HISTORY OF PUBLIC WELFARE LEGISLATION IN TEXAS

THESIS

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By

Velma Lee Cathey, B. A.
168331
Denton, Texas
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CHAPTER I

DEFINITIONS OF PUBLIC WELFARE

As a field of activity public welfare is so closely related to such fields as health, education, and labor, that the student of research finds it difficult to define the scope of the subject. For example, the welfare program for the handicapped children and vocational rehabilitation combine education, health, and welfare. According to some authors, public welfare ranges from poor relief administered by the local community to the international assistance program under the former United Nations Relief and Rehabilitation Administration. It covers an area in which the philosophy and practices are constantly changing--radically so in recent years. Public welfare is becoming so intimately related to other governmental responsibilities, that the American civilization appears to be fast approaching the day when the field will cover the whole range of social desirability.1

In a general sense, everything that is done by the government for the poverty stricken and the underprivileged child or adult constitutes "welfare"--certainly so, when one conceives of the government as a necessary device by which group action, political unity, and social control are obtained.

1M. B. Hodges, Social Work Year Book, X (1949), 403.
Although the basic responsibility for public welfare rests upon the state and its political sub-divisions--regions, districts, counties and municipal governments, all levels of government participate financially in its administration. The Federal government enters the picture because of its substantial contributions to the cost of certain welfare activities, such as old age assistance, aid to the needy blind, and aid to dependent children. Federal support is likewise rendered in child welfare programs. The major responsibility for the conduct of welfare activities, when the institutional as well as the individual welfare services and assistances are considered, is carried on by the state government. The local government, that is the counties and cities, represent the avenues through which flow most of the individualized services and assistances of the welfare programs. Such a procedure comes from the American tradition that services directly affecting the individual human life and development should be administered by the government nearest him.

As public welfare functions today, two major streams of historical development are merged. One heritage is the translation into modern terms of the colonial concept of common responsibility in organized society for the care of groups of individuals unable to support themselves. The other heritage, the younger and still developing concept of social case work, embodies the basic principle that personal and family situations involving social aid or action should be handled through
governmental agencies on an individual basis by persons trained for that purpose. The earlier concept assumed individual failure or deficiency on the part of those being served. The latter concept seeks to assist whom it serves in such a way that the stature of the individual is strengthened and his dignity is preserved.²

Within recent years public welfare has taken on a more particular meaning. Its services include all governmental activities for the prevention and treatment of dependency, neglect, delinquency, and mental or physical deficiency. Its work encompasses various types of public assistances, such as general assistance, aid to the needy aged, needy blind adult, and dependent child. Its field embodies child welfare services for the protection of institutions for children, supervision of placement of children in foster homes for adoption, mother's aid, and the handling of delinquent children, including the operation of training schools and general welfare services. Its activities embrace all the eleemosynary institutional services for the protection of special groups such as the mentally ill, epileptic, feeble-minded, tubercular, the dependent and neglected child, and the physically handicapped--the deaf, dumb, blind, and the crippled and deformed child. Today public welfare service has advanced

a step further so as to include social unemployment insurance. Though unemployment insurance is a new and different method of preventing dependency among members of society, in such a sense, it does share in a common purpose with public welfare.  

In short, public welfare refers to that group of social services and functions having to do with the care, treatment, and relief of those members of society who are morally or mentally incompetent, or who suffer under adverse economic conditions in a degree that requires governmental intervention or aid. These groups are frequently referred to as the delinquents, the defectives and the dependents. From this background, then, public welfare emerges as an area of governmental responsibility in which the government undertakes to assure security and opportunity for effective social adjustments to people unable to maintain such for themselves.

Perhaps a definition of the most often used terms in the study of public welfare is wise for a more comprehensive understanding of the history of public welfare in Texas. The following terms are listed as the most essential for that purpose.

(1) Public welfare, as used in this paper, will include all governmental activities relating to social work under whatever department or board it is administered. Thus social welfare and public welfare will be used synonymously.

3Ibid., p. 410.
(2) Eleemosynary institutions are state supported institutions established for the care of the mentally and physically ill individuals as well as the dependent, delinquent, and neglected child.

(3) Feeble-mindedness pertains to a child of such . . . feeble mental or moral powers as to be unable to profit by the ordinary methods of education as employed in the common schools, and a feeble-minded adult is one who is unable under ordinary circumstances to protect and support himself as a law abiding citizen because of lack of mental power. 4

(4) An epileptic is a person with a chronic disease characterized by spasmodic convulsions and loss of consciousness.

(5) An insane person is one who is so mentally and emotionally disturbed that he is considered as one of unsound mind.

(6) An orphan is a child under sixteen years of age who has been brought before a juvenile court charged with being a dependent or neglected child.

(7) The Board of Control is a state board composed of three citizens, appointed by the Governor, with the consent of the Senate for a term of six years, whose duty is to make rules and regulations for the government of the eleemosynary institutions. 5


(8) Public assistance is payment in money and/or kind by Federal, state, and local governments upon the fulfilling of certain conditions of eligibility.

(9) A pauper is a person destitute of means except such as are derived from charity.

(10) General assistance is often referred to as relief. It is designed to provide subsistence to persons who are not self-supporting and for whom other provisions are lacking. It is frequently provided in voucher form, such as grocery orders.

(11) Old age assistance is an assistance in money to needy individuals who have reached the age of sixty-five, are citizens of the United States, and have lived in Texas five of the last nine years, and continuously so for one year preceding the application.6

(12) A blind person is one having

. . . not more than 20/200 visual acuity in the better eye with correcting lenses; or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.7

(13) A dependent child is

. . . a needy child under the age of fourteen (14) years who has been deprived of parental support or care by reason of death, continued absence from the home, or


7Vernon's Revised Texas Civil Statutes, 1948, art. 3207c, sec. 1f.
physical or mental incapacity of a parent, and whose relatives liable under the law for his support are not able to provide adequate care or support for such child without public assistance, and who is living with father, adoptive father, mother, adoptive mother, grandfather, grandfather-in-law, great-grandfather, grandmother, grandmother-in-law, great-grandmother, step-father, step-mother, (but not their parents) brother, brother of the half-blood, brother-in-law, adoptive brother, sister, sister of the half-blood, adoptive sister, step-brother, step-sister, uncle and aunt of the whole or half-blood, uncle-in-law, aunt-in-law, great-uncle, or great-aunt in a place maintained by one or more of such relatives as his or her home.  

(14) Child welfare service is a public service for the protection of the defective, illegitimate, dependent, neglected, and delinquent child.

(15) The Public Welfare Board is a state board composed of three members appointed by the Governor with the consent of the Senate. The members must have a knowledge of public welfare and must have had experience in executive and administrative work. They are responsible for the policies, rules, and regulations for the Department of Public Welfare, composed of the Divisions of Public Assistance and Child Welfare.

(16) A juvenile delinquent is any boy between the ages of ten (10) and seventeen (17) years and/or any girl between the ages of ten (10) and eighteen (18) years who violates any penal law of

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this State, or who is incorrigible, or who knowingly associates with thieves, vicious or immoral persons, or who knowingly visits a house of ill-repute, or who is guilty of immoral conduct in a public place, or who knowingly patronizes or visits any place where a gambling device is being operated, or who habitually wanders about the streets in the night time without being on any business or occupation or who habitually wanders about any railroad yard or tracks, or habitually jumps on and off of moving trains or who enters any car or engine without lawful authority. 11

(17) **Vocational rehabilitation** is any service

... provided directly or through public or private instrumentalities, found by the director to be necessary to compensate the disabled individual for his employment handicap, and to enable him to engage in a remunerative occupation including, but not limited to medical and vocational diagnosis, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tolls and equipment, maintenance, and training books and materials. 12

(18) The **physically handicapped**, though it originally meant the orthopedic handicapped, now refers also to other types of handicapped, such as defective vision, hearing, and speech. 13

(19) **Unemployment insurance** is a guaranteed weekly benefit for workers of certain industries who find themselves unemployed through no fault of their own. The funds for payment are contributed by employers who employ as many as eight

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12 *Vernon's Revised Texas Civil Statutes*, 1948, art. 3207c, sec. g.

persons in any industry covered by the law. It is adminis-
tered by the state with assistance from the Federal govern-
ment.\textsuperscript{14}

CHAPTER II

BACKGROUND OF PUBLIC WELFARE LEGISLATION IN TEXAS

"The effort of society to care for the poor and raise the level of their subsistence, to minister to minds diseased and promote mental health, to rehabilitate the offender and prevent delinquency, to develop social adequacy and provide social security,"¹ which may be defined as the public welfare function of the government, is not of the moment but of the centuries. From time immemorial man has attempted in some way to relieve the worst evils of poverty. Even in biblical times the people had a system of relief, for such a plan is recorded in the Book of Deuteronomy. During the height of the Greek civilization, Aristotle expressed the opinion that private philanthropy was inadequate, and that the state should therefore participate in the care of the poor. He asserted it was far wiser for the state "to train a crippled man to perform some useful service than to support him as a pauper."² Charlemagne and William the Conqueror were actively engaged in improving the condition of those handicapped by blindness.

¹A. W. James, The State Becomes a Social Worker, p. 1.
²Ibid.
Like many American ideals, public welfare had its beginning in English common law, a system developed by judges in the application of the customs of the country to individual cases. Common law had a tendency to perpetuate itself, because judges were not inclined to hand down decisions contrary to precedent. As a result, many of the concepts of common law found their way into written law. Such an influence was exemplified in the old Elizabethan Poor Law of 1601, which became a part of the American heritage in the field of public welfare. 3

By the Elizabethan Poor Law, necessary perhaps because the Reformation had left the original giver of relief, the church, unable to cope with the task, the government assumed the responsibility for the care of dependent classes. Under the poor laws money was expended for the apprenticeship of children whose parents were unable to support them, for public projects to provide work for able-bodied unemployed men, and for general assistance for individuals unable to work due to sickness, age, or other infirmity. Though the central government made the laws, it placed the responsibility of caring for the poor on the lowest subdivision, the parish. For it was the parish that was authorized to levy a tax on the people in its area to raise revenue to support such measures. The local government, not anxious to assume such a responsibility.

attempted to place the burden upon some relative of the individual. When the parish did have to assume the responsibility for the care of the dependent, it used another means to prevent payment. The parish made the individual seeking aid prove he was a permanent resident of the parish.⁴

As the colonies were established in America, they wrote similar poor laws. Their laws, as the Elizabethan Poor Law, reflected the impatience felt toward dependent members of the community. They provided for published lists of individuals who had taken the pauper's oath in order to get aid, and for published lists of individuals receiving government aid. These early colonial poor laws denied the individual receiving aid the right to vote; in fact they took away all the individual's control over his personal life. As the laws indicate, they were calculated to discourage application for aid. To be sure these early laws were fairly successful in their attempt, except in extreme cases where pride had vanished. There were not a great many people who lowered themselves to such treatment. Most of them would push on in search of a new home and new opportunities. The few left were looked upon with an air of fatality. Such reaction enabled the local governments to crowd these "impotent poor"--the idiot, the imbecile, the insane, the epileptic, the alcoholic, the tubercular, the deaf,
dumb, and blind, the crippled and deformed, the aged, yes, even the dependent children into the same small jail or alms house. Little distinction was made between the group and the criminal of the town.5

The above manner of handling the poor existed in the nation during the first century of its development. The scheme was somewhat modified at times by authorized family allowances called "outdoor relief," which allowed the family to remain intact. Grants for "outdoor relief" were in money or kind. Occasionally medical aid was provided as a part of "outdoor relief."

Nationally, the first development of social conscience toward human misfortunes was led by Dorothea Dix. She had visited England in the early 1840's. While there she had come in contact with William Tuke, who had inaugurated a new epoch in the treatment of insanity.

It implied complete reversal of all previous conception; the substitution, in the place of restraint and force, of the largest possible degree of liberty, the abandonment of the whole previous idea of brute subjection for the emancipation of the reason and the enhancement of the sense of personal responsibility.6

Dorothea Dix, who was already interested in the treatment of the pauper insane in Massachusetts, returned to the United States determined to get something done for the wretched

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group. She first began work in Massachusetts. From there she branched out to a study of the needs in other states. From 1841 to 1847, Dorothea Dix visited eighteen state penitentiaries, 300 county jails, and over 500 almshouses. After visiting many institutions of the various states, she began calling on their state legislatures, pleading with them to build institutions for the group. On every front, the little lady was met with the problem of funds for erection and maintenance of such institutions. She came to the conclusion that if the problem was solved, Federal aid would be necessary. Thus, the energetic lady invaded the halls of Congress. Through her untiring efforts a five million acre land grant bill was presented on the floor of Congress. The bill specified that the Federal government should set aside five million acres of land from the public domain to be used for the "relief and support of the indigent insane in the United States."\(^7\)

The bill further provided that as the public domain was set aside for such purpose and was sold, the proceeds would be distributed among the states for the building of insane institutions. The bill failed to pass. Dorothea Dix's spirits were undaunted. She returned to Washington session after session to urge the passage of a land grant aid bill for the pauper insane.

In 1850 a bill was introduced requesting that 12,225,000 acres be set aside, 10,000,000 for the relief of the insane

\(^7\)Ibid., p. 167.
and 2,225,000 for the relief of the deaf and dumb. The bill of 1850 had the same fate as the earlier bill. By 1851 the backers of the bill had bolstered enough votes to get the bill passed in the House, but lacked a confirming vote from the Senate. Dorothea Dix worked all the more. By 1854 she had rallied enough senators and representatives to her cause to get the bill passed. Naturally, she was overjoyed, but such enjoyment was short-lived. President Pierce vetoed the bill. The president was of the opinion that Congress had the power to make provisions for eleemosynary institutions within the limits of the District of Columbia, but was wholly without the authority to do so for the states. President Pierce felt that such a procedure would destroy the basic principle of local responsibility. He further stated that if the Federal government should do anything for the indigent insane, it would soon find itself faced with the support of "every sick man, every vagabond, and every drunkard of the nation."\(^8\)

Though Dorothea Dix worked hard and long for the measure, the Federal government did nothing. What progress was made in the care of the insane was made by the various states. To be sure she did much for the demented group, for she was the instigator of the founding of many of the state institutions for the insane. Soon after her campaign all the states began to segregate the insane group from all the other types found

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\(^8\)Ibid., p. 199.
in the almshouses and jails. The states began to construct and maintain special institutions for them.

