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* Associate Professor of Law, Director of the Gillis Long Poverty Law Center, Loyola University School of Law.

SUMMARY:
... In antebellum America, the northern states began their first reforms of poor relief legislation. ... This article reviews northern poor relief legislation in this period in two ways: first, by looking at the state poor laws of the newest states in this period, Michigan, Iowa, Wisconsin, and Minnesota; and second by analyzing the major reforms of the poor laws in the existing northern states, primarily those of Massachusetts, New York, and Pennsylvania, during the same period. ... This section will briefly review the beginnings of poor relief legislation in the northern states that joined the United States in this period, Michigan, Iowa, Wisconsin, and Minnesota. ... In fact, change, though often small, was beginning to become a constant part of the poor law as the continuing presence of the poor fed growing legislative concerns about the rising costs of poor relief. ... All about could be heard concerns about the prevalence of poor people and the increasing financial burdens of caring for them, and, though many of the principles of poor relief remained the same as they were in colonial and English poor law, not to be denied were the rumblings of reform. ...

TEXT:

[*739]

Introduction

Until a system therefore can be devised, which, with economy and humanity, will administer relief to the indigent and infirm, incapable of labor, provide employment for the idle, and impart instruction to the young and ignorant, little hope can be entertained of meliorating the condition of our poor or relieving the community from the growing evils of pauperism. n1

In antebellum America, the northern states began their first reforms of poor relief legislation. This article reviews the development of American poor relief legislation in the northern states from 1820 to 1860. n2 This article [*740] reviews northern poor relief legislation in this period in two ways: first, by looking at the state poor laws of the newest states in this period, Michigan, Iowa, Wisconsin, and Minnesota; and second by analyzing the major reforms of the poor laws in the existing northern states, primarily those of Massachusetts, New York, and Pennsylvania, during the same period.

Legislation for the poor in this period continued to share concerns common with earlier English, colonial, and early American poor law. Principles like
local responsibility, family responsibility, and a reluctance to help the able-bodied poor continued to influence poor law development. But the legislation of this time also began to reflect growing concern over rising costs for poor relief and the growing numbers of poor people by emphasizing institution-based poor relief and curbs on immigration. In this period, the poor law continued to reflect its historical roots but also began to respond to the rumbles for reform.

I. The Historical Context

In order to review antebellum poor laws, it is necessary to briefly sketch a summary of the prior history of poor relief legislation. Colonial America, particularly the northern colonies, depended to a large measure on English poor law when creating the first American legislation for relief of the poor. n3

The English poor law was built on several principles: a refusal to assist the able-bodied poor; a requirement that family members assist poor relatives; local responsibility for the local poor who were not able to work and had no family to care for them; and strict residency requirements, called the law of settlement, which had to be satisfied before there was any local public assistance. n4

In the earliest years of the United States, poor relief law was overwhelmingly the result of state-created legislation and continued to reflect the influence of colonial and English poor law principles. n5

After the turn of the century, America's thinking about poverty began to change.

[I]n the hard times that followed the panics of 1819 and 1837, numbers of Americans sank into depths of degradation and dependency previously unknown in this country. At mid-century there was ample evidence that a poverty problem, novel in kind and alarming in size, was emerging in the United States. n6

As the thinking about poverty changed, the poor laws began to change. While most of the earlier principles of English and colonial poor law remained in effect, there was movement in the states for reform. The movement in state legislatures was not constant nor concerted, but it had begun, and once begun it would not be denied. Concerns about rising costs combined with concerns about the continued presence of poor people created questions and criticisms, which in turn fueled the forces for change.

This article reviews antebellum development of poor laws in the northern states and maps both the constants and the changes in the development of state poor relief law.

II. Development of Poor Laws in New Northern States 1820-1860

State laws regulating the poor continued to be the primary source of legislation affecting the lives of the poor in this time period. n7 This section will briefly review the beginnings of poor relief legislation in the northern states that joined the United States in this period, Michigan, Iowa, Wisconsin, and Minnesota. n8 These laws illustrate the continuing influence of
the historical principles of poor relief and movements toward reforms like institutional care for the indigent.

A. Michigan

Prior to statehood in 1837, Michigan poor law was based on the law of the Northwest territory and the laws of the Michigan territory. n9

The Michigan territorial legislature enacted a comprehensive act covering all aspects of poor relief. n10 Responsibility for the poor was placed [*743] on the township. n11 Within the township were overseers of the poor who worked with the justices of the peace to administer the poor laws. n12 Eligibility for poor relief was based on residency or settlement, usually two years, and forcible removal of the nonresident poor was allowed. n13 Slaves were to be removed from townships back to wherever they came from, even completely out of the territory. n14 Those entitled to relief were defined as any "poor, old, blind, lame, or impotent person, not being able to maintain himself." n15 Family responsibility for poor relatives was imposed on three generations. n16

The territorial legislature also enacted the first Michigan law to prevent blacks and mulattoes [*744] from settling in the territory. n17 This ten section act prohibited all people of color from settling or residing in Michigan unless they could produce a signed certificate of freedom from a court. n18 No black or mulatto person was allowed to settle in Michigan without posting a five hundred dollar bond in the county court where they wished to reside "conditioned for the good behavior of such black or mulatto person, and moreover, to pay for the support of such person, in case he or she should, thereafter be found within any township in this territory, unable to support him, her, or themselves." n19 Those who did not comply were to be removed as paupers and those who continued to return after being removed were to be treated as idle and disorderly persons. n20 Employing blacks and mulattoes who did not have the proper papers subjected the employer to fines up to one hundred dollars. n21 Blacks and mulattoes who were already in Michigan could stay as long they could prove they were born in the territory and if they registered themselves and all their family members with the local county clerk of court. n22 These demands of proof of freedom for blacks were clearly not to act as a bar to any person trying to recover their slaves, as the law specifically notes, "[p]rovided, nevertheless, that nothing in this act contained shall bar the lawful claim to any black or mulatto person." n23

From 1830 onward, every Michigan county had the authority to erect and maintain a county poor house. n24

Michigan became a state in 1837 and promulgated its first poor law in 1838. n25 The first state poor law in Michigan was a comprehensive fifty-six section statute which changed the prior township-based system and put public responsibility for the poor back on county commissioners, who were authorized to erase all previous legal distinctions between county and township poor. n26

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Poor relief was to be made available to "every poor person who is blind, lame, old, sick, impotent or decrepit, or in any way disabled or enfeebled, so as to be unable by his work to maintain himself, and who shall not be maintained by his relatives . . . ." n27 County superintendents for the poor were to act as a public corporation with "general superintendence and care of the county poor." n28 Detailed procedures for testing the legal settlement or residency of the poor and for removal of nonresident paupers were authorized. n29 Poorhouses remained a local option. n30 Temporary outdoor or home-based relief
was limited to an annual maximum of ten dollars. n31 Paupers with severe mental problems were to be supported out of the county poorhouse if the county so desired. n32 Just as in the territorial laws, there was responsibility of relatives for their poor relations. n33 Children under public authority were to be educated at least one-fourth of the time. n34

All of these provisions created a public system of poor relief that was to cover poor people from childhood to the grave.

At the time Michigan became a state:

The method of care in operation, although inadequately defined, was, for dependent children, apprenticeship; and for adults, the contract system of boarding out, supplemented by a provision granting "small sums" for temporary relief. The poorhouse method, as yet undeveloped although authorized by statute, was not obligatory upon the authorities, but where such an institution existed it was supposed to afford a complete system of relief. n35

The 1838 statute remained the primary source for poor relief law for the rest of this time period. n36 Significant amendments included: a legislative [*746] mandate that poor people who needed permanent assistance be provided help only in the poor house; n37 authorization for Detroit to open almshouses for the poor, hospitals for the sick, asylums for the insane and blind, nurseries for poor and destitute children, and compulsory workhouses for vagrants and the disorderly; n38 and the authorization of county poor farms. n39

B. Iowa

When Iowa became a state in 1846, its Constitution provided that all laws in effect would remain in force. n40 Thus the territorial poor laws of Iowa remained in effect until the first state comprehensive poor relief legislation contained in the Iowa Code of 1851. n41

When the first general territorial poor law was approved in 1840 it was an almost exact duplicate of the 1838 Wisconsin poor law. n42 This statute [*747] initially made the poor the responsibility of their relatives, then if no relatives were able or available to provide for them, they became the responsibility of county commissioners who could bind out poor children as apprentices and place the others in poor houses. n43 The legislature also passed a poorhouse act based largely on the Ohio poorhouse law. n44 Unfortunately, territorial Iowa poor law also borrowed another provision from the Ohio poor law of 1829 that made it clear that "nothing in this act shall be so construed as to enable any black or mulatto person to gain legal settlement in this Territory." n45

With two minor exceptions, the poor law of Iowa was not altered from the 1842 territorial acts to the adoption of the code of 1851. n46

[*748] The most influential legislation was the four part system of poor relief contained in the Iowa Code of 1851. n47 The first article covered the support of poor persons by their kindred; the second addressed the law of settlement; the third article set out the procedures for relief of the poor in counties
where there was no poor house; and article four concluded by regulating relief of the poor in counties where there was a poor house. n48 Primary authority for interpreting and overseeing the poor law was imposed on the county judge who supervised the actions of the township trustees or directors of the poor house. n49

Article 1 of the Iowa Code of 1851 imposed responsibility for relief of the poor on the family members of "any poor person who is blind, old, lame, or otherwise impotent so as to be unable to maintain himself by work . . . ." n50 The responsibility of support was placed "jointly or severally" on the "father, mother, children, grandfather if of ability without his personal labor, and the male grandchildren who are of ability." n51 Failure to support a poor relative was grounds for the authorities to seek a court order of support. n52 Iowa allowed those relatives who were compelled to provide support to recover reimbursement from other nearer relatives or those of the same degree. n53

The second article governed settlement and was built on the first provision which allowed "any white person having attained the age of majority and residing in this state one year without being warned out" to gain it. n54 The law also had specific provisions for determining the settlement of married women, legitimate and illegitimate children, and apprentices. n55 It also provided for removal and recovery of the expenses of poor relief for the unsettled from their counties of settlement. n56

Article 3 made provision for the poor in counties without a poor house. It charged the township trustees with "the oversight and care of all poor persons in their township so long as they remain a county charge . . . ." n57 An application for relief was to be presented to the trustees by the poor seeking help, who, if they approved, would provide assistance. n58 The trustees would in turn present "claims and bills for the care and support of the poor" to the county judge for reimbursement from the county treasury. n59

The court was also empowered to enter into contracts "with the lowest bidder . . . for the support of all the poor at the time being of the county for one year only at a time . . . ." n60 The statute also provided that "[s]uch contractor may employ a poor person in any work for which his age, health, and strength is competent . . . subject to the supervision [of the court]". n61 The court could in the alternative provide an annual allowance directly to the poor. n62

The fourth article, which governed poor relief in counties where there was a poor house, authorized the county court to erect a county poor house and appoint directors to manage it. n63 Expenses for the poor house were to be paid by the county and a county poor tax was authorized if needed. n64 The directors could appoint a "steward of the poor house" to govern the day to day affairs of the house. n65

Admission to the poor house was only by written order of the county judge, a township trustee, or a director of the poor house. n66 Residents of the poor house were called inmates and were discharged when able to support themselves. n67 The inmates could be required to work and any funds they earned used for the support of the house. n68 The directors of the poor house were authorized to bind out into apprenticeships "such poor children of the poor house as they believe are likely to remain a permanent charge on the public, males until twenty-one and females until eighteen unless sooner married . . . ." n69 The administration of the poor house could also be the subject of a private contract for up to three years at a time. n70
In 1853 a state asylum for poor blind children between the ages of seven and twenty-two was established. With only minor changes, the poor laws of the code of 1851 were reincorporated into the revision of 1860.

