THE RELATIONS BETWEEN THE LEGAL PROVISIONS FOR EDUCATION IN TEXAS AND PUBLIC SCHOOL ADMINISTRATION

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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>II. SOUND CRITERIA FOR GOOD STATE ADMINISTRATION OF PUBLIC SCHOOLS</td>
<td>4</td>
</tr>
<tr>
<td>III. LEGAL PROVISIONS FOR PUBLIC SCHOOL EDUCATION IN TEXAS</td>
<td>39</td>
</tr>
<tr>
<td>IV. APPLICATION OF CRITERIA TO LEGAL PROVISIONS FOR STATE ADMINISTRATION OF PUBLIC SCHOOLS IN TEXAS</td>
<td>69</td>
</tr>
<tr>
<td>V. CONCLUSIONS AND RECOMMENDATIONS</td>
<td>76</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>80</td>
</tr>
</tbody>
</table>
CHAPTER I

INTRODUCTION

The purpose of this study is to make a survey of the relation between the legal provisions for education in Texas and the public school administration, to determine, if possible, whether these provisions provide for an adequate program meeting the educational needs of the children of the state. Legal provisions, in this instance, comprise both the constitutional provisions for education and the school laws passed to carry out these provisions.

In order to have some basis for the study, a survey was made of the opinions of educators and writers in the field of public school administration to determine what they thought should constitute a good school administration. Various writers were consulted in this field, and then criteria were set up by which to judge the Texas situation.

The sources of the data were books, magazines, the Texas Constitution, and the public school laws of Texas.

The method of procedure was as follows: The first chapter states the purpose of the study, the sources of data, the method of procedure, and the limitations of the study. The second chapter presents the criteria set up.
for evaluation of the Texas public school administration. The legal provisions, constitutional and legislative, for the schools of Texas comprise the third chapter. In the fourth chapter, application is made of the criteria established to public school administration of Texas. The final chapter presents both the conclusions gained from the study and the recommendations thought necessary.

The study was originally intended for a study of the relation between the Constitution of Texas and the public school administration. But since a great deal of the public school administration system is governed by legislative as well as constitutional provisions, it was thought best to include the public school laws in the study. Because these laws are so numerous, not all of them could be given attention, but an effort has been made to analyze the main ones governing administrative procedure in the public schools of Texas.

In 1936 Luther Gulick and L. Urwick edited Papers on the Science of Administration. This constitutes a very comprehensive treatment of the problem of theory of administration, particularly applied to the United States. The study is of a somewhat philosophical nature in that theory of government and theory of organization and administration necessarily have their foundation in a theory of values.
This work is a compilation of a number of articles by outstanding men in the field. Luther Gulick is author of the first of these. In this paper Gulick presents organizational patterns, covering such problems as aggregating the work units, departments vertical and horizontal, organization by major purposes, organization by major processes, and organization by place.

Gulick concludes that there are certain patterns of organization that have their basis in the fact that men differ in fundamental interests and abilities. These differences lead to division of work and this necessitates definite types of organization. His outline in this area is used in this problem in developing for measuring the Texas situation.

Samuel B. McAlister made a study of government and law of the Texas public school system. In this study McAlister considered as agents of public education the legislature, the courts, county school authorities, and local school authorities. Selected cases are given to illustrate practices and decisions in regard to the relation of these agents to public education. McAlister lists certain criteria or guides to be kept in mind in reading the cases. These serve as a measuring instrument in evaluating the cases.
CHAPTER II

SOUND CRITERIA FOR GOOD STATE ADMINISTRATION
OF PUBLIC SCHOOLS

The question might be asked: "Why does the state sponsor and support a system of public school education?" Cooke, Hamon, and Proctor admirably answer this question in the following words:

Because an educated citizenry is essential to the success and well-being of any government among civilized peoples, all nations and states have recognized, in varying degrees, the importance of public education, and all governments, at some time have made provision for a limited amount of education at government expense. Also, it has been evident for many years that the great masses cannot be educated adequately through private initiative and resources. The people, therefore, in whom the sovereignty of government resides, come together and pool their resources, through taxation, with which to provide public schools for the benefit of all. It is their desire to pass on the racial heritage of which they are proud. They constitute their government as an agency through which public schools will be provided. The result is a system of public schools, free and open to all the people in the body politic that constitutes the government. Suffice it to say here that the authority to maintain a system of public schools is an attribute of government in the same sense as in the police power, the power to administer justice, to maintain military forces, or the power to tax.1

This conception that education is a function of the state government has been prevalent since early colonial days. In the debates at the state constitutional conventions the idea was prominent that the framers of the state constitutions intended to accept education as a function of state government. There were many differences of opinion concerning who the education was to benefit, the individual or the state, but the opinion was unanimous that it was the state's duty to provide a system of public education. The constitutions of the different states all included some provision for public education, and since the federal union was composed of these different states, the conception of education as a state function originated early. Cubberley says:

Throughout all the process of organization, subordination, and reorganization of education, the state has been the unit for action. The power to direct the reorganization, extension, and improvement of the education provided by communities has clearly been a power of the state, and the fact that schools arose with us largely as community undertakings, at first without state permission and later under the provisions of permissive laws, in no way has altered the fundamental principle that the state, and not the locality, is the ultimate source of authority and the unit for legislative action. It is the people of the state as a whole who are supreme, and not portions of them here and there. The school district, town, township, city, supervisory district, and county are all subordinate divisions and creations of the state, and as such derive all their powers from the state.

The state thus stands in the matter of education as an expression of the combined will of all the people, and not a part of the people, and in consequence the expressed opinion of all must be superior to the
expressed opinion of a part. It was but natural, then, that the federal government should have consistently dealt with the states, as units, in all matters relating to public education within the states.2

From the beginning, then, the different states have had the responsibility of establishing and maintaining a system of public education. At first the state constitutions made only brief mention of education or were entirely silent on the matter, but all states have now included in their constitutions some reference to education as a function of state government. Cubberley describes these provisions:

Excepting some of the older and shorter constitutions, the article on education usually includes a mandate to the legislature directing it to create a system of public schools for the state; the care and use of the state school lands and school funds are provided for; the type of state, county, and local school organization to be provided is described; the minimum length of school term is commonly stated; taxation requirements, and how the state school funds shall be apportioned, are commonly laid down; the management and support of the state university are directed; and a more or less rigid prohibition against any form of aid for sectarian schools, or the permission of sectarian instruction, is clearly stated. A number of other constitutional requirements and provisions are found in the individual states, but the ones just listed are those not commonly included.3

From whom does a state receive its authority for the establishment of an educational system? If education is to achieve its purpose it must be under the direct control of the people. Hence any governmental authority must originate

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2Ellwood P. Cubberley, State School Administration, p. 122.

3Ibid., p. 311.
with the people. This theory is not contrary to the traditional political and economic beliefs of America. This point has been adequately phrased by Newlon:

If education is to serve its rightful purpose, control must be vested in the entire people. Schools that are controlled by a particular group in society, whether political or religious, or by a social class will be bent to the purpose of that group or class. Whenever the interests of such a class or group run counter to the interests of the larger social whole, the schools will be made the tool of these special interests, and will be employed against the public interest. American democracy permits the operation, under the law, of private and parochial schools that are only indirectly subject to public control. But this privilege, desirable though it may be under existing conditions, does not vitiate the principle that the final control of education should be lodged with the entire people. Democracy's schools should, likewise, be administered in accordance with the principles and purposes of democracy. Autocratic methods cannot be employed to achieve democratic purposes. American education today is too much under the influence of one social class, and there is too much of the autocratic in its administration.  

If special groups are allowed to dominate the schools, they will make the schools in their image and use them to perpetuate the status quo. When this situation exists, the real purpose of education has been destroyed. The only way this can be prevented is by removing education as far as possible from partisan politics and by keeping it directly under the control of the people.

Education is necessary for good citizenship in a democracy. When the American government was established, many

of the framers believed a system of popular education essential for the preservation of political liberty. Many of the earlier writers make reference to education, and during the early years of the republic the idea became general to the public mind that public education was the cornerstone of political liberty.

The leaders in our system of education have wholeheartedly believed in American democracy. They have regarded education as essential to preparing an individual for citizenship. Only a person who is well informed can adequately perform the duties of citizenship. Education has placed the individual on a higher plane, magnified his rights, his place in society, and enhanced the value of education to him materially.

Since public education has been left to the states, it follows that the different states have established different systems of public education. Some of them may be excellent, some mediocre, and some altogether unsatisfactory. When any attempt is made to evaluate a system of public education by the state, there must necessarily be some standard or yardstick by which to measure. Educators, from time to time, have given attention to the requirements constituting an ideal system of public education by the state. These, while not infallible, do present some standard for measuring the efficiency or non-efficiency of the
administrative functions of the state in education. The following series of questions outline some of the more important phases of state administration of public education:

1. What are the best local units to employ for educational organization, administration and supervision?

2. What relation should the state bear to the different subordinate administrative units it has created within itself?

3. What are the proper methods of taxation and apportionment of funds?

4. How should the state administrative officers for the public school system be chosen?

5. What are the duties and rights of the state board of education?

6. What requirements should be made of teachers?

7. How can educational opportunities of the rural and urban children be equalized?

8. What should be the material equipment for schools?

Each of these major problems of state administration of public education deserves special study. When clear and provable principles of action or standards of requirements have been made, it is then possible to take any state system of public education and evaluate it in terms of these standards.

