A BACKWARD GLANCE—HISTORIC EVOLUTION OF THE LOCAL
GOVERNMENTAL STRUCTURE IN SOUTHEASTERN WISCONSIN

by Eileen Hammer

PRE-STATEHOOD

Four hundred years ago southeastern Wisconsin was a wilderness of hills and swamps, rivers and lakes, forests and prairies. Its only inhabitants were native American Indians who resided in scattered settlements and subsisted in a late stone age and early copper age culture. Various tribes dominated given territories that were bounded by waterways and other natural demarcations. European man had not yet set foot upon the land.

Three hundred years ago southeastern Wisconsin looked much the same, but by then Western European culture had stepped in, however imperceptibly. Great Britain claimed the land as part of her empire by virtue of John Cabot’s discovery of North America in 1497. France established her claim through exploration and occupancy in the early 1600’s. Thus began the Region’s first tenuous ties to modern civilization, which ultimately prevailed as pioneers built settlements and divided the Region into organized, manageable units of government.

The dual claim over southeastern Wisconsin was ended in 1763 by the Treaty of Paris when France ceded the territory to Great Britain after she lost the French and Indian War. Great Britain’s title to the area lasted for only 20 years and ended as a result of the Revolutionary War. In a treaty signed by Great Britain and the United States on September 3, 1783, the United States gained possession of the Region.

Because the western frontier was moving rapidly into the Great Lakes region, it soon became apparent that some form of local government would be needed. Consequently, Congress created territories and provided for the appointment of territorial governors. Residents were given voting privileges to elect territorial legislatures and a delegate to Congress.

Initially, Wisconsin, along with all the lands north and west of the Ohio River, was designated as part of the vast Northwest Territory by an act of Congress in 1787. This Northwest Ordinance called for smaller territorial divisions, and ultimately states, to be carved out of the larger territory as population densities warranted.

One of the divisional boundaries stipulated by the Northwest Ordinance was an east-west line drawn through the southern tip of Lake Michigan. That line initially divided Wisconsin and Illinois, but no longer serves as the division because of the clever tongue of an Illinois loyalist. Details of that boundary issue will be discussed later.

Editor’s Note: There are currently 154 general-purpose local units of government in the Southeastern Wisconsin Region: 7 counties, 28 cities, 54 villages, and 65 towns. This relatively complex governmental framework has evolved over time from very simple beginnings. With this issue of the Technical Record, the Commission begins a three-part series examining the development of the local governmental structure in the Region. This first article traces the governmental development of the Region from pre-statehood through the establishment of the seven county boundaries as they exist today. The second article in the series will examine the development of the boundaries of the civil towns in the Region. The third and final installment in the series will examine the historic development of incorporated municipalities.
During the 50 years following passage of the Northwest Ordinance, several territorial units were created, placing southeastern Wisconsin under a variety of authorities. It became part of the Indiana Territory in 1800, the Illinois Territory in 1809, the Michigan Territory in 1818, and finally the Wisconsin Territory in 1836 (see Map 1).

As Europeans settled the “new country,” they had to deal with the Indians who claimed sovereignty over the land by virtue of being the original inhabitants. Great Britain had a policy that Indian tribes were independent nations whose land should be acquired by treaty. The United States adopted that policy and designated commissioners to hold treaty sessions where differences were resolved and agreements were made on terms of purchase and arrangements for transfer of the land. Indian leaders signed the documents, which then were sent to Congress for ratification or rejection.

Most Wisconsin land was sold by treaty to the United States during the 1830’s. The largest portion of what is now the Southeastern Wisconsin Region lay in land held by Chippewa, Ottawa, and Potawatomi tribes and was deeded to the United States in 1833. The roughly triangular area so deeded is located between the Rock River on the west and the Milwaukee River and Lake Michigan on the east. A narrow finger of land between the Milwaukee River and the lake was sold by the Menominee Indians in 1831. Purchase of Indian land was completed by the time Wisconsin became a territory in 1836.

