

T  
1920  
H872

T  
1920  
H872  
No 184

THE EVOLUTION OF THE  
TENNESSEE PUBLIC SCHOOL SYSTEM.

By

Owen Rogers Hughes, B.A.  
University of Tennessee.

-----

SUBMITTED IN PARTIAL FULFILLMENT OF THE  
REQUIREMENTS FOR THE DEGREE OF  
MASTER OF ARTS  
IN THE  
GRADUATE SCHOOL OF EDUCATION,  
GEORGE PEABODY COLLEGE FOR TEACHERS.

Approved:

Major Professor

Minor Professors

*Thomas Alexander*

*Shelton Phelps*

*Eric Almas*

*W E Perkins*

*Ch. J. Carr on Grad. Com.*

August, 1920.

CONTENTS.

INTRODUCTION-----Pages I-2.

Chapter I.

THE LAND GRANT, THE PERMANENT FUND, AND  
TAXATION-----Pages 3-33.

Chapter II.

DEVELOPMENT OF THE ADMINISTRATIVE  
ORGANIZATION----- Pages 34-49.

Chapter III.

EXTENSION OF THE SYSTEM----- Pages 50-67.

CONCLUSION-----Pages 68-72.

BIBLIOGRAPHY----- Page 73

## INTRODUCTION

The purpose of this investigation is to trace the development of education in Tennessee as a state function. Taking as a starting point, the famous clause in the Ordinance of 1787: "Religion, Morality, and Knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged," the writer proposes to discuss the successive legislative enactments by which the State of Tennessee has attempted to carry out this injunction.

The discussion is confined to the development of the means of public support for education, of the machinery of administration and control, and of those institutions that are recognized in the laws as constituting the public school system.

As the first impulse toward public schools in Tennessee was given by the grant of public lands from the United States Government, the first chapter is an account of the settlement of the land grant of 1806 to the colleges, and of the attempts to dispose of the public lands in such a way as to establish a permanent school fund, and of the different laws relating to taxation for public school purposes.

The next chapter shows the development of the administrative organization from the isolated district.

unit to the county unit, and from a matter of purely local concern to state control and supervision.

The third chapter shows how the elementary system established in 1873 was extended, by the aid of the Peabody fund and of the National Government, and by state legislation, to include normal schools, high schools and the state university, and how higher education has been provided free to every person in the State.

The material for the period before the Civil War is found mainly in the Public Acts of Tennessee and in the Journals of the House and Senate. Every effort has been made to give a logical and connected story of the development of the college funds and of the permanent school fund, but the early land laws of the State are so confusing and contradictory that the whole truth of the loss of most of these lands to the State will probably never be known. In the absence of any official school records, use is made of extracts from the messages of the governors and from the reports of legislative committees on education.

## Chapter I.

## THE LAND GRANT, THE PERMANENT FUND, AND TAXATION.

In April 1784, the Legislature of North Carolina passed an act ceding the western territory of the State to the United States. The "State of Franklin," formed in defiance of the parent state was the result, and the act was repealed. In 1789, North Carolina again conveyed to the United States "all right, title, and claim to the sovereignty and territory" of lands now comprised in the State of Tennessee. The cession was accepted by the United States in 1790. (1) One condition of the cession was that the state or states formed out of the territory should "enjoy all the privileges, benefits, and advantages set forth in the ordinances of the late Congress for the government of the western territory of the United States." (2)

One of the ordinances referred to was the famous Ordinance of 1787, which contained the clause that is the fundamental school law of the land: "Religion, Morality, and Knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

In the Act of Cession, North Carolina reserved the right of issuing warrants for the benefit of her officers and soldiers of the Revolution, and of perfecting all claims against the State out of lands in the

(1) Garrett and Goodpasture-History of Tenn. pp. 149-150  
 (2) Act of Cession-Official Manual of Tenn. p. 63

territory. Tennessee manifested a strong desire that North Carolina would transfer to her the right of perfecting all claims. (1) North Carolina passed a law in 1804 authorizing Tennessee, with the assent of Congress, to perfect all such claims. Congress gave the necessary authority in 1806.

With the Compact of 1806 (2) between the United States, North Carolina, and Tennessee, the history of the public school system of Tennessee has its beginning. When Tennessee was admitted to the Union in 1796, the United States Government retained the title to the public lands in the new state. By this Act of Congress the United States conveyed to the State of Tennessee, under specified conditions, (3) all the public lands lying north and east of what came afterwards to be known as the Congressional Reservation Line. All of West Tennessee and the southern portion of Middle Tennessee was thus reserved. In the following conditions under which the conveyance was made, the United States was fulfilling the terms referred to above, under which the territory had been accepted from North Carolina.

1-Tennessee should satisfy all North Carolina land claims out of the territory ceded to it.

2-It should appropriate 100,000 acres to be located in one tract, within the district south of the French Broad and Holston, and west of the Big Pigeon rivers for

(1) Senate Journal 1825 p, 236

(2) It was a compact in the sense that it was the ratification by Congress of the compact between the states in 1804.

the use of two colleges, one in East, and one in West (Middle) Tennessee.

3-It should appropriate 100,000 acres, in one tract, within said limit, for the use of academies, one in each county of the State.

4-It should, moreover, in issuing grants and perfecting titles, locate 640 acres to every six miles square in the territory ceded to it, where existing claims would allow the same, which should be appropriated for the use of schools forever.

5-That the college and academy lands should not be sold for less than two dollars Per acre, provided that the people residing south of the French Broad and Holston and west of the Big Pigeon rivers should be secured in their rights of occupancy and pre-emption at a price not less than one dollar per acre.

The Legislature of Tennessee, in the same year, chartered Cumberland College in Nashville, on the foundation of Davidson Academy, and in 1807, chartered East Tennessee College in Knoxville, on the foundation of Blount College, (1&2) and designated these institutions as the recipients of the land grants for colleges.

As one of these institutions later became the teacher training center for the State, and the other, after long years of neglect, was destined to become the head of the Tennessee public school system, the history of their

(1) Merriam-Higher Education in Tenn. p, 23 and p, 64.

(2) Cumberland College became the University of Nashville in 1826.

East Tennessee College became East Tennessee University in 1840.

land grants will be briefly traced.

The provision in the act of 1806, confirming the rights of the inhabitants of the lands set apart for colleges, caused the colleges to lose half of their gift at the very outset. In the section of the State containing the grant, wherever the Indian title had been extinguished, the good land had already been taken up by settlers, (1) and there were no lands worth two dollars per acre that were unclaimed. Then, too, the State Constitution had previously guaranteed the rights of the settlers, and so, instead of carrying out the intent and purpose of the Act of Congress, by selling 200,000 acres at one dollar an acre, or 100,000 acres at two dollars an acre, the Legislature passed an act in 1806, (2) permitting the settlers to perfect their titles by payment of one dollar per acre, payments to be made in ten annual installments.

This was the beginning of a long controversy between the settlers and the colleges, and the Legislature took the part of the former by passing one act after another, extending the time of payments or remitting accrued interest. (3) The plight of the settlers created sympathy for them and prejudice against the colleges. These hardy pioneers had won their homesteads by toil, hardships, and incessant struggle against the savages, and in those days when money was scarce, the payment of even one dollar per acre for their land was probably a burden to most of them.

(1) Hile's Weekly Register. Vol. 21, p. 299.

(2) Acts of 1806. Chapter 2.

(3) Acts of Tennessee, 1806-1829.



Then, too, political demagogues played upon their feelings and helped to engender prejudice against the colleges. Judge Sanford in his "Blount College and the University of Tennessee," quotes a candidate for Congress as denouncing the trustees for "having used the people's money to build light-houses of the sky for the sons of a few great men to go up and star gaze." What little the colleges eventually realized out of the land grant was more than offset by the loss of popular favor toward higher education on account of the struggle.

The chaotic conditions of the college land grant in 1821 are set forth in the following extract from the message of Governor McMinn:

"Even the officers of the government are ignorant of many of the most natural facts from which alone a tolerable estimate of the available character of the fund can be adduced. We all know that two hundred thousand acres of land----at a price of one dollar per acre was appropriated for the establishment and support of colleges and academies, but in what manner collections on the sale of these lands have been made, and to what amount; how much of the land has been granted; how much of the principal or interest has been voluntarily or otherwise paid; or how much still remains due, or to become due, is scarcely known to any individual within the State." (I)

In 1822 the University of North Carolina, in a  
 (I) Senate Journal 1821. p, 20.

memorial to the Tennessee Legislature, asked for the adjustment of her claims to public lands reserved by the Compact of 1806. The State of North Carolina had turned over to the University of North Carolina the land warrants issued to her officers and soldiers of the Revolution who had died without heirs. The Legislature passed an act directing the Governor to appoint a commission who should have power to make an agreement binding on the State. (1) The Tennessee commissioners and the agent of the University of North Carolina reached an agreement whereby the State issued grants upon the warrants of the University of North Carolina and exempted them from taxation until 1850, and in return, the University transferred 60,000 acres of its land in Tennessee to the two colleges in the State. East Tennessee College received 20,000 acres, and Cumberland College, 40,000 acres. The amounts realized by the colleges from the sale of these lands is not known. Sanford states that East Tennessee College received \$19,112.98 less expenses. (2)

The inhabitants of the college lands having had their payments postponed and remitted repeatedly, finally in 1825, refused to make any more payments. In 1829 the Legislature, weary of the long struggle, tried to wash their hands of the whole business, and, "to avoid all future legislation respecting said subject," by offering the colleges a half township of land in the Hiwassee district

---

(1) Acts of 1822. Chapter 3

(2) Sanford-Blount College and the University of Tennessee. p, 54.

in return for their complete release of claims in the French Broad district. The Indian title to this land had not been extinguished and the proposition did not appear to be equitable and Cumberland College refused to accept. East Tennessee College did accept, however, and the trustees executed a deed of release. When the State acquired the title to the Hiwassee lands in 1838, the gift to the colleges was doubled, and this time, Cumberland College accepted. Each institution received a half township of land. East Tennessee realized something over \$54,000 from the sale of her land, and Cumberland College, about \$40,000, being about one fifth of that which Congress had promised in 1806. (1&2) This vexatious question having been settled, however unjustly, the colleges were left to develop entirely unaided by public support until after the Civil War.

