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# THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

A report on the history of the office in the State of California, and a review of the recent trends in the other 49 states.

Prepared by

Assembly Legislative Reference Service

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Once again the issue of how the State Superintendent of Public Instruction shall be chosen is making news on the political front in California. Since 1961 Governor Brown has favored making the office appointive, and this session he has once again come out in favor of such an arrangement.

At present there are two proposals before the Assembly to change the Constitution, A.C.A. 2 (Dymally) and A.C.A. 8 (Cologne). The Dymally bill would fill the office through appointment by the State Board of Education, while the bill offered by Cologne would make the State Board of Education elective and then have the elected board appoint the Superintendent

Both the former superintendent, Dr. Roy E. Simpson, and Dr. Ralph Richardson, who lost to Dr. Maxwell Rafferty in the recent campaign, are in favor of the appointive office plan. Dr. Simpson stated, with regard to the office: "I think the State Superintendent should be appointed by the State Board of Education, but only if the terms of office (of the Board) are lengthened to about the same as the University Regents -- 16 years."[1]

Recently the Legislature has entered the picture. Senator Hugh M. Burns, President Pro Tempore of the Senate, has declared that there is a need to clarify the powers of the two groups (i.e., the Superintendent and the Board) with regard to the policy formation and management of the Department of Education. He feels that the present

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1. Phillips, Herbert L.
"Question of Choosing State School Superintendent Comes to Life Again." The Sacramento Bee, December 8, 1962. p. 44

lack of clarity on the matter is confusing and only leads to conflicts and problems. The Senator made it clear he felt Rafferty should be the top man. Assemblyman Jesse Unruh, Speaker of the Assembly, has come out in favor of a superintendent appointed by the governor rather than elected by the people.[2]

Dr. Max Rafferty, the newly elected State Superintendent of Public Instruction has stated that "an elected superintendent is the only way to give the people a voice in this office because the board is appointed." He has also pointed out, however, that if the Cologne bill making the board elective were passed and accepted by the people, "I would certainly have no objection to having the superintendent appointed."[3]

The dispute continues, and as yet has seen no definite resolution. In view of the interest and controversy this topic has stirred so far in this session, and is likely to continue generating, this brief study has been prepared in hopes that it will be able to provide interesting and valuable background material on the topic.

The following report consists or essentially two parts; a study of the recent trends in the other 49 states; and, a discussion of the history of the office in the State of California, including a review of all the major proposals, studies, etc., relating to it.

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2. Rodda, Richard
   "Burns Urges Overhauling of State Education Department." The Sacramento Bee, March 7, 1963, p. 8
3. Lembke, Daryl
   "School Feud May Liven Legislature." Los Angeles Times

# PART I

## RECENT TRENDS IN SELECTION OF STATE BOARDS OF EDUCATION AND CHIEF EDUCATION OFFICERS IN OTHER STATES.

# THE CHIEF STATE EDUCATION OFFICER IN THE UNITED STATES

## Recent Trends in Selection of State Boards of Education and Chief Education Officers in Other States

Since the end of World War II, there have been unprecedented changes in the organization of State education systems. These changes have shown three major trends:

1. An increase in the number of state boards of education.
2. An increase in the number of popularly elected state boards of education.
3. An increasing number of chief state school officers appointed by state school boards.

During the period of 1947 to 1961, the number of states having boards of education had risen from forty-one to forty-seven.[4] These boards, whose function is regulatory leadership in state education policy, have been established in every state except Illinois, Michigan, and Wisconsin.

In 1961, there were eight states in which the people elected the board of education: Colorado, Iowa, Louisiana, Nebraska, Nevada, New Mexico, Ohio, Texas and Utah. Only three states used this method in 1947. In addition, one other state, Washington, reconstituted its board in 1946, changing from appointment of members by the governor to election of members by conventions of school board directors.[5] This manner of selecting board members was designed to

4. The Council of State Governments. The Book of States, 1962-1963 Chicago: 1962. p. 318, pp. 308-309
5. Ibid. p. 318, pp. 308-309

bridge the gap between appointment by the governor and popular election. Proponents claim that it eliminates disadvantages that are present under these two methods When board members are selected in this way, experience has shown that leaders among the local school board members are most likely to be selected for the state board.

