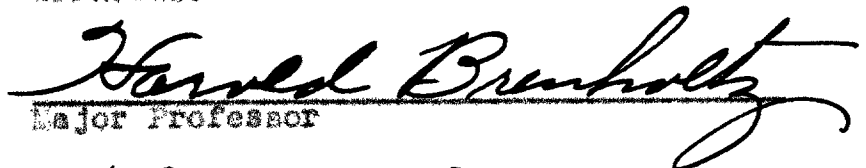
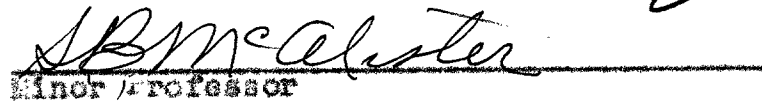


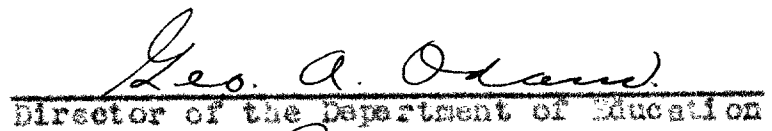
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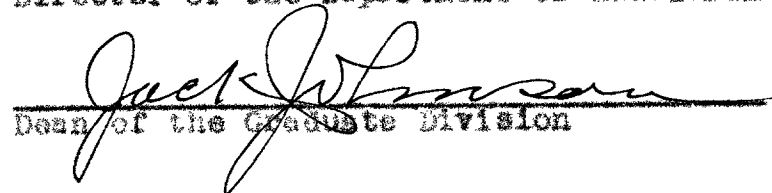
TRAINING IN TEXAS

APPROVED:

  
Major Professor

  
Minor Professor

  
Director of the Department of Education

  
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TO DETERMINE THE NEED FOR TEACHER  
TENURE IN TEXAS

THESIS

Presented to the Graduate Council of the North  
Texas State Teachers College in Partial  
Fulfillment of the Requirements

For the Degree of

MASTER OF SCIENCE

By

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## CHAPTER I

### INTRODUCTION

#### Purpose of Study

The purpose of this study is to determine the need for teacher tenure in Texas. In order to determine this need it will be necessary to investigate not only the need for tenure in the teaching profession, but also the advantages and disadvantages of tenure, the standards necessary for adequate tenure legislation, and the tenure situation as it exist in the public schools of Texas today.

#### Need for the Study

For a number of years there has been a growing sentiment for teacher tenure in Texas, but within the last decade this sentiment has crystalized into a demand for legislation which will grant the teacher the same security and freedom that employees in other professions or occupations enjoy. While the teacher has been forced to meet high educational requirements and work for small salaries with no security of position, the federal and state governments have been developing a system of social security which guarantees

With collective bargaining power as the ramrod, the unions have been able to force industry to pay a high scale of wages, provide better living conditions, and to give security of job tenure to efficient workers. The high wages paid to federal and state workers and to industrial workers have tended to raise the general price level. The school teachers, unorganized and caught in the mill-stream between low salaries, non-tenure in office and general high cost of living, have left the profession in increasingly large numbers.

The results speak for themselves. In a letter released by the Texas State Teacher's Association on May 15, 1946, the results of a survey of teacher personnel in Texas were given. From September, 1945, through May, 1946, ten per cent of the teachers resigned their positions. Fifteen per cent of the teachers surveyed were listed with sub-standard qualifications. Practically all of the cities in Texas reported resignations averaging thirty per cent. It was estimated that 8,500 Texas teachers entered the armed forces and industry from September 1941 through 1945. Only 1277 of these returned to teaching in the school year 1945-1946. Elizabeth Koch, President of the State Teacher's Association, said:

If we are to keep a staff of well trained teachers in the public schools of Texas, we must

materially increase salaries. There is no other solution to the problem. The continued exodus of our teachers from the classroom presents an alarming condition. We must give our attention to this problem immediately with the hope that local communities and the next session of the legislature will provide greatly increased support for the public schools.<sup>1</sup>

It is the contention of the writer that a well-planned system of teacher tenure is and should be of almost equal importance with salaries as an incentive for teachers to remain in the profession. The need for such a study as this is that teacher tenure should be stressed and an effort made to secure favorable tenure legislation at the next session of the legislature.

#### Previous Research Studies

In making this study it has been found necessary to examine a number of previous research studies in related fields. White, who received his Master of Science Degree from North Texas State Teachers College in 1938, made an extensive study of teacher tenure.<sup>2</sup> The purpose of this study was to ascertain the need of tenure legislation and the principles that should control the framing of such statutory law. He traced the development of teacher tenure laws, analyzed the need for them, and made a study of teacher turnover, and unjust dismissals. He concluded that the

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<sup>1</sup>Release from the Texas State Teachers Association, May 15, 1945.

<sup>2</sup>W. D. White, "Teacher Tenure", (Unpublished Master of Science Thesis, Department of Education, North Texas State Teachers College, 1938), p. 1.

teacher turnover is too great in Texas, and he recommended needed legislation. This study parallels that of White to some extent, but treats it from a different angly and brings the material up to the present from 1938.

Waller made a study, Tenure and Transiency of Teachers in Kentucky, in 1929.<sup>3</sup> His conclusion was that the most urgent educational need of Kentucky at that time was a supply of trained teachers. A related subject was that made by Foote in 1931 when he made a study of the Tenure of High School Teachers in Louisiana.<sup>4</sup> He found the rate of teacher turnover to be extremely high. Schools of good standing, he concluded, gave better teacher tenure. Better professional training was found where the teacher tenure was good.

Bulletins, surveys, and reports from the National Education Association on teacher tenure also have been studied. A copy of a proposed Teacher Tenure Act which was introduced in the Texas legislature at the last regular session was secured from its author, the Honorable R. L. Proffer. In addition a copy of a Model Tenure Act was obtained from the American Federation of Teachers. Other sources of information used in this study were obtained from the State Department of Education at Austin, the Texas State Teachers Association, The Texas Outlook and other educational and social publications.

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<sup>3</sup>Jesse P. Waller, Tenure and Transiency of Teachers in Kentucky, p. 1-54.

<sup>4</sup>Irving P. Foote, Tenure of High School Teachers in Louisiana, p. 1-120.



### Method of Procedure

An effort has been made to present the material in a logical sequence and in a practical manner. The first chapter presents the purpose of the study, the need for the study, the source of the data, and the method of procedure. The arguments for and against teacher tenure are given in the second chapter. Chapter III reviews the different types of tenure legislation now in force, and describes the types prevalent in the different states where there is tenure. Chapter IV provides a study for the standards of a teacher tenure law. In arriving at an understanding of these standards each recommendation of the Model Tenure Bill prepared by the American Federation of Teachers was studied and court decisions relating to the different phases were analyzed. The situation of the Texas school-teacher in regard to salary, security of position, and general economic background at the present time receives attention in the fifth chapter. Here also are presented data obtained from a questionnaire to Texas teachers on their reaction to teacher tenure legislation. The questionnaire itself is attached to the study and recommendations for action on the part of Texas school-teachers make up the final chapter.

## CHAPTER II

### PRINCIPLES AND PURPOSES OF TENURE

Teacher tenure is based upon the principle that the purpose and justification of tenure are the betterment of teaching and the improvement of teaching conditions. These, in turn, are closely related to the fundamental objective of the educational opportunities of children and youth in every community in the United States. (Teacher tenure is regarded as essential to the progress of the teaching profession and of the individual members of the profession.) Anything that directly benefits and improves the efficiency of the teaching profession directly benefits the children who, after all, are the ones for whom the educational program is instituted.

The efficiency and quality of a school system is determined not so much by the size and costliness of its buildings and equipment as by the efficiency morale, and freedom of its classroom teachers.<sup>1</sup>

The improvement of the teacher in service has been one of the outstanding aims of the National Educational Association since its inception. Tenure in teaching, the Association believes, is one of the essentials for this improvement.

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<sup>1</sup>National Education Association, A Handbook on Teacher Tenure, Report of the Committee on Tenure, Foreword.

For over fifteen years the Association has studied and investigated tenure. Out of this study has come a statement of nine purposes which it feels justified teacher tenure. Since the Association's study and recommendations cover a wide field, it is felt that a discussion of these recommendations will bring out the salient points in each of the individual phases of progress to be gained by instituting teacher tenure.

The first reason for teacher tenure set forth by the Committee is:

1. To protect classroom teachers and other members of the teaching profession against unjust dismissals of any kind-political, religious or personal.<sup>2</sup>

Under the prevailing system of teacher tenure in the states where there are no tenure laws, a teacher may be removed from his position at the close of a one-year tenure, without previous notice or without an opportunity of a hearing preceding a removal.) A Board of Trustees meets at the end of the school year; they decide which of their teachers, if any, will be reemployed and the teacher merely waits in suspense to hear the verdict of the Board. Removals are not always confined to unworthy and incapable teachers. The decisions of trustees, concerning removals, are not always prompted by wise and impartial judgments. The personal bias of the trustees, the religion of the teacher,

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<sup>2</sup>National Education Association, Teacher Tenure: Its Status Critically Appraised, Report of the Committee on Tenure, p. 5.

the political beliefs, of both the trustees and the teachers all often enter into the final judgment. ( Too many times, worthy and capable teachers are removed and less capable and less desirable teachers are chosen to take their places. One unwholesome result of such a system of choosing teachers is that of encouraging members of the school communities to magnify personal and petty complaints against teachers.) One educator says:

Personal and petty complaints, which are all too common, should never be allowed a free hand in determining the choice or dismissal of teachers. Even the most efficient and worthy teacher can not find it possible to please everyone, especially when there are those in every community whose conception of a teacher is based upon the teacher's ability to conform to their distorted ideas of perfection.<sup>3</sup>

The platform of the National Education Association adopted in 1934 outlined its position on this issues follows:

There should be legislation to protect teachers from discharge for political, religious, personal or other unjust reason, but the laws should not prevent the dismissal of teachers for incompetence, immorality, or unprofessional conduct.<sup>4</sup>

The removal of teachers due to personal and petty complaints is far more common in the small schools than it is in the larger school systems. In the small school, the conduct of the teacher is scrutinized far more closely due to the small sphere of the school's activities. School

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<sup>3</sup>Marvin C. Burch, "On Teacher Tenure in Texas", The Texas Outlook, XXIII (February, 1939) 11.

<sup>4</sup>National Education Association, A Handbook on Teacher Tenure, Report of the Committee on Tenure, p. 6.

boards, as a usual thing, have little or no training for their particular work, and capable teachers are not always appreciated and understood by their board members. The teacher's outside activities often are appraised rather than the efficiency of the classroom activities. As long as teacher tenure depends upon the whims of Boards of Trustees who change office frequently, the teaching profession will continue to have a large turnover in teacher personnel.

The opposition to the tenure legislation stems, for the most part, from the traditional individualist philosophy of early America. The same forces which favored the establishment of small inadequate school districts are the forces which oppose progressive teacher legislation today. Both educators and government administrators are finding that the country has undergone radical changes in its transformation from a relatively simple life to one with extremely difficult and complex issues. None of us is willing to say that all the social changes which are going on are good and beneficial, but we cannot help but recognize that they are here. They must be faced, not ignored, Dewey says:

We live in a epoch of combination, consolidation, concentration. Unless these combinations are used democratically for the common good, the result will be all increasing insecurity and oppression for the mass of men and women. Education must cultivate the social spirit and the power to act socially even more assiduously than it cultivated individual ambition for material success in the past. Competitive motives and methods must be abandoned for cooperative.<sup>5</sup>

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<sup>5</sup>John Dewey, "Some Aspects of Modern Education", School and Society, XXIV, (October 31, 1931), pp. 582-584.