C. Wisconsin

The Wisconsin Territorial legislature passed an act for the relief of the poor in 1838 that made the county the public unit responsible for poor relief. Primary responsibility for the poor who were unable to work was imposed on three generations of their families; failure to support indigent relatives was punished by a fifteen dollar per month fine. The poor who were unable to work and who were without relatives to support them were to be cared for by the county government if they had resided in the county for the previous twelve months. Poor people not residents for the previous twelve months were to be removed back to the county where they had last established twelve-month residency. County care of poor nonresidents was only required by law for the sick or dying. The county could provide relief directly or contract out the care of the poor or appoint agents to act as overseers for the poor. Work-houses could also be built to accommodate and employ the county poor. Poor minors, either orphans or those whose families were not supporting them, were to be bound out as apprentices. The Wisconsin territory also abolished imprisonment for debt in 1838.

In 1848 Wisconsin enacted two statutes that changed the relationships between its towns and counties, and made the town the primary unit of local government responsible for the poor. Towns were to hold annual meetings to "raise such sums of money . . . for the support of the poor for the ensuing year as they may deem necessary." Town supervisors were ordered to "have charge of, and provide for the town poor." On the county level, the board of county supervisors were made up of a county chairman and the chairs of all the town boards of supervisors.

Wisconsin poor laws evidence ongoing change in the description of classes of poor people as either "town poor" or "county poor." The distinction was based on the settlement or residency of the poor; the "town poor" were those for whom the town was responsible and the "county poor" were those who lacked settlement or residency in any town and for whom the county was responsible. The relationship between town and county and their respective responsibilities for the relief of the indigent continued to be the subject of Wisconsin legislation for some time.

The 1849 Revised Statutes of Wisconsin contained a thirty six section chapter on the support of the poor. Every town was to support their settled poor. The poor who were not settled in the town were be supported by the county. The distinction between town poor and county poor could be eliminated by having the county assume the expense for all the poor in the county, if a majority of the towns in the county so voted.

The procedures for settlement were set out with settlement generally requiring one year residency. Bringing unsettled paupers into a town to reside was a misdemeanor. The person who brought unsettled paupers into a town could also be fined and ordered to remove the pauper out of state at their expense or ordered to support the pauper. Removal of the unsettled poor was authorized. Parents and children of the poor were responsible for their support and the law provided a detailed enforcement mechanism.
Orphans and poor children could be apprenticed out by the town supervisors. n98 There was also an explicit right to appeal all adverse decisions. n99

The state created the Wisconsin State Hospital for the Insane in 1857. n100 The state also appropriated funds for the education of the deaf, dumb and blind, n101 and to administer the state reform school. n102 Otherwise, Wisconsin essentially continued their poor relief legislation enacted in 1849. n103

D. Minnesota

When Minnesota became a state in 1858, it made the town and the county both partly responsible for the care of the poor. n104

Each county was [*754] to be divided into towns that were to elect three town supervisors and one overseer of the poor. n105 The overseer of the poor was compensated in the same manner as the other town officers, one dollar fifty cents per day for business out of town, and one dollar per day for business in town. n106 Counties were governed by the chairs of the supervisors of the towns in the counties, called the Board of Supervisors. n107 The Board of Supervisors were "to take charge of the poor, and the management of the Poor House, in their respective counties . . . and the Overseers of the Poor of the several towns shall be accountable to, and their compensation shall be audited by the Board of Supervisors, and paid by the county." n108

Minnesota soon passed a comprehensive poor law, entitled "An act for the Support, Relief and Management of the Poor." n109 The opening section creates county responsibility for poor relief:

The support, maintenance and relief of all poor persons, in the several counties of this State, supported or relieved at public expense, after the passage of this act, shall be a county charge, and the expense of supporting and relieving any such poor person shall be borne by the county in which such poor person at the time of applying for support or relief shall have a legal residence and settlement, and be paid out of the treasury thereof in the manner hereinafter provided. n110

Legal settlement or residency was generally obtained by one year residence in the county, with other provisions for indentured servants, apprentices, married women, and unemancipated minors. n111 Those not legally settled in the county were not entitled to support and could be warned to leave the county, and taken by the constable back to the county where they had legal residence. n112

The county commissioners were to act as superintendents of the poor in [*755] their counties and to supervise the operations of poor houses, farms, workhouses, and all other institutions used to house or employ the poor of the county. n113 The board of commissioners could also raise taxes for poor relief. n114 Minors needing support were to be bound out as apprentices. n115 Commissioners were to look into all applications for relief and issue written certificates for relief to those deemed eligible. n116 Decisions not to grant relief were appealable to the rest of the county commission. n117

The county commissioners were empowered to appoint an overseer of the poor for the county to manage the care of the poor and keep detailed records of what relief was provided and the costs thereof. n118 The county commissioners were
ordered to appoint and compensate a physician to furnish medical relief for all sick, poor persons of the county. n119

The act provided penalties for those who transported "any insane, idiotic, poor or indigent person, from without this State, or from any county within this State, without legal authority, and there leave, or cause to be left, such insane, idiotic, poor or indigent person . . . ." n120

Taken together, the poor laws of the newest northern states point to the enduring commitment to historical principles of poor relief like local responsibility for the poor, family responsibility for poor relatives, and settlement or residency requirements. These state laws also illustrate a growing willingness to create institutions for the poor such as poorhouses, poor farms, and workhouses. These reforms of traditional poor relief legislation occurred also in the existing northern states.

III. Reforms in Existing Northern Poor Laws Prior to Civil War

American poor law was already in the process of reform, particularly in the northern states. Four major events in this period made substantial impact on efforts to reform the poor laws: the Massachusetts Quincy Report of 1821; n121 the New York Yates Report of 1824; n122 the 1827 Philadelphia Report; n123 and the 1834 English Poor Law Reforms. n124 Every one of these events prodded legislative movement towards increased institutional poor relief. Each of the American investigations also pointedly named poor immigrants as a major irritant to existing systems of poor relief and moved the legislative debate in the direction of increased curbs on the immigration of poor people.

Pre-civil war reforms of American poor laws in the states came about in part because poverty continued to increase faster than population and with that increase in poverty came an increase in expenditures for poor relief. n125 The most common explanations for the increased need for poor relief were of two types: those based on the individual failings of the individual pauper (intemperance, improvidence, and indolence); and those pointing to defects in the economic order. n126 Many at the time believed that helping the poor had a perverse effect and in fact created the poverty it sought to relieve. n127

A central issue in the formulation of poor relief legislation was the choice between providing assistance to the poor by either outdoor or indoor relief.

From colonial times until the early 1800's, outdoor relief was the norm, but indoor relief became much more prevalent before the Civil War. n128 Outdoor relief took many forms, from cash or food assistance provided directly to the poor, or "auctioning off" the poor to the lowest bidder who provided food and shelter in return for work, to boarding the poor in the homes of people who were paid by local authorities. n129

Critics of outdoor relief argued that poverty was the result of individual failings and thus providing cash, food, or housing to the poor without demanding changes in their behavior and lifestyle was actually hurting the poor, and was wasteful and expensive as well. n130
Indoor relief describes the various forms of assistance provided only to the poor who were willing to become residents of a public institution and abide by its rules. The calls for an end to public outdoor relief created the climate for the blossoming of the institutional approach to poverty; the poor laws turned now to the houses, the poorhouse, the workhouse, the almshouse, the house of correction, and the insane asylum. n131

Although these investigations into the existing poor laws had somewhat different triggers and arrived at somewhat different conclusions, they shared four common concerns. First, the costs of assisting the poor were increasing so much that some sort of reform had to be implemented to reduce public expenditures on the poor. Second, there was too much variation in the methods used by local authorities to assist the poor, more uniform rules and regulations were needed. Third, because poverty was the result of individual failure, the poor could not be trusted with handling their own public assistance and, if poor relief was to be given at all, it must given in a highly regulated environment like a poorhouse. Fourth, there was growing concern about the effects of immigration by poor people. These concerns prompted, [*758] and continue to prompt, legislative efforts to reform the poor laws. n132

A. Massachusetts and the 1821 Quincy Report

Concerns about the operation and funding of poor relief in Massachusetts resulted in the appointment of Josiah Quincy to chair a committee to look into the state's pauper laws and suggest what legislative changes should be made. n133 The result was an 1821 document titled "Report of the Committee on the Pauper Laws of this Commonwealth," which surveyed 162 towns and came up with a number of influential observations and conclusions. n134

The committee first observed that the poor could be divided into two classes: the able-bodied and the impotent poor who were incapable of working because of "old age, infancy, sickness or corporeal debility." n135 In an observation that has challenged all real reform of poor laws, the committee suggested that the evils and abuses of the state pauper laws arose out of "the difficulty of discriminating between [the able poor] and [the impotent poor], and of apportioning the degree of public provision to the degree of actual impotency . . ." n136 They were concerned that assisting the poor could prove counterproductive:

