

**LAWS
AND
LEGAL PROCEDURES**

*A Handbook for the
Social Worker*

August, 1935

**STATE OF NEW JERSEY
EMERGENCY RELIEF ADMINISTRATION,**

Research Section

Service Projects S-F2-72—S-F2-247

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Foreword

HUMAN existence from birth to burial is regulated by law. Every person, therefore, needs to know something of the law. The social worker, whose work it is to assist and to guide people who have encountered difficulties, has a special responsibility to understand the law and its resources.

"Laws and Legal Procedures—A Handbook for the Social Worker" is an attempt to express in everyday language the meaning and significance of the laws by which we live. It is an informative handbook, intended principally for social workers and public welfare administrators in New Jersey to give a general knowledge of the law and its application to practical problems.

This book is not intended as a substitute for a lawyer. When situations arise in which legal advice is needed, a competent attorney should be consulted. The book, however, should help in two ways: first, in making it easier to recognize situations where legal assistance is needed; and second, in enabling the family visitor better to understand legal procedure so that he or she may work more effectively, not only with families having legal difficulties, but with authorities engaged in administering the law and with legal advisers of the Administration or its clients.

In the preparation of "Laws and Legal Procedures" care has been taken to obtain the best advice possible. Each topic has been submitted to at least one recognized authority in its field for comment, review and approval. The Administration wishes to make special acknowledgment to the following for their interest and assistance in the execution of this project, as well as to the others who made anonymity a condition of their service:

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Grateful acknowledgment is also tendered to the Essex County Bar Association and the Prudential Life Insurance Company for extending the privileges of their Law Libraries, as well as to the Commission on Revision and Consolidation of the Public Statutes of the State of New Jersey for the special assistance given the Emergency Relief Administration in preparing this book.

"Laws and Legal Procedures—A Handbook for the Social Worker" was compiled under New Jersey Emergency Relief Administration Projects S-F2-72 and S-F2-247. These projects were under the general supervision of Douglas H. MacNeil, Manager, Research Section of the State of New Jersey Emergency Relief Administration, with the active cooperation of the Family Welfare Division of the Department of Relief Operations. The following staff was engaged in the project:

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In addition, Mrs. Winthrop D. Lane, Manager, and Miss Jean Kennedy, Assistant Manager of the Family Welfare Division; Miss Mary Bogue, Manager of the Training Section, and other members of the Family Welfare Division; Colonel Joseph H. Bigley, Deputy State Director; Mr. Arthur Mudd, Deputy State Director, and Mr. Arthur L. Rosenfeld of the Finance Department, and other members of headquarters, county and local office organizations contributed to this project.

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State Director.

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ADDENDA

The repeal of the Sales Tax Act occurred at a date too late to permit a correction in the text.

* * *

The fundamental changes which have been made in the Federal Transient program in New Jersey became effective after the volume had gone to press. Information regarding the current method of assisting transients may be obtained, upon inquiry, from the State of New Jersey Emergency Relief Administration, 20 Washington Place, Newark.



I

PUBLIC ASSISTANCE LAWS

The laws under which relief is administered in New Jersey outline two systems of public assistance, differing only in administrative set-up. In this chapter the origin and operation of these two systems and of the Federal and State Emergency Relief Administrations are traced and the aims and methods of agencies for categorical and general relief are examined.

A. PUBLIC ASSISTANCE SYSTEMS—PAST AND PRESENT (OUTDOOR RELIEF)

1. The Municipal System

The State Legislature enacted Chapter 132 of the Pamphlet Laws of 1924 for the purpose of revising the laws for the settlement and relief of the poor in New Jersey. This enactment provided for the appointment of an Overseer of the Poor in each municipality in the State, who became the welfare official of the municipality. His appointment and activities are governed by Chap. 132, P. L. 1924, as amended by Chap. 43, P. L. 1930, Chap. 5, P. L. 1926 and Chap. 392, P. L. 1931.

2. Joint County and Municipal Systems

In 1931, the question of whether or not each county in the State desired to have a county system of Public Welfare Administration was submitted to the voters of each county and the county system was adopted by Morris, Warren and Camden Counties. Camden, however, has delayed setting up this system and, at present, has not made any provision for it.

Thus, in nineteen counties, the agency for administering poor relief was the municipality and the official responsible for its administration the Overseer of the Poor of each municipality. In two counties, the welfare unit was the county and the official responsible for administration the County Director of Welfare. The Overseers of the Poor were operating under Chap. 132, P. L. 1924 and Chap. 392, P. L. 1931, and the County Welfare Boards of Morris and Warren Counties operated under Chap. 373, P. L. 1931.

