THE DEVELOPMENT OF PUBLIC PROTECTION OF CHILDREN IN KANSAS

by

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To those citizens of Kansas by whose efforts progress in social legislation has been made possible, and in particular to Professor F. W. Blackmar of the University of Kansas.
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I

INTRODUCTION

The source of material which shows most nearly in complete form the continuous development of public protection of children in Kansas is the session laws of the state - a source through which this development can be traced from 1855 up to the present time. These laws owe their significance to the fact that in their growth they represent, generally speaking, the changing attitude of the people of Kansas toward the problem of child welfare. We are compelled to recognize even in a democracy the limitations of this principle that the will of the people is expressed through the laws of the state; but on the whole it may be said to be true in spite of its limitations and its modifications by innumerable complex forces.

The purpose of this thesis is to present the facts with regard to the development of the movement to protect children by means of public regulations. Since the thesis is not meant to be a compilation of laws regarding children, interpretation of the essential elements of these laws has been necessary but all opinions expressed by the writer are merely incidental. Moreover, detailed suggestions for a program of child welfare for the future are beyond the scope of this thesis; all that we can hope to do here is to present the situation as it has been and is from the standpoint of law.
That difficulties should arise in the effort to fulfill this purpose may readily be seen by him who is familiar with the session laws of Kansas or of any other state. Particularly in the early laws of Kansas, the laws of one session are practically a repetition of those of the preceding session of the legislature and yet some minor changes were usually made. Numerous laws, much detailed, were often passed only to be amended or repealed in the year following enactment as readily as they were formed. This difficulty is to be found most emphasized in the laws preceding 1868. An attempt has been made to solve the problem of presenting the facts both in chronological order and in an order classified according to subject matter by striking a medium in which both the element of time and of subject were considered, the facts bearing upon a particular subject being taken up in the order in which they occurred in point of time. Since we have stated that the material of this thesis was taken from the session laws of Kansas, it may be well to mention here the fact that where exception occurs in the footnotes, the general laws being cited instead of the session laws, such exception may be attributed to the fact that the legislature upon a few occasions combined the session laws with the general statutes.

From the standpoint of subject matter, the material used has been classified into the following divisions: State Control of Agencies Caring for Children, including a discussion of the various state boards having general supervision over institutions; Child Labor and Education; Public Protection of the Health of Mothers and Children; Children in Need of Special Care. The last topic covers, first, dependent, neglected, and illegitimate children; second, defective children, physically and mental-
ly; third, delinquent children. The term "protection" as used in this thesis is to be taken in its broadest sense covering both the negative principle of prevention of injury to children and the positive principle of promotion of their welfare.
II

STATE CONTROL OF AGENCIES CARING FOR CHILDREN

In the pioneer days of Kansas the interests of its people were centered upon political and economic problems rather than social. Nevertheless, we find here the germs of ideas later developed into articulate principles applicable to the needs arising out of a growing social consciousness.

There was no central organization in Kansas having general supervision over even a limited number of agencies caring for children until the Board of Trustees of State Charitable Institutions was established in 1873, but there is some evidence that before that date the state was taking some sort of interest in the children within its boundaries. As early as 1859, provision was made in the first census of the territory for the enumeration of minors but there is no reason to believe that this enumeration had any particular significance with regard to the welfare of those minors. In the first census of the state, however, more specific information was desired, for the schedule provided for those attending school, for deaf and dumb, blind, insane, idiotic, and for paupers, and convicts. Again, in the drafting of the constitution for Kansas in 1859, this provision was inserted: "Institutions for the benefit of the insane,

1General Laws, Territory of Kansas. 1859 - Ch. 23, Sec. 2.
2Laws of State of Kansas - 1865 - Ch. 20 - Section 17.
blind and deaf and dumb, and such benevolent institutions as the public 
good may require shall be fostered and supported by the state." This 
examples serve to show that state supervision was the result of a gradual 
development, having its origin in ideas of lesser importance.

But as we have said, the first really noteworthy advance toward 
state control was made in 1873 in the provision for a board of trustees, 
consisting of six persons *(changed to five in 1876)* appointed by the 
governor with the consent of the Senate - this board to control the asy­
ylum for the deaf and dumb, asylum for the blind, and the asylum for the 
insane. Efficiency in management was at least partially promoted by al­
ternate retirement from office by these officials. It was specified that 
the board of trustees was to have power to make and enforce necessary reg­
ulations for the management of institutions over which they had control 
and to appoint all officers, employees, and teachers of said institutions.
In addition to the provision for a board of trustees this act established 
a commission of three citizens of Kansas whose business it was to visit 
twice a year the State Penitentiary, the Asylums for the Insane, Blind, 
Deaf and Dumb, and the State Colleges. This last section, however, was 
repealed in 1875.

Instead of establishing state institutions and providing for 
careful state supervision of charitable and educational work. Kansas at

1 Constitution of the State of Kansas - Article 7 - Sec. 1.
2 Session Laws of 1876 - Ch. 130 - Sec. 1.
3 Laws of the State of Kansas - 1873 - Ch. 135 - Sec. 3.
4 " " " " - 1873 - Ch. 135 - Sec. 4.
5 " " " " - 1873 - Ch. 135 - Sec. 13.
6 " " " " - 1873 - Ch. 135 - Sec. 12.
7 Session Laws of 1875 - Ch. 141 - Sec. 1.
* Among the members on this first Board of Trustees were J. C. Wilson of 
Muscotah; P. P. Elder of Ottawa, and W. B. Barnitt of Hiawatha.
first left much of this work to communities, private organizations and individuals. To encourage private enterprise in this respect an amendment to the constitution was proposed in 1879 embodying the idea of exemption from taxation of property used exclusively for educational, benevolent and charitable purposes. This idea which had its beginning here persists in the laws of Kansas up to the present time.\(^1\)

In 1895, an attempt was made by the state to link its activities in the field of social welfare with the national movement by extending to the National Conference of Charities and Corrections an invitation to hold its twenty-third annual session in Kansas. The reason for this invitation was stated clearly as being because the National Conference of Charities and Corrections affords opportunity for a comparison and study of the methods employed in other states in the care, treatment, and disposition of the dependent, defective, and delinquent classes of population, which may be utilized for public good.\(^2\) We have here the beginning of the idea of investigations and research for the purpose of discovering and applying scientific methods in the treatment of dysgenic classes.*

In the code of charities and corrections of the State of Kansas of 1901\(^3\) we find detailed provision for state control and specific statements as to the attitude of the state upon the matter of public supervision of the classes of its population needing special supervision. In the first place the Board of Trustees of State Charitable Institutions was

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\(^1\) Session Laws - 1879 - Ch. 164 - Sec. 1.
\(^2\) " " - 1895 - House Resolution #31, p. 556.
\(^3\) " " - 1901 - Ch. 353.

* The National Conference did not actually hold a meeting in Topeka until the spring of 1900. In the winter of the same year the Kansas Conference of Charities and Corrections held its first meeting for organization under the direction of Professor F. W. Blackmar of the State University. The Kansas Conference of Charities and Corrections is now known as the Kansas Conference of Social Work.
superseded by the State Board of Charities and Corrections. This board, like the old, was to consist of five members appointed by the governor with the consent of the Senate and was to hold office for four years, but it differed in that its duties were increased and powers extended to cover the control of the School for Feeble-minded at Winfield, the Soldiers' Orphans' Home at Atchison, the Boys' Industrial School at Topeka, the Girls' Industrial School at Beloit, and other charitable and reformatory institutions in addition to the State Hospitals (formerly known as State Insane Asylums), the School for the Blind and School for the Deaf. The Industrial Reformatory at Hutchinson was not under the control of this board. It is interesting to note that here institutions other than those of the state were brought under state supervision for the law states that visits were to be made annually by some member of the board to jails, county poorhouses and lockups — undesirable political influence was guarded against in this act by means of the requirement that qualifications for positions as superintendent, officers, teachers, and employees in these institutions were to be determined by the civil service examination. Among the duties of the Board of Charities and Corrections we find that the Board was required to visit and inspect the above named institutions at least once a month, to prescribe the course of study for the Schools for the Blind and Deaf, the Soldiers' Orphans' Home, the Industrial

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1 Session Laws - 1901 - Ch. 353 - Sec. 3.
2 " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " 

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1 Session Laws - 1901 - Ch. 353 - Sec. 3.
Schools for Boys and Girls, and the Asylum for the Feeble-minded;\textsuperscript{1} to make a biennial report to the governor stating conditions of the institutions under their supervision and making such recommendations as they might see fit.\textsuperscript{2} The power of this Board over insane is of interest to us because of the bearing of insanity among parents upon mental strength or weakness of their offspring. We find that this board was to have jurisdiction over all insane both in asylums and out of them. It was to make rules for the licensing of all houses in which any person insane or of unsound mind might be detained and for withdrawing license for just cause; for visiting and inspecting all private asylums in which insane persons were detained; and, for supplying the Board with information from the managers of institutions regarding valuable data.\textsuperscript{3} Further concerning insane allowance was to be made to each county for destitute insane if admission to a state hospital had been refused them for want of room.\textsuperscript{4} Patients could be discharged from the state hospitals by the Board of Charities and Corrections because not insane, recovered from insanity or improved so far as to be able to care for themselves; because friends requested their discharge and the superintendent judged that no evil consequences would result; because there was no prospect of further improvement of the patients and the space occupied by incurable and harmless patients was needed for unsafe and curable; or because released on parole by the Board.\textsuperscript{5} We find here no indication that the state recognized the dysgenic effect upon the future

\textsuperscript{1}Session Laws - 1901 - Ch. 353 - Sec. 22.
\textsuperscript{2} " - " - " - " - " - " - " 33.
\textsuperscript{3} " - " - " - " - " - " 27
\textsuperscript{4} " - " - " - " - " - " 65
\textsuperscript{5} " - " - " - " - " - " 71
generation of lack of restraint of individuals bearing a taint of insanity. The purpose of any restraint whatsoever was here humanitarian from the standpoint of the individual patient and possibly in addition a safeguard to society against physical injury by dangerous insane.

Finally, the Board was to designate one person in each county as a visiting agent having local supervision over indentured pupils of the Industrial Schools and Soldiers' Orphans' Home. If upon investigation the pupil was found to be improperly provided for, this agent was to report the fact to the Board of Charities and Corrections. The agent was also to seek out suitable persons willing to receive indentured pupils from the Industrial School or the Soldiers' Orphans' Home. In 1903 the last named provision was amended to the effect that the superintendent of the respective institution superseded the agent in the work of finding persons who desired indentured pupils, and the original provision was then repealed.

This method of state control lasted only four years and was then replaced by the Board of Control of State Charitable Institutions. No change was made here in the institutions under supervision, the method of appointment or term of office. Greater centralization of power was sought and secured in the reduction of the number of board members from five to three. Provision was made that the whole board was to visit and inspect without notice the state institutions under its control and that the board or some member of the board was to visit these institutions

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1 Session Laws - 1901 - Ch. 353 - Sec. 44
2 " " " - " - " " - " 46
3 " " " - 1903 - " 482 - " 6
4 " " " - " - " " - " 8
5 " " " - 1905 - " 475 - " 1
6 " " " - " - " " - " 1
7 " " " - " - " " - " 10
at least once a month. To encourage the cooperation of the citizens of the state and state boards other than the Board of Control in this supervision, the governor was given the power to appoint two women whose business it was to visit the institutions and report upon the conditions there and who had power to call upon two members of the State Board of Health to investigate the physical condition of the inmates and sanitation about the buildings and grounds.

What interests us most about this act, however, is such a statement as the following: "The Board of Control shall gather information embodying the experience of charitable and reformatory institutions in this and other countries regarding the best and most successful methods of caring for the insane, imbecile, and other defective classes; and it shall encourage and urge the scientific investigation of the treatment of insanity and epilepsy by the medical staff of the insane hospitals and the institutions for the feeble-minded and shall publish in their annual reports the result of such scientific and clinical work being done in said institutions." Again, "That the result of state control of charitable and reformatory institutions in Kansas shall be to diminish pauperism, defectiveness and degeneracy, the Board of Control may make a special investigation of the conditions, cause, prevention, and cure of crime, pauperism, insanity, epilepsy, imbecility, evil home conditions, defectiveness and degeneracy, and the board shall have power when it deems necessary or advisable to employ an expert investigator to aid them in such investigations." Finally, "that the humanitarian side of charities and corrections
shall not be neglected, the board shall give special attention to the methods of care and treatment of the inmates of the several institutions under their control and shall exercise a careful supervision of said methods to the end that the best treatment and care known to modern science shall be given said inmate.\textsuperscript{1} The object of the act was specifically stated to be chiefly this: to place charitable institutions under one management; to secure economical administration of the affairs, and to keep such records as would show the cost of maintenance of the institutions and the per capita cost of maintaining the inmates.\textsuperscript{2}

These principles here expressed embody the modern viewpoint. The old laissez-faire attitude toward degeneracy has given way to a desire for investigation concerning its source. We have in these statements a combination of the humanitarian attitude with the scientific toward the treatment of the dysgenic classes; prevention and cure have taken the place of punishment and an indifferent acceptance of existing conditions; the possible influence of both heredity and environment is at least partially conceded and the state professes to be open to conviction upon the matter of origin of degeneracy; finally, the importance of research and expert investigation is recognized. To be sure, these principles are to some extent only theory but we hold that the development of theory and practice go hand in hand and that a sound theory resulting from partially successful experience in turn precedes the practical application of sound principles.

In 1907, there had been an indication that these principles were being disseminated among the people of Kansas for the Kansas Association of Charities

\begin{footnotes}
\item[1]Session Laws - 1905 - Ch. 475 - Sec. 29.
\item[2]" - " - " - " - " 51
\end{footnotes}
and Corrections, * an organization composed of and supported by private citizens of the state interested in the welfare of society, expressed among the purposes for which it stood the following: to make a statistical study of conditions in charitable and correctional institutions in Kansas; to study improved methods of management of such institutions; to organize all workers in charitable and correctional affairs into a single body; to assist the officers of these institutions through favorable legislation and education of the people of Kansas in matters connected with these institutions; to encourage scientific research regarding the treatment of dygenic classes; to promote reform and self-support among inmates of these institutions; to ascertain the prevalence of degenerate classes outside of institutions and secure proper care for them; to prevent evil political influence upon the charitable affairs of the state; and to secure prevention of degeneracy.¹ The state gave official support to this organization in 1907 when the legislature approved the principles for which the association stood and provided for the publication of five thousand copies of the proceedings of its annual conference.² This cooperation between the government officials and an organization composed of private citizens was most commendable and helpful to the development of an intelligent public opinion and the initiation of progressive legislation. An understanding of social problems is so diffused among the citizens who remain at home to exercise their influence through the right to vote rather than through actual administration of charitable and correctional affairs.

¹ Session Laws - 1907 - Ch. 391.
² " " - " " - " " Sec. 1

* This Association was also known as the Kansas Conference of Charities and Corrections and later as the Kansas Conference of Social Work.
The extension of public control and support to private charitable institutions is seen when in 1909 the state provided that all private charitable institutions of the state receiving state aid were subject to the Board of Control as state institutions\(^1\) and when appropriations were made to not less than forty-one different private institutions.\(^2\) In 1921, again a law was passed reiterating the fact that private institutions were to be supervised and inspected in the same manner as public charitable institutions and were to receive state aid. In this case, however, the power of the Board of Control was replaced by the State Board of Administration.\(^3\)

Under the State Board of Charities and Corrections and the State Board of Control of State Charitable Institutions no provision was made for the management of the State Penitentiary and the Kansas Industrial Reformatory at Hutchinson.* Hence in 1911, these two institutions were placed under a Board of Penal Institutions,\(^4\) the Board of Penal Institutions being superseded by the State Board of Corrections whose control was extended to include the State Industrial School for Boys and the State Industrial School for Girls.\(^5\) This move was far from commendable because it classified the Industrial Schools for Boys and Girls with the State Penitentiary and Industrial Reformatory and placed upon the former the stigma of criminality. Then too, this law hindered the steady progress

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1 Session Laws - State of Kansas - 1909 - Ch. 1 - Sec. 1
2 " " " " " " " " " " " " 2
3 " " " " " " - 1921 - " 31 - " 1
* The original bill organizing the State Board of Control included under the jurisdiction of this board the State Penitentiary and the State Reformatory.
4 Session Laws - State of Kansas - 1911 - Ch. 298 - Sec. 2
5 " " " " " " - 1913 - " 289 - " 2
of the state toward a centralized, efficient means of control.