Map 1

**TERRITORIAL CHANGES AFFECTING WISCONSIN: 1800-1838**

[Image of maps showing territorial changes from 1800 to 1838]

The year 1818 has particular significance for southeastern Wisconsin. In that year the Illinois Territory became the State of Illinois, leaving Wisconsin to become attached to the Michigan Territory. It was during Illinois' push for statehood that its northern boundary—and Wisconsin's southern boundary—was changed to a line extending west from a point 60 miles north of Lake Michigan's southern tip. In other words, the boundary was placed 60 miles north of the line originally established by the Northwest Ordinance.

Nathaniel Pope, an enterprising territorial delegate from Illinois, is responsible for the boundary change. He argued for the extra territory by telling Congress that Illinois must have greater access to the Great Lakes and to commerce in the North, and threatened that she might switch her allegiance to the southern states if the Union divided in two, were the change not granted.

Pope's reasoning was not questioned by members of Congress, delegates from the Michigan Territory, or residents of Wisconsin. The extra territory gave Illinois jurisdiction over the Chicago area, the Galena lead region, and a large section of prairie land, a total of about 8,500 square miles.

While there was apparently no opposition to Pope's move at the time, Wisconsinites complained loudly and bitterly in years to follow. When Wisconsin was in the process of becoming a territory, and when it was moving toward statehood, the boundary question became a heated issue in which Wisconsinites insisted that the disputed land rightfully belonged to Wisconsin.

At one point during the statehood effort, at least one Wisconsin delegate to Congress threatened that the territory might separate itself from the union unless it were compensated for the lost land. Later, a territorial boundaries committee suggested that the boundary question be taken to the United States Supreme Court. Ultimately, in a desire not to jeopardize chances of becoming a state, Wisconsin representatives stopped fighting the border war once and forever. Thus, in 1848 Wisconsin became a state with the boundaries that exist today.

FORMATION OF COUNTIES

The first counties in Wisconsin were huge expanses of land that served as administrative districts for the limited degree of local government required by the sparse population. In 1818, when the State of Illinois was formed from a portion of the Illinois Territory, the remainder of the Illinois Territory was attached to the already existing Michigan Territory. The area so attached included all of what would ultimately become the State of Wisconsin as well as portions of what would become the State of Minnesota and a part of the Upper Peninsula of the State of Michigan.

At the time of the attachment of this area to the Michigan Territory, three counties were created in what would eventually become the State of Wisconsin (see Map 2): a western county, Crawford; an eastern county, called Brown; and a far northern county, called Michilimackinac. The entire Southeastern Wisconsin Region was located in Brown County. Its western boundary was a line extending due north from the Illinois border through the middle of the portage between the Fox and Wisconsin Rivers, to the southern border of Michilimackinac County. The border between Brown County and Michilimackinac County was defined as "a line drawn due west, from the dividing ground between the rivers which flow into Lake Superior, and those which flow south... to a point due north from Sturgeon Bay; thence south to said bay; thence by the nearest line..." to a line drawn through the middle of Lake Michigan. The line through the middle of Lake Michigan constituted the eastern boundary of Brown County, and the Illinois State Line, the southern boundary.

As population continued to grow in the Michigan Territory, new counties were created. By 1836, when the Wisconsin Territory was organized from all that part of the former Michigan Territory which lay west of the present limits of the State of Michigan, four counties existed in what would ultimately become the State of Wisconsin (see Map 3).

In addition to being the year in which the Wisconsin Territory was organized, 1836 marked the completion of the U.S. Public Land Survey over the area that now comprises the Southeastern Wisconsin Region. This survey, which was established by an act of the U.S. Congress in 1785, formed an important basis for
defining county and minor civil division boundaries and stands today as the basis for all division of land and for all real property boundary description in the Region. A discussion in an historic context of the U. S. Public Land Survey in southeastern Wisconsin is set forth in the SEWRPC Technical Record, Vol. 1, No. 2, December 1963-January 1964.

In the public land survey, the northern boundary of Illinois was established as the baseline for surveys to the north, and, as such, as one axis of a coordinate system from which the tiers of townships were numbered north from the baseline. The fourth principal meridian, the second axis for the public land survey system in southeastern Wisconsin, was extended due north from the baseline near the present community of Hazel Green in Grant County. The meridian became the eastern boundary of present day Grant County, and the basis for numbering ranges of townships east and west of the principal meridian.