Not only did the states begin to segregate the insane, but they also began to set up institutions for the care of dependent children, of the crippled and deformed, of the deaf, dumb and blind. With state legislatures making such laws, one can see a trend on the part of the people to think that the states could better provide for specialized institutional care than the local communities.9 Oftentimes there were not enough of any single group in a local community to make it necessary to build a separate institution. With the state assuming such authority more people could be cared for properly.

Although Dorothea Dix began her fight in the 1840's, it was not until 1912 that the national government made any provisions for social welfare. In that year the United States Children's Bureau "to investigate and report upon all matters pertaining to the welfare of children and child life among all classes of people,"10 was made a part of the Department of Labor. The Bureau's information was very limited, the staff was small, and the appropriations were insignificant until 1929.11

The initial impact of the economic and social disasters of the depression decade of the 1930's found the states

9M. B. Hodges, Social Work Year Book, X (1949), 404.


unprepared, either in machinery, financing, or popular understanding to meet the situation which faced them. Emergency measures were quickly passed by the Federal government. Several agencies were established to relieve the situation. The Federal Emergency Relief Administration was set up to aid in the relief of unemployment. The Civilian Conservation Corps was placed in operation to provide work for young men. The Public Works Administration was set up to relieve unemployment of family men. The Surplus Commodities Corporation was created to supplement relief and work payments by distribution of surplus agricultural products to the needy.

Out of the chaos of the 1930's two permanent national public relief enactments were developed, the Federal Emergency Relief Act and the Social Security Act. The latter took over the job of administering assistance to the needy and administering the Unemployment and Old Age and Survivor's Insurance. The Social Security Act covered five divisions of public welfare in Texas. It authorized grants to the state for three forms of public assistance: needy aged, needy blind, and needy dependent children. It made possible the development of the state system of unemployment compensation. It authorized grants for public health service and vocational rehabilitation for the development of maternal and child welfare programs.12 The latter authorization made possible the state program for

crippled children's services and the expansion of vocational rehabilitation.

Could it be that this generation has succumbed to the idea that the easy way of pushing on in search of a new opportunity is closed and thereby looks no further to provide for itself, but appeals to the national government for aid? Have the states found themselves face to face with a situation so new to them that they were unable to solve it, and thus they appeal to the Federal government for assistance? Has Texas, as well as the other states of the nation, reached a point where Federal aid is essential to meet the pressing need of public welfare services?

If one doubts such an idea, a recent development in the nation indicates otherwise, for a movement is in process for more Federal participation in public welfare. On Monday, June 19, 1949, the President sent the first of a series of far-reaching plans to reorganize the Federal government. The creation of a Department of Public Welfare topped the list of seven changes the President announced he would make unless stopped by a veto by either the House or the Senate. Such a plan will naturally bring further reorganization and integration of both state and local levels of welfare functions, with the Federal government in dominant control.

With the preceding background, it is the intention of the writer of this thesis to present the three general phases of public welfare legislation in Texas. The first phase, 1856-1919, presents a slow evolution of social legislation in which the emphasis of the state was placed upon institutional care for large groups needing special attention, such as the insane, feeble-minded, deaf, dumb, blind, tubercular, dependent, and delinquent. The second phase, 1919-1939, indicates an attempt upon the part of the state to organize public welfare under one board, the Board of Control, with a shift in emphasis from institutional care as the only responsibility of the state, to relief of the needy as a necessity. The third and final phase, 1939-1949, shows a tendency on the part of the state to decentralize its public welfare services. The Fifty-First Legislature, 1949, placed the state hospitals and special schools of the state under a nine member board for Texas State Hospitals and Special Schools, and the three schools for wayward children under a sixteen member board to be known as the Youth Development Council. Both groups are supported and maintained by the state. It left other relief under the Department of Public Welfare, which is supported and maintained by both the state and the Federal government.
Traditionally, Texas has left the welfare of its citizens up to the local governments, county and municipal. Perhaps such was true because of the way the Anglo-Americans began colonizing in the state. The first settlers from the United States colonized under a foreign government whose language, laws, and customs were new and strange to them. There was no mother country with a protective hand to guide them in their lawmaking as had been true of the colonies along the Eastern Seaboard. These colonists lived far apart on vast ranches or large tracts of land. Naturally, they developed a democratic spirit and a strong sense of individualism. They believed any individual with any ability could earn a living in the wide open spaces and should be left alone to shift for himself. These early Texans progressed along the lines that unemployment, destitution, and want would find its own solution without the aid of social action on the part of those able to act. Perhaps these ideals of individual liberty, as developed in the early days of Texas, postponed a state wide program of relief for many years.

Yet, prior to statehood many Texans favored some phases of social betterment. The first official realization of the
need of social betterment was expressed in the early days of the Republic. Lamar, the second President, urged the passage of a bill through the Congress to set aside three leagues of land for a public school fund for each county of the state. Lamar was of the opinion that "the cultivated mind is the guardian genius of democracy." The Congress of the Texas Republic approved of the measure.

After the public school laws, the next public welfare laws were in the field of institutional care for the mentally deranged and the physically dependent. As typical of the other states, Texas' idea was an outgrowth of the English poor laws, which were not inspired entirely by altruistic and humanitarian motives. The real purpose seemed rather to provide something like a bare existence and a little industrial training for dependent and neglected classes. According to Vernon's classification of the first institutions, all were called asylums and were known as such throughout the period from 1856 to 1919. Most of the early laws creating these social institutions were influenced by the "liability" as well as the "ward" attitude.

The Blind, Deaf, and Dumb

The Asylum for the Blind. --The first type of public relief, in the form of institutional care, sponsored by the state was an Asylum for the Blind. An act of the legislature

1Texas Almanac, 1939-1940, p. 80.
of August 16, 1856 appropriated $10,000 of the general fund for the care of the expenses of the institution for two years. The school was administered by a board of five members appointed by the Governor with the consent of the Senate. It accepted blind persons ranging in ages from six to twenty-one years of age. In order to provide a permanent fund for the blind, deaf, and dumb, the state set aside 100,000 acres of land for their benefit.

Not a child appeared until December 29, 1856. On that date one boy reported. By the end of the first year seven boys enrolled. The faculty of the first school was composed of two teachers, one literary and one music. They taught the pupils spelling, writing, arithmetic, history, geography, English grammar, and some vocal and instrumental music. Dr. S. W. Baker was the first superintendent. It progressed rather slowly, for the parents of Texas were not prepared for the idea of separation of the child from its immediate family. Too, the law required the parents to furnish all clothing, and, if financially able to pay, $75 tuition a year.

Soon after its founding the state became embroiled in the civil strife between the states. The political life of

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4Texas School for the Blind, Catalogue, 1920-1921, p. 11.
the state became demoralized and the influence of the early period of reconstruction caused the institution to close. It was not opened again for about two years. The school took on new life when Dr. Frank Rainey became superintendent in 1876.5

The state legislature passed an administrative law in 1875 in which the Board of Trustees of the institution was given the power to approve or disapprove all accounts and expenditures of the superintendent and to make contracts necessary for the erection of any buildings and improvements upon the ground. By the same law the superintendent was given authority to establish rules and regulations for the government of the institution, and to appoint subordinate officers, teachers, and other employees, subject to the approval of the Board of Trustees. With the power to appoint, the superintendent was given the power to remove any employee whose conduct was not becoming of a leader of boys and girls.6

In 1883, the legislature provided for the appointment of a skilled oculist for the blind asylum whose duty it was to administer treatment to all cases of blindness among the pupils deemed curable.7 With careful attention by the oculist as begun at that time, about ten per cent of the students are

5Ibid., p. 12.
properly fitted in glasses and allowed to return home.  

By an act of 1905 the name of the institution was changed from the "School for the Blind" to the "Blind Institute." The course of study was extended and appropriations were made for new buildings.  

The legislature, in session in 1915, made other changes to the blind asylum. They changed the name to "Texas School for the Blind," appropriated $225,000 for the construction of a new plant, and made the Governor, the Lieutenant Governor, and the Attorney General, the Board of Trustees. The school remained under their control until 1919, when it, like the other eleemosynary institutions, was placed under the Board of Control. 

The Asylum for the Deaf and Dumb.--The institution opened in Austin in 1857. It was also created by an act of 1856. 

By an act of 1875 the superintendent was instructed to select a certain number of the students of the school to be instructed in printing and all of its branches. Such instruction

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8State of Texas, Joint Legislative Committee on Organization and Economy, Public Welfare; Eleemosynary Institutions and Social Service Agencies, p. 230.  
9Texas School for the Blind, op. cit., p. 12.  
was arranged so that the individual could learn the trade in addition to his other studies. A competent, practical printer was selected to instruct the students.\(^\text{13}\) By such an act Texas was moving away from the "ward" attitude towards the deaf and dumb to one of rehabilitation.

In 1901 the legislature instructed the superintendent of the Deaf and Dumb Asylum to make provisions necessary for the "maintenance, care, and education of all children in the State who were deaf, dumb, and blind."\(^\text{14}\) Students were admitted to the institution through applications made by their parents or guardians to the superintendent of the institution. This was a further step in the social betterment of a physically handicapped group in the state.

The Deaf and Blind Institute for Colored Youths.--The school was created by an act of April, 1887,\(^\text{15}\) and it opened in October of the same year. Seventeen pupils and two teachers made up the first session of the school. They were housed in an eleven room residence purchased for that purpose. By 1888 a two story brick structure had been completed. It was used as a dormitory and a classroom. By 1920 the institution had three brick buildings for classrooms and dormitories, a dining hall and kitchen, a small brick hospital, a brick laundry and


\(^\text{15}\)Ibid., Acts of 1887, Reg. Sess., IX, 150.
boiler room. The deaf were instructed in work through ten
grades. The blind received training through twelve grades.16

The Mentally Deranged

The state's idea for the care of the mentally ill was
very typical of the Elizabethan Poor Law. When the Sixth
Legislature passed an act creating the first institution for
the mentally ill, they named it the "State Lunatic Asylum."17
This title conformed with the prevailing opinion that such
persons should be confined to prevent injury to themselves
and to others, and their normal means of existence was by the
wagon. In order to provide for the institution, the legis-
slature of 1856 set aside 100,000 acres of land for the benefit
of the lunatic asylum.18

The State Lunatic Asylum.--The legislature authorized
an institution for the care of the insane August 28, 1856,
and appropriated $50,000 for the purpose of purchasing a site
and erecting a building to house the unfortunates. Ten thou-
sand dollars was appropriated for maintenance for the first
two years.19 No institution was established at that time.
The next legislature approved a bill, February 5, 1858, which

16Texas Deaf and Blind Institute for Colored Youths,
Catalogue, 1929, p. 7.
18Ibid., p. 76.
19Ibid., p. 60.
provided for a Board of Managers to direct and control the property and business of the asylum. Any man to qualify for the board had to have distinguished himself in the field of philanthropy.

The institution was created to admit all public patients "adjudged insane by a court of competent jurisdiction" in the state, or any private patient certified as insane by a respectable physician, upon the written request of his parents, guardians, or some near relative or other interested person. However, the county judge had to certify the reliability of the physician in the case of admittance of the private patient. The act creating an institution for the insane showed an attempt on the part of the state to segregate, though it left much of the burden upon the county. The law specified that "no idiot who can safely be kept in the county to which he belongs, nor any person laboring under a contagious or infectious disease," would be admitted to the institution. The law provided for the discharge of patients from the asylum upon the recommendation of the superintendent, approved by the Board of Managers, provided he was not charged with some offense. In that case he had to be returned to the county he had entered from and stand trial for the crime. A criminally insane person could be discharged only by the court that had committed him.20

Under such a law the first lunatic asylum was opened at Austin in 1860 for the "care and treatment of the insane and mental deficient, senile indigents, alcoholics, and drug addicts." Regardless of the cause, all were placed in the same institution and were given the same treatment. Such a procedure interfered with the proper care of the insane and at the same time caused the delay of many who had to remain in local jails awaiting space for them in the state institution.\textsuperscript{21}

This first institution served the whole state for several years.

The state constitution adopted in 1876 recognized the state's duty toward the mentally deranged groups, for it declared the right of the legislative body to levy taxes for the "support of the insane asylums."\textsuperscript{22} Certain lands were set aside to "provide a permanent fund for the support, maintenance, and improvement of the lunatic asylum."\textsuperscript{23} The same constitution gave the county courts jurisdiction over the appointment of guardians of idiots, lunatics, and persons non compos mentis.\textsuperscript{24} The constitution denied the insane the right to vote,\textsuperscript{25} but made the right of trial by jury inviolate for them.\textsuperscript{26} With all the mentioning of the insane in the constitution and the statutes, the word "insane" is not defined.

\textsuperscript{21}State of Texas, Joint Legislative Committee on Organization and Economy, \textit{op. cit.}, pp. 57-59.

\textsuperscript{22}"Constitution of Texas," \textit{Vernon's Revised Texas Civil Statutes, 1911}, art. 3, sec. 48.

\textsuperscript{23}Ibid., art. 7, sec. 9. \textsuperscript{24}Ibid., art. 5, sec. 16.