Phelan says: "The history of common schools is, in the main, the history of public lands in Tennessee, and the history of public lands in this State is the history of confusion." What apparently was a generous provision for public schools, soon afterward proved to be quite ineffective. Congress did not vest the title to the 640 acre sections of land in the inhabitants of the district six miles square where they were to be located, because no such survey had been made in Tennessee. Furthermore,

(1) Merriam-Higher Education in Tenn. p, 39

(2) Sanford-Blount College and the Univ. of Tenn. pp, 57-59

existing claims would not allow the location of these sections because nearly all the land that was worth entering had already been taken up under the laws of North Carolina. The surveyors appointed by the Legislature to locate these lands estimated that the State was entitled to 444,444 acres, but they were able to locate only 22,705 acres.(I&2)

It was due to the lack of surveys and maps, to the inadequacy of the laws of entry, and to the failure of the early Legislatures to realize the full significance of the provisions for public schools, that Tennessee lost at the very outset, all but a relatively small portion of the munificent gift. ✓

Some idea of the state of confusion that existed on the subject of school lands may be gained by perusal of the Senate and House Journals from 1817 to 1832. Acts were passed, one after another, confirming claims and directing that other lands be laid off. Phelan estimates that more than three hundred acts have been passed relating to public lands. However, the grants to the colleges and academies seem to have occupied the minds of the early Legislatures much more than the public school lands. No attempt was made to make up the deficit referred to above until 1824. James K. Polk, as chairman of the House committee appointed to draw up a memorial to

---

(1) Garrett and Goodpasture. p, 154.  
(2) Nile's Register. Vol. 21, p, 299.

Congress on the subject of school lands, reported Nov. 27, 1824. (I) He shows in his report that Congress, in 1818, had authorized the State of Tennessee to issue grants and perfect titles to lands south and west of the Congressional Reserve Line in order to make up the full claims of North Carolina, but that no provision had been made for making up the deficit in the school lands. He shows further in his report that nearly all the valuable lands in the Congressional Reserve have been appropriated to satisfy North Carolina claims but that many detached parcels are left, and that if the United States Government would release them to the State, they would go far toward making up the deficit in the school lands. He recommends that they be appropriated for the promotion of common schools and the "education of the poor." Polk made substantially the same report in Congress two years later but no action was taken.

Chapter 49 of the Acts of 1823 was the first step toward the establishment of a permanent school fund derived from the sale of, and the tax upon public lands. This act provided for an office in each county north and east of the Congressional Line for receiving entries for vacant lands in the county. Lands were to be paid for at the rate of 12½ cents per acre. All moneys received by the entry takers were to be paid over to the Bank of

(I) House Journal 1823. p. 325.

the State of Tennessee, to be loaned by the President and Directors to the citizens of the different counties. The principal was to constitute a perpetual and exclusive fund for the establishment and promotion "of common schools in each and every county of the State." The interest was to be paid semi-annually to the school commissioners in each county. Taxes accruing on these lands were to be kept separate from other taxes and paid over to the school fund.

An act passed two years later (I) made the following additions to the school fund:

1-All the capital of the recently organized State bank, except one half the sum already received, and the interest on the capital, which was a million dollars in bills emitted on the credit and security of the borrowers, guaranteed by the State on the proceeds of its unappropriated lands.

2-The proceeds of the sale of lands in the Hiwassee district to which the Indian title had become extinguished.

3-All lands to which the State should thereafter have title.

4-All rents and mesne profits of school lands.

5-A number of small gifts made to the State, and all gifts that might thereafter be made for no specific purpose, and all lands escheated to the State.

(I) Acts of 1827. Chapter 64.

A report to the Legislature in 1831(I) shows the condition of the school fund at that time, and throws interesting light on the lax methods of handling the funds of the State. The amount of the school fund, and the sources from which it was derived were shown as follows:

Money received from the sale of Hiwassee lands up to 1827 ----- \$258,315.22.

Amount from the same source since 1827----- 103,161.61

Amount received from the sale of 12½ cent lands----- 120,847.75

Total 487,328.58.

Lands still under controversy worth 40,000.00

This report goes on to show that no accurate and complete statement can be given because of the failure of entry takers, agents, and tax collectors to turn over money collected, and because of the state of confusion and disorder in the books and accounts of the Bank of the State of Tennessee in which the school funds were deposited.

The Legislature itself has not always been free from blame in such matters, for, by an act passed in 1830, it appropriated for "internal improvements" \$150,000 that by the law of 1827 should have gone to the school fund.(2)

(1) Senate and House Journal 1831. p, 312.

(2) Acts of 1829. Chapter 75.

From this time until 1854 the history of the school fund is mainly the history of banks, and there is probably no phase of Tennessee history more complicated. The idea prevailed that great profits were to be derived from banking operations, and the Legislatures of that period seem to be looking forward to the time when the state banks would yield all the revenue required for the expenses of the State. It is to the credit of the General Assemblies that public education was given consideration along with internal improvements as a state enterprise. It was with a view of accumulating a large fund with which to establish a system of public schools at some future date, that two new banks were established, the Union Bank in 1832, and the Planters' Bank in 1833. (1 & 2)

The State subscribed for \$500,000 of the stock in the Union Bank, to be paid in State bonds. The profits from the stock owned by the State, after the bonds had been paid, and the interest accruing from the deposits of public funds, were to be appropriated to the common schools. One half of one per cent of the capital stock was to be paid to the State annually and was to be appropriated to the common schools. The State was likewise to receive a bonus of one half of one per cent of the capital stock of the Planters' Bank, and this was also to be appropriated to the common schools .

- 
- (1) Acts of 1832. Chapter 2.  
(2) Acts of 1833. Chapter 3.



The law made it the duty of the common school commissioners in the several counties to subscribe the school funds in their possession to the capital stock in both these banks.

Judging from these two acts, and another passed in 1831, levying a tax for school purposes on licenses issued to retailers of spirituous liquors, it is apparent that the Legislature had a commendable enthusiasm on the subject of raising and augmenting school funds. However, the manner of collection, disbursement, and administration of the school funds is a different story. They were, says a report made in 1839, "time after time plundered by a thousand hands." In the first place, the full amount of the school funds to be derived from the sale of public lands was probably never collected. Act after act was passed extending the time for the sale of the lands, there was delay after delay in the collection of payments, and little by little the greater portion of the munificent gift to the State for public education was wrested from her hands by the unscrupulous.

This condition of affairs was brought to the attention of the Constitutional Convention of 1834, and a committee was appointed "to enquire and ascertain, and report the amount of the common school funds belonging to the State, in what the same consisted, whence derived, and how vested."

The committee reported that there had been appropriated by the General Assembly to the use of common schools, of the capital of the Bank of the State of Tennessee, the amount of \$455,163, and that various other legislative appropriations had been made at different times, of funds arising from sources mentioned above in the law of 1827. The committee frankly stated that they had no means of ascertaining even the probable amount of any of these appropriations. However, their report throws light on some of the uses to which the sacred fund had been put. The school commissioners of three Middle Tennessee counties had invested their school money in a turnpike company, and in other counties it had been loaned to individuals on personal security. The committee grants that every precaution had been taken to secure these funds, but they go on to say that, "under such a system, they believe the final safety and security of the same to be doubtful and precarious, and that unless a different system is adopted, the greater part of said fund will ultimately be squandered and lost." They recommended that the entire fund be placed under the general superintendence of a responsible officer of the State for collection and investment. (I)

The committee reported the following estimates of

(I) Journal of the Constitutional Convention of 1834. Report of the Committee on School Funds.

funds expected to be derived from the State's latest financial ventures:

1-That the State's bonus of one half of one per cent of stock in the Union Bank would amount in twenty seven years, (1) to -----\$270,000

2-That the dividends on the stock owned by the State, at 8% per annum would amount to----- 40,000.

3-That the total amount, during the life of the bank would be----- 720,000.

4-That the State's bonus of one half of one per cent of the capital stock of the Planters' Bank would amount, during the life of the bank, to----- 270,000.

This committee's report of the precarious condition of the school fund led to the following provision in the Constitution of 1834, which established the fund on a permanent basis: "And the fund called the common school fund----shall remain a perpetual fund, the principal of which shall never be diminished by legislative appropriation; and the interest thereof shall be inviolably appropriated to the support and encouragement of common schools throughout the State for the equal benefit of all."

Pursuant to the recommendations of the above mentioned committee, the Legislature of 1835-6 passed an act creating the office of State Superintendent. (2) This

(1) The charters of these banks were to expire in 1863.  
(2) Acts of 1835. Chapter 23.

official was to be a financial agent and his chief duties were to prepare plans for the "improvement and management of the common school fund," to collect school money from agents, clerks, and sheriffs, and to furnish each county agent a schedule of all accounts against the debtors to the school fund in his county.

Robert H. McEwen was elected to this office and re-elected in 1838. In his first report to the Legislature in 1837, he said that he "found the common school fund in a scattered, and some of it in a very precarious condition, and that the collection of a portion of it had been, and would continue to be attended with very great difficulties." He reported \$310,346 of the fund collected and invested. (1)

A legislative committee on education reported at the same time that the fund reported by Supt. McEwen would amount to \$1,500,000 or more by the sales of public lands in the Ocoee district.