The second reason for teacher tenure set forth by the committee is:

" To prevent the management or domination of the schools by political or non-educational groups for improper or selfish purposes.<sup>6</sup>

Within the last ten years, America has seen the evil effects of political groups in Germany and Japan getting control of not only the government but the school systems of the country as well. Propaganda has been instilled into the youth of these countries in defiance of established educational principles. Even in our own country, there are sporadic attempts by pressure blocs to determine school policies; in many districts, especially the small ones, dominating individuals seek to impose their own views on school policies. Teacher tenure will aid in the elimination of selfish and destructive pressure groups from the schools.

Political, religious, and economic groups of citizens sometimes try to "run the schools" and to compel the schoolboard to dismiss teachers who do not follow the tenets of their own particular group. Individual citizens and groups sometimes seek to get rid of teachers who through participation in community activities oppose them on local controversial questions. It is the belief of professional teachers associations that the children attending public schools in a democratic country are entitled to have the schools operated for the benefit of all, rather than for special group or influence. Moreover a better educational environment is possible when the teachers in a community have, through reasonable academic freedom, the right to present varied backgrounds and points

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<sup>6</sup>National Education Association, Teacher Tenure, Report of the Committee on Tenure, p. 5.

<sup>7</sup>National Education Association, Teacher Tenure, Research Bulletin No. 1, October, 1944, pp. 3-4.

of view. Any system of operation, therefore, which frees the schools from the domination of prejudicial individuals and groups is an aid to democratic education.<sup>7</sup>

The main reason advanced by the National Education Association for tenure is:

to secure, for the teacher, employment conditions which will encourage him to grow in the full practice of his profession, unharmed by constant pressure and fear.<sup>8</sup>

One of the motivating forces in man's existence is his desire for security. In order to gain security he will undergo long periods of training and apprenticeship. His choice of an occupation often times will depend upon the amount of security it offers him, and, to the true craftsmen, the opportunity to grow in service. The teaching profession, where there is no tenure in office, makes it impossible for a teacher to do his best work. A teacher must have time to work out his plans, to grow acquainted with his environment, and to evaluate his own individual methods of teaching. The average teacher, in the space of one year, can do little more the first year than become adjusted to the neighborhood and to begin his method of teaching. No teacher is going to consider it entirely worth his time to study a community, its needs, its possibilities and to try to fashion a method of teaching that will fit the situation unless he is reasonably certain that he will

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<sup>7</sup>National Education Association, Teacher Tenure, Research Bulletin No. 1, October, 1944, pp. 3-4.

<sup>8</sup>National Education Association, A Handbook on Teacher Tenure, Report of the Committee on Tenure, p. 5.

be given the opportunity to continue and extend his plans during another term. Teacher tenure, by providing the efficient teacher, security in position, will go a long way toward securing teacher growth in service.

Without tenure, it will be impossible, except under unusual circumstances, for teaching to be free and effective, and for teachers to develop their occupation into a real profession worthy of general respect.<sup>9</sup>

(The most general criticism offered in opposition to the claim that tenure enables teachers to grow in service is that it has the opposite effect. Critics of tenure argue that the teacher, once sure of his position, will have a tendency to take "dry rot" and not try to improve either his professional standing or his service to the community.)

The National Education Association's Tenure Committee, aware of this criticism, made a study of the educational growth in service of 6100 teachers enrolled in educational courses of seven summer schools in 1936. A number of the teachers who were studied in the survey were teachers in states where there is teacher tenure legislation. The data from the tests, which were questionnaires on experience in teaching, length of time in same place, and amount of summer school training, yielded the following conclusions:

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<sup>9</sup>National Education Association, Report of the Committee on Tenure, July 1939, Foreword.



among professional workers. The Committee on Tenure has long contended that there is a more fundamentally correct approach. This way lies through improved methods of selection, wise teacher education, adequate salary schedules, effective tenure protection, genuine supervisory leadership, and sound retirement provisions. Under such wholesome professional conditions most teachers will voluntarily seek the preparation essential to the skillful execution of their duties.<sup>11</sup>

The fourth reason for tenure as recommended by the National Education Association is as follows:

To encourage competent, independent thinkers to enter and remain in the teaching profession,<sup>12</sup>

The schools of the nation are conducted for the common good and not to further the interest of the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition. Teachers, if they are to retain their constitutional rights of free speech and liberty of action, should have the "privilege of presenting all points of view, including their own, on controversial issues without danger of reprisal by the school administration or by pressure groups in the community".<sup>13</sup>

<sup>11</sup>National Education Association, The Effect of Tenure Upon Professional Growth, Report of the Committee on Tenure, Foreword.

<sup>12</sup>National Education Association, A Handbook on Teacher Tenure, Report of the Committee on Tenure, p. 5.

<sup>13</sup>National Education Association, Teachers' Contracts, Report of the Committee on Tenure, p. 5.

The fifth reason advanced for teacher tenure by the National Education Association is:

To encourage school management, which might have to sacrifice the welfare of the schools to fear and favor. To devote itself to the cause of education.<sup>14</sup>

Once a school board recognizes that it is not its function and not in its power to "hire and fire" at will, it can give more time to constructive thought and action of the improvement of the teaching in the school over which it has supervision. There is no attempt, anywhere, on the part of those who favor tenure to prevent the school board from discharging an inefficient or otherwise unsatisfactory teacher, but the fact that teachers cannot be discharged through subterfuges will discourage much hitherto existing activity along that line. The fact that charges must be substantiated at a public hearing will deter malicious gossip.

Then, too, School Boards are often the victims of pressure groups in the neighborhood. If a teacher happens to offend some powerful interest, undue pressure may be brought with the school board to discharge such a teacher. If the school board is unable to do this at will, the pressure will not be brought.

The sixth recommendation for teacher tenure set up by the National Education Association is:

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<sup>14</sup>National Education Association, A Handbook on Teacher Tenure, Report of the Committee on Tenure.

✓ To set up honest, definite procedure by which undesirable people may be excluded from the teaching profession.<sup>15</sup>

There are undesirable people in the teaching profession. There are some who put salary above service. There are others, who, for various reasons, are unfit for the responsible business of training the youth of the land. But the schoolteaching profession is no exception to the rule that there are unworthy people in all professions and occupations. The duty of school administrators is to formulate valid, fair reasons for the dismissal of such persons. The study necessary for the formulation of such reasons will focus attention at a point where must study is needed.

✓ One of the most frequent objections to teacher tenure is that it will tend to keep in service inefficient teachers. This argument can be answered by the statement that lack of tenure does not keep inefficient teachers out of the service. Tenure will set up standards whereby teacher efficiency can be measured objectively to some extent. Public opinion is one of the strongest factors in remedying any situation. A teacher who is woefully inefficient will be eliminated in this way if no other, regardless of tenure.

The seventh recommendation for teacher tenure is:

✓ To protect educators in their efforts to promote the financial and educational interests of public-school children.<sup>16</sup>

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<sup>15</sup>Ibid.

<sup>16</sup>Ibid.

Educators, like school boards, can be subjected to pressure. Any activity on the part of educators toward increasing the school revenue by means of further taxation usually brings quick reactions from those who are opposed to such increases. Where there is no tenure, pressure can be brought to bear on schoolboards for dismissal; if the position is protected by tenure, the teacher is free to work within the boundaries of what constitutes good citizenship.

The eighth reason recommended by the Association for teacher tenure is:

✓ To protect teachers in the exercise of their rights and duties as citizens.<sup>17</sup>

Teachers have certain constitutional rights the same as other citizens in a democracy. The Chairman of the Tenure Committee says:

✓ Widespread reports have indicated that unjust employment conditions have not infrequently encroached upon teachers' constitutional rights to liberty of action and expression. The situation may not be general; it may be limited to certain areas or certain types and sizes of communities. It does seem evident, however, that in some localities, laws, both written and unwritten, hamper the teachers' activities outside the school as well as in the classroom. Many teachers claim that the community makes unreasonable demands on their time and energy aside from fulfillment of professional duties.<sup>18</sup>

✓ No other profession, unless it is the ministers, is subjected to regulations formulated to restrict their

<sup>17</sup>Ibid.

<sup>18</sup>National Education Association, Teachers' Contracts, Report of the Committee on Tenure, p. 3.

legitimate activities to the same degree as are teachers. Schoolboards and taxpayers should realize that a teacher must live a normal life in order to teach and lead normal children. The National Education Association takes the position that if extra restrictions are made they should be placed in the contract of the teacher. In order to learn about contract restrictions, the National Educational Association made an analysis of 400 teachers' contracts obtained from state departments of education and local and state teachers associations affiliated with the National Education Association. An analysis of the data thus gathered yielded the following conclusions:

1. From the evidence gathered in this study and by examination of other studies, it appears that in some districts teachers applying for positions must submit to certain conditions which are on occasion a discredit to the profession. In other instances, the conditions serve as an annoyance to the individual's sense of security. Teachers should be awarded or denied contracts on purely professional qualifications, and contracts should be awarded at a time which will give the employed teacher a definite outlook, and those applicants, not employed, ample time to seek positions in other districts.

2. Evidence from other investigations shows that teachers are restricted in their personal life by some contracts, schoolboard rules, and local customs. It is not known how widespread these restrictions may be, nor whether such prescriptions are peculiar to certain types and sizes of communities.<sup>19</sup>

It is apparent from the above study that some schoolboards have infringed upon the fundamental rights of the teachers they have employed.

The ninth and final reason recommended for teacher tenure by the Association is:

To enable teachers, in spite of reactionary minorities, to prepare children for life in a democracy under changed conditions.<sup>20</sup>

Our forefathers established a democracy as the form of government they thought would best fit the needs of free men. This democracy was founded on the spirit of individualism. The complexities of modern-day life have made it impossible for this individualistic spirit to govern our society in the sense that it once did. We live in an age of coordination, combination, consolidation, and concentration. Except for a favored few, there is no longer the opportunity for individual advancement that there once was. Dewey says;

Unless these combinations are used democratically for the common good, the result will be an increasing insecurity and oppression for the mass of men and women. Education must cultivate the social spirit and the power to act socially even more assiduously than it cultivated individual ambition for material success in the past. Competitive methods and motives must be abandoned for cooperative. Desire to work, for mutual advantage, with others must be made the controlling force in school administration and instruction. Instead of imbuing individuals with the idea that the goal is to sharpen their powers so they can get on personally, they must be trained in capacity for intelligent organization so that they can unite with others in a common struggle against poverty, disease, ignorance, credulity, low standards of appreciation and enjoyment.

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<sup>20</sup>Ibid., p. 25.

There must be a purpose and methods which will carry over the earlier ideals of political democracy into industry and finance.<sup>21</sup>

Teachers who change locations frequently have not enough time to establish and carry on such methods of teaching as Dewey recommends as a necessity for children who live in a democracy. The teacher cannot aid in teaching freedom when he is not free himself.

The following statements summarize the findings in this chapter:

1. Teacher tenure is essential to the progress of both the teachers and the pupils.
2. Under the prevailing system of teacher tenure, classroom teachers are not protected against unjust dismissals in a large portion of the country.
3. Personal and petty complaints rather than inefficiency and dereliction of duty are the main causes for teacher dismissals.
4. There is better and more teacher tenure in larger schools than there is in the smaller schools.
5. The opposition to teacher tenure is due to the traditionalist type of thinking which still dominates in many regions of the country.
6. Teacher tenure aids in preventing the management or domination of the schools by political or non-educational groups.

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<sup>21</sup>John Dewey, "Some Aspects of Modern Education", School and Society, XXXIV (October 31, 1931), 582-584.

7. Teacher tenure aids the teacher to grow in service. Surveys conducted by educational associations have found that the teachers in states where there is tenure attend school and improve themselves educationally much the same as in the non-tenure states.

8. Teacher tenure enables the teacher to live a more normal life and to be more free in expressing his own individuality within the proper bounds. A teacher is a person the same as anyone else.

9. Teacher tenure aids the school boards as well as the teachers because it relieves them from political or group pressure. Where a position is covered by tenure, a school trustee can not ask for the dismissal of a teacher on a mere technicality or at the wish of one of the influential patrons.

