Evolution of The State Board of Education

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EVOLUTION OF THE STATE BOARD OF EDUCATION

being

A Master's Report presented to the Graduate Faculty of the Fort Hays Kansas State College in partial fulfillment of the requirements for the Degree of Master of Science

by

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Date July 22, 1950

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CHAPTER I

INTRODUCTION

Many states of the Union as time passed and conditions changed have made modifications not only in their state constitutions but likewise enacted new laws or modified previous ones creating special boards to perform types of governmental service. New state agencies have been created in agriculture, banking, finance, highways and health, including education. One needs but trace the evolution of such organizations, commissions, and boards in the state of Kansas to see the movement as time passed and new needs arose. Kansas has her state board of health, state highway commission, state department of insurance, state board of education and commissions. It is the purpose of this research report to trace the growth of one of these arms of governmental service, namely the State Board of Education.

The specific problem of this report is to trace the growth of the State Board of Education in Kansas. The State Board of Education will be referred to hereafter as the State Board. This board has had its ups and downs but the Constitution of the state clearly placed the responsibility for the creation of a state system of public instruction upon the Legislature. "The legislature shall encourage the promotion of intellectual, moral, scientific and agricultural improvement, by establishing a uniform system of common
schools, and schools of a higher grade, embracing normal, preparatory, collegiate and university departments. "1 Therefore the purpose of this research is to portray the reason for the creation of such a board and its activities from its beginning up until the present time.

For most part the historical method was used in this report in tracing the statutory provisions, modifications, interpretations of law, duties, attitudes, and actions of the State Board from its creation to the present time. The sources used in procuring authentic information were the General Statutes of Kansas, Supreme Court Reports, State Board of Education Bulletins, and Biennial Reports of the State Superintendent of Public Instruction, as well as selected court decisions rendered by the supreme court of Kansas.

It is the belief to the writer of this report that no previous or similar study has been made on the growth and development of the State Board. However in 1948 Rolla Elvin Miller at the University of Kansas developed a thesis entitled "The Functions and Responsibilities of the Kansas State Board of Education."2 William Harold Williams in 1937 at Leland Stanford, University did research on the "Development of the Functions of the California State Board of Education."3 E. R. Sonnenberg in 1936 at Emporia State Teachers did research on the "Trends

1. Kansas State Constitution, Bill of Rights, Article VI, Sec. 2, p. 15.
in Organization of State Departments of Education in the United States."\(^4\)
C. A. Clark in 1933 at Fort Hays State College did research on the
"State Legislation and State Board Rulings Relating to Superintendent
of Schools."\(^5\) The problem with which this report deals is to review the
laws affecting the growth and development of the Kansas State Board of
Education.


CHAPTER II

DEVELOPMENT OF THE STATE BOARD OF EDUCATION

This section of the research covers legislation from the beginning of any legislation in either the senate or the house of Kansas which carried the idea of the creation of a State Board of Education of whatever particular complexion or nature the law might prescribe. This legislative movement began in so far as research is concerned in 1871 and has been modified or revised from time to time in the interest of better and more efficient schools for the state as actual needs for changes became eminent, as the State Board might make for greater efficiency. From 1861 to 1871 Kansas did not have a State Board.

Members and Term of Office

In 1871, Senator Prescott, chairman of the educational committee, introduced a bill to establish a State Board of Examiners. This committee later changed the name to the State Board of Education and recommended that its enacting clause be stricken out.¹

In 1872, Representative B. H. McEdron, chairman of the committee on education introduced a bill the purpose of which was to create a State Board of School Examiners but the bill was not voted on.²

In 1873, Senator E. M. Morrill, chairman of the educational committee introduced a bill to establish a State Board and the committee

recommended it be passed. The bill passed with the following results: yeas, 17; nays, 7. Gentleman voting the affirmative were: Messrs. Crichton, Edwards, Judd, Moonlight, Morrill, Murdock, O'Neil, Palmer, Rogers, Schmidt, Simons, Simpson, St. John, Topping, Wilson, J. C., Wilson, V. P., and Winter. Gentleman voting in the negative were: Messrs. Blair, Brandley, Baker, Ely, Grimes, McFarland, and Walker. Nine men were absent or did not vote.3

The Senate bill passed the house with yeas, 55; nays, 5; 41 were absent or did not vote.

Hugh DeFrance McCarty, State Superintendent of public instruction; John Frazer Chancellor of State University, John Anderson, President of State Agricultural College; George W. Hoss, President of the State Normal School at Emporia; and John Wherrell, President of the State Normal School at Leavenworth were the first members.