3. The State Emergency Relief Administration

a. Creation

In 1931, the expense of relief to the unemployed became too great for the municipalities and counties to carry along with the other costs of government and, in October, 1931, the State Emergency Relief Administration was created to cope with this problem.

b. Original purpose

Originally, the Administration was organized to distribute State funds to the municipalities and counties which were unable to finance their own relief burdens. The Administration was, however, given authority to supersede any local agency not functioning properly and to prescribe uniform procedures for the administration and accounting of the Emergency Relief funds.

c. Present status

The 1924 revision of the Poor Law, as amended by Chapter 392, P. L. 1931, was, and is, the basic law of the State for the relief

of the indigent. As previously stated, Chapter 373 of the 1931 Law has been accepted by Morris and Warren Counties only, and its major provisions are patterned after the 1924 Law. These laws are still on the statute books and, wherever the State Emergency Relief Administration rules and regulations have not superseded them, they are still the governing laws.

The Act creating the State Emergency Relief Administration (Chapter 394, P. L. 1931, and Amendments thereto and the present Act, Chapter 35, P. L. 1935) granted the State Director "full power and authority to prescribe all rules and conditions under which any emergency relief program for the relief of the unemployed and dependents shall be administered." He may also "prescribe the conditions under which a fund or portion of a fund for the relief program, furnished by the State, shall be administered and expended."

The Act also provides that if a State statute or local law or ordinance is inconsistent with the provisions of this Act, that statute, law, or ordinance shall not be enforced during the continuance of the Emergency Relief Administration.

Thus, the State Director has the power to establish rules and regulations which differ from the provisions of the 1924 and 1931 laws, and if this is done, the sections of those laws which are inconsistent with the rules and regulations of the State Director are rendered non-effective during the continuance of the State Emergency Relief Administration.

The Emergency Relief Administration is now functioning as a relief unit in every county in this State, and in January, 1935, it was operating in 429 of the 564 municipalities of the State. In the other municipalities where relief is necessary, the local relief unit provides the necessary assistance.

4. The Federal Emergency Relief Administration

On May 12, 1933, after Congress had enacted the bill creating the Federal Emergency Relief Administration, the President's signature was appended, and eighteen months after the inception of the State Emergency Relief Administration, the Federal Emergency Relief Administration was organized for the purpose of aiding the States to carry the increasing burden of relief to the unemployed. The Federal Administration adjudged the New Jersey State Administration competent and adequate to handle the administration of Federal funds in the State, and the Federal grants were, therefore, paid over to the State to be administered by it. Therefore, the State Emergency Relief Administration became, and continues to be, a centralized agency for the administration of Federal, State, and municipal relief funds within the State of New Jersey.

B. ELIGIBILITY FOR RELIEF

The only requirement of the law of the Emergency Relief Administration is that an individual or family be in need and unable to earn a livelihood by his or their own labor.

Temporary assistance must be granted to all persons in need. If the individual or family does not possess legal settlement, temporary assistance must be granted until a removal to the place of legal settlement can be effected or arrangements can be made for the individual or family to continue to receive relief at the present address.

The question of whether the ownership of real estate or real property makes one ineligible to receive relief very frequently arises. The owner-

ship of property in and of itself does not make one ineligible to receive relief. Each case should be considered separately and all factors given careful thought before a decision is made.

C. LEGAL SETTLEMENT WITH REFERENCE TO "OUTDOOR RELIEF"

1. Definition

"Legal settlement" means the residence of an individual within the geographical limits of a governmental relief unit for the length of time necessary to establish eligibility for relief. The length of time is provided for by law.

2. Present Status

a. State legal settlement consists in residence in the State for a period of one year.

b. Under the municipal system

When a municipality is operating under the 1924 Poor Law, an uninterrupted residence in a municipality or county for a period of five years is necessary before an individual acquires a legal settlement in that municipality or county. (Sec. 40, Chap. 132, P. L. 1924 and Chap. 233, P. L. 1933.)

c. Under the county system

In Morris and Warren Counties, it is necessary for an individual to have maintained an uninterrupted residence in the county for a period of five years to acquire legal settlement therein. (Chap. 373, P. L. 1931.)

A residence of five years in any county is necessary to acquire legal settlement for the purpose of securing assistance in any form from the county. This applies in each county of the State.

d. Under the Emergency Relief Administration

(1) Temporary dependency cases

When the Emergency Relief Administration is providing the relief, the only requirement as to residence is that the individual or family must have resided in the State of New Jersey continuously for a period of one year without receiving relief; the length of residence in a municipality has no significance.