It is laborious to ascertain the exact merit of each applicant. Supply is sometimes excessive; at others misplaced. The poor begin to consider it as a right; next, they calculate it as an income. The stimulus to industry and economy is annihilated, or weakened; temptations to extravagance and dissipation are increased, in proportion as public supply is likely, or certain, or desirable. The just pride of independence, so honorable to man, in every condition, is [*759] thus corrupted by the certainty of public provision; and is either weakened, or destroyed according to the facility of its attainment, or its amount. n137

The committee was also alarmed by the increasing costs of poor relief; they found the cost of assisting the state poor had increased by three-fifths in twenty years compared to a reported increase in poor relief in England of three-fifths in thirty years. n138
The Quincy Report determine that there were four modes of caring for the poor in the state: letting the poor out, family by family, each to the lowest bidder; letting all the poor in one town out together to one lowest bidder; giving the poor money or supplies at their own homes; and provision of the poor in poorhouses or almshouses. \footnote{139}

In the eyes of the committee, helping the poor in their own homes was the worst possible way of administering poor relief: "[O]f all modes of providing for the poor, the most wasteful, the most expensive, and the most injurious to their morals and destructive of their industrious habits is that of supply in their own families." \footnote{140} The committee criticized each of the ways of providing relief to the poor as wasteful at best and counterproductive at worst, with the exception of the workhouse or almshouse. \footnote{141} The Committee found that letting out by bid was costly and often resulted in the poor living with other families who were borderline poor themselves. \footnote{142} The most severe criticisms were of the method of providing assistance to the poor in their own houses, which the committee concluded, resulted in "abuse, mismanagement and waste" and the help provided was often used for ale and luxuries. \footnote{143}

The committee concluded that workhouses or almshouses operated under the supervision of a Board of Overseers were superior to all other ways of providing poor relief. \footnote{144}

The Massachusetts legislature responded by ordering each county to erect and maintain a house of correction. \footnote{145} Houses of correction were also [\*760] to be erected by every county and the city of Boston "to be used and employed for the keeping, correcting and setting to work of rogues, vagabonds, common beggars, and other idle, disorderly, vicious and lewd persons." \footnote{146} Later, Massachusetts created three state funded and administered workhouses where unsettled paupers, including immigrants, were to be sent. \footnote{147} These were each to house five hundred paupers. \footnote{148} The administrators of the state institutions were given the same powers over their paupers as the local overseers of the poor. \footnote{149} In 1863 a Board of State Charities was created to coordinate the state and town efforts at pauper aid. \footnote{150}

B. New York and the 1824 Yates Report

New York provides a good example of how early American poor laws began the transition from English-based colonial poor laws to state systems of poor relief.

In colonial times and early post-revolutionary times, New York poor laws followed the themes of English poor laws: the town had primary legal responsibility for the poor who were unable to work; the town was only legally responsible for the poor who had established legal residence or settlement there, other poor people could be expelled; and begging was prohibited. \footnote{151}

But in 1824, New York changed. The primary cause of the change was the description of the problems in poor relief contained in what has become known as the Yates Report, the name given to the Report of the Secretary of State in 1824 on the Relief and Settlement of the Poor, prepared by New York Secretary of State J.V.N. Yates. \footnote{152}
Yates was asked by the legislature to review the operation and expenses of the New York poor law and to suggest improvements. He arrived at several observations about the poor of New York and the way the poor laws operated.

First examined was the cost of poor relief. The report found the cost of poor relief varied substantially by locality but was increasing annually at a substantial rate. Between 1776 and 1825, social welfare expenditures in New York City were the single biggest city expenditure, ranging from one-fourth to one-fifth of the annual budget. One of the big costs was the administration of the poor laws, particularly the cost of administering the laws of settlement, the costs of which were alone estimated to be enough to care for ten percent of the poor in the state. The amount of funds used to support poor people depended on several factors but in general was found to be lowest for paupers who lived in almshouses and highest for the elderly and sick who were allowed to live on their own.

Next the Yates report examined the poorhouse system of relief and the alternative procedures of outdoor relief. Where there were no local poorhouses, the Yates Report found poor people were assisted in one of three ways: first, the poor were "farmed out" to individuals who, for a set price paid by the locality, sheltered and fed the poor and put them to work; second, the poor were "sold by auction—the meaning of which is, that he who will support them for the lowest prices, becomes their keeper"; or third, relief was given to the poor at their own houses. In contrast, the poorhouse system required that the poor seeking assistance move into the local poorhouse where they would be fed and sheltered, and possibly employed, in a controlled environment. Yates thought that poorhouses were less expensive and more in line with the goals of poor relief than the alternative procedures of outdoor relief.

The Yates Report concluded that there were many serious problems with the New York poor law system: settlement and removal of paupers was expensive, time-consuming, wasteful and cruel; "farming out" the poor resulted too frequently in barbarous and neglectful treatment; poor children raised by poor parents outside of poorhouses grew up lacking education and were found living in "filth, idleness, ignorance and disease"; because of inadequate provision of employment for the poor, idleness resulted, harming both the public and the paupers; the system was not discriminating enough in deciding who was to receive relief thus inviting and encouraging able-bodied beggars and vagrants to receive public funds; there were too few asylums for the mentally ill and mentally deficient; and finally in some areas the expenses for the poor relief bureaucracy exceeded the amount disbursed to the poor.

Yates proposed several specific reforms of New York poor laws: each county should set up one or more houses of employment for the poor where adults would be put to agricultural work and their children would be educated until they could learn a trade; connected to the house of employment should be workhouse where the able-bodied beggar and vagrant would be confined "upon a rigid diet" at hard labor; anyone who resides in a county for one year should be deemed settled and that the rest of the system of removal be abolished; no healthy males between 18 and 50 years old should be given poor relief; street beggars should be entirely prohibited and violators should be sent to the workhouse; and a tax on whiskey and spirits should be levied for the support of the poor.

In response to the Yates report, New York in 1824 enacted the County Poorhouse Act requiring many counties to erect almshouses and authorizing others to do so if they wished.
The new law ordered poorhouses be built in most of the counties to house adults and children needing relief, except those too sick or disabled to be placed therein. Settlement and removal beyond county lines was abolished. State responsibility was also abolished and replaced by the requirement that each county was responsible for all the poor within its borders.

Despite the fact that the shift from town to county responsibility was essentially reversed by later legislation, the Yates report occasioned historic development in the state's poor law development, and, by 1850, fifty counties in New York had almshouses.

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C. Pennsylvania and the 1827 Philadelphia Report

Another influential analysis of the poor laws resulted in the 1827 Report by the Board of Guardians of the Poor in Philadelphia.

This report examined poor relief efforts in Baltimore, New York, Providence, Boston, and Salem and arrived at conclusions about the causes of poverty, beginning with the observation that "three-fourths to nine-tenths of the paupers in all parts of our country, may attribute their degradation to the vice of intemperance." Another major cause of the poverty problems faced by urban areas was the presence of impoverished people arriving from other lands:

One of the greatest burdens that falls upon this corporation, is the maintenance of the host of worthless foreigners disgorged upon our shores . . . It is neither reasonable nor just, nor politic, that we should incur so heavy an expense in the support of people, who never have, nor never will contribute one cent to the benefit of this community, and who have in many instances been public paupers in their own country . . . that the people of this district, should unresistingly suffer it to become the reservoir into which Europe may pour her surplus of worthlessness, improvidence and crime, exhibits a degree of forbearance and recklessness altogether inexcusable.

The committee essentially concluded that assisting the poor was counterproductive: "It is an axiom abundantly confirmed by our experience, that in proportion to the means of support, provided for the poor and improvident, they are found to increase and multiply."

The committee made two major recommendations for reforms of the poor laws, elimination of outdoor poor relief and increased curbs on immigration.

Because intemperance and lack of self-control were major causes of poverty, the committee concluded that supplying the poor with assistance without rigid controls was wasteful and should be eliminated. The solution offered was to reduce to outdoor relief to only the provision of wood and supplies and make the rest of the poor live in almshouses and work as a condition of relief. The committee did suggest that the aged and infirm poor not be intermingled in the poorhouse with the "brutalized victims of excess and crime."
Because immigration was a major contributor to the rise in the numbers of poor people, the committee recommended the adoption of laws like those in effect in New York which ordered incoming ship masters to provide lists of the poor and furnish security for their assistance. n176

The Pennsylvania legislature responded accordingly. In its overhaul of poor relief in 1828, it emphasized almshouses for the poor n177 and mandatory registration of and the posting of bond for all incoming ship passengers. n178

D. 1834 English Poor Law Reforms

At the same time as Massachusetts, New York, and Pennsylvania were reexamining and reformulating their poor laws, England was engaged in the same process. n179 Reform in England was important to the development of American poor law because the two countries generally shared history, language and a similar legal system, but also shared many principles of poor relief. n180

The state of poor law in England in the early 1800's remained in large part the same as it was as a result of the Elizabethan Poor Laws of 1601. n181 By the early 1830's there was widespread dissatisfaction with the operation of the current poor law and as a result a Royal Poor Law Commission of 1832 was appointed to "make a diligent and full inquiry into the practical operation of the laws for the relief of the poor." n182

[*765] The Poor Law Commission found many faults in the poor law system and made numerous recommendations for reform including: calls for cessation of all outdoor relief to the able bodied unless they were kept in regulated workhouses; suggestions for centralized administration and regulation of poor relief; and, making sure that the nonworking poor received less assistance than the laboring poor, an idea that has come to be called the principle of less eligibility. n183

[*766] Parliament responded with the 1834 Reform of the Poor Laws. n184 Parliament made one hundred ten changes in the poor law including an emphasis on centralized authority and reinstatement of the workhouse test, i.e., in order to receive any relief, the poor were required to move into the local workhouse. n185

IV. The Special Concerns of Institutions and Immigration

Poor laws in the northern states in this time period continued to reflect considerations of traditional poor relief like local responsibility, family responsibility, and settlement. However, the changing nature of poor law was manifested in two areas of special concern: an increasing utilization of institutions as methods of providing poor relief and more aggressive attempts to fight immigration and its effects.

A. Institutions
One of the characteristics of state poor relief legislation in this time period was an increasing reliance on institutions as the method of choice when assisting the poor. While institutional poor relief, provided in the poorhouse, was authorized in earlier years, it became the prevalent and preferred choice prior to the civil war.