There shall be a State Board of Education, consisting of the State Superintendent of Public Instruction, the Chancellor of the State University, the President of the State Agricultural College, and the principals of the State Normal Schools at Emporia and Leavenworth.4

In 1893, the legislature changed the original law to increase the number of board members and the extra members were to be appointed by the governor for a term of two years. The appointed members had to be engaged in school work in the state of Kansas. William Stryker, President of Central Normal College, Great Bend, Kansas; A. S. Olin, State University professor; and Mrs. Lucy Best, County Superintendent of Labette were the appointed members.

4. Kansas Session Laws, 1873, Ch. 133, Sec. 1.
There shall be a State Board of Education consisting of the State Superintendent of public instruction, the Chancellor of the State University, the President of the State Agricultural College, the president of the State Normal School, and three others to be appointed by the governor and with the advice and consent of the senate, selected from among those engaged in school work in the schools of the state. The three thus appointed by the governor shall hold their office for a term of two years, or until their successors are duly appointed and qualified.5

There was not much change in the law of 1893 as far as members and their term of office was concerned, with the exception of the appointed members. The following were members in 1905: "J. L. Dayhoff, State Superintendent of Public Instruction; J. N. Wildinson, President of State Normal School at Emporia; Frank Strong, Chancellor of State University; E. R. Nichols, President of Kansas State Agricultural College; E. A. Shepardson, Professor in Auxiliary Manual Training School at Pittsburg; H. M. Culter, County Superintendent of Norton and O. G. Markham, Professor of Latin, Baker University at Baldwin, Kansas.6

The State Superintendent of public instruction was made ex officio chairman of the State Board in 1915 and the terms of the appointed members were increased from two to three years. The three appointed members were: "Miss Lilian Scott of Baldwin, W. O. Steen of Beloit and H. W. Shideler of Girard."7

5. Kansas Session Laws, 1893, Ch. 132, Sec. 1.


The State Board of Education shall be composed of the State Superintendent of Public Instruction, who shall be ex officio chairman, the Chancellor of the State University, the president of the State Agricultural College, the president of the Kansas State Normal School, and three other persons to be appointed by the governor. Within ten days after this act takes effect the governor shall appoint three persons who shall serve as members of the board for terms which shall begin on the first Monday in April, 1915 and which shall expire respectively on the first Monday in April, 1916, the first Monday in April 1917, and the first Monday in April, 1918; and thereafter the governor shall in the month of March in each year appoint one person who shall serve as a member of the board for a term of three years beginning with the first Monday in April, and until his successor is appointed and qualified. 8

The law of 1915 remained in effect for two years. The law of 1919 required that the three members appointed by the governor had to be city or county superintendents and they served for a term of two years. The law also increased the number of members to eight by adding other college presidents. "According to former State Superintendent J. L. Dayhoff the reason for the increase in membership was because from time to time legislatures have added additional educational duties to the State Board, until its importance has been greatly increased, and the detail work of the board multiplied many times." 9 The State Board appointed in 1919 are as follows: Lorraine Elizabeth Wooster, State Superintendent of Public Instruction; Frank Strong, Chancellor State University; W. M. Jardine, President of the Agricultural College; Thomas W. Butcher, President State Normal School at Emporia; W. A. Lewis, [8. Kansas Session Laws, 1915, Ch. 296, Sec. 5, p. 381. 9. Fifteenth Biennial Report of State Superintendent of Public Instruction, 1905-1906, p. 20.]
President of the Fort Hays Normal School at Hays; W. A. Brandenburg, 
President of the State Manual Training Normal School at Pittsburg; 
John F. Barnhill, city superintendent at Parsons; C. O. Smith, city 
superintendent at Marysville and S. P. Rowland, county superintendent 
at Hutchinson.10

That the State Board of Education shall be composed of 
the State Superintendent of Public Instruction, who shall 
be ex officio chairman; the Chancellor of the State Uni-
versity; the President of the State Agricultural College; 
the President of the State Normal School at Emporia; the 
President of the State Manual Training Normal School at 
Pittsburg; the President of the Fort Hays Normal School at 
Hays, and two county or city superintendents of public 
instruction; and a county superintendent of public instruc-
tion to be appointed by the governor on the first Monday 
in April, 1919, for a period of two years, and each and 
every two years thereafter, from any county in which none 
of the foregoing institutions may be located.11

In 1933, the board consisted of the State Superintendent of 
public instruction, chairman ex officio, and eight members appointed 
by the governor. It was the first time that any of the members were 
selected from an occupation other than school work and members from 
the Colleges and Universities were not Preside..ts. It was the begin-
nning of the trend which we have today where by the members were not 
professional educators but lay members such as the public school boards 
of the state of Kansas. The members were appointed for a term of four 
years which was longer than the previous laws allowed. The members of 
the board in 1933 were as follows: "W. T. Markham, State Superintendent;

10. Twenty-Second Biennial Report of State Superintendent of 
Public Instruction, 1919-1920, p. 8.

Dr. F. D. Farrell, Manhattan; Dr. Ernest Pihlblad, Lindsborg; J. B. Heffelfinger, Newton; Fred A. Seaman, Onaga; Professor J. A. Yates, Pittsburg; James Sharpe, Council Grove; Mrs. Ida M. Grammer, Junction City; and Charles D. Ise, Coffeyville.