\textsuperscript{25}Ibid., art. 6, sec. 1. \textsuperscript{26}Ibid., art. 1, sec. 15.
Another act regulating the lunatic asylum was passed in 1876. It provided that all indigent patients would be cared for by the state, but relatives or friends would have to pay five dollars a week for private patients. Although the act required the county to pay all the expenses for the transportation of indigent patients, it was entitled to reimbursement from any estate of the lunatic or legally liable person. Much of the act of 1876 dealt with judicial proceedings in lunacy cases. It provided that if any person would declare in writing, under oath before a county judge, that a person was a lunatic, the county judge could issue a warrant for his apprehension. When the person was apprehended, the judge then set a date for a hearing, and summoned a jury of six competent men to hear the case. It was the summoned jury's duty to decide if the person was of unsound mind. If the person was adjudged insane, and there was room, he was sent to a lunatic asylum, either in the care of a relative or the sheriff of the county.27

An act of 1883 again recognized and continued the lunatic asylum for the "care and treatment of insane persons." The law vested the power of general control, management, and direction of the affairs of the "Texas Asylum for the Insane" in a Board of Managers. The board was composed of five members, appointed by the Governor with the consent of the Senate. Three of the members were required to live within five miles of the asylum. A more rigid inspection system was placed in

operation by the act. One member was required to make a
monthly inspection. All members of the board were required
to visit the asylum once each year.28

The North Texas Hospital for the Insane:—In order to
alleviate the overcrowded condition in the lunatic asylum at
Austin, the legislature established one at Terrell. The in-
stitution was opened in 1883. Its function and organization
were similar to the one at Austin.29

The Southwestern Insane Asylum:—An act of 1889 authorized
the establishment of a third insane asylum somewhere west of
the Colorado River in Southwestern Texas. Its management and
control were the same as the others.30 Although this third
institution was opened at San Antonio, all types of mental
deficients still remained in the same institution.

The Epileptic Colony:—By an act of 1899 and 1901 an
epileptic colony was established. By the act of 1899 a com-
misson of three men was appointed to select a site for the
colony.31 They reported their findings to the next session
of the legislature, and in 1901 the act of 1899 was amended
to provide for the establishment of an epileptic colony near
Abilene. The city of Abilene donated 640 acres of land for

29 Ibid., p. 9.
the grounds of the new institution. It was managed by a Board of Trustees appointed by the Governor. The epileptics confined in the insane asylums were transferred to the colony to become its first patients. Private patients were accepted after all indigent persons seeking entrance were admitted. The first patients were admitted March 26, 1904. By the end of the first year, 224 patients had been admitted.

The power of the superintendents and boards of managers of the insane institutions was challenged in the case, Clough et al v. Worsham et al in 1903. The superintendent of the asylum at Austin had used inmates to haul material for the construction of a new building. While outside the walls of the institution, one of the patients injured a person who brought suit asking for judgment for his injuries. The court held that the superintendent, working under the rules and regulations of the board, was not guilty of negligence of duty in allowing the patient who inflicted the injury to be employed outside the asylum.

Soon order began to emerge out of chaos. Case study of symptoms and histories of insane persons were begun by civic organizations in Texas. Through coaxing and encouragement of

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33State of Texas, Joint Legislative Committee on Organization and Economy, op. cit., p. 155.

34Southwestern Reporter, LXXIV, 353.
such groups, the state legislature amended the law respecting
trials for insanity in 1913. The law substituted for the
jury method a commission of doctors to investigate and deter-
mine the question of sanity of the person against whom an
affidavit of lunacy had been filed.\textsuperscript{35} The statute was soon
erased from the Texas laws. In a case, \textit{White v. White et al.},
decided in 1916, the Court of Civil Appeals at El Paso de-
clared the statute was invalid in substituting a commission
of doctors for a jury. According to the decision, it was a
direct violation of the constitutional right of every person
of a trial by jury.\textsuperscript{36}

\textbf{The Insane Asylum for Negroes}.--A group of the opinion
that it was not best to confine Negroes and whites in the
same insane asylum instigated the establishment of the asylum.
Too, many Negroes were never admitted to the institutions
already established and were burdens upon the counties, as
they were confined in the county jails. The legislature
passed an act in 1917 specifying the old state penitentiary
at Rusk as the location. They appropriated $200,000 for re-
modeling and equipping the main building of the penitentiary.\textsuperscript{37}
Since original appropriation was inadequate, the Thirty-Fifth

\textsuperscript{35}Gammel, \textit{op. cit.}, Acts of 1913, Reg. Sess., XVI,
342-347.

\textsuperscript{36}Southwestern Reporter, CLXXXIII, 369.

\textsuperscript{37}Gammel, \textit{op. cit.}, Acts of 1917, Reg. Sess., XVII,
444-447.
Legislature of 1919 appropriated $100,000 more. The hospital opened at Rusk, September 1, 1919, with a capacity of 600 patients. The institution did not long remain solely for Negroes. The Thirty-Sixth Legislature passed an act changing the name of the asylum from the "Asylum for Negro Insane" to the "East Texas Hospital for the Insane."

The act opened the institution to both whites and Negroes, but as other laws had previously declared, Negroes and whites were to be kept in separate quarters. The law became effective July 25, 1919, and the institution immediately began the admission of all insane.

As characteristic of the other mental institutions, efforts at Rusk were towards the custodial features rather than towards the treatment and curative features. The institution, as others, adhered to the law rather than introducing extralegal features, which however beneficial to the patient or the state, lacked definite legal mandate. The goal at Rusk, as at the others, was low cost of current operation and avoidance of criticism. The Board of Managers was responsible to the Governor for its actions and dependent upon the legislature for its appropriations.


39 State of Texas, Joint Legislative Committee on Organization and Economy, op. cit., pp. 89.


41 State of Texas, Joint Legislative Committee on Organization and Economy, op. cit., p. 90.
The State Colony for the Feeble-Minded.—An act of the legislature of 1915 created an institution for the feeble-minded. Its establishment was a third step in the segregation of the mentally deranged. The institution was for the purpose of educating the feeble-minded youths of the state by special methods best known to modern science.\textsuperscript{42} It was established at Austin in 1917, with the understanding that the superintendent would give preference to girls and women of child bearing age, and to those of both sexes most likely to profit from the training. The new institution was primarily for the prevention of the reproduction of feeble-minded, in order to relieve society of the heavy economic and moral losses arising from the existence at large of the unfortunate group.\textsuperscript{43}

The Northwest Texas Insane Asylum.—The Thirty-Fifth Legislature of 1917 authorized the establishment of a mental institution at Wichita Falls,\textsuperscript{44} but it failed to appropriate funds for the construction of the institution. As a result it was not opened until 1922.\textsuperscript{45}

Child Welfare

The problem of child welfare did not develop in Texas until the latter part of the nineteenth century. The early

\begin{thebibliography}{9}
\bibitem{43} State of Texas, Joint Legislative Committee on Organization and Economy, \textit{op. cit.}, p. 165.
\bibitem{45} \textit{Texas Almanac, 1947-1948}, p. 332.
\end{thebibliography}
history of the state indicates that a child's early life was spent largely within the home. There he was kept busy learning those things which he would have to do when he left the parental roof. Most children were not given an opportunity to get into mischief, but as towns grew into cities, and relatives began to shift the responsibility of the care of dependent kin, problems arose. The Twentieth Legislature did two things to alleviate the problems. First, it created a "House of Correction and Reformatory" for juvenile delinquents. Second, it established an orphan home for dependent and neglected children.

The State Juvenile Training School.--One of the above institutions, the House of Correction and Reformatory, was authorized in 1887. Up to that time all criminals, regardless of age, had been housed in the same state penitentiary. The institution was opened for both white and Negro boys under the age of sixteen, who had been convicted of felony in any court in the state, provided their sentence was not more than five years.46

By an act of 1909 the name of the institution was changed to the "State Institution for Training Juveniles." The government of the institution was vested in a Board of Trustees, composed of five members, three of whom had to be men and two women. The board was instructed to establish and maintain a

suitable institution for the training of inmates in elementary courses equivalent to the common elementary school, and in industrial, manual, and agricultural branches. The prime end to be sought by the institution was to

... reform, educate, and train the children committed to the institution into industrious and useful law-abiding citizens, strengthen their self control and place them in a moral environment that will build character, inculcate correct ideas of civic virtue and responsibility.\(^ {47}\)

Persons confined in the newly named institution were all juveniles originally confined in the old "House of Correction and Reformatory," all persons sentenced before the law became effective, and all juveniles committed to the institution by the court in the state thereafter. The act provided for a grading and promotion system, a much needed plan to encourage the young delinquents in proper living. The superintendent, with the consent of the board, was given authority to grant "leaves of probation," if the inmate progressed satisfactorily. Once the juvenile was granted leave to return home or go out to work for someone, a monthly report had to be made on his progress for a period of six months. If all the reports were favorable, the superintendent could grant full release. If the juvenile had any unfavorable reports, he had to return for further instruction.\(^ {48}\)

By an act of 1911 the legislature provided for religious services for all inmates. A chaplain was employed, whose duty

\(^{47}\text{Ibid.}, \text{Acts of 1909, Reg. Sess., XIV, 104.}\) \(^{48}\text{Ibid.}, \text{p. 106.}\)
it was to assist in the education of the youths by directing their religious and moral training. The objective of the institution was gradually changing from a penal to a rehabilitative one.

The number of juvenile delinquents continued to increase. Civic organizations became backers of better laws to protect them. As a result an act was passed in 1913 extending the age limit of a juvenile to seventeen. Up to the passage of the act, there had been no means by which a citizen might place an incorrigible boy in the institution. The act of 1913 enabled parents or guardians to petition the judge of the juvenile court of the county to have their boy admitted to the institution. If, after going over the record of the boy's habits, the judge decided in the parents' behalf, the child was admitted at the expense of the parents.

Another act of 1913 changed the name of the institution to the "State Juvenile Training School." It amended a previous law, by stating that a juvenile could be maintained longer than five years. Corporal punishment was outlawed, except as a last resort to maintain discipline. When it was inflicted, the action had to occur in the presence of a resident nurse and the superintendent. After the punishment a complete account had to be recorded of the disciplinary action. The act called for the appointment of a furlough officer to contact all boys

on furlough and to make reports to the institution of their progress. Too, the law provided that all "white inmates shall be kept, worked, and educated entirely separate from the inmates of the other races, and shall be kept apart in all respects."51

A Girl's Training School. An act of 1913 established a training school for girls at Gainesville. All girls between the ages of seven and eighteen, charged with being dependent or delinquent before a juvenile court and found guilty, were committed. Upon their arrival at the school, the inmates were given a physical examination. If found with any communicable disease, they were placed in a ward to themselves until cured. The law required that any girl paroled must be taken into a home. She had to make a bi-weekly report concerning her conduct for the first six months and semi-annually thereafter. The person taking the girl from the institution was also compelled to write a monthly letter to the superintendent for the first six months and semi-annually thereafter.52 The cottage plan was adopted, so that the girls might be given an opportunity to become regular housekeepers.53

Laws governing court procedure for juveniles developed along with the state juvenile institutions. The basic principle of the legislation was that children under the jurisdiction of the court were wards of the state. As such they were subject to its discipline and entitled to its protection. The county was established as the jurisdictional area and was given authority to appoint probation officers to assist in the handling of juvenile problems.\textsuperscript{54}

Counties were given authority to establish detention homes and parental schools for dependent and delinquent juveniles, with the commissioners court appropriating from the general fund for their support. If there was not enough in the general fund to support the institutions, the voters of the county had to vote special taxes before one could be established.\textsuperscript{55} Little was accomplished from the act, as people were not inclined to vote more taxes upon themselves to care for the juveniles.

The more populous counties and cities of the state, having many more juvenile cases, were given the authority to establish county juvenile boards. These boards were established to permit an appeal from an order of the juvenile court. The judges of the civil and criminal districts of the county, and the county judge constituted the juvenile board. The board


\textsuperscript{55}\textit{Ibid.}, 218.
did not exercise juvenile powers, but directed the probation officers to make investigations as to the status of the child and directed the officer to represent the juvenile when the case was heard.\textsuperscript{56}

The State Orphan's Home.--The second of the institutions as mentioned above was authorized by the Twentieth Legislature, and was established at Corsicana in 1887. It was for the care of wholly dependent and destitute children between the ages of four and fourteen. A board of five members was designated to manage the institution's affairs. The act specified that the superintendent must be a person interested and trained in welfare work of children. When a child reported to the home, the superintendent was instructed to see that the child was given a physical examination. Once the child was placed in the home, he became the ward of the state and could be removed only by legal action.\textsuperscript{57}

The home was opened July 15, 1889. Up to November 1, 1890, only sixty orphans had been received, four of whom had been returned to friends, and two of whom had run away.\textsuperscript{58}

The Texas Hospital for Crippled and Deformed Children.--This is another state institution for which Texas is to be


\textsuperscript{58}\textit{State of Texas, Joint Legislative Committee on Organization and Economy, op. cit.}, pp. 195.
commended. It varied somewhat in organization from the other institutions. In 1915 the Texas Public Health Association, unable to support the Walter Colquitt Memorial Children's Hospital, presented the institution to the state. The state accepted the gift and made it a part of the John Sealy Hospital on the premises of the University of Texas at Galveston. It was placed under the management of the Board of Regents of the University. The institution accepted children whom it considered might be cured or benefited by treatment. 59 The institution became as important for scientific research conducted by students and faculty members of the medical school as it was for crippled and deformed children.