If residence in the State has not been maintained for a period of one year, the individual or family is not ineligible for assistance, but the following rules govern:

- (a) In the case of a **family**: When a family, which has not resided in this State for a period of one year without receiving relief, applies for assistance, the application is taken and relief granted from the Emergency Relief office after the case has been accepted and approved by the Federal Transient Bureau through its New Jersey representative. The cost of such relief, however, is paid by the Federal Transient Bureau. Whether or not the case is accepted by the Transient Bureau, temporary relief, if needed, must be granted by the local Emergency Relief Administration office.
- (b) In the case of an **individual**: When an individual, who has not resided in the State for one year without receiving relief, applies for assistance, the procedure is the same as in the case of a family except when, at the time application for relief is made, the individual is homeless or is merely passing through the municipality. In that case he should be referred to the nearest local

Transient Bureau. There are five of these bureaus in the State: Newark, Elizabeth, Trenton, Camden and Paterson.

NOTE: These rules have been made by the Emergency Relief Administration and are not the result of direct legislative enactment as are the provisions of the 1924 and 1931 Poor Laws.

(2) Permanent dependency when legal settlement is within the State

A case of this kind is generally one which is not the result of unemployment but which involves one or more of the following factors:

- (a) Eligibility of a member of the applying family to receive relief from a permanent State Agency, such as the Old Age Welfare Board. (Eligibility must be determined in accordance with the rules of that agency.)
- (b) Chronic illness.
- (c) Pending or present institutionalization of some member of the family.
- (d) Chronic dependency. This covers a great number of cases and each case must be judged solely on its own merits.

Before such a family is eligible to receive more than temporary assistance, residence must have been maintained in the municipality for a period of five consecutive years.

Whenever a family of this kind has not resided in the municipality to which application for assistance is made, for a period of five consecutive years without receiving relief, temporary assistance should be granted and negotiations entered into with the municipality in the State in which legal settlement has been acquired.

In the past, many municipalities have refused to grant assistance to families residing within their boundaries because they were classed as chronic dependents and did not possess legal settlement.

No individual or family in need may be refused assistance. When the municipality is providing the relief, temporary assistance must be granted and continued until the family can be moved to the municipality in which it possesses legal settlement, providing such a move is advisable. If such a move is not advisable, then arrangements may be made for the municipality of legal settlement to reimburse the one in which the family resides for its expenditures for the care of the family, and the family should be allowed to remain where it is.

The policy of the Emergency Relief Administration is: that where it is providing the relief, the family should be maintained where its needs may be served to the best advantage. The important item is that the legal settlement of the family be established and proven so that if institutionalization or other permanent care becomes necessary, the legal responsibility will have already been fixed and determined.

If the case appears to be one of chronic dependency, then temporary assistance should be given, legal settlement determined and proven and the final decision as to disposition made afterward.

Every municipality is obligated by law to accept the return of a family once legal settlement is proven to be in that municipality.

- (3) Permanent dependency cases when legal settlement is without the State

If legal settlement is in some other State, negotiations for the return of the family may be entered into by contacting the welfare official of that State; generally, the letter should be sent to the Department of Public Welfare, at the State Capitol.

3. Legal Settlement of Married Women

A married woman always has the legal settlement of her husband, if he has any in New Jersey. If he has none in New Jersey, then her settlement is as it was at the time she became a resident of the municipality in which relief is sought, unless she has gained a legal settlement in her own right by a residence of five years in the county or municipality, as the case may be; or, if the case be one which requires temporary assistance, residence within the State for a period of one year, without receiving relief, is sufficient to give her a legal settlement, thus entitling her to assistance from the Emergency Relief Administration. (Sec. 41, Chap. 132, P. L. 1924, Chap. 392 and Chap. 373, P. L. 1931.)

A married woman may gain settlement in her own right, when she resides separate and apart from her husband.

4. Legal Settlement of Children

A minor, whose parents have no settlement in this State, may acquire legal settlement by residing in a municipality or county of this State for a period of five years without interruption. (Chap. 132, P. L. 1924, Chap. 392 and Chap. 373, P. L. 1931.)

a. Legitimate children

A legitimate child always has the settlement of the father until the child has gained a settlement of his own. If the father has no settlement, the child takes the settlement of the mother. (Chap. 132, P. L. 1924, Chap. 392 and Chap. 373, P. L. 1931.)

b. Illegitimate children

The illegitimate child takes the settlement of the father, if he be legally found or admits paternity, provided the father has legal settlement in New Jersey. If the father is undetermined or has no settlement in New Jersey, then the child takes the settlement of the mother. If neither parent has settlement, then settlement is in the municipality in which the child was born, if birth occurred in this State. An illegitimate child born in a charitable or correctional institution is chargeable to the place of legal settlement of the father or mother, or to the place from which the mother was committed or admitted, rather than to the place where the institution is located. (Chap. 132, P. L. 1924, Chap. 392, P. L. 1931 and Chap. 373, P. L. 1931.)