That the State Board of Education shall be composed of the State Superintendent of public instruction, who shall be ex officio chairman, and in addition there to the governor shall appoint eight members selected as follows: One member from among the faculty of the University of Kansas or the Kansas State College of applied science; one member from among the faculty of the three state teachers' colleges located at Hays, Pittsburg, and Emporia; one member from the faculty of one of the privately endowed or denominational colleges in the state of Kansas; one county superintendent of public instruction who shall serve only so long as he shall hold the office of county superintendent; one city school superintendent; one high school principal or superintendent from a fully accredited class A high school; and two members who shall be citizens of the state of Kansas and engaged in farming, business, or a professional occupation. The governor shall fill all vacancies in said board of education by appointment for the remainder of any expired term.

One day after date that this act becomes a law the governor shall appoint two members who shall serve for a period of four years; two members who shall serve for a period of three years; two members who shall serve for a period of one year; and thereafter each appointed member shall serve for a term of four years; Provided, that in no case shall any appointed member serve for more than two terms in succession.

In 1937 the number of members were increased and the state printer and state business manager were included in the board of education. The reason for this was because the state board had been given the power to adopt textbooks for the state of Kansas.

"The State Board of Education shall be increased and the state

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and the state business manager shall be and become ex officio members."14
When W. F. Boyakin was State Superintendent, he recommended "that the State Board should say what branches should be taught in the public schools throughout the state. It should also determine the textbooks, which should be uniform throughout the length and breadth of the state."15

The laws pertaining to the State Board were reorganized in 1945 and are still in affect. The membership was reduced to seven members, who were not professional educators, including members of the two political parties. The members were selected from several congressional districts in order to give general state representation on the board. The terms of the members were reduced from four to three years. The board now acts in an advisory capacity to the State Superintendent of Public Instruction. A number of the members of the state legislature had thought for some time that the State Department of Education needed reorganized. "Mr. Abels, President of the Senate, said the greatest need which law-makers should meet now is a reorganization of the Kansas school system."16 "Speaker Hagaman announced the personnel of the committee on education with Representative F. B. Ross of Emporia as chairman, Ross has been working several years on the proposed repair of Kansas schools and his appointment was anticipated."17 "Representative Ray T. Wright, a member of Kansas House of Representatives

struck out yesterday at what he called waste and obsolescence of state textbooks. The students have to buy them but they are obsolete and we use other texts as supplements." Representative F. B. Ross of Emporia, chairman of educational committee said an honest attempt to write a law to correct at least a part of the weaknesses in schools without imposing additional injury."

The Senators on the educational committee were; Senator Harkness, chairman; Senator Wunsch, vice-chairman; Senators Ball, Ross, Bowers, Cavaness, Collard, Nelson, Perkins, Poland, and Swayer.20

There is hereby created a state board to be known as the State Board of Education. Within thirty days after date the taking effect of this act, the governor shall appoint seven competent citizens of this state to be and act as the State Board of Education. All members of the State Board of Education created by this act shall be selected from among the members of the two political parties casting the highest and second highest number of votes respectively for secretary of state and the last preceding general election and at no time shall more than four members of said board of education be members of the same political party and at no time shall more than three members be residing in territory whose elementary schools offering instruction in grades one to eight, inclusive; are governed by boards of education of cities of the first or second class. No person who is engaged in school work as a teacher, principal or superintendent shall be eligible to be appointed or serve on the state board created by this act. In no case shall any such appointed member serve for more than two terms in succession. One member of the state board created by this act shall be appointed from each congressional district of this state and the remaining member or members shall be appointed from the state at large. The members of the state board created by this act shall be appointed as follows: Two members shall be appointed for


terms expiring December 31, 1946; two members shall be appointed for terms expiring December 31, 1947; and three members shall be appointed for terms expiring December 31, 1948. As soon as all the new members of the state board are appointed under this act and when all such new members have qualified then the terms of the present members of the state board of education shall be immediately terminated, and the present members of said state board of education shall surrender their offices and all the rights, authority and jurisdiction by virtue of their offices as members of said board to the new members of the state board of education provided for herein. Upon the expiration of the terms of such members first appointed as members of the state board of education created by this act as aforesaid, each succeeding member shall be appointed by the governor and shall hold office for a term of three years and until his successor shall have been appointed and qualified. The state board created by this act shall select its own chairman and may appoint and fix the salary of a secretary and in accordance with the civil service act such other employees as may be necessary and which are within available appropriations. The governor may remove a member for cause, delivering to him a copy of the charges and affording him an opportunity of being publicly heard in person or by counsel in his own defense upon not less than ten days' notice. If such member be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such member and his findings thereon, together with a complete record of the proceedings. 21