Child labor laws.--For the welfare of its children Texas passed several labor laws. The Twenty-Eighth Legislature passed in 1903 a law concerning child labor. It stipulated that

... any person or any agents or employee of any person, firm, or corporation, who shall hereafter, employ any child under twelve (12) years of age to labor in a mill, factory, manufacturing establishment, or any establishment using machinery shall be deemed guilty of misdemeanor. 60

Any person tried and convicted of such an offense was subject to a fine of not less than $50 nor more than $200. The act further provided that such establishments could not hire children between the ages of twelve and fourteen, if they

could not read or write. Mining establishments, distilleries, and breweries were subject to punishment if they hired children under sixteen years of age.\(^{61}\)

O. B. Colquitt’s administration was noted for the passage of child labor legislation of permanent effect. The law of his administration, passed in 1915, provided that no mill or factory using dangerous machinery, distillery, or brewery could hire children under fifteen years of age. Mine and quarry operators were prohibited from hiring any child under the age of seventeen. No type of business, factory, mine, distillery, brewery, or otherwise could hire a child between the ages of eight and fourteen years during school hours, for all children between those ages were required to attend school.\(^{62}\)

The Physically Ill

Tuberculosis had become a problem in Texas as well as in other states. The legislature of 1909 passed a bill creating a sanatorium for persons inflicted with the disease. Governor Campbell vetoed the measure with the suggestion that, before the state should build an institution, it should appoint a commission to investigate the seriousness of the problem.\(^{63}\)

\(^{61}\)Ibid.


The State Tuberculosis Sanatorium.--A hospital for tubercular patients became a reality with the coming into office of a very socially minded individual, U. B. Colquitt. In 1911 the legislature passed an act authorizing the establishment of two colonies for the treatment of the citizens of the state suffering with tuberculosis. The legislature appropriated $100,000 to be used for the purchase of land and erection of buildings. Forty thousand dollars was appropriated for maintenance and support for the fiscal year 1911-1912.64 It was the hope of the legislature that the state would be given old Fort Clark by the Federal government, but negotiations for such failed. As a result the state erected only one colony known as the "State Tuberculosis Sanatorium" at Sanatorium, near Carlsbad in Tom Green County. It was opened to the public July 4, 1912. Finally a second sanatorium was established near Kerrville in 1921.65

The Aged

Although senile indigents were admitted to the insane asylums, the first real movement into the field of relief for the aged was made in 1891.

The Texas Confederate Home for Men.--An institution for the care of Confederate veterans was created by an act of the

65State of Texas, Joint Legislative Committee on Organization and Economy, op. cit., pp. 177-178.
Twenty-Second Legislature in 1891.66 A private corporation of the state had previously established the John B. Hood Camp for Confederate Veterans. The corporation, being unable to finance the institution properly, offered their investment to the state with the understanding that the inmates of the private institution would remain in the state institution.67 The act accepting the gift, provided for a Board of Trustees of five ex-Confederate soldiers to manage the home. So far as applicable, they were to be governed according to state laws in existence relative to the deaf, dumb, and blind institutions. The Board of Trustees was allowed to make rules and regulations to govern the internal affairs of the institution, such as, discipline, management of the home, and dismissal of inmates who violated the rules set up by the board. The law did not benefit all ex-Confederate army and navy men for the rest of their lives. It specified that the inmate should come up for examination from time to time. If the superintendent and examining physicians were convinced that he was recovered sufficiently to support himself, he was discharged.68

An act of 1895 declared the person must be disabled and indigent. He could not be receiving a pension from any other source and remain in the home. In order to be eligible the


67 State of Texas, Joint Legislative Committee on Organization and Economy, op. cit., p. 265.

individual had to show evidence of being a citizen of Texas since January 1, 1895. Ex-Confederate veterans were turned away if they were suffering from some contagious or infectious disease, or showed signs of insanity.69

The Confederate Woman's Home.--An institution for the widows of Confederate veterans was formerly begun by the United Daughters of the Confederacy. Since the organization was not able to maintain the home properly, the members prevailed upon the state to take it over.70 In 1911 the legislature passed a law stating:

... there shall be established in or near the city of Austin, a home for the indigent wives and widows who are over sixty (60) years of age, of disabled ex-Confederate soldiers and sailors who entered the Confederate service from Texas, or who came to the State prior to January 1, 1880.71

The above legislation was passed subsequent to an amendment to the constitution to provide for state care of indigent wives and widows of ex-Confederate soldiers and sailors and women who aided the Confederacy.

Relief

The first type of public relief for the indigent came in the form of pensions by the law of 1909. It was made effective by a constitutional amendment granting aid to disabled and


70State of Texas, Joint Legislative Committee on Organization and Economy, op. cit., p. 275.

dependent Confederate soldiers, sailors, and their widows. The legislature made appropriations for the payment of the pensions and created the office of Commissioner of Pensions to disburse the funds. Each ex-Confederate veteran and needy widow was promised eight dollars per month. It was to be paid in quarterly installments to

... every surviving disabled and indigent Confederate soldier or sailor who is a native of this State, or who came to Texas prior to January 1, 1880, and who is either over sixty (60) years of age or whose disability is the proximate result of actual service in the Confederate army or navy for a period of at least three (3) months; their widows in indigent circumstances who have never remarried and who have been bona fide residents of Texas since March 1, 1880, and who were married to such soldier or sailor prior to March 1, 1880.72

The veterans had to present all evidence of his indigency to the county judge, who decided the merits of the case. To qualify, the ex-Confederate man or woman could not own more than $1000 in household goods, excluding a homestead. Any veteran drawing an annuity or wages of more than $150 was not eligible. The veteran could not be receiving a pension from the United States or any other state of the Union. No inmate of the Confederate Home or any other state supported institution was allowed to draw the pension.73

The first to be paid the pension were the blind, maimed, and totally disabled soldiers or sailors, or blind and totally

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disabled widows of such soldiers and sailors.\textsuperscript{74}

A constitutional amendment was adopted by the state in November, 1912, as section 51 of Article III. It provided for the levying of an \textit{ad valorem} tax of five cents on the $100 valuation of property to create a special fund for the Confederate veteran and the Confederate veteran's widow.

In 1913 a law was passed in which the state agreed to pay a pension not only to the indigent soldiers and sailors of the Confederacy, but also to veterans of six months in the organization for the protection of the frontier against Indian raids and Mexican marauders. The date of entry into Texas was changed to 1900, with the understanding that the veteran had been a bona fide citizen since that time. The value of household goods remained the same, but the person was allowed to receive as much as $300 a year in wages, annuities, or other income.\textsuperscript{75}

During the period of 1856 to 1919 there was some evidence of public relief for child welfare. In 1917 the legislature passed an act providing for a monthly payment to indigent widowed mothers for the partial support of their children in their own homes. Any mother unable to support her child under sixteen years of age could petition the board of county commissioners for assistance. If the commissioners considered

\textsuperscript{74}Ibid.

the case deserving, they allowed $12 for the first dependent child, $18 for two dependent children, and $4 for each additional child after the first two. Naturally, the relief was discontinued when the child reached sixteen. The board not only decided whether the family should draw the pension, but it also kept a careful watch to see that the money was spent wisely.  

From the constitution of 1869 to the present time, Texas has placed general relief on the county government. In 1911 the state authorized the county commissioners courts to "provide for the support of paupers and such idiots and lunatics as cannot be admitted into the lunatic asylum."  

The institutions and relief provided prior to 1919 were brought about because the state realized the inability of the local units to deal with the problems. By establishing institutions for large groups needing special care, the state accepted a portion of the responsibility for aid to the needy individual.

In looking back over the first sixty-three years of public welfare in Texas the best conclusion perhaps is a comparison with Topsy, "it just growed."

Apparently, with the establishment of each institution, there was no planned organization, just a measure to take care

of the immediate problem. (See figure 1 of the appendix.) What care was provided was always estimated in terms of cost to the state. The period definitely shows that the people were slow to vote taxes upon themselves to support public welfare enterprises. After all, a politically minded executive and a lawmaking body will make only laws that the voters of the state desire.

78See page 109.
CHAPTER IV

EXPANSION OF PUBLIC WELFARE LEGISLATION, 1919-1939

In the stretch of years from 1919 to 1939 the state of Texas experienced great change in its public welfare services. While another period might be more aptly chosen to emphasize change along different lines, there has been no other period in which the state has had equal expansion and acceptance of new public welfare service functions as a part of the services of the state government as in this period of its history.

Eleemosynary Institutions

The movement for the reorganization of the eleemosynary institutions under one authority took definite shape in 1919, with the creation of the Board of Control. The primary objective of such a move was to develop more efficient business methods in the field of purchasing for the institutions.¹

Prior to 1915, the Board of Managers and Board of Trustees had made purchases for the institution it managed. The Thirty-Fourth Legislature created a central purchasing office for the purpose of buying all the supplies for the various institutions.² Such a plan not proving so successful as the

legislature had desired, the Thirty-Sixth Legislature abolished the office and created the Board of Control. Not only did the legislature have in mind better financial measures, but it also felt that the eleemosynary institutions might be more efficiently operated, if the board managing them devoted all its time to the affairs of the institutions. It was believed that such a board would exercise more careful supervision than boards whose members were preoccupied with other affairs, and held only occasional meetings to consider the needs of the various institutions. Thus, perhaps, the first movement towards organizing the eleemosynary institutions, the then recognized public welfare services of the state, was more of an economic measure than one of social betterment for the various groups concerned.

The newly created board was given authority to manage six divisions known as the Division of Public Printing, Purchasing, Auditing, Design, Construction and Maintenance, Estimates and Appropriations, and the Eleemosynary Institutions.

Only one of the six divisions is of primary importance to this thesis—the Division of Eleemosynary Institutions. In order to create such a division under the authority of the Board of Control, the state abolished some eighteen boards of

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managers and four state offices. The powers and duties of
the managers and officers were transferred to the Board of Con-
trol. The board was given authority to appoint a Division
Chief from the ranks of acting surgeons in the state, who was
to coordinate the work of the eleemosynary institutions. Any
surgeon appointed had to have been actively engaged in the pro-
fession for ten years preceding his appointment. 5

Under the Chief of the Division of the Eleemosynary Insti-
tutions the state placed the following:

1. Lunatic Asylums
2. Blind Asylum
3. Deaf and Dumb Asylum
4. Orphan's Home
5. Deaf, Dumb and Blind Asylum for Colored Youths
6. State Colony for the Feeble-Minded
7. Confederate Home
8. Confederate Woman's Home
9. Epileptic Colony
10. Home for Lepers
11. State Tuberculosis Sanatorium
12. State Juvenile Training School
13. Girl's Training School. 6

6Ibid., pp. 327-328.
In order for each institution to have at its head a person with a general knowledge of the field, the act authorized the board to appoint a superintendent for each eleemosynary institution, who had had special training and practical experience in the management of the class of persons committed to his charge. Once appointed, the superintendent was assigned the following powers and duties:

1. Receive and discharge patients and pupils, superintend repairs and improvements, and keep accurate and detailed account of all spent;

2. Keep a register of all patients and pupils received and discharged, and a complete record of all operations of the institutions;

3. Submit to the board an inventory of all personal property belonging to the asylum on November First of each year;

4. Establish rules and regulations for the government of the institutions in his charge, as he deemed would best promote the interest and welfare of its inmates;

5. Appoint subordinate officers, teachers, attendants and other employees;

6. Remove with good cause, with the consent of the board, any officer, teacher, or employee; and,

7. Make a report to the Governor and the Board of Control January 1 and July 1 of each year, showing in detail the operations of the institutions for the six months term,
accompanying each report with such suggestions and recommendations as deemed necessary.\(^7\)

The constitutionality of the authority of the board was tested soon after it was created. An injunction suit was brought against the board by the former Board of Managers of the Southwestern Insane Asylum located at San Antonio. In the case, Cowell et al \textit{v.} Ayers et al, the Supreme Court of Texas ruled, April 14, 1920:

\begin{quote}
The act creating the Board of Control does not violate section 30a of Article XVI of the State Constitution, empowering the Legislature to provide by law that members of the board of trustees or managers of certain institutions may hold office for six years. . . in so far as it relates to the management of insane asylums . . . Interference with the statutory terms of present incumbency of state offices constitutes no obstacle to the power of the Legislature to abolish offices of its own creation.\(^8\)
\end{quote}

The Board of Control organized the eleemosynary institutions only on a financial basis. Each type of institution, such as, the insane, delinquent, and physical illness still acted independently in its manner of treatment and care. The chain of control was as follows:

\begin{center}
\begin{tikzcd}
\text{Governor} \\
\text{Board of Control} \\
\text{Chief of Division of Eleemosynary Institutions} \\
\text{Superintendent of each institution} \\
\text{Institution}
\end{tikzcd}
\end{center}

\(^7\)\textit{Vernon's Annotated Texas Civil Statutes}, Vol. IX, arts. 3175-3178.

\(^8\)\textit{Southwestern Reporter}, CCXX, 764.
The single board was perhaps more conscious of the needs of the people, more alert to the conditions of the buildings, and more able to commend or censure prevailing conditions at each institution than the former Boards of Managers. However, the Board of Control had so many agencies under its management that it still was unable to do justice in smoothing out the difficulties of the eleemosynary institutions. Thus, the Thirty-Eighth Legislature in 1923 established the Texas Eleemosynary Commission in the hopes of finding better and more economic methods of operating the institutions. The commission was instructed to place special emphasis on remedies for "insanity, feeble-mindedness, disabling illness, and criminal tendencies."\(^9\)

Up to this time Texas had merely provided asylums and reform schools to place the human physical, mental, and moral wrecks found in the state. No organized attempt had been made to seek out and remedy or remove the causes of either delinquency or dependency. As badly as such a study was needed, the legislature failed to appropriate enough money even for postage for the commission it had created. The newly created commission finding itself in such a predicament, appealed to local and national philanthropic agencies. Two of those appealed to responded—the National Committee for Mental Hygiene

\(^9\)Texas Eleemosynary Commission, Report, p. 5.
of New York City, and the Buchanan Foundation Supply Funds and Experts of Texarkana, Texas. Thus, the work of the commission was limited to a study of the problems of the insane and feeble-minded. Trained psychiatrists, psychologists, social workers, and institutional managers worked on the problem for about eight months.\(^1\)

One of the first changes recommended by the commission was the changing of the names of each of the mental institutions in the state. Such was recommended to correct the needless injury and humiliation to both the patient and the family.\(^1\)

Too, the terms "lunatic asylum" and "insane asylum" were no longer generally accepted terms. Past experience in the work proved the name served to deter those in need of treatment in the early stages of mental illness.\(^1\)

The Thirty-Ninth Legislature in 1925 approved of such a change by adopting the following:

The East Texas Hospital for Insane which is located at Rusk in Cherokee County, Texas shall hereafter be known as the Rusk State Hospital . . .