That this move was only a temporary relapse is indicated by the fact that the new system lasted only four years and was then in 1917. canceled by the organization of the State Board of Administration. This board, which is the present means of state control, was to be composed of four electors, three of whom were to be appointed by the governor, the fourth being the governor himself acting as chairman. The Board of Administration was given control and management of all benevolent, educational and penal institutions of the state. The board was to employ a business manager for all the state institutions, who, advised by the board and responsible to them, was to control and manage those institutions. The Board, however, had power to make the rules for the manner of administration. The purpose of this act was to employ an expert for the business and scientific management of state institutions and to place the educational, benevolent, and penal institutions under one management for the orderly and economical administration thereof.

Perhaps most significant of all provisions for state supervision of the interests of children particularly is the bill passed by the legislature of 1921, providing for the establishment of a Bureau of Child Research at the University of Kansas. The purpose of this bureau is given as "the study of the problems of the child life of the State, including studies as to the diagnosis, treatment, and prevention of delinquency, de-
fectiveness, and dependency; studies in normal inheritance, development and training; studies of family and community life in their relation to child life." The purpose here expressed is in principle the same as that outlined in the bill of 1905 providing for the organization of the State Board of Control. However, by 1921 the general principles of 1905 were directed specifically toward the welfare of the children of Kansas. The principle of prevention, rather than cure, had found its practical application in a movement to emphasize the importance of normal childhood resulting from normal inheritance and normal environment.

The administrative offices of the bureau were to be located at the University of Kansas, but the co-operation of other state schools, state hospitals and institutions was encouraged. The bureau was to have a director recommended by the Chancellor of the University and appointed by the Board of Administration and was to be provided with the necessary personnel and equipment.

Unfortunately, the legislature which passed this bill failed in one important detail - the appropriation of funds for the fulfillment of the purpose of the law. The existence of the law, however, may be considered a step toward the desired end and sooner or later with the proper insistence on the part of socially minded men and women the Kansas legislators will no doubt make the necessary appropriations to carry out the project, which, we believe, marks the beginning of a new era for the children of the state.

1 Session Laws - 1921 - Ch. 282 - Sec. 1
2 " " - " - " " - " 2
3 " " - " - " " - " 3
III

CHILD LABOR AND EDUCATION


Protection of children in labor in Kansas is a comparatively recent development, perhaps because child labor has not been a great menace in a state where manufacturing towns are not numerous even now.

The first provision against child labor developed out of an enactment for the safety of persons employed in coal mines, passed by the legislature in 1875, which required that owners or lessees of coal mines in the state which were worked by means of a shaft must construct an escapement shaft for the safety of miners.¹ A similar act providing in greater detail for the health and safety of persons employed in coal mines was passed in 1883,² and in this act, only incidentally, however, we find the first statement directed specifically against child labor:

"No person under twelve years of age shall be allowed to work in any coal mine, nor any minor between the ages of twelve and sixteen years unless he can read and write and furnish a certificate from a school teacher, which shall be kept on file, showing that he has attended school at least three months during the year." If a minor applied for

¹ Session Laws 1875 - Ch. 115
² " " 1883 - " 117
work the agent of the coal mine employing him was under obligation to see that the provisions of the section were not violated. Wilful violation of the act on the part of the agent of the coal mine was punishable by a fine not exceeding fifty dollars for each offense. Since this provision stood alone and seemingly no thought was given to child labor for several years. The probability is that the law was not strictly enforced. However, in 1898, we find a provision that laws regulating the employment of children, minors and women were to be enforced by the commissioner of labor statistics, "children" being defined as minors under fourteen and "minors" as a male person under the age of twenty-one or female under eighteen.

No law directed purposely and solely against child labor was enacted until 1905, when employment of children under fourteen in factories, packing houses or mines was forbidden. In addition, no person under sixteen was to be employed at work dangerous to life, limb, health or morals. Persons or corporations employing children were required to secure from school authorities, or where that was impossible, from parent or guardian, age certificates of children employed, which certificates, were to serve as means of protection for the employer against the law. The duty of enforcing this law was delegated to the state factory inspector and state inspector of mines, and violation of the act was made punishable by a fine of not less than twenty-five dollars nor more than $100, or imprisonment in the county jail for not less than thirty days nor more than ninety days.
This law of 1905 was, however, repealed four years later, and superseded by another similar law covering a wider field of application. Here no child under fourteen was to be allowed to work in connection with any factory, work shop not owned or operated by the parents of the child, theater, packing house, elevator or mine. Moreover, no children were to be employed in any service whatsoever during the session of the public school in the district in which they lived. Children under sixteen employed in the occupations mentioned above or in delivering messages or merchandise were limited in the hours of work from seven o'clock in the morning to six in the afternoon, and in time to eight hours a day, or forty-eight hours a week. Again, provision was made that no person under sixteen was to be employed in work or place dangerous to life, limb, health or morals. Age certificates were again made a requirement, stating the age of the child and giving also a description of the child. The previous provision for the enforcement of the act and punishment for its violation were reiterated.

Then in 1915 in an act creating an Industrial Welfare Commission we find the statement: "The State of Kansas exercising herewith its police and sovereign power declares that inadequate wages, long continual hours, and unsanitary conditions of labor, exercise a pernicious effect on the health and welfare of women, learners, and apprentices, and minors."
Employment of these classes under conditions of labor injurious to their welfare, at wages insufficient for maintenance and hours inconsistent with health was made unlawful.¹ The Industrial Welfare Commission, a committee holding office for four years and consisting of the commissioner of labor and two others appointed by the governor, one of whom was to be a woman, was given the power to establish standard of wages, hours and conditions of labor for women, learners, apprentices and minors,² and in order to accomplish this purpose intelligently the commissioner might make investigations concerning the working conditions of these classes. This investigation became obligatory upon a request for the same from twenty-five persons engaged in an occupation in which these classes were employed,³ and to facilitate this investigation by the commission employers were required to keep a register of their employees open to perusal by the commission.⁴ If after the commission had made its investigation it found that wages, hours, and other conditions were detrimental to the welfare of the employees, it was to establish a "board" consisting of three representatives of employers in the occupation investigated, three representatives of the employees and one or more neutral persons, representatives of the public.⁵ This board was to decide upon minimum wage, standards of hours or sanitary conditions with reference to the case in question, basing its decision upon information furnished by the commission, and was then to submit their decision to the said commission⁶ for approval and enforcement.⁷ The term

¹ Session Laws of 1915 - Ch. 275 - Sec. 2
² " " " - " " - " 3
³ " " " - " " - " 5
⁴ " " " - " " - " 6
⁵ " " " - " " - " 8
⁶ " " " - " " - " 9
⁷ " " " - " " - " 10
"minor" here meant any person under eighteen; "women" meant any female over eighteen; "learner" and "apprentice" referred only to learners or apprentices who were minors or women. Any employer employing any of the classes mentioned under conditions herein forbidden by the commission was punishable by a fine of twenty-five dollars to one hundred dollars and any woman, minor, learner or apprentice compelled to work at a wage below the minimum or for a longer time than the number of hours fixed by the commission might recover in civil action the compensation due her.

This law of 1915 was amended in 1921 when the jurisdiction which had been conferred upon the Industrial Welfare Commission was given to the Court of Industrial Relations, which court had been created in the year preceding the above named amendment. Since the Court of Industrial Relations was not directed specifically toward the improvement of labor conditions among children, it cannot be discussed here in detail. In the amendment of 1921, the court of Industrial Relations was given the power of the Welfare Commission to establish proper conditions of labor for women and children, to inspect the registers required to be kept by employers; to make necessary orders for improvement of labor conditions after all persons interested had been given a hearing at a public meeting. The corresponding sections of the law of 1915 were then repealed together with all those sections of that law above discussed except for the first two stating the policy of the commission and that which pro-

1 Session Laws - 1915 - Ch. 275 - Sec. 13
2 " " - " - " " - " 17
3 " " - 1921 - " 263 - " 1
4 Laws of the Special Session of 1920 - Ch. 29.
5 Session Laws - 1921 - Ch. 263 - Sec. 3
6 " " - " - " " - " 4
7 " " - " - " " - " 5
vided for compensation to the employee who had worked at a wage below the
minimum.

The child labor law of 1909 was repealed in 1917 and a new law passed to take its place. Again, the number of occupations in which a child under fourteen was forbidden to be employed was extended to include in addition to the occupations mentioned in 1909, mills and canneries, no exception being made for work shops owned or operated by parents of the child. No such children were to be employed in any sort of service during session of school in the district in which they lived; no child under sixteen was to be allowed to work in any mine or quarry or at any occupation dangerous to life, limb, health, or morals; no child under sixteen employed in the occupations included in this law or in carrying messages or employed in a hotel, restaurant, or mercantile establishment was to be allowed to work except between the hours of seven A.M. and six P.M. nor more than forty-eight hours a week. When children under sixteen were employed in any of the occupations here mentioned the employer must first obtain a work permit issued by the superintendent of schools or judge of the juvenile court upon receipt and approval of the following: first, a statement from the person for whom the child was to work giving the occupation at which the child was to be employed; second, evidence that the child had either completed the course of study of elementary schools or had equivalent qualifications provided that a child might be given a permit to work outside of school hours even though he had not completed the

1 Session Laws - 1921 - Ch. 263 - Sec. 8
2 " " - 1917 - " 227 - " 13
3 " " - " - " - " - " 1
4 " " - " - " - " - " 2
5 " " - " - " - " - " 3
6 " " - " - " - " - " 4
elementary school course; and third, evidence that the child was fourteen years old. This work permit was to contain not only the age of the child but, as before, a detailed description of the child, a statement of the proof of age accepted, and verification that the papers required above had been approved and that the child in question had been in person examined by the official. The work permit was to be signed by the child employed. Like the age certificate of the two previous laws, this work permit was the employer's protection against the law. The work permit might be revoked by the commissioner of labor if the moral or physical welfare of the child in question required such revocation. The state factory inspector and state inspector of mines were to enforce this act, punishment for violations of any of the provisions being unchanged since the laws of 1905 and 1909. This law of 1917 is the law in force at the present time.

We find that child labor legislation in Kansas up to date consists, then, chiefly of a single law, in addition to the law establishing an Industrial Welfare Commission — superseded by the Court of Industrial Relations — a single law passed at the late date of 1905, modified in 1909 and again in 1917.

2. Education.

The problem of education was met, to some extent at least, at a much earlier date than the problem of child labor perhaps because the former was more commonly recognized and the need for education was more universal than the need for child labor laws. At any rate, in 1855, when
Kansas was still a territory, her first school laws were adopted by a pro-slavery legislature - copied, however, almost verbatim from the laws of Missouri. It was natural that such should be the situation for the state was then in turmoil and confusion quite incompatible with an intelligent public opinion which should be the cause of legislation. Because the legislature, which passed the laws of 1855, was so obviously representative of only one group and, moreover, was so clearly borrowing laws from another state, it is of little use to dwell upon legislation upon education at that time. However, it is interesting to note that even this early, education of children was considered a matter of importance.

In the first laws of the territory we find in an act concerning apprentices\(^1\) a provision that every master to whom any orphan or poor child was bound out as apprentice must be held responsible for the education of such child in reading, writing and arithmetic, "the compound rules and the rules of three"\(^2\) unless such child was a negro or a mulatto when such education was not required.\(^3\) This exception is easily understood when one knows that both the state from which the laws were borrowed and the legislature in power were pro-slavery in sentiment. In this same act we find that the executor who had been directed by the will of a deceased father to bring up a child to some particular trade might bind such child by indenture.\(^4\) Apprenticeship may be looked upon as the beginning of vocational education - a method of training the importance of which we are beginning to realize again. We find, too, at this time that education was encouraged through the exemption of taxation of school houses and other buildings used for

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1 Statutes of the Territory of Kansas - 1855 - Ch. 6  
2 " " " " " " " " " " - " - " 6 - Sec. 8  
3 " " " " " " " " " " - " - " 6 - " 10  
4 " " " " " " " " " " - " - " 6 - " 20
the purpose of education;¹ that half of all fines and penalties paid into county treasuries were to be used for the support of common schools in the county;² that a school or schools were to be established in each county to be free to all white citizens between the ages of five and twenty-one;³ and that lands granted by United States to the territory for school purposes were to remain a continual fund.⁴ *

In 1857, provision was made that the board of trustees of each school district must report to the board of county commissioners among other points the number of white children in their district over five years of age and under twenty-one, the number taught during the year and the length of the school term.⁵ # This act is an amendment of the last named act of 1855, providing for the establishment of common schools.

In 1858, a law was passed to the effect that the governor was to appoint a Territorial Superintendent of Common Schools,⁶ whose duty it was to recommend approved text-books, to secure uniformity in their use so far as possible, to discourage sectarian instruction and to make efforts to get information as to the improvement of the system of common schools in other states.⁷ He was, moreover, to apportion school moneys among the several counties.⁸ County superintendents were to report to the territorial super-

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1 Statutes of the Territory of Kansas - 1855 - Ch. 137 - Art.I - Sec. 2
2 " " " " " " " " " " " " 143 - Sec. 1
3 " " " " " " " " " " " " 144 - Art. I - Sec. 1
4 " " " " " " " " " " " " 144 - Art. III - Sec. 7
* General Laws - Territory of Kansas -1859 - Ch. 89 - Sec. 1 repeals all laws passed previous to January, 1857.
5 Laws of Kansas - 1857 -(Establishment of Common Schools)
# General Laws - Territory of Kansas 1859 - Ch. 89 - Sec. 2 repeals all laws of a general nature passed at the regular session of the territorial legislature of 1857 except "An act more particularly to define the boundaries of the several counties in Kansas Territory".
6 Laws and Resolutions of 4th Session - 1858 - Ch. 8, Sec. 1
7 " " " " " " " " " " " " 5
8 " " " " " " " " " " " " 9
intendent the number of school districts within the county; the length of
the school term; the number of children taught in each district; and the
number between the ages of five and twenty-one residing in each district.  

The state made no requirement at this time as to the length of the school
term but specified that no district was to receive aid unless school had
been taught in the district for at least three months during the year  

- a negative inducement to be sure and yet an encouragement to the district
to lengthen its school term. Later in the same act, rather inconsistently,
the qualified voters of the district were given the power to determine the
length of school term, which was to be not less than three months.  

Further, all district schools were to be free; district boards might purchase books
for indigent pupils; orthography, English grammar and geography were to be
 taught in addition to the traditional three R's;  

and the district board was to determine what text-books were to be used. Almost twenty years
later the requirement was also made that instruction in these branches must
be in the English language.  

Throughout the legislation of 1859, many previous laws having been repeal-
ed, we find a great deal of repetition of earlier acts and very little advance.

The law of 1855, concerning education of apprentices, remained unchanged.

1 Laws and Resolutions of 4th Session - 1858 - Ch. 8 - Sec. 16
2 " " " " " " " " " " " " " " " " 17
3 " " " " " " " " " " " " " " " " 44
4 " " " " " " " " " " " " " " " " 71
5 " " " " " " " " " " " " " " " " 68
6 " " " " " " " " " " " " " " " " 70
* In so far as the laws of 1858 are supplied by laws of 1859, they are
repealed by General Laws of 1859 - Ch. 39 - Sec. 3
7 Laws and Resolutions of 4th Session - 1858 - Ch. 8 - Sec. 69
# General Laws of State of Kansas - 1862 - Ch. 4 repeals section 1, 5,
9, 16, 17, 44, 68, 70, 71 - Ch. 8 of Laws and Resolutions of 4th Session
1858 noted above.
8 Session Laws - 1877 - Ch. 170 - Sec. 1
9 General Laws - Territory of Kansas - 1859 - Ch. 13 - Sec. 8
but nowhere in the act of 1859 was exception made of negro children. Voters were still allowed to determine the length of school term to be not less than three months; a report similar to the previous one of 1858 was to be given by the county superintendent to the territorial superintendent; the district board might supply books to children of the poor; the same subjects were to be taught; the district board was to determine the text-books to be used; district schools were to be free to all children between five and twenty-one and no sectarian instruction was to be allowed; the clerk of each district was to make out the tax list of the district based on the assessment roll of the county; and the tax was to be collected by the district treasurer. We see then that the laws of 1859 were in respect to education practically a repetition of previously made laws.