The local unit of school control varies greatly in different states, depending upon local conditions, educational leadership, and general public enlightenment. The
administrative units of state control in America are the county, the city, the consolidated school district, the New England town, and the rural school district.\(^5\)

The New England town unit was the original unit used in the United States. In order to protect themselves from the Indians, most of the early settlers lived in compact communities, and this fostered the establishment of small schools. In towns of any size, the difficulties of communication and transportation caused many small districts for schools to be organized. In some towns the school was moved from place to place. A tax for the support of these schools was levied, and the tax payers demanded service for the money they paid out in taxes. It was only a step for the towns, then, to divide up the school tax among the different sections of the city, and allow them to maintain their own schools. Out of this arrangement came the district system of public schools. Cubberley outlines the general features of the district form of organization in the following way:

The general features of the district system were almost everywhere the same. The people of any little area, where half a dozen families lived, might unite to form a local school district. The legal proceedings were simple and easy. The district then elected three school trustees, or school directors, and at once the school district became a body corporate, with power to build a schoolhouse, employ a teacher, purchase

supplies, adopt textbooks, designate the subjects of instruction, levy taxes, adopt rules and regulations, and conduct and supervise a school. In the days when there were no county school authorities, and often no state school authorities either; no developed body of school law; no common plan of procedure; no broad conception of the need or purpose of education; and almost no support for education other than district taxation, rate bills and fees -- the district system rendered its most valuable service. The simplicity and democracy of the system, and its effectiveness under primitive conditions, made it the natural system of the time. Once established it has become firmly rooted, and has been changed only after much effort, though almost all the conditions which gave rise to it have passed away. 6

The tenacity with which the district system has held its power is illustrated by some statistics taken from the United States Office of Education. At the present time there are about 126,849 school districts in the United States. Many of these districts are so small that they have only a one-room school building and so poor that they are hardly able to support that school, while the establishment of a high school is out of the question. A recent survey of the schools in Arkansas revealed that in one county, Washington, there were 126 school districts. Ninety of these had only one teacher in each school, and sixteen have one two-teacher school, leaving only twenty with more than a single one- or two-teacher school. 7

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6 Cubberley, op. cit., pp. 149-150.
The town system of local government which existed in New England in colonial days was unsuited to the South. In the South topographical and climatic conditions favored a large unit of government. The land had been granted in large lots to individual owners who had built up great plantations cultivated by slave labor. The population was sparse and distances between plantations many miles. Small local units of government or of public schools were not feasible. Counties for the administration of justice were formed, and later when schools were established, the county, in a great many cases, became the local unit for organization. In this case all districts, except independent districts usually maintained in municipalities, are abolished and the affairs of the school are controlled by a county board of education. Eleven states have the county as the control unit for administration of the schools.\footnote{Ibid., p. 15.}

The township or town are similar to a district except that they are larger and the boundaries are arbitrarily set. The average size of the common school district is eighteen square miles, and of the township or town, twenty-eight. The township is the prevailing type in Indiana, New Jersey, Ohio, Pennsylvania, and to some extent in Michigan, Iowa, North Dakota and South Dakota. The town is the prevailing type in New England.\footnote{Ibid.}
The village or city school districts are independent, in many instances, of the surrounding district or township. These are known as independent districts.

Consolidated districts are composed of two or more common school districts or townships. They may unite for the consolidation of all schools in the area, or have a partial consolidation, that is, separate elementary schools and a joint high school.

This survey of the different types of school control units reveals that they may be divided into two general types: district and county. Which of these is more practicable and efficient in administering a public school system?

Butterworth sets up the following criteria for judging a local unit:

1. **Physical resources.** -- The area should be large enough that the combined resources will support an adequate program.

2. Those residing in the area should be like-minded enough that a common education will suffice for all. This would require common interests, common purposes, and a high degree of homogeneity.

3. **Continuity of membership.** -- The population should be alike with respect to population shifts.

4. **Interaction with others.** -- The group residing within the area should have or develop a group loyalty, and an attitude of cooperation to the extent that all will work toward the welfare and betterment of the whole.

5. **Same traditions.** -- Conflicts will occur if the people of one district vary too greatly in their traditions, mores, and cultural backgrounds.

6. The unit should not merely be an area with fixed limits in which all taxes are placed within a
common fund and distributed where needed, but there should be a central authority for planning and administering.

7. The unit should not be so large that members of any section cannot contact those of another, or that all pupils could not be transported to centrally located schools. 10

Dawson proposes these specific standards for an efficient local school unit:

1. An elementary school of six or seven teachers, and a minimum of 240 to 280 pupils.
2. A six-year high school should have an absolute minimum of seven teachers and a desirable minimum of ten teachers, and a minimum of 210 to 300 pupils.
3. There should be at least one supervisor to each forty or fifty teaching positions.
4. There should be at least one health nurse to each 2,000 school children, and one attendance supervisor for not more than 6,000 census children.
5. The number of employees necessary for a standard administrative and supervisory organization is thirty-one persons, who will accommodate 12,000 pupils.
6. The minimum size of a satisfactory local unit is approximately 1,600 pupils and forty-six teaching units. 11

If the foregoing principles alone were to be used as criteria for determining the most efficient type of unit for school administrative purposes, the county, by reason of its size and population, would be chosen. But there are other opinions yet to be examined. Cooke, Hamon, and Proctor say:


11 Howard A. Dawson, Satisfactory Local School Units, pp. 39, 59, 60, 82; quoted by Bent and Kronenberg, op. cit., p. 100.
There should be no local unit of school support and administration smaller than the county. Eventually, the independent districts within the county will be abolished and the schools of the entire county operated as a single administrative unit.\textsuperscript{12}

Briscoe says:

The small local unit is a stumbling block to education, preventing the enlargement of the schools, the enrichment of the curriculum, and the expansion of the offering, as has been done in city and in strong county-unit systems; and it fosters unwise expenditure and inefficient management.\textsuperscript{13}

Cubberley sets up the following plan for a county-unit organization for education:

1. The abolition by law of the district system of school administration, and the organization of the county into one county school district, which is to be the unit for administration and supervision.

2. City school districts, organized under a city board of education, maintaining a full high school and employing a city superintendent of schools and meeting certain educational standards, but not villages and towns under principals who teach, may be set off from the county school district for purposes of administration and supervision, though not for taxation. On the other hand a city may join with the county as part of the school district.

3. A county board of education, of from five to seven members (preferably five), to be elected from the county school district at a regular state-wide school election; to be elected preferably at large, but may be by districts; and to have much the same powers and functions as a city board of education for a city.

4. The county board of education to select the county superintendent of schools and to fix his salary, electing him for three to five-year terms, and being as free from political and residence requirements in

\textsuperscript{12}Cooke, Hamon, and Proctor, \textit{op. cit.}, p. 36.

\textsuperscript{13}Alonzo Otis Briscoe, \textit{The Size of the Local Unit for Administration and Supervision of the Public Schools}, p. 2.
his selection as is a city in the selection of its superintendent of schools.

5. The county superintendent of schools to be the executive officer of the county board of education, to serve as its secretary, and to be the recognized professional and executive head of the educational system of the county.

6. The county superintendent of education to have control of all schools within the county, outside of independent city school districts with power to establish and consolidate schools, make all repairs, buy and sell buildings and real estate, erect new school buildings, establish high schools and special schools, determine and change as needed the attendance-district lines within the county school district, furnish all supplies and janitor service, employ all teachers and principals for the schools, employ supervisors of instruction, fix the salaries of all employees, approve courses of study and adopt textbooks for the schools of the county, and in general to have the control and management of all the schools in the county, just as a city board of education does today for a city, acting in most matters only on the recommendation of the county superintendent of schools.

7. In the consolidation of schools to provide larger units for instruction, the county board of education should try to establish such schools with partial or complete high-school advantages attached, in such a manner as eventually to organize the schools of the county into a number of community school systems.

8. For each small school the board may appoint an attendance sub-director, to look after the school property, make minor repairs, and to act as agent of the county board of education in the attendance sub-district and the board.

9. The county board of education to approve an annual budget of expenditures for maintenance and outlays for the schools of the county, and to notify the county-tax levying authorities of the amount of county school tax, as well as any special or sub-district taxes, to be levied.

10. The county school tax to be levied on all property in the entire county, and then divided between the county school district and the independent city districts, as provided for by law. This makes the county the unit for taxation, but with additional taxation permitted in any attendance
subdistrict or community school district, on vote of the people, to provide educational advantages beyond what the county school district can furnish.\textsuperscript{14}

Cubberley says that the adoption of such a plan as this would not only professionalize county school administration and supervision, but would make possible effective educational service to an entire county.

The time and energy that would be saved, over operating under the district or even the township system would be enormous. Instead of the county superintendent of schools having to spend a large proportion of his time in trying to get results by working with district trustees, being respectful of their authority and seeking to educate them to their duties, correcting their reports and accounts, compiling reports as to district conditions, and endeavoring to get reasonable satisfactory teachers and living conditions in the districts, his time and energy could now be spent in working with the teachers to provide good education for the children of the districts. Instead of a series of district elementary schools, small in size and poor in quality, there would be in time to come a small number of good community consolidated schools, with high school advantages open practically to all children of a county, and with many of the features of special instruction which the children in our city schools today almost alone enjoy. About the only "rights" the people of the districts would give up would be the right to select a horde of unnecessary school trustees, and often in addition to mismanage the education of their own children.\textsuperscript{15}

Investigations made of the county unit and the district unit bear out the assertions of Cubberley regarding the superiority of the county unit system. Gressman compared seven counties in Maryland, a state organized on a

\begin{footnotes}
\item[14] Cubberley, \textit{op. cit.}, pp. 231-232.
\end{footnotes}
county-unit basis, with seven in Pennsylvania, where the township and the borough are the most common types. He found:

In the equalization of costs, the administration of transportation, and the equalization of the weight of taxation, the county unit was superior. It was also superior in the rapidity of closing one-teacher schools. In the matter of entrance upon high school opportunities by graduates of the elementary school, the Pennsylvania counties which were studied seem to show better results, while in general financial administration certain rather large savings make the county-unit plan of Maryland distinctly superior to the township, borough, or city system in Pennsylvania. 16

The next question to be considered in developing a good state administration of public education is what relation the state should bear to the different subordinate units it has created within itself. Cubberley says that under our American system of government, we have been prone to leave many decisions to local communities. But

... while our conceptions as to what powers and duties can be advantageously entrusted to local administrative units are changing with time, there is, nevertheless, a certain demarcation between the powers and duties of the state and the powers and duties of the communities which ought to be observed in all educational legislation and all state administrative control....

In all such matters as bookkeeping and accounting, uniform fiscal years, and uniform statistical returns, the state should prescribe such a degree of uniformity as will produce intelligent and comparable records. In all such matters as the kind or kinds of schools which must or may be provided, the minimum length of school term which must be maintained, the general nature of the instruction required to be given, standards for the certification of teachers, school supervision to be

16 Bent and Kronenberg, op. cit., p. 100.
required, sanitary standards to be maintained, equipment to be provided, minimum rates and forms of taxation to be imposed, minimum salaries to be paid, compulsion of children to attend, and child-labor laws, it is essentially the duty and the business of the state to determine the minimum standards which will be permitted, perhaps classifying communities into groups and requiring different minima if it desires to do so. From time to time as different educational needs and conditions may seem to require, it is also the business of the state to raise these minima for any or for all of the groups, and in so doing the state should always act on the basis of what is best and now possible for the children of the state as a whole, rather than on the basis of what its poorer communities can do or provide. 17

What are the proper methods of taxation and apportionment of funds? Probably no other question has occasioned so much thought and discussion in the field of education. There must be money with which to support schools if there are to be schools.

The oldest and most common form of supporting schools was by means of the direct property tax. This tax is usually levied by district or county boards of education. The state usually sets a maximum amount which can be levied.