The Northwest Texas Insane Asylum which is located at Wichita Falls in Wichita County, Texas shall hereafter be known as the Wichita Falls State Hospital . . .

The North Texas Hospital for the Insane which is located at Terrell in Kaufman County, Texas shall hereafter be known as the Terrell State Hospital . . .

The Southwestern Insane Asylum which is located at San Antonio in Bexar County, Texas shall hereafter be known as the San Antonio State Hospital . . .

\(^{10}\)Ibid. \(^{11}\)Ibid., p. 11. \(^{12}\)Ibid., p. 70.
The State Lunatic Asylum which is located at Austin in Travis County, Texas shall hereafter be known as the Austin State Hospital...

The State Colony for Feeble Minded which is located at Austin in Travis County, Texas shall hereafter be known as the Austin State School...

The State Epileptic Colony which is located at Abilene in Taylor County, Texas shall hereafter be known as the Abilene State Hospital.

Another recommendation of the commission that was partially carried out was the request for the establishment of two psychopathic hospitals, one at Galveston and one at Dallas. Both psychopathic hospitals were included in article 3192 of Vernon's Revised Civil Statutes of 1925, but no appropriation for construction was made available until 1931. In that year a psychopathic hospital was established at Galveston for the treatment of nervous and mental diseases, both in the hospital and out-patient clinic. The hospital was made available for study and research by students of the State Medical College. By an act of 1945 the Galveston Psychopathic Hospital was withdrawn from the Board of Control and placed under the Board of Regents of the University of Texas.

Only $39,500 was appropriated for establishing the psychopathic hospital at Dallas. The Board of Control, understanding it was made available for the purpose of getting a power

14Texas State Board of Control, Seventh Biennial Report, (1934) p. 61.
plant and other utilities ready for operation on a site to be donated to the state, withheld expenditure of funds until a succeeding legislature would appropriate enough funds to make the institution operative. The Dallas Chamber of Commerce had the site ready, but no additional funds were provided. The initial appropriation lapsed and the hospital was not established.16

As recommended by the commission, the Forty-Fourth Legislature in 1936 gave the Board of Control the authority to divide the state into districts, and to designate the hospital in which the insane should be placed. The board was also given the power to transfer patients from one institution to another.17

Due to the overcrowded conditions, patients were "peddled" from one hospital to another as a result of the act. Though the law specified that indigents and curables should have priority of admission, it turned out that a person backed by the most convincing talker or the strongest political influence was the one actually committed.18

Two of the recommendations of the commission that failed to get the approval of the legislature were the commitment law

16Texas State Board of Control, Ninth Biennial Report, (1938) p. 82.


18State of Texas, Joint Legislature Committee on Organization and Economy, Public Welfare; Eleemosynary Institutions and Social Service Agencies, pp. 121-122.
and the establishment of a central supervisory division for the mentally ill. The former recommendation was to do away with a trial by jury for individuals being placed in mental institutions. The latter was advised for the coordination of the work of all the institutions dealing with mental health.19

Several attempts were made during the period to do away with the present commitment system, but the law was still effective in 1939.

A certificate of insanity was necessary before any person could be admitted to any state hospital for the treatment of the mentally ill. After two properly qualified and licensed physicians had filed a certificate with the county judge, the judge wrote an order stating that the person committed was insane and was a proper subject for treatment in one of the state's hospitals.20

A warrant was issued to the sheriff of the county to convey the insane person to the hospital as soon as the judge had communicated with the superintendent of the state hospital of the district in which the person resided and had been notified of a vacancy.21

19Texas Eleemosynary Commission, op. cit., p. 11.

20Vernon's Annotated Texas Civil Statutes, Vol. IX, art. 3193a.

21Ibid., art. 3193b.
A certificate of two physicians was valid for the hospitalization of a patient for as long as thirty days. However, at the end of the thirty days the superintendent had either to discharge the patient placed under his care as sane or to notify the judge of the county he came from that the person was found insane. If the person was declared insane, the judge had to act in order to commit the person for a longer period.\textsuperscript{22}

Restraining patients was limited by law. The mentally deranged person was protected from restraint by use of muffs, waists, straps, wristlets, anklets, camisoles, lock chairs, lock cribs, protection sheets or any device interfering with free movement of the patients. As a last resort one of the above measures might be used if in the presence of the superintendent or the physicians or an assistant physician of the institution.\textsuperscript{23}

Confinement in jail of an insane person was limited to thirty days, and the patient was to be placed there only when no other quarters were available. The county health officer was held responsible for seeing that the place was comfortable, safe, and humane for the confinement of such persons.\textsuperscript{24}

\textsuperscript{22}Ibid., art. 3193e.
\textsuperscript{23}Ibid., art. 3193k.
\textsuperscript{24}Ibid., art. 3193c.
The largest amount of building, improving, and repairing appropriations in the history of eleemosynary institutions was made available by the legislature of 1937. It was hoped by such activity to remove all the insane from the jails—a condition which had not been obtained in many years.25

Too, modern treatments and additional equipment were added. By 1939 the mental institutions had adopted the use of "insulin, metrozol, benzedrine, photodyne, and expanded the use of electrically-induced fever in the treatment of certain mental illnesses."26 The use of malaria had also been introduced. Many units of therapy were in use in most of the institutions. According to national statistics, the recovery rate of mental patients in Texas was advancing along with other progressive states of the nation.27

Although two more state hospitals had been established, Wichita Falls in 1922 and Big Springs in 1937, there was still gross overcrowding. Patients were often assigned places more harmful than helpful to them. Each institution still operated as an individual unit. Still sadly lacking was a central agency to make and execute comprehensive plans for meeting the statewide problems of insanity and mental deficiency.

26 Ibid., p. 63.
27 Ibid.
A Colored Orphan's Home.—The state was deeded the Dickson Colored Orphanage located at Gilmer in 1929. The institution had formerly been operated as a private institution, but due to financial difficulties the corporation requested that the state take over the property and assume responsibility for its support and management. The act accepting the gift did not provide that the home should be permanently located at Gilmer. Therefore, the board decided to combine the Negro Orphan Home with the Deaf, Dumb, and Blind Asylum for Colored Youths and locate the institution at Austin. The move was not actually accomplished until April, 1944. At that time the Dickson Colored Orphanage was placed on the market and sold for $29,839. All the proceeds were used for the group.28

The Negro deaf, dumb, and blind institution has been very active in the betterment of its boys and girls. In order to stimulate a better atmosphere among the blind boys, the institution participates in the national blind track events each year. This is accomplished without leaving the campus. On a set day all schools that are members of the organization have the track events, with responsible judges to record the records made. The records are mailed to members of the executive committee on the National Athletic Association for the Blind. Winners are announced. The Texas blind students have entered for years, and since 1937, have won more first places

than any other school. Every physically able colored boy in the institution over ten years of age is required to take part.29

**A State Training School for Delinquent and Dependent Colored Girls.**--The Fortieth Legislature in 1927 created a training school for Negro girls. However, the legislature failed to appropriate money for its construction. An act of the Forty-Ninth Legislature in 1945 made an appropriation of $150,000 for the acquisition of a school for delinquent and dependent colored girls. Finally a school was opened for the colored girls at Brady, Texas, in 1947.30

**A State Tuberculosis Sanatorium for Negroes.**--The Forty-Fourth Legislature established a tubercular institution for Negroes in 1935. They appropriated $200,000 with which the board purchased a private sanatorium from Thomas Sam Thompson. It was located near Kerrville, Texas. The sanatorium was opened to patients June 1, 1937. It filled a long-felt need for caring for colored tubercular in Texas.31

In 1939 the State Board of Control had twenty-two eleemosynary institutions under its control with a combined population of more than 19,000,32 property valued at approximately

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31Texas State Board of Control, Ninth Biennial Report, (1938) p. 89.

32Ibid., p. 109.
$24,500,000,33 and an annual budget of little more than
$8,000,000.34

Child Welfare

The Division of Child Welfare was created by an act of
the legislature May, 1931, to supervise the organization giv-
ing direct care to children. The act authorized the commis-
ioners' court of the various counties to appoint a committee
of seven persons to serve without pay to work with the Board
of Control. As far as possible, the relationship of the Divi-
sion to the child was and is indirect.

The principle duties of the Division were set up as fol-
lows:

1. To promote the enforcement of all laws for the pro-
tection of defective, illegitimate, dependent, neglected, and
delinquent children;

2. To build an awareness of the needs of children by ac-
cumulating and disseminating information;

3. To coordinate local resources by work with individuals,
groups, agencies, public officials, public and private insti-
tutions and organizations;

4. To demonstrate the effectiveness of case work in
dl local communities by direct and/or consultant service;

5. To raise the standards of care through inspection,
licensing, and supervision of institutions, agencies, day

33Ibid., p. 116. 34Ibid., p. 112.
nurseries, and boarding homes for children away from their own people; and,

6. To visit and study conditions in the state children's institutions, and make recommendations for increasing the usefulness of the institutions.35

By 1931 the citizens of Texas were vitally interested in the welfare of the children of the state. There was a trend towards emphasis upon interrelationship between all the conditions that affect child life and the need for coordinating the forces designed to promote well being of the whole child.

Since the Division of Child Welfare was placed under the control of the Board of Control, the board was given authority to take charge of any child found dependent, neglected, or abandoned. If the County Welfare Board was not satisfied with conditions found in the home, the board was empowered to place the child in one of the state institutions. However, the state was over-anxious to leave the child with his parents, and consequently, their separation was not to occur until every effort had been made to keep the two together.36

Until the act of 1931 no agency had existed in Texas for the centralization of state authority in regard to the dependent, neglected, and delinquent child. In the past, many children had been denied the opportunity of education and

35 Ibid., p. 22.

training that would enable them to become self-supporting and self-respecting citizens.

Encouraged by a house committee, the Division of Child Welfare conducted three special projects in 1937 and 1938. They made a study of delinquency through the boys that had been committed to the State Juvenile Training School. A committee of the division made a study of 648 courts records on adoption. Two tri-state conferences were held in which Texas participated, one in Amarillo in July, 1937, in which Texas, New Mexico, and Oklahoma participated, and another in Longview in September, 1937, in which Arkansas, Louisiana, and Texas studied similar problems of adoption. The division made a survey of the New London disaster for the purpose of studying social implications and gaining factual information for supervising children who suffered from emotional or psychological shock.37

The major service of the Division of Child Welfare to the children, to the state institutions, and to the people of Texas, is the planning for children with their own people, in their own homes and communities.38

Commission for the Blind

The State Commission for the Blind was created by the Forty-Second Legislature, April 20, 1931. Soon after the

37Texas State Board of Control, Ninth Biennial Report, (1938) p. 22.

enactment, and the appointment of the commission by the Governor, the men met at Austin and tentatively outlined a rehabilitation program for the blind in Texas. At the time the commission was created the legislature expected that civic organizations of the state, which had manifested so much interest in its creation, would make donations to the commission for rehabilitation services. Hence, the House failed to make any appropriations. The commission carried on its work for almost two years without state funds or private funds. By the time the Forty-Third Legislature met in 1933, the commission had worked out a budget and the legislature made appropriations for it. Although the commission requested $10,545, they received only $8,250. With limited means, much of the burden of the commission fell upon the executive secretary.

He performed the following duties:

1. Acted as executive secretary
2. Directed the program of work for the adult blind of the state
3. Started the lighthouse system for the blind
4. Placed home teachers for the blind
5. Performed personally all of the necessary social and case work
6. Supervised and directed lighthouses as well as directed home teachers in their duties
7. Took care of the stenographic, bookkeeping, and filing work necessary in the office.39

The lack of state funds has caused the commission to rely upon local communities for financial aid and support. Often the local groups pay home teachers for the blind. Much of the credit for such cooperation is due to the policy adopted by the commission. It always seeks the cooperation of the local community and local organizations wherever it has attempted to begin work for the adult blind, in order to gain the friendship and interest of the public.40

The commission acts as a bureau of information for blind persons. They assist in finding employment, in developing home industries which the blind can pursue, and assist in marketing the group's products. The commission furnishes materials, tools, and books for the use of the blind. It employs teachers to instruct the adult blind person in the home, but never undertakes permanently to support any blind individual.41 All articles made and sold under the direction of the commission has the cost of the material deducted. The remainder of the price goes to the blind worker.42


40Ibid.


Belief

Although there had been a gradual decline in farm incomes prior to 1930, the problem of rural or industrial unemployment had not become acute in Texas. The census of 1930 showed that Texas had a total population of 5,824,715, with 2,207,118 in the class of gainful workers. Of that group 75,827 were unemployed, which represented 1.3 per cent of the total population, or 3.4 per cent of the gainful workers. However, by the middle of 1932 the problem had become more acute in Texas. Local units of government were unable to handle the situation.