5. Loss of Legal Settlement

Legal settlement is lost in two ways:

- a. When legal settlement is acquired in another municipality in this State. This provision does not apply to families or individuals needing temporary assistance,
- b. When the individual has removed from the State with the inten-

tion of taking up residence elsewhere and has remained away for a period of one year or more. (Sec. 40, Chap. 132, P. L. 1924, Chap. 392, P. L. 1931 and Chap. 233, P. L. 1933.)

D. REMOVAL OF AN INDIGENT FAMILY

1. When Removal May Be Affected

This may be accomplished only when the family has legal settlement elsewhere and one of the following conditions is present:

- a. When the family expresses the desire to return to the place of legal settlement.
- b. When, after a careful evaluation of the facts, it is deemed to be to the best interest of the family to return to the place of legal settlement.
- c. When the family or individual appears to belong to the chronic dependency class and does not possess legal settlement where residence is maintained.

A removal should never be made until the other county or municipality has expressed willingness to accept the person or family.

2. Procedure to Secure Removal

To remove a poor person to another municipality in the same county it is necessary for the Overseer of the Poor of the municipality in which the person is found or resides, to enter into negotiations with the Overseer of the Poor of the municipality in which the individual has established legal settlement. Removal may be accomplished in the manner directed in Sections 64, 65 and 66 of Chapter 132, P. L. 1924 and Chapter 392, P. L. 1931. In Morris and Warren Counties removal within the county is under the jurisdiction of the County Director of Welfare and governed by Sections 3, 40 and 41 of Chapter 373, P. L. 1931 and Chapter 233, P. L. 1933. If the legal settlement of an individual or family is in a municipality of another county, the Overseer of the Poor or the County Director of Welfare shall apply to the County Adjuster who has authority to bring about the desired removal. (Sec. 64, Chap. 132, P. L. 1924, Sec. 40, and 4 of Chap. 373, P. L. 1931 and Chap. 393, P. L. 1931.) If the legal settlement is in another State, the County Adjuster refers the matter to the State Department of Institutions and Agencies and it transacts business with other States.

The local relief agency often contacts the authorities of the place where the family or individual has legal settlement without the assistance of the County Adjuster. If authorization to return the family or individual is secured, the return is arranged for by the local agency and the expense of the removal is paid by it. Regardless of how the contact is made, the procedure should be as follows: A letter or other communication should be forwarded to the proper agency in the municipality where it is thought the individual or family possesses a legal settlement and should set forth among other things:

- a. The present predicament of the family, including a summary of its financial and social problems and the reason the return of the family is sought.
- b. The addresses in the municipality where residence is purported to have been maintained for a period of time sufficient to have acquired legal settlement.
- c. The names and addresses of relatives and friends who can verify the statements as to residence in the municipality or other governmental unit.

- d. Other facts which may aid the agency in identifying the family or individual and in proving legal settlement, such as the names and addresses of former landlords.

E. MEDICAL ATTENTION AND HOSPITALIZATION FOR THE POOR

Any physician or nurse, employed by the governing body of a municipality in the State, when notified of the situation by the Overseer of the Poor or the Director of County Welfare, is required to visit and render necessary medical aid to a poor person who may be ill or injured.

In cases where medical or surgical treatment is urgent, a person may be removed and admitted to a public or private hospital in the municipality in which he is found. If he is a poor person, a written notice should be sent immediately by the hospital to the Overseer of the Poor of the municipality where the poor person resided prior to removal; or, in Morris and Warren Counties, to the County Director of Welfare. It then becomes the duty of the Overseer of the Poor or the County Director of Welfare to provide for the poor person and the cost is chargeable to the municipality in which he has gained a legal settlement. (Sec. 76, Chap. 132, P. L. 1924 and Chap. 373, P. L. 1931.)

In some municipalities, the Emergency Relief Administration has assumed the responsibility of providing medical attention or hospital care. If the case is not urgent the requisition for hospital care is given by the social worker. If it is urgent, the hospital is authorized to receive the patient and report the facts to the local Emergency Relief Administration which passes upon the eligibility of the individual for relief. If he is found to be eligible, the hospital bills may be paid by the Emergency Relief Administration. The notice of an emergency admission by a hospital has the same force and effect as a personal application for relief.

A number of statutes exist under which municipalities and counties may make lump sum contributions or appropriations to hospitals incorporated under the Act pertaining to charitable corporations.

As most of these Acts were designed to meet specific local situations, and as arrangements are not uniform in all communities, the laws are not set forth here. It is suggested, however, that the social worker ascertain from the clerk of the governing body of the municipality and county just what arrangements have been made in each community.

