CHAPTER III

GOVERNMENT IN EARLY WISCONSIN

In the few small settlements of the French and the early sparse settlements of English and Americans, there was little attention to "government." People settled their disputes as best they could. Sometimes they used their fists, sometimes a gun. Sometimes they might appeal to the big man of the community, the trader, to decide their disputes. The French trader used such French law as he knew.

When the country was given to the United States it naturally came under the laws of the United States. The Ordinance of 1787 was passed for the government of the Northwest Territory, of which Wisconsin was a part. This ordinance divided the Northwest Territory into townships six miles square. But the legislature of the territory was left free to determine the government of the territory.

For a long time there were not enough people in that part of the Northwest Territory which is now called Wisconsin to make "government" necessary. One white man in a township—and there was not even one in most of them—would not need much government. There were only two real settlements, the little villages of Green Bay and Prairie du Chien.

In 1803, Wisconsin received its first attention from the territorial government. Charles Reaume was appointed justice of the peace at Green Bay.

Judge Reaume was an odd character. A session of his court was as odd as he was. It was supposed to be an American court representing the United States Government. But he was French and spoke with a strong French accent. He wore the British uniform, a red coat and a cocked hat. He kept a copy of Blackstone, the British authority on law, in a conspicuous place. But he dealt out his decisions under the laws of France
and the customs of the traders. As it was five hundred miles to Vincennes, the seat of government of Indiana Territory, appeals against his decisions were practically impossible.\(^1\) Some said that he never decided against anyone who could afford to carry an appeal against him to distant Vincennes. Others said that a bottle of spirits was the best witness that could be produced in his court.

Some of his decisions were certainly singular. The story is told that once when two men brought a dispute before him, he declared they were both wrong. "You bring me a load of wood," he said to one. "You bring me a load of hay," he said to the other. "And now the matter is settled."

For a short time after 1816, the two chief settlements of Green Bay and Prairie du Chien were ruled by army officers. Forts were established in these two places. The commander at the fort could seize and try anyone caught violating the law. Some of the officers were very arbitrary. Colonel John Shaw, who opened up the lead region, says that he abandoned the grist mill he had built four miles from Prairie du Chien because the commander of the garrison was so tyrannical and overbearing. He was dangerous when intoxicated. At one time he ordered Menard, a farmer near there, to be tied, stripped and given twenty-five lashes by twenty-five soldiers with a cat-o'-nine tails. Menard's offense had been the protection of a young girl against the drunken commander.\(^1\)

In 1818 Wisconsin was attached to Michigan Territory. The territorial government divided what is now Wisconsin into three counties: Brown, Crawford and Michilimackinac. In 1820 Governor Cass of Michigan territory appointed officers for each of these three counties including judges, county commissioners, clerk, sheriff and justice of the peace. In 1812 the "borough" of Prairie du Chien was incorporated. It was empowered to elect a warden and two burgesses to carry on its business.\(^2\)

In 1823 the territorial government sent a boy of twenty-three to be judge over Brown, Crawford and Michilimackinac counties. This young judge, James D. Doty, had to ride on horseback over 500 miles of Indian trails in order to hold court in his three county seats, Prairie du Chien, Green Bay and Mackinac.

This would seem something of a task today, even to a judge with an automobile and our boasted good roads. But Governor Cass did it even better. While Wisconsin was part of Michigan territory, Governor Cass used to come all the way from Detroit by horseback and canoe. He travelled over Wisconsin until he knew all its main routes of travel.

These are the days of air explorers and channel swimmers. We have many specialists in strength and endurance. But those were the days when everybody, including the politicians, were doing remarkable feats of physical prowess. Women and children walked hundreds of miles over the Alleghenies to their new home in the west. An interesting example of a woman's endurance occurred during the war of 1812 with Great Britain. The British in Canada stirred up the Indians to attack the settlers in the middle west. A woman was captured by the Indians at Fort Dearborn (Chicago). The Indians forced her to march with them all the way from Chicago to Green Bay, carrying her baby daughter, and back again in the same way over the same road the next spring!!

In 1823 the counties of Brown, Crawford, Michilimackinac and Iowa were formed into a district, and directed to send two representatives to the territorial legislature at Detroit.