The state of Texas began the administration of relief on a state-wide basis November 1, 1932. Under the Federal Relief Emergency Law made effective July 21, 1932, the Reconstruction Finance Corporation made available $300,000,00 for relief of needy people within the states. The governor of each state was granted a loan to be used for the betterment of the people of his state. The original funds were allocated to the counties through the chambers of commerce. This plan continued in effect until March 1, 1933, when Governor Miriam A. Ferguson created the original Texas Relief Commission by an Executive order. The Governor then appointed a director who administered the R. F. C. funds for relief until March 16, 1933.

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44 Texas State Board of Control, Eighth Biennial Report, (1936) p. 22.
As the people of the state became more aware of the seriousness of unemployment and the needs of the people, they pressed for legislative action. May, 1933, the legislature created the Texas Rehabilitation and Relief Commission composed of seven members. This commission was directed to establish county welfare and employment boards composed of five members each. The county boards were appointed by the commission with the approval of the commissioners' court. Later in 1933, the legislature repealed part of the act of 1933, and created the Texas Relief Commission of nine members to administer all funds available. In September, 1934, the legislature repealed part of the last mentioned act and placed relief activities under the State Board of Control in a division designated as the Texas Relief Commission Division.45

It was Miriam Ferguson's period as Governor, from January, 1933, to January, 1935, that made way for the $20,000,000 relief fund voted by the Texas people. The legislature, July 10, 1933, passed the relief measure which had to be submitted to the people for approval. In their campaign for the passage of the measure, the Fergusons invited Harry Hopkins, National Relief Administrator, to Austin. In a speech at a banquet at the Driskill Hotel in Austin, August 23, 1933, Hopkins said: "The Federal Government has no intention of continuing to pay ninety-five (95) per cent of the Texas relief bill after

45Ibid.
the bond election Saturday; but it stands ready to go over halfway in a partnership with the State." 46

Never before had the state voted direct relief for its unemployed. But on August 26, 1933, the amendment was adopted by the voters, which gave the legislature the power to authorize by law the issuance and sale of bonds of the State of Texas not to exceed the sum of $20,000,000. The sum was to be used for general relief. 47 These bonds were commonly called "bread bonds" and made up the first state bond issue under the present constitution. 48

In 1935 the Federal government ceased granting loans to the states for direct relief and set up a work relief program, which established a permanent system of Federal grants to states for assistance to and services for certain groups of unemployables included in the Social Security Act of 1935. The act enabled the states to participate in federally aided programs of unemployment compensation, old age assistance, aid to the needy blind, aid to dependent children, child welfare services, vocational rehabilitation and public health work.

In his inaugural address of January 15, 1935, Governor James V. Allred stated:

48 Texas Almanac, 1939-1940, p. 80.
As we seek to revise our government to meet the transition from old to new circumstances of life, grave doubts assail us. Too, many of our citizens are on relief rolls; and fear clutches in the hearts of even those fortunate enough to be employed. The welfare of our people seems to be at stake. As a Texan, I am proud of the fact that the 'new order' program of the government proposing to substitute work for direct relief follows almost verbatim the state democratic platform adopted in Galveston last September.49 According to that platform the state agreed to work with the Federal government in public works projects, old age pensions, soil erosion and the like.

A sharp increase was noted in the number on relief in 1935. Governor Allred gave the total on relief in 1935 as 250,000, almost four times as many as the 1930 census showed unemployed.50

Since the new Federal relief plan furnished funds for relief work only, the state, county, and city governments had to make provisions for the relief of those citizens unable to work. Governor Allred suggested that the state issue the remainder of the relief bonds authorized by a constitutional amendment adopted in 1933. The state still had $3,500,000 in bonds to be sold.51

From the beginning of relief through August 31, 1936, Texas had spent $116,009,733.71 for relief, of which $96,234,335.27 was furnished by the Federal government.52

49 Legislative Messages of Honorable James V. Allred, p. 7.
50 Ibid., p. 11.
51 Ibid.
July 1, 1936, Texas gave no direct relief, except through the issuance of surplus commodities.

The Texas Relief Commission had charge of the issuance of surplus commodities; in fact surplus commodities became the most important agency for direct relief.

TABLE 1
SURPLUS COMMODITIES DIVISION

<table>
<thead>
<tr>
<th>Year</th>
<th>Families</th>
<th>Valuation of Commodities</th>
<th>Average per Family</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low</td>
<td>High</td>
<td>Low</td>
</tr>
<tr>
<td>1937</td>
<td>49,964</td>
<td>76,738</td>
<td>$7,484,000.00</td>
</tr>
<tr>
<td>1938</td>
<td>34,201</td>
<td>55,366</td>
<td>7,499,000.00</td>
</tr>
</tbody>
</table>

The Relief Commission also selected the boys for the C. C. C. Camps, youths for N. Y. A., and men for the W. P. A. It was their function to determine the eligibility of the workers.

A greatly increased life expectancy has produced a change in the number of old age in Texas. By working with the Federal government, the state has worked out two fairly comprehensive financial programs for the group. The national Social Security Act of 1935 has enabled the state to initiate

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53 Ibid. 54 Ibid.
programs of public assistance to the needy aged and to set up the program of Old Age and Survivors Insurance.

Since a definite program had to be worked out in order to get Federal aid for old age assistance, Governor Allred suggested that both houses appoint a committee to study the problems of cost, methods of financing, etc.\(^5\)

The legislature voted to carry out the suggestion of the Governor. Committees were appointed. An old age pension amendment to the Constitution was drawn up and presented to the people for approval in August, 1935. The amendment was adopted. It provided that

> The Legislature shall have the power by general laws to provide . . . for old age assistance and for the payment of same not to exceed Fifteen Dollars (\(\$15\)) per month each to actual bona fide citizens of Texas who are over the age of sixty-five (65) years.\(^6\)

The amendment further provided that the legislature should accept all Federal financial aid for old age assistance.

An act approved in 1935 provided for a liberal system of old age pensions and appropriated \(\$25,000,000\) to finance the program until September 1, 1937. A house bill provided that the appropriation should be drawn from taxes levied upon the liquor traffic in Texas. The act specified that one-fourth of the revenue from the liquor traffic should go to the School Fund, while the remaining three-fourths was to be

\(^{55}\) **Legislative Messages of Honorable James V. Allred**, p. 11.

\(^{56}\) *Constitution of Texas,* Vernon’s Texas Statutes, 1936, sec. 51b.
allocated for the old age program. It further provided that eighty-five per cent of the liquor revenue, allocated to the old age program, should be paid into the Texas Old Age Assistance Fund, while the remaining fifteen per cent should be placed in a permanent old age pension fund. The law provided that the latter amount was to be invested in United States securities. It was not to be spent for twenty-five years, unless the legislature otherwise authorized.57

An independent Old Age Commission, appointed by the Governor, assumed office February, 1936. The commission began mailing out checks July 1, 1936. By the end of that month 59,999 checks had been mailed at a total cost of $949,055.00. The checks averaged $5.80 per person.58

In September, 1936, Governor Allred convened the third called session of the Forty-Fourth Legislature to consider the question of more adequate financial provisions for old age assistance. In his message to the legislature, Governor Allred reported that the old age commission had received over 200,000 applications for old age assistance. Of that number the commission was confident approximately 147,500 would qualify for assistance. Governor Allred explained that the cost would be approximately $30,000,000 annually. The amount the legislature


58Public Welfare Department, "Chronological Index to Events and Legislative Acts Relating to Public Assistance in Texas," p. 3.
had appropriated was about $5,000,000 short. A deficit of $4,277,745 had already been created. The legislature authorized the State Treasurer to sell all outstanding bonds in the permanent old age pension fund and deposit the proceeds with the old age assistance fund.59

By an act of 1936, the Old Age Commission was transferred to the Board of Control, making the members of the Board of Control the Old Age Assistance Commissioners.60 Revenues from horse-racing, coin operating machines, and amusements were added to the liquor revenue for Old Age Assistance.61

In 1937 the legislature passed an act creating a state Division of Public Welfare within the State Board of Control, but no appropriations were made to make the act effective. But the Forty-Fifth Legislature did advance the work of public welfare in 1937 by authorizing the appointment of case workers for investigation of needy persons to whom the Texas Relief Commission gave assistance. The act limited the number of case workers to one for every 100,000 inhabitants of the state.62

A resolution was passed by the legislature proposing a second amendment to be known as section 51c of Article III of the constitution of Texas. It provided that the legislature

60Ibid., p. 2040. 61Ibid., pp. 2057-2070.
should have the power to provide assistance for the needy blind, with the amount not to exceed $15 per month. As with the previous old age assistance amendment the legislature was authorized to accept Federal aid. The resolution was adopted by the voters of Texas August, 1937. 63

A second resolution was proposed known as section 51d of Article III of the constitution. It provided assistance for destitute children with the amount not to exceed $12 per child. The total sum was not to exceed $1,500,000 for each fiscal year. It was approved by the voters at the same time as section 51c was. 64

Adams P. Johnson, Director of the Texas Relief Commission, in a talk before the County Judges and Commissioners of Texas, stated that the serious situation in Texas had been brought about by drastic constitutional limitations and lack of a state Public Welfare Department. He commented as follows:

I hope to live to see the day when there will be at least as much effort and consideration given towards the benefit of the human family as there has been in trying to breed and grow better live stock. It is my honest conviction that if we would become as earnestly concerned in the physical and mental development of our people as we have in the betterment of the animal family, many of our troubles would be averted and we should soon experience decided economic benefit. . .

Under the present relief set-up in Texas, the financial responsibility of caring for the needy people of the state rests entirely with various counties. The constitutional tax limitation of twenty-five

63Vernon’s Revised Texas Civil Statutes, Cumulative Supplement, 1939.
64Ibid.
cents (25¢) on the one hundred dollar ($100) valuation for general purposes is insufficient in most instances to care for normal governmental functions of the counties. . . . I think there is a good need for a constitutional amendment authorizing the counties by vote of its people to levy a limited tax to care for such an emergency as now exists. . . . Texas needs a competent, well-grounded department of public welfare responsible for the administration of all public welfare activities.65

Gertrude Springer made a visit to Texas to study conditions of relief. It was her opinion that the state was very liberal in voting eligibility but very slow in voting appropriations.66

The chief distinguishing characteristic of the depression period was the entrance of the Federal government into a field which traditionally had been considered primarily the responsibility of local communities. The state governments had only recently accepted limited degree of the responsibility. But before the impact of the depression had begun and subsided, more changes had occurred in a few short years in the field of public welfare than had occurred since the beginning of the nation and the state.

When it became apparent that the state and local governments were not going to be able to handle the situation, the Federal government begun to pass emergency measures. The

65"Relief Problems as a Former City Manager Sees It," American City, LIII (November, 1938), 87.

66G. Springer, "This Thing Called Relief," Survey Mid-monthly, LXXVII (June, 1941), 171.
rapid expansion of the state into new fields of public welfare stem largely from measures adopted by the Federal government for relief of the crisis of the early 1930's and measures to prevent recurrences of such widespread destitution in the future.

Figure 2 in the appendix gives the organization of Public Welfare Services as they existed prior to the Public Welfare Act of 1939.

67 See page 110.
CHAPTER V

LATEST DEVELOPMENTS IN PUBLIC WELFARE LEGISLATION,
1939-1949

Improvements in transportation, fundamental changes in the economic system and the tax structure of the state and the nation, the enactment of Federal grants-in-aid measures, extension of Federal control in interstate relationship--these and other factors combined to bring about a greater grant of power than had ever been invested in the Board of Control. If Texas was to keep step with modern developments in social and medical science, reorganization of the public welfare services was essential. During the 1930's the administration of public welfare was characterized by confusion, loosely worded statutes, hastily constructed organizations, inadequate personnel, and insufficient appropriations. Civic-minded men and women were agitating for a competent, well-grounded department of public welfare, responsible for the administration of all public welfare activities. Many were of the opinion that there should be a system of centralized, professional, and technical control of public welfare services. The most radical group of the reforming element favored including all agencies dealing

1"Relief Problem as a Former City Manager Sees It," American City, LIII (November, 1938), 87.
with the dependent, the delinquent, the mentally diseased, and the mentally defective under one department, the Department of Public Welfare. According to their plan the department was to be a bureau composed of supervisory physicians, psychiatrists, pathologists, engineers, nurses, dietitians, vocational directors, and other professional or technical members.

Although the Forty-Sixth Legislature realized reform was necessary, the members were not willing to make such a drastic change so suddenly. The legislative body was most interested in passing a law that would meet with the approval of the national government in order to get Federal aid. A permanent department of public welfare seemed to be necessary to replace the state emergency relief administration of the past decade. By an act of 1939, the Forty-Sixth Legislature transferred the Old Age Commission, the Texas Relief Commission, and the Child Welfare Division from the State Board of Control to a newly created State Department of Public Welfare.²

From 1939 to 1941 there existed only a supervisory relationship between the state and local county workers in order to provide the status of a single agency for the distribution of surplus commodities and referrals to W. P. A., C. C. C., and N. Y. A.³

Since the act of 1939 did not conform with the requirements of the National Social Security Act, the Forty-Seventh Legislature decided to rewrite the public welfare law. One of the most glaring defects was the failure of Texas to set up a merit system for its employees in the department. In 1939 the Federal government had amended the Social Security Act of 1935, so that a merit system was a prerequisite for social security approvals of the public assistance plans of the state.4 The law, as enacted in 1941, with some amendments, is still the public welfare law in operation today.

State Department of Public Welfare

Much of the act of 1939 was incorporated in the Public Welfare Act of 1941. The act called for the same composition—a State Board of Public Welfare, an Executive Director, and such other employees as were required from time to time. Three divisions were created—the Division of Child Welfare, Audits and Accounts, and Research and Statistics. Such other departments as were needed were to be added from time to time.5 Figure 3 in the appendix6 shows the organization of the department as it existed June 1, 1949.