F. BURIAL OF THE POOR

If a person dies in a municipality and leaves no money or other means sufficient to defray his funeral expenses, it is the duty of the Overseer of the Poor, and in Morris and Warren Counties, of the County Director of Welfare, to employ an undertaker to provide burial for the deceased. The expenses shall be paid by the governing body of the municipality or county where the deceased person had legal settlement. If the deceased had no legal settlement, then the expenses must be borne by the municipality where the death occurred. (Sec. 80, Chap. 132, P. L. 1924 and Chap. 373, P. L. 1931.) In some municipalities, the Emergency Relief Administration has assumed the responsibility for the burial of the poor.

G. SUPPORT BY RELATIVES

1. Who is Responsible for Support

The father, mother, grandmother, grandfather, children, grandchildren, husband or wife of every poor person is chargeable with the support of that person, provided he is financially able to provide that support. (Sec. 74 and 75, Chap. 132, P. L. 1924 as amended by Chap. 238, P. L. 1930.)

2. Procedure to Enforce Support

The Overseer of the Poor, the County Director of Welfare, or two residents of the municipality or county in which the poor person resides, may make a complaint to the Court of Common Pleas of the county, the Juvenile and Domestic Relations Court or the Family Court that the poor person needs support.

The court may direct that support be provided by the relatives, and if they continue to fail to perform their duties, may sentence them for contempt of court.

The county, through its governing body, may also bring appropriate action at law to recover from the relatives who are chargeable with his support the sum of money due for the relief, support and maintenance of a poor person.

H. ASSISTANCE FOR THE AGED (Chap. 219, P. L. 1931)

1. Eligibility Requirements

Old Age Relief will be granted to a person who:

- a. Has attained the age of seventy years.
- b. Is unable to maintain himself, either in whole or in part.
- c. Has no children or other persons, responsible under the laws of the State for his support, who are able to support him.
- d. Is a citizen of the United States.
- e. Is a resident of and domiciled in the State of New Jersey and has had such a residence continuously for a period of fifteen years immediately preceding the date of application. Continuous residence in the State is not deemed to have been interrupted by occasional periods of absence therefrom, if the total of these periods does not exceed two years, and if, during the five years immediately preceding the date of application, the periods do not exceed the aggregate of one year.
- f. Is a resident of the county in which the application is made and has resided continuously in that county for at least one year immediately preceding the date of application and possesses a legal settlement in that county (residence for a period of five years).
- g. Is not in need of continued institutional care.
- h. Has not made a voluntary assignment or transfer of property for the purpose of qualifying for Old Age Relief.
- i. Has never been convicted of a felony or a high misdemeanor. In New Jersey, felonies no longer exist as such. They are included in the general class of crimes, called high misdemeanors, which comprise the more serious offenses.
- j. Does not possess real or personal property in excess of \$3,000. If there is property valued at less than \$3,000. and assistance is granted, the County Welfare Board may require that such property be transferred to the Board upon order of the Court of Common Pleas. The person owning property must sign "an agreement to reimburse" for cost of care. If relief is discontinued during the lifetime of the applicant, the value of the property, less the total amount of relief granted, shall be returned to the applicant and in case of his death, it shall become a part of the estate of the deceased.

2. Amount of Assistance

Assistance shall in no case exceed \$1.00 per day for each individual. It may be granted in a lesser amount in accordance with the need of the individual.

3. Those Not Eligible

Old Age Relief will not be granted to those who:

- a. Have not attained the age of seventy years.
- b. Are in need of continued institutional care because of a physical or mental condition.
- c. Have been convicted at any time of a felony or high misdemeanor.
- d. Own property valued at an amount in excess of \$3,000.
- e. Are confined to an institution.

4. Procedure to Secure Old Age Relief

Applications should be made to the County Welfare Board of the county in which the applicant resides.

Each applicant must either fill out an application blank or have it filled by some person in his behalf. The blanks may be secured from the County Welfare Board and must be returned to that office. There is no fee for either the application or the filing of it.

After the application is filed, the applicant need only follow the directions of the County Welfare Board which decides whether or not relief shall be granted, and if so, in what amount.

5. Applying again after Rejection of Application

After an application for Old Age Relief has been rejected, the applicant may not apply again for relief until the expiration of six months from the date of the previous application.

Assistance is granted for a period of six months. At the expiration of the six months, the assistance is either discontinued, changed, or a new grant made.

6. Appeal

In the event that the decision of the County Welfare Board is too long delayed or unsatisfactory, an appeal may be made to the Division of Old Age Relief, State Department of Institutions and Agencies. In this appeal the facts as to the necessity for relief should be set forth. These facts must be verified by five citizens residing in the county.

7. Burial of the Aged

In the event of death, if applicant's estate is not sufficient to provide burial, the County Welfare Board is authorized to pay whatever sum is necessary up to a total of \$100.00.