10. Teacher tenure sets up standards for teachers and provides methods for dismissing inefficient workers. Instead of holding the inefficient worker in the school, teacher tenure provides a better means of eliminating this kind of teacher from the profession.

11. Teacher tenure enables the teacher to be a better citizen. He can establish a home, raise a family, and help build a better community. His home and all his interests will be in the community.

12. Teacher tenure will enable the teacher to better instill the principles of democracy in children because they



will live a more free, independent life. If the teacher has freedom in his own life, he can come nearer instilling the principles of freedom into the lives of the children.

### CHAPTER III

#### TYPES OF TENURE LEGISLATION AND HISTORICAL BACKGROUND

The Constitution of the United States makes no mention of education as a province of the federal government. The inference from this omission was that education was a matter for each of the individual states. For this reason we find each state setting up and maintaining its own system of public education. Since states, like nations, differ in their needs and inclinations a variety of educational systems have developed. Teacher tenure legislation is no exception to the rule, and almost any many varieties of this type of legislation are found as there are number of states having such legislation.

The number of states which have some type of tenure legislation is twenty-nine at the present time.<sup>1</sup> In addition, the District of Columbia and Hawaii have tenure laws. Alabama, Louisiana, Maryland, Massachusetts, New Jersey, Ohio, and Pennsylvania have state-wide tenure laws. Thirteen states have partial or limited tenure laws. These are California, Colorado, Connecticut, Florida, Georgia,

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<sup>1</sup>Charles N. Fennyson, "Address on Teacher Tenure", The Texas Outlook, XXX (June, 1945), 15.

Illinois, Indiana, Kansas, New York, Oregon, Tennessee, and Wisconsin. Arkansas, Iowa, Montana, Nebraska, Nevada, Washington, and West Virginia have what is called state-wide continuing contracts. Idaho, New Hampshire, Rhode Island, South Dakota, Utah, Vermont, Virginia, Wyoming, and the territory of Alaska have no statutory legislation regarding the term of employment of public school teachers.<sup>2</sup> In most of these areas annual election of teachers is practiced, but it is not required by law. In some instances the states take the attitude that no prohibitory legislation permits tenure at the discretion of school boards.

Three states, Arizona, Missouri, and Oklahoma, require the employment of teachers by annual contract. Maine, Mississippi, North Dakota, and Texas have enacted laws to permit contracts with teachers for a period of time longer than one year.<sup>3</sup>

Technically speaking, there are two types of tenure legislation: continuing contract laws and teacher tenure laws. These two types and their variations will be discussed in the following paragraphs.

The teacher tenure legislation contains provisions for probationary service, notice, hearing and appeal. The traditional continuing contract law provides that the

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<sup>2</sup>Ibid.

<sup>3</sup>National Education Association, Teacher Tenure: Its Status Critically Appraised. Committee on Tenure (1942), 12.

teacher shall be continued from year to year unless notified otherwise by a specified date, but of late new continuing contract laws have been enacted containing provisions for notice, hearing, and appeal. This new-type continuing contract law often gives teachers as much protection as a true tenure law. The National Education Association Committee on Tenure distinguishes between these laws as follows:

A. Tenure or protective continuing contract laws. Some of these laws are called "continuing contract" laws but they are really Type A laws because they afford just as much protection and must be distinguished from the Type B laws by the same name.

B. Continuing contract laws of the spring notification type. These laws provide for automatic reelection from year to year unless the teacher is notified otherwise by a certain date in the spring but they do not offer teachers the protection of a tenure law, since the teacher is not entitled to a hearing before dismissal.<sup>3</sup>

Type A is in force today in at least twenty-seven states.<sup>4</sup>

Type B is in force in parts of at least eighteen states.

Some states have Type A for teachers in large schools and

Type B for rural teachers.) Teachers tenure provisions

(also protective continuing contract laws) are uniform

throughout the state in Alabama, Louisiana, Maryland, Mass-

achusetts, New Jersey, New Mexico, Pennsylvania, Hawaii,

and Porto Rico.<sup>5</sup> Continuing contract laws of the spring

notification type are uniform throughout the states of

<sup>3</sup>National Education Association, Teacher Tenure, Department of Classroom Teachers and Research Division (October, 1944), p. 7.

<sup>4</sup>Ibid., p. 8.

<sup>5</sup>Ibid.

Arkansas, Delaware, Iowa, Montana, Nevada, North Carolina, Washington, and West Virginia. In California, Kentucky, and Ohio, tenure is mandatory in the larger districts, and optional in the smaller districts. In Connecticut, Illinois, Indiana, Minnesota, Missouri, Nebraska, Oregon, South Carolina, and Wisconsin there is tenure in some districts and continuing contract (spring notification type) in the remainder of the state. In Michigan local schoolboards can adopt continuing contract or spring notification type if they wish, and a state permissive law authorizing tenure may be adopted by local voters. In Colorado, Florida, Georgia, Kansas, New York, and Tennessee there is tenure in certain districts, annual elections in others, and no tenure provisions in still others.<sup>6</sup>

—If the tenure laws of all the states were to be considered in the most general terms, it could be said that they fall into three classes: states where tenure is uniform; states where a distinction is made between the city and the rural teachers; and states where no teachers are protected, city or rural.

(In the states where there is no tenure legislation, investigations have found that there is local tenure in many instances, especially in the larger cities.)<sup>7</sup> Lewiston, Idaho and Detroit, Michigan, for example, have continuing

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<sup>6</sup>Ibid.

<sup>7</sup>Ibid.

contract regulations. Superintendents in some Michigan schools reported that they preferred a continuing contract plan to the state permissive tenure law which provides for the adoption of its provisions by a vote of the people or local option. In Texas where there is no tenure legislation the larger cities are permitted to write contracts with teachers for more than one year. A practice of establishing tenure has developed steadily in all the larger cities of Texas, but this practice is based on custom only and in reality offers little or no legal protection to teachers.

—Local teacher tenure provisions are two kinds:

. . . one kind is the special state enactment applicable to a particular locality, either named in the special law or inferred from the law by limitation to cities or counties of a class or of a particular population range so narrow that the application is easily determined from the census figures. The special laws of teacher tenure in Florida and Tennessee illustrate the category. The other kind is illustrated by city ordinances, charter provisions, or schoolboard regulations which, in general, provide employment conditions similar to those in the usual state teacher tenure law.<sup>8</sup>

In Florida state tenure laws limited in scope have been enacted for counties within certain population limits. In Georgia there is a tenure law applying to counties having a population in excess of 200,000 people. In Illinois there

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<sup>8</sup>National Education Association, Teacher Tenure: Its Status Critically Appraised, Committee on Tenure (1942), 11.

is a tenure law applying to cities exceeding 5000,000 inhabitants.<sup>9</sup> Various other states have special tenure legislation.

Regardless of the type of tenure, unless there are provisions for dismissal, hearing and appeal, there is no legal protection for the teacher. A tenure law is the teacher's only reliable guarantee that he will have continuous employment as long as he gives satisfactory, efficient service.

In a summary of the different state laws governing the duration of teachers' contracts as they existed on May 1, 1942, the National Education Association pointed out the many varieties found in the different states. A recapitulation of these will also serve as a summary for this chapter. In this report we find that twenty-nine of the states had some form of tenure legislation and the others had provisions varying from one to continuing contract provisions. The findings are indicated as follows:

1. Nine states had no legislation at all for teacher tenure.
2. Three states provided that teachers be elected annually.
3. Two states permitted teacher contracts for more than one year.
4. Two states provided for continuing contract with teachers.

5. Eight states provided for uniform, statewide tenure after probationary period.

6. Six states provided for permanent tenure in some districts and for continuous contracts in the remainder of the state.

7. One state provided permanent compulsory tenure in the large districts, and optional tenure in small districts.

8. One state provided for optional permanent tenure, with local voters being permitted to adopt a tenure plan in each district.

9. One state provided for permanent tenure in certain districts, continuing contracts in some districts, and contracts for more than one year in others.

10. Seven states provided for permanent tenure in certain districts and made no provisions of any kind in others.

11. In two states continuing contracts were permitted for more than one year in some districts while no provisions of any kind were made for the other districts.

The significant conclusion to be drawn from the study of the different state laws is the diversity of tenure legislation in the different states. It is revealed, too, that there is not a great deal of permanent tenure legislation that is uniform in the different states.



## CHAPTER IV

### STANDARDS OF TEACHER TENURE LEGISLATION AND ATTITUDE OF THE COURTS ON TENURE LEGISLATION

The National Education Association has been one of the most active organizations in the United States in promoting the cause of public education. As far back as 1887 the Association began to advocate the need for teacher tenure. In 1923 the Association appointed a Committee on Tenure to aid in securing teacher tenure and this Committee has been continuously active since. It has surveyed prevailing tendencies in the tenure of teachers in the school systems of the different states and the legislation that has been enacted. At various intervals it has made reports on its activities. In 1927 the Committee on Tenure, in one of its reports, outlined twelve principles which it thought should control the framing and operation of tenure legislation. These principles were based on the years of study of the Committee, on various investigations, and on educational principles. These principles, it is felt, should be valuable as a yardstick in any study of standards for teacher tenure legislation. For this reason, the principles will be outlined individually in this study and an investigation made of each.

The first of these principles as outlined by the Committee on Tenure is:

1. Tenure laws should be devised and administered in the interest of better instruction for the children.<sup>1</sup>

This standard aims at the very heart of the education program. Education, after all, is promoted and administered for the children of the country. The paramount goal of the school systems must be the preservation and strengthening of the American way of life through the training of the children. Since the well-being and progress of the child is inextricably bound up in the well-being and progress of the teacher, teacher tenure that benefits the teacher will likewise benefit the children. There has and could be no quarrel with this fundamental aim of teacher tenure legislation.

The second principle advocated by the NEA Committee on Tenure is:

2. Tenure laws should be accompanied by proper legal regulations governing training, certification, and retirement allowances.<sup>2</sup>

Speaking before the Beaumont Classroom Teachers Association on April 4, 1946, Charles H. Tennyson, Director of Public Relations, Texas State Teachers Association, said that tenure legislation should be a part of a broad educational program which would include laws on minimum

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<sup>1</sup>National Education Association, A Handbook on Teacher Tenure, A Report of the Committee on Tenure, p. 6.

<sup>2</sup>Ibid.

salary, adequate initial preparation, larger school administrative units, reasonable sick leave provisions, and sound annuity and retirement systems. In other words, the speaker was in favor of comprehensive school legislation which would combine much of our scattered legislation today. For example, in Texas today we have no correlated system of legislation on these different subjects -- certification law, retirement law, and various others. Improvements in teacher-training have been made possible mostly by standards of individual schools, and by standards set up for accredited schools by the State Department of Education. The Rural Aid Fund has helped in raising standards because aid has been granted on the basis of the schools meeting experience and certificate requirements. High Schools of Texas, for example, must employ teachers with college degrees or lose their affiliation credits.

All these makeshift laws are moves or subterfuges to some extent to get around the fact that Texas has no unified educational program. The recommendation here is not that new regulations be made, but that existing laws governing teacher-training, certification, remuneration, and retirement be written as one law with the added provision of teacher tenure.

The Committee on Tenure, in its years of investigation, has found that many teacher's contracts are illegally drawn,

are unfair to teachers, and are not enforceable in court.<sup>3</sup>

The Committee recommended the passage of state uniform contract laws which would provide for full employment for the school year at a definite rate of compensation, prevent cancellation of contracts except for good reasons, and safeguard the right of appeal to the courts. Anderson has made an extended investigation of the causes of teacher dismissals, as shown in American court decisions from 1825 up to 1939. In his conclusions he states that it is his opinion that school boards have used many subterfuges to dismiss teachers. He says:

The chief restricting powers placed upon dismissal by school boards have been those restrictions by which the statutes have denied to boards the power to dismiss teachers without sufficient cause, or have limited dismissal to causes enumerated in the statutes. In the absence of such restrictions, school boards have had extensive powers to dismiss teachers for any good reason, and even to contract for summary dismissal.<sup>4</sup>

As one means of obtaining justice for the teacher, the State should enact legislation by statute covering the teacher's contracts and require that the school boards execute written contracts with the teachers outlining the terms of said contract. Teacher tenure would be protected to a large extent by this means because written terms are valid evidence in the courtroom. A school board will not be as apt to discharge a teacher on a pretext if the teacher

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<sup>3</sup>National Education Association, Report of the Committee on Tenure, NEA Pamphlet, p. 5.