4Social Security Board, Social Security Yearbook for the Calendar Year 1939, p. 13.


6See page 111.
The duties and functions of the welfare department were to:

(1) Administer aid to needy dependent children, assistance to needy blind, and administer or supervise general relief;

(2) Administer all child welfare services, except as otherwise provided by law;

(3) Administer assistance to needy aged;

(4) Cooperate with the Federal Social Security Board . . . and any other agency of the Federal Government in any reasonable manner which may be necessary to qualify for Federal Aid for assistance to persons who are entitled to assistance . . . ;

(5) Assist with other departments, agencies, and institutions of the local, State and Federal Governments, when so requested;

(6) Fix the fees to be paid to ophtalmologists or physicians skilled in the treatment of diseases of the eye for the examination of applicants for, and recipients of, assistance as needy blind persons;

(7) Establish and provide such methods of local personnel as may be found necessary to carry out in an economical way the administration of this act;

(8) Carry on research and compile statistics relative to the entire welfare program throughout the state, including all phases of dependency, delinquency, and related problems, and develop plans in cooperation with other public and private agencies for the prevention as well as the treatment of conditions giving rise to public welfare problems;

(9) Dismiss without notice any person employed in the administration of this Act upon receipt of notice of a determination by the United States Civil Service Commission that such person has violated the provisions of the Act of Congress entitled an "Act to Prevent Pernicious Political Activities;"

(10) Have authority to establish by rule and regulation a Merit System for persons employed by the State
Department of Public Welfare in the administration of this Act. 7

The Public Welfare Department was designated as the agency to cooperate with the Federal government in the public assistance programs. It was to cooperate with the Federal government in the administration and distribution of Federal surplus commodities, as well as supervise referrals and certification to the W. P. A., N. Y. A., and C. C. C. The department was to work with the Children's Bureau of the United States Department of Labor in establishing public welfare services for the homeless, the dependent, and the neglected children. As far as possible, the department was to develop services for the encouragement and assistance to community child welfare organizations. 8

The Executive Director had to be a resident of Texas for at least ten years, and he had to be at least thirty-five years of age. He could not have been holding an elective state office at the time of appointment nor six months prior to his appointment. He had to be a person with executive or administrative experience or extensive experience in public welfare administration. 9

The act established rules and regulations for public assistance to three groups of people: the needy blind, the needy aged, and the needy dependent children.

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7Ibid., pp. 916-917. 8Ibid., p. 918.
9Ibid., pp. 915-916.
Aid to the Blind was for any person over twenty-one years of age whose vision was insufficient for him to be employed in a gainful occupation in which sight was essential. The individual had to have lived in the state five years out of the last nine, and one year immediately preceding the filing of an application for aid. The applicant could not be receiving public aid as an inmate in a public institution, or receiving a pension from any other state or from the national government. Any one getting aid had to be re-examined every two years, unless previously excused from such an examination.\textsuperscript{10}

Old Age Assistance required the same residential qualifications as were set up for the blind recipients. The age requirement for the needy aged was placed at sixty-five. Texas was very liberal in setting up the standards of eligibility, for relatives could not be held liable for the support of the needy aged, except a husband or wife. In fact no inquiry could be made into the financial ability of any relative. No applicant could be denied assistance because of the ownership of a resident homestead.\textsuperscript{11} The law exempted from consideration a resident homestead, which could be a farm of two hundred acres or less, or a lot or lots in a town or city valued at $5,000 or less. However, the law did not exempt income from the homestead.\textsuperscript{12}

\textsuperscript{10}Ibid., p. 919.  
\textsuperscript{11}Ibid., pp. 920-921.  
Aid to Dependent Children was provided for any child under fourteen whose parents or legally liable relatives were unable to provide a reasonable subsistence necessary for decency and health. The child had to be a citizen of the United States and to have resided in Texas for one year immediately preceding the date of application. If the applicant was not a year old, he had to have been born in Texas, and his mother had to have resided in the state for at least a year preceding the birth of the child.13

The method of assistance payment was similar to other types of public payments. The payments were to be made monthly by vouchers or warrants drawn by the State Comptroller on the accounts of the State Department of Public Welfare Fund. The State Treasurer was made custodian of all money received by the State from the Federal government under the Social Security Act. If there were not enough funds available to pay the number on the relief rolls the usual amount specified, the money was to be prorated.14

Attorney fees were limited by the act to ten dollars for services in each case. It seems that soon after the beginning of public assistance in Texas, many of the applicants had sought the advice of attorneys in the hopes that they might get the pension for them. Apparently the lawyers abused the

right. Since the pension was meager as it was, the state felt duty-bound to curb the outrageous charges. Thus, the act made it unlawful for any attorney to charge more than ten dollars.\textsuperscript{15}

An Omnibus Tax Bill was passed by the legislature to provide revenue for the payment of all the public assistances. The bill allocated one-fourth of the revenue to the Available School Fund, and three-fourths to a Clearance Fund. It provided for the transfer from the Clearance Fund of $1,750,000 monthly to the Old Age Assistance Fund, $400,000 annually to the Blind Fund, which was to be issued in equal monthly payments, and $1,500,000 annually to the Dependent Children Fund, which was also to be issued in equal monthly payments.\textsuperscript{16}

The Forty-Eighth Legislature raised the amount to $1,900,-000 for the Old Age Fund for each month of the biennium, beginning September 1, 1943, and limited to $1,900,000 the amount to be expended from the state fund during any calendar months for old age benefits and administrative expenses. The needy blind fund was increased to $700,000 for each fiscal year. The bill left the allocation for the dependent children the same.\textsuperscript{17}

A rider was placed on the department's appropriation which specified that the Executive Director of the Department of Public Welfare should assign ten qualified field workers

\textsuperscript{15}\textit{Ibid.}, p. 925. \hspace{1cm} \textsuperscript{16}\textit{Ibid.}, p. 338. \hspace{1cm} \textsuperscript{17}\textit{Ibid.}, Acts of the 48th Leg., Reg. Sess., pp. 637-638 and 672.
to work with the dependent children in the eleemosynary institutions at the expense of the Department of Public Welfare.\textsuperscript{18}

Thus was begun a sociological program by the Department of Public Welfare under the auspices of the Board of Control. The plan is still in operation today.

As the second world war became more intent, labor shortages on the farm became worse and worse. For that reason, the Forty-Eighth Legislature approved of an act to allow the aged on the pension roll to do seasonal work. They were allowed to make as much as $250 before they were removed from the rolls.\textsuperscript{19}

Another act of the Forty-Eighth Legislature amended the Public Welfare Act of 1941. It provided that the county judges of the various counties could endorse the last warrant made out to any deceased needy aged, blind, or dependent child, which had not been endorsed prior to the death of the recipient. The person designated as the one responsible for the recipient could then cash the voucher or warrant.\textsuperscript{20}

An act of 1945 increased the amount of money the needy blind or aged could possess before removed from the roll to $300.\textsuperscript{21}

\textsuperscript{18}Ibid., p. 1000.
\textsuperscript{19}Ibid., p. 393.
\textsuperscript{20}Ibid., p. 439.
The Forty-Ninth Legislature passed a law amending the Constitution by combining sections 51a, b, c, and d of Article III into one section to be known as 51a. It provided that the legislature should have the power to provide assistance for needy aged persons over sixty-five years of age of not more than twenty dollars per month from state funds. The legislature was given authority to provide assistance for needy children under sixteen years of age and needy blind adults over twenty-one years of age. The amendment authorized the legislature to accept Federal aid for the needy group. The state funds expended for the three groups was never to exceed the amount of Federal funds spent for the same purpose. Furthermore, the state was never to spend more than $35,000,000 for such assistance in any one calendar year. The amendment was submitted to the voters for approval and was adopted at an election August 25, 1945.22

By an act of the Fiftieth Legislature the Omnibus Tax Bill was amended, so that $1,000,000 was set aside for the fiscal year for blind assistance, $3,000,000 for dependent children and $31,000,000 was declared the maximum for Old Age Assistance. If funds were not available in the Clearance Fund, the first revenue collected thereafter, which would otherwise go into the General Fund, was to be placed in the Old Age Fund.23


One of the first measures introduced into the House of the Fifty-First Legislature was an amendment to lift the ceiling on the total amount to be spent for pensions. The House approved the bill to raise the maximum of the state to twenty-five dollars a month, permitting a top payment of fifty-five dollars. Under the present Social Security Act the Federal government matches and gives five dollars extra. In the argument for and against the bill in the House, Representative Parkhouse from Dallas remarked: "If we keep passing resolutions giving away the state's money, those of us working to pay taxes are going on relief too."24 The measure was sent to the Senate, where that group tacked on an amendment which entitled the state to a lien on any real property of the recipient with as much value as $500. The House rejected the amendment. The bill returned to the Senate, where final adjournment caught up with the Senate still debating the issue.25 It was perhaps feared that such a measure could become a political football, to be kicked around at each election. There were better than 214,000 on relief rolls at the time, and probably each one of them could muster at least two votes.

Unless the constitutional amendment is approved in November, 1949, to allow the legislature to hold annual sessions, the Old Age Assistance question will have to wait until 1951;

for the plan to lift the ceiling on pensions was a proposed constitutional amendment, and an amendment cannot be submitted to a special session of the legislature. The old folks roll continues to grow at the rate of one thousand persons a month.26

**TABLE 2**

**GROWTH OF THE RELIEF ROLL**
**FEBRUARY-APRIL, 1949**27

<table>
<thead>
<tr>
<th>Month</th>
<th>Number on Roll</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>212,082</td>
</tr>
<tr>
<td>March</td>
<td>212,987</td>
</tr>
<tr>
<td>April</td>
<td>214,484</td>
</tr>
</tbody>
</table>

At such a rate the group will exceed the available fund soon after January 1, 1950. Naturally, an increase in the assistance roll without a corresponding increase in appropriations for assistance means that the standards of assistance will be lowered. Along with the increase in old age numbers has come a continued and steady increase in the rolls of dependent children, and the dependent children's roll already has more on it than the state can pay properly. The number on the roll of needy blind has not increased beyond available funds for the group. However, as a state, Texas ranks far below the average in payment to all three groups.


TABLE 3
COMPARISON OF TEXAS PAYMENTS WITH AVERAGE OF THE NATION

<table>
<thead>
<tr>
<th>Class</th>
<th>Payment</th>
<th>Rank in Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Texas</td>
<td>Nation</td>
</tr>
<tr>
<td>Old Age</td>
<td>$29.93</td>
<td>$36.39</td>
</tr>
<tr>
<td>Needy Blind</td>
<td>33.36</td>
<td>38.31</td>
</tr>
<tr>
<td>Dependent Child</td>
<td>42.91</td>
<td>62.43</td>
</tr>
</tbody>
</table>

The anticipated shift expected with the coming of the Old Age and Survivors Insurance did not occur. The number receiving Old Age and Survivors Insurance is insignificant when compared with the number receiving Old Age Assistance. In comparison for June, 1948, Old Age and Survivors Insurance had 31,981 persons on its roll, while 204,221 persons were receiving benefits from the old age assistance fund.  

The Fifty-First Legislature amended the Public Welfare Act of 1941 by adding section 8a, which provided for the licensing by the Department of Public Welfare of any person, association, or corporation who owned or conducted, or managed a child bearing institution.  

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General assistance still remains the obligation of the county. The spirit of local responsibility still rings in the speeches of public officials. Attorney-General Price Daniels said in a speech before the Texas Scottish Rite Hospital for Crippled Children:

Assuredly everything needed should be done for orphaned, ailing, and others who cannot fend for themselves, but we should have as much local and voluntary help as possible, for whenever we shift responsibility on public shoulders, we lose some of our freedom of action. Whenever a public agency takes over, relief rolls are padded immediately for political reasons, especially in elections years.\(^3\)

The Child Welfare Division became a part of the State Department of Public Welfare by the act of 1939. It is the channel through which the state recognizes and meets its responsibility for the children in its midst who have no homes or whose families are not able to provide for their protection and care. The child welfare program has developed, not as a relief or assistance program, but as one for any child under the age of eighteen. The division has brought about a more clearly defined basis for the initial placement of children following commitment and more adequate provisions for services to children placed in boarding homes.

In the past decade services have developed to assist the child in developing in his own home, or in the home of some relative or foster home, when his parents are not available. The child welfare services help the dependent child, the

\(^3\)Dallas Morning News, May 25, 1948, p. 2.
abused child, and the neglected child which has been subjected to improper surroundings.32

Under the law any county may have a child welfare board, composed of citizens appointed by the commissioners court. The board serves without pay. Its functions are to find out the needs of dependent, neglected, and handicapped children of the county. It familiarizes the county with the needs of such children. It works with the Texas Division of Child Welfare for more effective planning in the care of dependent, neglected, delinquent, illegitimate, and handicapped children. It also works with the county and district courts in cases referred to the board by them.33

Even with a very competent Child Welfare Division, delinquency has continued to grow in Texas. The state has very jealously guarded the rights of the delinquent in court. The juvenile court laws are very clear and cases involved are emphatic in stating that the hearing of the juvenile case is not a criminal procedure.

The last important juvenile procedure law passed was in 1943. The act definitely moved the state from the criminal procedure of handling juvenile cases to the guardianship method. Prior to 1943 most of the states had found the guardianship method.