I. CARE OF BLIND

1. Assistance to the Blind

a. Eligibility requirements

A blind person, over twenty-one years of age, who has been a resident of the State for five consecutive years prior to the date of application for aid, is eligible for assistance if he has one-tenth or less of vision in the better eye, is unable to support himself and has no legally responsible relative able to support him and is not under the care of an agency or institution. (Chap. 231, P. L. 1921, Chap. 83, P. L. 1922 and Chap. 17, P. L. 1931.)

b. Procedure to secure assistance for a blind person

A blind person may send a written request for a relief application blank to the Commission for the Blind, 1060 Broad Street, Newark. This form, when filled in and sworn to before a notary public, is returned to the Commission for investigation. The case is reviewed by the Commission which recommends an allowance not

to exceed \$40.00 a month, or refuses relief to the applicant if there are reasons why relief should not be granted. The recommendation of the Commission is then presented to the Court of Common Pleas and the court orders the payment of the relief by the county or municipality in which the person has legal settlement. If the blind person has no county settlement, but a State legal settlement, he becomes a charge upon the State.

c. Discharge

Relief may be discontinued by the Commission when the blind person becomes self-sustaining or when his relatives are able to support him.

d. Appeal

An appeal may be taken from the decisions of the Commission for the Blind to the Court of Common Pleas of the county in which the applicant resides.

2. Assistance to Blind Children (See page 29.)

3. Vocational Education and Social Advantages for the Blind

a. Eligibility requirements

A person who is blind, partially blind, or who has other visual handicaps, may seek the advice and assistance of the Commission for the Blind, in obtaining medical attention to prevent blindness, in preparing himself for self-support through academic or vocational education and in adjusting himself to the community and to his handicap.

b. Procedure and types of assistance

Application for assistance should be made directly to the Commission for the Blind, 1060 Broad Street, Newark, which is authorized to aid in the prevention of blindness by arranging for eye examinations, fitting of glasses, medical treatments or surgical operations, by sending children to residential schools and by contributing for their tuition or supplying readers in high schools, colleges or vocational schools.

J. REHABILITATION OF PHYSICALLY HANDICAPPED

The Rehabilitation Commission of the State of New Jersey, operating under Chap. 74, P. L. 1919 and Chap. 34, P. L. 1928, has been established to assist physically handicapped individuals to become self-supporting.

The work of this Commission has three phases. The Commission first attempts to correct physical defects whether congenital or resulting from illness or accident. If necessary, artificial limbs, surgical appliances or other mechanical aids are supplied. After careful study of the individual's education, temperament and interests, the Commission trains the handicapped person in an appropriate occupation. When a measure of proficiency has been achieved, the Commission attempts to place the handicapped person in a suitable position.

No municipal or county settlement is required by the Rehabilitation Commission, but a residence in New Jersey for a period of one year is a prerequisite to eligibility for aid from the Commission.

The Commission maintains offices and clinics in Newark, Jersey City, Paterson, Trenton and Camden. For the address of the nearest office, consult Publication #26 of the Department of Institutions and Agencies or write to the State Rehabilitation Commission at 1060 Broad Street, Newark, New Jersey.

K. RECEIVING RELIEF UNDER FALSE PRETENSES

"Any person who shall knowingly or designedly, by means of any false statement made orally or in writing, obtain from any county or municipality of this State or from any officer, committee, commission or body thereof, or from any private or charitable organization or association of any kind, under pretense that he is poor and needy or out of employment, any money, wares, merchandise, goods, or chattels, or other valuable thing, shall be guilty of a misdemeanor and punished accordingly." (Chap. 396, P. L. 1931.)

L. COMPLIANCE WITH LAW IN RESPECT TO RELIEF ORDERS

"Any person, firm or corporation furnishing foodstuffs, fuel, clothing or other valuable things to any unemployed or poor person, pursuant to any written order issued by any of the poor or Emergency Relief Administration authorities of this State, or of the several municipalities thereof, who shall do so in any manner or to any extent other than as specified in such order, or who shall furnish on account of any such order, foodstuffs, fuel, clothing or other valuable thing of a quality unfit for human consumption or use; or any person, firm or corporation who shall purchase, sell or offer for sale any such order contrary to the intent and purpose thereof, shall be guilty of a misdemeanor and punished accordingly." (Chap. 125, P. L. 1933.)

M. BEGGING, REFUSING TO WORK, ETC. (See "Crimes," pages 54, 55.)

II

BANKRUPTCY FOR THE POOR

Bankruptcy for the poor (bankruptcy in forma pauperis) is a form of bankruptcy whereby a person who has debts which he cannot pay, and who is unable to afford the regular proceedings, may file a voluntary petition in bankruptcy without paying fees or costs.