The calls for an end to public outdoor relief created the climate for the blossoming of the institutional approach to poverty; the poor laws turned now to the houses, the poorhouse, the workhouse, the almshouse, the house of correction, and the insane asylum as the way to address poverty. The idea behind the poorhouse, almshouse, and workhouse was that institutional care would at least insure the poor did not waste what was given to them, for nothing was to be given to them that could not be consumed on the premises.

The central institution for the poor was the poorhouse, sometimes called the almshouse or poor farm. It was set up to house and feed the local poor in one supervised location and to put to work those who could labor. The workhouse was a more punitive institution, a tougher variation of the poorhouse, created to house and employ the idle, able-bodied poor.

By the time of the Civil War, institutions for the poor were prevalent in most of the northern states: fifty-six of the sixty counties in New York had almshouses; half the counties and many of the cities in Pennsylvania had institutions; Delaware required every county to have an almshouse; all of the counties in Maryland cared for their poor in either poorhouses or workhouses; New Jersey utilized poor farms, poorhouses and almshouses. Massachusetts reported having 180 almshouses in 1839. In Boston alone 1,263 girls under twelve years of age were inmates of almshouses in 1852. Similar institutions were authorized in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Ohio, Vermont and Wisconsin.

The increasing prevalence of poorhouses, particularly in the northern states, was a dramatic change from earlier methods of poor relief and manifested the concerns about rising costs and numbers of the poor.

B. Immigration

The United States Supreme Court has observed:

New York, from her particular situation, is, perhaps, more than any other city in the Union, exposed to the evil of thousands of foreign emigrants arriving there, and the consequent danger of her citizens being subjected to a heavy charge in the maintenance of those who are poor. It is the duty of the State to protect its citizens from this evil; they have endeavored to do so by passing, among other things, the section of the law in question. We should, upon principle, say that it had a right to do so.

We think it as competent and as necessary for a State to provide precautionary measures against the moral pestulence of paupers, vagabonds, and possibly convicts, as it is to guard against the physical pestilence which may arise from unsound and infectious articles imported, or from a ship, the crew of which may be laboring under an infectious disease.
The prevailing view that America, in its early years, welcomed huddled masses of immigrants to its shores is a myth. The truth is that poor people, widows with children, the disabled, and the elderly were not even allowed to depart the ships they arrived in unless someone posted bond to insure that they would not need public assistance in the future.

Immigration was an evil and a danger, a moral pestilence, according to the United States Supreme Court in Miln, equivalent to an infectious disease. Therefore the laws could treat poor immigrants with a harshness contrary to the conventional wisdom that the country welcomed immigrants with open arms.

Nearly six million foreigners, mostly poor German and Irish Catholics, came to the United States between 1800 and 1860, congregating in the cities. In some cities high levels of immigration had the effect of more than doubling the cost of poor relief. Indeed, many thought immigration was the principal cause of poverty in the United States.

Massachusetts complained that "[o]ur almshouse paupers are nearly all foreigners . . . . Aliens who have landed in this State and their children . . . and aliens who have landed elsewhere and their children . . . embrace five-sixths of all who become chargeable." The state subsequently created three state funded and administered workhouses where unsettled paupers, including immigrants, were to be sent.

As a result of these concerns, efforts to limit immigration were priority legislative concerns in northern seaport states. While these laws had an exclusionary impact on all newly arriving poor people, other acts also tried to exclude free blacks, a reminder that many of the northern states were not at all hospitable to the needs of poor people of color.

Statutes to limit immigration were enacted in the northern coastal states of Maine, New Hampshire, Massachusetts, Rhode Island, New York, and Maryland.

For example, the 1824 New York statute at issue in Miln, which was formulated to respond to a migration reported to be over 60,000 people into New York city alone, required incoming ship masters to report the names and occupations of all passengers to authorities and either post a bond of up to $300 per passenger for those who appeared to be possible paupers or return them to their place of departure. Later New York created a special governmental body, the Commissioners of Emigration, to oversee the legal system of passenger reporting and bonding.

Philadelphia officials concluded that the presence of poor people from other lands ("worthless foreigners" in the report) was "one of the greatest burdens" that fell upon the officials charged with overseeing poor relief. Pennsylvania responded and required mandatory registration of and the posting of bond for all incoming ship passengers.
A strengthening legislative resolve against the immigration of poor people into the United States was a central characteristic of legislation for the poor of this time.

V. Conclusion

The poor laws of the northern states were in transition in the pre–Civil War period.

Much remained the same. Many of the principles of the English and colonial poor laws remained. Local and family responsibility were still the norm. Poor people were still assisted by their family members where possible. Poor children were still generally apprenticed. The law of settlement still sought to keep away poor strangers and assess financial responsibility for the ones who remained among competing townships, towns, counties, and states. There was widespread antipathy towards slaves and free people of color, even in the northern states. There was little tolerance and less compassion for the able bodied pauper. Relief was restricted to the poor who could not labor.

But there was change. In fact, change, though often small, was beginning to become a constant part of the poor law as the continuing presence of the poor fed growing legislative concerns about the rising costs of poor relief. Poor people were more likely thought of as failures than victims and there was a growing trend toward indoor relief as the poor were directed to almshouses, workhouses, and poorhouses for assistance rather than provided help directly. The states generally assumed only limited responsibility for the poor but did erect and fund institutions for children, the disabled, and the insane. Immigration was becoming an increasing source of a concern, and legislation limiting poor immigrants was widespread.

All about could be heard concerns about the prevalence of poor people and the increasing financial burdens of caring for them, and, though many of the principles of poor relief remained the same as they were in colonial and English poor law, not to be denied were the rumblings of reform.

FOOTNOTES:


n2 Those wishing more details on poor laws in these times should look, as the author has, to the following authorities: Grace Abbott, The Child and the State (1938); Mimi Abramovitz, Regulating the Lives of Women (1988); June Axinn & Herman Levin, Social Welfare: A History of the American Response to Need (3d ed. 1992); Rosalyn Baxandall & Linda Gordon, America's Working Women: A Documentary History 1600 to the Present (rev. ed. 1995); Fern Boan, A History of Poor Relief Legislation and Administration in Missouri (1941); Sophonisba P. Breckinridge, The Illinois Poor law and Its Administration (1939); Sophonisba P. Breckinridge, Public Welfare Administration in the United States, Select Documents, (2d ed. 1938); Robert H. Bremner, Children and Youth in America: A Documentary History 1600-1865 (1970); Robert H. Bremner, From the Depths: The Discovery of Poverty in the United States (1964); Compassion and Responsibility; Readings in the History of Social Welfare Policy in the United States (Frank R. Breul & Steven J. Diner eds. 1980); Grace A. Browning, The Development of Poor Relief

n3 See Riesenfeld, supra note 2, at 201; Quigley, Work or Starve, supra note 2, at 42-44.

n4 For a more detailed overview of English Poor Law see Quigley, Five Hundred Years, supra note 2, at 73-128, and Riesenfeld, supra note 2, at 177-200.

n5 Quigley, Reluctant Charity, supra note 2, at 177-78.

n6 Bremner, From the Depth: The Discovery of Poverty in the United States, supra note 2, at 4.

n7 A subsequent article addresses federal legislation for the poor in the period prior to the civil war.

n8 Developments in southern states during this time period, as well as developments in federal legislation, are each the subject of other law review articles.

n9 The statutes of the Northwest territory, enacted from 1790 through 1799, created a township-based poor relief system. For more on the poor laws of the Northwest Territory, see Quigley, The Quicksands of the Poor Law, supra note 2. Also influential were the laws of the Michigan territory from 1805 to 1834. For a review of poor relief legislation in the territory of Michigan, see Gillin,
supra note 2, at 20-38. Gillin indicates that there were five major poor laws enacted in the territorial period: an act of 1805, a general law of relief directing local justices of the peace to administer the law and allowing the contracting out of the poor to the lowest bidder, based on the statutes of New Jersey; an act of 1809, a law of settlement, based largely on the laws of Vermont; an act of 1817 charging the county with responsibility for the poor in general and apprenticeship of poor children in particular, based on Ohio law; an act of 1827, addressing in more detail the laws of settlement and removal, again based on Ohio law; and the poorhouse act of 1830, which was copied, Gillin notes "almost verbatim from the law of Ohio of February 26, 1816." See id. Gillin notes that the poorhouse sections of the 1816 Ohio law served as the model for the poorhouse law enacted fourteen years later by the Michigan Territory; the Territory of Wisconsin then used the Michigan statute as a model for its law; and then Iowa used Wisconsin as its model for its first poor law. See id.; see also Quigley, The Quicksands of the Poor Law, supra note 2 (discussing the poorhouse sections of the 1816 Ohio law). Rothman also notes that while Ohio duplicated the poor laws of the eastern states, it served as a model for Michigan and Illinois, which in turn served as models for Wisconsin and Iowa. See Rothman, supra note 2, at 185

n10 See Act of Apr. 13, 1827, 1827 Mich. Laws 404-12 ("An Act for the Relief and Settlement of the Poor").

n11 The county was no longer the unit responsible for the poor, now responsibility was placed on the township. See 1, at 404. The township act also authorized the electors of the township, at their annual meeting, "to make such provisions for the maintenance of their poor, and allow for the destruction of wolves, bears, panthers, wild-cats, and foxes. . . ." Act of Mar. 30, 1827, 13, 1827 Mich. Laws 366 ("An Act Relative to the Duties and Privileges of Townships").

n12 See Act of Apr. 13, 1827, 16-19, 1827 Mich. Laws 409-12 ("An Act for Relief and Settlement of the Poor").

n13 See id., 2-12, at 404-08.

n14 See id., 21, at 412.

n15 Id., 13.

n16 See id. Parents and grandparents were responsible for poor children, and children and grandchildren were responsible for poor adults. See id. Also enacted in 1827 were territorial laws concerning the support of illegitimate children. See Act of Apr. 12, 1827, 1827 Mich. Laws 287 ("An Act for the Support and Maintenance of Illegitimate Children").

n17 See Act of Apr. 13, 1827, 1827 Mich. Laws 484 ("An Act to Regulate Blacks and Mulattoes, and to Punish the Kidnapping of Such Persons").

n18 See generally id., 1-10.

n19 Id., 6.