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33H. E. Butt, "Texas Division of Child Welfare," Texas Outlook, XXIV (December, 1940), 24.
method more practicable. By the procedure a juvenile court was established in each county. In a county with a juvenile board the court to handle the juvenile cases is designated by the board. In a county that does not have a juvenile board the judges of the county and district courts agree upon the one to act as the juvenile court. The juvenile court was given jurisdiction over all delinquent children. Once the child came under the jurisdiction of the state he became a ward of the state and remained under its control until he was twenty-one years old, unless he had been discharged prior to that time. All summons were to be made by a probation or peace officer. The hearing was to be conducted before the judge in a very informal manner. The court was given the power to do what it considered best for the delinquent and society.34

By an act of 1945 the state legislature increased the salary of juvenile officers in the hope that the state might get better qualified individuals to work with the delinquents.35

Senator R. L. Proffer sponsored a bill in the Fifty-First Legislature to establish a Youth Code Commission. Under such a commission a diagnostic center for youths in trouble was to be created. The Senator said that as the law operates today, the juvenile is treated unfairly. He gave an example of a

a court of Texas upholding a fifty-five year sentence assessed against a seventeen year old boy convicted of murder. The boy was only fourteen and was on parole from the Gatesville Training School for Boys when the fatal shooting occurred. At that time he was sent back to the training school, not for murder, but for violation of his parole. In 1948, two weeks after the boy was seventeen years old, he was brought to trial and convicted.36

The Governor of Texas asked the Fifty-First Legislature to give immediate consideration to the creation of the State Youth Development Council. The council had been recommended to the Governor in a report given by the Texas Training School Code Commission set up by the Fiftieth Legislature. The recommendation was that the council succeed the State Board of Control in administering the institutions for the care and custody of delinquent children. Those institutions were the Gatesville State School for Boys, the Gainesville State School for Girls, and the Brady State School for Negro Girls.

The legislature passed the bill for preventing juvenile delinquency through a Youth Development Council and it was signed by the Governor July 5, 1949. The Training School Code Commission worked eighteen months studying the needs of the youth in this state and the best way for handling the state's three training schools. According to the law the three

36Denton Record-Chronicle, April 15, 1949, p. 3.
training schools will be transferred to the council's jurisdiction.37

The act calls for sixteen members on the council. Eight of the sixteen are to be the heads of the departments interested in child welfare, namely, the State Board of Control, the Department of Public Welfare, the Department of Education, the Department of Vocational Education, the Department of Public Safety, State Health Officer, Parks Boards, and Employment Commission. Six are to be persons especially interested in the welfare of children. The two other members are to be named by the council. They are to receive $7,000 a year and be full time employees of the council. It will be the duty of the last two to coordinate the programs of the state youth agencies. Juvenile offenders are to be referred to the council for rehabilitation. The council is to establish additional facilities to operate the program. Among such facilities are to be diagnostic centers, detention centers, treatment and training facilities, and methods of aiding children after release.38

Walter Kerr, a Methodist minister of Austin and vice-chairman of the seven member commission that designed the plan, remarked that "the plan is designed to give a 'program to fit the needs' rather than a 'punishment to fit the crime.'"39

38Dallas Morning News, March 15, 1949, p. 15.
Another step towards the betterment of the youth of Texas was the act allowing Potter County to set up a domestic relations court. It will handle all cases relating to juveniles formerly handled by the regular court. It is the first one of its type in Texas.40

State Hospitals and Special Schools

When the Public Welfare Department was created in 1939, the eleemosynary institutions remained under the authority of the Board of Control. The legislative body was still hesitant in making large appropriations for the various institutions. Thus, the record of Texas for this period is not a good one. All the institutions became more crowded. The insufficient appropriations were not increased even to take care of the increase in population in the institutions, much less to provide for new buildings and repairs. There were three major headaches of the Texas hospitals and schools—the shortage of space, the lack of equipment, and the need for efficient personnel.

In 1941 there were one thousand mentally ill persons behind bars in Texas jails, simply because there was no room for them in mental institutions. At that time the State Board of Control set about to clean up the shameful condition. The mentally ill were removed from the jails and placed in double

deck beds, on porches, in basements and halls. Even pallets and mattresses were spread on the floor.

Segregation of unrelated groups was still a problem. The senile, chronic alcoholic, and the criminally insane were still housed with the others. The first two became wards, because the expense of individual hospitalization was beyond the reach of average incomes, while the criminally insane were there, because there was no other place for them.41

In order to have a more efficient organization, the Forty-Eighth Legislature provided that the superintendent of each hospital must be a married man and a skilled physician authorized to practice medicine in Texas with not less than five years of experience in the treatment of mental diseases. Not only did the physician have to be a married man, but he and his family were required to reside on the premises of the institution and he had to devote his entire time to the duties of his office. Under the new law he was allowed to remain in office so long as he desired, unless the board saw fit to dismiss him for some good cause. The law gave the board the authority to administer an oath, issue a subpoena to any witness, enforce the attendance of the witness, and punish anyone for contempt. They could hear evidence and render a judgment on the opinion of the majority.42

42General and Special Laws of Texas, Acts of the 48th Leg., Reg. Sess., p. 82.
The time a superintendent could allow voluntary patients to remain in an institution without a trial by jury was extended to ninety days. However, at any time during the stay of the patient that he desired to leave, the superintendent was obligated to release him within three days after he made his request. If in the judgment of the superintendent the patient was considered mentally incompetent during his ninety day stay, the superintendent made certification of such to the county judge of the county the patient entered from. Whereupon, the judge of the county was required to appoint a licensed attorney to answer in behalf of the patient accused and have a trial to determine what should be done with the patient.43

The same legislature granted the superintendent power to grant temporary leave to any inmate for as long as twelve months. If the patient returned at any time during the period, the superintendent could accept him without further commitment, unless during the time of his absence he had committed some criminal offense. If the patient returned at the end of the twelve months' period in apparently good health, the superintendent could grant him more leave, even as long as two years.44

People had begun more or less to disregard the law requiring a trial by jury and were taking individuals to one of the institutions without certification. An act of 1943 specified

43Ibid., p. 251. 44Ibid., p. 394.
that no person could be committed for more than ninety days, unless he had been adjudged insane by a qualified jury in a regular lunacy proceeding.\textsuperscript{45}

Many of the people in the state hospitals today are incurable seniles; in fact one-third of the patients are in that class. Their only crime against society is that medical science has prolonged their life, but failed to stop their mental deterioration.\textsuperscript{46}

When the last of the Civil War veterans in the Texas Confederate Home at Austin died, the state opened the home to six hundred senile patients. Here the aged live in surroundings especially adapted to their needs. It was a step forward, but was soon nullified by the on-rush of new patients.\textsuperscript{47} The Fifty-First Legislature passed a law to transfer the senile patients from the state hospitals to a newly created institution located at Mexia, to be known as the Mexia State School and Home.\textsuperscript{48}

Civic organizations have worked hard and long for a lunacy resolution to do away with the required jury trial procedure for admission of patients to the mental hospitals. Two groups, the Mental Hygiene Society of Texas and the Hogg Foundation for Mental Hygiene actively engaged in lobbying for such a measure at the 1949 session of the legislature. Both groups

\textsuperscript{45}\textit{Ibid.}, p. 347.
\textsuperscript{46}\textit{Dallas Morning News}, March 21, 1949, p. 3. \textsuperscript{47}\textit{Ibid.}
supported the proposal as a long-needed step forward in removing a stigma from hospitalization of citizens of unsound minds. Representative Crosthwait introduced a lunacy resolution February 10, 1949, which called for the defendant's being notified by the judge, in writing, that he was entitled to a trial by jury, if desired. It provided that the right of jury trial in lunacy cases should be the same as in ordinary civil cases. The resolution met with very stubborn attacks. Many were of the opinion that a defendant would be giving up his rights by agreeing to go to a hospital without a jury trial. However, the constitutional amendment had the support of many Texans. Texas was the only remaining state requiring a jury trial of mentally ill persons before committing them to a mental institution. The amendment merely would allow the person to waive the trial of a laymen's jury. It gained the approval of both houses of the legislature and will be submitted to the voters of Texas November 8, 1949.

More liberal laws were approved for the special schools in Texas. An act of 1941 gave the superintendent of the Waco State Home the authority to place children of the home in boarding houses at a fee of not more than one dollar a day.

51*Dallas Morning News*, March 20, 1949, p. 11.
provided the home was licensed by proper authorities. Nevertheless, the child was to remain the subject of the home and subject to the guardianship of the superintendent.53

The Board of Control was authorized to make contracts fixing the price of support, maintenance, and treatment of children in orphans home, state homes for dependent and neglected children, and deaf and blind schools, so that private students could enroll at the actual cost to the state. Education was not included, as the schools had been set up as independent school districts.54

The Fiftieth Legislature established a school for the cerebral palsied. The school was to be located at Kerrville, on property formerly maintained for Negro tubercular patients.55

A bill was introduced into the House of the Fifty-First Legislature to create a special board to manage the state hospitals and state schools formerly known as eleemosynary institutions.56 It passed, and the two groups were therefore transferred from the Board of Control to a newly created board known as the Board for Texas Hospitals and Special Schools.57 Prior to its enactment another measure had been approved to change

the name of the institutions from eleemosynary institutions to that of Texas Hospitals and Special Schools.58

Surely with such a board, a more uniform policy of operation will be adopted, and Texas will have advanced another step forward in its treatment and management of the mentally ill and the dependent children.

Commission for the Blind

The Commission for the Blind has advanced work for the blind very rapidly in the past ten years. An act of the Forty-Ninth Legislature established a Vocational Rehabilitation Division under the Commission for the Blind. Such a division was created in order to cooperate more closely with the Federal government in carrying out its statutes concerning aid to the blind as a part of the nation's vocational rehabilitation program. The state attempts to provide vocational rehabilitation for its blind residents. The following services are provided at public cost under the new division:

(1) Physical restoration;

(2) Transportation not provided to determine eligibility of the individual for vocational rehabilitation services and the nature and extent of service necessary;

(3) Occupational licenses;

(4) Customary occupational tools and equipment;

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(5) Maintenance; and,
(6) Training books and material.\textsuperscript{59}

By an act of the Fiftieth Legislature blind persons were authorized to operate vending stands on any state property or any state controlled property. It was an attempt on the part of the state to provide renumerative employment, enlarge the economic opportunities, and stimulate the blind to greater efforts in striving to make themselves self-supporting. The Commission for the Blind made surveys of the places open for such stands and issued licenses to the blind. The commission bought the equipment and initial stock of suitable articles for the vending stands. The stands remain the property of the Commission.\textsuperscript{60}

Texas leads the country in rehabilitating its blind citizens, according to Lon Alsup, executive director for the blind. He stated that in 1948 the commission trained two hundred twenty-six persons to earn their own living in eighty-one different professions, trades, and crafts.\textsuperscript{61}

Perhaps the crippled children’s Division should be mentioned here. However it has been set up as a division under the Department of Health. The program was established as a physical restoration service. It is for persons of normal mentality


\textsuperscript{61}\textit{Dallas Morning News}, February 20, 1949, p. 1.
under twenty-one years of age, whose physical functions or movements are impaired by reason of joint, bone, or muscle defect or deformity. Such a program was provided because the Crippled and Deformed Children's Hospital was unable to care for all the children of that class in the state.62

Figure 4 in the appendix shows the organization of Public Welfare services in 1949.63

Conclusion

New measures and new hopes should be regarded as but another step toward a goal to which society has slowly, laboriously, and courageously fought its way. Some new act in the future, as in the past, will need to be revised and rebuilt. Mistakes will be made in planning and administration, but no intelligent person would suggest the navy be abandoned because old ships have to be modernized and new ones built, or that highways be closed because it is necessary to reconstruct them.

"Lunatic Asylums" have become state hospitals, reformatories have become training schools, and blind, deaf, and dumb asylums have become special schools. Criminal procedure used in trying delinquents has been modernized into juvenile and domestic courts, and into a council. Public assistance has been established to take care of the needy blind adult, needy

63 See page 112.
aged, and the dependent children. Unemployment insurance and the Old Age and Survivors Insurance has been created to help destroy the feeling of insecurity.

Certainly it cannot be said that Texas has been unmindful of her responsibility for the welfare of her sick and otherwise dependent class of people. No one could accuse Texas of forgetting her delinquents.

In summing up the present public welfare program, Texas has in existence:

1. Aid to dependent children
2. Aid to needy blind adults
3. Old age assistance
4. Child welfare services
5. A crippled children's program
6. A rehabilitation program for the blind
7. Institutional facilities for:
   a. Delinquent children
   b. Blind children
   c. Mentally ill
   d. Feeble-minded
   e. Epileptic
   f. Tubercular patients.

After studying the history of public welfare legislation in Texas, it is the opinion of the writer that Texas needs:

1. A more closely coordinated program from the standpoint of policy making and administration.
2. Fewer boards and commissions in control of its public welfare functions

3. A system of centralized, professional, and technical control of the mental institutions

4. A staff of supervisory physicians, psychiatrists, pathologists, engineers, nurses, and other professional or technical members necessary for an efficient public welfare department

5. Clinics for mental cases; more educational and clinical centers for the prevention of mental diseases, and care and treatment of mental patients outside as well as inside the hospital

6. More supervision for the reformed and educated delinquent

7. General assistance handled by the state

8. More appropriations and less eligibility for getting aid.
APPENDIX

Figure 1--Public Welfare Institutions as they existed in 1919

Figure 2--The organization of Public Welfare Service as it existed in 1939

Figure 3--Texas Department of Public Welfare organization as of June 1, 1949

Figure 4--The organization of Public Welfare Services as they existed in 1949
Fig. 1--Public Welfare Institutions as they existed in 1919, with the date of establishment and name of controlling board.
Fig. 2--The organization of Public Welfare Service as it existed in 1939, giving date of establishment for each division.
Fig. 3--Texas Department of Public Welfare organization as of June 1, 1949.
Administrative group indicated by ________
Advisory group indicated by __________
Fig. 4--The organization of Public Welfare Services as they existed in 1949. Date of organization is given.
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