This policy has resulted in inequality of school opportunities for the children of the country. Urban centers have large resources on which to levy a tax to support schools, while rural areas have to depend almost altogether on farms and farm buildings. Bent and Kronenberg present this pertinent analysis of the difference in values of rural

17 Cubberley, op. cit., pp. 298-299.
and urban property and the consequent returns to the school funds:

A tax levy of fifty cents on the one hundred dollars in New York would bring $48.40 in revenues for each child of school age, while in Mississippi the same levy would bring $6.10. The former is an urban state, the latter, rural. The same levy for five urban states would bring, on an average, $36.70, for each child of school age; for the five most rural states, $8.02. Stated in another manner, the state of New York can support a better school system by spending twenty-five cents of each tax dollar on education than North Dakota can by spending eighty cents on each tax dollar. The same differences exist when an urban center is compared with a rural area. For example, in Michigan the poorest township has $750 worth of taxable wealth behind each census child, and the wealthiest has $25,000. In Tennessee the range is from $628 to $4,670, and in Arkansas, the poorest district has twenty-five dollars assessed valuation per child and the wealthiest, $2,400. Furthermore, there are more children to be educated in rural areas than urban.\(^\text{18}\)

These inequalities in wealth indicate that the educational opportunities of the rural child, if based on support by a property tax alone, must be far less than that of the children of urban areas. A direct property tax, then, cannot be the proper method of taxation for support of a public system of education.

In some states, various other taxes have been levied in order to boost the income for the schools. Most state governments and some local governments derive portions of their revenues from some form of corporation tax. Inheritance and gift taxes are still another source. Taxes on

\(^{18}\) Bent and Kronenberg, \textit{op. cit.}, pp. 110-111.
net income are levied by some states. The following figures show how different states raise the majority of their funds:

1. Property tax, twenty-four states use directly, others indirectly.
2. Income tax, twelve states.
3. Sales tax, seventeen states.
4. Severance tax, eight states.
5. Inheritance tax, three states.
6. License of various types, eleven states.
7. Chain store tax, five states.¹⁹

Although the Constitution of the United States does not mention education, the federal government has given aid to the state governments in order to help education. Land grants were made in early colonial days. The Morrill Act, passed in 1862, voted 30,000 acres of land for each congressman, to be used in establishing "land-grant colleges." The Hatch Act, passed in 1885, provided federal aid for agricultural schools. The Smith-Hughes Act, passed in 1917, gave federal aid to agriculture and home economics teachers in high schools. The George-Deen Act of 1936 supplemented aid for vocational work in schools.²⁰

Then, too, there is a growing tendency for the state to supplement the school funds raised from various sources by lump sums called "state aid." The percentage of school costs borne by the states varies from no state aid in Colorado and Oregon to 92.3 per cent in Delaware.²¹

¹⁹Ibid., p. 112.  
²⁰Ibid., pp. 111-112.  
The methods of apportioning the revenues for the schools also varies from state to state. The school census has been the most common base used. Through this method, the number of children of school age in a district are enumerated, and then a certain sum of money allotted to each. Cooke, Hamon, and Proctor say:

The school census is one of the worst bases of state apportionment because it is usually inaccurate; in many cases, it has very little relation to the number of pupils actually in school.

The total enrollment, or the number belonging, although somewhat better than school census as a method of per capita distribution, is still not a satisfactory basis for state apportionment, because it makes it possible for schools to enroll large numbers of pupils with no effort to keep up the attendance.

If state school funds are to be distributed on a per-pupil basis, the average daily attendance of pupils is probably the best way of counting the number of pupils in school. The average daily attendance, however, should be calculated on a definite length of term or the aggregate attendance used. In communities materially affected by tourists or seasonal occupation, the average attendance for the peak month would be a better measure than the average for the year.

Another per capita method of apportioning school funds is according to the number of teachers employed. Such a method has some advantages over the per-pupil plan, because the number of teachers actually employed is really what determines the major cost of maintaining the schools.22

Cooke, Hamon and Proctor conclude their discussion of methods of apportioning school finances by stating the essentials of any state-aid plan which seeks to equalize educational opportunities:

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1. The program should be based on a minimum local effort which is uniform throughout the state.

2. An established minimum program less the sum of the proceeds from a uniform local effort and state apportionments should determine the amount of an additional state apportionment to be made from the equalizing fund.

3. Every administrative unit should be left free to exceed the minimum program by supplements from local sources.23

Cubberley recommends a constitutional provision for the adequate support by a state of a system of public education:

The income from the permanent state school fund shall be used for the maintenance of public schools in such manner as the legislature may direct, and the state treasurer shall, each year, set aside from the income and corporation taxes which shall not be less than $__ per pupil in average daily attendance in the elementary and secondary schools of this state the preceding year. This shall be known as the state school tax, and it shall be a prior lien over legislative appropriations on the state income. The sum so set aside shall be subject to apportionment by the commissioner of education, in such manner as the legislature shall by general law provide. A general county school tax must also be levied, annually in each county, which must not be less in amount than the minimum set for the state school tax. If the legislature deems best, the support of technical or secondary education, or both, in addition, may be separated from that for elementary education, and different minima set for each. The legislature may, in addition, authorize such other forms of taxation for educational purposes, and may direct such increases in the minima here stated, as it may from time to time deem wise.24

Bent and Kronenberg recommend the following principles as a guide in the apportionment and distribution of state school funds:

23Ibid., p. 128. 24Cubberley, op. cit., p. 436.
1. The state should bear a large proportion of the cost of instructional service and equipment; the local area, the major portion for capital outlay, maintenance, and transportation.

2. The state should reward effort in employing good teachers.

3. The state should stimulate an increased enrollment and a higher percentage of daily attendance.

4. The state should encourage or even force schools to consolidate whenever it is to the best advantage to do so.

5. The state should improve efficiency through state supervision.

6. The state should guarantee to each local community a minimum school program after the local community has done all it can in trying to maintain one.25

In summarizing the different findings regarding the best methods of taxation for school revenues and for apportionment of school funds, the following conclusions have been reached:

1. The direct property tax, by itself, is not a satisfactory source of school revenue.

2. The census is not a satisfactory basis for apportioning school funds.

3. The state should set a minimum requirement for every school unit of administration; if the local district is unable to meet this minimum, the state should provide funds to meet this minimum and bring it up to the desired standard.

4. The state should require a minimum tax levy by every school district; no restrictions should be placed on a

higher levy should the community so desire, but a minimum should be set for all.

In many states the administrative officers of the state and county school systems are elected by popular vote. Cooke, Hamon, and Proctor26 say that this method inevitably prevents the selection of a person best qualified for the position. The candidates for office are limited to a certain area, and strong political groups must be considered. Efficient school administration, whether state or county, requires a high degree of ability and training. The average level of training and efficiency of school administrators who are appointed by boards is higher than those elected by popular vote. The best trained and most efficient school administrator should be chosen; this does not always happen in a political election. Cubberley says:

The office will never realize its possibilities nor enlist the services of the best prepared men until it is lifted completely out of partisan politics; is given power commensurate with the responsibilities of the position; is freed from all forms of political interference; is opened up so that men from any state may be considered; and comes to men largely as an honor unsought. As it is, the office in the elective states today offers but few attractions to anyone who is properly prepared for it, and a fundamental change in the methods of filling it is most urgently needed.27

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26 Cooke, Hamon, and Proctor, op. cit., p. 93.
27 Cubberley, op. cit., p. 277.
The conclusion is inevitable here that the head administrative officer of the state school administration should be appointed rather than chosen by popular vote.

The duties and rights of the state boards of education vary with the different states. At first the duties of the state school boards were few in number and limited in character. The boards held conferences, advised school officials, but were given no funds with which to work. With time, the duties of nearly all forms of state boards have grown, and gradually have been transformed from advisory boards to a legislative type of board, with large and important responsibilities. Cubberley is of the opinion that the state school boards should be reorganized and given entire control of the educational administration of the schools of the state. Because of the ability and research of Cubberley along these lines, especial weight is given to his recommendations for reorganization of the state school boards and they are reproduced here:

1. The state board of education should represent the people of the whole state, and should therefore be a lay rather than a professional board.
2. The board should be neither too small nor too large.
3. The members should be appointed (or elected) for relatively long terms, and the appointments or elections should be made so that not more than one member shall go out of office each year.
4. If appointment is to be made, this should rest with the governor.
5. All appointments should be based solely on ability to serve the interests of the people, and should be made without reference to residence, party affiliation, religion, sex, race, or occupation.
6. The power of removal should be entrusted to the governor, and should be only for immorality, malfeasance in office, or gross incompetency.

7. There should be no ex-officio members of the board.

8. The state superintendent should not be an ex-officio member of the board. He should instead be made its secretary, and, if competent, its executive officer and the head of the state department of education. A fundamental principle in all administrative work is that one who is to execute policy ought not to be a member of the board which determines its policy.

9. The most important function of the state board of education is that of the selection of its executive officers, and in making such selection the board should be free to search the United States, and to draw to the work of education in the state those persons whom it feels most likely will render efficient service.

10. On the recommendation of the chief executive officer, who may be called commissioner of education, the board should appoint such assistant commissioners and other educational experts as may be deemed necessary.

11. The state board of education should have power to make rules and regulations, not inconsistent with law, for its own government, and for the government of its executive officers.

12. The board ... must be considered as a board representing the people to look after the educational interests of the state. Its prime functions should be to determine policies, to direct work to be undertaken and make appropriations for the same, to approve plans for investigations and assistants to conduct them, and to act on recommendations based on the results.

13. It is important that a clear distinction between legislative and executive functions be preserved between the board and its experts. It is primarily the business of the board to legislate; it is primarily the business of the experts to execute policy which once has been decided upon.

14. It should be one of the functions of the board to approve a budget for necessary expenditures for the proper maintenance of the department and the carrying on of necessary investigations, and present this to the legislature for its approval. When the budget is approved, the distribution of all money so appropriated,
specific appropriations excepted, should be in the hands of the board and its officers.

15. The control of the permanent school fund should rest with the board, and its investment should be subject to its approval.

16. The legislature should of course be competent at any time to direct the board as to the addition of new executive officers, educational experts, or new lines of investigation, but the appointment of the experts and the carrying out of the investigations should rest with the state board of education.

17. Acting through its executive officers, the board should have general supervision and inspection of the entire educational system of the state.

18. Acting through its educational experts, the board should have studies made of the educational conditions and needs of the state, and the effect of the operation of present laws, and it should be made its duty biennially to advise the legislature as to needed changes in the laws or additional educational legislation.

19. The management and investment of the state school fund should be in the hands of the board, without interference by the board or other state officers.

20. The board should determine the conditions for the certification of all teachers for the schools of the state. The certification of teachers is primarily a state function, and there should be but one standard for the whole state.

21. The training of teachers in the state should be under the general regulation of the board, with power to order such changes in requirements as existing needs may indicate as desirable and budget appropriations permit of being made.

22. In cooperation with the state board of health, the board should standardize sanitary appliances and the construction of school buildings, and guide and direct the medical examination and the health and development work within the schools.