The members appointed in 1945 were: L. W. Brooks, State Superintendent; Mrs. Orville Burtis, Manhattan; C. W. Wheeler, Abilene; Mrs. E. K. Childers, Arkansas City; Worden R. Howat, WaKeeney; C. G. Dennis, Sublette; C. W. Porterfield, Holton; W. E. North, Moran. 22

Meetings

"The State Board of Education shall meet at the city of Topeka on the fourth Monday of August in each year, and at such other times and places as may be by them deemed necessary." In 1915 the Superintendent of public instruction could call a meeting of the state board. The board had no special time or place to meet, the reason for this was that the members had other positions which they had to attend to. "The board, as constituted at present, is composed of very busy men. All of these men in their usual vocations have work which occupies the greater part of their time." When the schools laws were reorganized in 1945 and the board became an advisory committee to the State Superintendent, members received better compensation for their work.

The State Board of Education shall meet at such times and places as may be determined by them and at the call of the State Superintendent of Public Instruction. Each member of the State Board of Education shall receive all necessary and actual traveling expenses incurred in attending the meetings of the board and in the discharge of the duties required by law and in addition thereto each appointed member shall receive as full compensation the sum of five dollars per day for each day's actual service in attending the meetings of the board, not exceeding ten days in any year.

Each member of the state board created by this act shall be compensated at the rate of ten dollars per day and all actual traveling and necessary expenses incurred while in the discharge of his official duties, not to exceed one thousand dollars in any one year. Within ten days after all

23. Kansas Session Laws, 1873, Ch. 133, Sec. 3.


25. Kansas Session Laws, 1915, Ch. 296, Sec. 6, p. 381.
the members of the state board created by this act have been appointed and qualified, said board shall meet at the office of the state superintendent and select one of its members chairman.26

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CHAPTER III

FUNCTIONS OF STATE BOARD OF EDUCATION

The purpose is to give coverage to the functions of the State Board of Education, as laws were changed over the years these functions and duties were at times pretty definitely indicated in the laws and at other times not so clearly stated. These functions for most part fall into definite categories such as certificates and their issuance, courses of study, textbooks, accrediting of schools and teachers institutes.

Certificates

The legislature of the state of Kansas created a State Board of Education in 1873 and its first responsibility was to issue state diplomas to teachers. A person who had taught for two years prior to this law did not have to take an examination of local boards, provided the said teacher could pass the state boards' examination on scholarship, culture and moral character. Upon passing the examination a lifetime certificate was issued. These teaching for the first time might be granted a certificate for three or five years, provided they could pass a similar examination as experiences teachers.

The State Board of Education thus constituted is hereby authorized and empowered to issue state diplomas to such professional teachers as may be found upon a critical examination, to possess the requisite scholarship and culture, and who may also exhibit satisfactory evidence of an unexceptionable moral character and of eminent professional experience and ability, and who have taught for
two years in the state. All such diplomas shall be countersigned by the State Superintendent of Public Instruction, and shall supercede the necessity of any and all other examinations of the person holding the same by county, city or local boards of examiners; and such diplomas shall be valid in any county, city, town or school district in the state during the lifetime of the holder, unless revoked by the State Board of Education.

The State Board of Education is furthermore authorized and empowered to issue state certificates of high qualifications to such teachers as may be found, upon examination, to possess the requisite scholarship, and who may also exhibit satisfactory evidence of good moral character, and ability to teach, and skill to govern and control children. The certificates issued by the State Board of Education may be of two grades—one for three years and one for five years; and all certificates issued by said board shall be countersigned by the State Superintendent of Public Instruction and such state certificates shall supercede the necessity of all other examinations of the persons holding them by county or local boards of examiners; and such certificates shall be valid in any county, city, town or school district in the state for the term of three or five years, unless sooner revoked by said State Board of Education.1

Qualifications for three-year certificates
1. Must pass a satisfactory examination in the following branches: (1) English—Spelling, Reading, Penmanship, Composition and Grammar, including the structure of words (2) Mathematics—Arithmetic, Bookkeeping, Industrial Drawing, and Algebra through simple equations (3) Geography—Physical and Political (4) United States History and Constitution. (5) Elements of Physiology (6) Elementary Natural Philosophy (7) Elements of Botany (8) Elements of Entomology (9) Elements of Geology (10) Didactics.
2. Must have taught one year.
3. Must produce satisfactory testimonials from reputable persons in regard to temper, manners, moral character, and professional standing.

Qualifications for five-year certificate
1. Must pass a satisfactory examination in all the branches required for a three year certificate, and in General History, Algebra through Quadratics, and plane geometry.