In the state constitution drafted in 1859 we find that some thought was given to education in the territory which was soon to become a state, for here the State Superintendent of Public Instruction was to take the place of the Territorial Superintendent in general supervision of common schools together with the superintendents of public instruction in the various counties; the legislature was to promote intellectual and moral improvement by the establishment of a uniform system of common

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1 General Laws - Territory of Kansas - 1859 - Ch. 116 - Sec. 43
2 " " - " " " " " " - " " - " " - " 16
3 " " - " " " " - " " - " " - " " - " - " 67
4 " " - " " " " - " " - " " - " " - " 69
5 " " - " " " " - " " - " " - " " - " 68
6 " " - " " " " - " " - " " - " " - " 70
7 " " - " " " " - " " - " " - " " - " 79
8 " " - " " " " - " " - " " - " " - " 81

* General Laws State of Kansas - 1862 - Ch. 4 repeals General Laws Territory of Kansas 1859 - Ch. 116 (which includes all the laws of 1859 herein mentioned except the first regarding apprentices)
9 Constitution of the State of Kansas - Article VI - Sec. 1
schools; and the state was to give its support to the common schools by conceding thereto the lands granted by United States, by granting to the school fund all estates of persons dying without heir or will and by fixing a state school tax. No school in which school had not been maintained for three months was to receive such state aid. This state tax for the support of schools which was made permissible by the constitution was made effective by an act of 1861, making the amount of that tax one mill upon a dollar valuation of taxable property and providing for the collection of said tax in the same manner as other state taxes. It may be well to mention that in the state constitution provision was again made that all property used for educational purposes was to be exempt from taxation.

In 1861, a law was passed to the effect that district schools must be equally free and accessible to all children resident therein over five and under twenty-one. Probably the reason for this provision was a desire upon the part of the legislature to protect negro children against discrimination. Two years later the qualified voters of a school district were given the power to make such order as they deemed proper for the separate education of white and colored children, securing to them equal educational advantages. It is interesting to note that in the private laws of 1861 we find in the act incorporating the city of Marysville the provision that black or mulatto children were not to be permitted to attend schools provided for white children but that taxes derived from the property of black or mulatto persons for school purposes were to be appropriated for

1 Constitution of the State of Kansas - Art. VI - Sec. 2
2 General Laws - State of Kansas - 1861 - Ch. 76 - Art. VIII, Sec 5.
3 Constitution of the State of Kansas - Art.XI - Sec. 1
4 General Laws - State of Kansas - 1861 - Ch. 76 - Art. IV - Sec 6
5 " 1863 - " 56 - Sec. 5
the education of their children.\(^1\) Further, in 1865, concerning this same problem, a provision was made in an amendment of an act incorporating cities of the state of Kansas, approved March 4, 1962, that the boards of education might organize and maintain separate schools for white and colored children.\(^2\)

By 1867 district boards were forbidden to refuse admission to any children and the penalty for such refusal was that the board must forfeit to the county the sum of $100 for each child for every month the child was excluded from school during the school term.\(^3\) In 1889, in an act concerning the schools of Wichita, it was specifically stated that there was to be no discrimination on account of race or color\(^4\) but in 1905 Kansas City, Kansas, was given the power to establish separate schools for white and colored children including high schools.\(^5\) These laws on the separate education of white and colored children indicate somewhat the state of confusion in which educational laws of Kansas are at the present time.

So far the movement toward efficiency in the school system had included a great deal of repetition and had been to a great extent, except for the laws providing for state and county superintendents, a matter of sanctioning or encouraging private enterprise and community initiative. One of the big steps toward progress was taken in 1873 when the State Board of Education was created. This Board was to be composed of the State Superintendent of Public Instruction, the Chancellor of the State University, the President of the State Agricultural College and the principals of the State Normal Schools at Emporia and Leavenworth.\(^6\) The

\(^1\) Private Laws of Territory of Kansas - 1861 - Ch. 46 - Sec. 1
\(^2\) Laws of State of Kansas - 1865 - Ch. 46 - Sec 1.
\(^3\) " " " " - 1867 - " 125 - " 1
\(^4\) Session Laws - 1889 - Ch. 227 - Sec. 4
\(^5\) " " - 1905 - " 414 - " 1
\(^6\) Laws of the State of Kansas - 1873 - Ch. 133 - Sec. 1
chief duty of the Board as here stated was to issue state certificates to properly qualified applicants, but at least here was an attempt to secure further state control of education. A change was made in the membership of the State Board in 1893 and again in 1919, when the present membership of the board was specified. It was to consist of the State Superintendent of Public Instruction who was chairman, the Chancellor of the State University, the President of the State Agricultural College, the President of the State Normal School at Emporia, the President of the State Manual Training School at Pittsburg, the President of the Fort Hays Normal School, two county or city superintendents of public instruction, and a county superintendent of public instruction appointed by the governor for a period of two years from any county in which none of the above mentioned institutions was located. In the years following the creation of the State Board of Education its duties were increased. For example, in 1905 the Board was to prescribe a course of study for the public schools of Kansas (remaining within the limits of the law) and was to revise this course of study whenever revision became necessary. Again, in 1915, the State Board was given "exclusive and sole authority to define official standards of excellence in all matters relating to the administration, course of study, and instruction in rural schools, graded schools, and high schools, and to accredit those schools in which the specified standards are maintained".

By 1874 an act was passed requiring the education of all healthy children. It was specified that all children between the ages of eight

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1 Laws of the State of Kansas - 1873 - Ch. 133 - Sec. 2
2 " " " " - 1893 - " 132 - " 1
3 Session Laws - 1919 - Ch. 256 - Sec. 1
4 " " - 1905 - " 387 - " 1
5 " " - 1915 - " 296 - " 8
and fourteen must be sent to school by the person having control over the child for at least twelve weeks out of the year, six of which must be consecutive. Exemption was possible only by consent of the board of the school district or the city upon proof that the parent or guardian of the child was too poor to clothe the child properly; that the physical or mental condition of the child prevented him from attending school or applying himself to study; that he was being given similar instruction at home; that he had already acquired a knowledge of subjects required by law; or finally, that no school was being taught within two miles of the child's home. The parent or guardian who failed to comply with the requirements of this act was subject to a fine of five dollars to ten dollars for the first offence and ten to twenty dollars for every subsequent offence. This law was to be enforced by the school officers. The modifications of this law which were made later may best be considered at this point. The gist of the law to prevent truancy passed in 1903 was this: Every person having control of any child between the ages of eight and fifteen was required to send the child to school during the period of session of the school attended. Exceptions could be made of children, fourteen years of age or more, who were employed for the support of themselves or dependents and who could read and write the English language in which case attendance for eight consecutive weeks was sufficient; of children who were graduates of the common schools; and of children who were mentally or physically incapacitated for the work of the grades, the school authorities in this last case having the right to order examination of

1 Laws of the State of Kansas - 1874 - Ch. 123 - Sec. 1
2 " " " " " " 1874 " " " 2
3 " " " " " " " " " 3
children. For this law was substituted another similar law in 1919. This time the compulsory school age was raised to sixteen so that every person having control over a child eight years old and under sixteen was required to send the child to public, private, denominational, or parochial school. Exemptions to this law remained the same as in 1903.

Enforcement of this law to prevent training was made the duty of a truancy officer appointed by the county commissioners. Parents or guardians who failed to heed within five days the notice of such truancy officer concerning the requirement of school attendance of the absent child were subject to a fine of not less than five dollars nor more than twenty-five. This last part of the truancy law was amended and repealed four years later but little change of essential importance was made except that a provision was inserted to the effect that a district board or board of education might at its discretion permit a temporary absence of children between eight and fourteen in cases of emergency or domestic necessity. It was here stated also specifically that the notice was to be sent when the child had been absent for three consecutive days or more unless excused by the above provision for exemption. By the act of 1903, parents or guardians were held responsible for the regular attendance and good conduct of habitual truants unless a statement was made by them that the child was beyond their control; then, the truant officer was to take up proceedings against the child according to the law governing juvenile persons who are disorderly. As a means of

1 Session Laws - 1903 - Ch. 423 - Sec. 1
2 " - 1919 - " 272 - " 1
3 " - 1903 - " 423 - " 2
4 " - 1907 - " 317 - " 1
5 " - 1903 - " 423 - " 3
checking up on truancy, all teachers in the public schools of Kansas were required to report to the superintendent of the county or the superintendent of the city in which he was employed all absences from school, and, if possible, the reason for such absence. The superintendents in turn were to notify the truant officer. Moreover, the school census must show the name and place and date of birth of every child recorded, the person having control of such child being required to affirm the truth of the record.

Having followed the development of the principle of compulsory education from 1874 to the present time, we may go back to this early date to note the progress being made in the development of other principles essential to high educational standards. In 1876 detailed regulations were formed for the common schools of the state, which were to a great extent a repetition of the past laws and a compilation of them but a few new or partially new principles of progress were introduced. For example, the State Superintendent was to recommend the most approved text-books for the schools of Kansas and was to carry on such correspondence as might help him to compare the school system of Kansas with that of other states. This provision opened an avenue of progress through intelligent comparison of modern standards of education with the standards of Kansas and gave Kansas an opportunity to profit by the example of other states. By this time the system of state organization and uniformity seems to have been fairly well under way. The state superintendent kept in touch with conditions in the state through reports which were

1 Session Laws - 1903 - Ch. 423 - Sec. 5
2 " " - " - " - " - " 6
3 " " - 1876 - " 122 - Art. I - Sec. 3
sent to him by the county superintendents who in turn received their information from the clerks of the various districts. Uniformity in different districts was far from perfect at this time but a suggestion of it came in the provision that the district boards were to require a uniform series of text-books within the district. Not until 1885 was this uniformity extended to counties when provision was made for the organization of county text-book boards. County uniformity became state uniformity upon the creation of a School Text-book Commission in 1897, which was superseded in 1913 by the State School Book Commission. In connection with this last law, provision was made that no school authority was to have power to authorize the use of books other than those designated by the Commission except for reference only.

Again, in the law of 1876, providing for the regulation of schools, we find the germ of consolidated schools which are today making better educational standards possible in rural communities. It was at this time made permissible for two or more school districts to unite for the purpose of forming a graded school and giving therein instruction in the higher branches of education. The movement toward consolidated schools was promoted probably not so much by voluntary, purposeful effort as by existing circumstances. For example, in 1895, school boards were authorized to send children outside their own districts if the number of children was too small and their distance from the school house too great to

1 Session Laws - 1876 - Ch. 122 - Art II - Sec. 5
2 " " - " - " - IV - " 8
3 " " - " - " - " - " 28
4 " " - 1885 - " 171 - Sec. 3
5 " " - 1897 - " 179 - " 1
7 " " - 1913 - " 288 - " 6
8 " " - 1876 - " 122 - Art. VII - Sec. 1
justify the keeping of school in their district. Tuition was at this
time to be paid by the district from which the children came, the dis­

1 trict being entitled, as before, to its portion of the state school

fund. This act was repealed six years later and a new similar provi­sion enacted to take its place.2 Again, in 1899, when adjoining
districts had less than five pupils each the county superintendent was
to combine the two districts, the term of school and the expense of the
same to be divided between them.3 If the pupils lived three or more

4 miles from the school house the school board was to allow to the parents
of such children a sum to pay for transportation of these pupils to and
from school.4 This consolidation, the practical cause of which was de­

5 population of school districts, lead easily to the next step in which dis­

organization became voluntary and the purpose of consolidation became the
formation of a graded school.5 Such a consolidated district was to have

6 a single board of directors6 and the property of each separate district
was to become the property of the union district.7 Transportation of

8 scholars living two or more miles from the school house was to be arranged
by the board of directors.8 This act was amended in 1911 but no essential
change was made.9 However, in the amendment another means of consolida­
tion was made possible - by annexation of a school district to another

10 containing a graded school.

1 Session Laws - 1895 - Ch. 217 - Sec. 1
2 " " - 1901 - " 306 - " 1
3 " " - 1899 - " 177 - " 11
4 " " - " - " - " - " - " 12
5 " " - 1901 - " 305 - " 1
6 " " - " - " - " - " - " 1
7 " " - " - " - " - " - " 5
8 " " - " - " - " - " - " 2
9 " " - 1911 - " 275 - " 1
10 " " - " - " - " - " - " 2
The value of higher education than that of the grade school was beginning to be recognized as early as 1886. At this time an act was passed authorizing the establishment of county high schools, the purpose of which was not only to offer a means of higher education, but to train teachers. These high schools were to offer three courses: the general course, the normal course, and the collegiate course. In 1911, a similar law was enacted authorizing the establishment of township high schools, but this law was repealed four years later and township high schools gave way to rural high schools which might be established in a territory comprising one or more townships or parts thereof. That the state realized the necessity for a broad curriculum in secondary schools, including not only academic but practical training, was indicated by the enactment of several laws closely related in point of time and principle. Industrial education was made possible for many by a law of 1903, which gave to the boards of education of first and second class cities the power to levy a tax for equipment and maintenance of industrial training schools or departments for industrial training in the public schools. To encourage such industrial training state aid was given to these schools. Again, normal training in high schools was encouraged in 1909 by means of state aid to schools maintaining such a course, and in 1913 the requirement was made that schools receiving such aid must also maintain courses in agriculture and domestic science. Closely connected with this enact-

1 Session Laws - 1886 - Ch. 147 - Sec. 1
2 " " - " - " - " - " 11
3 " " - 1911 - " 262 - " 1
4 " " - 1915 - " 311 - " 1
* For present law governing rural high schools see Session Laws -1917-Ch 284
5 Session Laws - 1903 - Ch. 20 - Sec. 1
6 " " - " - " - " - " 5
7 " " - 1909 - " 212 - " 2
8 " " - 1913 - " 48 - " 2
# See also Session Laws of 1921 - Ch. 244
ment in principle was the provision four years later for vocational schools and classes. In this case, however, financial aid came from the federal funds and the State Board of Education merely had charge of the distribution of these funds and the supervision of the schools.

One of the purposes of this act was to co-operate with the state in the preparation of teachers in vocational subjects. With regard to the advance made in secondary education, it is interesting to note that by 1917, too, a law was passed authorizing boards of education in first and second class cities and in county high schools to establish for high school graduates a two-year course beyond the regular high school course if the majority of electors voting on the question favored such extension of the school course.

From 1858 to 1881 the minimum school term had remained at three months but in the latter year the requirement was made that in all school districts in which there was a sufficient school building the minimum school term was to be four months. If the district refused to make provision for four months of school the duty fell upon the county superintendent who must make arrangements for the same, the expense of which was to fall upon the district. By 1903 the requirement of four months of school had been raised to five, and, again, as in 1881, if the district refused or failed to provide for the required term of school, the county superintendent was to make such provision and the

1 Session Laws - 1917 - Ch. 280 - Sec. 1
2 " " - " - " - " - " 2 and 4
3 " " - " - " - " - " 1
4 " " - " - " 283 - " 1
5 " " - 1881 - " 150 - " 1
6 " " - " - " - " - " 2 and 3
7 " " - 1903 - " 431 - " 2
district was to pay the cost thereof.\textsuperscript{1} This law was repealed in 1911 when the legislature made the requirement that the minimum school term for district schools was to be seven months and for first and second class cities eight months.\textsuperscript{3} Steps were taken toward the stringent enforcement of this law by the provision that to districts in which funds were not sufficient to cover the cost of a seven months' school term state aid was to be given to the extent of three-fourths of the deficiency, the remaining fourth being paid by the county, providing that the district receiving such aid had first levied a tax of four and one-half mills upon the assessed valuation of the district.\textsuperscript{4} Upon the failure of the district to comply with this act the county superintendent was to make the necessary arrangements for a seven months' school term.\textsuperscript{5} Toward the enforcement of this act, the state made at this time an appropriation of $150,000 for the two years of 1911 and 1912.\textsuperscript{6} This act was not to apply to districts having less than fifteen children and embracing less than twelve square miles of territory in which case, if the district was unable to maintain seven months of school, the children were to be sent to other districts.\textsuperscript{7}

Other laws on education have been enacted too, which may only be mentioned here, such laws as the law of 1907, which made it permissible for any school board or school district in Kansas to establish free kindergartens;\textsuperscript{8} the law of 1913 which gave to district and city school boards the power to establish free public night schools for persons of fourteen years

\begin{tabular}{lllll}
1 & Session Laws - 1903- Ch. 431 - Sec. 3 and 4 & 10 \\
2 & " - 1911 - " 268 - " & 1 \\
3 & " - " - " & 2 \\
4 & " - " - " & 6 \\
5 & " - " - " & 8 \\
6 & " - " - " & 9 \\
7 & " - " - " & 1 \\
8 & " - 1907 - " 325 - " & 1 \\
\end{tabular}
of age and over not required by law to attend day school; the law of 1919, arising out of the World War, which required absolutely that all teaching in public, private, and parochial schools be in the English language only; and the law of 1913, of educational value indirectly, which provided for censorship of moving picture films by the State Superintendent of Public Instruction and later by the Kansas State Board of Review. Most promising of all these later enactments, we feel, was the resolution passed by the legislature of 1921 to create a State School Code Commission, whose purpose was to be to study "the needs of Kansas in educational matters" and to make necessary recommendations to the next legislature.