During this period of Tennessee history the three subjects uppermost in the minds of public spirited men were banks, internal improvements, and public schools--- or rather the establishment of a permanent fund sufficient to maintain a public school system. With these objectives in view, a new bank was chartered in 1838. (2) State banks heretofore had never proven altogether successful as revenue producers, but the State was now

---

(1) Senate Journal 1837, p. 501.

(2) Acts of 1838. Chapter 167 and Chapter 148.

going to wipe the slate clean and start anew, and, as if the failure of the other banks had been due to a lack of support on the part of the State, the framers of the act establishing the Bank of Tennessee, wrote in the words, "the faith and credit of the State are hereby pledged for the support of said bank."

The whole of the common school fund, whether invested in stock in the existing banks (the Union Bank excepted) or in the hands of the Superintendent, or in the hands of county agents or other persons, except such as were invested in any work of internal improvement, was to constitute a part of the capital stock. This was the beginning of the end of the permanent school fund in Tennessee.

The act further provided that if a system of public schools should be established and put into operation, the State's bonuses of the capital stock in the existing banks were not to be subscribed, but if a school system were not established, these bonuses were also to be subscribed to the capital stock.

Of the dividends from the Bank, \$100,000 was to be set apart for common schools, and the State was pledged to make good any deficiency in this amount. This was the first definite and regular appropriation made to public schools in this State.

At the same session a law was passed directing the

State Superintendent to apportion the school fund among the several counties according to the ratio of white children between the ages of six and sixteen. The money was to be paid over to the county trustee and by him to be apportioned among the districts, and a provision was made that no district was to be apportioned any money unless three months of school had been "kept" the year previous.

A committee was appointed in 1839 to enquire into the condition of the common school fund, and to investigate the office of the Superintendent, reported gross mismanagement of the funds that had been collected from the county agents. (1) The law of 1836 required that all funds collected by the Superintendent, should be invested by him in bank stock or deposited at interest. Instead of adhering to this requirement, Supt. McEwen had loaned the funds to various persons to be used in private enterprises in and out of the State. A large amount was loaned to a firm engaged in the manufacture of paper, of which firm McEwen himself was senior member. There was a deficit in his accounts estimated at \$120,000. Suit was brought against him in the Chancery Court at Franklin but only a comparatively small amount was recovered.

The committee referred to above, estimated the total amount of the school fund, including stocks, real estate, and debts "good and doubtful", to be \$1,399,800.

---

(1) Senate Journal 1839. p, 191.

According to the report of Supt. R. P. Curran, who succeeded McEwen in 1840, these debts due the school fund amounted to \$114,000. Many of them due from county agents were "in a condition so desperate that all hope of collection had been abandoned."

Soon after the Bank of Tennessee began operations it was apparent there was little hope from that source for funds sufficient to maintain public schools. Gov. Newton Cannon, in his retiring message to the General Assembly in 1839 called attention to the fact that the Bank had failed to meet the needs of revenue, that the stock in the other banks had not been disposed of as required by law because no market had been found for the stock. James K. Polk, the succeeding governor, urged in his message that measures be taken "to insure a more rigid and strict accountability on the part of public agents and officers to whom was intrusted the management and control of the school fund and the annual proceeds arising from it, and to insure a more general diffusion of its benefits throughout the State."

Between 1839 and 1853, various measures were taken to increase the school funds. In 1841, one half of the United States surplus revenue deposited in the State Bank was appropriated. In 1846, Congress surrendered to Tennessee the public lands remaining unappropriated in the Congressional Reserve, subject to valid claims,

together with the proceeds of such as had already been sold. The sum of \$11,705 was realized and invested in bonds, the interest to go to common schools. (1) Bonuses were required from the six insurance companies operating in the State, and from banks organized under the general banking law of 1852. (2) However, no appreciable increase in the school funds was realized from these measures.

The reports of the Comptroller from 1839 to 1854 show that the average annual appropriation for schools was around \$110,000. The Legislature had not neglected to make school laws in abundance, but the crude and inefficient legislation that fills so many pages of the statute books since the Compact of 1806, had so far produced nothing worthy of the name of public school system. The State was lending insignificant aid to a few common schools, attended by the poorer classes and supported largely by tuition and private subscriptions.

As early as 1837, taxation for school purposes had been suggested (3) but the lawmakers were enamored of the idea of public revenues derived exclusively from great State banks, turnpikes, railroads, insurance companies and other public service corporations, and no action was taken until the futility of this Utopian

(1) Sanford-Blount College & the Univ. of Tenn. p, 101.  
 (2) Acts of 1838-1854.  
 (3) Report of Committee on Education, Senate Journal 1837.



scheme had clearly demonstrated. The general dissatisfaction with the common school system and the diversity of public opinion in regard to taxation for school purposes is reflected in the messages of the Governors. Some of them were vigorous and outspoken, while others were halting and timid on this question.

Gov. James C. Jones pointed out in his message in 1843 that the school fund was wholly insufficient for the accomplishment of the great purposes of education, and that it should be combined with individual assistance, that education should not be a state function altogether, for, he said, "When a parent's ability is exhausted, then the liberality of the government should be brought to his aid---that is all he ought to expect or desire." He said in the same message that, as the sum of \$100,000 annually appropriated was wholly insufficient to educate all the children, there were two remedies; one, that the fund be applied "exclusively to the education of the poor and indigent;" the other, to increase the fund by taxation if necessary.

Gov. Aaron V. Brown, in his retiring message in 1847, said: "I cannot recommend a present resort to taxation until by some unequivocal expression of public sentiment, it is made manifest that such a measure would be cheerfully acquiesced in. However it might answer a valuable purpose to authorize such counties whose

population might be willing to do so, to levy and collect a school fund for their own county purposes."

Neil S. Brown, who succeeded him the same year, had all through his public career, been the champion of public schools and had taken a leading part in the discussion of public educational legislation. A large part of his first message to the General Assembly dealt with education. He characterized the system as "inefficient, more doubtless for want of adequate means than from its own inherent defects." Speaking of the past efforts to establish a system, he said: "Yet this effort for popular education has slumbered and languished and pined, and exists now, rather as a memento of the past than as a living system for future growth and expansion. Many ardent friends of education throughout the State begin to despair of any effective public aid, and the labors of your present session are looked to by a large portion of the people with no ordinary interest. If it is once admitted that it is the duty of the State to establish and maintain at public expense, some system of education---- the only remaining question is one of means. We have not got the means! But can we not raise the means? Most assuredly we can, and without oppressing or injuring a single individual in the State.----They (the people) will, in my opinion, submit to a moderate tax for this purpose, and most readily and cheerfully praise the

author of it. Again in 1849 he said: "It is an increase of the fund which is most desired, and without which, no other innovation or improvement would be of any practical utility." He advocated a voluntary tax in the separate counties rather than one enforced by a general law of the State.

The increasing discussion of taxation was brought to a climax in the vigorous message of Gov. Andrew Johnson in 1853. He called the attention of the General Assembly to the duty imposed on them by the Constitution and to the fact that the present system was falling far short of coming up to the commands of the Constitution. "The time has arrived," he said, "when the Legislature and the people should lay hold of this important subject with a strong and unfaltering hand. State pride must feel deeply wounded when we are told by the recent census that Tennessee, though fifth State in the Union in many elements of greatness, is lowest in the list of education save one. The great difficulty is that the present means are entirely inadequate----the State should without hesitation provide means to accomplish what we profess for the cause of education. There is one way, if no other, that the children of the State can be educated, which is obvious to all, and that is, to levy and collect a tax from the people of the whole State or to authorize the county courts separately to do so in their respective

counties----sufficient in amount, when added to our present school fund, to give life and energy to our dying or dead system of common school education."

These forceful arguments impelled the Legislature to enact in February 1854, the most important piece of school legislation in the entire period of State history before the Civil War, (I) and the first law that was based on a correct understanding of the fundamental principles of public education. The law of 1854 provided for a tax of 25 cents on the polls and  $2\frac{1}{2}$  cents on the hundred dollars of all taxable property of the State. The money collected and the \$100,000 annual appropriation of the proceeds of the permanent fund was to be distributed among the counties according to scholastic population. The county courts were authorized to levy county taxes on all property, polls, and privileges to an amount not less than the county would receive from the State tax. If the court failed to pass the levy, an election might be called and the question decided by popular majority.

This law contained the principle upon which the present system of State education is based, i.e. that public education is not a gift of the government, but a duty that devolves alike upon the State, county, and district. It was far in advance of previous legislation in that local pride and local initiative were encouraged, and it

---

(I) Acts of 1854. Chapter 81

did away with forever, the old notion that the funds for public education could be raised by speculation on the part of the State and without any exertion on the part of the people themselves.

The following items from the report of the Comptroller in 1856 are an indication of the average amount spent annually for public schools in the decade preceding the Civil War:

Annual appropriation under the law of 1838-	\$100,000
In lieu of land tax-----	2,000
Tax on property-----	60,427
Tax on polls-----	25,469
Bonuses from banks etc-----	12,260
Escheated lands-----	1,617
Interest on school bonds-----	<u>\$51</u>
Total ---	202,724.

The scholastic population was 289,609, making the pro rata appropriation 70 cents per scholar.

As the small fruits of fifty years of feeble effort to create a school fund were completely swept away by the Civil War, it might be well to recapitulate at this point, the laws relating to school funds given in the Code of 1858. The permanent fund consisted of \$1,500,000 deposited in the Bank of Tennessee; of property given by will or deed to the fund; of proceeds of rent or sale of escheated lands; of the personal effects of

intestates leaving no heirs at law.