<sup>4</sup>Hoger Witmer Anderson, Trends in Causes of Teacher Dismissal by American Court Decisions, p. 7.

has a written contract covering charges adequate for dismissal and providing for appeal from the board's decision.

The retirement system, without teacher tenure, is not always a success. A great many schools, especially in the period immediately preceding the war when teachers were "surplus" would dispense with the teacher of mature years and hire a younger teacher. If the older teacher is not protected by teacher tenure and cannot find another position, how can she teach the required number of years to qualify for retirement benefits? If there is no guarantee of possibility of a teacher's being retained after she reaches the age of forty years, there is not much inducement for the teacher to remain in service, to take additional training, or to attempt to grow professionally in service. Teacher tenure and teacher retirement are closely linked together.

The Committee further recommends that the tenure legislation set up requirements in the way of certification, training, and experience before tenure is granted a teacher. At the present time most of the tenure legislation provides for experience or a probationary period, but state laws, as a usual thing, provide separately for the certification and training of teachers.

The "Model Bill on Tenure", as prepared by the National Legislative Committee of the American Federation of Teachers and the proposed "Teacher Tenure Act" of Texas have been

examined to see what provisions, if any, that they contain about tenure legislation including legal regulations governing training, certification, and retirement allowances.

There is no provision for training, certification, or requirement allowance in the "Model Bill on Tenure."<sup>5</sup> It does provide for a written contract between the teacher and the school board, and provides "that the contract shall continue in force from year to year" unless terminated in accordance with provisions of the Act. These provisions are physical disability, mental disability, immorality, or gross inefficiency except in cases where there is no money for payment of teachers or lack of pupils, or discontinuance of school services. Adequate provisions for appeal from a decision of a board of trustees are made.

In the proposed Teacher Tenure Act for Texas there are no provisions for written contracts between the teacher and the Board stipulating the terms under which the teacher is employed. Section 3 of the proposed Act states that "all teachers regularly employed shall receive the benefits and the protection of teacher tenure." There is no mention made of any requirements except those for probationary periods. The only causes permitting teacher discharges or suspensions are inefficiency, immoral conduct, physical or mental disability, violation of school laws or regulations, and failure to meet the minimum educational requirements

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<sup>5</sup>American Federation of Teachers, Model Bill on Tenure, Section 3.

necessary to permit a school system to meet certain accredited and affiliation requirements.

An examination of the literature available on teacher tenure does not show any instance of any state setting up training, certification, remuneration, and retirement allowances in connection with their tenure legislation. It appears to be evident that the Committee on Tenure has a wide field in which to work in its recommendations along those lines.

Both of the proposed Teacher Tenure Acts, though, provide for teacher tenure by legislative enactment. Such tenure is the only dependable kind. A school board resolution is a legislative enactment since the school board is the local legislative body. Therefore, tenure may be established by such a local board, but this type of tenure is not dependable in many instances. It may conflict with the general law of the state and be invalid. If there is no conflict, the tenure established by a school board may be effective, but the weak point here is that school boards are elected by the people and change personnel frequently. This might result in a change of policy.

The state legislature in each state is entrusted with the power and duty of establishing and maintaining the public schools. The state legislatures can pass statewide laws concerning teacher's contracts. When the state law prescribes for teachers a contract of a specified length or of an indefinite period as under a tenure plan, local action must conform. Teacher tenure is truly effective only when there is state legislation.

The third recommendation or principle advocated by the Committee on Tenure is:

3. Tenure laws should be devised and administered as a stimulus to better preparation and more efficient service on the part of the teachers.<sup>6</sup>

One of the most common objections to teacher tenure is that it will tend to keep in the service inefficient teachers who will stagnate professionally once the fear of dismissal is lifted from their minds. This objection has been one of the perennial problems confronting the professional group that endeavors to keep its members growing in service and advancing professionally. In the opinion of some superintendents and board members tenure legislation encourages indifference to advanced training. This point of view accounts for the development of legislative and administrative procedures designed to compel teachers to attend summer schools, to travel, to read, and to show an active interest in new educational developments.

Various states have required further study on the part of the teachers after they are in the service. This study mainly takes the form of required attendance at summer schools and offers rewards of extension of certificates or advancements from one level to another. In a study by the Committee on Tenure, The Effect of Tenure Upon Professional Growth, a survey was made of the procedures used by states and school boards to encourage in-service preparation.

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<sup>6</sup>National Education Association, A Handbook on Teacher Tenure, A Report of the Committee on Tenure, p. 6.



The report states that ten states permit renewals and extensions of certificates on the basis of attendance at summer schools. In several states attendance at summer schools is recognized by law as a substitute for the regular teachers' institutes.

An analysis of seventy-eight salary schedules used in cities of over 100,000 inhabitants by the Committee in 1938-1939, revealed that thirteen of these schedules required professional study in order to progress from one level to another. In 115 cities of population between 30,000 and 100,000, nineteen salary schedules included this requirement.<sup>7</sup> The Committee said that the extent to which teachers were individually influenced and helped by this required attendance at summer schools was unknown.

A great many of the larger school systems encourage their teachers to take professional training by increasing the salary where graduate work is taken and completed. Some of them give the teachers additional credit for travel and study and research. The teacher who is interested in teaching, who wants to know what is going on, and what new methods are used will seek his own improvement. A wise superintendent or supervisor can help his teachers to grow more in service than any required legislation. The high degree of professional training and leadership that is evident in the educational world today promises that teachers, as a whole, will grow in-service because of wise leadership

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<sup>7</sup>Ibid.

and inspiration. Some of the teachers will lag behind if they think their position does not depend on the full exertion of their own efforts, but these teachers would not have been leaders anywhere.

The fourth principle as recommended by the Committee on Tenure for establishment of tenure is:

4. Indefinite tenure should be granted only upon evidence of satisfactory preliminary training, successful experience and professional growth.<sup>8</sup>

There are none to question or quarrel with the above statement. The schools are seeking trained, qualified teachers today, and certainly there are few who would want to grant indefinite tenure to teachers who did not have the necessary qualifications and whose experience had shown them to be efficient teachers. We have isolated instances of school boards displacing efficient teachers and putting in inefficient ones because of personal reasons or pressure, but on the whole it is reasonable to suppose that the people of today want trained, qualified, efficient teachers. One main reason for the objections to teacher tenure is the expressed fear that teacher tenure will tend to freeze inefficient teachers on the job.

The fifth principle recommended by the Committee on Tenure for tenure legislation is:

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<sup>8</sup>Ibid.

5. Indefinite tenure should be provided after successful experience during a probationary period of adequate length, usually two or three years.<sup>9</sup>

This is another principle that most educators agree upon. It is that all tenure laws should require a probationary period before a teacher is placed upon permanent tenure status. The probationary period varies, but it is usually three years. However, Indiana requires a five year probationary period, Kentucky requires four years, Michigan and Pennsylvania require only two years, and in New York and New Jersey city school boards have discretion in determining the length of the probationary period. The period of time required depends to a large extent upon the philosophy of the educators or the legislature in any given state. There are other problems more important than the length of time required for probation, though, in this situation.

One of these questions concerns the teacher who already has served as many as three years in a school system when tenure goes into effect. Will she have to serve an additional three years, or will she be granted tenure upon passage of tenure legislation? Some tenure laws leave these questions answered indefinitely, and court action is required for their interpretation.

Another puzzling question that arises from the probationary period is the status of the teacher that transfers positions from one portion of the country to another.

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<sup>9</sup>Ibid.

Will she be granted indefinite tenure after three years if she has changed locations during that time, or will she be required to spend three consecutive years in one place? Another question concerns substitute teachers. Will their time spent as substitutes count toward service as a probationary teacher if they are elected as regular teachers? Also during probationary periods, should teachers be entitled to notice and hearing before dismissal?

All these are questions which have arisen in the administration of tenure laws. Future tenure legislation should study these questions and attempt to make the different points clear. The Model Tenure Bill previously considered in the study contains no provision for the probation of teachers before granting them tenure. The proposed Teacher Tenure Act for Texas provides for a two year probationary period. Teachers who have been in service for two years immediately preceding passage of the legislation will be granted indefinite tenure if they are re-elected by their respective school boards.

The Committee on Tenure made a survey of the different states regarding the dismissal of probationary teachers. In the majority of instances examined the probationary teacher was given written notice of dismissal. In Massachusetts and New Jersey there were no provisions whatever.<sup>10</sup>

The sixth principle recommended by the Committee on Tenure for tenure legislation is:

6. The right of dismissal should be in the hands of the appointing board.<sup>11</sup>

The local board of trustees has the power of appointment and the logical concomitant of that is the power of dismissal. However, since the government of the United States provides that a man convicted in a lower court has the right of appeal to a higher court, a teacher should have the right to appeal from a decision of the appointing board. Not all the states having tenure legislation recognize this principle. In Indiana there is no appeal from a decision of the school board dismissing a teacher. Massachusetts makes no provision of appeal. New Jersey, on the other hand, provides for appeals to the Commissioner of Education, to the State Board of Education and then to the Supreme Court and Court of Errors and Appeals.<sup>12</sup>

Perhaps the most controversial of any phase of tenure legislation is that having to do with the dismissal of teachers. The Committee on Tenure proposes the following principle to govern the tenure legislation in this field:

7. Laws establishing indefinite tenure should provide for the easy dismissal of unsatisfactory or incompetent teachers for clearly demonstrable causes, such as misconduct, incompetence, evident unfitness for teaching, persistent violation or refusal to obey laws, insubordination, neglect of duty, or malfeasance.<sup>13</sup>

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<sup>11</sup>The National Education Association, A Handbook on Teacher Tenure, Report of the Committee on Tenure, p. 6.

<sup>12</sup>Ibid., p. 16.

<sup>13</sup>Ibid., p. 16.

Tenure laws as set up in the United States differ greatly in their degree of detail as to dismissals of teachers on permanent tenure, but they all give protection to the tenure teachers from unfair demotion in rank, reduction in salary, suspension, and dismissal, through provisions for notice, statement of charges, hearings and appeal. The procedure outlined in some laws is written in legal terms and is often difficult for the teacher to understand. Others are simply written and the teacher can understand the provisions and the necessary action to take without consulting a lawyer. Louisiana's teacher tenure law is a good example of a simple, clear-cut statute:

No permanent teacher shall be removed from office except upon written and signed charges of willful neglect of duty, or of incompetency, or dishonesty, and then only if found guilty after a hearing by a schoolboard of that parish in which the teacher is employed; which hearing, at the option of said teacher, may be private or public. Said teacher shall be furnished by said schoolboard, at least fifteen days in advance of the date of said hearing, with a copy of the written charges. Said teacher shall have the right to appear before said board at said hearing with witnesses in his behalf, and with counsel of his selection, all of whom shall be heard by said board at said hearing; provided further, that it is not the intent of this act to impair the right of appeal to the court of appropriate justice.<sup>14</sup>

The phrasing of the Louisiana law is clear and the causes for dismissal are explicitly listed. Some states include much detail which sometimes defeats its purpose by making it possible for a case to be decided on minor technical issues.

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<sup>14</sup>National Education Association, Teacher Tenure: Its Status Critically Appraised, Report of the Committee on Tenure, p. 25.