23. Acting through or in cooperation with the state library, the board should aid in the establishment of school and traveling libraries, and stimulate local library effort.

24. In cooperation with other departments of the state government, if such have been provided for the work, the board should see that the rules relating to schools, health, compulsory education, child labor,
and child conservation are enforced, and in addition should plan an active campaign for the conservation of childhood.

25. The board should also have general oversight of the work in vocational education and vocational rehabilitation within the state, and act as the agent of the federal government in carrying out any national educational projects in the state.

26. Perhaps one of the most important functions of the board, acting in connection with all of its experts, is that of the publication of a careful and somewhat detailed annual report of its activities, and the activities of the different divisions of the state department.  

The above principles, in substantially the same form, have been recommended in the educational surveys made for Vermont, Maryland, Indiana, California, and other states, and recent legislation has had a tendency to centralize the administration of education in the hands of a board rather than that of a state superintendent of instruction elected by the people.

The preparation or training of the teacher for the public schools is probably the most important determining factor of teaching efficiency. Some teachers do good work who have had little formal preparation, but even those with aptitude for the work give better service after a training period. The training of teachers is regarded with sufficient importance to cause state legislatures to enact laws requiring a certain type and amount of preparation prerequisite to the certification of teachers. In many local

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schools, standards of perfection above those of the state are required. Cooke, Hamon, and Proctor say:

It is generally accepted that elementary teachers should have at least two years of college work. In the opinion of the authors this standard is entirely too low, but due to the shortage of elementary teachers with more than two years of preparation, it will be necessary to accept this standard until the general level of teacher preparation is materially increased. As soon as it is feasible, elementary teachers should be required to have a bachelor's degree or at least its equivalent. Even a master's degree may be required of them in the near future.29

Cubberley lists the following requirements as essential in the training, selection, and performance of teachers:

1. Increased professional competency should accompany general salary increases, and general salary increases should be so planned as to make increased certification requirements possible.

2. As fast as can be done in any state, the low grade teacher's certificates should be abolished, the number of examinations for certificates reduced, and the emphasis shifted from examination tests to evidence of training.

3. In low-standard states, temporary permits and fourth-grade certificates, issued locally and limited to a district, ought to disappear at the earliest opportunity, and the low standard third-grade certificate should go also as soon as a supply of teachers can be obtained without it.

4. Two grades of general elementary school certificate are enough. These should be abandoned when the supply of trained teachers will permit.

5. A differentiation of certificates for different types of teaching is becoming increasingly desirable.

6. An administration and supervision certificate also should be created.

7. Life diplomas, of all types, should be open only to those who give reasonably clear evidence of long teaching experience, above the average teaching

29 Cooke, Hamon, and Proctor, op. cit., p. 298.
success, at least standard academic and professional preparation, good character, and additional professional study.

8. Life diplomas ought not to continue in force for more than a limited number of years after the holder turns from educational work to other occupations. After, say, three to five years the certificate should be suspended, and reinstated only on evidence of some further academic and professional study.

9. The certification of teachers for the state should be made a state function, and all local systems of certification should give way to a general state plan, centrally administered.

The problem of an adequate salary enters into the question of teacher training and selection. A teacher should have a salary commensurate with her training and her responsibilities. This should be increased as she grows in service and professional study. The development of an adequate state policy in teacher-training means the building up of strong central control and supervision of all training and certification, and also the formulation of an intelligent and progressive plan conditioning the work of the teacher after the training has been given.

The educational opportunities of the rural and urban children can only be equalized when the state sets a minimum standard for every school district in the state, and aids the districts not financially able to meet this standard. In this respect, some districts will still have more educational advantages because they will have more wealth, but

the minimum requirements can be met. Once again Cubberley points the way to a solution of the rural school with its few educational opportunities:

If our rural schools are ever again to occupy a vital place in our national life and minister properly to the needs of farm life and rural and village children, cooperating with all of the moral, social, economic, and intellectual forces of the community, and providing for country children an education which, for them, is as good as that provided for their children by the cities, it must be done in a fundamental reorganization of rural education, and along lines marked out for us by the best city administrative experiences. Merely to add new subjects to the curriculum will not accomplish this purpose, though new studies may be necessary. Neither will the securing of a normally trained teacher or the increase of the school tax, though both may be valuable aids. The trustees' institute will not reach the problem either, as it is at best but a temporary stimulant. The school itself must be fundamentally reorganized and redirected, making of it a new institution adapted to modern educational and social needs. . . . This will involve a county unit of organization, administration and finance; the election of a lay county board of education, analogous to a city board of education, to select the experts and determine the larger questions of policy and procedure; the substitution of an appointed and properly trained county superintendent of schools for the present politically elected county school officer; the reorganization of the county educational office along the lines of the best city administrative experience; a redirection of the instruction to meet modern educational needs; and the training of a body of teachers for rural work who can and will render community as well as educational service. 31

What should be the material equipment for the schools? Should the state have any voice in this matter or should it

31 Ibid., pp. 262-263.
be left to the discretion of local school control units?

Educational writers agree that the state should fix building standards. Thirty-five state departments of education have issued bulletins on plant standards for the standardization of rural and elementary schools, and forty-five state departments have issued plant standards for the accrediting of high schools.32 Cubberley says:

It is the business of the state to set standards, below which communities shall not be allowed to drop. . . . It is clearly a right and the duty of the state to guard against waste in expenditures and unsafe construction. The state may, then, very properly require that any building to be erected for school purposes shall be structurally sound, and that, in such details as classrooms and special lighting and heating arrangements, ventilation, hallways, staircases, swing of doors, cloak-room and toilet facilities, plumbing and water supply, provisions against danger from fire, and sanitary arrangements, it shall at least meet minimum standards, as formulated by general law or regulation, for a school as formulated for a building of its particular type and class. The state may also very properly formulate certain general requirements as to site, play facilities, location and placement of building.

On the other hand, the state should not attempt to control the shape, form, artistic appearance, extra facilities or cost. If a community desires to exceed the minimum standards set by the state it should be allowed to do so, and departures from a general plan or type ought to be permitted freely, since out of such experimentation much of value is evolved. The work of the state, here as elsewhere, is to enforce minimum standards, and not preventing variation and progress and artistic development.33

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33 Cubberley, op. cit., pp. 323-324.
In the planning of a state administrative system of public schools, there are many factors to be considered. For one thing, educational practice is to a large extent the product of social experience and has been influenced greatly by the economic and civil systems whereby a country is governed. In undertaking to build an efficient state administration of schools, these things should be taken into consideration. Newlon says:

Every educational problem must therefore be viewed in the light of history and tradition, the social aspirations and the actual conditions and recent experience of a community or state.34

In order to do this, the most reliable methods of analysis, the most expert knowledge, and the greatest degree of tact and understanding must be used. The same methods that are used in any successful business undertaking must be used. This calls for definite planning, coordination, and organization. According to Gluck, the following plan represents an outline whereby these things can be accomplished:

1. First step: Define the job to be done.
2. Second step: Provide a director to see that the objective is realized.
3. Third step: Determine the nature and number of individualized and specialized work units into which the job will have to be divided.
4. Fourth step: Establish and perfect the structure of authority between the director and the intimate work subdivisions.35

34 Jesse H. Newlon, Educational Administration as Social Policy, p. 231.

35 Luther Gluck, Papers on the Science of Administration, pp. 7-13.
When coordination has been achieved through the above organization, the executive department should be organized in the following way:

1. **Planning**, that is, working out in broad outline the things that need to be done and the methods for doing them to accomplish the purpose set for the enterprise.

2. **Organizing**, that is, the establishment of the formal structure of authority through which work subdivisions are arranged, defined and coordinated for the defined objective.

3. **Staffing**, that is, the whole personnel function of bringing in and training the staff and maintaining favorable working conditions.

4. **Directing**, that is, the continuous task of making decisions and embodying them in specific and general orders and instructions and serving as the leader of the enterprise.

5. **Coordinating**, that is, the all-important duty on various parts of the work.

6. **Reporting**, that is, keeping those to whom the executive is responsible informed as to what is going on, which thus includes keeping himself and subordinates informed through records, research, and inspection.

7. **Budgeting**, with all that goes with budgeting in the form of fiscal planning, accounting and control.\(^{36}\)

If the above plan is followed, every phase of a business organization will be represented: planning, organizing, staffing, directing, coordinating, reporting and budgeting. Each of these is necessary in conducting any successful business enterprise, and the state administration of a public school system should be equally quick to adopt these sound principles of business administration in its own system.

\(^{36}\) Ibid.
Underlying any plan of administration or any scheme of organization must be fundamental principles. A sound administrative technic is impossible without them. Foster outlines the following administrative principles and they are pertinent to this study:

1. Considerations of training outweigh considerations of procedure.
2. Responsibility and control must run parallel; hence a maximum of authority should be delegated to subordinates.
3. The unity of the entire system must be realized.
4. The initiative should come from the workers themselves.
5. All workers shall have a maximal place in determination of policies.
6. The special capacities of every worker shall be clearly defined.
7. All functions shall be clearly defined.
8. Relative values shall be recognized.
9. Human limitations must be appreciated.
10. Participation shall be determinous with performance of function.

From the foregoing discussions, the following criteria have been set up for evaluating a state administration of public schools:

1. The best local unit to employ for educational organization, administration, and supervision is the county. The small district does not possess adequate resources for financing an adequate program of education.

2. The state should prescribe uniformity in statistical terms, the kind of schools to be provided, the minimum

length of school term; the general nature of the instruction to be given; standards for the certification, training, and pay of teachers; standards for buildings and equipment; minimum rates and forms of taxation to be imposed; and compulsion of children to attend school.

3. The direct property tax is not the proper method of taxation. If used at all, it should be supplemented by state aid from other sources to equalize the finances of all control units. The best method of apportionment of the tax money is probably based on the average daily attendance records of the pupils. A minimum standard should be set for each school, and state aid furnished to supplement local aid -- this would not mean that a district could not spend more but all should conform to minimum requirements as to buildings, as well as number of pupils, apportionment, and equipment.

4. The state administration officers for the public school system should be chosen by the state board of education and not elected by popular vote.

5. The duties and rights of the state board of education are to choose the administrative officers for the public school system, and to have direct supervision over all educational activities in the state -- a function that is at the present time exercised mainly by the state departments of education under an elective superintendent.
6. The state should require certification of teachers through a central agency, and should prescribe general qualifications, and salaries.

7. Educational opportunities of the rural and urban children can only be realized through a complete reorganization of the school system on the county-unit basis.