This brief survey of the development of the educational system of Kansas indicates that the state in a somewhat incoherent sort of way attempted to express through its laws the realization that education of its youth was of the utmost importance. Through the confusion of details of the laws upon education only partially systematized and correlated, we see the development of certain fundamental principles — a state supervision and support of public schools; free schools for all children of school age; compulsory education; state uniformity of text-books; lengthened school term; extension of high standards of education to all children and increase of school period available; and, finally, a review of all that has been done in the past with a conscious effort to attain to the most acceptable standards of excellency.

1 Session Laws — 1913 — Ch. 267 — Sec. 1
2 " " — 1919 — " 257 — " 1
3 " " — 1913 — " 294 — " 2
4 " " — 1917 — " 308 — " 5
5 " " — 1921 — " 303 — " 1
Public protection of the health of mothers and children is a very recent development. It is a part of the movement toward prevention instead of cure—a principle which only in the last few years has gained real momentum. However, it is true that this principle of prevention did not develop spontaneously, but, like all other principles of child welfare which we have discussed, it had its origin in less commendable but nevertheless valuable ideas.

As we have said, the first laws of the territory were borrowed from Missouri and hence their adoption did not carry with it a great deal of significance, but it is interesting to note that even at this early date a few provisions were made in the interests of the health and person of the child and its mother. In the early laws covering the period from 1855 to 1885 we find most persistently emphasized provisions designed to prevent offences against the pregnant mother or the unborn child and to prevent undesirable marriages. Before these provisions are discussed in any detail, it may be well to mention some laws enacted during this period which seem to have little relation to each other and yet which all bear somewhat upon the subject of health of mothers and children and the protection of their persons. In the laws of 1855, we find such provisions as this: the probate court was to receive complaints of apprentices
against their masters for failure to provide sufficient food and for immoderate correction;\(^1\) homicide, however, was excusable when it was committed in "lawfully correcting a child or an apprentice";\(^2\) rape against a female child under ten or a woman over ten was punishable by confinement and hard labor;\(^3\) poison might not be sold to minors without written request from the guardian of such child\(^4\) and by 1859 neither might liquor be sold to minors without the consent of the guardian.\(^5\) Further, in 1869, no pupil having a contagious disease was to be allowed to attend school while infected with that disease,\(^6\) and in 1873 permission was granted for the formation of private corporations for the maintenance of "facilities for skating and other innocent sports."\(^7\) Intermingled with these sporadic enactments and like them for the most part only half consciously directed toward the betterment of the children of Kansas were the above mentioned provisions against injury to the pregnant mother and the unborn child. The first of these very early provisions was that of 1855, which specified that willful killing of an unborn quick child by injury to the mother was to be considered manslaughter in the first degree,\(^8\) while the use of an instrument or the administering of medicine to a mother to destroy a quick child unless to preserve the life of the mother was manslaughter in the second degree.\(^9\) This law was amended in 1903, the phrase being inserted "if the death of such child or mother thereof ensue

\(^{1}\) Statutes of Territory of Kansas - 1855 - Ch. 6 - Sec. 13
\(^{2}\) " " " " " " " " " " 48 " 5
\(^{3}\) " " " " " " " " " 26
\(^{4}\) " " " " " " " " " 53 " 36
\(^{5}\) General Laws " " 1859 " 91 " 5
\(^{6}\) Laws of the State of Kansas - 1869 - Ch. 86 " 17
\(^{7}\) " " " " " " " " 1873 " 70 " 1
\(^{8}\) Statutes of Territory of Kansas - 1855 - Ch. 48, Sed. 9
\(^{9}\) " " " " " " " " 10
from the means employed. The original law was then repealed.\(^1\) In 1874, advertisement or sale of drugs or instruments used for the purpose of preventing conception or procuring abortion or miscarriage was made punishable by fine or imprisonment.\(^2\)

It is interesting to note that in the very first laws of the Territory of Kansas opposition was expressed against consanguineous marriages, marriages between parents and children, grandparents and grandchildren, brothers and sisters, uncles and nieces, aunts and nephews, step-father and step-daughter, and step-mother and step-son being forbidden by law.\(^3\) A similar law was passed in 1858, with the difference that the marriage of step children with parents not related by blood was not forbidden.\(^4\) Any one contracting or solemnizing such a marriage was punishable by fine or imprisonment or both.\(^5\) Marriages among minors without the consent of the parents or guardians was also forbidden - a minor being a male under twenty-one or a female under eighteen.\(^6\)

These laws against marriage among relatives and among minors had probably their origin in custom and tradition rather than in a scientific understanding of the consequences of such marriages to posterity. These laws were all repealed and re-enacted in 1859. Again, eight years later these re-enacted laws were superseded by other marriage laws slightly different in detail. The relatives forbidden to marry were then parents and children, grandparents and grandchildren, brothers and sisters, uncles and nieces,

\(^1\) Session Laws - 1903 - Ch. 214  
\(^2\) Laws of State of Kansas - 1874 - Ch. 89 - Sec. 1  
\(^3\) Statutes of Territory of Kansas - 1855 - Ch. 108 - Sec. 2  
\(^4\) Laws and Resolutions of the 4th Session - 1858 - Ch. 49 - Sec. 2  
\(^5\) Statutes of Territory of Kansas - 1855 - Ch. 108 - Sec. 4  
\(^6\) " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " 

\(^{1}\) For repetition of above laws, see General Laws, Territory of Kansas - 1859, Ch 13, Sec. 12; Ch. 28, Sec. 5,9,10,250; Ch. 93, Sec. 2,3,6.
aunts and nephews and first cousins. 1 Contracting or solemnizing such marriage was punishable by fine or imprisonment or both. 2 A minister or judge who married any person without a license was punishable by a fine. 3 Finally, the law of 1859, upon this subject, was repealed. 4 The only material change which has been made in the marriage laws of Kansas concerns the requirements in the issuance of marriage licenses. In 1905, provision was made that no probate judge was to issue a marriage license to a male under twenty-one or female under eighteen without the consent of the parent or guardian and where such consent had been given no license was to be granted to a male under seventeen or female under fifteen without the consent of the judge in addition to that of the parent or guardian. 5 The original section, of which that was an amendment, was then repealed. 6 This law was, in turn amended eight years, the only change made in the earlier law being in the age of the female from fifteen to sixteen in the portion of the law requiring the consent of the judge in addition to the parent or guardian. 7 This law also provided for registration of all marriages in Kansas with the state registrar of vital statistics. 8

In 1885, a step was taken which, though it concerned the welfare of others than children and mothers, was of the utmost moment in the development of state control of health conditions. This act was the

1 Laws of the State of Kansas - 1867 - Ch. 84 - Sec. 2
2 " " " " " " " " " " " " " " " " " " 3
3 " " " " " " " " " " " " " " " " " " 4
4 " " " " " " " " " " " " " " " " " " 14
5 Session Laws - 1905 - Ch. 302 - Sec. 1
6 " " " " " " " " " " " " " " " " " " 2
7 " " " " " " " " " " " " " " " " " " 2
8 " " " " " " " " " " " " " " " " " " 1
establishment of state and local boards of health. The Kansas State Board of Health was to be composed of nine physicians appointed by the governor with the consent of the Senate — physicians who had practiced for seven years continuously and who were noted for their knowledge of medicine and other sciences. The board was to have supervision of the health interests of the state, was to study the cause of disease, investigate the causes of mortality and the effects of environmental conditions upon health, and gather useful statistics upon disease and death. So far as the welfare of children is concerned, perhaps the most important duty of the State Board of Health was the supervision of birth registration, together with the registration of marriages, deaths, and disease, for birth registration is the first essential step in the reduction of infant mortality. In order to secure the most expert assistance the Board of Health was given the power to appoint committees particularly well prepared to give specialized, sanitary service. Co-operation of local communities with the State Board was secured through the appointment of county commissioners as the local boards of health for their respective counties. Each of these boards was to elect one physician to be the health officer of the board. All practising physicians were required to co-operate with the State Board of Health by making a record of deaths which occurred among their patients, noting also the nature and, if possible, the cause of the disease responsible for death. Moreover, township and city assessors were to gather
any information concerning marriages, births and deaths which might be 
required by the State Board of Health. Annual reports were to be made 
by this Board showing records gathered upon vital statistics and the 
sanitary conditions of the state and suggesting legislation conducive to 
better health. It does not seem necessary here to discuss in detail 
the changes made in this law up to the present time, except to mention 
the fact that to the membership of the State Board at first consisting 
of nine physicians was later added a tenth member who was not to be a 
physician but preferably an attorney, who was interested in sanitary 
sciences, and to note that the original power of the state and local 
boards of health which was chiefly that of investigation and advice 
only, later became the power of execution and enforcement of their 
principles.

We have said that upon the establishment of state and local 
boards of health, registration of births and deaths was made a part 
of their duties. By 1911, this registration was no longer an inciden-
tal matter, but was considered important enough to receive special at-
tention in the way of devising a practicable system of such registration. 
The State Board of Health, as before, was to have charge of this regi-
stration and was assigned the duty of uniform enforcement of the law 
in every part of the state, any person violating the law being made sub-
ject to a fine or imprisonment. The Secretary of the State Board of 
Health was to have general supervision over the central division of

1 Session Laws - 1885 - Ch 129 - Sec. 10
2 " - " - " - " - " - " - " - 11
3 " - " - " - 1903 - " 357 - " - 1
4 " - " - " - 1907 - " 383 - " - 1
5 " - " - " - 1911 - " 296 - " - 1
vital statistics, was to have immediate direction of the same - the latter official to be appointed by the State Board of Health. Provision was made for the division of the state into registration districts and for the designation of officials to act as local registrars.

Concerning births, the requirement was made that physician, midwife, parent, person in charge of the property or manager of the institution in which the birth took place must notify the local registrar after the birth occurred.

Closely connected with the State Board of Health, too, - in fact a part of the same organization - was the Division of Child Hygiene created in 1915. This new development out of the State Board of Health was probably the most progressive step taken by the State of Kansas toward better health conditions for children. The general duties of the Division of Child Hygiene were to include "the issuance of educational literature on the care of the baby and the hygiene of the child, the study of the causes of infant mortality and the application of preventive measures for the prevention and suppression of diseases of infancy and early childhood." The establishment of the State Board of Health and the organization of a system of registration of births and deaths had for their purpose the general supervision of the health interests of the state and were the forerunners of the Division of Child Hygiene. The creation of the Division of Child Hygiene, however, shows the awakening interest of the people of Kansas in the need

1 Session Laws - 1911 - Ch. 296 - Sec. 2
2 " " - " - " - " - " 3
3 " " - " - " - " - " 4
4 Session Laws - 1911 - Ch. 296 - Sec. 10
5 " " - " - " - " - " - " 269 - " 1
6 " " - " - " - " - " - " 1
for the care of normal children upon whom after all, depends the welfare of new generations.

Having discussed the provisions for protection of the health of mothers and children developing out of the State Board of Health, we may go back to the period during which this Board was first organized to see what other laws were enacted at this time which relate to the problem of health. In 1889, four years after the organization of the State Board of Health, it was made unlawful for anyone to furnish tobacco in any form, opium, or any other narcotic to a minor under the age of sixteen.\(^1\) Violation of this provision was made punishable by a fine of five to twenty-five dollars,\(^2\) exception being made of narcotics prescribed by a physician.\(^3\) Not until 1909 was another law upon this subject passed. Then the sale or free distribution of cigarettes or cigarette papers was forbidden,\(^4\) and any minor who smoked cigarettes, cigars, or tobacco in a public place was subject to a fine of not more than ten dollars while the person who furnished him with tobacco in any form or permitted him to use it about his premises was made punishable by a fine of twenty-five to one hundred dollars.\(^5\) This law was repealed in 1917 and another law enacted to take its place, the gist of which was this: It was unlawful for any person or company to sell or give away cigarettes or cigarette papers;\(^6\) to advertise the same;\(^7\) to sell or give away to any minor under twenty-one years tobacco in any form and materials connected with smoking of tobacco or to permit minors under twenty-one to frequent a place

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1 Session Laws - 1889 - Ch. 256 - Sec. 1
2 " " - " - " " - " 2
3 " " - " - " " - " 3
4 " " - 1909 - " 257 - " 1
5 " " - " - " " - " 2
6 " " - 1917 - " 166 - " 1
7 " " - " - " " - " 2
of business while smoking.\(^1\) Violation of this act on the part of any person, company or corporation, was made punishable by a fine of not less than twenty-five nor more than one hundred dollars.\(^2\) County and city attorneys upon information received were to make investigations concerning violations of this law.\(^3\)

All those enactments which have been discussed under child labor and whose purpose it was to provide better working conditions for children and women were, of course, helpful in bringing about a condition of physical, and possibly moral welfare of those whom they concern. Such laws were the child labor law of 1905 and its two modifications of 1909 and 1917, embodying principles which were not only conducive to better educational advantages, but physical and moral as well. In this group too may be classified the law which created an Industrial Welfare Commission, later superseded by the Court of Industrial Relations, which tended to improve the wages, hours of labor and sanitary conditions under which women and children were working. An attempt to alleviate injuries to the health of women and girls resulting from undesirable working conditions was made four years before the first of the child labor laws was enacted. In this law of 1901 managers of mercantile establishments, stores, shops, hotels, restaurants and other places in which women and girls were employed were required to provide stools for the use of employees "for the preservation of health and for rest when not actively employed in the discharge of their respective duties."\(^4\)

The tendency in progressive communities today is to control
health conditions among children through the schools. This tendency in
Kansas is developing first in the larger cities and is gradually being
extended to the smaller cities and to the country communities. An example
of this movement is the act of 1915 providing for free dental inspection
in the public schools of all cities of forty thousand inhabitants.\(^1\) The
board of education might make arrangements for such inspection and provide
necessary compensation therefor,\(^2\) actual dental work being done only upon
consent of the parent or guardian of the child.\(^3\) This law was amended
four years later and was then made applicable to first and second class
cities and to school districts. Dental inspection was now made a require­
ment except for those children who had such examination within the three
months last past.\(^4\) Again, the arrangement for inspection was to be made
by the boards of education and by the district boards; compensation for
services of dentists was to be provided out of the school fund,\(^5\) and no
work other than inspection and report performed without the consent of
the child's parent or guardian.\(^6\) The original law was then repealed.\(^7\)
Another example of the tendency to provide for the welfare of children
through the schools is the authorization in 1915 of boards of education
of first class cities to purchase or lease grounds for playgrounds or
public recreation places, to furnish the necessary equipment, and to
provide proper supervision of the activities of these playgrounds.\(^8\) Two

\(^1\) Session Laws - 1915 - Ch. 308 - Sec. 1
\(^2\) " " - " - " " - " 2
\(^3\) " " - " - " " - " 3
\(^4\) " " - 1919 - " 263 - " 1
\(^5\) " " - " - " " - " 2
\(^6\) " " - " - " " - " 3
\(^7\) " " - " - " " - " 4
\(^8\) " " - 1915 - " 309 - " 1
years later this law was repealed,\textsuperscript{1} being superseded by another law similar in principle except for the fact that the movement was extended from first class cities only to all cities in the state of Kansas.\textsuperscript{2}

One of the very few provisions for the care of the expectant mother was made in 1911 when county boards of health were given the power to make contracts with Kansas University for the care of obstetrical patients at the University Hospital if those patients were inmates of a county institution for dependents and if the care needed for them was other than could be given them within the institution.\textsuperscript{3}

Another law pertaining to the care of the mother, and children too, was an act passed in 1919, providing for the licensing of maternity hospitals and homes for infants or children. The provision specified that it was unlawful for any person or corporation to maintain a maternity hospital or home or boarding, receiving, or detention home for infants under three, or children under sixteen without obtaining from the State Board of Health a license for the same.\textsuperscript{4} Such licenses must not be given until the State Board of Health had arranged for careful inspection of the maternity hospital or home for children and the hospital or home had complied with the requirements of this act. License once granted might be revoked if it was found that injury was being done to the health, comfort and morality of the mothers or children involved.\textsuperscript{5} The licensee of a maternity hospital or home was required to keep a record of the names of patients and their actual place of residence together with the name and address of the physi-

\textsuperscript{1} Session Laws - 1917 - Ch. 274 - Sec. 3
\textsuperscript{2} Session Laws - 1911 - Ch. 294 - Sec. 1 and 2
\textsuperscript{3} Session Laws - 1911 - Ch. 294 - Sec. 1
\textsuperscript{4} Session Laws - 1919 - Ch. 210 - Sec. 1 (See also Sec. 2 and 3)
\textsuperscript{5}
cian or midwife in attendance upon each birth. The licensee of a home for infants or children must keep a similar record entering therein the names and ages of the children cared for, the names of physicians attending upon sick children, and the names and addresses of parents or guardians of such children. ¹ Requirement was also made that all such hospitals and homes must provide proper sanitation and conveniences for the health, comfort, and safety of the inmates. ² It was made unlawful for any association to offer inducements to pregnant women to submit themselves or to parents or guardians to submit their children to the care of the association by promising to dispose of the children in any way. ³ It was also made unlawful for any maternity hospital or home for infants or children to care for any aged or indigent adult, insane, feeble-minded, tubercular or syphilitic person or any person afflicted with a contagious disease or of criminal tendencies; violation of this provision being just cause for revocation of license. ⁴ Moreover, no maternity home or hospital was to be permitted to care for infants more than three years old. ⁵ In order to enforce this act the Division of Child Hygiene of the State Board of Health was to inspect those maternity hospitals and homes for infants and children every six months, ⁶ and the agent of the State Board of Health was to inform the licensee of changes necessary for compliance with the demand of the law. ⁷ Violation of the provision of this act was made punishable by a fine of five to fifty dollars and upon continued re-

¹ Session Laws - 1919 - Ch. 210 - Sec. 7
² " " " " " " " ⁸
³ " " " " " " " ⁹
⁴ " " " " " " " ¹⁰
⁵ " " " " " " " ¹¹
⁶ " " " " " " " ¹²
⁷ " " " " " " " ¹³
fusal of the licensee for thirty days after notice to comply with the requirements of the law, the establishment might be closed until such requirements should be fulfilled.¹
CHILDREN IN NEED OF SPECIAL CARE

1. (A) Dependent Children; (B) Neglected Children; (C) Illegitimate Children.