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2. Must have taught two years, one year of which must have been in the State of Kansas.
3. Must produce testimonials as required of candidates for three year certificates

Qualifications for state diploma
1. Must pass a satisfactory examination in all the branches required for a given year certificate, together with Solid Geometry, Political Economy, Elementary Chemistry, and Latin (Grammar, Reader, Caesar, and Virgil, or equivalents.)
2. Must have taught five years, two of which must have been in the state of Kansas.
3. Must present testimonials as required of candidates for certificates.

The following are sample tests in English and Geology.

English Grammar and Composition (eighty minutes)
Note—Properly punctuate and paragraph all responses to the following.
2. Explain the grammatical changes in reducing subordinate clauses to phrases. Illustrate by an example.
3. Change the expression, "Those who read good books acquire useful knowledge," to the passive form in both clauses, and explain the difference in construction and in meaning.
4. Use finite verbs in place of the infinitives and participles in the sentences: "The ringing bells bid us beware as the busy trains, rushing to and fro, pass the crossings;" "Desiring to save time, one often makes tired nature assume a burden too heavy to be borne." 
5. Write a sentence containing three clauses, and then reduce the same so as to express the meaning in one simple sentence.
6. Define Relative Pronoun, and show the use of such pronouns in the sentence, "The man who buys in market what shall be served for his dinner, often finds that spoiled in the cooking which cost him most care in selecting."
7. Write a paragraph containing four sentences on "school discipline."
8. Define Prose, Poetry, Meter, Rhyme, and Style.
9. Express in plain prose the thought in the line. "Falsely luxurious, will not man awake, And, springing from the bed of sloth, enjoy The cool, the fragrant and the silent hour To meditation due and sacred song?"
10. What figurative expressions occur in the example quoted from Thompson in No. 9?

Geology
1. Define (a) igneous rocks, (b) sedimentary rocks, (c) metamorphic rocks, (d) an outcrop, and (e) a fault.
2. Name and describe the seven geologic ages, as given by Dana.
3. Describe the formation of soils, and classify the soils of Kansas, giving the leading characteristics of each.
4. Draw a geological map of Kansas.
5. Locate on the geological map of Kansas, above referred to, (a) the coal fields, (b) salt deposits, (c) gypsum, (d) chalk, and (e) the different metallic ores of the state.

In 1893 the State Board was given the authority to issue certificates to graduates of normal schools and other state schools, provided the applicants passed examination given to them by state board. The method of attaining a life certificate was to teach at least two of the three years in which the certificate was issued. Graduates of accredited Colleges or Universities were entitled to the same certificates as those graduating from Normal Schools. The State Board also issued sets of questions to county superintendents to be given to teachers in their counties, to see if the teacher had knowledge of the so called common branches.

The State Board of Education shall issue the three year certificates, provided for by the sections mentioned by the third section of this act, and at the expiration of that time, if the holder of said certificate satisfies the board that he has taught successfully at least two years out of the three, and has kept himself well informed in the general literature of his profession, said board shall issue a life certificate in lieu of the first one issued.

The graduates of the State University, the State Agricultural College, and of institutions of learning in any of the United States, maintaining, in the judgment of the State Board of Education, the same high grade of scholarship as required in section three of this act, shall be entitled to similar credits.

When the examination papers show a lack of knowledge of the common branches, so called, viz.: History of the United States, Arithmetic, Grammar, Geography, Orthography, and Penmanship, the said board is authorized to require the candidates to pass a specific examination upon the same. The board of education is hereby instructed to prepare a series of questions for each examination, to be used in each county of the state of Kansas for the examinations of teachers; and the State Superintendent is hereby instructed to procure the printing of the same and distributing to the superintendents of the several counties in the state. 3

In 1945 the school laws were reorganized and the issuing of certificates was placed in the hands of the State Superintendent, with the State Board as an advisor.

It shall be the duty and responsibility of the state board to approve or reject: Plans, methods, rules and regulations formulated and recommended by the State Superintendent covering the issuance, renewal, revival and registration of certificates for teachers, supervisors and administrative officers; In general, the state board shall act in an advisory capacity to the State Superintendent on all matters under his jurisdiction. 4

Course of Study

In 1880 State Superintendent W. F. Boyakin said "the Board should prescribe a course of study, and have the power to compel its use in all public schools." 5 In 1893 the State Board was given the power to examine

3. Kansas Session Laws, 1893, Ch. 132, Sec. 5-6-7, p. 219.
4. Kansas Session Laws, 1945, Ch. 282, Sec. 20, p. 486.
the course of study of Colleges and Universities and if in the judgment of the board it was equal to a course in the State Normal Schools, the board would accept their grades toward their certificate. In 1915 the State Board was given authority in the administration of schools and to accredit such schools. E. T. Fairchild, State Superintendent, recommended giving to board this authority.