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Mrs. Rosaline Peck (left), the first white woman in Madison. Died at Baraboo in 1858, at the age of ninety. First house in Madison (center), built in 1837 by Rosaline Peck. Mrs. Victoria Wisconsin Peck Hawley (right), first white child born in Madison, September 14, 1837. Died at the age of eighty-five.
Although the territorial government in 1820 appointed officials for each county, many of what are now considered the most important duties of government were then performed voluntarily by the settlers on their own initiative.

The establishment of correct boundaries and proper titles to land was one of the problems handled by the settlers themselves at first. Serious quarrels often rose over boundary lines. To keep the peace, the people in a community would sometimes get together and appoint one whom they all trusted as Register of Claims for the whole community. The man selected for this duty in Milwaukee was Increase Lapham, of whom we shall hear later. The boundaries established thus voluntarily were later reviewed, and most of them approved by the federal government.

Another important problem was the education of the young. So far as material comforts were concerned, the American pioneer was not very far beyond the farmers of two thousand years ago. But one thing he would have which they did not have. He would have a few books to read—at least a Bible. He would have his children learn to read and write. As soon as a few families gathered in a neighborhood, they would get together and establish a school for the children. How this private school came to be a free, public school we shall discuss later.

Other problems soon arose. Roads and bridges must be built. The poor must be cared for. Criminals must be housed. At first it seemed easier to do all these things by popular subscription than to levy and collect a tax. In 1821, for example, a jail was built at Green Bay by voluntary subscription.

As we have seen, the law of 1818 had established county government in Michigan territory. The county commissioners were appointed by the governor. There was no
Where the governors of Wisconsin now live in Madison.

Courtesy Wisconsin Magazine
self government except for the services which the people were voluntarily cooperating to perform together. In 1827, however, the three county commissioners were made elective. The name of "commissioner" was now changed to "supervisor."

The change in name was significant. It indicated the beginning of a struggle between the settlers from the northern and those from the southern states. The people who came from the south were accustomed to doing their public work through a large political unit. They could elect three county commissioners and give them control over roads, schools, and the poor, and other matters. The people who came from New England and New York were not accustomed to handing over the details of government to a few men at the distant county seat. The county for them was simply the unit for judicial purposes. They were used to a small unit of government, the town. They were used to meeting together frequently and settling public questions at the town meeting. They wanted "home rule."

The first large inflow of population was from the south. It was the southerners who at first settled in the lead region. It was their idea of local government which was reflected in the law of 1818. They also won their principle in the later law of 1827. But the settlers from the north of Michigan territory had enough influence in that year to change the name of the governing body from "commissioner" to "supervisor."

In 1834, Milwaukee County was taken out of Brown County. Wisconsin territory was organized in 1836, and a Wisconsin resident, Henry Dodge, was appointed governor by the president. Government was coming a little closer to Wisconsin people. The new governor called for an election of members to the territorial legislature.

The first territorial legislature met at Belmont in 1836. The session lasted forty-six days and there were forty-two laws placed on the statute books. One of the laws provided for the incorporation of the Dubuque and Belmont Railroad Company. Another established the University of Wisconsin at Belmont.

A vote was taken on the permanent location of the capitol. Almost every little settlement in the central and southern part of the state was a candidate for the honor of becoming the capital. Fond du Lac, Dubuque (Iowa was part of Wisconsin territory), Helena, Portage, Milwaukee, Racine, Belmont, Astor, Mineral Point, Platteville, Cassville, Belleville, Wisconsin Rapids, Peru and Wisconsin City were among the competitors. One of the two sites owned and lobbied for by Judge Doty won. The capitol was located permanently at Madison.

The lobbying methods of those interested would horrify the Wisconsin political conscience today. There was some sentiment against the transaction but it did not cause any great scandal when many of the members of the territorial legislature left Belmont with the deeds to desirable corner and other lots in the new capital city. Governor Dodge is said to have been one of those who refused to accept any lots. We appreciate the later Wisconsin zeal for cleaning up politics better when we know what traditions the reformers had to overcome.

In 1838 the legislature assembled for the first time in Madison, the new capitol. One of the legislators has left a vivid description of the first meeting:

"The floors were laid with green oak boards full of ice, the walls of the room were iced over; there were green oak seats and desks made from rough boards, one fireplace and one small stove. In a few days the flooring near the fireplace and stove shrank so on account of the heat that a person could run his hands between the boards. The basement story was all open and James Morrison's large drove of hogs had taken possession.