n20 See id., at 485-86; see also Act of Apr. 12, 1827, 1827 Mich. Laws 491 ("An Act for the Punishment of the Idle and Disorderly Persons") (providing for punishment of whippings and hard labor for up to three months for the idle and disorderly").

n21 See Act of Apr. 13, 1827, 7, 1827 Mich. Laws 486 ("A Act to Regulate Blacks and Mulattoes, and to Punish the Kidnapping of Such Persons").

n22 See id., 2.

n23 Id.

n24 The 1830 territorial poor law established the authority of every county to erect and maintain a county poor house. See Act of July 22, 1830, 1830 Mich. Laws 10-12. The board of supervisors of each county could purchase land and levy taxes for the establishment of a poor house. See id., 1. A board of three to seven persons were to be annually appointed as directors of the poor house.
See id., 2. The board of directors were to select a superintendent of the poor house who was to administer the affairs of the house. See id., 4. The board was obligated to perform monthly inspections of the house. See id., 5. The Act continued: The superintendent of the county poor house may require all persons, received into the poor house, to perform such reasonable and moderate labor as may be suited to their age or sex and bodily strength, the proceeds of which shall be applied to the use of the institution . . . . " Id., 4. Entrance into the poor house was conditioned on the production of "an order or voucher as is, or may be required by this territory, to entitle such person to be received and supported as a pauper . . . ." Id. Townships who sent their poor to the county poor house were obligated to reimburse the county for the costs of their poor. See id., 5. A subsequent act essentially reincorporated the poor house law of 1830 with the exception of also specifically including the poor who were not of sound mind and making some special provisions for Wayne County. See Act of Mar. 7, 1834, 1854 Mich. Laws 51.

n25 Bruce & Eickhoff, supra note 2, at 23 (citing Mich. Rev. Stat., part first, tit. IX, ch. 2 (1838) ("Of the Support of Township or County Poor.").

n26 See Mich. Rev. Stat., tit. IX, ch. 2 (1838) (" Of the Support of Township or County Poor"). Section 2 at page 184 authorized the county commissioners "to abolish all distinction between county poor and township poor . . . ." Bruce & Eikhoff, supra note 2, at 3 (quoting the statute) (internal quotation marks omitted). Counties in Michigan had operated their poor relief systems in one of two ways, either by townships or by counties, a system that caused divided responsibility and misunderstanding. See id.


n28 Id., 4.

n29 See id., 9-25.

n30 See id., 4-5, 19-21, 28.

n31 See id., 22.

n32 See id., 51.

n33 See id., 1.

n34 See id., 52.

n35 Bruce & Eickhoff, supra note 2, at 22.

n36 The poor law was slightly revised in 1859 by transferring the duties of the directors of the poor to the township, city or ward supervisors. See Act of Feb. 11, 1859, Mich. Laws 262. There was also an 1861 revision to the same item by allowing annual poor relief over twenty dollars to any person, who could not be brought to the poorhouse, with the written consent of a superintendent of the poor. See Acts of the Legislature of Michigan 1861, No. 17, 1, at 13, 14 (amending 8 of the 1846 Acts).

n37 The next restatement of Michigan poor law was in 1846. 1846 Revised Statutes of Michigan, tit. IX, ch. 38, at 176-81 ("Of the Support of Poor Persons by Counties"). The legislature mandated poorhouse care for any person who required permanent relief and support. See 8, at 178; see also Bruce & Eickhoff, supra note 2, at 74-75. While much of the poor law remained the same there were some significant changes. By now the responsibility for the poor was exclusively on the county. See 1, at 177-78. Other developments included a raise in the annual maximum of temporary poor relief to any person or family to twenty dollars. See Revised Statutes of Michigan 1846, tit. IX, ch. 38, 13, at 179; see also Bruce & Eickhoff, supra note 2, at 26, n.22.


n39 See Act of Apr. 8, 1851, No. 156, 11, 1851 Mich. Laws 231, 233. This law also allowed the board of supervisors of the county to erase the distinction between township and county poor, if they voted to do so by two-thirds majority. See id., part 11th, 11, at 234; 12, at 236.
n40 Iowa Const., art. XII, 2.

n41 See Gillin, supra note 2, at 73. The Iowa poor relief system had its origins in the laws of the Northwest Territory, and the territorial statutes of Wisconsin and Michigan. See id. at 3. Ohio duplicated the poor laws of the eastern states, and then itself served as a model for Michigan and Illinois, which in turn served as models for Wisconsin and Iowa. See Rothman, supra note 2, at 185.

n42 Second Legislative Assbly., Territory of Iowa, Acts of 1839, at 105-07 (apprvd. Jan. 16, 1840). This was, as Gillin notes, "almost a duplicate of the Wisconsin law approved on January 3, 1838." Gillon, supra note 2, at 44; see also id. at 47-50 (setting forth side-by-side comparison of the laws). This was not a surprise since no poor law was passed in the first session of the Iowa territorial legislature, the law of the Wisconsin Territory remained in force and was the very first Iowa territorial poor law. See id. at 44; see also discussions of Wisconsin poor laws, infra at Part I-C; Wisconsin Terr. Acts of 1837, ch. 22, (apprvd. Jan. 3, 1838); Statutes of the Territory of Wisconsin 1838-1839, at 132-34 ("An Act for the Relief of the Poor").

n43 The first Iowa poor law contained several standard poor law provisions. First, county commissioners were charged with responsibility for the poor, following Ohio and Michigan. See Acts of 1839, 1, at 105; see also Gillin, supra note 2, at 50. Second, relatives were responsible for their poor relations, parents for their children and children for their parents. See 2, at 105-06. Third, poor children were to be bound out as apprentices. See 4, at 106. Fourth, county commissioners could build and administer poorhouses. See 9, at 107. Fifth, the law of settlement, removal and warning were retained. See 5-7, at 106-07. Sixth, there was some confusion arising out of the imposition of responsibility for the poor on the county commissioners while still having township overseers of the poor. Just days before the enactment of the poor law, the territorial legislature also enacted a township law creating the position of township overseer of the poor. See id. at 59-66. Gillin acknowledges the possibility that this inconsistency was just not noticed. See Gillin, supra note 2, at 51-52.

n44 See Acts of 1841, ch. 93, at 83-85 (apprvd. Feb. 17, 1842). As Gillin notes, the poorhouse sections of the 1816 Ohio law served as the model for the poorhouse law enacted fourteen years later by the Michigan Territory; the Territory of Wisconsin then used the Michigan statute as a model for its law; and then Iowa used Wisconsin as its model for its first poor law. See Gillin, supra note 2, at 9.

n45 See id. at 63 (quoting Acts of 1841, ch. 67, 2, at 58 (apprvd. Feb. 16, 1842)).

n46 In 1847, the County Commissioners Court of Des Moines was authorized to purchase land, erect a poor house and poor farm, and administer it. Des Moines was specifically exempted from the prior law on poor houses. See ch. 123, 1 (February 25, 1847). In 1851, Chapter 40 authorized the county commissioners of Lee County to purchase land, build a poor house thereon, and hire an overseer to administer the institution. See ch. 40 (Feb. 4, 1851). A close look at the Iowa statutes reveals a confusing set of acts not commented upon by Gillin, perhaps because of their incomprehensive nature. A February 25, 1847, act for the relief of the poor was repealed on January 12, 1849. See Acts of 1849, ch. 43. In 1851 the repeal of the law was itself repealed and the act entitled "An Act for the Relief of the Poor" was "revived." See Acts of 1851, at 230 (apprvd. Feb. 25, 1847). The newly revived act was to take effect after it was published in the Iowa Statesman and the Keokuk Despatch. There is a note in the printed statute that the law was so published in these newspapers on February 15, 1851. There is no copy of the original, now unrepealed, law in the statutes.

n47 See 1851 revision, Iowa Code, tit. XII, ch. 48, 786-847, at 124-32 ("The Settlement and Support of the Poor"). This chapter was divided into four areas: Article 1, The Support of Poor Persons by Their Kindred, see id.; Article 2, Legal Settlements, see id.; Article 3, Relief of the Poor Where There is No Poor
House, see id.; and Article 4, Relief of the Poor Where There is a Poor House. See id. Gillin, characterized this statute as a blend of the poor laws of Ohio and Michigan, with influences from the laws of the Northwest territory and the state of New York. See Gillin, supra note 2, at 75-78.

n48 See 1851 revision, Iowa Code, tit. XII, ch. 48, 786-847 ("The Settlement and Support of the Poor"). This chapter was divided into four areas: Article 1, The support of poor persons by their kindred, see id. at 124-27; Article 2, Legal Settlements, see id.; Article 3, Relief of the Poor where there is No Poor House, see id.; and Article 4, Relief of the Poor where there is a Poor House, see id.

n49 Judges were responsible for deciding if families members were fulfilling their responsibilities for relief of their poor relatives, see id., 789-807; interpreting and enforcing settlement and warning out, see id., 813-818; and overseeing township trustees both where there is a poor house and where there is not, see id., 821-827, 828-847.

n50 Id., 787.

n51 Id.

n52 See id., 789-807.

n53 See id., 807.

n54 Id., 808.

n55 See id.

n56 See id., 810-818.

n57 Id., 819.

n58 See id., 820.

n59 Id., 821.

n60 Id., 825.

n61 Id., 827.

n62 See id., 822.

n63 See id., 828.

n64 See id., 844.

n65 Id., 834.

n66 See id., 837.

n67 See id., 840.

n68 See id., 836.

n69 Id., 839.

n70 See id., 847.


n72 See Iowa Code, revision of 1860, ch. 57, 1354-1415 (Mar. 22, 1860) ("The Settlement and Support of the Poor"). Gillin notes that the role of the county judge had been replaced by the county board of supervisors. See id., 1354.

n73 See Statutes of the Territory of Wisconsin 1838-1839, An Act for the Relief of the Poor. Wisconsin poor law was influenced by the poor laws of Ohio, Michigan and Illinois and itself influenced Iowa. See Gillin, supra note 2, at 9; Rothman, supra note 2, at 185.

n74 See Statutes of the Territory of Wisconsin 2-3. There was an exception for the mandate to support a poor relative who was unable to work because of intemperance; for them no support was required, except from parent or child.
n75 See id., 1 (vesting responsibility in counties); 7 (requiring twelve month residency).

n76 See id., 8.

n77 See id., 6.