8. The state should prescribe standard building requirements for buildings, equipment, sanitary provisions, and should formulate certain general requirements as to site, play facilities, location and placement of building.
CHAPTER III

LEGAL PROVISIONS FOR PUBLIC SCHOOL EDUCATION

IN TEXAS

The legal provisions governing public school education in Texas are not static, but have evolved over a period of years. Some attention to the history of the legislation is necessary in order to understand the situation as it exists today.

Within the space of one hundred and fifteen years, Texas has changed its form of government five times. One outstanding fact about these changes is that each new government has provided in some way for a system of public education. The Constitution of the State of Texas and Coahuila, adopted March, 1827, made the following provision for education:

Article 215. In all the towns of the State a suitable number of private schools shall be established, wherein shall be taught reading, writing, arithmetic, the catechism of the Christian religion, a brief and simple explanation of the Constitution, and that of the Republic, the rights and duties of man in society, and whatever else may conduce to the better education of youth.\(^1\)

In the Declaration of Independence, the Mexican government was condemned by the Americans for its failure to

establish any system of public education.\(^2\) When the Constitution of the Republic of Texas was written in 1836, Section 5 made it "the duty of Congress as soon as circumstances will permit, to provide by law a general system of education."\(^3\) When Texas was admitted into the Federal Union, the Constitution of 1845, Article X, provided:

Sec. 1: The general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this state to make suitable provisions for the support and maintenance of public schools.

Sec. 2: The legislature shall, as early as practicable, establish free schools throughout the state, and shall furnish means for their support, by taxation on property.

Sec. 3: All public lands which have been heretofore, or which may hereafter be granted for public schools to the various counties shall not be alienated in fee nor disposed of otherwise than by lease for a term not exceeding twenty years, in such manner as the legislature may direct.\(^4\)

The most important financial provision of this constitution was the proposal to support the public schools by taxation on property. The constitution expressly set apart and reserved for the purpose, one tenth of the annual revenue derived from taxation, but it made no provision for distribution of the money. Four years after the constitution was adopted, Governor George Wood, in his message to the legislature, reported that the amount of money

\(^2\)Frederick Eby, *Education in Texas*, p. 130.  \(^3\)Ibid.

accrued from the one tenth of the annual revenue was $25,503.82. This money lay idle in the state treasury.

A boundary dispute between Texas and the United States was settled by compromise in 1850 and Texas received $10,000,000 for its claims. In his inaugural address in 1854, Governor Elisha Pease recommended that $2,000,000 of this money be appropriated and set apart as a permanent fund for the support of Texas public schools; the fund itself, he recommended, should be held intact and the income apportioned to the several counties, according to the number of free children in each. The public school law of 1854 resulted from the governor's recommendation, and laid the basis of much present existing legislation. The law contained four definite features:

1. Two million dollars of the five per cent United States Indemnity Bonds were set aside as a permanent endowment of the maintenance of common schools. The income from this fund was to be distributed on a per capita basis.

2. Provision was made for immediate organization of common schools. The State Treasurer was appointed ex officio superintendent of the common schools, the county judges and commissioners were constituted a county school board, and the county tax assessor was charged with taking the scholastic census, the age limits being six to sixteen years. The county board was to divide the counties into districts, and supervise election of school trustees in each. The trustees were to determine the length of school term, the kind of teacher desired, and the amount of salary. At the close of the school year,

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5George T. Wood, Message to the Legislature, Nov. 6, 1849, quoted by Frederick Eby, Education in Texas, p. 217.
the trustees were to be paid the per capita apportionment which was to be applied on the teacher's salary; any deficit was to be assessed equally among the paying patrons. This money was available only to districts providing good schoolhouses with necessary furnishings.

3. Tuition of orphan or indigent children was to be paid for by the state from one tenth of the annual revenue set aside by the constitution for "free public schools."

4. A private school might be converted into a common school by meeting the required conditions.6

During the period from 1855 until 1861 a total of $560,000 was collected by the state for school maintenance. This was apportioned to the counties on the basis of the number of scholastics, a practice that has continued down to the present time.

The constitution adopted in 1861 reaffirmed without change the provisions of 1845, but the Constitution of 1866, written after the war, was more definite. Article X, Section 2, read as follows:

The legislature shall, as early as practicable, establish a system of free schools throughout the state; and as a basis for the endowment and support of said system, all the lands, funds, and other property heretofore set apart and appropriated, or that may hereafter be set apart or appropriated for the support and maintenance of public schools, shall be a perpetual fund exclusively for the education of all white scholastic inhabitants of this state, and no law shall ever be made appropriating said fund to any other use or purpose whatever.7

6 School Law of 1854, quoted by Frederick Eby, Education in Texas, pp. 264-270.

7 Texas Constitution of 1866, Article X, Section 5, quoted by Texas Statewide School Adequacy Report, p. 1.
However, this constitution did not provide that any part of the state revenue be set apart for the school fund. As a result, the receipts during the five years, 1866-1870, were from the sale of lands and interests on bonds and were insignificant in amount. Then, too, the permanent school fund had been loaned to the railroads to assist them in building new lines in the state. After the Civil War the railroads ceased to make a profit and no income was paid on the funds.

The United States Government at Washington refused to readmit Texas to the Union with the 1866 Constitution, and another was written in 1869. This new document tacitly acknowledged that the income from the permanent school fund was not sufficient to support an adequate school system when it included the following provision for education:

Section 6: The Legislature shall set apart, for the benefit of the Public Schools, one fourth of the annual revenue from general taxation; and shall also cause to be levied and collected, an annual poll tax of one dollar on all male persons in the State between the ages of twenty-one and sixty years.\(^8\)

In 1870\(^9\) an act was passed putting the educational provisions of the constitution into effect. A state superintendent of education was authorized; four months' compulsory

\(^8\)Constitution of Texas, 1869, quoted by Frederick Eby, Education in Texas, p. 280.

schooling was required; and the income from the permanent school fund plus the poll tax and one fourth of the annual revenue was designated as an "available school fund" to be applied exclusively to the payment of teachers' salaries and the expense of the educational bureau. An ad valorem tax not to exceed one per cent was to be levied in local districts for the purpose of building schoolhouses. Counties were designated "school districts," and sub-divisions, where necessary, were authorized.

The provisions of this law were ignored to a large extent, and a more drastic school law was written in 1871 that was military in nature. Jacob de Gress, a Prussian who had served in the United States Army, was appointed superintendent of education by the governor, and the machinery for the collection of the newly imposed taxes for education were set up.

The majority of the people resented the new educational provisions, but de Gress achieved some results in establishing schools. When he took office there were only one or two school buildings owned by the state. The scholastic population at this time was 229,568.\(^\text{10}\) By December 1, 1871, there were 1,324 schools with 63,504 pupils enrolled. During the session of 1872-73, approximately 130,000 children attended school for a portion of

\(^{10}\)Frederick Eby, *Development of Education in Texas*, p. 161.
the ten months which was fifty-six per cent of the total scholastic population.

Efforts to levy and collect the local tax for the construction of schoolhouses met with great opposition. The state would not allow districts to sell long-time maturing bonds for schoolhouse construction, and the taxpayers claimed that a levy sufficient to build them in one year was confiscatory. Comparatively few districts secured buildings because of this opposition.

The receipts to the available school fund in 1869 were $2,045, and the disbursements $3,210; in 1870 receipts totaled $38,030, disbursements $61,060; in 1871 the figures were $168,868 and $68,271, respectively. In 1872 the receipts went to $424,030, with disbursements of $532,230. These figures show that in spite of an added increase in income, the expenditures gained alarmingly. If the added expenditure had been for the establishment of more schools or for building more schoolhouses, it would have been justified, but the greater part of the increased cost was due to extravagant salaries and mismanagement on the part of the state superintendent and his aides. Public opinion demanded a change, not only in school matters, but in other departments of government. The radical government was

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defeated and a new constitution for the state was written in 1876. This constitution is the one in force at the present time.

De Gress had created a deficit of $1,000,000 in the education department during his administration. Resentment over his extravagance and the efforts to levy local taxes resulted in a complete reversal of school policy in the new constitution -- a reversal that has materially affected the growth of public school education in Texas.

Since the Constitution of 1876 is the one in force at the present time, an analysis of the legal provisions of education included within it and the enactment of subsequent school legislation will now be attempted. This analysis will follow the criteria set up in the previous chapter: best type of local units; relation between the state and subordinate units; proper methods of taxation and apportionment of funds; duties and rights of the state board of education; teacher training; equalization of rural and urban educational opportunities; material equipment for schools; and the nature of the curriculum.

De Gress had advocated and set up the county as the local unit for school administration. The indignation aroused by the mismanagement and extravagance of the De Gress administration caused this policy to be reversed, and the small district for school administration was
advocated. Burke,\textsuperscript{11} in The Texas Almanac, 1884, listed the number of scholastics in Texas as 349,487. To serve this number of pupils there were established in Texas at that time 5,781 common school districts and fifty-one independent school districts. In 1921-22 the number of common school districts had increased to 7,369, and in 1936, the number of such districts was 5,984.\textsuperscript{12} At this period, 1935-36, there were 1,782 one-teacher schools, 2,064 two-teacher schools, and 995 three-teacher schools in Texas.

These figures indicate that Texas schools were established on the basis of very small districts serving the needs of individual communities and the pupils residing in close proximity to the schools. Efforts to abolish the small district system have been made at frequent intervals and some progress has been made. A bill providing for the consolidation of school districts was passed in 1927.\textsuperscript{13} This provides that any two districts, by a vote of the qualified voters, may consolidate their districts for school purposes. A great many of the smaller districts in Texas have taken advantage of this consolidation act and this tendency is still in vogue.

\textsuperscript{11}H. F. Burke, The Texas Almanac, 1884, p. 82.
\textsuperscript{12}Report of the Adequacy of Texas Schools, p. 17.
\textsuperscript{13}Ibid., p. 18.
The sparsity of population and the large size of some Texas counties have necessitated some provisions for a school unit for administration other than that of the district. Within certain population brackets, Texas counties may now set up a county unit in which a county board of trustees administers the duties commonly carried on by a number of small district trustees in other counties.\(^{14}\)

Then, too, special laws have been enacted by some counties giving them certain rights within specified population brackets. However, the preponderant unit in Texas for the administration of schools is that of the small, local district.