A Four-County Region
At a special session of the Michigan Territorial Legislature in 1834, Brown County was divided in two along the line between Townships 11 and 12 (see Map 4). The northern half remained Brown County. The southern half became Milwaukee County, an area that comprised what is now southeastern Columbia County; most of Dodge, Washington, and Ozaukee Counties; part of Dane County; and all of Kenosha, Jefferson, Milwaukee, Racine, Rock, Walworth, and Waukesha Counties. “Old Milwaukee County,” as it is sometimes called, remained in this form for only two years, and for part of that time was attached to Brown County for judicial purposes.

When Wisconsin became a territory in 1836, the Territorial Legislature in its very first session subdivided Milwaukee and Brown Counties. Four counties were created in what is now the seven-county Southeastern Wisconsin Region (see Map 5).
Map 4

BROWN AND MILWAUKEE COUNTIES: 1834

Source: Wisconsin Historical Records Survey, Origin and Legislative History of County Boundaries in Wisconsin, Madison, 1942; and SEWRPC.
Map 5

MILWAUKEE, RACINE, WALWORTH, AND WASHINGTON COUNTIES: 1836

Source: Wisconsin Historical Records Survey, Origin and Legislative History of County Boundaries in Wisconsin, Madison, 1942; and SEWRPC.
Walworth County is the only one of these four counties that has retained its original boundaries, which included all of U. S. Public Land Survey Townships 1, 2, 3, and 4 North in Ranges 15, 16, 17, and 18 East of the fourth principal meridian. Milwaukee and Waukesha Counties were originally one entity known as Milwaukee County, which included all of Townships 5, 6, 7, and 8 North in Ranges 17, 18, 19, 20, 21, 22, and 23 East. Racine and Kenosha Counties were one unit called Racine County, which included all of Townships 1, 2, 3, and 4 North in Ranges 19, 20, 21, 22, and 23 East. Washington and Ozaukee Counties were originally formed as Washington County, with a northern boundary that included one tier of townships that had been in Brown County before 1834. The County included all Townships 9, 10, 11, and 12 North in Ranges 18, 19, 20, 21, 22, and 23 East.

The Creation of Waukesha County

Waukesha County seceded from Milwaukee County in 1846 at the instigation of four young politicians. The men behind the division are familiar names in Waukesha County annals: Alexander Pratt, William Barstow, Alexander Randall, and Andrew Elmore.

A convenient argument used by them in their effort to separate from Milwaukee County was that the City of Milwaukee was getting more than its fair share of county dollars for public improvements. In 1845 the four men succeeded in persuading the Territorial Legislature to designate Prairieville (now the City of Waukesha) as the county seat of Milwaukee County, although an actual relocation of government never took place. Through effective political organizing in late 1845, they managed to get several of their cronies elected to the Legislature, where the ultimate battle over county division would take place.

In early 1846, the Legislature acted to divide Milwaukee County in two, and to reestablish Milwaukee as the seat of government for Milwaukee County. The measure to divide the County called for affected residents to vote on the separation in a spring referendum. A lively and sometimes bitter campaign ensued, with the final outcome favoring a county division. There were charges of voter fraud but the outcome of the balloting prevailed, and Waukesha became a separate county in 1846.

The division left Milwaukee County with substantially less territory than was given to the newly created Waukesha County. The latter consisted of all of Townships 5, 6, 7, and 8 North in Ranges 17, 18, 19, and 20 East (see Map 6). After the division, Milwaukee County consisted of all of Townships 5, 6, 7, and 8 North in Ranges 21, 22, and 23 East.

The Creation of Kenosha County

Similar forces were at play in the division of Racine County in 1850. The creation of Kenosha County was instigated by a petition from the president and trustees of Southport—now the City of Kenosha—who influenced the State Legislature to act in 1850 to change the village into a city and at the same time establish Kenosha County as a unit independent of Racine County. When the Racine County Board of Supervisors found out what had happened, they protested vigorously. In balloting to object to the Legislature’s action, only three supervisors cast opposing votes, indicating that even representatives from the Kenosha area did not favor the change if it meant deviating from established political alliances. Legislative arguments, charges of unconstitutionality, and agitation for and against the move persisted for several years. More than 30 years later, in 1881 and 1882, efforts were still being made to reunite Racine and Kenosha Counties, but to no avail. The push for reunion was never successful.