(A) Dependent Children.

Evidently the problem of dependency was a problem in need of some sort of solution even in the early history of the territory of Kansas and the state of Kansas, for in the very first laws comparatively numerous provisions for dependent children are to be found. In an act concerning apprenticeship we find, for example, that poor children might be bound out by the probate court if their home environment was very undesirable and there was little chance of their being taught a means of livelihood and that orphans or minors who did not have sufficient estate for their own maintenance might also be found out, this time by the guardian. These measures were really preventive, as well as remedial, but in all likelihood they were intended merely to care for the situation arising at that particular time. These provisions were repealed and superseded by other similar ones in 1859, and again in 1868, these same laws were re-enacted. In the latter year in addition to the above mentioned provisions for apprenticeship, children without parent or

1 General Statutes, Territory of Kansas - 1855 - Ch. 6 - Sec. 6
2 " " " " " " - " - " " 7
3 General Laws of Territory of Kansas - 1859 - " 13 - " 6 and 7
4 General Statutes of the State of Kansas - 1868 -" 5 - " " " "
guardian might, with the approval of the probate court, bind themselves until they should reach the age of eighteen, if they were boys, or sixteen if girls\(^1\) and an executor directed by the last will of the father to bring up a child to know some trade might bind out the child with the consent of the mother.\(^2\) Masters who took apprentices must educate them\(^3\) and must agree faithfully to perform all duties in connection with their position.\(^4\) Further, as a protection to the apprentice, the probate court was given the power to discharge him from apprenticeship.\(^5\)

Laws regulating the guardianship and the adoption of minors, which developed very early in Kansas legislation, may be most fittingly discussed under the subject of dependent children. The first of these laws was that of 1855, which provided that if a child under fourteen had no guardian or was incompetent the probate court was to appoint a guardian, while a child over fourteen might choose his own guardian.\(^6\) This law was re-enacted in 1859.\(^7\) In 1868, a provision was made that the father and mother were to be considered the natural guardians of their minor children,\(^8\) but one parent being dead, the survivor might by last will appoint a guardian for any of the children. If without such will having been made both parent be dead or disqualified to act as guardian the court might appoint one.\(^9\) Again, a minor of sound intellect and over fourteen years of age might select his own guardian subject to approval by the court.\(^10\)

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1 General Statutes of the state of Kansas - 1868 - Ch. 5 - Sec. 2
2 " " " " " " - " - " " - " 19
3 " " " " " " - " - " " - " 8
4 " " " " " " " " - " - " " - " 3
5 " " " " " " " " " " " - " - " - " 13
6 " " Territory " " - 1855 " 78 " 2
7 General Laws " " " - 1859 " 75 " 2 and 5
8 " Statutes of the " " " - 1868 " 46 " 1
9 " " " " " " - " - " " - " 2
10 " " " " " " - " - " " - " 6
regulating adoption were somewhat later in their development than those
governing guardianship. The first of these laws was that of 1864, which
provided that any person might through the probate court offer to adopt
a minor child with the consent of the parents if they lived. If the
parents were dead, and the child to be adopted was under twelve, the court
was to have the power to refuse permission for adoption in cases where
investigation proved that the person proposing to adopt the child was un-
fit to care for it.\(^1\) In 1867, it was stated that parents might relinquish
their right to their children to the person desirous of adopting them.
Such person was then to exercise the rights of a parent and the child was
to have the right of inheritance from the foster-parent.\(^2\) The following
year, in addition to this last provision of 1867,\(^3\) a repetition was made
of the law of 1864 with slight changes.\(^4\) Such were the regulations re-
garding adoption until 1903, when a new condition of adoption was added
by which adoption might be permitted upon proof that the parents of the
child had abandoned it for two years.\(^5\) The law of 1903 amended and re-
pealed the law of 1868, the chief change made being the addition of the
provision that no probate court was to permit the adoption of any minor
child sent into the state through the auspices of any association incor-
porated in any other state until all requirements governing adoption had
been met,\(^6\) including the requirement stated in a law of 1901, that no
association not incorporated in Kansas was to place a child in a home in
Kansas unless it guaranteed the child to be healthy in mind and body and

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1 Laws of the State of Kansas - 1864 - Ch. 83 - Sec. 1
2 " " " " " " - 1867 - " 89 - " 1
3 General Statutes of State of Kansas - 1868 - Ch. 67 - Sec. 5
4 " " " " " " - " " - " - " - " - " 6
5 Laws " " " " - 1903 - " 361 - " 1
6 Session Laws -1903 - Ch. 361 - Sec 1.
not of vicious character.  

In the very first laws of the territory, provision was made in a general way for the care of the poor in that it was made possible for poorhouses to be erected and maintained by a county tax. Mention might also be made of the fact that four years later the supervisors of each township were to be overseers of the poor, but this law, repealed in 1860 lasted no longer than 1864. An act for the relief of the poor passed in 1862 included in its provisions not only the above arrangements for the care of the poor of a community, but also a clause stating specifically that "legal settlement" might be acquired so that the particular county in which a person had acquired such legal settlement must give relief when necessary. This law of 1862 differentiated between poor children and adult poor in that a special section required that whenever necessary and practicable children who were inmates of these asylums for the poor and who were not bound out were to be educated at the asylum. These children, however, might be sent to the public schools. This law was amended in 1905 with little change of significance.

Recognition on the part of the state of the necessity for special attention to dependent children took the form in 1867, and later, of encouragement of private institutions and assistance to them by means of state appropriation. The Leavenworth Protestant Orphan Asylum was author-

1 Session Laws - 1901 - Ch. 106 - Sec. 15  
2 Statutes, Territory of Kansas - 1855 - Ch. 126 - Sec. 8  
3 General Laws, " " " " " " 1859 " " 130 " " 38  
4 " " " " " " " 1860 " " 128 " " 4  
5 Laws, State of Kansas - 1864 - Ch. 30 - Sec. 1  
6 General Laws - State of Kansas - 1862 - Ch. 163 - Sec. 1 and 4  
7 " " " " " " " " " " " " " " " " " " " " 5  
8 " " " " " " " " " " " " " " " " " " " " 32  
9 " " " " " " " " " " " " " " " " " " " " 33  
10 Session " " " " " " 1905 " " 385 " 1
ized to receive orphan, destitute and friendless children and to pro-
vide them with homes for a period not exceeding majority. This insti-
tution was to have legal rights of a guardian over the child committed
and the board of directors of the asylum might apprentice any such child. This last section was amended two years later to the effect that the in-
sitution might also make any provision for the care of the child which
might seem advisable or might consent to the adoption of the child by a
desirable person. State appropriation was made for this orphan asylum
in 1874 "as a donation" with the proviso that it was to be open to all
applicants for admission from every part of Kansas. By 1868, the rights
and duties of the Leavenworth Protestant Orphan Asylum were conferred up-
on all orphan asylums in counties having a population of 25,000 or more
incorporated under the laws of Kansas. The policy of state appropria-
tions for and supervision of private institutions began with the Protes-
tant Orphan Asylum at Leavenworth and was gradually extended to other in-
stitutions such as the St. Vincent's Orphan Asylum at Leavenworth. In
1881, an appropriation was made to this institution on the condition that
no discrimination had there been made among children on account of race,
color or religion. The growth of the state's policy of supervision of
these institutions may be seen in the requirement of 1883 that the charit-
able institutions at Leavenworth were to be visited by a special committee,
the expenses of which were to be paid by the state. In 1891, the state

1 Laws of the State of Kansas - 1867 - Ch. 93, - Sec. 1
2 " " " " " " " - " " " " " 2
3 " " " " " " - 1869 - " 74 - " 1
4 " " " " " " - 1874 - " 20 - " 1
5 General Statutes State of Kansas - 1868 - Ch. 10 - Sec. 1
6 Session Laws - 1881 - Ch. 25 - Sec. 1
7 " " - 1883 - " 23 - ( no. 50)
made appropriation to a great many institutions - not state institutions, among which were the Topeka Orphan's Home, the St. Vincent's Orphan Asylum as before, and the Kansas Orphans Home. Six years later similar appropriation was made to the Kansas Children's Home Society for the pay of the superintendent of the Society and for his expenses in making investigations concerning complaints from families in which children had been temporarily placed and from the children themselves together with the expenses of readjustment of such children. It is interesting to note in connection with this last named organization that in 1901 it was authorized to place in homes any children from the Mother Bickerdyke Home and Hospital, the State Reform School, the State Soldier's Home, The Soldier's Orphans' Home, and the Industrial School for Girls if the managers of the various institutions should consent.

Provisions for the care of the children of women in institutions are of interest to us and may as well be discussed with the problems of dependency. In 1870, a home for friendless women was established in Leavenworth County and a year later the law which established this home was amended to provide also for the children of these women. If any of the women of the institutions gave birth to a child while she was under the care of the home or gave over to the care of the association any child, the association was then to become the legal guardian of the child having the right to provide for its maintenance, education, and adoption. Such disposal of the child, however, was to be made with the approval of the probate judge of the county and the consent of the

1 Session Laws - 1891 - Ch. 27 - Sec. 1 to 3.
2 " - 1897 - " 1 - " 1
3 " - 1901 - " 26 - " 2
4 " - 1870 - " 15 - " 1
child's mother unless, in the latter case, the child had been abandoned by its mother. Mention may be made here also of the provision made for the children of women committed to the Industrial Farm, which was established in 1917. The legislature specified that if any woman committed to the Industrial Farm was at the time of coming there either nursing a child or pregnant, such child was to remain with its mother for two years when it was to be committed to the care of someone willing to assume custody over it until the discharge of the mother, or it might be committed to some institution until the mother's release. In cases of this kind, however, the father was to be responsible for the maintenance of such child.

Much of the state's provision for dependent children centers around the care given to the orphans and minor children of the soldiers of the Civil War. As early as 1867, the state undertook to provide for the "care, maintenance, and education of all orphans and minor children who by reason of the death or service of parents in the Civil War — by enlistment from this state — have been deprived of the means of such care, maintenance, and education." This act was not to apply to children born after April 9, 1865, or to minors over eighteen years of age. The governor at this time was authorized to appoint a Board of Commissioners, consisting of three persons for the care of these children. This Board was to consider applications from these children for admission to the State University, the State Normal School and the State Agricultural College, and if the applicant was for want of age or education unfitted to enter

1 Laws, State of Kansas - 1871 - Ch. 86 - Sec. 1
2 Session Laws - 1917 - Ch. 298 - Sec. 6
3 Laws of the State of Kansas - 1867 - Ch. 92 - Sec. 1
4 " " " " " " " " " " 3
the above institutions, then the Board was to place the applicants in an orphan asylum or common school until he or she should qualify for the higher institutions. The State University, State Agricultural College, and State Normal School were to receive, maintain and educate all the children placed in their care and were to receive as recompense not more than three dollars a week. Evidently this law was not very effective, for in 1885, a new movement was set on foot to care for the indigent soldiers of the Civil War, together with their widows and children. A resolution was passed by the House at the legislative session that the Kansas senators and representatives in congress at Washington be requested to aid in obtaining a soldiers' home in Kansas and that indigent soldiers of the Civil War, their widows and orphans be admitted without charge. Moreover, an act was passed to secure the enrollment of these soldiers, their widows and orphans living in Kansas.

These provisions were followed in 1885 by an act to establish a Soldiers' Orphans' Home and to provide for its government and maintenance. The Board of Trustees of State Charitable Institutions was authorized to purchase land and construct buildings and state appropriations were made to cover the expense of building and maintenance provided that before these appropriations became effective a private donation of five thousand dollars and a tract of land of not less than one hundred sixty acres must be made. The purpose of this institution was to be to provide "nurture, education, and maintenance, without charge, for indigent

1 Laws, State of Kansas - 1867 - Ch. 92 - Sec. 6.
2 " " " " " " " - " " " " - " 8
3 Session Laws - 1883 - House Concurrent Resolution # 14
4 " " - " - Ch. 109 - Sec. 1
5 " " - 1885 - " 185 - " 1
6 " " - " - " " - " 8
children of soldiers who served in the army or navy of the Union during the late rebellion, and who have been disabled from wounds or disease, or who have since died in indigent circumstances, and other indigent orphan children of the state.\(^1\) This section of the act was repealed\(^2\) after being amended in 1889. The amendment stated that the Soldiers' Orphans' Home was to be a temporary home for the children admitted, providing them with advantages of education and training to fit them for homes. All children sound in mind and body over the age of two and under fourteen, being dependent on the public for maintenance, abandoned, neglected, or ill-treated were made eligible for admission, but if room was lacking in the institution the children of soldiers and sailors of the Union Army or Navy were to be given preference in admission.\(^3\) It may here be noted that in 1905,\(^4\) a law was passed to the effect that the name Soldiers' Orphans' Home was to be retained but that all other orphans and abandoned children in Kansas were to be admitted so long as there was room in the institution.\(^5\) By the law of 1885, the Board of Trustees was to provide, first, for the care and maintenance of children five years of age and under; second, for those over over ten and under fifteen. No child was to be kept after attaining the age of fifteen unless unable to support and care for itself when it was to be retained until it was sixteen. The trustees were given the power to discharge from the home any child who persisted in violating their regulations.\(^6\) The immediately preceding section of the law of 1885 was repealed\(^6\) after

\(^{1}\) Session Laws - 1885 - Ch 185 - Sec 3.
\(^{2}\) " - 1889 - " 236 - " 9
\(^{3}\) " " - 1889 - " 236 - " 9
\(^{4}\) " - 1905 - " 481 - " 1
\(^{5}\) " - 1885 - " 185 - " 4
\(^{6}\) " - 1889 - " 236 - " 9
amendment in 1889 to the effect that application for admission into the home was to be made to the probate court which court was to make necessary inquiry into the condition of the child and before granting admission, must have an affidavit from a physician showing that the child was mentally and physically sound. The Board of Trustees was made the legal guardian of the inmates of the home if such children had no legal guardian. This board was given the power to bind out children discharged from the home upon expiration of the time when such children were allowed to remain in the home providing that if there was a living parent of the child in question he must first consent to such indenture. The amendment to this provision, which was also repealed, gave the trustees the power to place the children in homes during minority or place them out under articles of indenture, reserving the right to resume the custody of the child if its welfare should demand such resumption. The Board of Trustees was required to make an annual report to the governor concerning the inmates and financial condition of the institution. This section was also repealed and amended in 1889 and it was here specified that all children inmates of the home, unless sent away, were to be retained until the age of sixteen and might be retained after that until a home could be found for them. The board was empowered to return children of sixteen years to the county from which they were sent if no home had been provided for them or children might be sent back to their county if they were of unsound mind or body upon admission. Children might also be returned to parents or relatives who were fitted to care
for them. Some additional provisions were made in this new law. Habitual incorrigibility on the part of a boy or girl was cause for sending such child to the State Reform School or to the Industrial School for Girls. County superintendents of public instruction were made agents of the Soldiers' Orphans' Home whose duty it was to visit at least twice a year the children placed in homes and to make reports upon the condition of these homes to the Superintendent of the Home; and finally, the Board of Trustees was given power to consent to the adoption of children who were inmates of the Home.

