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POOR LAW LEGISLATION

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Few well-chosen remarks about poor law legislation since feudal times.

Poor law legislation is early modern (16th century) in origin, and developed with the breakdown of feudal responsibility, resulting in labor movement from one area to another, and particularly in the rise of vagrants and of sturdy beggars that disturbed Elizabethan times. In Europe, poor relief was managed by the church until about the 19th century, but England and Scotland, partly because of the Reformation, went over to public poor relief. Henry VIII's confiscation of monastery lands helped to force this. By statute of 1531, the "aged and impotent poor" of England were licensed to beg alms, but Scotland in 1535 introduced the system of local relief by forbidding begging outside of one's native parish. Then in 1536, England outlawed begging, and provided for organized local governmental poor relief for those willing to work. Those unwilling to work were subject to criminal punishment. Finally in 1572, the early Elizabethan poor law provided direct taxation to maintain poor relief, and that system of local tax-supported poor relief remained in effect in Britain for about four centuries, and in the United States until the time of the New Deal. When the poor relief act of 1601 gave the system its final form, the poor were classified for appropriate treatment: children who could be apprenticed, infirm who would go to the alms house, and able-bodied, who were supposed to accept work. The system began to break down at the end of the 18th century with the beginnings of industrialization, leading to a reform bill of 1834 (part of the general set of reform measures of that time) with the beginnings of a national system for poor relief. A system of national work houses was set up which lasted until modifications in administration were suggested by the poor law commission from 1905-1909. An act of 1911 began to substitute unemployment insurance for poor relief, and a general administrative reform in 1929 modernized the system.

For the United States, the beginnings of poor relief in the British colonies were based almost entirely on the Elizabethan act of 1601. At first poor relief was administered in individual colonial homes, but alms houses grew up, but toward the end of the 19th century, the alms houses were reformed to the extent of

classifying their inmates. As a result of this, children were no longer taken care of in alms houses, and insane and feeble-minded were removed from alms houses to asylums of their own. That was regarded as great progress.

At first glance, it looks as if the Shoshone County tax law had reached only the level of the act of 1572. By act of 1864 (page 424) counties in Idaho were empowered to provide poor relief, and in addition, four counties were given special authority along the line of poor farms and county hospitals. The earliest of these is the Shoshone County one we already have found. Then by act of February 3, 1883, Ada County was required by law to purchase a "Poor-farm" equipped with a "Poor-house." Two years later, by act of February 5, 1885, Washington County was authorized to acquire a "Poor Farm," along with a "Poor House," the farm to be purchased at a price not to exceed \$2,000.

That same session authorized Custer County, February 3, to use funds left over from the construction of the county jail in order to build a county hospital. Some of the other counties at least had hospital funds: there is a reference to disposal, in an act of January 8, 1873, of surplus funds out of the Alturas County Hospital fund, and this can mean that Alturas County had a hospital fund before that time. Mining counties in particular needed hospitals, and a lot of the battle in 1890 to 1892 in Shoshone County between the mine owners and the mine union was over the question of support of the mine union hospital.

The Idaho Soldiers Home was established by act of March 2, 1893, and if I remember right, it opened in 1896. An act of March 6, 1893, provided trustees for a State Reform School to be set up at Mountain Home. As far as I can make out, this commission did not organize. Then by act of February 16, 1903, a set of trustees were provided to manage the "Idaho Industrial Reform School," which began operations in Central School on the Capitol grounds, but transferred to St. Anthony when construction began on the State House.

Total present state appropriations for this biennium for the state hospitals (but not public health), the Penitentiary, Public Assistance (28.8 million), Industrial Accident, and Unemployment Compensation, Children's Homes, and the Soldiers Home, amount to \$43,039,880. At least \$42,000,000 of this ought to be regarded as the appropriate general total for state appropriations for social work. (1963-1965)

CARE OF THE AGED, INSANE, THE FEEBLE-MINED, POOR,
AND ALSO CRIMINALS IN TERRITORIAL TIMES

Territorial prisoners until the territorial prison was built were kept in the Boise County jail. It was not entirely a satisfactory institution. Sheriff James I. Crutcher said of it (1885), "the ventilation is so defective that during the summer season, the prisoners are necessarily allowed the freedom of the

yard during the greater portion of the day, and complain of the oppresiveness of the heat at night." Dr. Ephriam Smith, territorial prison commissioner, reported in 1865 that "the board fence enclosing the jail, is but a frail affair; to secure prisoners, irons have to be kept on them all the time, and a guard constantly on the watch, or some prisoners will scale the fence." No prisoners ever escaped from the building of the prison. But of the fourteen territorial prisoners convicted up to that time, two already had escaped. (These apparently climbed over the fence.) And at the end of 1865, only three of the fourteen still were in prison. One of them served his one-year term, and the other turned out to be there by mistake, since their offences came during the time when Idaho lacked criminal law.