What is the relation between the State of Texas and the school administrative units? The State of Texas biannually elects a state superintendent to carry on the administrative duties of the public schools. Under the laws of the state, the duties of the state superintendent are:

Article 2656: General Duties. -- The State Superintendent shall be charged with the administration of the school laws and a general superintendency of the business relating to the public schools of the state, and he shall have printed for general distribution such number of copies as the State Board of Education may determine. He shall hear and determine all appeals and rulings and decisions of subordinate school officers and teachers and shall conform to his decisions. Appeals shall be made from his rulings to the State

Board. He shall prescribe suitable forms for reports required of subordinate school officers and teachers, and blanks for their guidance in transacting their official business and conducting public schools and shall, from time to time, prepare and transmit to them such instructions as he may deem necessary for the faithful and efficient execution of the school laws. . . . He shall examine and approve all accounts against the school fund.\textsuperscript{15}

Article 2657. Shall Advise School Officers. -- The State Superintendent shall advise and counsel with the school officers of the counties, cities, and towns and school districts as to the best methods of conducting the public schools.\textsuperscript{16}

Article 2659. Shall Prepare Plans for School Buildings. -- The State Superintendent shall prepare as many as three sets of plans for public school buildings designed to meet the needs of rural schools of various sizes, and upon request of the trustees of any school district, shall furnish copies of such plans and specifications.\textsuperscript{17}

Article 2660. Shall Make Report to the State Board. -- The State Superintendent shall . . . make a full report to the State Board of the condition of public schools.\textsuperscript{18}

Article 2661. Shall Require School Officers to Report. -- The State Superintendent shall require of county judges, county, city and town superintendents, county and city treasurers and treasurers of school boards . . . such reports relating to the school fund and other school affairs as he may deem proper.\textsuperscript{19}

Article 2663. Shall Prorate Funds. -- On the first of each month, the State Superintendent shall prorate to the several counties, cities and towns . . . the available school money collected.\textsuperscript{20}

\textsuperscript{15}Public School Laws of Texas, 1936, p. 14.
\textsuperscript{16}Ibid., p. 15.
\textsuperscript{17}Ibid., p. 16.
\textsuperscript{18}Ibid.
\textsuperscript{19}Ibid.
\textsuperscript{20}Ibid., p. 17.
These are the duties of the state superintendent of public education as outlined in the laws of the state. In addition to the state superintendent of public education, the state provides for a state board of education which has jurisdiction over the entire public school administration but does not select its officers. More attention will be given the state board in subsequent paragraphs.

The State of Texas has made no definite provision for the type of schools to be established in the local districts. This has been left to the discretion of local and county trustees.

Texas does not specify that a school must be in session a certain number of days per year. There are some requirements, but these have been standards set up by the state to meet certain needs. Under the Equalization Law standards have been formulated which a school must meet in order to receive additional aid from the state. One of these standards is: "All schools of the unaffiliated class receiving aid shall provide a term of approximately eight months." Another standard which must be met is that no aid shall be granted to any school which is located within two and one-half miles of another school of the same race. The teacher-pupil load is also given attention. State aid is allotted upon the basis of one teacher for any number of

\[21\] Ibid., p. 206.  \[22\] Ibid., p. 204.
scholastics from twenty to thirty-five and one additional teacher for each thirty scholastics or each fractional part thereof, residing in the district.\textsuperscript{23} Also, no aid is granted schools which have an average daily attendance of less than sixty-five per cent of the scholastic census.\textsuperscript{24}

Indirectly, the State of Texas has been exerting more and more direct control over the schools: minimum length of term, teacher-pupil load, average daily attendance, and distances between schools. However, no general compulsory legislation of this nature has been enacted.

The state, through the state superintendent of public instruction, requires uniform reports from all schools of the state; that is, the reports are made in a uniform manner.

The State of Texas also has general supervision over the nature of instruction required. With exceptions provided, the English language is designated for use in the classrooms.\textsuperscript{25} The daily program of every school must provide a ten-minute period of patriotic instruction.\textsuperscript{26} In all the high schools within the state supported by public funds the courses of instruction must include a study of the Constitution of the United States and of Texas.\textsuperscript{27} The history of Texas must be taught in all public schools.\textsuperscript{28}

\textsuperscript{23}Ibid.
\textsuperscript{24}Ibid.
\textsuperscript{25}Ibid., p. 240.
\textsuperscript{26}Ibid., pp. 240-241.
\textsuperscript{27}Ibid., p. 18.
\textsuperscript{28}Ibid.
The state superintendent of instruction prescribes the standards of the course to be taught in high schools.\textsuperscript{29} Besides the subjects prescribed by law to be taught in the public schools of Texas, such additional subjects as agriculture, manual training, domestic economy, or other vocational branches may be included in the course of study.

The State of Texas has definite requirements for the issuance of certificates to teachers. Teachers' certificates authorizing the holders thereof to contract to teach in the public free schools of the state are of three kinds, as follows:

1. Elementary certificates.
2. High school certificates.
3. Special certificates.\textsuperscript{30}

Up until a few years ago certificates could be obtained by examination and by completing specified amounts of training in colleges in the state. However, the examinations for certificates have been discontinued, and certificates are granted only through completion of prescribed amounts of training in various colleges approved by the state.

The State of Texas also provides for compulsory attendance of the pupils in the state.

\textbf{Article 2892. Attendance Requirements. --} Every child in the state who is seven years and not more than sixteen years of age shall be required to attend the public schools in the district of its residence, or in some other district to which it may be transferred.

\textsuperscript{29}\textit{Ibid.}, p. 35. \textsuperscript{30}\textit{Ibid.}, p. 169.
as provided by law, for a period of not less than one hundred and twenty days. 31

Supervision of schools in Texas is in the hands of the county superintendents as a general rule. Special laws have been passed providing for rural supervisors of education and independent districts may provide their own supervisors. A new general law has been passed providing for county supervisors, but it has not yet been put into operation.

The State of Texas has not provided legislation for fixing the salaries of teachers. This, again, has been left up to the financial resources of the local school districts. However, as in the length of the school term, minimum salaries have been indirectly fixed in many instances. State aid has been the agency in this action; the equalization fund provides for certain requirements before any aid is given a school. One of these requirements is the amount of salaries to be paid the teacher. These requirements take into consideration both the training and experience of the teacher.

The basic pay in no event shall be less than eighty-five dollars per month on eight months' basis; provided that in no case shall aid be granted in excess of the amounts specified in the teacher's salary contract on file in the office of the county superintendent. 32

31 Ibid., p. 179. 32 Ibid., p. 206.
Texas has no child-labor laws, but the compulsory school law and age restrictions in employment laws serve to prevent child exploitation by industry and help keep children in school.

The minimum rates and forms of taxation imposed by the State of Texas for the support of its public school system have gradually evolved since the adoption of the Constitution of 1876. The state has used different sources from which to obtain funds: a permanent school fund, a direct property tax, occupation tax, poll tax, and severance taxes. Each of these will be considered.

The Constitution of 1876 provided that the school funds should include all the lands previously set aside for the purpose, alternate sections of land reserved by the state out of grants previously made to the railroads and other corporations, one half of all the public domain of the state, and all sums of money which might come into the state from any portion of this land. Sale of these lands has augmented the permanent school fund of the state. This permanent fund, established in 1854, is for the purpose of maintaining a reserve fund for the public schools. No part of the principal may be spent, but the income from the invested funds becomes a part of the available school fund. In 1898 the permanent school fund of Texas consisted of a total of $7,588,712 in bonds and cash. In 1908 the
fund had increased until it totaled $15,204,764 and by 1933 the valuation was $41,412,903. At the present time the total amount of the fund is approximately $72,000,000. Even though the fund has grown a great deal within the past decade, it, if depended upon alone, would only have paid $1.66 per capita in 1936. This fund alone would not provide any system of education worth the name.

The ad valorem levy has been the chief source of revenue for the schools. The Constitution of 1876 provided that one fourth the annual revenue be set aside for the public schools. In 1883 a constitutional amendment was passed providing for a special levy, not to exceed twenty cents on the dollar.

The first levy set under this new provision was for twelve and one half cents. In 1885 a deficiency in the school funds caused the rate to be set at the maximum of twenty cents. In 1885 a rate of eighteen cents was ordered and this was maintained until 1907, when the maximum rate was again levied. It remained at this figure until 1912, when it was set at sixteen and two thirds cents. In 1913 the rate was fixed at seventeen cents, but in 1914 and 1915 finances again decreed the maximum rate. In November, 1918, a constitutional amendment was passed permitting the rate to be raised to thirty-five cents.\textsuperscript{34} Fifteen cents of this

\textsuperscript{34}E. T. Miller, \textit{A Financial History of Texas}, p. 232.
might be used for the purchase of free textbooks, but any surplus was to go to the available school fund.

This fluctuation in the rate has caused uncertainty from year to year as to the amount of funds available for school purposes. A controversy over the tax rate has added to the difficulty. Since 1907 the school tax rate has been fixed by the automatic tax board. This board considers the needs of the schools, the amount of money available derived from other than ad valorem sources, and then fixes an ad valorem rate which will provide the additional needed funds. The state board of education has determined the per capita apportionment and this has been increased greatly as added sources of taxation have been tapped for school funds.

Local taxation in the common school districts was not provided for until the school law of 1884. An amendment to the Constitution in 1883 provided that common school districts might levy a tax to the amount of twenty cents on the one hundred dollar valuation by a two thirds vote of the tax-paying property owners. The chief effect of this move was to lift the responsibility that was for educational progress from the state as a whole and place it upon the local communities. The division of the counties into districts, the voting of local taxes for school purposes, and the building of schoolhouses were not imposed upon the
people by the legislature, but were left exclusively to
their own choice.

The school law of 1884, which permitted a common school
district to levy a local tax for the support of schools,
would not permit any of these funds to be used for equipment
for the schools. In 1908 another amendment to the constitu-
tion was adopted. This amendment made three changes in
the school laws: local school funds might be used now for
equipment for buildings; the two-thirds majority vote of
property owners for voting taxes was abolished and a
majority vote of taxpayers substituted; and the limit of
taxation for common school districts was raised from twenty
cents to fifty cents on the one hundred dollar valuation.
It should be noted here that the voting of this tax was not
compulsory with any district; it was left to the majority
vote of the taxpayers. No legislation has been put on the
statute books concerning this, but indirectly the state re-
quires a district to vote a tax levy if it is to receive
state aid or to receive certain school classifications.

The direct property tax in Texas for the support of
public schools comes, then, from a general tax and from
local school district.

Occupation taxes have been levied in Texas since a
comparatively early period, and in 1884 one fourth of the

\[35\] Frederick Eby, \textit{Education in Texas}, p. 932.
occupation taxes were appropriated to the available school fund. With the development of the state industrially, a very marked increase has been noted in the occupation taxes. In 1880 the occupation taxes totaled $636,679; in 1910 they were $1,123,505; and in 1910 the amount totaled $1,623,188.36

In 1871 the proceeds of poll taxes, levied in Texas since 1837, were allocated to the school fund. The tax was $1.00 per capita for a while, but in 1882 it was fixed at $1.50, one dollar of which was to go to the available school fund. In 1903 payment of a poll tax was made a prerequisite for voting in Texas elections.