n78 See id., 4.

n79 See id., 10.

n80 See id., 5. The general laws of apprenticeship were referenced in the statute and are set out in the Statutes of the Territory of Wisconsin 1838-1839, An Act Concerning Apprentices and Servants.

n81 See Chapter 37 (January 12, 1838).

n82 See Act of Aug. 17, 1848; Act of Aug. 21, 1848. The first law ordered all counties to be divided into towns. See Act of Aug. 17, 1848. The second act set out the duties of the towns and counties. See Act of Aug. 21, 1848. For an excellent detailed description of the actual public administration of poor relief in one Wisconsin town in this time period, see Elizabeth Gaspar Brown, Poor Relief in a Wisconsin County, 1846-1866: Administration and Recipients, 20 Am. J. Legal Hist. 79 (1976). Brown studied Waukesha County, whose authority over their poor was set out in Act of May 27, 1852, ch. 338.

n83 Act of Aug. 21, 1848, ch. 1, 3.

n84 Ch. 7, 1. Though the town was now primarily responsible for the poor, it was not always exclusively so. The supervisors of towns in Racine County were authorized to call an election to determine whether their paupers were to be supported by the county or not. The act provides that the supervisors were to cast their ballots "for county poor" or "against county poor." If the choice of county prevailed, the paupers were to become a county responsibility in three months and the county was to provide a county poorhouse and farm as soon as convenient. See Act of Feb. 3, 1846. Finally on March 6, 1848, the territorial legislature made the settlement and removal provisions of the prior comprehensive act for the support of the poor applicable "to towns under the township form of government as it does to counties under the county form of government." Act of Mar. 6, 1848.

n85 See Act of Aug. 21, 1848, ch. 12, pt. 2, 1 (prescribing township and county government). No mention was made of the poor in the description of the responsibilities of the county.

n86 Brown, supra note 82, at 81.

n87 Id.

n88 In territorial times, towns under the township system were responsible for their poor just as the counties were under the county form of government. Town supervisors were charged to provide for the poor of their town. Act of Feb. 18, 1842, ch. IV, pt. 3, 2. Later, the Wisconsin legislature authorized the county boards of supervisors to establish the town system for the support of the poor in their counties where the distinction between county and town poor had been abolished, thus "thereafter the poor of [the] county shall be supported in the same manner as if such distinction between county and town poor had never been abolished." Act of Mar. 10, 1853, ch. 26. The paupers in Rock County were the subject of legislation in 1854. Act of Mar. 1, 1854, ch. 94. The county board of supervisors were authorized to abolish the distinction between county and town poor and sell bonds to raise funds to establish a 320 acre county poor farm. See id. at 1-4. All the poor in the county were to be removed to the farm. See id. Three superintendents for the poor were to be elected by the supervisors to administer the farm once it was established. See id. at 6-7. The superintendents were to keep accurate records of the expenses of the farm. See id. at 10. Sheboygan County was also authorized to purchase and administer a county poor farm. See Act of Mar. 8, 1854, ch. 120. In 1860, the county board of supervisors, in counties "wherein the distinction between town and county poor exists, or may hereafter exist . . ." was authorized to appoint an agent to take
charge of the county poor; raise funds, purchase lands, and erect buildings for
the poor; to bind out all minors who are county-supported; or could contract
out the support of the poor to any town in the county. Act of Mar. 29, 1860, ch.
160.

n89 See Wis. Rev. Stat. (1849) tit. 11, ch. 28. ("Of the Relief and Support
of the Poor").
n90 See 1.
n91 See 20-21.
n92 See 32-36. County superintendents of the poor were to be elected and post
a performance bond. See Act of Mar. 28, 1856, ch. 42.
n93 See Wis. Rev. Stat. (1849), 2-3. Settlement was generally one year. See
id., 2 (4).
n94 See id., 23.
n95 See id., 28.
n96 See id., 25-27.
n97 See id., 5-18.
n98 See id., 19.
n99 See id., 31.
n100 Act of Mar. 6, 1857, 1857 Wis. Gen. Laws 74. A statute passed in 1858
allowed county authorities to confine insane people or lunatics at county
expense if there was determination that public safety so required the action.
n103 Chapter 34 of Title 11 of the 1858 Revised Statutes of Wisconsin
addressed the relief and support of the poor in the same manner as the 1849
Revised Statutes. See Wis. Rev. Stat., tit. 11, ch. 34 (1858) ("Of the Relief
and Support of the Poor"). Every town was to support their settled poor. See
id., 1. The poor who were not settled in the town were be supported by the
county. See id., 20-21. The distinction between town poor and county poor could
be eliminated by having the county assume the expense for all the poor in the
county, if a majority of the towns in the county so voted. See id., 32-39. The
procedures for settlement were set out. See id., 2-3. Settlement was generally
one year. See id., 2 (4). Bringing unsettled paupers into a town to reside was a
misdemeanor. See id., 23. The person who brought unsettled paupers into a town
could also be fined and ordered to remove the pauper out of state at their
expense or ordered to support the pauper. See id., 28. Removal of the unsettled
poor was authorized. See id., 25-27. Parents and children of the poor were
responsible for support and a detailed enforcement mechanism was set out. See
id., 5-18. Orphans and poor children could be apprenticed out by the town
supervisors. See id., 19. There was an explicit right to appeal all adverse
decisions. See id., 31.
n104 See Act of Aug. 13, 1858, ch. 75 ("An Act to Provide for Township
Organization"), 1858 Minn. Gen. Laws 190-227.
n105 See id., art. 2, 2. The portion of the town laws creating the town
Overseer of the Poor was repealed in 1860. See Act of Feb. 21, 1860, ch. 14,
n106 See Act of Aug. 13, 1858, ch. 75, art. 11, 2, 1858 Minn. Gen. Laws 190,
201.
n107 See id., art. 14-15.
n108 Id., art. 15, 16. Fines collected for failure to observe the Sunday closing laws were to be paid into the county treasury "for the use of the poor of said county." Act of Nov. 1, 1849, ch. 9, 6, 1849 Minn. Gen. Laws 45.


n110 Id., 1.

n111 See id., 2.

n112 See id., 9, 12-13.

n113 See id., 3-4.

n114 See id., 18.

n115 See id., 15. Orphan and poor children were already able to be apprenticed out. See Act of Mar. 8, 1861, 1861 Minn. Gen. Laws 183. Prior to this enactment, monthly benefits of two dollars per month per child and six dollars per month for disabled veteran or his widow were authorized to be paid out of state funds by the Boards of County Commissioners to survivors of those "massacred in the late outbreak of the Sioux Indians" in 1863. Act of Feb. 19, 1863, ch. 53. No funds were appropriated for the Sioux survivors.


n117 See id., 14.

n118 See id., 5-7.

n119 See id., 8.

n120 Id., 17. Violation of the statute was a misdemeanor, with punishment of up to one hundred dollars and/or incarceration up to three months. See id.

n121 See Josiah Quincy, Report of the Committee on the Pauper Laws of this Commonwealth, reprinted in The Almshouse Experience, supra note 1 (1821); see also Kelso, supra note 2, at 124 [hereinafter Quincy Report].

n122 See Yates Report, supra note 1; see also Schneider, supra note 2, at 211-30.

n123 See Philadelphia Board of Guardians Report of the Committee Appointed by the Board of Guardians of the Poor of the City and Districts of Philadelphia, reprinted in The Almshouse Experience, supra note 2 [hereinafter Philadelphia Report].

n124 See Poor Law Commissioners' Report of 1834 by The Commissioners for Inquiring into the Administration and Practical Operation of the Poor Laws, Presented to Both Houses of Parliament by Command of His Majesty 13 (Darling & Sons, Ltd. 1905) [hereinafter English Reforms].

n125 See Klebaner, supra note 2, at 3-5; see also Klebaner, supra note 2, at 382-99.

n126 See Klebaner, supra note 2, at 5-6; see also id. at 6-15 (setting forth contemporary expressions about intemperance, improvidence, and indolence); id. at 15-26 (setting forth economic concerns).

n127 See id. at 29-37.

n128 See Abramovitz, supra note 2, at 147; Sarah Ramsey & Dave Braveman, "Let Them Starve": Governments' Obligation to Children in Poverty, 68 Temp. L. Rev. 1607, 1609–1611 (1995). The pace of the conversion was at first quite slow. In the 1820's, both the New York Yates Report and the Massachusetts Quincy Report found institutional care a rarity, while, at the same time in England, there were almost four thousand workhouses. See Rothman, supra note 2, at 31.

n129 See Yates Report, supra note 1, at 948-49; see also Ramsey & Braveman, supra note 128, at 1609.
See Yates Report, supra note 1, at 952; Rothman, supra note 2, at 166. Axinn & Levin, supra note 2, at 51. For many, poverty continued to be considered an individual problem caused by ignorance, idleness, and intemperance. See, e.g., First Annual Report of the Managers of the Society for the Prevention of Pauperism in the City of New York (October 26, 1818), reprinted in Axinn & Levin, supra note 2, at 60-63. The 1824 Yates Report summarized this point of view with: "Men of great literary aquirments, and profound political research, have insisted, that distress and poverty multiply in proportion to the funds created to relieve them . . . ." Yates Report, supra note 1, at 949. For these, economic failure was due to moral failure. See Rothman, supra note 2, at 161-65. Others, including notables such as Thomas Paine, saw poverty as a structural economic problem that needed to be addressed by not merely the charity of the well-intentioned and the poor laws but by fundamental changes in the economic system like guaranteed employment, subsidized education, pensions and family allowances. See Axinn & Levin, supra note 2, at 48 (citing 2 Thomas Paine, The Rights of Man, reprinted in Basic Writings of Thomas Paine 253 (1942)).

That is not to say that these were the only sources for reform of the poor laws. Others called for a different kind of reform. For example, the beginnings of the organized labor movement included calls for better wages and working conditions for the working poor, reduction in child labor and apprenticeship abuses, and the provision of public service jobs for the unemployed. See Axinn & Levin, supra note 2, at 41. Women also created reform organizations advocating for universal suffrage and abolition of slavery. See id. Abramovitz, notes that women advocated against slavery, property rights in the family, and equal opportunity in the wider social order. See Ambramovitz, supra note 2, at 125. Professor Trattner points to the influence of private benevolent societies like the New York Association for Improving the Condition of the Poor in this period. See Trattner, supra note 2, at 70-1.