All tenure laws prohibit the dismissal of a tenure teacher except for cause, but there is a wide divergence in how they classify causes. The New York law for cities provides that teachers "shall hold their respective positions during good behavior and satisfactory teaching." Michigan states that tenure teachers may be dismissed "for reasonable and just cause" but does not define what it considers "Reasonable and just".

Tenure laws provide a hearing for the teacher faced with dismissal, and the majority of them provide that the hearing be public or private at the option of the accused. In California the hearing is public, but the court may exclude persons not directly connected.

Most teachers tenure laws contain provisions for appeals from the decisions of the appointing boards. Since this is so, it is natural to expect that many cases would be appealed to the courts after school officials have passed on the evidence. The courts are slowly but surely clarifying many of the troublesome issues raised by the administration of tenure laws.

The reasons for many cases being carried to the courts grow out of the attitude of the boards and the educators themselves. The inauguration of the teacher tenure laws did not receive the complete approval of school administrators. They recognized that the competent teacher would be protected on his job, but they felt that the inefficient teacher would also be protected and kept in the service.

This, to the administrators, was a greater evil than the lack of protection for efficient teachers. Boards of Education as well as superintendents of schools were displeased with the idea that the dismissal of a teacher should be accompanied by charges, hearings, and legal procedures.

According to an article in The School Board Journal, "Courts and Teacher Tenure", there is no doubt that in the legal contests which have ensued over teacher dismissals that there has been found an attitude of resistance on the part of boards to the clear-cut rights of the teacher.<sup>15</sup> On the other hand, the spirit as well as the letter of the tenure legislation have appeared to encourage more than normal attitudes of self-assertion on the part of the teachers who are under fire. Even where there were proven cases of derelictions of duty, teachers have insisted on appeals and have resorted to many legal technicalities to defeat the purposes of the board. However, Anderson, who made a study of court cases dealing with teacher dismissals advances this conclusion:

From court decisions, it appears that in most states teacher dismissal is on a personal rather than a professional basis. It is only in a few states that court decisions show evidence of any attempt on the part of the teaching profession to set its own house in order by exercising professional influence to convert the pernicious practices which have continued to operate in teacher dismissal.<sup>16</sup>

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<sup>15</sup>"Courts and Teacher Tenure", The American School Board Journal, Vol. CVII, Oct. '43, p. 47.

<sup>16</sup>Holger W. Anderson, Trends in Causes of Teacher Dismissal as Shown by American Court Decisions, p. 9.



One answer to the argument that teachers resort to technicalities in order to hold their positions when they are guilty of the charges preferred against them is that murderers avail themselves of technicalities in laws to avoid punishment for their crimes. We do not uphold murder simply because the accused takes advantages of any technicality in the laws. Teacher tenure laws, likewise, should not be condemned because there are some teachers who will take advantage of the opportunities of the law.

Cases concerning dismissals of teachers are tried in court for various reasons. Anderson, in his survey of court cases, listed the most common causes for teacher dismissals as shown in the litigation. He studied 525 decisions, and classified the causes of dismissal into fifteen categories. These categories, with the number of cases falling within each, are listed below:<sup>17</sup>

1. Incompetency and Inefficiency	(34)
2. Reassignment and Transfer	(26)
3. Insubordination	(24)
4. Marriage and Childbirth	(25)
5. Neglect of Duty	(22)
6. Abolition of Position	(21)
7. Abandonment of Position	(18)
8. Immorality and Rumors of Immorality	(17)
9. Lack of salary funds	(16)
10. Reduced pupil quotas	(15)
11. Resignation from Position	(13)
12. General Unpopularity	( 8)
13. Unprofessional Conduct	( 7)
14. Anticipated Causes	( 6)
15. Political Activity	( 4)

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<sup>17</sup>Ibid., pp. 6-7.

In discussing the decisions rendered in these cases, Anderson says that it appears that there had been unsound discrimination by boards in the dismissal of women teachers for marriage. The courts had consistently held that the dismissal of teachers for anticipated causes was invalid. The courts had shown a tendency to uphold board dismissals for immorality. Resignations as a cause for dismissals were usually due to misunderstandings between the teachers and the boards. Where school boards had resorted to subterfuge for dismissal, the teachers in most instances had been able to establish at court the fact that their dismissal was wrongful. The courts had, through the years, considered incompetency and inefficiency valid causes for dismissal.

Anderson also concluded that, in general, school boards have dismissed teachers without giving sufficient consideration to the professional needs and requirements of the schools. Even where tenure laws had replaced less desirable contractual status it appeared that petty, personal reasons had led to dismissal of teachers by circuitous methods. He further says:

Only when the laws have specifically provided the manner of giving notice and hearing and the manner and order of appeal, has there been any assurance that a dismissed teacher would have the opportunity to be tried before an unbiased tribunal in a fair and impartial manner.<sup>18</sup>

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<sup>18</sup>Ibid., p. 8.

The Model Tenure Bill recommended by the American Federation of Teachers provides that except for administration changes due to various causes, no teacher can be dismissed for any cause other than physical disability, mental disability, immorality, or gross inefficiency. Provision is made for notification by written charges and for a hearing of the accused teacher. The proposed Teacher Tenure Act for Texas contains approximately the same provisions.

In addition to laws pertaining to dismissal, most teacher tenure laws have provisions protecting the teacher who is forced to be absent from school duties through illness or other forced absence. For example, in Texas where there is no teacher tenure, the young men teachers who were drafted into the army returned home in a great many instances to find positions which they had worked to obtain before leaving unavailable. The proposed Teacher Tenure Act for Texas provided in Section 10 for the extension of a teacher's tenure for one year in case of illness. A teacher on leave of absence likewise would have protected tenure for one year and longer at the discretion of the board.

The other five principles set up by the Committee on Tenure as recommended standards for tenure legislation have been discussed in connection with other principles to some extent and they are given together for this reason.

The summary of this chapter is or would be a repetition of the principles which it is felt should govern teacher tenure legislation. Instead of this, the pertinent conclusions formed from the study are presented:

1. Tenure, to be effective, must be by legislative enactment. It is the only kind that will "stand up" in court litigation.

2. The main objections to teacher tenure are due to a survival of the individualist type of philosophy which has prevented Texas from building large efficient schools from the small districts of pioneer days.

3. Teacher tenure laws, to be effective, should contain provisions outlining causes for dismissals, and the manner and order of appeal.

4. The right of appeal from a school board's decision should be given the same status as our right of appeal in civil courts.

5. Laws establishing teacher tenure should be devised so as to make easy the elimination of the inefficient teacher who does not grow in service.

6. Educational work of state boards and of superintendents of schools are more effective in improving professional growth than legislative efforts.

7. The teacher should be protected in his tenure if he is forced to be absent from his school on account of illness or other unavoidable conditions.

3. Other states, for some time, have been experimenting with tenure legislation. Since each state makes its own school laws, those who desire tenure should study these experiences of other states, study their own needs, and then endeavor to adopt legislation to fit these needs. The prevailing educational philosophy of the people and of the educators as well should be studied. No matter how much legislation is needed, there is no use to formulate proposed legislation that is evidenced beforehand as being unpopular to the rank and file of the people. For this reason, tenure legislation in states having no teacher tenure should be approached with great caution and understanding.

## CHAPTER V

### THE STATUS OF TEACHER TENURE IN TEXAS

Texas is one of the states which has no tenure legislation by statutory enactment. Contracts are permitted for more than one year, but all attempts to pass tenure legislation have failed. In 1939, the Texas State Teachers Association and the Texas Classroom Teachers Association were instrumental in having a tenure act introduced in the House and Senate. This measure was not reported favorably by either the House or Senate Committee. In 1943 these same organizations again prepared and had introduced in the House of Representatives a tenure bill. An effort was made to get early consideration of the bill. When it was referred to the Education Committee it was reported favorably without a dissenting vote. However, when it was called up for debate many legislators vigorously attacked many provisions of the bill. The only test vote on the measure was an amendment to kill the bill. There were fifty-eight members who voted against the amendment and fifty-seven who voted for the proposal to kill the bill. The strong opposition shown here to the bill precluded any chance of passage and it was not called up again.

This proposed Tenure Act for Texas is the bill that has been discussed in this study and its provisions quoted in

several instances. It proposed nothing radical in the way of legislation, but was rather moderate in its provisions. A copy of the bill is attached to the study in the Appendix, and it can be seen that it is not as far-reaching as some of the principles advocated by the Committee on Tenure for the National Education Association. As set up this bill would establish a State Tenure Committee composed of members of the State Board of Education. This Committee would perform the duties outlined in the Act and such other duties as designated by the State Board of Education. The Tenure Committee would have the right to hear appeals of teachers who had been dismissed and would have power to reverse, affirm, or modify any decision of the State Board of Education after hearings had been held. Section 8 specifically gives the teacher the right to appeal to the district court having jurisdiction in the case from any decision of the State Tenure Committee.

As written, the bill would grant indefinite tenure to all teachers in the service for two years immediately preceding passage. The reasons for which a teacher could be dismissed are clearly outlined and adequate provision is made for the teacher to have a hearing with the privilege to appeal from the findings of the local board. Provisions are also made for probation of teachers and for leaves of absence.

The bill as written, as stated before, is not radical and seemingly has no innocuous terms. The question then arises: Why so much opposition to teacher tenure?

The answer, perhaps, is due to a great many factors. One of these is the entire philosophy of education as it has been developed in Texas. The state was settled and its school system established before the Civil War. The wide spaces and the distances between the settlements made essential the establishment of small schools in each settlement. This small-school policy was carried out all over the state as it was settled. In 1883-1884 there were 5,781 common schools in the 121 counties that were organized at that time. In 1909-1910, with the further development of the country, there were 7,796 common school districts in the state and in 1921-1922 there were 7,569 common school districts.<sup>1</sup> This policy of small schools contributed greatly to the individualist philosophy which dominated early American life, and which has steadfastly fought to retain its hold despite progress in other fields. The efforts of the small communities to keep their schools and to prevent consolidation have made much court litigation in Texas. This individualistic spirit, no doubt, has worked against any action that would further take local control away from school districts.

Another angle that has a bearing on this question was developed by Veltzin in an article dealing with discrimination against certain applicants by school boards. He says:

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<sup>1</sup>Texas School Adequacy Survey, p. 18.



One of the most important conclusions I have come to upon recently completing an analysis of almost 2500 court decisions on public school teacher's contractual relations with boards of education is that to an alarming extent the administrators of our common schools regard a teaching position as a favor to be granted. . . . Such boards are not purchasing the best available professional service; they are granting a temporary pension as a royal favor. . . . The law gives to school boards a very real and very extensive arbitrary power in the employment of teachers - one applicant may be elected and another rejected for any or no reason. . . . Considerations such as religious belief, nationality, kinship to board members, ability to play musical instruments and domestic status - singleness or marriage - weigh strongly. . . . Nepotism also operates strongly in defiance of law and in total disregard of the qualifications of competing candidates.<sup>2</sup>

Previous mention has been made in this study to an article on the "Courts and Tenure" in the American School Board Journal where the statement was made that boards of education had been opposed to tenure legislation. They were irked, it was said, because there were restrictions on their rights to dismiss at will. No doubt much of the opposition to tenure legislation in Texas comes from this source, especially in the small rural schools.

The opposition that was shown to the proposed Tenure Act for Texas indicates that there is a great deal of opposition to such legislation or that the people are misinformed or unaware of the necessity or benefit for it. The State

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<sup>2</sup>National Education Association, Teacher's Contracts, Report of the Committee on Tenure, p. 10.

Teachers Association and the Texas Classroom Teachers Association, in their plans for another attempt to get teacher tenure for Texas have planned an educational campaign, a study of the situation in Texas, and a probable new type of bill to be submitted to the next regular session of the legislature.

At a recent meeting of the Teacher Welfare Committee held March 30 1946, in Fort Worth, Texas, the Committee decided that it would recommend three different types of tenure legislation to be drafted for consideration.<sup>3</sup> These Bills would take the form of a regular tenure bill, a continuing contract bill, and a tenure bill applicable to the large cities only. These preliminary bills would be studied by the Committee and the one recommended to the next Legislature which it is thought would have the most merit.