The income from poll taxes to the school fund has varied. In 1890 the number of polls assessed was 382,534, of which only seventy-one per cent was collected. In 1882 twenty-two and nine tenths of the school revenue was derived from poll taxes; in 1901 this percentage was ten and four tenths; in 1915 it dropped to one tenth of one per cent; and it has fallen to still lower levels since that time.37

The greatest increase in income has been from the gross receipt taxes levied in Texas upon corporations exploiting the natural resources of the state. In the case of oil and sulphur and some other products, severance taxes have been levied, and a greater proportion allotted to the

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36 Miller, op. cit., p. 409.
37 The Texas Almanac, 1939-40, p. 317.
available school fund than the one fourth provided in the original school law of 1884. One half of the tax on oil, one third of the cigarette tax and permits, and three cents on every ton of sulphur produced go to the available school fund.

For the fiscal year ended August 31, 1938, chief sources of state school funds and amounts contributed by each source were as follows:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gasoline tax</td>
<td>$10,535,358.85</td>
</tr>
<tr>
<td>Gross receipts tax</td>
<td>10,111,386.43</td>
</tr>
<tr>
<td>Ad valorem tax</td>
<td>2,910,236.90</td>
</tr>
<tr>
<td>Cigarette stamp tax</td>
<td>2,185,820.87</td>
</tr>
<tr>
<td>Poll tax</td>
<td>1,043,309.98</td>
</tr>
<tr>
<td>Insurance companies, occupation tax</td>
<td>855,703.93</td>
</tr>
<tr>
<td>Chain store tax</td>
<td>498,271.54</td>
</tr>
<tr>
<td>Miscellaneous occupation taxes</td>
<td>104,755.43</td>
</tr>
<tr>
<td>Note stamp tax</td>
<td>96,550.90</td>
</tr>
<tr>
<td>Cigarette permits</td>
<td>66,003.10</td>
</tr>
<tr>
<td>Income from permanent school fund</td>
<td>2,700,000.00</td>
</tr>
</tbody>
</table>

It is apparent from the above discussion that the school funds of Texas are not a stable fund. The greatest amount of revenue is derived from the gasoline tax; at the present time the curtailment of the use of automobiles and the rationing of gasoline presents Texas schools with the prospect of losing a substantial sum or income.

The method of apportionment of the state school funds has always been on the per capita basis in Texas. At the present time a census of the scholastics in the local school

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district is taken each spring. The state then apportions a
certain sum for each child enumerated, and this is paid each
district from the state treasury. All other income must be
drawn from local sources except in rural districts where an
equalization fund has been appropriated since 1915-16.
Originally the sum appropriated was $1,000,000, but this
has been increased to $6,500,000 for each of the fiscal
years of the biennium ended August 1, 1938.
The funds appropriated for rural aid have been dis-
tributed for salary aid, transportation, tuition, industrial
aid, and library aid. Indirectly the state has been able
to impose some requirements on the school districts aided:
specifications as to buildings, equipment, sanitary condi-
tions, regularity of attendance, course of study, and qual-
ifications of the teachers.

The state administration officers of the public school
system are chosen by popular vote and by appointment. The
state superintendent of instruction, the chief administrative
officer, is elected bi-annually; the state board of educa-
tion, consisting of nine members, is appointed and its mem-
ers serve for six years, with overlapping terms.

The duties of the state board of education, in regard
to the public school system, are:

Article 2665. Shall Make Apportionment. -- The
State Board shall on or before the first day of August
in each year, based on an estimate theretofore furnished
said Board by the Comptroller, make an apportionment
for the ensuing scholastic year of the available State
school fund among the several counties of the State, and the several cities and towns and school districts constituting separate school organizations, according to the scholastic population of each.  

Article 2669. Permanent Fund: Investment. -- The State Board of Education is authorized and empowered to invest the permanent public free school funds of the State.

Article 2676b, Sec. 5 (a). Biennial Report. -- It shall fairly consider the financial needs of the State and biennially, in advance of each session of the Legislature, prepare a report and present the same to the Governor to be transmitted to the Legislature upon convening.

Article 2676b, Sec. 5 (e). Textbook Commission. -- The State Textbook Commission shall no longer meet or function after the taking effect of the Act, and the duties heretofore devolving by law upon the State Textbook Commission shall be performed by the State Board of Education.

Article 2676b, Sec. 5 (f). Textbook Committee. -- Said Board of Education shall appoint a textbook committee to be composed of five members, each of whom shall be an experienced and active educator, engaged in teaching in the public schools of Texas, and it shall be the duty of the textbook committee to examine the books submitted for adoption and make their recommendations in writing to said State Board of Education relative to the teachable value of the books submitted respectively. The textbook committee, provided for herein, shall hold their meetings where and when said State Board of Education shall determine.

Article 2676b, Sec. 8. Certification of Teachers. -- The State Board of Education, created by this act, shall prescribe rules and regulations for the certification of teachers and for the system of examining applicants for teachers' certificates and

40Ibid., p. 20.
41Ibid., p. 24.
42Ibid., p. 25.
43Ibid.
otherwise granting certificates for teaching in the public schools of this State in accordance with the laws of this State.44

The duties of the state superintendent of public instruction have previously been stated (pages 48 and 49). He is the chief administrative officer of the public school system.

The requirements that the State of Texas makes of its teachers are:

1. They shall have certificates issued by the State Board of Education entitling them to teach in the public schools of the State.
2. They shall keep daily registers, in which the attendance, names, ages, and studies of the pupils are recorded.
3. They shall make such reports at the end of the school term as may be prescribed by the State Superintendent.45

As indicated previously, the state issues three types of certificates for teachers: elementary certificates, high school certificates, and special certificates. Since the examination system for granting certificates has been discontinued, the requirements for certificates set forth by the North Texas State Teachers College at Denton, Texas, a teacher-training institution, are representative of the amount of college work required for obtaining different grades of certificates. These requirements are as follows:

Six Year Elementary Certificate. -- A student who completes sixty semester hours of college work, including

English, the required government, and twelve hours of education, may receive a first-class elementary certificate valid for six years.

Four-Year High School Certificate. -- A student who completes the work prescribed in the preceding paragraph may receive a high school certificate valid for four years, provided six hours of the education bear upon the subject of high school teaching.

Permanent Elementary Certificate. -- A student who completes sixty semester hours, including materials of elementary education and practice teaching in the elementary grades, may receive a permanent elementary certificate.

Six-Year High School Certificate. -- A student who completes ninety semester hours of college work, including English, the required government, eighteen hours of education (six hours upon the subject of high-school teaching and three or more hours of practice teaching) may receive a high school certificate valid for six years.

Permanent High School Certificate. -- A student who meets the requirements of the Bachelor's degree and has credits in his course for the required government and twenty-four hours of education, including six hours of high school teaching and a minimum of three hours of practice teaching is entitled to receive a permanent high school certificate.

Special Certificates. -- The certificate law of Texas provides for special certificates authorizing the holder to teach agriculture, home economics, commercial subjects, drawing, expression, manual training, physical education, public school music, instrumental music, vocal music, or foreign language. The minimum requirements for a special certificate are college admission and sixty semester hours of college work, including six hours of English, six hours of education, two hours of Federal and State Constitutions, six hours of a special subject, and, in addition, a minimum of two semester hours in methods of teaching the special subjects.\(^{46}\)

How can educational opportunities of the rural and urban children be equalized? Texas has found this a knotty problem. The cities and towns of Texas, where independent school

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\(^{46}\)Bulletin of North Texas State Teachers College, 1941-42, pp. 46-47.
districts were established, were permitted a higher rate of taxation than the rural districts. Common school districts, it has been stated already, were not allowed to vote a local tax until 1884 and then this was limited to twenty cents and required the approval of two thirds of the tax-paying voters in the districts. In 1900 the schools of the cities and towns of Texas compared favorably with the best in the nation, while the common schools were among the poorest. The scholastic population at this time was 157,631 in the cities and towns and 571,536 in the rural districts. For each scholastic in the rural districts $4.97 was expended for education; $8.36 was spent per pupil in the towns. The average length of a rural school was ninety-eight days while that of the town school was one hundred and sixty-two days. School property in the towns had a valuation of $5,046,461; in the common school districts it was estimated to be $2,648,180. The town buildings represented eight times as much investment per child as those of the rural districts. A fair proportion of the city teachers were trained and received an annual salary of $458.50, while the untrained rural teacher was paid annually $228.82. 47 There were 11,460 rural schools in Texas, 960 of which were ungraded. The town schools were well organized and

47 Frederick Eby, The Development of Education in Texas, p. 216.
supervised, but the country schools were almost entirely
under the management of the county judges, non-professional
men as far as the teaching profession was concerned.

Much improvement in rural schools in every way has been
made since then, but the above figures indicate the dif-
ferences that have existed between the educational oppor-
tunities of the rural and urban children. Texas has made
an effort to equalize the opportunities. The state did
not do this by a reorganization of its entire school system,
but in 1915 an Equalization Law was passed appropriating a
lump sum of money from the state treasury to be used in
aiding the rural schools in the matter of better trained
teachers, better equipment, longer terms, higher attend-
ance, and means of transportation. This fund has been in-
creased biennially until $6,500,000 was appropriated for
each year of the biennium, 1938-40.

Other legal provisions have been made by the state in
an effort to equalize educational opportunities of the
school children of Texas. The law providing for consoli-
dation\(^{48}\) of school districts was aimed principally at this
problem. The small district was unable to supply enough
money for an adequate building, equipment, or a well-trained
teacher. The combination of two or more districts enabled
the construction of a large school plant adequate, at least

\(^{48}\) *Public School Laws of Texas*, p. 117.
to some extent, for the educational needs of the children served.

The establishment of rural high schools was another effort on the part of the state to give the rural child the educational opportunity the children in towns had enjoyed. The rural high school measure permitted the county school trustees to form one or more high school districts by grouping contiguous common school districts having less than four hundred scholastic population and independent school districts having less than 250 scholastic population, for the purpose of establishing an operating rural high school. Legislation also provided that common school districts might be annexed to rural high school districts through election if they so desired. Another act to aid the rural children was the high school tuition legislation. Still another help has been the payment of transportation costs of rural high school students to larger school centers.

What should be the material equipment of schools? Texas' answer to this question has been one of a laissez faire policy up until recent date. For a long time, no requirements were made of schools, but each district worked out its own local problem. Of late years, through a system

\[49\textit{Ibid.}, \ p. \ 193. \quad 50\textit{Ibid.}, \ p. \ 206. \quad 51\textit{Ibid.}\]
of grading schools in independent districts, and requiring certain standards in state-aid schools, certain building and equipment requirements have been made. In all instances, however, the requirements dealt with standards and safety and sanitary safeguards; no effort has been made to specify style or type of buildings to be constructed.