Following the division, Kenosha County consisted of all of Township 1 North and Sections 25 through 30 of Township 2 North in Range 19 East plus all of Townships 1 and 2 North in Ranges 20, 21, 22, and 23 East (see Map 7). Racine County was left with roughly its northern half, consisting of Sections 1 through 24 of Township 2 North and all of Townships 3 and 4 North in Range 19 East plus all of Townships 3 and 4 North in Ranges 20, 21, 22, and 23 East. Because civil towns had been formed in Racine County prior to the division, the boundary between the Counties was established along an existing civil town boundary through Township 2 North in Range 19 East. Using the boundary between Township 2 North and Township 3 North in Range 19 East would have divided the Town of Burlington into two parts.
The Creation of Ozaukee County
When an exasperated State Legislature divided Washington County in 1853, the move was an unpopular resolution of an acrimonious and protracted 13-year dispute over where to locate the county seat. The dispute involved five indecisive referenda on selecting a site for the county seat and a decisive vote against dividing the county into northern and southern units, naming the southern county Tuskola, and setting its county seat at Cedarburg.

Even the 1853 law creating Ozaukee County did not entirely settle the matter: records were abducted before they could be sent from Port Washington to the new county seat at West Bend.

Historians say that the problem grew out of the peculiar socioeconomic characteristics of Washington County in the mid-nineteenth century. The County was inhabited by a diverse group of immigrants who were not used to governing themselves and perhaps felt a false sense of personal power in their new-found freedom. Their sense of citizenship, however, did not extend beyond their immediate localities, and the move to divide the County became a sectional fight among several communities, each with a great deal of support.

A brief review of the events begins in 1836 when the Territorial Legislature created Washington County and designated Wisconsin City (renamed Port Washington in 1844) as the county seat. That designation meant little, however, because the County was attached to Milwaukee County for administrative and judicial purposes.

Wisconsin City had fallen into decline and decay by 1840 when Washington County’s organizational act was passed. Several other localities, however, had prospered and were likely possibilities for the county seat. In 1841 the Legislature authorized a county vote that resulted in the selection of Hamburg (now the Village of Grafton) as the county seat. Another provision of the law, however, said the county board could meet wherever it wanted. Generally, the board met at the home of a county commissioner.

This system continued until 1846, when the Territorial Legislature called for a uniform system of town government and authorized citizens of each county to hold an election to choose a county seat. Contenders in balloting that year were Port Washington, Cedarburg, Hamburg, West Bend, a “good location near the center,” and the County Farm in the Town of Jackson. As no site received a majority of votes, the referendum was declared indecisive, and a county seat was not selected.
In 1847 the Legislature established Port Washington as a temporary county seat for five years to give county residents more time to agree on a suitable site. Their only point of agreement, however, was that Port Washington was not a suitable site.

Once again the Legislature was forced to step in, and in 1848 it authorized a series of three elections to choose a permanent site for Washington County’s seat of justice. The first election had seven contenders: Cedarburg, West Bend, Port Washington, Newark (now Barton), Saukville, Newburg, and the County Farm.

Since there was no majority winner, a second election was held later in 1848 to choose among Cedarburg, West Bend, and Port Washington. Again there was no majority winner. In the third election, held on January 1, 1849, the contest was between Cedarburg and West Bend, but a healthy balloting for “neither” again denied residents of a majority winner. That final election also was marred by blatant evidence of ballot box stuffing.

In desperation, the Washington County Board unanimously agreed to ask the Legislature to end the sectional fights by establishing a county seat through state law. Instead, the Legislature proposed to divide the County into northern and southern sections, making the southern county Tuskola and declaring Cedarburg the county seat. Port Washington was to be the county seat for Washington County to the north. This measure called for a referendum “for” or “against” the county division. Balloting in 1850 resulted in a resounding vote against the proposed division.

Despite the outcome of the referendum, the county seat issue went to the Wisconsin Supreme Court on the question of a writ of mandamus ordering Washington County to construct county buildings in accordance with the bill dividing the County. That writ eventually was denied by the court.