It may be well to mention here that in the same year in which the last amendment of the law regarding regulations of the Soldiers' Orphans' Home was passed, another law was enacted relating to the control and management of destitute and friendless children. This law authorized any corporation organized for this purpose to receive such children and find homes for them until they should reach majority; permitted any parents who were unable to support their children to relinquish the control of them to such a corporation; gave to the corporation the custody of the children received, and all the rights of legal guardianship including the power to make proper provision for them until majority and to consent to the adoption of any child in its custody without the consent of its parent or former guardian.

To complete the enumeration of laws regarding care of soldiers of the Civil War and their families mention must be made of the law pass-
ed requiring that if an honorably discharged Union soldier or sailor or his wife, widow, or children under fourteen became poverty stricken they were to be given aid at their home and were not to be permitted to become inmates of the poorhouse;¹ (this law was amended in 1901 to include soldiers and sailors of the Spanish war ²) another law establishing the Kansas State Soldiers' Home;³ a third creating the Mother Beckerdyke Home and Hospital to serve as a sort of annex to the State Soldiers' Home.⁴ The establishment of the State Soldiers Home in 1889 concerns us here only because in addition to honorably discharged soldiers, sailors and marines of the Civil War, disabled and without means of support the members of the families dependent upon them were at first also admitted.⁵ In the years succeeding the establishment of the State Soldiers' Home several changes were made regarding regulations governing persons eligible to admission. Finally in 1917 no wife of any soldier was to be admitted unless she was fifty years of age or more and had been married to him previous to 1908, except where the wife was an invalid or the husband being an invalid needed her care. No girls were to be admitted after the age of fourteen or retained after the age of sixteen and boys were not to be admitted after the age of twelve or retained after the age of fourteen unless such children were incapable of self support.⁶ The Mother Beckerdyke Annex mentioned above admitted the indigent and invalid mothers, widows, wives, sisters, and minor children of honorably discharged soldiers of United States. In 1903 no girl was to be retained or admitted after the age of eighteen or boy of sixteen unless incapable.

¹ Session Laws - 1889 - Ch. 234 - Sec. 1
² " " - 1901 - " 281 - " 1
³ " " - 1889 - " 235
⁴ " " - 1901 - " 359 - " 1
⁵ " " - 1889 - " 235 - " 11
⁶ " " - 1917 - " 304 - " 1
of self-support. By 1907, the age limit of girls was lowered to sixteen and of boys to fourteen. Finally by 1921 the regulations governing admission to the Mother Beckerdyke Annex were made the same as those of the State Soldiers' Home, the latter remaining the same in principle so far as discussed as they were in 1917.

Only one other law of importance which bears directly upon dependent children remains to be discussed - the law providing for mothers' pensions. Strangely enough this very modern and progressive principle was definitely expressed in the laws of 1862. In a law of this year, entitled An Act for the Relief of the Poor, provision was made that the county commissioners might make an allowance to parents of idiots, and of children otherwise helpless requiring the attention of parents who were unable to support them. This allowance was not to exceed the cost of maintenance elsewhere. This law remained unchanged until it was amended by the Pension Act of 1915, which provided again for an allowance by the county commissioners to parents of idiots and other helpless children if the parents were unable to support them, the allowance not exceeding cost of maintenance elsewhere. Further, if the mother was the only custodian of a child under sixteen, being widow or divorced or having a husband incapacitated for earning a living or imprisoned for crime, or having been abandoned unjustly by her husband for three months and being of good character but unable to support the child or children and having been a resident of the county for one year preceding - such a mother was to receive "mother's aid" from the county in amount not to ex-

1 Session Laws - 1903 - Ch. 480 - Sec. 1
2 " " - 1907 - " 387 - " 1
3 " " - 1921 - " 284 - " 1
4 General Laws, State of Kansas - 1862 - Ch. 163 - Sec. 8
ceed twenty-five dollars. Before such allowance was granted the mother was required to file with the county clerk application for such mother's aid setting forth the conditions under which she was applying. This law was amended and the old repealed in 1917. The provisions of these two laws were the same except for such slight changes as the requirement of two years residence in the county instead of one and the insertion of a clause stating that the allowance might be increased or decreased temporarily by the board of county commissioners and that the court might order the assistance given in supplies instead of money. This law of 1917 was also repealed in part and amended in 1921. Again the essential principles of the law remained the same but a few changes were made. The term of residence in the county was made one year and in the state two years next preceding application; the total sum allowed to any one mother was not to exceed fifty dollars a month; specific details of the circumstances making mother's pension necessary must be stated in the application; and finally, the petition must be referred to the county board of public welfare or to a committee of three women appointed by the county commissioners, which board or committee must re-investigate the applicant every six months and report to the county commissioners. A further provision was made that the amount of money paid to the mother might be increased or decreased temporarily by the board of county commissioners when circumstances merited the change.

1 Session Laws - 1915 - Ch. 261 - Sec. 1
2 " " - 1917 - " 138 - " 4
3 " " - 1917 - " " - " 1
4 " " - 1921 - " 153 - " 2
5 " " - " " - " " 1
(B) Neglected Children.

Because of the fact that Kansas law makes no clear distinction between dependent and neglected children, we can draw no clear distinction in our discussion here but certain laws or parts of laws seem to be inconsistently classified if taken up under dependency. In the Juvenile Court law of 1905, to be discussed under delinquency, "dependent" or "neglected" children were those who had been abandoned, dependent on the public for support, without proper guardianship and home surroundings, who were idle or immoral, or who earned a livelihood by undesirable means such as begging.\(^1\) Those laws in which provisions against neglect on the part of the parents are dominant may be taken up here just as above the laws stressing dependency or lack of financial support have been emphasized.

As early as 1855, a measure was passed providing that exposing a child under the age of six with intent to abandon was punishable by confinement and hard labor not exceeding five years or imprisonment in the county jail for not less than six months.\(^2\) Mention might also be made here of a provision of 1868, which specified that the probate court was to receive the complaints of apprentices against their masters, if the latter were guilty of immoderate correction or failure to provide the proper food, clothing, lodging, or education.\(^3\)

Following these early laws little is to be found until 1889 regarding neglect of children which did not more closely bear upon dependency. In this year an act for the protection of children was passed which dealt chiefly with protection of their persons and morals. Here

\(^1\) Session Laws - 1905 - Ch. 190 - Sec. 2
\(^2\) Statutes of Territory of Kansas - 1855 - Ch. 48 - Sec. 44
\(^3\) General Statutes of State of Kansas - 1868 - Ch. 5 - Sec. 12
any person who maltreated a child under eighteen, exposed a child under fourteen with the intention of abandoning it, or disposed of it to be employed as an acrobat or in any other dangerous exhibition or as a beggar, and any person who employed such child for any of these purposes was made subject to a fine not exceeding two hundred fifty dollars or imprisonment for not more than one year or both. Moreover, any person who received or disposed of a female child under eighteen for an immoral purpose (meaning chiefly prostitution) was punishable by imprisonment in the penitentiary for one to two years. Children found to have been neglected or cruelly treated or children under sixteen found in a house of ill-fame might be brought by sheriffs or police officers before a magistrate, who in turn might commit the child to some charitable institution in the county or otherwise dispose of the child as provided by law, a guardian or relative of the child having the right of appeal from the decision of the magistrate to a district court.

In the discussion of dependent children, it was found that much attention had been given by Kansas legislators to the dependent children of soldiers and sailors, particularly of the Civil War. In 1901, a law was passed regarding both dependency and neglect which showed a broadened viewpoint in that all neglected and dependent children were included in its application. Any police officer was given the power to apprehend and bring before the court any child under fourteen or sixteen, boy or girl respectively, who was dependent upon the public or a vagrant, homeless and found out on the streets at night, found associating with a thief, vagabond, or drunkard or found in a house of ill-fame.

1 Session Laws - 1889 - Ch. 104 - Sec. 1
2 " " - " - " " - " 2
3 " " - " - " " - " 5
destitute, being an orphan or having only one surviving parent who was imprisoned.\(^1\) A child living under any of these conditions was to be delivered to a children's aid society or an institution where his needs would not nearly be met.\(^2\) Probation officers, appointed by the court, were made responsible for making any investigation necessary concerning the child and were required to be present at court to represent the interests of the child during trial and to take care of such child before and after the trial.\(^3\) The society or institution which was given the care of the child became its legal guardian with the duty of securing, if possible, a suitable home for such child, and was authorized to secure for the child legal adoption or contracts providing temporarily for education, religious and vocational training and kind treatment. The society reserved the privilege of withdrawing the child from the home if such withdrawal was advisable.\(^4\) Any person having the custody of a child who subjected it to ill treatment was subject to punishment by a fine of one hundred dollars or in addition to the fine imprisonment for not more than three months.\(^5\) No association not incorporated in Kansas was permitted to place a child in a home in Kansas unless such association guaranteed the child to be healthy in mind and body.\(^6\) Associations receiving children under this act were to be subject to the supervision of the State Board of Charities and must make an annual report to the board concerning the children under its care and what disposal had been made of them.\(^7\)
By 1911 a measure was passed designed to prevent desertion of children on the part of parents and to protect children against the possibility of non-support. Any husband who, without just cause, deserted or neglected or refused to provide for the support of his wife when that support was needed, or any parent who neglected to support his children under the age of sixteen was guilty of crime and punishable by sentence to the State Reformatory or the Penitentiary at hard labor for a period not exceeding two years.\(^1\) The wife, child, or any other person might make complaint against the guilty person upon which complaint proceedings might be instituted against him.\(^2\) The defendant was given the privilege of choosing between the punishment prescribed and making payment for his children.\(^3\) If the parent complained against was sentenced to hard labor the wife or the guardian of the children was to be paid the earnings of the prisoner.\(^4\)

An interesting, progressive idea with regard to care of neglected children was embodied in a law of 1915, which provided for the establishment of parental homes. Parental homes might, by unanimous vote of the county commissioners, be established for children under sixteen, homeless, neglected, dependent or delinquent, in counties having a city of not less than eighty thousand inhabitants.\(^5\) By 1919 this population requirement was lowered to fifty-three thousand and establishment of a parental home became obligatory upon the petition of thirty percent of electors of the county.\(^6\) The home was to be in the charge of a man and his wife appointed by the juvenile court judge, these two being assisted

1 Session Laws - 1911 - Ch. 163 - Sec. 1  
2 " - " - " - " - " - " 2  
3 " - " - " - " - " - " 4  
4 " - " - " - " - " 7  
5 " - 1915 - " 276 - " 1  
6 " - 1919 - " 211 - " 1
by the advice of a board of five women appointed by the county commission-
ers. 1

There is still one law of particular importance which bears up-on the problem of dependency and neglect among children which has not here received any attention. This is the law establishing juvenile courts, which will be discussed in detail under the provisions for delinquent children. Dependency, neglect, and delinquency are problems so closely related that it is practically impossible to draw a sharp line of dis-tinction in making legal provisions to meet them and in discussing these provisions.

(C) Illegitimate Children.

Heretofore we have found that legal provisions for the protec-tion of children in the fields so far discussed have become constantly more numerous and progressive as the years advanced. The situation is quite different in the case of illegitimate children for here legal pro-visions for their protection are confined within a brief period extend-ing from 1855 to 1868.

The first provisions made for this class of children are to be found in the laws of 1855 in an act concerning descents and distributions. These provisions were, half consciously perhaps, intended to prevent de-pendency by making inheritance possible for children born out of wed-lock. Bastards were declared to be capable of inheriting and transmitting in-heritance through their mother as if they were legitimate children. 2 Moreover, children unlawfully begotten might be legitimated if the father afterward married the mother and recognized the children as his. 3 These

1 Session Laws - 1915 - Ch. 276 - Sec. 4
2 Statutes, Territory of Kansas - 1855 - Ch. 60 - Sec. 8
3 " " " " " " " " " " 9
provisions which were made incidental to the law on descents and distributions were repealed in 1858 and superseded by an act for the maintenance and support of illegitimate children. By this act any unmarried woman, or married woman deserted by her husband, might make complaint to a justice of the peace against a man as the father of an illegitimate child. Upon trial of the accused if he agreed to pay to the complainant a sum satisfactory to her and to give bond to save the township, residence of the complainant, the expense of maintaining such child, then the accused was to be released. Such suit, if not brought by the woman, might be brought by the township which was interested in the support of the child. If the defendant was found guilty and refused to give security for the maintenance of the child and costs of prosecution, then he was to be committed to the county jail until he complied with the order of the court, the period of confinement being limited to five years. The condition of the bond given by the father was to be that the child was not to become a charge upon any township in the territory of Kansas. This law, while most commendable in the end to be secured, still seemed to have for its purpose the protection of the township rather than the protection of the child concerned. It was repealed in the following year and another, the same in principle, took its place. In this year, 1859, provision was again made that illegitimate children might inherit from the mother and from the father if he recognized them as his children.

1 Laws and Resolutions of the 4th Session - 1858 - Ch. 24 - Sec. 11
2 " " " " " " " " " " " " 1
3 " " " " " " " " " " " " 2
4 " " " " " " " " " " " " 6
5 " " " " " " " " " " " " 10
6 General Laws, Territory of Kansas - 1859 - Ch. 89 - Sec. 1 and 3
7 " " " " " " " " " " 82
8 " " " " " " " " " 63 " 23
9 " " " " " " " " " " " 24
A slight change was made in the maximum period of confinement of the defendant in a case where he was found to be the father of an illegitimate child. If the defendant refused to comply with the order of the court, he might be confined for one year instead of five. After these laws of the fifties, except for a provision of 1862, giving to illegitimate children the legal settlement or residence of their mother at the time of their birth, no further laws were enacted for the protection of this class of children until 1868.

This law of 1868 in turn repealed the preceding law of 1859 and re-enacted the same with some changes. Since this law is the law at present in force, it may be well to give here its essential principles, even though some repetition will be necessary in so doing. If an unmarried woman being pregnant or having given birth to an illegitimate child made complaint before a justice of the peace, charging a particular person with being the father of her child, the justice was to have such person arrested. If the justice of the peace adjudged the defendant to be the father of the child, the defendant must give bond of not less than two hundred nor more than one thousand dollars payable to the state to insure his appearance before the district court at its next session.

If the district court adjudged the defendant to be the father of the child he was made responsible for its support and education, the terms of payment for such purpose being specified by the court. No prosecution could be begun by the mother after two years had elapsed since the birth of the child.

1 General Laws - Territory of Kansas - 1859 - Ch. 82 - Sec. 6
2 " " - State of Kansas - 1862 - Ch. 6 - Sec. 5
3 " Statutes of " " - 1868 - " 47 - " 22
4 " " " " " " - " - " " - " 1
5 " " " " " " - " - " " - " 5
6 " " " " " " - " - " " - " 12
7 " " " " " " - " - " " - " 13
child. In case of death of the child prosecution need not be abated but the court might order defendant to make such payment as it might deem just; in case of death of the father of the child prosecution might be instituted against his personal representative but in this case no arrest was to be made or bond required.


(A) Mentally defective:

The development of public protection of the health of children is almost inseparable from the treatment of physically defective children and the preventive principle in the treatment of mental defectives, if by health we mean a normal physical and mental condition. In our discussion of mentally defective children we shall take up both those principles of legislation which bear directly upon the prevention of mental deficiencies and the treatment of mental defectives when they have, unfortunately, come into existence.

The great principle of prevention in this field lies in the care, not so much of the abnormal children, as of the insane or feeble-minded of the age beyond adolescence when the reproductive function is mature. The care of adult mental defectives began very early in the history of Kansas, but no doubt the principle of prevention was not at this time consciously in the minds of the people and their legislators. Even in the constitution provision was made for the encouragement of institutions for the insane and by 1863 for the appointment of commissioners to locate the first

1 General Statutes of State of Kansas - 1868 - Ch. 47 - Sec. 17
2 " " " " " " - " - " " - " 19
3 " " " " " " - " - " " - " 21
4 Constitution " " " " - Art. VII - Sec. 1
state asylum. This institution was established at Osawatomie two years later and its method of government by a board of trustees drawn up. In 1870 counties were made responsible for the insane within their boundaries who had not sufficient means of maintenance and six years later state aid was granted to counties for the maintenance of destitute insane who had been refused admission to a state asylum because of a lack of room. The increasing need for institutional care for insane was partially met in 1875 by an act of the legislature to establish a second asylum for insane - this time at Topeka - followed almost a quarter of a century later by another act providing for a third asylum located at Parsons. It is interesting to note that this hospital for the mentally defective was to be "devoted to securing humane, curative, scientific, and economical care and treatment of epileptics and insane epileptics." The last of the four state hospitals for insane in Kansas was provided for by appropriation in 1911 and was finally located at Larned.