During the Civil War the school system became completely disorganized, financial institutions were ruined, and the school fund was lost, stolen, or squandered. Phelan says that a part of the funds of the Bank of Tennessee was used to aid the Confederacy.(1) When the Federal Army approached Nashville after the fall of Fort Donelson in Feb. 1862, the bank of Tennessee was authorized by the Legislature to remove its funds to such a place as the officers might think secure from capture by the Federals.(2) Some of the funds, to the amount of \$446,719 in gold and silver, and some \$1000 State bonds were captured in Georgia and returned to the State and deposited in the Capitol.(3)

The Reconstruction Legislature in 1866 passed an act placing the Bank of Tennessee in liquidation, requiring the directors to make an assignment of all funds, with the interest, by the terms of which, these funds were to be held as a common school fund, and as a preferred claim. The funds were to be placed in the hands of the State Treasurer and the creditors of the bank were not to be paid until the entire school fund with interest from 1861 should be paid.

Suit was brought by the enraged depositors and the case was carried to the Supreme Court. The Court handed

(1) Phelan-History of Tennessee. p, 273.

(2) Senate Journal 1868. p, 319. A report by an investigating committee.

(3) Acts of 1866. Chapter 27.

down the following opinion in favor of the depositors:

"When the Common School Fund was placed in the bank to constitute part of its capital, it became assets of the bank, to which the creditors of the bank had a right to look, and that these constituted a trust fund applicable to the payment of the debts of the bank. The Act of the Legislature of 1866, which appropriated the assets of the bank as school fund, impaired the obligation of the contract between the bank and its creditors, and was, therefore, null and void, as was also the assignment made in pursuance of that Act so far as it gave preference to the school fund." (I)

It was of course not to be expected that any of the school fund would be left after the creditors were satisfied, and the following provision inserted in the Constitution of 1870, evidently was intended to take care of any future income to be placed to the credit of the fund:

"The fund called the 'common school fund', and all the land and proceeds thereof, dividend stocks, and other property of every description whatsoever heretofore by law appropriated, shall remain a perpetual fund and shall not be diminished."

The law of 1873 brings to an end the "eventful history" of the permanent common school fund. The question of the amount and source of this fund had been the subject of

(I) State of Tennessee and Watson, Trustee vs The Bank of Tennessee. Supreme Court Reports, 5 Baxter I.

political discussion for more than half a century. In spite of more than three hundred acts intended to increase, to protect, and to insure to future generations the full measure of benefit from it, yet through mismanagement and embezzlement, it had shrunk to a comparatively insignificant sum, and by the decision of the Supreme Court, even this was swept away. The permanent fund guaranteed by the following provision in the fundamental school law of the State is "an indisputable but commendable and salutary legal fiction," and is merely the assumption of a just debt to future generations:

Acts of 1873, Chapter 25, Section 34---"That the permanent school fund of the State shall be the \$1,500,000 ascertained and declared by section 946 of the Code, and recognized by the Constitution of the State to be the permanent school fund. To this shall be added the interest which has accrued on the same, and not been paid by the State, amounting, on the 1st of January 1873, to \$1,512,500, making this entire permanent state school fund \$2,512,500. For this \$2,512,500 a certificate of indebtedness shall be issued, signed by the Governor, in the great seal of the State, and deposited with the Comptroller of the Treasury, and which, on its face, shall show the purpose for which it is issued, and shall provide for the payment of the interest thereon, at the rate of six per cent, payable semi-annually on the 1st day of July and the 1st day of January each year. The



principal of said fund shall always remain unimpaired and entire, and the annual income arising therefrom shall be, and is hereby dedicated to the support and maintenance of public schools in this State."

The items of school funds as mentioned in the Code of 1858 are also embodied in the law.

In 1867 an act was passed levying a tax of 20 cents on the hundred dollars of taxable property, and 25 cents poll tax, and requiring railroads to pay  $\frac{1}{4}$  of 1 cent per mile on each passenger transported. This law was repealed in 1870. The law of 1873 provided for a school tax levy of 10 cents on the hundred dollars, and a poll tax of one dollar. The county courts were authorized to levy an additional tax when the funds derived from the State were not sufficient to support the schools for five months in the year, or to submit the proposition to a vote of the people. School districts were authorized to levy a tax of not exceeding 30 cents on the hundred dollars for the purpose of prolonging schools, purchasing sites and building school houses, and for the payment of necessary school expenses. This provision was afterwards held to be unconstitutional.

The law of 1873 expressly provides that schools are free to all persons between six and twenty-one years of age. It had taken sixty-seven years to establish the principle that education is a public function, that all children, rich and poor, have a right to education, and

that taxation is the only effective means of raising funds for public education. For the first time, the State had seriously and earnestly undertaken to carry out the sacred injunction of 1787.

The law of 1873 did not meet the needs of the school system. The funds raised through its operation were used in the counties where collected, and no provision was made for aiding the poor and sparsely settled counties where even the maximum rate of taxation was insufficient to maintain good schools. Consequently the development of schools for the first thirty years was very uneven over the State. The first attempt to remedy this condition was an appropriation in 1907, of an amount sufficient for a per capita distribution of 75 cents, and a special fund of \$50,000 to be distributed among the counties for the purpose of making the terms "more nearly equal."

This law was followed up by the General Education Bill of 1909, (1) creating a General Education Fund and providing for its distribution. This fund consisted of 25% of the gross revenues of the State, to be appropriated semi-annually to the different classes of schools. By an amendment passed in 1913, the fund was increased to 33-1/3 % of the gross revenues of the State. (2)

By an act passed in 1911, county courts of counties of less than 190,000 population were authorized to issue

(1) Acts of 1909. Chapter 264.

(2) Acts of 1913. Chapter 23.

bonds to purchase school property, and to furnish, equip, and repair school buildings.(1)

During the last session of the Legislature a tax levy of 5 cents on the hundred dollars, for equalizing elementary schools, was passed.(2)

The sources of school revenues at the present time are as follows:

A-From the State;

I- The interest on the permanent school fund.

2-The General Education Fund.

3-The five cent tax for equalizing elementary schools.

4-The special five cent tax for the University of Tennessee.(3)

B-From the counties;

I-The State tax of 15 cents on the hundred dollars, all of which remains in the counties where collected.

2-County taxes and bonds.

---

(1) Acts of 1911. Chapter 60.  
(2) Acts of 1919. Chapter 3  
(3) See Chapter III.

## Chapter II.

## DEVELOPMENT OF THE ADMINISTRATIVE SYSTEM.

There was a school fund in the State long before there was any efficient system of administering it to promote public education. The early legislation on the subject of public school administration was crude, vague, and ineffective.

An act was passed in 1815(1) making it the duty of each county court to educate and school "poor orphans who have no property to support and educate them, and whose fathers were killed or have died in the service of their country." The courts were simply directed to make contracts with any person, to board and educate such children "as far as to attain the art of reading, writing, and also the arithmetic as far as the rule of three." The preamble of an act passed in 1818, entitled, "An Act for the better regulation of colleges in this State," declared that, "academies and colleges should ever be under the fostering care of the Legislature, and in their connection with each other, form a complete system of education." (2) From this statement it would seem that the State at this time had no intention of assuming free public education as one of its functions. Yet, another act passed the same year, (3) providing for leasing school lands and for erecting school buildings with the funds

---

(1) Acts of 1815. Chapter 49.  
(2) Acts of 1815 Chapter 124.  
(3) Acts of 1817. Chapter 32.

derived from the lease, "for a common english school to be taught in," seems to be a step in that direction. The County Commissioners (presumably appointed by the county court) were directed to employ and pay a "good teacher of English to instruct all children that might be sent thereto."

Another act passed in 1823(I) is a little more definite, and contains at least a suggestion that the benefits of education should be equally diffused. This law directs the county courts to appoint "five discreet persons of their county" to constitute a board of school commissioners. Their duties were: 1-To report to the court annually the money received by them and how disbursed. 2-To appropriate all money "to the education of the poor, either by establishing poor schools, or by paying the tuition of pupils in other schools of the county," and to the purchase of books for the use of such children. 3-To dispose of school money, as far as practicable, in such a way as to extend equal advantages to each and every part of their respective counties.

It was this unfortunate use of the word "poor" in the law, and the popular misconception of the function of public education which the law reflected, that blocked the progress of the public school system in this State until after the Civil War.

However, when we compare the present system, with all its deficiencies, with that created by the first law to bear the title, "An Act to establish a system of common schools," we are convinced that the public school system has been and is yet, it is to be hoped, in a process of evolution. This law, passed in 1830, (I) provided only for a county and district system of administration, and the only manner in which the State was related to the school was the payment of funds through the State bank. The regulations for choosing the county and district commissioners was extremely complicated and awkward. The county court was directed to appoint annually, a commissioner in each captain's company, and these commissioners were to meet at the regimental muster ground and divide the regiment into five districts. For each of these districts the people thereof were to elect annually, five trustees. The trustees were to meet and elect a board of school commissioners for the county, of from five to seven members. The commissioners were to choose a chairman for the county.

The duties of the county commissioners were chiefly to divide and apportion the annual school fund for distribution to the several districts in proportion to the scholastic population, and to make an annual financial report to the Treasurer of the State. They were authorized to spend \$20 annually for the purchase of books and

---

(I) Acts of 1829. Chapter 107.

writing paper. The duties of the district trustees were to provide comfortable school houses, to employ and dismiss teachers, to visit the schools, to report the condition of the schools to the county commissioners, and to keep a subscription paper for the schools.