Such legislation in some form is certain to come up at the next regular meeting of the legislature. Regardless of what type of bill is finally prepared or what merits the bill possesses it will not have a ghost of a chance to pass unless most of the teachers of the state unite in an effort to influence the legislature to pass it. The bills that pass in the legislature are those which are supported by public opinion and this opinion must make itself known to the members of the legislature.

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<sup>3</sup>Tennyson, op. cit., p. 16.

The teachers of Texas have organized the Texas State Teachers Association and the Texas Classroom Teachers but these associations more closely represent the administrative phases of education than the classroom teachers. If the classroom teachers are to make their weight felt in educational decisions and in the promotion of tenure legislation, they must form a close binding association of their own and unite to speak collectively. Johnson says:

Systems that hire and fire at will should be exposed to the public and all teachers. Would organized labor condone the outrages practiced by our school boards? The Retail Merchants Association strives to protect its members from poor-paying purchasers. Are not all professions except the teaching profession protected as far as possible from injustice on the part of those they serve? Then why should we, as a professional organization to some extent, strive to protect our members from despotic school boards, disgruntled patrons, selfish and spineless school administrators, and other agencies which cause a high per cent of the annual turnover in Texas.<sup>4</sup>

Such a type of union is growing in the ranks of the teachers today. It started in a small way thirty years ago during the crisis induced by World War I. World War II has materially aided in strengthening the organization. This organization is known as the American Federation of Teachers and has an approximate membership of 40,000 teachers. The union is known as a "white-collar" organization and as such has had much opposition from the firmly entrenched educational associations. However, it has a virile program and is energetic, forceful, and influential in

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<sup>4</sup>J. M. Johnson, "For Teacher Tenure", Texas Outlook, XXXIII, (January, 1939), 42.

demanding that the teachers have the same rights as industry grants its workers.

The teachers do not wish to emulate labor unions, but they do see that something needs to be done today. Outlined below is the situation that confronts Texas teachers today.

✓ Texas, the richest state in the nation in natural resources, size, and potentialities, has consistently ranked low in educational achievement in comparison with many other states, according to three different surveys. Leonard P. Ayres made such a ranking in 1920. He utilized criteria which he weighted according to their supposed values.<sup>7</sup> In 1924 Frank M. Phillips attempted to rank the states educationally by two methods.<sup>8</sup> In 1934 H. E. Schrammel and E.R. Sorrenburg, using eleven criteria, made a ranking based on data obtained from the United States Department of Education.<sup>9</sup> Texas ranked thirty-fifth in the Ayres report, the same in the Phillips survey, and was placed fortieth in the 1934 report of Schrammel and Sorrenburg.

Texas, seeking some explanation for this low rating of Texas in educational efficiency, have advanced the supposition that the low standard achieved resulted from a widely

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<sup>7</sup>H. E. Schrammel and E. R. Sorrenburg, "Rank of the States in 1900, 1920, 1934, on Basis of Eleven Criteria, and Rank According to Ayres and Phillips", American School Board Journal, XCIII (November, 1936), p.

<sup>8</sup>Ibid.

<sup>9</sup>Ibid.

scattered population, diverse race elements, short length of time for development, independence of pioneer life, and indifference of the population to education. Statistical data do not bear out these assumptions. California, another state similar to Texas in development, wide area, diverse population, and independent ideals, ranked third in educational efficiency in the Ayres report, fourth in the Phillips survey, and fifth in the Schrammell and Sorrenberg report. Washington, a comparatively new state with a wide, undeveloped area, ranked seventh, first, and third, respectively in the surveys. New Mexico, last of the states to be admitted to the Union, ranked thirty-fourth, thirty-eighth, and thirty-second; and Oklahoma, northern neighbor of Texas and another new state, gained the rank of thirty-seventh, thirty-sixth, and twenty-sixth in the reports.

Since these states have many characteristics in common with Texas and have surpassed her in educational achievements, the assumption that pioneer conditions have caused the low ratings of Texas would appear to be contrary to results in other cases. Some other conditions will be studied here that might have caused Texas to have this consistently low rating.

The per capita expenditure per states is sometimes used as a measure of what the individual states try to achieve in educational work. A survey in Texas in 1935-1936 gives some data on the per capita expenditure of Texas and four other states, Illinois, New York, Ohio, and Pennsylvania,

which had approximately the same number of pupils in average daily attendance. Table 1 gives this information:

TABLE 1  
CURRENT EXPENDITURES IN TEXAS AND OTHER STATES  
WITH APPROXIMATE NUMBER OF PUPILS IN  
AVERAGE DAILY ATTENDANCE,  
1935-1946\*

State	A.D.A.	Current Expenditure in A.D.A.	Rank
Texas	1,026,074	\$ 55.15	5
Illinois	1,175,978	86.08	2
New York	1,768,364	134.13	1
Ohio	1,086,262	82.42	3
Pennsylvania	1,599,351	79.70	4

\*Texas Statewide Adequacy Survey, p. 61.

When these five states were checked in the Schrammel-Sorrenberg index for 1934 their educational ratings were found to be as listed in Table 2.

TABLE 2  
EDUCATIONAL EFFICIENCY RANKING OF  
FIVE STATES\*

State	Rank
Texas . . . . .	.40
Illinois . . . . .	.24
New York . . . . .	.7
Ohio . . . . .	.27
Pennsylvania . . . . .	.15

\*Schrammel-Sorrenberg Index,  
American School Board Journal,  
(97) (July, 1938), 19.

With the exception of Pennsylvania, the states that have the highest per capita expenditure rank highest proportionately in educational efficiency. In a study made of the forty-eight states in 1933-1934 regarding current expenditure per pupil and educational achievement, Schrammel and Sorrenberg found the correlation between current expenditures per pupil and educational achievement as measured by criteria to be .77 .04.<sup>10</sup> To a limited extent, the authors of the survey said, this high correlation might be due to the fact that three of the criteria were financial rankings, but the fact remains that the relationship between the items is very close.

The teacher tenure situation in each of the above states might be interesting in the light of the information revealed in the tables. Texas has no tenure legislation. Illinois and New York have tenure in certain districts. Ohio has permanent tenure compulsory in the larger districts and optional in the smaller. Pennsylvania has permanent tenure after a probationary period. Texas is thirteen points below either of these states in educational efficiency rank according to the Schrammel and Sorrenberg survey. In the per capita expenditure New York spent more than twice as much as Texas.

The argument might be advanced here that conditions in the different states are different. These states used

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<sup>10</sup>Schrammel and Sorrenberg, op. cit., p. 17.

for comparison have a high population density, while that of Texas is low. This fact, however, would call for a larger expenditure per capita. Cox, in a study of the average annual cost per high school pupil in Louisiana, found that the annual cost for each student where the school registration was below twenty-five was \$158.33, while the cost for students in schools with three to four hundred pupils was only \$52.93.<sup>11</sup> The fact that these other states had a greater density of population than Texas should have no weight in accounting for their greater educational efficiency.

These surveys made by Schrammel and Sorrenberg were made almost ten years ago. If they were to be made again in Texas, there is a probability that the rankings might be still lower. World War II with its draft of young men and its high-salaried war positions made a serious drain on the teachers in the school system. As stated in the introductory portion of this study, a recent release from the State Department of Education states that fifteen per cent of the teachers covered by the survey were listed as having sub-standard qualifications. Practically all of the cities of Texas had reported resignations running as high as thirty per cent.

These figures, when compared with some in White's study, show that the turnover among Texas teachers is increasing.

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<sup>11</sup>John E. Cox, The Consolidation of High Schools as a Program of Efficiency and Economy, pp. 7-8.



According to White the percentage turnover in Texas in 1927-1928 was 18 per cent in a selected number of schools.<sup>12</sup> In 1936 a national survey was made of teacher turnover and Texas was listed with a percentage of twenty-four.<sup>13</sup>

#### Legal Decisions Affecting Texas Teacher Tenure

Texas law permits cities to make contracts with teachers for more than one year. This is usually done in the case of superintendents. The larger cities of Texas have instituted their own tenure systems, and, while there is no legal protection of the teacher from unjust dismissals, there is a great improvement over the old system. The selection of the teachers, especially the rank and file, is left to the discretion of the superintendent. He can not legally appoint a teacher, but the board usually follows his recommendations.

However, the only reliable protection for the teacher is in legislative tenure fully guaranteed by the laws of the state. School boards, unless the teachers are protected by law against dismissals without cause and without hearings, will not hesitate to exercise their time-honored privilege of "firing and hiring".) The record of court cases in Texas dealing with teachers' contracts show this. For example, the following cases may be cited:

✓ 1. In the independent school district of Donna, Texas, in Hidalgo County, the school board contracted with George V.

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<sup>12</sup>White, op. cit., p. 78.

<sup>13</sup>Ibid., p. 89.

Bear to serve as superintendent of the school from July 1, 1931, to June 30, 1934, at a salary of \$4,200.00 per year with certain expense money. On March 1, 1934, the school boards re-elected Bear to serve as superintendent from July 1, 1934, to June 30, 1937, at \$3,000.00 per year with an additional monthly payment of \$25.00 for expenses. Shortly after March, 1934, the school board changed personnel and on May 2, 1934, without any notice or hearing to Superintendent Bear, the new school board elected Harris G. Carter as superintendent for a period on one year beginning June 1, 1934. Bear was not notified of the action until after the school board had acted. Bear appealed to the courts to nullify the act of the school board, but he lost his case because he did not follow the prescribed channels in appealing his case.<sup>14</sup> He should have appealed to the proper school authorities and should have exhausted his plea there before appealing to the courts.

2. On April 28, 1946, the Borger Independent School trustees made a written contract to two years with J. A. Dickson for his services as superintendent of the Borger schools. Dickson assumed the position and taught for one year. On April 29, 1929, the school board advised Dickson that his contract had been made for only one year and that it was terminated. Dickson maintained that his written contract called for two years. He appealed his case to the

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<sup>14</sup>Bear vs. Donna Independent School District, Texas, 74 S. W. (2d) 179, 1934.

State Superintendent of Public Instruction and was sustained in his claim. Subsequent attempts to collect his salary were fruitless and he at length appealed his case to the courts.<sup>15</sup> He was upheld in his claim.

✓ 3. The trustees of the Lucas common school district in San Augustine County, Texas, contracted with Powell to teach the school in that district for a period of nine months at a salary of \$165.00 per month. After Powell had taught one month, a controversy arose between him and the schoolboard over payment of his salary. The schoolboard claimed that Powell had not taught as many days as he presented vouchers for. The controversy occurred at the end of each month. Powell appealed his case through the proper school authorities and from them to the courts where his contract was affirmed.<sup>16</sup> It was his contention that the schoolboard employed subterfuge in trying to evade their obligations to him.

4. In Chireno Independent School District in Nacogdoches County, Texas, the school board employed a teacher by the name of Wedgeworth on July 1, 1925, for a year. Wedgeworth taught through the school year and up until May 1st when the school closed. He moved from the district to Nacogdoches and went to college. The school board refused to pay him for May and June, claiming that

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<sup>15</sup>Borger Independent School District, et. al., v. Dickson, Texas, 52 S.W. (2d) 505, 1932.

<sup>16</sup>Powell v. Matthews, Texas, 280 S.W. 903, 1926.

he had abandoned his school. He appealed through the regular channels and was sustained.<sup>17</sup> The trustees refused to pay him, and when he sued them in court he lost the case because he sued the trustees individually. He sued individually because all school funds for the year had been spent.