Kelso notes that the Quincy report was but the first of several reports on the operation of the pauper laws to the Massachusetts legislature. See Kelso, supra note 2, at 124.

Quincy Report, supra note 121, at 4.

Id. at 5.

See id. at 2-3.

See id. at 7.

Id. at 24.

See id. at 7-8.

See id. at 7.

See id. at 7 (internal quotation marks omitted).

See id. at 9-10. A subsequent legislative report also underscored this: "It is in affording to the poor the means of labor, instead of a support independent of labor, that your Committee think a judicious change can be made in the system of State Charity." Kelso, supra note 2, at 124-25.

See Act of Mar. 29, 1834, ch. 151, 1834 Mass. Laws 189-207. The act goes on at length, in twenty-two sections, to set up a comprehensive scheme for the management of the houses. See Kelso, supra note 2, at 126-28.


n149 See id., 7.
n150 See Kelso, supra note 2, at 142.
n151 See Riesenfeld, supra note 2, at 218-21; Quigley, Work or Starve, supra note 2, at 51; Quigley, Reluctant Charity, supra note 2, at 130-33.
n152 See generally Yates Report, supra note 1; see also Schneider, supra note 2, at 211-30; Ramsey & Braveman, supra note 128, at 1608-16 (succinctly describing New York poor laws for children between 1820 and 1870).
n153 In 1815 the state-wide cost of poor relief was $ 245,000; in 1819 it was $ 368,645; by 1822 it reached $ 470,000. See Yates Report, supra note 1, at 945.
n154 See Abramovitz, supra note 2, at 138.
n155 See Yates Report, supra note 1, at 946.
n156 See id. at 946.
n157 See id. at 948.
n158 Id. at 948.
n159 See id. at 949.
n160 See id. at 947.
n161 See id. at 951-53.
n162 See id. at 956-58.
n163 See Act of Nov. 27, 1824, ch. 331, 1824 N.Y. Laws 382-86 ("An Act to Provide for the Establishment of County Poorhouses"). The 1824 legislation made important changes to the poor relief system, though not nearly as many as the Yates report suggested. "While the principles espoused by Yates were left intact, the statute as finally passed contained so many exceptions and exemptions as greatly to vitiate the practical application of these principles." Schneider, supra note 2, at 229.
n164 See Act of Nov. 27, 1824, ch. 331, 1-3, 1824 N.Y. Laws 382-83. In the counties where poorhouses were not ordered to be built, they were allowed to be built. See id., 10.
n165 See id., 8.
n166 See id.
n167 See Act of Apr. 3, 1849, ch. 194, 4 (10), 1849 N.Y. Laws 293-96 (allowing the county board of supervisors "to abolish or revive the distinction between the town and county poor of such county"); see also Schneider, supra note 2, at 236.
n168 See Schneider, supra note 2, at 229-52.
n169 See generally Philadelphia Report, supra note 123.
n170 Id. at 26.
n171 Id. at 28.
n172 Id. at 25.
n173 See id. at 24 (That of all modes of providing for the Poor, the most wasteful, the most expensive, and the most injurious to their morals, and destructive of their industrious habits, is that of supply in their own families.").
n174 See id. at 22-25.
n175 Id. at 25. The committee reasoned that the aged and infirm "have never forfeited their title to respect." Id.
n176 See id. at 28.

n178 See id., 17-19. The poor law did not stop with these reforms but also included traditional subjects of poor relief like apprenticeship, see id., 15, and detailed provisions for the law of settlement, see id., 16.

n179 See Trattner, supra note 2, at 49-54.

n180 See Riesenfeld, supra note 2, at 201; Quigley, Work or Starve, supra note 2, at 42-44.

n181 See Quigley, 500 Years, supra note 2, at 117-25 (advancing a more detailed discussion of English poor laws and the reforms of 1834). While England had experimented with requiring all the poor to live in workhouses as a precondition of receiving relief in the 1700's, that was no longer the case. See id. at 109-13. The one major exception to the continuation of the 1601 poor laws was the short-lived change arising out of the experimental Speenhamland system, which tried to set poor relief and wages for the poor at a level that matched the price of bread, an innovation never attempted in this era of poor relief in the United States. See id. at 113-17.

n182 English Reforms, supra note 123, at 1. For more background see DeSchweinitz, supra note 2, at 114-17.

n183 The twenty-one recommendations include: 1. cease all outdoor relief to the able-bodied; 2. create a central board to control the administration of all the poor laws; 3. empower the central board to make uniform rules and regulations; 4. authorize parishes to create common workhouses; 5. establish a uniform system of accounting; 6. allow parishes to hire and pay permanent poor officers and to execute public works; 7. require the central board to set minimum qualifications and methods of removal for paid officers; 8. open competition for purchase of supplies by parishes; 9. authorize the central board to prosecute complaints; 10. allow relief to be treated as a loan and collected by attaching subsequent wages; 11. central and uniform regulation of children apprentices; 12. allow better enforcement of vagrancy laws by central board; 13. mandatory annual reporting by the central board; 14. allow central board to appoint officers and assistants; 15. abolish settlement by hiring and service; 16. children's settlement follows that of their parents; 17. place of birth of children officially designated as where first existed; 18. illegitimate children under age of 16 follow their mother's place of settlement; 19. abolish punishment of mothers of illegitimate children; 20. abolish punishment of fathers of illegitimate children; and 21. allow parishes to pay for people who are willing to relocate. See generally id. The Commission introduced the concept of "less eligibility," that is, making sure the nonworking poor receive less assistance than the lowest paid worker, thus attempting to make work more attractive. This principle supported the reintroduction of the workhouse and other penal approaches to poor relief. As the commissioners stated it: [T]he first and most essential of all conditions, a principle which we find universally admitted, even by those whose practice is at variance with it, is, that his [the nonworking pauper's] situation on the whole shall not be made really or apparently so eligible as the situation of the independent labourer of the lowest class. Throughout the evidence it is shown, that in proportion as the condition of any pauper class is elevated above the condition of independent labourers, the condition of the independent class is depressed; their industry is impaired, their employment becomes unsteady, and its remuneration in wages is diminished. Such persons, therefore, are under the strongest inducements to quit the less eligible class of labourers and enter the more eligible class of paupers. The converse is the effect when the pauper class is placed in its proper condition below the condition of the independent labourer. Every penny bestowed, that tends to render the condition of the pauper more eligible than that of the independent labourer, is a bounty on indolence and vice. Id. at 228.

n184 1834, 4 & 5 Will. IV. August 14, 1834 was the day the recommendations of the Royal Commission were enacted into law. On August 14, 1935, one hundred and one years later, Franklin Delano Roosevelt signed into law the Social Security Act.
n185 See Webb & Webb, supra note 2, at 11. As Professor Trattner, Poor Law, supra, notes: "Poor relief was redesigned to increase fear of security, rather than to check its causes or even to alleviate its problems. At best it would prevent starvation or death from exposure, but it would do so as economically and as unpleasantly as possible." Trattner, supra note 2, at 54.

n186 See Katz, supra note 2, at 3-35; Axxin & Levin, supra note 2, at 45-53; Abramovitz, supra note 2, at 155-71. As a result of the criticisms of other forms of poor relief, the almshouse became a centerpiece of public policy towards the poor. See Leiby, supra note 2, at 48-70 (setting forth an overview of the institutions of the times); see also Klebaner, supra note 2, at 253-69 (surveying poorhouse laws and practice in the original thirteen states prior to the civil war). The Quincy Committee concluded workhouses or almshouses operated under the supervision of a Board of Overseers were superior to all other ways of providing poor relief. See Quincy Report, supra note 121, at 9- 10. They criticized each of the other ways of providing relief to the poor as wasteful at best and counterproductive at worst. The Committee found that letting out by bid was costly and often resulted in the poor living with other families who were borderline poor themselves. The most severe criticisms were of the method of providing assistance in their own houses, which the committee concluded, resulted in "abuse, mismanagement and waste" and the help provided was often used for ale and luxuries. Id. at 7-8. In response to the Yates Report, New York enacted a County Poorhouse Act requiring many counties to erect almshouses and authorizing others to do so if they wished. See Act of Nov. 27, 1824, ch. 331, 1824 N.Y. Laws 382-86.

n187 The almshouse was to comfort the poor who could not work and prod the poor who could. It was to occupy a position somewhere between the discipline of the penitentiary and the regularity of the insane asylum. See Rothman, supra note 2, at 193. For those who could not work, the institution would theoretically provide comfort and assistance. For those who could work, the institution would provide the means and opportunity to work and the coercion to do it. Work would provide self-respect, food, and money, which would be contributed back in to run the poorhouse. Conceptually, it was a self-sustaining center of opportunity and compassion. See id. at 188- 91.

n188 See Katz, supra note 2, at 3-35. Other institutions for the poor often included homes for orphaned children, asylums for the insane, and schools for the deaf and blind. Institutions for orphaned and delinquent children began in America with the founding by the Ursuline Sisters of a private home for girls in New Orleans in 1729, and grew to over 100 homes nationwide for children by the Civil War. See Axinn & Levin, supra note 2, at 54. Other institutions also developed in pre-Civil War devoted to the "rescue" of children: children's aid societies, orphan asylums, the industrial school, reform schools, and aged-graded common and high schools. See Jamil Zainaldin, The Emergence of a Modern American Family Law: Child Custody, Adoption, and the Courts, 1796-1851, 73 Nw. U L Rev 1038, 1050 (1979). In 1853 a state asylum for poor blind children between the ages of seven and twenty-two was established in Iowa. See Act of Feb. 21, 1853, ch. 26, 1853 Iowa Laws 47-49. The Wisconsin State Hospital for the Insane was established in 1857. See Act of Mar. 6, 1857, 1857 Wis. Laws 74. The state also appropriated funds for the education of the deaf and dumb and blind. See Act Mar. 29, 1859, ch. 215, 1859 Wis. Laws 234. The state also appropriated funds to administer the state reform school. See Act of Apr. 8, 1859, ch. 192, 1859 Wis. Laws 215. Other institutions also grew in this period. Before 1810 Virginia alone had a public insane asylum. By 1860, twenty-eight of the thirty-three states had public institutions for the insane. See Rothman, supra note 2, at 130; see also id. at 206- 36.

n189 See Trattner, supra note 2, at 59.