When the Constitutional Convention assembled in 1834, the subject of education came up for a full share in the discussion. A committee was appointed to investigate and report. (1) Their report dealt mainly with the school fund, but the condition of the fund, and their recommendation that it be placed under the superintendence of a responsible officer of the State, influenced the next Legislature, in 1836, to make the first move toward State administration. An act was passed (2) creating a Board of Commissioners to be composed of the Treasurer, the Comptroller, and "an executive officer to be called the Superintendent of Public Instruction."

The law directed the Superintendent to prepare and submit a plan for the organization of a system of common schools. Here was the first strategical point in the history of public education in Tennessee. A leader was wanted, and had there been found a Caleb Mills or a Horace Mann for this position, Tennessee might have become at once the leader in education. But the State was unlucky in the selection of a leader. The first report of

(1) Journal of the Constitutional Convention of 1834. Report of the Committee on Education.

(2) Senate Journal 1837. p. 501.

the first Superintendent, Robert H. McEwen, instead of presenting a plan for a complete system of schools, is taken up with arguments against such a plan. The following extracts show his personal views, and also reflect some of the popular prejudice he was catering to.

"When we cast our eyes upon the map of the State and consider its geographical extent, its number of counties, its scattered population, and the number of schools that will be required to make them accessible to all, we are persuaded that no fund which we have or can hope to command for many years to come, is at all adequate to the support of any system of common schools to be organized independently of individual co-operation. We must therefore legislate, if we must legislate at all on this subject, with a view to the means within our power; and to lure and to call into action, individual efforts in this department of education." (I)

The following statement from this report indicates that the modern American idea of a public school system, with the higher element superimposed upon, and dependent upon, the lower, did not prevail in Tennessee at that time: "To think, therefore, of establishing a system of common schools, from which any practical good is to result, to the neglect of higher seminaries of learning, is altogether visionary."

A report rendered by the Joint Committee on Education  
(I) Senate Journal 1837. p. 501.



during the same session, is much more favorable. (1)

This report is signed by a man who had been influenced by the ideals of Philip Lindsley. This committee recommended the establishment of a liberal and comprehensive system, embracing common schools, academies, normal schools, and a state university, "to constitute," as the report concludes, "so many greater and lesser luminaries shedding their united heat and light into every corner of the State."

While their plan for a complete system of education was ahead of the times and unfavorable to a people aristocratic rather than democratic in their ideals, yet their argument for common schools did bear some fruit for in 1838, the Legislature passed another act "to establish a system of common schools." (2) The Superintendent was required to make an annual report to the Legislature "with plans for the improvement of the system." The only administrative improvements made by the act were: 1-The school districts were made co-extensive with the civil districts. 2-The district board was to be elected by the people of the district. The administrative officers of the system as provided by the law of 1838 were: 1-The State Superintendent. 2-The district commissioners. 3-The county court clerk, who was an ex-officio school officer. 4-The county trustee, who was the county financial agent.

Communications on matters pertaining to school

(1) Senate Journal 1837. p. 538.

(2) Acts of 1838. Chapter 148.

administration were to be made by the State Superintendent directly to the district commissioners. The district commissioners made annual reports on school conditions in their districts, to the county court clerk, who in turn, reported to the Superintendent.

The establishment of schools was purely voluntary, and the schools were free only to those who were not able to pay. Commissioners were authorized to make out a "rate bill", and every person sending a child to school was required to furnish his just proportion of fuel. The most striking defect of the system was the absence of any kind of supervision. According to Goodpasture, there were 987 school districts established under this law, and of course it was a physical impossibility for the Superintendent to exercise any sort of supervision, or to know anything of the quality of work being done in the schools.

The office of Superintendent of Public Instruction soon proved to be a useless adjunct to the Treasury department, and in 1844, was abolished. The duties of custodian of the school fund devolved upon the State Treasurer.

In 1847 an act was passed creating a Board of Commissioners of Common Schools, composed of the President and Directors of the Bank of Tennessee. (I) Their duties, however, related only to the proper safe-guarding and disbursement of the school fund. There was no other step

---

(I) Acts of 1847. Chapter 175.

in state school administration until the close of the Civil War. There are no records of school conditions in those days except what little can be gleaned from the reports of legislative committees. The report made in 1837, previously referred to, stated that there were seventy academies and a thousand or more common schools. A report made in 1865(I) states that in 1860 there were 1685 districts, 5055 schools, with an average of 51 pupils in each school.

However there is abundant testimony as to the inefficiency of the schools of that period. The messages of all the Governors from 1840 to 1860 refer to the state of public education and there is hardly a complimentary phrase to be found in them. The following from the message of Gov. Cannon in 1839 is typical:

"Popular Education in a government like ours must ever be regarded as a matter of paramount importance--- it is deeply regretted therefore, that the action of our present educational system has not been attended with more satisfactory results. Although common schools have sprung up under its kindly influence in some sections of the State, yet the effect has not been general, and the want of uniformity in its practical operation, occasions dissatisfaction and complaint."

Gov. Aaron V. Brown in 1847 recommended the re-creation of the office of State Superintendent, and, "that he be  
(I) Senate Journal 1865 p, 87.

required to visit every county of the State, to organize county committees, to excite acting school commissioners to renewed exertions etc."

Under the leadership of Andrew Johnson, some progress was made, as was noted in the preceeding chapter, but toward the end of his administration and through the next, bitter sectional questions were beginning to occupy first place in public discussion, and it was not until these questions had been forever settled by a cruel war, that the State set to work in earnest to lay the foundation of a real school system.

The Reconstruction Legislature was the most radical body that ever sat in the Assembly Halls, but it deserves credit for at least one piece of good legislation; it passed the first practical school law in the State. (I) The administrative features of this law were far in advance of previous laws in the following respects: 1-The State Superintendent was to be elected by a vote of the people and was to be a school administrator rather than a mere financial agent. He was required to spend ten days in each judicial district inspecting schools. 2-County supervision was provided for. The county superintendent was to be elected by the members of the district board.

The school district was to be co-extensive with the civil district, and the unit of administration. The districts were to be divided into sub-districts. The sub-

---

(I) Acts of 1867. Chapter 27.

districts were under a board of directors. The clerks of the various boards of directors were to form the district board of education, which was to be a corporate body and to have general management of the schools.

The law was amended and strengthened in 1868, but before it could be put into operation it was repealed. When the Legislature convened in 1869, the Confederate element, being in the majority, began a wholesale repeal of laws passed by the radicals under the leadership of "Parson" Brownlow. The "Brownlow School Law" as it was called, was the one good law that came up for repeal along with the vicious ones, probably not because of any hostility to public schools, but because it had been passed by the Reconstruction regime.

The repealing act (I) directed the State and County Superintendents to pay over all money unexpended, to the Treasurer, and directed the State Superintendent to wind up his office within ninety days. The whole subject of popular education was remitted to the counties and reverted to the status of the Ante-Bellum period. Supt. John M. Fleming, in his report in 1874, makes the following excuse for the repeal of the law of 1867 and the enactment of that of 1870: "The echoes of war had not died away. Political and social disorder prevailed throughout the State, and a people not yet assured of their civil

---

(I) Acts of 1869. Chapter 33.

status were not in a favorable condition to be very profitably concerned about a costly system of popular education, or to be cheerfully taxed for its support.--

----The law of 1869 was not inspired by hostility toward public schools, but was manifestly believed to be the best that the temper of the public mind and the disordered financial condition of the State would then warrant."

The law of 1869 was almost a complete failure.

According to a Report for 1872, compiled by Col. Killbrew at the instance of the State Treasurer, of the ninety-three counties in the State, only twenty-nine levied any tax for schools. "In some counties," the report continues, "there was not a single school, neither public nor private, in operation; nor were there any efforts being made by the citizens to remedy the deficiency."

The decline of the public school system during the two years after the law of 1869 went into effect, convinced the friends of education in the State that no efficient system of schools would spring up entirely from local initiative. In 1873 the Legislature passed the law which provides the foundation for the system as it is today. The general plan of supervision was carried over from the law of 1867, with the following changes:  
I-The State Superintendent was to be nominated by the Governor and confirmed by the Senate.

2-The County Superintendent was to be elected by the county court.3-One board, viz.the District Board of Directors, composed of three members, was substituted for the District Board of Education and the sub-district Board of Directors.The administrative units were the State and the school district.

The law was not clear as to what should constitute a school district, and there was nothing to prevent the people of any county from having as many small districts as they chose, without regard to efficiency.This defect was not corrected until 1903, when an act was passed making the school district co-extensive with the civil district.

By the same act(I) the public school system was changed from a district system to a county system, by the creation of County Boards of Education, composed of one member from each school or civil district, to have general supervision of the schools of the county.This law did not apply to counties of less than 35,000, nor more than 36,250 population.Some counties are still under the old law.

In 1907 the number of school districts was still further decreased by a law directing the county courts to divide the counties into five equal school districts. At the same time the District Advisory Boards were created for each civil district, to be composed of (I) Acts of 1903. Chapter 254.

three members.

The State Board of Education was created in 1875 (1) to administer the State Normal School funds, but subsequent legislation has placed the entire public school system, except the University, under its supervision. The Board was re-organized in 1915(2) to consist of nine members appointed by the Governor, three to be appointed from each grand division of the State. By amendments of 1917(3) and 1919(4), each member is appointed for a term of six years, and the Governor and the State Superintendent are ex-officio members. The Governor appoints a chairman for a period of four years and his successor for a like period. The minority political party must be represented by at least three members. In 1899 the Board was made the State Text-Book Commission and given authority to select and adopt a uniform series of text-books for the schools of the State. At the last session of the Legislature the Board was relieved of this duty, and the Governor authorized to appoint a commission.

The duties of the Board are to manage and direct the State Normal Schools and the Polytechnic Institute, to elect the State High School Inspector and to provide regulations for standardizing high schools, and to apportion the high school fund and special funds for equalizing schools.