5. On April 5, 1933, a Miss Miller was elected to teach in the Alameda High School at Alameda. Her contract was signed by two of the trustees. Two new trustees were elected in April and these new men, plus the holdover who had not signed the contract, elected another teacher on June 15, 1933. After the election of the other teacher, Miss Miller was informed of the action of the schoolboard. The County Superintendent of Public Instruction approved the contract of the new teacher. Miss Miller appealed through the regular channels to the school authorities. Her case was ruled against by the County Board of Trustees who upheld the County Superintendent of Public Instruction. Miss Miller appealed the case to the civil court and the judgment of the school authorities was reversed.<sup>18</sup>

These cases indicate the actions of some school boards in Texas in their efforts to get around contract-provisions with teachers. The teachers, where they have been wise, have utilized the accepted manner of appealing directly to the school authorities prescribed by Texas school laws and

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<sup>17</sup>Chireno Independent School District, et. al., v. Wedgeworth, Texas, 15 S.W. (2d) 679, 1926.

<sup>18</sup>Miller, et. al., v. Smiley, et. al., Texas, 65 S.W. (2d) 417, 1933.

in each case have won their claim. Frequent changes in school board personnel, it is shown, often have repercussions in efforts to dispose of teachers already elected by the outgoing board.

#### Current Opinions of Teachers

The foregoing ideas, as developed, have been more or less general. However, the writer desired to have something more specific in the way that the average teacher of today feels about the tenure question. Since he is one of 2,056 students at an outstanding teachers institution, he decided to make a survey within the ranks of the teachers concerning their attitude on teacher tenure. Accordingly, he made out a questionnaire dealing with various phases of teacher tenure and interviewed twenty men teachers and twenty-eight women teachers. The questions asked the teachers in the interview are as follows:

1. Do you ~~feel~~ believe that our schools are adequately teaching the democratic skills and attitudes that are essential to the preservation of our democratic life?
2. Do you feel that security for the teacher would lead to closer working relationships between the teacher and the school administration?
3. Do you believe teachers should be free from the intimidation of the public in their normal pursuit of happiness?
4. Do you believe teachers should be discriminated against because of sex or marital status?

5. Do you feel that the teaching of democratic skills and attitudes would be strengthened by the legislative enactment of teacher tenure?

6. Do you believe that security would create a desire in the teacher to grow professionally?

7. Do you feel that administrators would seek a stronger fellowship with teachers if the teaching profession enjoyed security of position?

8. In your opinion would the teaching efficiency of our teachers be raised with security of position?

9. Do you feel that teachers can prepare themselves to teach the children of any given community in one years time?

10. Do you believe that security within the teaching profession would tend to modernize the teachers' methods and technique?

11. Do you believe security for the school administrators would lead to better understanding of the administration of the teachers' problems?

12. In your opinion would teachers be encouraged to teach modern social problems if they felt more secure in their teaching positions?

13. Do you think teachers should be given the right of a notice of hearing in cases of dismissals and demotions?

14. Do you believe security would cause stagnation on the part of the teacher?

15. Do you believe if teachers had security of position it would decrease the voluntary moving from school to school?

16. Would, in your opinion, security raise the morale of the teacher in Texas today?

17. Do you think teacher tenure would cause school officials to act in a cowardly fashion in regard to promotion?

18. Do you believe that a majority of the teachers today desire to modernize their teaching methods and techniques?

19. Do you think teachers should be allowed to abandon contracts as they do now?

20. In the event of teacher tenure, do you believe that school officials will give more time to thoughtful planning?

21. Do you believe if teachers were given freedom to live as they desire that this would tend to decrease the number of teachers from leaving the profession?

22. Do you believe the teaching of today should be modernized to meet the everyday problems that confront us?

23. Do teachers feel a need for protection in their jobs?

24. Do schools encourage the modern teaching of our modern social problems?

25. Do you believe security would cause the teacher to loaf?

The answers to the above questions were evaluated in two ways - the teaching experience of the teacher and the attitude of the men and the women separately. In regard to the number of years of experience it was found that the women interviewed showed 8.7 years of experience, while the

men showed only 5.9 years of actual experience. This difference of some four years between the experience of the men and the women is mainly due to the recent war which called a majority of the men teachers into the service. If the same conditions existed in normal years, a great deal of significance could be attached to the fact, but as it is it simply means that the young men had had less teaching experience due to circumstances beyond their control.

Table 3 gives the data as tabulated from the questionnaire. Since the questions were long, they are listed in numerical order in the table. The first section of the table gives the per cent of the teachers who answered "yes" or "no" to the questions according to the years of experience in teaching. In the second portion of the table, the per cent is given of the men who answered "yes" or "no" and the women who did likewise.

A study of the findings as tabulated from the answers to the questionnaire is very revealing. In the first question concerning the efficacy of our teaching in a democracy, 63 per cent of the teachers who had been teaching over six years said that, in their opinion, the schools had not adequately taught democratic skills and attitudes. In the less-experienced group, 87 per cent of the teachers voted "no". According to sex, 65 per cent of the women answered "no", and 70 per cent of the men did likewise.



TABLE 3

ATTITUDES OF FORTY-EIGHT TEACHERS ON VARIOUS PHASES OF  
TEACHER TENURE ACCORDING TO EXPERIENCES  
AND ACCORDING TO SEX

Number of Item In Ques- tionnaire	Teacher Experience				Sex of Teacher			
	6 yrs. or more		5 yrs. or more		Male		Female	
	Yes	No	Yes	No	Yes	No	Yes	No
	Per- cent	Per- cent	Per- cent	Per- cent	Per- cent	Per- cent	Per- cent	Per- cent
1	37	63	13	87	35	65	30	70
2	96	4	97	3	100	0	98	4
3	100	0	100	0	100	0	100	0
4	13	87	0	100	15	85	8	92
5	78	22	93	7	80	20	88	12
6	87	13	93	7	90	10	88	12
7	78	22	80	20	85	15	72	28
8	87	13	93	7	85	15	88	12
9	9	91	7	93	15	85	16	84
10	95	5	93	7	90	5	88	12
11	95	5	93	7	100	0	92	8
12	91	9	100	0	100	0	92	8
13	100	0	100	0	100	0	96	4
14	5	95	13	87	15	85	16	84
15	91	9	87	13	95	5	88	12
16	100	0	93	7	100	0	96	4
17	87	13	7	93	0	100	16	84
18	78	22	93	7	90	10	80	20
19	50	50	33	67	50	50	32	68
20	91	9	100	0	100	0	96	4
21	87	13	100	0	100	0	88	12
22	100	0	100	0	100	0	100	0
23	100	0	100	0	95	5	100	0
24	13	87	7	93	15	85	25	75
25	9	91	0	100	10	90	12	88

Concerning a closer relationship between the teacher and the administration if there was teacher tenure, more than 95 per cent of all the teachers interviewed answered in the affirmative.

There was a 100 per cent affirmative answer from all the teachers on the question of the teachers' right to be free from public intimidation in the normal pursuit of happiness.

Eighty-seven of the more experienced group of teachers thought that there should be no discrimination because of sex or marital status, while 100 per cent of the less experienced group agreed with them. Eighty-five per cent of the women thought there should be no discrimination; ninety-two per cent of the men thought likewise.

Seventy-eight per cent of the teachers in the first group thought that the teaching of democratic skills and attitudes would be strengthened through teacher tenure; 93 per cent of the less experienced group agreed; 80 per cent of the women and 86 per cent of the men also answered "yes".

In regard to professional growth, 87 of the more experienced group thought that teacher tenure would aid it, and the percentages in the other groups answering affirmatively were 93, 85, and 88, respectively.

On the question concerning greater fellowship between the teachers and administrators, 78 per cent of the more

experienced group thought that teacher security would encourage this; 93 per cent of the less experienced group thought so. Eighty-five per cent of the men voted "yes" on the question, and 72 per cent of the women did likewise.

Eighty-seven per cent of the more experienced group thought that teacher security would make the teachers more efficient, while 93 per cent of the less experienced group thought likewise. Eighty-five per cent of the men thought this way, and 88 per cent of the women answered "yes".

Only 9 per cent of the more experienced teachers thought that a teacher could prepare herself to teach in any given community in one year's time. Seven per cent of the less experienced group thought this possible, while 85 per cent of the women and 84 per cent of the men thought it impossible.

There was not a great deal of difference in the opinion of the teachers concerning security having a tendency to modernize teachers' methods and techniques; 95 of the more experienced group, and 93 of the less experienced answered "yes"; 100 per cent of the men thought that it would, and 93 per cent of the women thought likewise.

The percentage of affirmative answers regarding the tendency of security to lead to a better understanding of the teachers' problems by the school administrator was 95, 93, 100, and 92, respectively.

Security would encourage the teacher to teach more social problems is the belief of more than 93 per cent of all the teachers interviewed.

All the teachers in the first three groups thought that a teacher should be given a notice of hearing, but four men thought this was unnecessary.

Five per cent of the more experienced teachers thought that security would stagnate growth in the teaching profession; 13 per cent of the less experienced group thought the same. Fifteen women and sixteen men also thought this way.

Ninety-one per cent of the more experienced teachers thought teacher security would decrease voluntary moving on the part of the teacher; 87 per cent of the less experienced group, 95 per cent of the women, and 88 per cent of the men agreed in this opinion.

All the teachers in the more experienced group thought that security would raise the morale of the teachers; 93 per cent of the less experienced group agreed. All the women thought so, too, but 4 per cent of the men disagreed.

There was some disagreement on the question of school officials' attitude in case of security of teachers. In the first group, 95 per cent of the teachers thought that it would cause the trustees to act in a cowardly fashion, while 13 per cent of the less experienced teachers thought so. Fifteen per cent of the men and 16 per cent of the women answered "yes" to this question.

There was little dissent among the teachers in all groups and of both sexes concerning the desire for teachers for the modernization of teaching methods and techniques.

Sentiment was divided on the question of teacher abandonment of contract. According to experience, 50 per cent of the more experienced group thought that it should be abandoned, while 67 per cent of the less experienced group thought that the practice should be left as it is. Fifty per cent of the women favored the continuance of the present practice, while only 32 per cent of the men were in favor of it.

A high percentage of all the teachers interviewed thought that officials would give more time to planning if there were security of tenure.

Eighty-seven per cent of the experienced teachers and all of the less-experienced ones thought that teacher freedom to live a normal life would decrease the number of teachers leaving the profession. The men agreed with this, but 12 per cent of the women disagreed.

All the teachers interviewed stated that they thought teaching should be modernized in order to meet the everyday problems of today.

All of the teachers interviewed were of the opinion that teachers needed protection in their positions except the men; 5 per cent of them thought that no protection was needed.

Only 13 per cent of the more experienced teachers thought that our schools encourage the modern teaching of social problems, while 7 per cent of the less experienced teachers agreed with them. Fifteen per cent of the men answered "yes" on this question, and 25 per cent of the women did likewise.

All the teachers in the less-experienced group stated that they thought security would not cause the teachers to loaf; 9 per cent of the more experienced teachers thought that it would. Ten per cent of the men answered "yes", and 12 per cent of the women did likewise.

One question that was asked independently of the questionnaire was: If there were plenty of teachers available, for what reason do you think teachers would be dismissed? Six reasons were listed as to the most common reason and the least common reason. The reasons were: (1) Inefficiency; (2) Immorality; (3) too modern; (4) controversial subjects taught in the classroom; (5) school politics; and (6) personal prejudices of school officials. The most common cause listed by the teachers was for inefficiency and the least common cause was being too modern.

The most significant thing about the results tabulated from the questionnaire, in the opinion of the writer, is unanimity of opinion expressed by the more experienced and the less experienced teachers and the members of both sexes.

The majority of the teachers hold progressive ideas, and there is hope for the future of Texas because of this attitude.