There is a general feeling among public school men that the investigation of our high schools and the accrediting thereof ought not to be in the hands of any institution but that it should be under the authority of the State Board of Education. The Colleges of the state join in this opinion. Such action would result in closer cooperation of all schools concerned and would remove whatever feeling there may be that excessive authority is placed in the hands of a single institution.6

In the reorganization of the State Board in 1945 the power to accredit schools and power to examine the course of study was given to the State Superintendent with the State Board as an advisory committee.

Upon the application of any college, university, or educational institution of like standing incorporated under the general laws of the state of Kansas, the State Board of Education shall have the power to examine the course of study prescribed and the character of the work done by it, and if, in the judgment of said board, it shall prove to have as efficient course of study as the four years' courses of study in the State Normal School, the said State Board of Education shall have power to accept grade given on academic subjects completed in course and passed in regular examination to persons who are graduates of or may hereafter graduate from such institution, lieu of the examination on the same subjects required for the state certificate, which said board is empowered to give.7

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The State Board of Education shall have exclusive and sole authority to define official standards of excellence in all matters relating to the administration, course of study, and instruction in rural schools, graded schools, and high schools, and to accredit those schools in which the specified standards are maintained; and the board may grant to accredited schools an appropriate certificate or other evidence of approval.8

It shall be the duty and responsibility of the State Board to approve or reject: Plans, methods, rules and regulations formulated and recommended by the State Superintendent for courses of study, curriculum and standards. In general, the state board shall act in an advisory capacity to the State Superintendent.9

Textbooks

In 1922 State Superintendent Wooster recommended a change in the State School Book Commission.

The heads of state institutions should not be members of the State School Book Commission, for as a rule these persons have never had common school experiences as teachers and do not use the books this commission selects, and are not sufficiently familiar with public school books to intelligently select such books.10

In 1937 the power to adopt textbooks for grades one to twelve was given to the State Board. Although the State Board adopted textbooks, the detail work of examining and appraising books was done by the advisory commission. The membership of the state board was increased to include the state printer and state business manager for the purpose of helping

8. Kansas Session Laws, Ch. 296, Sec. 8, p. 282.
9. Kansas Session Laws, Ch. 282, Sec. 20, p. 486
select and print state textbooks for the grades from one to twelve.
The textbooks adopted by the board was usually for a term of five years, although it could be from one to five years.

An act relating to the adoption of textbooks, providing for the transfer of authority from the school book commission to the State Board of Education, the abolishment of the school book commission, conferring authority upon the state printer to make contracts with and print for publishers, textbooks that have been adopted by the State Board of Education.

That for the purpose of carrying out the provisions of this act the membership of the State Board of Education shall be increased and the state printer and the state business manager shall be and become ex officio members of said State Board of Education is hereby designated as the board to perform the duties of, and said board shall have all the power, jurisdiction and authority now exercised by and imposed by law upon the school book commission.

The State Board of Education shall adopt such textbooks for each subject as are needed for use in grades one to twelve, inclusive. All original adoptions of textbooks shall be for a period of five years: Provided, That thereafter extension of adoption contracts may be made for from one to five years on recommendations of a textbook advisory committee or committees: Provided further, That only as many books may be adopted in any one year as will cost approximately one fifth the amount which all textbooks for all grades would cost.11

In 1945 the textbook adoption authority was taken from the State Board and given to the State Superintendent and the State Board acting in an advisory capacity to the State Superintendent. The reason for this according to Representative Ray. T. Wright, a member of Kansas House of Representatives, "of what he called waste and obsolescence of state textbooks. The students have to buy them but they are obsolete and we use other texts as supplements."12

It shall be the duty and responsibility of the state board to approve or reject: School textbooks recommended for adoption and shall give careful consideration to the plans, methods, schedules, rules and regulations presented by the State Superintendent as in this act provided: In general the state board act in an advisory capacity to the State Superintendent.13

13. Kansas Session Laws, 1945, Ch. 282, Sec. 20, p. 486.
CHAPTER IV

SUPREME COURT CASES

Over the years very naturally as legislation changed to meet school needs laws and their interpretation as well as their violations unconsciously or otherwise found points of issue coming before the courts of the state. Some of these represented cases of minor courts and some represent appeals to the state supreme court. It is the purpose of this part of the research report to cover briefly some of the issues in some of the cases which found their way to the supreme court of the state. Only cases that reached the supreme court are cited. Strange as it may seem from the time Kansas entered the Union up until now these cases were few in number. Sources for these cases affecting the duties, activities and responsibilities of the State Board are found in Hatcher's Digest and it is from this source I have drawn the cases herein cited.