- 
- (1) Acts of 1875. Chapter 90
  - (2) Acts of 1915 Chapter II6.
  - (3) Acts of 1917 Chapter 5I.
  - (4) Acts of 1919 Chapter 2



Under the law of 1873 the Superintendent was nominated by the Governor and confirmed by the Senate, and was liable to removal from office only by the Governor. He was the supreme authority in educational matters. The duties of the office remain substantially the same as prescribed in 1873, but the final authority was shifted to the State Board of Education by the amendments to the school laws passed in 1915 and 1917. These amendments provided that the Superintendent be elected by the State Board and be liable to removal from office by it. He was made the secretary and executive officer of the Board. In addition to prescribed routine duties he has been made a member of the State Text-Book Commission, and of the Board of Trustees of the University of Tennessee.

By an important measure passed in 1897, the old function of financial agent was partially restored. The Superintendent was given power to employ attorneys and to bring suit for "the recovery of any portion of the school fund that has been lost, misappropriated, or in any way illegally disposed of or not collected."

A provision similar to that in the law of 1873 for the appointment of the Superintendent was re-enacted during the last session of the Legislature, except that the Governor appoints with "the advice and consent of the senate," for a period of two years.

In this chapter we have traced the development of

the machinery of school administration in the State, from the district to the county as the unit, from the rather loosely constructed local board to the County and State Boards of Education, and from a mere financial agent with no powers of supervision, to the State Superintendent of Public Instruction.

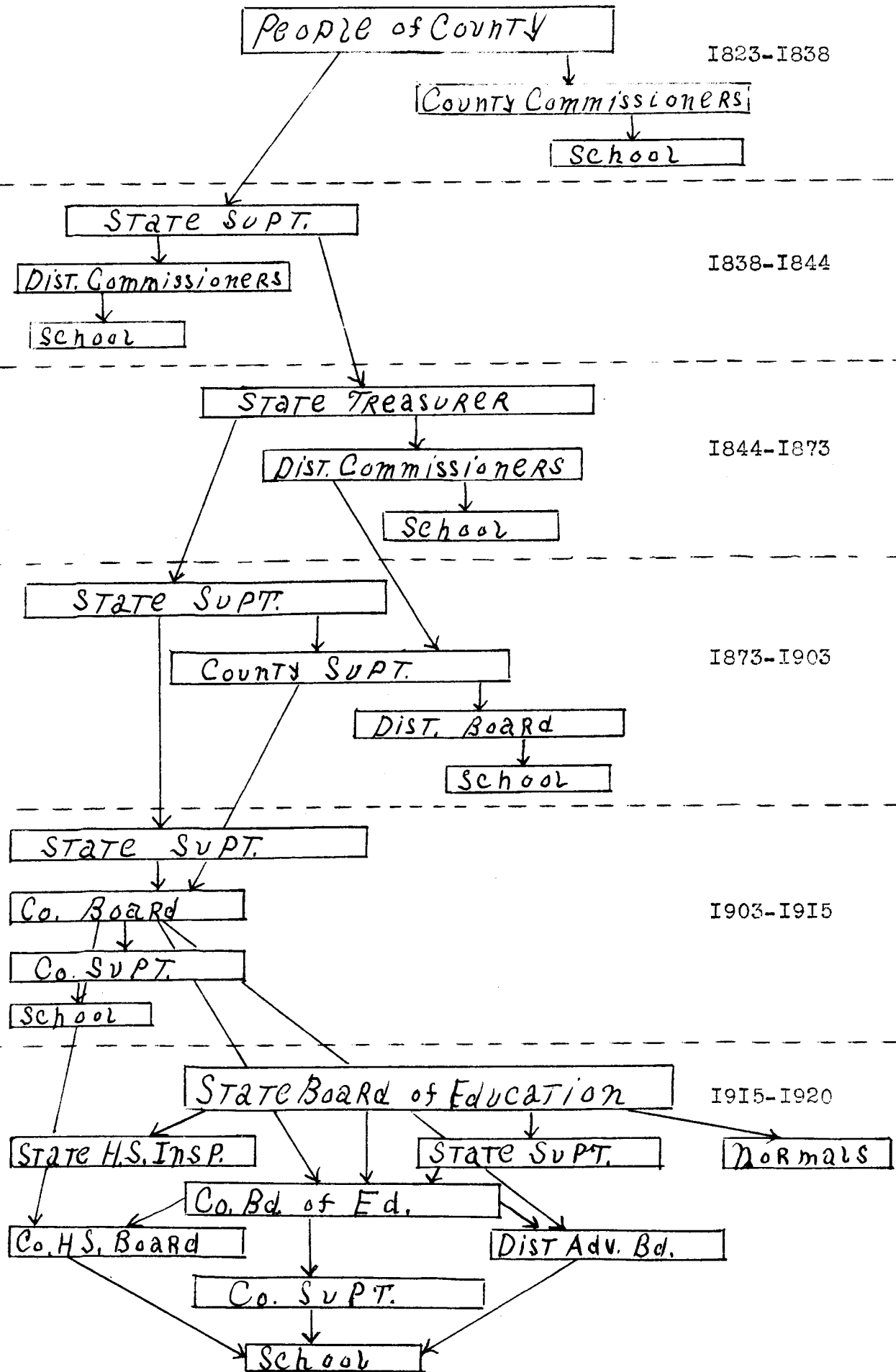
### Correction

Page 49.

In block marked 1844 to 1873 the chart shows that the State treasurer acted as Superintendent during all this period. This is an error. John Eaton, jr. was State superintendent of Public Instruction from 1867 to 1869 when the office was abolished. See Legislative Acts 1867-1869.

D.H. Briggs.

This correction made by permission of  
Mr. Shelton Phelps.



## Chapter III.

## EXTENSION OF THE SYSTEM.

## I-TEACHER TRAINING INSTITUTES AND INSTITUTIONS.

The law of 1873 established a system of elementary schools and made them free to all persons between the ages of six and twenty-one, separate schools being provided for white and black children under the same general regulations as to management and efficiency. It is the purpose of this chapter to trace the steps by which, through national and private benevolence, and State legislation, the system has been extended to include normal schools, high schools, and the State University.

Previous to the establishment of the State Normal Schools, the professional training of the teachers of the State was provided in the Peabody Normal College at Nashville, and the State and County Institutes.

The plan of holding Teachers' Institutes was worked out through the co-operation of the State Superintendent John H. Fleming, and a committee of the State Teachers' Association in 1874. There being no provision in the law for their support, Dr. Barnas Sears, agent of the Peabody Fund, gave \$1,000 for that purpose. In 1883 the appropriation was increased to \$1,300, and again in 1885, to \$1,500. (I)

(I) Tennessee School Reports. Passim.

As no steps were taken by the Legislature to co-operate, the Peabody Board adopted the policy of helping only those who help themselves. A resolution was adopted by the State Institutes, petitioning the Legislature to make appropriations to support them, but it was not until 1891 that the first appropriation was made to the amount of \$1,500. The Peabody Board met this with a donation of \$2,000. In 1898 the State appropriation was increased to \$2,000 annually, and in 1900, to \$5,000 annually. The Peabody Board continued its appropriations of about \$1,200 annually. (1)

By 1892, State Institutes were conducted in each senatorial district, and these were supplemented in many counties by County Institutes. These meetings accomplished a great deal in the improvement of teachers, and in awakening public interest in education. The morning and afternoon exercises were devoted strictly to professional work, especially to illustrating methods of teaching, and to the grading and management of schools. The exercises at night were more general and popular in character and were intended to reach public sentiment. Many citizens addressed the people on general educational topics.

The State Superintendent reported in 1904, that County Institutes were held in each county for one week or longer, with regular instructors, and were intended as schools for the instruction of teachers.

(1) Tennessee School Reports. Passim.

The instructors were usually employed by the teachers, but in some counties, appropriations were made by the county courts, and the State Department sent instructors whenever the appropriation would permit.

The State Institutes were held at three points in each division of the State, and were of four weeks duration each. The instructors were employed by the State Department and paid out of the Institute Fund. Their work was devoted to a review of the public school subjects, and to instruction in methods of teaching and school management. The same provisions were made for colored teachers as for whites.

Soon after the Civil War, Dr. J. Berrien Lindsley, then Chancellor of the University of Nashville, made efforts to bring to Tennessee the aid of the Peabody Fund. (1) After a fruitless effort to get a Bill through the Legislature carrying an appropriation of \$6,000, to be added to the Peabody Fund, for the establishment of a normal school, he finally secured the passage of one without an appropriation.

Provision was made in this act (2) for the "establishment of a Normal School or Schools in the State of Tennessee, in connection with the Public School System thereof," but it was expressly provided that no funds from the State Treasury or from the school funds should

(1) Merriam-Higher Education in Tennessee. p. 53.

(2) Acts of 1875. Chapter 90.

be expended for this purpose. A State Board of Education was established, to be composed of the Governor and six members. The board was authorized to effect the establishment of a Normal School by receiving contributions from the Trustees of the Peabody Educational Fund or other sources. Trustees of colleges, universities, or other educational institutions were authorized to "give the use of their property to the State Board of Education for the benefit of the Normal School."

This law prepared the way for the plan effected a few months after its passage, by Dr. Barnas Sears. He offered to appropriate \$6,000 annually for the benefit of the Normal School, if the Trustees of the University of Nashville would give the use of its grounds, buildings, and income for two years for the same purpose. The offer was accepted, the Trustees reserving the right to elect the President and teachers. Thus the venerable institution of learning, for the second time, came into relationship with the State government, this time to furnish to the State its first teacher training institution.