A. PROCEDURE TO FILE A VOLUNTARY PETITION IN BANKRUPTCY

1. Quadruplicate printed forms of "Paupers' Petitions, Schedules and Affidavits in Bankruptcy" may be obtained from a legal stationery store. The affidavit states that the bankrupt has not and cannot obtain necessary funds with which to pay the court fees. The schedules contain spaces where the bankrupt lists all his property, the names and addresses of his creditors and the amounts due them. It is imperative that the bankrupt list all his creditors, for if he fails to do so, he will not be discharged from those debts which are not listed in the schedules.
2. These forms are filled out and signed by the bankrupt.
3. They are then filed in triplicate with the Clerk of the United States District Court for New Jersey at Trenton. The bankrupt retains the fourth copy.
4. The United States District Court refers the matter to the Referee in Bankruptcy who conducts an examination of the bankrupt, questioning him about his property and obligations, whether or not they are listed in the schedules.

B. PROCEDURE TO BE DISCHARGED FROM BANKRUPTCY

1. After one month has elapsed from the filing of the Petition in Bankruptcy and within one year therefrom, the bankrupt may make an application to the court to be discharged from bankruptcy.
2. The bankrupt obtains at a legal stationery store, quadruplicate printed forms of "Petition for Discharge in Bankruptcy," three copies of which are filed with the United States District Court at Trenton. The other copy is retained by the bankrupt.
3. A date is set by the court for a hearing of this application. At this hearing, if there are no objections to the application, the bankrupt is discharged from bankruptcy. This discharge has the legal effect of relieving and discharging him from any obligations that were listed in the bankruptcy schedules, provided they are dischargeable. The law recognizes certain debts as being not dischargeable. Debts contracted through fraud, those for alimony, support, taxes and others of a like nature are in this class.

III

BUILDING AND LOAN ASSOCIATIONS

Building and Loan Associations are mutual companies conducted under the supervision and control of the State Department of Banking and Insurance.

A. PURPOSE AND FUNCTIONS

1. The primary purpose of Building and Loan Associations is to permit and assist individuals to purchase homes. It is necessary for the rapid expansion and growth of such an association to have investors, but the original plan was to promote home ownership. In the later developments of the Building and Loan idea, money invested was loaned to owners of property to permit amortization of an existing mortgage over a longer period of time, but that was brought about by a surplus of funds in the hands of the Building and Loan awaiting investment.
2. Another purpose is to permit members to save money systematically with a fair return on the money saved and invested.

B. THE INVESTOR

The investing members, when they join the Association, subscribe for so many shares of the common stock of the Association, generally in multiples of five, with a customary par value of \$200.00 for each share. They pay for this at the rate of \$1.00 per month per share or \$5.00 per month for five shares. The payments are entered in a pass book issued by the Association and each year the earnings, interest, and/or profits made and voted by the Association to each stockholder, are credited to his account. For example: the full subscription for five shares upon which the investor pays \$5.00 per month, is \$1,000. (5 x \$200.00). During the twelve and one-half years, which is a fair length of time for a maturity, the investor will have paid in \$5.00 per month or \$60.00 per year or 12½ times \$60.00 which is \$750.00 and he will receive \$1,000. In other words, he has earned \$250.00 in interest and profits during twelve and one-half years.

The investor should keep in mind that in becoming a member of a Building and Loan Association, he must bear any losses that the Association may sustain in the same manner as he benefits by the profit the Association makes. So, in the event of a great percentage of losses, it will take a longer time for his shares to mature and he will, therefore, have to invest more money. This situation exists because in all mutual associations the members share not only the profits but the losses as well.

C. THE BORROWER

The borrowing member proceeds along quite similar lines. He files an application with the Association for a loan upon real estate which he owns. He pays an appraisal fee set by the Association and the property is then appraised by a committee of the Association. If the value set by the committee is such that the loan requested will not exceed eighty per cent of the appraised valuation, the loan may be granted. The applicant must then subscribe to a sufficient number of shares of common stock of the Association at \$200.00 per share to equal the amount

of the loan granted. A \$5,000. loan would require twenty-five shares. After the title to the property has been searched and approved by the solicitor (lawyer) of the Association, the net amount of the loan, less charges, fees, mortgages and other debts against the property which have to be paid off, will be given to the borrower. The Association then has a first mortgage. The borrower then must repay the Association. This is done at the rate of \$1.00 per month for each share of the stock and \$1.00 per month for interest, which is at the rate of six per cent annually on one share, making a total of \$2.00 per month per share. So that, on a \$5,000. loan, the borrower pays back to the Association \$50.00 per month, of which \$25.00 is applied as a payment on the stock and \$25.00 is interest upon the borrowed money.

These payments are entered each month in the pass book which the borrower keeps, and at the end of the fiscal year, the amount of profits to which he is entitled on his number of shares is added to the amount he has paid in to reduce the amount due on his shares of stock. In this way, although he is paying interest, he is also earning interest and his stock will be paid off in about twelve or thirteen years. When the stock is paid off the mortgage on his real estate is cancelled.

