36	95,607	953,000	26,472	2,656
Pennsylvania	67	44,832	9,631,000	143,746	669
Rhode Island	5	1,067	687,000	135,400	213
South Carolina	46	30,495	1,738,000	37,782	663
South Dakota	68	76,868	629,000	9,250	1,130

(continued on next page)

TABLE (continued)

STATE	Number of Counties	Total Area of State (Sq.Miles)	Total Population	Average Population Counties	Average Area Counties
Tennessee	95	41,687	2,616,000	27,431	439
Texas	253	262,398	5,824,000	23,019	1,037
Utah	29	82,184	507,000	17,483	2,833
Vermont	14	9,124	359,000	25,643	652
Virginia	122	40,262	2,421,000	19,844	330
Washington	39	66,836	1,563,000	40,073	1,714
West Virginia	55	24,022	1,729,000	31,400	400
Wisconsin	71	55,256	2,939,000	41,394	778
Wyoming	24	97,548	225,000	9,375	4,064