By December 1, 1868, the prison was beginning to build up a little population again. There were ten prisoners by then, two of them already Chinese. By December 1, 1869, the number had risen to eighteen, and it required more than \$15,000 to take care of those eighteen prisoners that year. Although seven new prisoners were added in 1870, there were only seven left in prison by December 1, 1870, since the governor pardoned seven, and nine escaped in a whole series of daring escapes that did much to save the territory money. Some of them were in jail long enough, though, so that the cost of running the prison for the year ending December 1, 1870, was more than \$19,000. By then a new territorial prison in Boise was authorized, and it was certainly needed.

E. C. Sterling, territorial prison commissioner during 1869 and 1870, noted that "a great inconvenience has been experienced during the occupation of the present temporary quarters, being the county jail of the most populace county in the Territory and the most of the time numerous occupied by county prisoners. The want of employment for Territorial convicts has made it almost an impossibility to adopt any fixed system of discipline, such as governs regulated prisons, the jail being composed of fourteen cells, seven on either side of a narrow passageway, cells small and crowded to overflowing with county and Territorial prisoners. As a humane and sanitary measure, they have generally been permitted access during the day time to a small square of a room containing a stove behind the grates, where they received their food and what little exercise they could get, being returned and locked in their cells at night. A want of proper prison facilities for keeping the number of prisoners in custody is the direct cause of the numerous escapes that have occurred during the past year, as shown in the foregoing summary. From authentic official information, I am satisfied that the prison keeper, or guards on duty at the time, could not have anticipated or prevented the late escapes. Natural causes, as assigned in this, and the least carelessness or want of caution by the guards on duty at the time, furnishes all that can be stated in this connection."

COUNTY HOSPITALS AND POOR AND INSANE

Going to county hospitals and poor and insane relief, there were arrangements for the counties at first to take care of this kind of thing. For example, by act of January 4, 1871, the Shoshone County commissioners were required to collect a \$2.00 head tax, half of which was to go "to the care and maintenance of the indigent sick, idiotic and insane persons in said county," and I assume that other counties had some kind of tax plans for county hospitals. For many years, Idaho Territory contracted with the State of Oregon to take care of the Idaho insane at a stipulated rate. Then in 1885, Boise traded with Blackfoot so that Boise got a capitol, while Blackfoot got an insane asylum. Although there is nothing to the yarn that we chose a penitentiary instead of a university, it is quite true that there was this other trade. I will try to find some happy items about the insane asylum out of some of the early reports.

Going back to prisons, we ought to mention the system of maintaining territorial prisoners--even after the territorial penitentiary was built--was to have the marshall do them under contract. The same kind of thing was done in the county jails, with the sheriff contracting to keep up prisoners at an established rate. The possibilities for abuse under this system were quite real, and in 1886, considerable complaint was made against the Ada County Sheriff on the grounds that whenever the jail was getting too empty, he would rush out and arrest some more Chinese in order to keep up his profitable business of feeding prisoners. The complaints weren't at all based on sympathy for the afflicted Chinese, but were rather that the county was undergoing unnecessary expense in allowing the sheriff to profiteer.

CARE OF THE AGED, INSANE, FEEBLE-MINED, POOR AND CRIMINALS IN TERRITORIAL TIMES PART II.

Of the various objects of social work and public welfare, poor people and criminals were the ones that constituted a problem in the early gold camps. In some of the most important early gold rush centers -- particularly early Florence -- poor people greatly outnumbered criminals. Any number of men joined the gold rush even though they lacked sufficient means to maintain themselves, especially in a gold camp where prices were extremely high and supplies were in very short stock during a hard winter, such as the one which hit Florence in 1861 and 1862. Society in the early gold camps, though, lacked the necessary institutions or organizations to take care of the problem of the poor. People who couldn't find themselves mining claims that would pay, or couldn't find work in the paying claims, simply

were expected to leave, and they did. Early-day Boise presented a little bit different situation, though. A large number of Missouri war refugees reached Boise in the summer of 1864, and the next winter proved to be extremely hard. The next spring a great many of them were able to go off to other communities where prices were not so high; but in the meantime, St. Michael Fackler, founder of Boise's Episcopal Church, organized a voluntary charitable program to help them survive the hard winter. Governmental public assistance programs were still largely in the future then.

By the time Idaho became a state, July 1, 1890, the Idaho Insane Asylum had a total of 64 inmates, 45 men and 19 women. Twenty-six men and 11 women were admitted during the year, and 25 got out in one way or another--3 of the men eloped. Patients at that time were classified by the seven "Forms of insanity" with which they were afflicted: delusional insanity, dementia, acute, chronic, epileptic mania, and acute and chronic melancholia. New inmates that year ranged in age from 19 to 76; in occupation and in geographic distribution over the territory, they were broadly typical of the rest of the population. There was at least one patient cured that year, somewhat unexpectedly--during the winter a great flu epidemic affected practically the entire staff and all the inmates: one patient who had spent "six months in a state of great mental inactivity, amounting to almost dementia, with a flabby and sluggish physical condition" suddenly recovered, mentally as well as physically, within a few weeks after surviving the flu epidemic and was discharged.