The State Normal College was opened at the State Capitol, December 1, 1875. "Peabody Scholarships" were established for other states, Tennessee being favored by having the college itself. The college was so successful that the Peabody Trustees agreed to increase their appropriation to \$9,000 if the State would lend its



support. Public sentiment by this time was strong in favor of the Normal School, and the Legislature in 1881, repealed the clause of the act of 1875 forbidding the expenditure of any funds from the Treasury, and appropriated \$10,000 annually for two years. (1) The sum of \$2,500 was also appropriated for the "normal education of the children of Tennessee of African descent" in approved institutions.

As a further encouragement to the Legislature to continue its appropriations, the Peabody Board agreed to allow to Tennessee a proportionate number of scholarships on condition that the appropriation be continued. An act was passed (2) in 1883 accepting the condition, and also increasing the appropriation for colored normals to \$3,000. The Board of Education was instructed to use this fund to pay the expenses of two colored pupils from each senatorial district in some approved institution.

In 1891 the State Board of Education was authorized to appropriate \$15,000 annually to the Normal College, provided the Peabody Board would allow the State thirty-three scholarships of \$100 each and travelling expenses. The holders of scholarships were to be appointed from each senatorial district upon competitive examinations

---

(1) Acts of 1881. Chapter 154.

(2) Acts of 1883. Chapter 255.

by the State Board.(1) The condition was complied with (2) and the Peabody Board also increased its appropriation to \$15,000 a year.A few years later the State appropriation was increased to \$20,000 a year.At an expense of only \$20,000 a year, the State had all the advantages of a normal school that would have cost not less than \$150,000 for buildings and grounds, and \$40,000 for scholarships, salaries, and repairs.(3) President James D.Porter reported in 1904 that since the organization of the college in 1875,more than ten thousand students had attended, and of that number,more than five thousand were from Tennessee.During the life of the institution,Tennessee's share in its products was more than half,while her share in the expense was about one tenth.

The Peabody Normal College culminated in the George Peabody College for Teachers.In 1902,negotiations were begun between the Trustees of the Peabody Education Fund and the friends of the Peabody Normal College ,with a view to re-organizing the college as central institution for the higher education of teachers.(4)The Legislature passed an act in 1903(5) authorizing the Trustees of the University of Nashville to convey their property to the

- (1) Acts of 1891. Chapter 177.  
 (2) Merriam-Higher Education in Tennessee. p, 59.  
 (3) Tennessee School Report 1891  
 (4) Hist.of Tenn.-Hale and Herritt, Vol.II. p,279.  
 (5) Acts of 1903 Chapter 49.

Trustees of the Peabody Education Fund for this purpose. The plans of the Peabody Board and the authorities of the University of Nashville were consummated in 1909, and trustees were appointed and the new institution duly incorporated under the laws of Tennessee with the title of "The George Peabody College for Teachers."

The passing of the Peabody Normal College marks the end of the first period in the history of teacher training in the State. The need for state owned and state controlled normal schools had long been recognized, but no legislative action was taken until 1909. The General Education Law of that date provided for four normal schools, three for the training of teachers for the elementary schools for white children, and one for the industrial education of negroes, and for preparing negro teachers for the common schools.

The law provided that one of these schools should be located in each grand division of the State. For the purpose of stimulating competition among the counties for the location of the schools, an act was passed at the same session, providing that counties or municipalities could each issue bonds to the amount of \$100,000 for building and equipping a state normal school to be located therein. After considerable competition, the schools were located, one in Memphis, one in Murfreesboro,

and one in Johnson City. The colored school was located in Nashville. By 1912 all the schools were in operation.

Under the law of 1909, 13% of the General Education Fund, consisting of 25% of the gross revenues of the State, was distributed to the normal schools as follows: one-seventh to the Agricultural and Industrial Normal School (colored) and the remaining six-sevenths, equally among the three white schools. By the amendments of 1915 and 1917, the normal schools receive 13% of one-third of the gross revenues of the State, distributed as follows: Three and five-sevenths per cent to each of the white schools, and one and six-sevenths per cent to the colored school.

The General Assembly of 1917 passed a bond issue for the benefit of the normal schools but no sale was found for them.

The Middle Tennessee Normal School and the Agricultural and Industrial Normal School have been designated as the institutions for the vocational teacher training provided for in the Smith-Hughes Act.

#### HIGH SCHOOLS

It is evident that the framers of the law of 1873 intended for the elementary school system established under its provisions to be the foundation of a future

system embracing higher schools. Section 46 reveals such intention in the following words: "That none of the provisions of this act shall be construed so as to interfere with the schools or school systems already established in cities and incorporated towns---it being intended to encourage the establishment of Public High Schools when the population justifies it, as a means of perfecting the grading and elevating the standards of scholarship."

The year 1891 marks the first step in the extension of the common school system upward. By an act of the General Assembly, (1) district public schools were classified as Primary and Secondary schools. The course of study prescribed for Secondary schools included the following high school subjects: rhetoric or "higher English," United States History, Tennessee History, algebra, plane geometry, and physiology. By 1899, sixteen per cent of the white schools, and three per cent of the colored schools were of secondary grade.

The next step came in 1899 with a law (2) to empower county courts to levy taxes to establish county high schools, and to appoint boards of education to manage them. County boards were authorized to make contracts of consolidation with seminaries, academies, or colleges, to teach the high school subjects free of charge. This law failed to operate to any great advantage. Only ten

---

(1) Acts of 1891 Chapter 132.

(2) Acts of 1899 Chapter 279.

or twelve counties began high school instruction under it

It was not until the passage of the General Education Law of 1909 that life and impetus was given to high school work. County high schools were placed under the supervision of the State Board of Education, and the board was authorized to employ a State High School Inspector, and were required to prescribe the course of study and regulations for the certification of high school teachers. State aid was given to the extent of 8% of the 25% of the gross revenues of the State.

Up to 1917, about seventy counties had levied a high school tax and established central four year high schools. These schools served the children of the county seat and the adjacent districts, but a large portion of the county received no benefit from the high school tax. The amendment of 1917 provided for three classes of high schools, making it possible for a rural district, which was not able to maintain a four year school, to have one of two or three years. Where high school funds were not sufficient, the elementary schools were permitted to extend their work through two years of the high school course. (I)

The law of 1917 increased the high school funds to 9% of the General Education Fund, which itself, was increased to thirty-three and one-third per cent of the gross revenues of the State. It was also provided that

(I) Acts of 1917 Chapter 96.

two-sevenths of the funds that had been provided for the University of Tennessee, under the General Education Law of 1909, should be distributed to the high schools. A special high school tax of 5 cents on the hundred dollars was levied in every county. County courts were given power to levy county high school taxes, in addition to the State levy, of not more than 15 cents on the hundred dollars, and, in order to share in the State fund, the counties were required to duplicate the amount received from the State. (1)

The amendment of 1917 also required the county courts to elect a High School Board in each county, to administer the county's high school funds.

In 1918-19 there were nineteen high schools in Tennessee doing work in vocational agriculture, under the Smith-Hughes Act of 1917. In 1919-20 the number increased to twenty-nine, nineteen white and ten colored. The enrollment in this work was 753. The State will receive from the Government, increasing amounts each year up to \$161,131 in 1925, and will receive that amount annually thereafter. (2)

The amendment of 1919 to the school laws increased the high school fund to 15% of the General Education Fund, and contains the following provision intended to encourage the counties to raise their high school taxes

---

(1) Acts of 1917 Chapter 35.

(2) This information was furnished by the State Dept.

and to bring the two and three year high schools up to four year standards:

1- One third of the fund is to be distributed equally among counties maintaining high schools.

2-One third, among counties levying the maximum high school tax.

3-One third, among counties maintaining first class high schools.

4-A bonus is to be given to each county levying the maximum tax, sufficient to make the high school fund of such county not less than \$3,000.

The Tennessee Polytechnic Institute was added to the public school system in 1915, and forms a sort of capstone to the high school system. The course of study includes six years of work, beginning with the ninth grade and including two years of college work. The following subjects are taught: agriculture, home economics, mechanical arts, mechanical drawing, business, economics, sociology, history, English, mathematics, science, modern language and music. Three per cent of the General Education Fund is provided for the support of the school.

#### THE STATE UNIVERSITY.

From 1838, the date of the final settlement of the land grant of 1806, to 1869, the university in Knoxville stood in the same relation to the State as the academies and other private and semi-private institutions.



Besides an act in 1840 changing its name to East Tennessee University, and another in 1850, appointing trustees and a resolution of inquiry in 1860, (1) the institution seems to have followed its own course unaided and undisturbed. By the resolution referred to, the justices of the Supreme Court were requested to report on the facts of the land grant settlement, and to state their opinion whether or not the university was entitled to further compensation. This might have brought important results had not the Civil War prevented its being carried out.

It is a notable fact that in each instance where the university has been brought into close relationship with the State government, it has been through an Act of Congress. It was the famous Morrill Act of 1862 that the second period of the university's history begins. The Civil War prevented the acceptance of the terms of the act by the State until 1865, (2) and by that date the time limit for acceptance had expired. Congress extended the limit and the act was accepted by Tennessee in 1868. By the terms of this act, each state was granted a certain amount of public lands within its borders, or, if there was not such quantity of public land, land script was issued for the acreage, to be sold by the state, and the proceeds were to be invested in

---

(1) Acts of 1859 page 676.

(2) Sanford-Blount College and the University of Tennessee. p. 65.

"safe stocks". This was to constitute a perpetual fund, whose interest was to be inviolably appropriated to the endowment and maintenance of at least one college, whose "leading subject" should be to teach such branches of learning as are related to agriculture and the mechanical arts. Other scientific and classical studies, however, were not to be excluded, and military tactics was to be included.