State v. Wooster

The State Superintendent, Wooster, denied to the members of the State Board access to the books and records of that board, which are kept in the office of the State Superintendent of public instruction. Because Wooster did not want to meet as a board she said the meeting was illegal and for that reason denied the board the right to examine the books. The following opinion of the court was delivered by Marshall, J.
That contention of the defendant was without merit. The board, or any member of it, has the right of access to the books and records of the board and has the right to examine them at any time during reasonable hours, whether the board is in session or not. The defendants were not justified in refusing to any of the members of the board access to those books and records.1

Syllabus by the Court

State Board of Education—Right of Access to Books and Records. The State Board of Education, or any member of it, has the right of access to the books and records of the board at any time during reasonable hours, whether the board is in session or not.2

State v. Wooster

Helen Bennett was employed by the State Board of education at a salary of $125 per month for the purpose of administering the funds for vocational education. She was allowed her salary for the month of August, 1921 and that defendant Wooster had refused to approve the voucher for the salary. If Helen Bennett had not been employed by the State Board, or had not performed the services required, defendant Wooster would have been justified in refusing to approve the voucher allowing her salary. "The act appropriating money for vocational education (Laws 1921, Ch. 45) provides that vouchers against the fund shall be approved as provided in chapter 280 of the laws of 1917."3

2. Kansas Supreme Court Reports, Vol. 111k, 1922, p. 830
Syllabus by the Court

Superintendent of Public Instruction—Powers and Duties. The State Superintendent of public instruction cannot refuse to approve the vouchers of those employed by the State Board of Education for the purpose of administering the federal and state vocational education funds, where the employees have performed the duties required of them by law.4

State v. Wooster

Miss Wooster, State Superintendent of public instruction, according to law is chairman of the State Board. Because of this position she was refusing state certificates to teachers and certificates to institute conductors and instructors and was refusing renewal of certificates. Miss Wooster was making rules, regulations and requirements concerning the issuance of state certificates to teachers and certificates to conductors and instructors of normal institutes.

The State Board of Education—shall—issue state teachers certificates under such regulations, not inconsistent with law, as the state board may determine.5

The State Board of Education shall have authority to hold examinations and to issue teachers' certificates to persons of good moral character who may give satisfactory evidence of the requisite scholarship, culture, professional attainment and ability, as provided in this act; and all certificates issued by the State Board of Education shall be valid in any township, county, school district, or city of the first or second class for the time specified in the certificate unless sooner revoked by the State Board.

of Education all certificates issued by the State Board of Education shall be countersigned by the State Superintendent of public instruction.  

Normal training teachers' certificates may be issued by the State Board of Education as herein provided to graduates from normal training courses in high schools and academies accredited for this purpose by the State Board of Education.

The State Board of Education may issue temporary teacher's certificates valid for one year only in such schools and departments as may be specified in said certificate.

The State Board of Education is empowered to cancel any state certificate which said board on satisfactory proof finds to be held by a person of immoral character or otherwise disqualified for a teacher.

These statutes reveal that the legislature has placed within the control of the State Board of Education all matters concerning the examination and qualifications of the classes of teachers named, and no duty is imposed on her as a member of the board. She has no more authority concerning issuing or revoking certificates than any other member of the board. She has authority equal to any other member.

Syllabus by the Court

Superintendent of Public Instruction—No Control Over Certificates to Teachers, Institutes Conductors and Instructors. The State Superintendent of public instruction

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6. Kansas General Statues, 1915, Sec. 8993, Ch. 105, p. 1821.
8. Kansas General Statues, 1915, Sec. 9002, Ch. 105, p. 1823.
does not have the power to refuse state certificates to teachers, or certificates to institute conductors and instructors, or to reject applications for such certificates or for the renewal thereof, and does not have power to make rules and regulations concerning the issuance of such certificates.10

State v. Wooster

It was alleged that defendant Wooster was assuming the authority of ranking and accrediting schools and colleges in this state.

The State Board of Education shall prescribe courses of study for the public schools of the state, including the common or district schools, the graded schools, and the high schools; they shall also prepare a course of study for the normal institutes; and they shall revise the several courses of study when in their judgment such revision is desirable; they shall have authority to make rules and regulations relating to the observance of the prescribed courses of study.11

The State Board of Education shall have exclusive and sole authority to define official standards of excellence in all matters relating to the administration, course of study, and instruction in rural schools, graded schools, and high schools, and to accredit those schools in which the specified standards are maintained; and the board may grant to accredited schools and appropriate certificate or other evidence of approval.12

The express provisions of the statute place control of ranking and accrediting of schools directly in the State Board of Education.