"We had a great many smart members in the house. When members of this ilk became too tedious, I would take a long pole, go at the hogs and stir them up. The speaker's voice would become completely drowned and he would be compelled to stop."
"The weather was cold, the halls were cold, our ink would freeze, everything froze, so when we could stand it no longer, we passed a joint resolution to adjourn for twenty days. I was appointed by the two houses to procure carpeting for both halls during the recess. I bought all I could find in the territory and brought it to Madison and put it down, after covering the floor with a thick covering of hay. After this we were more comfortable."

The southern element was strong in the first sessions of the territorial legislature. In 1837 they reestablished the county commissioner form of government. But settlers from New England and New York were coming in fast along the lake shore, and protesting loudly against the "arbitrary and autocratic" system of local government which they found. In 1841 they succeeded in putting a compromise local option bill through the legislature. This compromise bill provided for a choice by each county, by popular vote, between the existing county and the proposed town system of government.

When we are disturbed over the number of state officers and boards we have now we may get some comfort by taking a look at the list of servants which every town was to have in those days if the people of the county voted to transfer most of the powers of the county to the towns. There were first three supervisors, "who shall also be overseers of the poor;" from one to three assessors; three commissioners of highways and as many overseers of highways "as there are road districts in the town;" three commissioners of common schools "who shall also be school inspectors;" one town clerk, one treasurer, one collector; one sealer of weights and measures; from one to three constables; and last, and strangest of all, three or more fence viewers!

Here are some of the services which these numerous officials were to render. The school commissioners of the town were to divide the town into school districts; apportion the school money raised by the town to these various districts; inspect the school in each district; and give the examination and certificates to applicants for teaching positions.

Other officers had the care of the poor; of the town lands; of the highways and bridges. Two very important duties were the determining of the time and manner in which cattle, horses, sheep and swine should be allowed on the highways; and the imposing of penalties upon those who failed to keep their fences up properly.

But these New England pioneers were not yet satisfied. They brought government still closer to the people. Every school district had its annual meeting of all the taxpayers to elect their own board of trustees, who, in their turn, were to build and keep the school house in repair and to employ the teacher.

Very little power was left with the county board. Its main duty was to equalize the assessments of the various town assessors so that no town would pay more than its share of the county taxes. Little money was needed by the county except for the expense of the court and the jail and the sheriff.

The county board itself was changed from a small board of three members to a larger board representing each town. It was now composed of the chairmen of each town board.

By this time the legislature had divided up the original large counties into several smaller ones. The eastern counties all voted for town government. Grant, Green, LaFayette, Iowa and Sauk left the power in the hands of the county commissioners.

In 1848 Wisconsin adopted a constitution and was admitted to the Union as a state. By this time the settlers from the north far outnumbered those from the south. They

1 Laws of 1837, p. 16.
2 Laws of 1841, No. 72.
put into the constitution a provision for a uniform system of town and county government. As they were in the majority, the uniform system which they adopted was naturally the town system. Each town was to have its Board of Supervisors, and the county government was to be in the hands of a County Board consisting of the chairman of each Town Board. Thus every town was represented in county affairs.

Strangely enough, there soon came to be general dissatisfaction with this system. It was said to be expensive and inefficient. In 1861 this dissatisfaction was expressed in a law which restored the county commission form of local government. The term “supervisor” was retained; “commission” and “commissioner” were avoided. The county was divided into three districts for the election of a “supervisor.” This time it was the people from New England and New York who voted for the system. Wisconsin was beginning to experiment in the interest of efficiency.

The experiment did not satisfy them. Some said that the new system did not represent the people. Some said that it was more expensive than the old. The legislature of 1870, therefore, repealed the law of 1861, and restored the town supervisor and County Board system.

This was the system of county government until 1921, when a law was passed giving counties permission to change, by referendum vote, to the county commissioner form of government. The law provides for from three to nine commissioners, according to the population of the county. One county, Burnett, changed to this form in 1923. Rusk county adopted the new system in the spring of 1928. The people of Waukesha rejected it in April, 1928.

Wisconsin Laws of 1837, 1841, 1861 and 1870 sessions.