Perhaps the most important trend in recent years has been toward appointment of the chief state school officer by state boards of education. Only eleven States empowered their boards of education to appoint the chief state school officer in 1947.[6] By 1961, there were twenty-three states in this group; the increase averaged slightly less than one per year. Of the twelve states which have made the chief state school officer appointive, nine changed from a popularly elected chief state school officer, and four changed from a governor-appointed chief state school officer. The majority of states making this change had to amend their constitutions in the process.[7]

During the period from 1947 and 1961, the total number of chief state school officers elected by the people decreased from thirty-one to twenty-two, and the total number appointed by the governor decreased from eight to five. No state, during this period, altered its organization to provide for an elected chief state school officer. Only Alaska provided for a chief state school officer appointed by the governor.[8]

6. Ibid. p. 318, pp. 308-309
7. Ibid. p. 318, pp. 308-309
8. Ibid. p. 318, pp. 308-309

# PART II

## HISTORICAL SKETCH OF THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION AND PROPOSALS AFFECTING IT IN THE STATE OF CALIFORNIA

## HISTORICAL SKETCH OF THE OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION IN CALIFORNIA

### The Constitutional Convention of 1849

The office of Superintendent of Public Instruction in California was created at the Constitutional Convention of 1849. Although education was not a critical concern of the Convention -- more pressing issues were state boundaries, the status of slaves and taxation -- lively debate and discussion occurred concerning proposed sections of the article on education.

There was, however, little debate on the matter of a chief state school officer. The first section of the proposed article on education was taken directly from the Iowa Constitution of 1846. The only change was the substitution of "Legislature" for Iowa's "General Assembly." The proposed section read:

> Sec. 1. The Legislature shall provide for the election, by the people, of a superintendent of public instruction, who shall hold his office for three years, and whose duties shall be prescribed by law, and who shall receive such compensation as the Legislature may direct.[9]

This section was adopted without debate as proposed by the standing committee. It became Section 1 of Article IX in the final draft of the Constitution. In adopting this provision of Iowa's Constitution, California was following a trend which was to become a general pattern for other states in subsequent years.

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9. Johnson, Leighton H. Development of the Central State Agency for Public Education in California 1849-1949. (The University of New Mexico Press, Albuquerque, 1952), p. 13

## The Constitutional Convention 1878-79

As in the Convention of 1849, education was not a major issue during the 1878-79 Convention. The Convention was called in response to increasing unrest among farmers and workingmen in the State. The main grievances of this group were the influx of Chinese labor into the State, and the operations of the Central Pacific Railroad, which was becoming a monopoly of such power that it dominated the politics and the economy of the State. Unlike the Convention of 1849, the political factions were divided more clearly between liberal and conservative elements. Social, economic and political reform were the main topics of debate.

There were, however, a number of spirited debates on educational matters. The first of these occurred when the proposed section regarding the Superintendent of Public Instruction was read to the Convention sitting as a committee of the whole.

The proposed section on the Superintendent of Public Instruction provided that, "He shall receive a salary equal to that of the Secretary of State"; immediately opposition arose to this attempt to put the office on such a level.[10] Amendments were proposed to fix the salary at $2,400, and to strike out the section entirely, thus abolishing the office and leaving the work of the superintendent to be done by county superintendents. At this point, Marion Biggs a delegate who claimed to be on the side of "economy, retrenchment and reform," made a strong appeal for a well-paid superintendent

10. Ibid. p. 44

who would provide expert leadership for the State's school system. Biggs departure from his usual position gave added force to the endorsement. Ultimately this point of view prevailed and the Convention adopted the provision making the Superintendent of Public Instruction an elected constitutional officer with a salary equal to that of the Secretary of State.