11. Kansas General Statutes, 1915, Sec. 8872, Ch. 105, p. 1794.
12. Kansas General Statutes, 1915, Sec. 8872, Ch. 105, p. 1794.
Syllabus by the Court

Superintendent of Public Instruction—May not Rank and Accredit Schools and Colleges. The State Superintendent of public instruction does not have authority to rank and accredit schools and colleges in this state.\textsuperscript{13}

\textbf{State v. Wooster}

Miss Wooster was under the assumption that the State Board could not meet without the call of their chairman.

The State Board of Education shall meet at such times and places as may be determined by them and at the call of the State Superintendent of public instruction.\textsuperscript{14}

According to the above statute there is no doubt about the authority of the State Superintendent to call a meeting but that is not the reason for the case. Can the board meet without the call of the State Superintendent, if they couldn't the board might be seriously interfered with in the performance of their duties. The statute does not say that the board must fix regular times and places for its meetings.

While the powers of a public officer or board are those and those only which the law confers, when the law does confer a power or prescribe a duty to be performed or exercised by a public officer, the powers granted and duties prescribed carry with them by necessary implications such incidents of authority as are necessary for the effectual exercise of the powers conferred and duties imposed.\textsuperscript{15}

\begin{itemize}
  \item \textsuperscript{13} Kansas Supreme Court Reports, Vol. 111k, 1922, p. 831.
  \item \textsuperscript{14} Kansas General Statutes, 1915, Sec. 8872, Ch. 105, p. 1794.
  \item \textsuperscript{15} Kansas Supreme Court Reports, Vol. 111k, 1922, p. 831.
\end{itemize}
Syllabus by the Court

State Board of Education--Meetings--How Called.
The State Board of Education may meet at any time that it deems necessary, without being called together by its chairman, the State Superintendent of public instruction.16

State v. School District

The state as plaintiff was seeking to compel the defendants, school district No. 2 of the county of Sumner to maintain a University preparatory high school as provided by chapter 276 of the laws of 1919. The school district was regularly organized in 1919 and followed the laws of 1919 until 1922. In 1922 at the regular school meeting it was voted to conduct a high school with a three-year course of study instead of one with a four-year course.

Syllabus of the Court

School District--Annual Meeting--No Power to prescribe Course of Study. The annual meeting of a school district does not have power to prescribe a course of study and must be carried into execution by the school board.17

The State Board of Education shall prescribe courses of study for the public schools of the state, including the common or district schools, the graded schools, and the high schools; they shall also prepare a course of study for the normal institutes; and they shall revise

17. Kansas Supreme Court Reports, Vol. 112k, 1922, pp. 66-68.
the several courses of study when in their judgment such revision is desirable; they shall have authority to make rules and regulations relating to the observance of the prescribed courses of study; and they shall also issue state teacher's certificates under such regulations, not inconsistent with law, as the state board may determine.18

It was presumed in the part of the writer that many cases might have as the years passed found their way to the Supreme court in whatever the issues might have been but such is not the case. Hatcher's Digest contains reports, interpretations and rulings of every case which come before said court. Over the years in so far as court cases are concerned, there were few that reached the court. The essential ones bearing on the State Board have been cited in this report.

CHAPTER V

CONCLUSIONS AND GENERALIZATIONS

The records show that the State Board has progressed a great deal from the time it was created in 1873. The State Board has always been an important body in educational matters in Kansas. From time to time legislatures have added additional educational duties to the State Board, until its importance has been greatly increased and the detail work of the board multiplied many times. The board, as constituted, is composed of very busy men. All of the members in their usual vocations have work which occupies the greater part of their time.

With the exception of issuing teacher certificates and giving teacher examinations the board had very little authority at its beginning. The abolishment of committees and giving the power to the State Board not only centralized control but did away with institutions controlling committees, such as, course of study, accrediting schools, teacher certificates and textbook adoptions. In the beginning each one of these was placed in the hands of separate committees but over the years from time to time, they were given to the State Board. Because of the added responsibilities the number of members increased from five to seven. The State Board was strictly a professional body. Its work was related to educational standards rather than to administrative details. To have the board accredit schools, plan course of studies and adopt textbooks throughout the state was necessary to make the public schools serve the needs of all the people more completely.
The relation of the State Board to higher state educational institutions was chiefly limited to the approval of the courses of study pursued by candidates for state teacher's certificates. The State Board had to approve a four-year course of study before the applicant could gain admission to the freshman class in college. The higher institutions of learning had to meet the standards of the State Board, such as quality of teaching, minimum equipment and certain specified courses, before the student of that institution could gain a teaching certificate. This gave the board a definite and somewhat authoritative relation to such institutions as desired certificating power.

The State Department of Education was reorganized in 1945 and now the State Board acts in an advisory capacity to the State Superintendent. As an advisory board to the State Superintendent, is a notable improvement over its former status because it leaves the educational department in a more centralized position of control and eliminates the controversies that existed in the past. The seven members of the board are from the two political parties and from different congressional districts which serves the people of the state more completely.
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