The first indication of interest in feeble-minded children on the part of the state was manifested in 1868, when an order was issued to secure enumeration by county assessors of all idiots, together with deaf and dumb and blind, telling whether they had ever attended school. The first actual effort to provide educational facilities for these children, however, was not made until 1881, when an act was passed to establish an asylum for

1 General Laws - State of Kansas - 1863 - Ch. 30
2 Laws - State of Kansas - 1865 - Ch. 69
3 " " " - 1870 - " 20 - Sec. 4
4 Session Laws - 1876 - Ch. 83 - Sec. 1
5 " " - 1875 - " 108 - " 1
6 " " - 1899 - " 13 - " 1
7 " " - 1903 - " 484 - " 1
8 " " - 1911 - " 44 - " 1
9 " " - 1913 - " 21
10 General Statutes, State of Kansas - 1868 - Ch. 25 - Art. V, Sec 81
mentally defective children to be known as the Kansas State Asylum for Idiotic and Imbecile Youth. Fortunately, the name of the institution was soon changed, being called at the present time the State Training School. This educational institution was at first temporarily located at Lawrence in the first state university building and here accommodations were to be made for the comfort, maintenance, and education of those admitted. Admission was to be granted to all idiotic and imbecile youth who had been residents of Kansas for six months, who were not over the age of fifteen and who were incapable of benefiting by instruction given in the common schools. Children of greater age and not residents of Kansas might be admitted if the capacity of the institution permitted. The object of the institution was to be "to train and educate those received so as to render them more comfortable, happy, and better fitted to care for and support themselves." The value of training in manual work for these children was evidently recognized for agricultural and mechanical training were to be offered. It is interesting to note that the annual report of the superintendent of the institution to the trustees was to include the cause of imbecility so far as possible. Four years after the establishment of the institution at Lawrence appropriation was made for the erection of a building at Winfield to be used for the education of feeble-minded youth. Here the State Training School is now located. A law passed by the Special Session of 1920 provided that when a person was

1 Session Laws of Kansas - 1881 - Ch. 35 - Sec. 1
2 " " " " - 1919 - " 298 - " 1
3 " " " " - 1881 - " 35 - " 3
4 " " " " - " - " - " - " 6
5 " " " " - " - " - " - " 8
6 " " " " - " - " - " - " 9
7 " " " " - " - " - " - " 13
8 " " " " - 1885 - " 26 - " 1
found to be feeble-minded the court was to determine whether the person was a menace to himself or the community and if he was a menace, the court was then to commit him to the State Training School. In connection with the above-named institutions for insane, epileptics, and feeble-minded mention may be made of a law of 1921 which provided that any person who assisted or enticed an inmate of any of these institutions to escape therefrom was punishable by fine or imprisonment or both.

The establishment of state hospitals for insane and the consequent segregation of adult mental defectives was a preventive measure against the increase of this class of dysgenics but it was not a measure intentionally and primarily designed for this purpose. We are justified in such a statement because it is known that temporary segregation was practiced and that patients were released from these institutions without stringent regulations for their segregation outside of the asylums. In 1903, however, the need for preventing the multiplication of the dysgenic classes of the state was recognized in an enactment prohibiting marriage by or with individuals seriously defective mentally. Belief in inheritance of mental weakness was evidently the basis of this act to prevent reproduction among these classes. No woman under forty-five or man of any age, unless he should marry a woman over the age of forty-five, if he or she was epileptic, imbecile, feeble-minded, or insane, was to be permitted to marry any person within the state of Kansas. It was made unlawful for any person to marry any one who was so afflicted or who had ever been so afflicted. The same provision was made against the marriage of children born after the parent had become insane.

1 Laws of Special Session - 1920 - Ch. 66 - Sec. 1
2 Session Laws of Kansas - 1921 - " 283 - " 1
3 " " " " - 1903 - " 220 - " 1
order to place a further restriction upon such marriages, officers who
issued marriage licenses were forbidden to issue licenses to these per-
sons forbidden to marry, 1 and clergymen and officers authorized to per-
form marriages were forbidden to do so in the above mentioned cases. 2
Conscious violation of the provisions of this act were made punishable
by a fine of not more than one thousand dollars or imprisonment for not
more than three years or both. 3 The first provision of this act was a-
mended in 1915 to the effect that children born after parents were insane
were forbidden to marry except under the same conditions as the afflicted
parent unless said parent had been discharged from the State Hospital for
Insane more than nine months before the child was born and had remained
cured for twenty years thereafter. 4

This law was commendable in that it recognized the danger of
multiplication of mentally defective persons, but it might easily become
ineffective in its application because of the difficulty of enforcing it
and because of the fact that the marriage institution is not essential
to reproduction among the mentally weak and illegitimate sexual relations
are very common among them. Again, the implication that children born
before a parent becomes insane may safely marry is based upon a miscon-
ception for the taint of mental weakness would no doubt exist within the
parent before it became manifest as insanity. This law, however, was at
least a worthy attempt to deal with a very serious problem.

Forbidding intermarriage of dysgenic classes having been found
insufficient to prevent their increase, another measure with the same end

1 Session Laws of Kansas - 1903 - Ch. 220 - Sec. 2
2 " " " " - " " " " 3
3 " " " " - " " " " 4
4 " " " " - 1915 - " 239 - " 1
in view was passed in 1913. Officers of state institutions in which were confined habitual criminals, idiots, epileptics, imbeciles, and insane persons were required to secure the services of a professional surgeon who, together with the physicians of the institution, were to determine whether the inmates were unfit for procreation. If the result of procreation would be defective offspring or if the physical and mental condition of the inmates would be improved by an operation, the physicians were to report the result of their investigation to the court and the court was then to determine the case. If the operation of vasectomy or oophorectomy was to be performed it must be done in a humane manner. Any one who promoted such operation outside the scope of this act was subject to a fine of not more than one thousand dollars or imprisonment in a county jail for not more than one year or both such fine and imprisonment. Again, any officer of an institution who neglected his duty as prescribed by this act was made subject to a fine of one hundred dollars or imprisonment in the county jail for not more than thirty days or both. This law was repealed in 1917 to be superseded by another similar law. By this new law if the warden of the State Penitentiary, the superintendent of the Hutchinson Reformatory, the State Hospitals for the Insane, the State Hospital for Epileptics, the State Home for Feeble-Minded or the State Industrial School for Girls should certify that he or she believed that physical or mental condition of an inmate of the institution of which he or she had charge would be benefited by sterilization or that procreation of such inmate would mean defective offspring and that improvement

1 Session Laws of Kansas - 1913 - Ch. 305 - Sec. 1
2 " " " " - " - " " - " 2
3 " " " " - " - " " - " 3
to the extent of making such procreation beneficial was impossible - then it was made lawful to sterilize such inmate by means of a surgical operation. The board of examiners to determine the subject for operation was to consist of the chief medical officer of the institution of which the individual in question was an inmate, the governing board of the institution and the secretary of the State Board of Health. This board of examiners made order for sterilization or not and designated what was to be the nature of the operation. Any person who promoted such an operation outside the scope of this act, unless such operation was essential to the health of the individual, was punishable by a fine of one hundred to five hundred dollars and imprisonment in the county jail for six months to one year. The difficulty of enforcing this act is obvious since scientific knowledge of the conditions making sterilization advisable is still far from perfect.

Our review of legislation upon the subject of mentally defective children reveals the fact that by far the greater part of this legislation was preventive and tended to decrease if possible the birth rate of defectives by caring for the adult who was mentally deficient. Segregation in institutions seems at present the safest, most practicable means of caring for these adults and preventing their procreation, while much can be done toward improvement of conditions for feeble-minded children by establishing schools where they will secure the training which is now provided at the State Training School at Winfield.
Physically defective children:

Provisions for the physically defective children of the state are more meager than for any other children who need special care. In the constitution of Kansas we find that encouragement was given toward the care of the physically defective in the provision that the state was to foster and support, among other institutions, institutions for the blind and deaf and dumb. We find, too, that an early attempt was made to educate the deaf and dumb by making appropriations to Professor P. A. Emery for that purpose. The first of these appropriations was made in 1862, when the state aided him to the amount of five hundred dollars. He was to be allowed twenty-five cents a day for each pupil in addition to what he himself received per contract from the parents or guardians of the children attending his school. Professor Emery was to report to the auditor of state the number of pupils he taught and the number of days each attended school. Similar arrangements were made with Professor Emery for the year of 1863 with a slight change in details of this agreement. Allowance was made to him for the board and tuition of every deaf-mute pupil between the ages of eight and twenty-one whose parents were incapable of bearing this expense. A report to the auditor was again required but this time it was to contain more detailed information regarding the child. By 1864, the age limits of the pupils receiving assistance from the state were raised to ten and twenty-one. In the

1 Constitution - State of Kansas - Art. VII - Sec. 1
2 General Laws - " " " " - 1862 - Ch. 10 - Sec. 1
3 " " " " " " - " - " - " - " " - " " " 2
4 " " " " " " - " - " " - " " - " " 3
5 " " " " " " - " " - " - " - " " - " 1
6 " " " " " " - " " - " " - " " " - " 2
7 Laws of State of Kansas - 1864 - Ch. 6 - Sec. 1
same year plans were begun for the establishment of a state institution for the education of the deaf and dumb at Olathe,\(^1\) plans which did not actually materialize until two years later. In the meantime the legislature of 1865 made provision for the education of the deaf and dumb at Baldwin City until the building for the state institution could be erected. The building for this purpose was to be furnished by Baldwin City,\(^2\) the expense of board and tuition of the pupils being met by the state.\(^3\)

This temporary school was to be visited and inspected once in each term by a board of three appointed by the governor,\(^4\) and the instructor, as before, has to make a report to the auditor of state regarding the number of pupils and the time of attendance.\(^5\) Plans for organization of the state institution were begun in 1866 but a change was made in organization in the following year, when it was provided that the control and supervision of the Asylum for the Deaf and Dumb was to be in the hands of a board of five trustees appointed by the governor. This board was to secure competent teachers and was to report annually to the governor the name, age, sex, residence and cause of deafness of each pupil.\(^6\) The nature of the appropriations made annually for this institution indicate that industrial training was the dominant means of education. It is interesting to note that the name of this institution was in 1877 changed from Kansas Asylum for the Deaf and Dumb to Kansas Institution for the Education of the Deaf and Dumb.\(^7\) This institution is a most interesting example of gradual development from a private institution to one owned

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1 Laws - State of Kansas - 1864 - Ch. 50 - Sec. 2
2 " - " " " " - 1865 - " 36 - " 1
3 " - " " " " - " - " " " " 2
4 " - " " " " - " - " " " " " " 3
5 " - " " " " - " - " " " " 4
6 " - " " " " - 1867 - " 55 - " 1
7 Session Laws " " - 1877 - " 130 - " 1
and supported and supervised by the state.

The asylum for the blind did not have so gradual a growth as the Asylum for the Deaf and Dumb, nor did it have its beginning in a private institution. In 1864, commissioners were appointed to locate the State Asylum for the Blind within Wyandotte County but no appropriations were made to cover the cost of establishing such an asylum until 1867 when the legislature appropriated a sum for the erection of a building at the city of Wyandotte. In the following year an act was passed to regulate and put in operation this institution. The governor with the advice and consent of the Senate was to appoint a superintendent of the institution and also a board of three trustees. These trustees were to visit and inspect the asylum and correct errors in its management. In 1875 it was made possible for indigent pupils to attend the State Asylum for the Blind. If the friends of any blind pupil in the state should neglect to furnish him with suitable clothing and the necessary funds for attendance at the asylum, the overseer of the poor of the township in which he lived was required to investigate the case. If such pupil would in his opinion benefit by being sent to the asylum, then the overseer was to provide him with clothing and traveling expenses and the cost of the same was to be paid by the county. In the case of the State Asylum for the Blind, as in that of the institution for deaf and dumb, annual appropriations indicate that in the education of the blind industrial training was emphasized and handicraft, music, and typing were included in the list of subjects taught. The name of this institution too was changed in 1877.

1 Laws - State of Kansas - 1864 - Ch. 35 - Sec. 1
2 Session Laws - State of Kansas - 1867 - Ch. 16 - Sec. 1
3 General Statutes - State of Kansas - 1868 - Ch. 7 - Sec. 1
4 Laws - State of Kansas - 1868 - Ch. 37 - Sec. 1
to Kansas Institution for the Education of the Blind.  

As early as 1868, county assessors were required to make a list of all persons who were deaf and dumb or blind, indicating whether they had attended school. The auditor of state was to lay before the superintendents of the proper institutions copies of statements received by him from various parts of the state concerning the deaf and dumb and blind. By 1873 the county assessor was succeeded by the county clerk and statistics gathered from the reports of the county clerk were to be published by the State Board of Agriculture, those regarding deaf and dumb and blind being presented to the superintendents of the respective institutions as before.

In all probability these reports had a bearing upon the much later law providing for compulsory education of physically defective children. In 1905 every parent or guardian or association having charge of any deaf, dumb or blind child between the ages of seven and twenty-one was required to send such child to school where children with these defects were educated. The minimum school term for such schools was made five months. Exception was made of children who received private instruction for an equally long term. This law was to be enforced by the truant officer, and its violation by parent or guardian was made punishable by a fine not exceeding one hundred dollars.

For crippled children Kansas had made no provision whatever until 1907, when an act was passed providing for a special cottage for

1 Session Laws - State of Kansas - 1877 - Ch. 130 - Sec. 2  
2 General Statutes - State of Kansas - 1868 - Ch. 25 - Art. V - Sec. 81  
3 " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " " "  
4 Laws, State of Kansas - 1873 - Ch. 137 - Sec. 1  
5 Session Laws - State of Kansas - 1905 - Ch. 384 - Sec. 1
crippled children of sound minds at the Soldiers' Orphans' Home at Atchison. These children were to be admitted and cared for in the same way as children of the Orphans' Home, the Board of Control of State Charitable Institutions having the power to admit to this home all crippled children under fourteen who were of sound mind and who had lived the required length of time within the state. An appropriation of twenty-five thousand dollars was made to cover the cost of this provision for the care of crippled children.

One other law was passed by the Kansas legislature for the care of physically defective children, probably chiefly for crippled children. In 1911 hospital treatment with surgical aid was provided for children of the poor who were afflicted with a physical defect which might be cured by such treatment. The attending physician was to report the case to the county commissioners and county health officer, who would then furnish transportation for the child and its attendant to the hospital conducted by the University of Kansas. The same privilege was extended to children who were inmates of state institutions whose traveling expenses were to be paid by the state. The medical force in the service of the University was to receive no compensation for this work, but the actual expenses incurred by the University Hospital were to be paid by the city or county from which the patient was sent.

3. Delinquent Children

Traces of an attempt to distinguish between the delinquent child
and the adult criminal can be seen as early as 1855. Laws then enacted were in all probability not enforced but they are, nevertheless, of some slight significance. We find in the first laws of the territory, for example, a provision that minor convicts under sixteen convicted of felony were to be sentenced to county jail instead of confinement and hard labor;\(^1\) convicts who had committed an offence within the age of sixteen, such offence being the first, were to have civil disabilities removed when the sentence had been served.\(^2\) Then in 1858 this statement was inserted into an act concerning county jails: "Juvenile prisoners shall be treated with humanity and in a manner calculated to promote their reformation. They shall be kept, if the jail will admit of it, in apartments separate from those containing more experienced and hardened criminals. The visits of parents and friends who desire to exert a moral influence over them shall at all times be permitted."\(^3\) Herein appears an excellent principle - segregation of juvenile offenders from "more hardened criminals" - but no doubt at this time the jails did not admit of such segregation. These laws were all repealed in 1859\(^4\) and re-enacted.\(^5\)

Mention may be made of the fact that an act of 1863 provided for the erection of a State Penitentiary\(^6\) but since this institution was intended to care for adult criminals, it need not be discussed in detail here. Six years later an important step was taken toward the special care of juvenile delinquents. This act of 1869 provided for the estab-

1 Statutes - Territory of Kansas - 1855 - Ch. 54 - Sec. 19
2 " " " " " " " " " " 25
3 Laws and Resolutions - 4th Session - 1858 - Ch. 39 - Sec. 13
4 General Laws - Territory of Kansas - 1859 - Ch. 89 - Sec. 1 and 3
5 " " " " " " " 25 290 295
6 General Laws - State of Kansas - 1863 - Ch. 43 - Sec. 1
lishment and maintenance of reform schools in all counties containing a city of the first class. The purpose of these reform schools was to be the punishment, reform, and education of juvenile offenders. These reform schools were to be controlled by a board of managers, appointed by the governor for each county, and the expense of maintaining these institutions was to be met by the county. Persons under sixteen convicted of vagrancy or disorderly practices, of deserting home without cause or keeping company with dissolute or vicious persons against the command of parents were to be committed to reform school. Children under sixteen might be committed upon the complaint of the parent or guardian that such children were disorderly, if the complaint was found to be justifiable.