By 1852, five years had expired since Port Washington was named temporary county seat, so the Legislature once again took matters into its hands by declaring Grafton the county seat and calling for an election in which residents would vote for or against moving the county seat to West Bend. The vote was against removal, but the election was met with heavy protests from all quarters because of widespread voting irregularities and accusations of flagrant fraud in the Town of Belgium, where 763 votes were cast even though only 300 voters lived in the community.

Residents once again carried their dispute to the halls of the Legislature, this time literally, as people from all sections of Washington County gathered in the Capitol’s lobby with their protests, petitions, affidavits, and demands. Tired of dealing with this issue in session after session, and spurred by a newly formed alliance between leaders of West Bend and Port Washington, the Legislature finally voted in 1853 to divide the County into today’s Washington and Ozaukee Counties and to name West Bend and Port Washington, respectively, as the county seats.

Dissatisfaction over that apparent resolution again sent the matter to the Wisconsin Supreme Court on a test of the division’s constitutionality. Meanwhile, most of the original county officers found the new law especially repugnant because they lived in Port Washington and did not want to relinquish their authority to people from West Bend. They agreed to consider the new law unconstitutional and void. The one exception was Adam Schantz, Register of Deeds, who lived near West Bend and favored removal of his records to that city.

After Schantz’s opponents obtained an injunction preventing him from moving his records, he got his lawyers to travel a great distance to find a circuit judge who could sign an order lifting the injunction and designating a deputy to remove the files from Port Washington to West Bend. The order lifting the injunction was shown to Schantz and his deputy, but apparently not to Schantz’s opponents. The deputy was told to collect Schantz’s records the next night.

A zealous sheriff who probably didn’t know about the lifted injunction saw lights in the room where the deputy was gathering the records and proceeded to conduct a raid. The resulting commotion brought indignant residents to the scene as the intruder was escorted away. The next morning everyone was surprised to discover that all the records in the register’s office had disappeared during the night.
Several months later, the records reappeared almost as mysteriously as they had disappeared. They turned up following the Supreme Court’s ruling that the law to divide Washington County was indeed constitutional. About that time a local newspaper editor notified county officials that the missing records had been delivered to his home. He invited county officials to pick up the records if they did so unobtrusively. Once again, under the cloak of darkness, the Washington County records in question were prepared for a move. This time, the move ended triumphantly, as West Bend leaders carried the missing documents into the City the next day, waving banners and handkerchiefs tied to poles.

All but one of the missing documents were recovered at that time or shortly thereafter. One document remained missing for a quarter of a century; it was found between the brick walls and plastering of a Port Washington building where the records had been hidden.

Thus ended the protracted dispute that resulted in the division of Washington County into two smaller units, Washington County and Ozaukee County. Ozaukee County consisted of all of Townships 9, 10, 11, and 12 North in Ranges 21 and 22 East (see Map 8). The new Washington County contained substantially more than half the land in the original county, consisting of Townships 9, 10, 11, and 12 North in Ranges 18, 19, and 20 East.

CONCLUDING COMMENT

The county boundaries in southeastern Wisconsin have remained stable since 1853. From time-to-time, however, interest still arises in changing county boundaries to meet changing needs. The most recent example of such interest in the Southeastern Wisconsin Region is a proposal presented in the early 1970's to the Committee on Metropolitan Problems established by then Governor Patrick J. Lucey. In an appearance
before that study committee, Mr. Russell Knetzger, a consulting planner working in the Region and at that time Chairman of the Wisconsin Metropolitan Alliance, Inc., a citizen group interested in improving local government in Wisconsin, presented a proposal to adjust county boundaries in southeastern Wisconsin in the manner identified on Map 9. Under this proposal, there would have been a total of eight counties within southeastern Wisconsin, rather than seven as at present. Milwaukee County would be expanded to include the four adjacent survey townships of Waukesha County, as well as adjacent townships in Washington and Ozaukee Counties. Waukesha, Washington, and Ozaukee Counties would have been substantially reduced in size under this proposal. In addition, the proposal called for the creation of a new county west of IH 94 in Kenosha and Racine Counties. Existing Kenosha and Racine Counties would thus be confined to the area east of IH 94. Walworth County would remain unchanged under this proposal. This proposal was never implemented.