The status of teacher tenure in Texas has been surveyed in this chapter, and from most studies, facts, and general feeling, the needs for security have been listed as a short summary of the foregoing chapter:

1. Texas has no tenure by statutory enactment.
2. Teacher tenure legislation has met with a great deal of opposition whenever it has been introduced in the legislature in Texas. This opposition is probably due to lack of knowledge on the part of the general public; to the prevalence of the traditional, individualist philosophy; to the reluctance of school boards to relinquish their authority to "hire and fire"; and to a lack of organization among the school teachers themselves.
3. The associations of teachers have been powerless to get legislation passed fully protecting the interests of the teacher. The cause of this is lack of support among the teachers and the lack of a unified leadership. The classroom teachers should take the initiative in forming a teachers' union patterned after that of the unions in industry.
4. Texas is the richest state in the union in natural resources, but it spends much less per capita for education than other states with about the same average daily attendance in the schoolrooms.

5. Texas not only spends less per capita but it ranks far below other states in educational achievement as well as per capita expenditure.

6. The large cities of Texas have instituted tenure systems of their own. These systems have no legal standings, but surveys show that the teacher turnover in these cities is much smaller than in the small schools.

7. The experienced teachers of Texas, as indicated by a sampling of 2,056 in attendance at a teachers' college, are in favor of teacher tenure and security in the profession. They believe that it will improve teachers' morale, lessen the moves from place to place, encourage professional growth, and promote better teacher efficiency. There is not much divergence in the opinion of the men and of the women teachers interviewed.



## CHAPTER VI

### CONCLUSIONS AND RECOMMENDATIONS

The conclusions reached from this study of teacher tenure in Texas are listed as follows:

1. The turnover of teachers in Texas at the present time has reached a critical stage and threatens to disrupt the whole state educational program.

2. The workers in every major industry in the United States are protected against unjust dismissals and unforeseen leaves of absence. The teachers have no protection, and are employed by school boards which change personnel frequently.

3. Training for a teacher requires much time, laborious effort, and money. Training for an industrial job often requires only a short time. If the teacher has no promise of tenure, he, often, will choose the vocation in which he has a shorter training period, the higher wages, and the greatest promise of tenure of position.

✓ 4. Teacher tenure is based upon the fundamental principle that education is for the benefit of all the children. Educators who have studied the subject and made extensive surveys and investigations have concluded that

teacher tenure, generally speaking, improves the efficiency of the teacher. The teacher is linked so closely with the child that anything that benefits the teacher likewise benefits the child.

5. Investigation of court cases and survey have brought out that personal and petty complaints rather than inefficiency and dereliction of duty are the main causes of dismissals of teachers.

6. Teacher tenure aids in preventing the management or domination of the schools by political or non-educational groups. It aids the teacher to grow in service, to live a more normal life, and to be free to express his own individuality. It sets up standards for evaluating teachers, makes it difficult to discharge teachers for petty reasons, and provides for the discharge of inefficient teachers.

7. Each state enacts its own school legislation. Tenure legislation, therefore varies from state to state. Some states have no form of tenure legislation, some have permanent tenure, and some have mixed types of tenure legislation. There is no set, stable policy of all the states.

8. Teacher tenure has met with opposition whenever it has been introduced in the legislature of Texas. This opposition has been sufficient to prohibit any form of tenure bill from becoming law. Individual cities have set up their own tenure systems, but they have little or no legal basis.

9. The only satisfactory tenure laws are those which are acted by legislative decree, which provide for prevention of unjust dismissal, and for appeals from the decisions of local boards. A tenure law is the teacher's most logical guarantee that he will have continuous employment as long as he gives satisfactory, efficient service.

10. Public opinion, since it is aroused to the need for teacher tenure, realizes its benefits, and speaks its mind, will accomplish the needed legislation. If the teachers continue to work separately and do not join their forces, it may be a long time before Texas enacts tenure legislation.

#### Recommendations

The one paramount recommendation forthcoming from this study is: The teachers of Texas need to study the tenure question - its history, types, its advantages and its disadvantages. They need to study the state of Texas, study its people, the historical background of school legislation, and all factors concerned with tenure. Then they will be able to talk intelligently on the question and to present the matter in a sane, practical, common sense way. They need to join some organization that will work as a collective unit to press the needs for remedial school legislation. And they need to united behind some type of tenure legislation that there is some hope of passing in Texas. The National

Education Association recommends tenure legislation which will be accompanied by "proper legal regulations governing training, certification, remuneration, and retirement allowances". Any teacher will see the justice and the advantage of such legislation; it is doubtful, though, that a state that has no tenure legislation whatever would rewrite all its school laws at one time. The thing that Texas teachers need to do is to decide on some type of tenure legislation that appears to have a chance for enactment, organize, their forces, and then ask for it. After all, that has been the one sure way to get things done from the beginning of time down to the present. If the teachers of Texas want teacher tenure "bad enough" they will get it.

B. \_\_\_\_\_

BY \_\_\_\_\_

A BILL

TO BE ENTITLED

AN ACT known as the Teacher Tenure Act for Texas, defining teacher tenure, teacher and Board of Education; providing for the probationary period to entitle a teacher to the benefit of the Act and fixing the conditions of such probationary period; stating causes by which teachers may be dismissed or suspended from service and determining the procedure in case of dismissal or suspension of teachers; providing that school districts, where the Board of Education has not conformed with the requirements of the Act, shall not participate in any portion of the State Public School Funds; making certain miscellaneous provisions for the protection of teachers in case of illness, for leave of absence of teachers, allowing salary reduction in case of lack of funds and providing that the Act shall not interfere with the right of the Board of Education to reduce the number of teachers where such reduction is brought about by natural causes such as a decrease in average daily attendance, elimination of departments, consolidation of schools or the reorganization of same, and providing that, where such reduction in the number of teachers is made, the manner in which preference shall be given to the teachers employed and also the manner of filling vacancies; providing that if any provision of this Act shall be held unconstitutional it shall not affect the other provisions, and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Definition. The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

A. "Teacher Tenure", as employed in this measure, shall mean security of position during efficient service. It means the right of a teacher to continuous employment within a school district until such teacher resigns, elects to retire or is retired pursuant to Section 5 of Article 2922-1 of the Teacher Retirement System Act, or is dismissed as provided by law.

B. "Teacher", as used in this Act, shall mean any individual regularly employed by Boards of Education, or Boards of Regents in a supervisory, administrative, or instructional capacity.

C. "Board of Education" shall mean a majority of the membership of any official body having jurisdiction and Control over the management of any public school in Texas.

SECTION 2. A Teacher Tenure System is hereby established and placed under the management of the State Board of Education. Said Board shall create from its membership a State Tenure Committee composed of three (3) people, one (1) of whom shall act as Chairman and one (1) of whom shall act as Secretary. Said Committee shall perform all of the duties imposed by this Act and such other duties as may be conferred upon the Committee by the Board of Education. They shall keep a full and accurate record of all proceedings. Their decisions shall be based upon a review of the record of all the hearings before the Board of Education or before the Committee. They shall have the right to issue appropriate subpoenas and require the attendance of witnesses before the committee. They shall have the power to affirm, reverse or modify any decision of the Board of Education. They shall give due notice to interested parties of all hearings and of all decisions rendered.

SECTION 3. All teachers regularly employed by Boards of Education or Boards of Regents in a supervisory, administrative or instructional capacity shall receive the benefits and the protection of teacher tenure as administered by the Board of Education under the provisions of this Act.

SECTION 4. A teacher must serve a probationary period before he comes under the protection of tenure.

A. All teachers new to a local school system must serve a probationary period of two (2) years before they come under the protection of tenure.

B. All administrators or supervisors placed in a new type of position or new in the system shall serve a probationary period of two (2) years before they come under the protections of tenure.

C. All teachers regularly employed in a school system for two (2) consecutive years of more immediately prior to the effective date of the tenure law shall be considered as having met the probationary requirements when re-elected.

SECTION 5. No teacher shall be dismissed or suspended from service after having taught, as provided herein, for two (2) consecutive school years after this Act takes effect except for the following causes:

A. For inefficiency.

B. For immoral conduct. Teachers charged with flagrant immorality may be temporarily suspended without a hearing before the Committee.

C. For physical or mental disability.

D. For persistent violation of or refused to obey state school laws, regulations of the State Board of Education and the State Department of Education, and/or reasonable rules and regulations of the local Board of Education.

E. For refusal of a teacher to meet the minimum educational requirements necessary to permit such a school system to raise its standards to meet certain accredited and affiliation requirements.

SECTION 6. No teacher on tenure shall be dismissed by any Board unless the charges are first reduced to writing, duly signed and verified by the person filing the same, with full specification of the acts complained which constitute the ground or grounds for dismissal, and filed in duplicate with the clerk of the Board of Education. The clerk immediately shall give notice in writing to the accused of the filing of such charges together with a copy thereof. Unless the accused shall, within ten (10) days subsequent of the receipt of such notice, demand in writing an opportunity to appear before the Board and defend against the charges, the Board may proceed to consider the same and, if the accused is found guilty suspend or dismiss such teacher, and its action thereon shall be final. If the accused shall, within ten (10) days after the receipt of notice and copy of the charges from the clerk as aforesaid, demand a hearing upon the charges, the Board shall set a time for the hearing within twenty (20) days and the clerk of the Board shall give the accused at least fifteen (15) days notice in writing of the time and place of such hearing. Such hearing shall be private unless the accused shall request a public hearing. The accused shall have the right to be present at such hearing, to be represented by Counsel, to require witnesses to be under oath, to cross examine witnesses, to take a record of the proceedings, and to require the presence of witnesses in his behalf upon subpoena to be issued by the clerk of the Board of Education. If, after the hearing, the accused shall be found guilty of the aforesaid charges, the Board may suspend or dismiss such teacher.

SECTION 7. In addition to all other rights provided by law, a teacher having tenure, who shall be suspended or dismissed after hearing, or whose salary shall have been reduced in violations of Section 8 of this Act, shall have the right of appeal to and the right to appear before a State Tenure Committee.

SECTION 8. Any teacher whose suspension, dismissal or reduction in salary have been upheld by the State Tenure Committee shall have the right to appeal to any district court having jurisdiction, provided he files such appeal within sixty (60) days after notification by the State Tenure Committee. In the event of such appeal the said district court shall proceed with a trial de novo of said cause.

SECTION 9. A school district, the Board of Education of which has not conformed with all the requirements of this Act, shall not participate in any portion of the State Public School Fund.

SECTION 10. In case of illness a teacher's tenure shall be protected for one (1) year. This period may be extended at the discretion of the employing Board. A teacher on leave of absence shall have his tenure protected.

SECTION 11. Nothing herein contained shall limit the right of a Board of Education to reduce the salary of any teacher provided that such reduction shall become necessary because of lack of school funds, and further provided that such reduction shall apply generally to other teachers of the district.

SECTION 12. Nothing herein contained shall be held to limit the right of any Board of Education to reduce the number of teachers employed in any school district provided that such reduction shall result from such natural causes as : a decrease in the average daily attendance of pupils, or elimination of departments, or consolidation of schools and/or reorganization of the school plan. But when teachers under tenure be dismissed as a result of such natural causes those having least number of years of service in said district shall be dismissed in preference to those having longer terms of service and should any teacher under tenure be dismissed as a result of this reduction, such teacher shall be and remain upon a preferred eligible list in the order of years of service for re-employment by the Board of Education causing his or her dismissal in such order when and if a vacancy shall occur in a position for which such teacher shall be qualified and that such re-employment shall give full recognition of previous years of service.



SECTION 13. If any provision or section of this Act shall be held unconstitutional, it shall not affect any other provision hereof.

SECTION 14. The fact that there has just been created in Texas a Teacher Retirement System providing for the payment of certain sums of money out of the salaries of teachers into a Teacher Retirement Fund, and the further fact that there is no assurance that teachers will continue to teach long enough to get benefit of the funds paid in under the provisions of the Teacher Retirement Act, and the further fact that teachers are required to spend years in procuring an education and in securing proper training to teach school in Texas and that such teachers are subject to be dismissed by Boards without cause or provocation, creates an emergency and an imperative public necessity that the constitutional rule, requiring bills to be read on three several days in each House be suspended, and said rule is hereby suspended, and that this Act take effect and be in force from and after its passage and it is so enacted.

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