From this discussion, it is concluded that the support and control of Texas schools are dual in nature. Both state and local governments participate. The following conclusions have been formulated:

1. The local unit employed in Texas for educational organization and administration is the district.

2. The State of Texas provides for uniform bookkeeping, accounting, and statistical returns from the school districts. It does not provide the kinds of schools which may be established, and it has no direct provision for minimum terms. It does require standards for the certification of teachers, supervision of instruction, the general nature of the instruction to be given, sanitary standards, minimum rates and forms of taxation, and compulsory school attendance. The state has no child-labor laws and it does not directly prescribe minimum salaries.

3. The school income for Texas is derived from an ad valorem tax, poll tax, occupation tax, and a severance
tax on natural resources. The money is apportioned on the basis of the number of scholastics enumerated in a district.

4. The chief administrative officer of the public schools of Texas is chosen by popular vote biennially. The minor administrative officers, the state board of education, are appointive.

5. The duties of the state board of education for the public schools are the apportionment of the school funds, the selection of textbooks, selection of standards for the certification of teachers, and the investment of the permanent school fund.

6. Texas requires its teachers to have definite amounts of training before they can teach in the public schools.

7. Texas has endeavored to equalize the educational opportunities of the rural child with the urban by granting state aid, the establishment of rural high schools, the payment of tuition, and transportation from rural to urban districts.

8. The material equipment of its schools is not specified by Texas in any definite legislation, but indirectly, the state requires certain standards.
CHAPTER IV

APPLICATION OF CRITERIA TO LEGAL PROVISIONS FOR STATE ADMINISTRATION OF PUBLIC SCHOOLS IN TEXAS

The criteria set up for a good state administration of a public school system stated that the best local unit to employ for educational organization, administration, and supervision is the county. In regard to organization and administration, Texas uses the district as the local unit. Each county usually contains a number of common school districts under the supervision of the county board of trustees. The number of such districts varies from one to more than 100 in different counties. In addition, each of these common school districts has its own separate board of school trustees consisting of three members in most cases; however, when a rural high school or a consolidated school district has been established, the board for such a district is frequently composed of seven members. The same is true for independent school districts. In all cases, the board of trustees has the power to control the public schools and school grounds, to determine the number of schools and their locations in the district, to determine when the schools shall open and close, to employ and dismiss teachers, and to supervise the schools in the districts.
Under this setup, educational efficiency is hampered and often not achieved at all. The division of authority creates confusion. With the small district system, there can be no adequate enlargement of the schools, no enrichment of the curriculum; and meagre financial resources make it impossible to establish and maintain an adequate school plant.

Texas, in the selection of the local unit for the organization, administration and supervision of schools, does not meet the criteria selected for the study.

In the relation of the state to the different subordinate school administrative units, Texas has a dual system. In some respects, the state has direct control over its educational administration, and in others it does not. Texas requires a uniform system of reports and statistical accounting, standards for the certification of teachers, general uniformity in the nature of the instruction, and compulsory school attendance. In these respects it meets the criteria.

Texas also prescribes the minimum rates and forms of taxation for the support of the schools. It meets the criteria to this extent, but it does not meet the requirements for the selection of taxes nor the apportionment of funds. Texas has always depended on the ad valorem tax as the chief support for public education. When this has
depreciated for various reasons, and when it proves inadequate, special taxes of various kinds have been levied. Due to the rich natural resources of Texas, these special taxes levied on occupations and severance of natural resources, the school system of Texas has had adequate funds for the past few years. But natural resources are capable of being depleted or withdrawn from use, and the school system would lose its most prolific source of revenue. Texas, in its selection of a basis for school income, does not meet the criteria set up for a good state administration of public schools.

Then, too, Texas has used the number of scholastics in a school district as the basis of apportionment of funds. It is true that this has been offset to some extent by the indirect methods of requiring daily attendance standards for payment of state aid, but the fact remains that the school census is the main basis for apportionment of Texas school funds. The census, in many instances, is inaccurate, it furnishes an opportunity for fraud and padded rolls, and it very often has little relation to the number of pupils actually in school. In its method of apportionment of school funds, Texas lacks a great deal of meeting standard requirements.

Texas, too, is lacking in fixing minimum salaries and minimum school terms by direct legislation. Instead of
reorganizing the school system, the state has endeavored by subterfuge to gain these ends. In the independent school districts, the state department provides for the classification of schools. Schools that have certain qualifications and meet certain requirements are ranked in Class A; schools that meet these requirements and qualifications in lesser degrees have lower classifications. For example, a school-house must have certain kinds of heating equipment to get a certain classification; indirectly here the state sets up standards for the schools to meet. In providing rural or state aid the state department again sets up requirements. A district must vote a certain tax levy, it must have a specified minimum term, the teachers must have certain training and qualifications, and the salary scale must conform to certain standards. These things are all well and good; perhaps it is the only way the state department of education has had of imposing standards on schools, but the legislation should be direct and not a subterfuge.

Texas selects the administrative officer of its public schools by elective means. Each biennium the superintendent must make a campaign for election or reelection as the case happens to be. Voters, as past history will vouch for, have not always been able to discern the qualities of a good school administrator or other type of officer by popular vote. Then, too, the elective method of choosing the
superintendent narrows the choice of a man to the confines of the immediate state. Texas, or any other state, needs the best man possible for the office; there are certain qualifications and training that need to be met -- qualifications that the average voter is not capable of passing upon. Texas falls far short of the criteria in her method of choosing the main administrative officer of her public school system.

The Texas State Board of Education is appointive. It must be composed of educators. The members hold office for six years, and terms are overlapping. The duties of the state board, however, as far as the public schools are concerned, are light. The board apportions the state school funds, invests the permanent school funds, and chooses the textbooks for the use of the school children of the state. The criteria recommend that the administration of the public school system be centered in the hands of the state board of education. It should have the power to choose a superintendent of instruction, who would serve as secretary of the board. The board should be composed of lay members who would represent the whole people and not just a professional group. It should determine policies, should have general supervision and inspection of the entire educational system of the state, and should have the distribution of all school money appropriated. It should be a
 legislative body, and its appointed officers the ones to execute the orders of the board.

The Texas State Board of Education, it will be seen, does not meet a great many of these requirements. Perhaps the most serious lack is that of the power to choose a state superintendent of public instruction rather than leave his choice to a vote of the citizens.

Texas has a very high standard for the certification of teachers. The criteria disapprove of permanent certificates where active service is not given; but outside of this, Texas adequately meets the criteria for teacher requirements.

In order for Texas to equalize the educational opportunities of its children, the whole state system of schools needs to be reorganized. The methods of supporting the schools need especial attention. The practice of allowing individual districts to determine the amount of money they can spend for education has resulted in a wide variation in the schools of Texas. The cities and towns, with greater ad valorem tax resources, have been able to build splendid school systems, while the rural districts, with little tax resources, have been able to provide in many instances only the most meagre equipment and maintenance. The consolidation provisions, the state or rural aid, tuition aid, and transportation aid have improved the conditions of rural
schools, but Texas has a long way to go before equalization
of educational opportunities for its children are achieved.
Most certainly Texas does not meet the criteria for equali-
zation of educational opportunities.

In regard to the equipment of schools, Texas again
fails to meet the criteria in all respects. Generally
speaking, however, the state indirectly controls and
sets up standards for building and equipment that the
schools meet. Sanitary arrangements, lighting, ventila-
tion, and fire control are all standard in the erection
of buildings, and conform to the building codes.

In the concluding chapter the conclusions reached from
the study will be presented. Recommendations, where thought
needed, will be made.
CHAPTER V

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

In making this study of the criteria of a good state administration of a public school system and the legal provisions for education in Texas, the following conclusions have been reached:

1. Texas does not meet the criteria in its choice of the small district as the local unit for the educational organization, administration, and supervision.

2. In the relation of the state to the different subordinate administrative units, Texas meets the criteria in regard to record keeping, general nature of the instruction to be provided, standards for the certification of teachers, and compulsory school attendance. In regard to a minimum length of term and minimum salaries, the state fails to measure up to the criteria.

3. Texas has used the ad valorem tax as its main basis for support of education. Within late years, taxes on natural resources and occupations have yielded the major portion of the state school revenues. The uncertainties of the yield from these resources makes these methods improper, and in this respect Texas' methods of taxation do
not meet the selected criteria for a good state administration of public schools.

In its apportionment of state school funds, Texas uses the scholastic census as a basis. Authorities agree that this is one of the worst forms of apportionment. Decidedly, Texas does not meet the criteria in this respect.

4. The state administrative officer of the public school system is chosen by vote of the people. In this respect, Texas again fails to meet the selected criteria.

5. The duties and rights of the Texas State Board of Education are mostly supervisory. The board has little legislative or policy-forming power, and has but little control over the superintendent of public instruction. According to the criteria, the board should be the head of the administrative system of public schools, and the superintendent its executive secretary and appointee. Texas does not meet this criterion.

6. In the selection of standards and requirements for certification of teachers, Texas adequately meets the requirements selected as a standard.

7. Despite state interest and efforts to help, there is a wide discrepancy between the educational opportunities of the rural and urban children. Texas has woefully failed to equalize these opportunities.

8. Texas, in general, meets the standards set up for the material equipment of schools.
Recommendations

The following recommendations are offered:

1. The specific provisions for education in the Texas Constitution should be removed. They are obstructive and often block the path of remedial legislation. A constitution should merely lay down the general principles and make the support of education a mandatory requirement of the legislature.

2. The district system as the local unit for the organization, administration, and supervision of the public schools should be discarded. In its place, the county-unit system with one board of trustees should be substituted. This board should select the county superintendent of schools, and it should have supervision of all the schools in the county.

3. The State of Texas should enact direct legislation for the control of the schools and not attempt to control through subterfuge. Minimum length of terms, minimum salaries, and a minimum outlay for each school should be determined.

4. Texas does not necessarily need to change its base for school support, but some definite standard for each school should be determined, and then enough money to meet this standard should be earmarked from the public fund. The local units should be taxed a uniform amount, and when
they are unable to meet the standards, then the state should supply the remainder. The use of the scholastic census as the basis for the apportionment of funds should be discontinued. Some method of apportionment based on the daily attendance of pupils should be substituted.

5. The state board of education should be composed of lay members, representative of all the people. The board should appoint the state superintendent of instruction, but this official should serve as secretary of the board. The board should have supervision of all the schools in the state.

6. Texas should more nearly equalize the educational opportunities of rural and urban children. A minimum standard for all schools should be set, and where a district is not able financially to meet this standard, the state should furnish the additional funds.

7. The state board of education should accurately ascertain the amount of funds necessary for the state to operate for a period of time and then raise the funds required, instead of trying to make the educational system fit a certain amount of money allowed to it.

8. The state system of public school administration should be administered on a sound business basis. The fundamental principles underlying successful business administration should be used as a basis for this system, and then it should be administered according to established business practices.
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