The State, in the act of acceptance, directed that the land script to which the State was entitled should be sold and the proceeds invested in six per cent interest bearing bonds of the State. (1) The net proceeds of the pieces of land script were \$396,000, which were invested in six per cent Tennessee bonds.

In 1869 the Legislature established in connection with the University, the "Tennessee Agricultural College" (2) to be the recipient of the funds of the land grant. The bonds, however, were to be withheld until the trustees had provided accommodations and equipment for 275 students, and not less than 200 acres of land.

Two further provisions of this act (2) were intended to bring the university into closer relation with the State's educational system, and to more evenly diffuse the benefits of the university over the State. I-The Governor, the Secretary of State, and the State Superin-

---

(1) Acts of 1867 Chapter 32.  
(2) Acts of 1868 Chapter 12.

tendent were made ex-officio members of the Board of Trustees.<sup>2</sup>The university was required to furnish free tuition to three students from each county, these students to be nominated by the Representatives, and preference to be given to those who needed financial assistance or to those who excelled in their school work.

A more efficient method of appointing students was adopted in 1879. (1) County superintendents were directed to hold annual examinations in their counties, of candidates for appointment. A list of qualified candidates in order of merit, was to be transmitted to the State Superintendent, and by him transmitted to the Senators and Representatives together with the number of vacancies existing. All appointments by the Legislators were to be made from these lists. In case all vacancies were not filled, the president of the university was authorized to appoint candidates from the State at large.

In the same year the university became the head of the system in name as well as in fact, by an act changing its name to the University of Tennessee. (2) However the university was still very limited in income and in its opportunities to serve all the young men and women of the State who desired higher education. The remainder of this chapter will trace the steps by which these

---

(1) Acts of 1879 Chapter 153.

(2) Ibid, Chapter 75.

limitations have been gradually overcome.

Beginning in 1887, the income of the university was increased by \$15,000 a year by the Act of Congress known as the Hatch Act, the purpose of which was to establish agricultural experiment stations in connection with the colleges receiving the funds of the land grant of 1862. Again, the State's part consisted in merely authorizing the trustees to accept the funds on the conditions specified. In 1890, by what is commonly known as the New Morrill Act, Congress made an appropriation from the sale of public lands, "for the more complete endowment of colleges for the benefit of agriculture and the mechanic arts." Each state and territory received \$15,000 the first year and a thousand dollars increase each year until the appropriation reached the sum of \$25,000 a year. The Legislature, the next year, consented to the terms, and directed that the funds be committed to the trustees of the university to be applied as the Act of Congress directed. (1 & 2)

The first State appropriation to the university was made in 1903 to the amount of \$10,000, for the purchase of land for the experiment station. (3) In 1905 the sum of \$25,000 was appropriated, to be used to establish schools of technology. Of this amount, however, \$1250 was deducted to be used to pay travelling expenses of

- 
- (1) Acts of 1891 Chapter 36.  
 (2) Sanford-Blount College and the Univ. of Tenn. p, 76.  
 (3) Acts of 1903 Chapter 224.

students to and from the university.

An act was passed in 1907, appropriating \$50,000 annually for two years, all to be applied to building purposes. The university was required to grant three scholarships for each Representative in the General Assembly. This was in keeping with the policy of previous Legislatures, of requiring of the university full and complete returns out of her own facilities for every dollar appropriated.

Two acts passed in 1909 definitely fixed the status of the university as the head of the public school system. One of them (I) amending the act of 1879, provided for a still more general distribution of the Board of Trustees. The board now consists of two members from the city of Knoxville, one from each congressional district, and the Governor and the State Superintendent are ex-officio members. The other act, known as the General Education Act, placed the university on the same basis as the rest of the system as to its financial support. Seven per cent of the 25% of the gross revenues of the State was appropriated to the "improvement and maintenance" of the university as "the head of the public school system of the State."

Besides the seven per cent appropriation referred to above, the State paid annually, \$23,960 as interest on the bonds issued in 1867. These appropriations were (I) Acts of 1909 Chapter 48.

consolidated by the amendment of 1917 to the General Education Act. A tax of 5 cents on the hundred dollars was levied, to create the "University of Tennessee Development and Maintenance Fund."

The fund is applied: first, to the payment of the interest on the bonds issued under this amendment; second, to the payment of \$20,000 each year for the retirement of these bonds; third, to make such payments as will secure the full allotments to the State under the Smith-Lever Agricultural Extension Act; fourth, to pay interest on the land grant fund of 1862; fifth, the remainder of the fund is applied to the development and maintenance of the university, including the experiment stations in West and Middle Tennessee, and also including travelling expenses of students. In return for this appropriation, the university was required to relinquish in favor of the elementary schools, all claim to the funds provided under the General Education Act of 1909 and its amendments.

With all tuition charges discontinued for students from the State, and with a permanent annual income established, the evolution of the university, as the head of a tax supported system, free to every boy and girl in the State from the lowest to the topmost round of the educational ladder, is complete.

## CONCLUSION.

In the preceding chapters we have followed the development of the legal basis of Tennessee's public school system from the first crude enactments down to the present time. The facts presented in that part of this discussion dealing with the first hundred years of school history seem to justify the following conclusions.

First: Certain stipulations and omissions in the land grant of 1806 were unfortunate. The clause providing that school lands should be located "where existing claims would allow the same," precluded the location of more than four-fifths of the grant, as nearly all the good lands in the State were already claimed by settlers. No government survey of public lands had been made, as in Ohio, where public lands were already laid off into sections of six miles square when she received her grant in 1802. Consequently the state surveyors, avoiding as far as possible all conflicts with existing claims, were able to locate only twenty-two thousand of the four hundred forty four thousand acres granted. Furthermore, no plan was provided in the Cession Act for the lease or sale of public lands and for the investment of the funds. Had the sixteenth section been pre-empted by the Government, and the responsibility for its disposal been fixed in the terms of the Cession,

the State might have realized a princely sum for public schools.

Second: During the early period, instead of undertaking to provide for public education by taxation, the State engaged in various impracticable and unsuccessful financial schemes with a view to creating a large fund for the future. The funds realized from the sale of public lands were used in banking operations and in other public service enterprises. Three state banks were organized, from which it was confidently expected that funds sufficient for public schools would in time be derived. The banks failed, one after another, and finally the entire fund was lost through the last one to be established. Another substitute for taxation was the bonuses required from various banks and insurance companies operating in the State. It was not until 1854 that, through the influence of Gov. Andrew Johnson, taxation for public schools was established. The rate was so low, however, that little increase in school funds was effected. Up to the Civil War the State had never appropriated more than \$210,000 a year for schools. The tax rate in the law of 1873 was only 15 cents on the hundred dollars, all of which remained in the county where collected. It was not until 1909 that State aid was furnished in amounts sufficient to insure to the

-10-



poorer counties even short term schools.

Third: There was no efficient administrative organization. The State has never produced any notable leaders and agitators for educational reform like Horace Mann or Caleb Mills. The law-makers in the early days had crude notions of state school administration, and the development of anything like an effective plan was slow and gradual. The first incumbents of the office of State Superintendent were only financial agents. There was no connecting link between the Superintendent and the school district, and it was physically impossible for him to exercise any supervision over the thousand or more schools. The present system of state, county, and district (advisory) boards is of recent development.

Fourth: The conservatism of the people and the popular misconception of the function of public education has been an obstacle that only in recent years has been overcome. The following from the message of Gov. James C. Jones in 1843, cited on page 22, is a good expression of public sentiment on this question: "When a parent's ability is exhausted, then the liberality of the government should be brought to his aid." Public schools were considered to be charitable provisions for poor children. Consequently, public schools have lagged behind private and denominational schools in this State

almost up to the present time.

Fifth: The Civil War and Reconstruction had such a disastrous effect on the financial condition of the State that for thirty years afterward, public schools suffered from actual lack of means for their support. The report made by Col. Killbrew soon after the war (see page 41) shows that the people in many sections of the State were left in a state of apathy by the war's terrible ravages. The permanent fund was lost, and the assumption of a permanent indebtedness for it, together with other war debts, made the Legislatures since the war over-cautious about assuming additional burdens for education.

Sixth: The progress of higher education for thirty years after the Civil War was largely due to the aid of the National Government and the Peabody Fund.

The passage of the General Education Law of 1909 marks the beginning of the educational awakening in Tennessee. The last traces of the war's destruction have disappeared, the State is in fairly good financial condition, and public sentiment is favorable to public education. More good laws have been enacted since that date than during the whole period of the State's history previous to that date. The administrative system is well adapted to the democratic ideals of the people, and the tendency is toward increasing

the funds and distributing them in such a way as to bring about equal educational opportunities in all parts of the State. Much remains to be accomplished in the elimination of politics, in raising professional standards for teachers, and in increasing salaries, and in the addition of other kinds of training to the curriculum, but at least the struggle for existence has been won and the way is clear for development along the most modern lines.

## BIBLIOGRAPHY.

Acts of Tennessee, 1806 to 1919.

Journals of the House and Senate, 1817 to 1869

(Particular volumes are indicated in the foot-notes)

Tennessee School Reports, 1870 to 1918.

Merriam-Higher Education in Tennessee.

Sanford-Blount College and the University of Tennessee.

Garrett and Goodpasture-History of Tennessee.

Phelan-History of Tennessee.

Hale and Merritt-History of Tennessee.

Official Manual of Tennessee.

Supreme Court Reports. § Baxter I.

Cyclopedia of Education Vol.V, pp560-563.

American Journal of Education Vol.24, p, 320.

Nile's Weekly Register Vol.21, p, 299.

Report of the Commissioner of Education 1874. p, 396.

Ibid, 1895. p, 312.

Cubberly and Elliott-State and County School  
Administration.

Swift-Public Permanent Common School Funds in the  
United States.