## California's First Lay Board of Education

In 1913, the professional ex-officio State Board of Education[11] was replaced by a Board of seven laymen. The professional ex-officio type of Board, such as that operating in California until 1913, was organized on the assumption that professional membership was necessary to deal with the technical concerns of the Board. The professional ex-officio Board, like many others of the time, had come to overlook the other, non-technical functions of a State Board of Education: i.e., to select professional experts, decide policies, authorize undertakings and approve expenditures.[12] Not only did the ex-officio Board involve itself with problems that could have been delegated to professional employees, but being professional men, the members all had pressing problems involving their own institutions and responsibilities, and found the added burden of Board membership a heavy load.

These shortcomings of the ex-officio Board were recognized by educators throughout the nation, and a trend developed to reorganize

11. The Board was not mentioned in the Constitution of 1849 or 1879 and had developed by statutory evolution. It consisted of the Governor, the State Superintendent, the Principal of the State Normal School and the County Superintendents of six counties.
12. Ibid. p. 69

and reform the Boards. This reform attitude favored a Board composed wholly of laymen and elimination of the Superintendent and the Governor as Board members.

It was in accordance with this tendency, and in the period of political reform led by progressives in both political parties, that the California State Board of Education was reconstituted. The Constitutional Amendment which effected this change from an ex-officio Board to a lay Board did not, however, dispense with the office of Superintendent of Public Instruction.

In the period between passage of the Constitutional Amendment providing for establishment of the new Board and the passage of enacting legislation in June, 1913, further reforms were proposed. Ellwood P. Cubberley, probably the outstanding authority on educational administration at that time, recommended the adoption of two Constitutional Amendments, one providing for the appointment of Board members for terms of seven years instead of four, the other to make the chief state school officer an appointee of the State Board of Education. Thomas H. Reed, Associate Professor of Political Science at the University of California, urged the same reforms. Neither of these suggested reforms was carried out.

## The Jones Report and the Formation of the California State Department of Education

The public school system in California experienced remarkable growth during the First World War. Between 1918 and 1920 enrollment in elementary schools increased 11.6 per cent; in the secondary

schools during the same period, enrollment increased 28.3 per cent.[13]

This dramatic growth and the vigorous leadership of Superintendent Will C. Wood focused increasing attention on the problems of public education in California. The Legislature, in 1919, provided by Senate Concurrent Resolution Number 21 for "legislative investigation of the problem of meeting the needs and furnishing support for the schools and educational institutions of the State." Senator Herbert C. Jones was appointed Chairman of a committee to investigate these matters and Ellwood P. Cubberley was retained as consultant. The final report of the committee, written by Cubberley, included consideration of several aspects of the status of education in California.

The principal concern of this report, often referred to as the "Jones Report", was the organization of the educational system. The report criticized the "double-headed" form of educational organization wherein the Superintendent of Public Instruction was given certain supervisory and clerical powers by law, while the newer State Board of Education was given functions relating to policy and educational control. The report contended that only if harmonious relations continued between these two power centers would there be effective management of California's educational system. The Committee saw no such problems at <u>that</u> time but held that the situation was dangerous and that grave difficulties would develop should there ever be any friction between the Board and the Superintendent.

To remedy this situation, the Jones Report recommended that the office of Superintendent be abolished by Constitutional Amendment

13. <u>Ibid</u>. p. 84

and that it should be replaced by a Commissioner of Education, appointed by and responsible to the State Board of Education. The report expressed the opinion that since 1913 California had advanced toward a desirable unified state agency for public education and that such a constitutional change would further encourage evolution in this direction.

In the 1921 session, the Legislature established the State Department of Education as recommended in the Jones Report. The Department, which was created by an Act of May 31, 1921, was to be controlled by an executive officer whose title was Director of Education, and the Superintendent was to be ex-officio director.

These changes were in line with the recommendations of the Jones Report. However, other sections of the law continued the double-headed organization as before. The Board of Education continued with its original responsibilities. In addition, it controlled several divisions within the Department of Education. Thus, the Department lacked unified control and coordinated administration of the school system continued to depend largely on harmony between the Board of Education and another executive officer with whom it shared its power.