n190 See Klebaner, supra note 2, at 81 (discussing New York); id. at 86-87 (discussing Pennsylvania); id. at 88 (discussing Delaware); id. at 89 (discussing Maryland); id. at 82-83 (discussing New Jersey).

n191 See id. at 73. Every Massachusetts county was obligated to erect and maintain a workhouse to house and put to work the idle, vagrant, able-bodied
poor. In 1834 each county was obliged to erect and maintain a house of correction. See Act of Mar. 29, 1834, ch. 151, 1834 Mass. Acts 189-207. Houses of correction were to be erected by every county and the city of Boston "to be used and employed for the keeping, correcting and setting to work of rogues, vagabonds, common beggars, and other idle, disorderly, vicious and lewd persons." Id., 1. The act goes on at length, in twenty-two sections, to set up a comprehensive scheme for the management of the houses. Later the state created three state funded and administered workhouses where unsettled paupers, including immigrants, were to be sent. See Act of May 20, 1852, ch. 275, 1852 Mass. Acts & Resolves, 190-93. These were set up to house five hundred paupers in each, plus staff. See id., 1. The administrators of the state institutions were given the same powers over their paupers as the local overseers of the poor had. See id., 7.

n192 See Bremner, Children and Youth in America, supra note 2, at 419-20.


n194 See Schaffer, et al., supra note 2 (citing Act of Feb. 10, 1831, ch. LXIX, 1831 Ind. Laws 382). All ninety-two counties ultimately built local poorhouses. See id. at 34. The 1851 Indiana Constitution continued a previous constitutional authorization to grant each county the power to provide farms "as an asylum for those persons, who, by reason of age, infirmity or other misfortune, have claims upon the sympathies and aid of society." Ind. Const. of 1851, art. IX, 3.

n195 Chapter 48 of the Iowa Code of 1851 was titled "The settlement and relief of the Poor." Iowa Code tit. XII, ch. 48, 786-847 (1851). The county court was authorized to erect a county poor house and appoint directors to manage it. See id., 828-830.


n197 Mich. Rev. Stat. tit. IX, ch. 38 (1846) ("Of the Support of Poor Person by Counties"). The legislature mandated poorhouse care for any person who required permanent relief and support. See id., 8; see also Bruce & Eickhoff, supra note 2, at 74-75. Detroit was authorized in 1855 to open almshouses for the poor, hospitals for the sick, asylums for the insane and blind, nurseries for poor and destitute children, and compulsory workhouses for vagrants and the disorderly. See 1855 Mich. Acts 209, 221-22. County poor farms were authorized by the legislature in 1851. See Act of Apr. 8, 1851, No. 156, 11, 1851 Mich. Acts 231, 233. This law also allowed the board of supervisors of the county to erase the distinction between township and county poor, if they voted to do so by two-thirds majority. See id., 11, pt. 11th; id., 12.

n198 See Act of Mar. 4, 1864, ch. 16, 1864 Minn. Laws 48. County commissioners were to act as superintendents of the poor in their counties and to supervise the operations of poor houses, farms, workhouses, and all other institutions used to house or employ the poor of the county. See id., 3, 4.

n199 See 1815 Ohio Laws 444, ch. 89. In 1850, an act changed the name of all the county poorhouses to county infirmaries. See Act of Mar. 23, 1850, 1849 Ohio Laws 62.

n200 See D'Agostino, supra note 2, at 98-103 (discussing Act of Mar. 3, 1797. 12).

n201 See Act of Mar. 1, 1854, ch. 94, 1854 Wis. Acts 122-25 (authorizing the county board of supervisors of Rock County to abolish the distinction between county and town poor and sell bonds to raise funds to establish a 320 acre county poor farm. Sheboygan county was also authorized to purchase and administer a county poor farm. See Act of Mar. 8, 1854, ch. 120, 1854 Wis. Acts 145.

n202 See Klebaner, supra note 2, at 69; see also Hannon, supra note 2 (detailing declining real expenditures on indoor and outdoor public relief recipients in New York prior to the Civil War.) In the South, willingness to go into a poorhouse never became a test for relief and the region generally


n204 For an excellent overview of anti-immigration laws at this time, see generally Neuman, supra note 2. For another excellent article providing an overview of the intertwined issues of immigration, slavery and indentured servitude, see generally Mary Sarah Bilder, The Struggle Over Immigration: Indentured Servants, Slaves, and Articles of Commerce, 61 Mo. L. Rev. 743 (1996). For an excellent survey of the anti-immigration poor laws of the eastern seaboard states, see Klebaner, supra note 2, at 617-43.

n205 Consider the categories of poor people described by the legislature of New York in the 1840's for whom bonds had to be posted by ship masters in order to allow them into the country. These statutes required notification of the authorities and the posting of security for those who were: sick, disabled, over sixty years old, widows with children, single mothers with children, mentally deficient, deaf and dumb, blind, or thought to be potential public charges. See Act of May 5, 1847, ch. 195, 3, 1847 N.Y. Laws 182, 184-85 (describing "any lunatic, idiot, deaf and dumb, blind or infirm persons, not members of emigrating families, and who from attending circumstances are likely to become permanently a public charge"); Act of Apr. 11, 1849, ch. 350, 3 (using the same language, with addition of those "who have been paupers in any other country or who from sickness or disease, existing at the time of departing from a foreign port are or likely soon to become a public charge"); Act of July 11, 1851, ch. 523, 4, 1851 N.Y. Laws 969, 971-72 (adding persons who are maimed, over sixty, widows with children, or any woman without a husband and with children).


n207 See Neuman, supra note 2, at 1846-59.

n208 See Trattner, supra note 2, at 57. Immigration had a substantial impact between 1830 and the 1860 when nearly five million people arrived. Irish and German immigrants accounted for 87 percent of the 1.4 million aliens entering the country in the 1840's. The immigrants, who were mainly German and Irish, represented a threat to workers already here since they were ready to take employment at lower wages. See Axxin & Levin, supra note 2, at 35. From 1800 to 1860 the population of the United States multiplied six times from just over 5 million in 1800 to over 31 million in 1860. Between 1790 and 1860 over five million immigrants entered the United States. See Klebaner, supra note 2, at 609.

n209 See Bremner, From the Depths, supra note 2, at 9.

n210 Id. at 7-10. By 1850, 88 percent of the inmates of the New York House of Refuge were immigrant children, mostly from Ireland. See Abramovitz, supra note 2, at 167.

n211 See Rothman, supra note 2, at 290 (quoting Report for 1857, Massachusetts Commissioners of Alien Passengers and Foreign Paupers) (internal quotation marks omitted).

n212 See Act of May 20, 1852, ch. 275, 1852 Mass. Acts & Resolves, 190-93. These were set up to house five hundred paupers in each, plus staff. See id., 1, p. 190. The administrators of the state institutions were given the same powers over their paupers as the local overseers of the poor had. See id., 7.

n213 See discussion of Michigan and Iowa laws preventing blacks and mulattoes from achieving settlement, supra, notes 18-24, and accompanying text. Illinois, Indiana, and Ohio also made it very difficult for free blacks to settle in their states. See, e.g., Act of Mar. 20, 1819, 3, 1818 Ill. Acts 354-55 (prohibiting emancipation of out of state slaves in Illinois by any person unless the emancipator posted a one thousand dollar bond to cover the possible costs to the county of poor relief for the freed slave and also placed limits on the settlement of free blacks); Ind. Rev. Stat., ch. 66, 1 (*An Act Concerning Free
Negroes and Mulattoes, Servants and Slaves") (apprvd. Feb. 10, 1831)
(prohibiting all "black and mulatto" persons from coming into the state until
they posted a five hundred dollar bond "conditioned that such person shall not
at any time become a charge to the said county"). Starting in 1806, Ohio
provided that: No negro or mulatto person shall be permitted to emigrate into
and settle within this state, unless such negro or mulatto person shall, within
twenty days thereafter, enter into bond with two or more freehold sureties, in
the penal sum of five hundred dollars . . . conditioned for the good behavior of
such negro or mulatto, and moreover to pay for the support of such person, in
the penal sum of five hundred dollars . . . conditioned for the good behavior of
such negro or mulatto, and moreover to pay for the support of such person, in
case he, she or they should thereafter be found within any township in this
state, unable to support themselves. Act of Jan. 25, 1807, ch. 8, 1, 1805 Ohio
Laws 53. In an 1829 amendment of the Ohio poor law, the five hundred dollar rule
was deleted so that no Mulatto or Negro could acquire settlement no matter what:
"nothing in this act . . . shall be so construed as to enable any black or
mulatto person to gain settlement in this state." Act of Feb. 12, 1829, 1. The
1852 act amending the Ohio poor laws repeated the prohibition that "nothing in
this act shall be so construed as to enable any black or mulatto person to gain
legal settlement in this state," but did allow the city or county infirmary
(poorhouse) to admit them. See Acts of Mar. 14, 1853, 2, 1853 Ohio Laws 466-69.
("An Act for the Relief of the Poor").

n214 See Klebaner, supra note 2, at 618-21 (listing these statutes by state).

n215 See Alderman v. Miln, 36 U.S. (11 Pet.) 102, 104- 05 (1837). Failure to
comply subjected the ship master and the ship owners to fines of up to $ 500 per
noncitizen passenger. This was by no means the first attempt to craft and
enforce such laws. See Act of Mar. 7, 1788, ch. 62, 32, 33 (requiring list of
names and occupations and bonds with 24 hours of arrival). In 1797, the law was
changed to require bond before the ship's arrival, See Act of Apr. 3, 1797, ch.
101, 2, 1797 N.Y. Laws 134, 135. For further New York immigration legislation,
see Neuman, supra note 2, at 1853-57.

were required of incoming immigrants who were from any of the following
categories: sick, disabled, over 60 years old, widows with children, single
mothers with children, mentally deficient, deaf and dumb, blind, or thought to
be potential public charges. See supra note 204; See also Neuman, supra note 2
(quoting 1857 Report of the Commissioners of Emigration 213). According to the
1857 Report cited by Neuman: "This system was declared to be a success because
it ended up excluding, in a great degree, the most worthless class, sent by local
or state authorities abroad, to be thrown upon our shores for support, or to
live by worse means." Id.

n217 See Philadelphia Report, supra note 123, at 28; see also supra notes
169-174 and accompanying text.

n218 See supra note 178.