Ten years later this step was followed by another, similar but of greater significance — the establishment of a State Reform School. The site for this institution was to be within five miles of the state capitol building at Topeka and the city of Topeka was to give to the state one hundred sixty acres of land for the purpose. Any boy under sixteen convicted of an offence punishable by imprisonment might be sentenced by the court to the State Reform School or to imprisonment. If the sentence was to the Reform School then it was to be in the alternative to the State Reform School or to punishment which would have been meted out if the Reform School had not been established. The court might commit a juvenile offender to the Reform School in any one of three cases: first, a

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1 Laws - State of Kansas - 1869 - Ch. 93 - Sec. 1
2 " " " " " " " " " " 2
3 " " " " " " " " " " 7
4 " " " " " " " " " " 17
5 " " " " " " " " " " 18
6 Session Laws - State of Kansas - 1879 - Ch. 170 - Sec. 1
7 " " " " " " " " " " 3
8 " " " " " " " 1881 " " 129 " 3
boy under sixteen guilty of an offence punishable by imprisonment; second, with the consent of parent or guardian, a boy under sixteen charged with a crime punishable by confinement; third, a boy under sixteen who was incorrigible, vagrant, immoral, idle, truant, or disobedient. However, before a boy could be committed the court must first file complaint, giving five days notice to persons interested. The proceedings of the trial might, with the consent of the accused, be arrested by the court and the boy might be committed to the Reform School. A boy under the age of sixteen, was to be entitled to private trial unless his representatives demanded otherwise. Inmates of the Reform School must remain there until they reached the age of twenty-one unless discharged as reformed or bound out as apprentices. The Board of Trustees of State Charitable Institutions was given the power to find desirable employment for the boys in this institution, to provide them with proper useful instruction, and, with the consent of the boys, to bind them as apprentices to learn a useful trade. If such arrangement for apprenticeship proved unsatisfactory to the master or to the apprentice, the latter might be returned to the Reform School. Indentured pupils were placed under the supervision of the county superintendents of public instruction who were to visit these pupils not less than twice a year and who had at these visits the right of private interview with the apprentices. If the conditions of indenture were found to be unsuitable the fact was to be reported to the Board of Trustees by the visiting agent. It was the duty

1 Session Laws - State of Kansas - 1881 - Ch. 129 - Sec. 4
2 " " - " " " " - " " " - " " 5
3 " " - " " " " - " " " - " " 6
4 " " - " " " " - " " " - " " 7
5 " " - " " " " - " " " - " " 10
6 " " - " " " " - " " " - " " 11
7 " " - " " " " - " " " - " " 13
8 " " - " " " " - " " " - " " 14
of the visiting agent too to find suitable persons who might accept under articles of indenture pupils of the State Reform School. Boys returned to their parents from the school were dismissed on probation only, the Board of Trustees retaining the power to recall them to the institution if necessary. Finally, boys who by their presence at the institution were injurious to the best interests of the school might be dismissed and returned to friends unless committed because of an offence punishable by imprisonment when they might be sentenced to imprisonment by the court.

In connection with the State Reform School mention may be made of the establishment of a State Industrial Reformatory and a few of the essential principles in its management. A law of 1885 provided for the location of such an institution and outlined a plan of management. To this institution were to be admitted male criminals between the ages of sixteen and twenty-five serving their first sentence to state prison. The discipline was to be reformatory and to that end agricultural labor and mechanical industry were to be encouraged. This law was twice amended — in 1895 and in 1901 — the principles of management set forth being essentially the same in both the later laws. In 1901, in addition to the provisions stated in 1885, it was made possible for young and well-behaved prisoners of the State Pentitentiary to be transferred to the Reformatory; while the incorrigible at the Reformatory might be trans-

1 Session Laws - State of Kansas - 1881 - Ch. 129 - Sec. 15
2 " " " - " " " " - " " " - " " 12
3 " " " - " " " " - " " " - " " 16
4 " " " - " " " " - " 1885 " 187 " 1
* The State Industrial Reformatory at Hutchinson was not actually ready for use until 1895. See Session Laws - State of Kansas - 1895-Ch. 200-Sec. 1
5 Session Laws - State of Kansas - 1885 - Ch. 187 - Sec. 9
6 " " " - " " " " - 1895 - Ch. 200
7 " " " - " " " " - 1901 " 355 " 13
ferred to the Penitentiary; a credit system was established by which good conduct might be rewarded by increased privileges or release on parole; and again discipline was to be reformatory, intended to prevent crime and develop ability of self-support.3

State institutional care for delinquent boys preceded by a decade similar care for girls. In 1889 appropriations were made for the erection of the State Industrial School for Girls at Beloit, provided that the city of Beloit should donate to the state forty acres of land to be used as a site for the institution.4 Any girl under sixteen convicted of an offence punishable by imprisonment might be sentenced by the court to the Industrial School for Girls or to punishment regularly prescribed for such offence. If the sentence was to the Industrial School it was to be in the alternative to the Industrial School or to punishment such as would have been prescribed before the passage of this act.5

This section was repealed and amended in 1911 without change except that the age limit was raised from sixteen to eighteen.6 The court might commit to the Industrial School: first, any girl under sixteen guilty of an offence punishable by imprisonment; second, any girl under sixteen against whom a charge of crime had been made punishment for which would be confinement in jail or prison, providing the parents or guardian consented; third, any girl under sixteen incorrigible, vagrant, immoral, or any girl who refused to work or to attend school. Before the court committed a girl to the State Industrial School, however, as in the case of boys sent to

1 Session Laws - State of Kansas - 1901 - Ch. 355 - Sec. 16
2 " " - " " - " " - " " - " " - " " - " " - " " - " " - " " - " 15
3 " " - " " - " " - " " - " " - " " - " " - " " - " 21
4 " " - " " - " " - " - " 1889 - " 158 - " 1
5 " " - " " - " " - " " - " " - " " - " " - " 10
6 " " - " " - " " - " - " 1911 - " 301 - " 2
the Reform School, a complaint giving charges against the accused must be filed by the court and five days notice must be given to all persons interested in the charges made. In 1917, a change was made in this section providing for commitment, the age limit being raised from sixteen to eighteen. Again, as in the case of delinquent boys, trial might be arrested and, with the consent of the accused, the girl might be committed to the Industrial School unless parents or guardian demanded a public trial. All inmates were to remain in the institution until they reached the age of twenty-one unless bound out as apprentices or discharged as re-formed. Discharge meant unqualified release from all penalties and disabilities. The Board of Trustees had the power to apprentice any girl of the institution for the purpose of learning a useful trade, but apprenticeship might be canceled if it proved to be unsatisfactory for the welfare of the apprentice or of the master if the girl proved untrustworthy. The duties of the county superintendents with regard to these girls were the same as his duties in connection with boys apprenticed from the Reform School; namely, to visit the indentured pupil; to report to the Board of Trustees the result of their investigation; and to seek out desirable persons willing to receive as apprentices girls from the Industrial School.

In 1901 punishment for misconduct of inmates of the State Reform School and Industrial School for Girls was specified. Any boy or girl who

1 Session Laws - State of Kansas - 1889 - Ch. 158 - Sec. 11
2 " " - " " " - 1917 - " 303 - " 1
3 " " - " " " - 1889 - " 158 - " 12
4 " " - " " " - " - " " - " 13
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attempted to set fire to a building belonging to the institution, resisted the officers or incited others to do so, or exerted a bad influence on other inmates or committed felony against any inmate or officer, or destroyed property belonging to the institution worth more than twenty dollars or made his escape from the institution was to be punished, if a boy in the State Reform School, by being committed to the State Industrial Reformatory for one to three years and if a girl in the Industrial School by being sentenced to the State Penitentiary for one to three years. However, in the offence of running away from the institution the boy or girl was not considered a violater of the act until the second or subsequent offence, when such sentence expired the offender was to be returned to the original institution. The prescribed punishment need not necessarily be meted out but the delinquent might be punished at the institution under the criminal laws of Kansas.

The act of 1901 defining conditions of child dependency which has been discussed may be called the forerunner of the act of 1905 establishing the juvenile court. In addition to the provisions already discussed under dependency there was in this act a specific provision for juvenile offenders. In any incorporated city child offenders under sixteen were not to be permitted to be confined before trial in police cells used for adult criminals, nor to be tried in the regular police court but in a private office or some other room in the building. Cities must make for these delinquents separate provision for the custody of children during trial at a suitable place separate from the ordinary jails. In hearing

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1 Session Laws - State of Kansas - 1901 - Ch. 172 - Sec. 1
2 " " - " " " - " - " " - " 2
3 " " - " " " - " - " " - " 4
cases of juvenile delinquency or ill-treatment of children by parents the court was required to refuse admission to all but those persons immediately concerned in the trial.

Following this law of 1901 came the law of 1905 establishing a juvenile court and providing for the care of dependent, neglected and delinquent children. This act created a juvenile court in each county in Kansas which was to have jurisdiction over all cases which concerned dependent, neglected, and delinquent children, the probate judge being made judge of the juvenile court. This section was amended and repealed in 1917 but no change was made in the above mentioned provisions. This act was designed to cover problems concerning children under sixteen who were outside of institutions but jurisdiction once acquired was retained while the child was a minor. The terms "neglected" and "dependent" as applied to children have already been defined as meaning children who were abandoned, dependent on the public for support, without proper guardianship and home surroundings, who were idle or immoral or who earned a livelihood by undesirable means such as begging. "Delinquent" was in this law defined as any child who was a law-breaker, who was incorrigible, idle, or who associated with immoral persons, frequented poolrooms or gambling halls. The juvenile court was to appoint "one or more discreet persons of good character" to act as probation officers. It was the duty of these probation officers to make investigations required by the court concerning the child; to bring such child before the court; to represent the interests of the child in court; to furnish necessary information about the case;

1 Session Laws - State of Kansas - 1901 - Ch. 106 - Sec. 13
2 " " - " " " - 1905 - " 190 - " 1
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and to take charge of the child before and after trial. Such probation officer might be the truant officer.\footnote{1} Any person of good repute might make complaint to court concerning any child over which the juvenile court had jurisdiction, giving the facts about the case.\footnote{2} Upon the filing of the complaint the child and the person having the custody of it were to be summoned to court.\footnote{3} During the trial the child might be in the care of the probation officer, might remain in its own home or in the charge of some suitable person or in some suitable family, in all of which cases the child was subject to the friendly supervision of the probation officer. If no other provision was made for the custody of the child, it must be kept in a suitable place provided by the county but except in case of felony commitment of a child to jail or a police station pending a hearing was expressly forbidden.\footnote{4} If after examination and trial the child was found to be dependent, neglected, or delinquent, the court might provide for the child’s care by committing it to some institution, to a public or private hospital, to some training school or industrial school, to the care of some individual of good character, or to an association whose object it was to care for and obtain homes for children.\footnote{5} Upon being committed to the care of any institution, individual, or association, the child became its ward and might by its guardian be placed in a family home subject to legal adoption. Such guardianship did not include the estate of the child.\footnote{6} In the case of delinquency, no child under the age of sixteen might be committed to the State Industrial Reformatory for a period ex-
tending beyond minority. Delinquent children committed to an institution for the care of such children might be paroled by the managers of the institution or upon the suggestion of this board of managers might be discharged by the court upon complete reformation or committed to the custody of some individual or association. Such custody might be revoked by the court if it was not for the best interests of the child. Children under sixteen when arrested were to be taken before the judge of the juvenile court instead of the justice of the peace or police magistrate. Any child might appeal to the district court from the decision of the juvenile court and such appeal might be demanded by the custodian of the child. In cases of felony committed by a delinquent child the juvenile court might remand the offender to the district or county court to be there tried. Officers arresting children under sixteen were required to inform the probation officer or juvenile court judge of the fact together with the facts pertaining to the child, its guardian, and the accusation made against the offender. In the case of children coming under the jurisdiction of this act punishment for violation of state laws or city ordinances was to rest in the discretion of the judge of the juvenile court who might suspend or remit execution of sentence. Finally, this act was "to be liberally construed to the end that its purposes might be carried out, to wit, that the care, custody and discipline of a child shall approximate, as nearly as may be proper, parental care; and in all cases where the same can be properly done, that a child may be placed in an approved family home, by

1 Session Laws - State of Kansas - 1905 - Ch. 190 - Sec. 9
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legal adoption or otherwise. In no case shall any proceedings, order or judgment of the juvenile court, in cases coming within the purview of this act, be deemed or held to import a criminal act on the part of the child; but all proceedings, orders and judgments shall be deemed to have been taken and done in the exercise of the parental power of the state. ¹

This act of 1905 was first supplemented in 1907 by which supplement persons responsible for delinquency, dependency, or neglect of a child were guilty of a misdemeanor and were subject to a fine not exceeding one thousand dollars or imprisonment in the county jail for not more than one year or both. ² However, the court might suspend sentence of such person guilty of a misdemeanor if said person furnished a bond not exceeding two thousand dollars that he would make payment for the support, care, and maintenance of the child concerned by some individual, institution or association, such sum not to exceed twenty-five dollars a month, ³ or the court might suspend sentence and permit the child to remain in the care of the parent or custodian after having made provisions to remove the cause of dependency or neglect. ⁴ If the conditions specified by the court or by the bond given were not fulfilled the original sentence might be enforced. ⁵ In order to make possible the carrying out of the provisions of 1905 that children were not to be held in jails while awaiting trial, the legislature granted at this time to county commissioners of counties having a population of more than twenty thousand the right to establish detention homes or juvenile farms for the purpose of caring for homeless children under sixteen over whom the juvenile court had custody. An additional

¹ Session Laws - State of Kansas - 1905 - Ch. 190 - Sec. 15
² " " - " " - 1907 - " 177 - " 1
³ " " - " " - " - " - " " - " - " 2
⁴ " " - " " - " - " - " " - " " - " 3
⁵ " " - " " - " - " - " " - " " - " 4
condition accompanied the establishment of juvenile farms – namely, counties establishing such farms must have a city with a population of twenty-five thousand or more. Such detention homes were to be in charge of a matron or of a man and his wife who were under the direction of the judge of the juvenile court. Parental care was to be the keynote of control in these homes and children were to be educated either in the public schools or in the home itself. The detention home, as its name indicates, was to be only a temporary home, for so soon as possible the children were to be returned to the custody of their parents or foster parents. The expense of maintenance of these homes was to be considered a part of the expense of the juvenile court and was to be paid by means of tax levy. Each year the judge of the juvenile court was required to report to the governor upon the number of cases handled, the nature and the disposition of them.

The juvenile court was given jurisdiction over all dependent children under sixteen. Children brought before the court while under sixteen remained under its jurisdiction until discharged even though they arrived at that age in the meantime. A second supplement followed in 1911 when it was specified that court procedure in the case of trial of persons responsible for dependency, delinquency, or neglect of a child was to be the same as the procedure in the trial for misdemeanors before justices of the peace, and that any person in the above case might appeal from the judgment of the juvenile court as in the case of judgments passed by the justice of the peace in cases of misdemeanor. This completes the law

1 Session Laws – State of Kansas – 1907 – Ch. 177 – Sec. 7
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regarding the juvenile court up to date.

In 1913 provision was made that when any person was convicted of felony, except murder, forcible rape, arson, or robbery, the punishment of which was sentence to the Penitentiary, Kansas State Industrial Reformatory, or the State Industrial School for Girls, such conviction being for a first offence, the court might parole the offender if satisfied that he or she would not violate the law again.¹ This law was amended in 1921 to include in the excepted offences in addition to the above, burglary and larceny of automobiles or live stock, and a provision was inserted that the court had no power to parole the offender after he had been delivered to the proper institution.² Further with regard to parole of juvenile offenders, mention may be made of the creation of the office of parole officer in 1915 at the Industrial School for Girls. This parole officer was to be appointed by the superintendent with the confirmation of the State Board of Corrections ³ and was to have supervision of the girls on parole, finding homes for those who had none.⁴

After a study of the laws of Kansas bearing upon the welfare of the children of the state one feels that much that is commendable has been attempted in the way of legislation. However, many good laws no doubt remain ineffective for lack of any organization which can be held responsible for making the best possible use of laws already enacted, for making investigations of the further needs among the children of Kansas, and for initiating new legislation when those needs have been determined. Fortunately, the

¹ Session Laws - State of Kansas - 1913 - Ch. 172 - Sec. 1
² " " - " " - 1921 - " 174 - " 1
³ " " - " " - 1915 - " 331 - " 1
⁴ " " - " " - " - " - " - " 2
value of such an organization was recognized by the legislature of 1921 when it established the Bureau of Child Research, but so far this Bureau has been ineffective because of the failure of that legislature to appropriate the necessary funds to make the law operative. It is to be hoped that the law will not long remain inoperative for want of state support.
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