In 1926, the situation which the Jones Report warned against came about; conflict developed between the two power centers of the State's education system. The trouble began in 1923 with the election of Friend W. Richardson as Governor. Richardson's policies were generally oriented in the direction of retrenchment and he attempted to cut government expenditures. A principal target of Richardson was the Department of Education. In one of his first public statements he charged that, "Extravagance in educational matters has run riot

during the past few years." This statement marked the opening of a conflict between the Governor and Superintendent of Public Instruction, Will C. Wood. The hypothetical situation described in the Jones Report became real when a majority of the members of the State Board of Education supported the position of Governor Richardson. As a result, an impasse developed between the two "heads" of the education system -- the Superintendent of Public Instruction and the State Board of Education. The climax of the resulting conflict, which involved the Legislature as well as the Executive branch, was the refusal of the Board to approve the appointment of the Presidents of the State Teachers Colleges at San Jose and San Francisco.

This widely publicized conflict dramatically pointed out the shortcomings of the existing organizational system in the state school system. In 1927, public concern over this issue influenced the Legislature to take remedial action. Senator H. C. Jones of San Jose, who had given his name to the Jones Report, introduced Senate Constitutional Amendment 26, which was intended to eliminate the bifurcated administration of the Department of Education. The Jones amendment directed the Legislature to provide a State Board of Education of ten members, with terms of ten years each, to be appointed by the Governor and confirmed by a two-thirds vote of the Senate. The elected superintendency would not have been specifically abolished, but the Legislature was empowered to provide for a Director of Education to be appointed by the State Board of Education. In due course, the powers and duties of the Superintendent were to be transferred to the Director, and the office of the Superintendent could have been suspended.

The amendment was approved almost unanimously in the Legislature; only ten votes were cast against it out of 120. Yet, at the General

Election of November 6, 1928, it was defeated by a vote of 714,411 to 551,858. An analysis of the votes cast reveals no significant partisan or sectional division on the question.[14]

In 1944 a study was made of the internal organization of the State Department of Education by the J. N. Mills Co., a firm of management engineers. At the same time, a study was undertaken by the Citizen's Advisory Committee on Readjustment Education. This second study was financed by appropriations made during the fourth Extraordinary Session of the Legislature at the request of Governor Warren.[15]

The Mills report suggested that the Department be organized along the lines of a large corporation, and suggested "an executive deputy superintendent, three associate superintendents, and three assistant superintendents as key aides to the superintendent."[16] Other thorough revisions were suggested.

The report of the Advisory Committee (known as the Strayer Report) suggested specifically that: The State Superintendent of Public Instruction should rank with the President of the State University in prestige and quality, as well as in salary; the Superintendent should be selected by the State Board of Education, which body should also fix his salary; that the State Board of Education should be appointed by the Governor and should serve overlapping terms of 10 years each; and finally, suggested certain organization changes in the Department.[17]

In October of 1945, the State Board of Education approved a plan

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14. Ibid. p. 106
15. Ibid. p. 117
16. Ibid. p. 118
17. State Reconstruction and Reemployment Commission
    The Administration, Organization and Financial Support of The Public School System, State of California (State of California, Sacramento, 1945), p. 10-11

offered by the then Superintendent Walter F. Dexter for a revision and expansion of the Department.

Assembly Constitutional Amendment No. 36, which provided for the staff expansion mentioned in the Strayer Report was accepted by the voters in 1946 and throughout 1946 and 1947 the plans were carried out by Superintendent Roy E. Simpson. The changes suggested by the Strayer Report relating to the office of the Superintendent himself were not, however, carried out, nor were they authorized in the amendment.[18]

The California Commission on Public School Administration made a report (The Hardesty Report) in 1955 which contained relevant references to the Superintendent of Public Instruction. The report advocated the following method for selection of the State Board of Education:

1. A nominating committee would be named by the California School Boards Association with representation from all areas of the state. This board would nominate one new board member a year to the State Board and would fill up all other vacancies which might exist. Each member of the State Board would serve one nine-year term and the board would consist of nine members.
2. After nomination, each school district in the State would be allotted one vote, which they would cast by mailing in.

18. Johnson, p. 119