The Building and Loan Association is a mutual company and is run by its stockholders; hence, the officers and directors are elected by the shareholders at an annual meeting. The affairs are run by the Board of Directors which is composed of officers of the Association and a certain number of members, all of whom are elected by the stockholders from among their own members.

D. SUPERVISION OF BUILDING AND LOAN ASSOCIATIONS

The affairs of a Building and Loan Association are supervised and controlled by the State Department of Banking and Insurance. The Association's books are examined at least once, and usually twice, a year and precautions are taken to prevent mismanagement.

Building and Loan Associations are required by State law to set up reserves against possible losses on property owned (acquired by foreclosure). These reserves are kept intact until property is sold and actual loss determined. The reserves must come from accumulated profits. Unwise mortgage loans sometimes cause partial or complete exhaustion of profits built up over many years of operation.

E. BORROWING OF MONEY BY INVESTORS

Investing members may borrow money on their shares from the Building and Loan Association, if the Association is making loans. Ninety per cent of the withdrawal value of the certificate (that is, ninety per cent of the total paid in plus profits or dividends) may be borrowed according to law.

Six per cent interest, or a rate consistent with local bank interest, is charged on loans and payable monthly or as the Association directs. Some associations make an additional charge of 1% (flat) of the loan for the accommodation.

Under the law, banks are privileged to make loans up to eighty per cent of the withdrawal value of the certificate. Because of present conditions, it is often difficult for an investor to obtain a loan from either a Building and Loan Association or a bank. When a loan is made, the member assigns his certificate to the lender. If the loan is not repaid, the lender becomes the legal holder of the certificate.

A Building and Loan Association has the right to foreclose if the borrower fails to meet dues, interest payments or taxes on his property.

F. SALE OF SHARES

In addition to borrowing on his book, a member, under the law, may withdraw his book. That is, he may sell it to the Association. The price he receives for it is the total amount paid in monthly instalments plus a percentage of the total interest and profits which he has received from the Association. These percentages are set by the Charter of the Association and the rules of the Board of Directors. As in the case of loans, it has been very difficult recently to withdraw books; in fact, withdrawals have been limited and controlled by the Department of Banking and Insurance. But again, as conditions improve, Building and Loan Associations will be in a better position to assist their members.

IV

LAWS RELATING TO CHILDREN

The New Jersey laws for the protection of children were enacted to insure the youth of the State an opportunity to become sound and useful citizens. This chapter considers in detail the laws which affect the health and morals, education and labor of the children of New Jersey.

A. ADOPTION OF CHILDREN

1. Definition of Adoption

Adoption is the legal method of establishing the parental relationship between a child and an adult who are not so related by nature.

2. Who May Adopt

An unmarried person of the age of twenty-one years or over, or a husband with his wife's consent, or a wife with her husband's consent, or both husband and wife, may adopt a child. The adoptive parent must, however, be at least ten years older than the child.

3. Procedure to Adopt

Adoption proceedings should not be instituted without the assistance of an attorney.

a. Where proceedings are instituted

Adoption proceedings are instituted in the Orphans' Court of the county where either the adopted child or the adopting parent resides.

b. How proceedings are instituted

A petition is filed with the court. The petition must contain the name, address and age of the child and of the adopting parent; a description of the property that the child possesses; and the names and addresses of the child's parents, if they are known. There must also be filed with the court the written consent to the adoption by the child, if he is over the age of fourteen years; or by the natural parents of the child or by one of them if the other is dead or incapacitated; or by an orphanage or children's home having legal custody of the child or custody by the consent of the parents. If the parents are unknown or if they have abandoned the child, the consent to the adoption is given by some proper person appointed by the court for that purpose.

After petition is filed a date is fixed by the court for the hearing of these proceedings, at which time evidence is produced with reference to the moral character, reputation and financial standing of the applicant. If the court is satisfied that the best interests of the child will be served by adoption, an order of adoption will be entered.

4. Effect of Adoption

After a child has been legally adopted, the natural parents have no further claim upon it. The adopting parents have the right to the care, custody, control, services and earnings of the child. The adopting parents must maintain, educate, support and protect the child. The child takes the name of the adopting parents and is entitled to all rights and obligations of a natural born child of the adopting parents, including the right of inheritance (which is the right to

receive property from a relative who dies without leaving a will). The natural parents have no further claim on the child or his estate after his death but the child may inherit from the natural, as well as from the adoptive, parents.

5. When Adoption is not Valid

It is essential that the procedure for adoption, as outlined above, be strictly complied with, for if it is not, the proceedings may be set aside and declared invalid. There can be no binding adoption unless this procedure is followed.

B. AGE OF MAJORITY OF CHILDREN

As a general rule, majority is attained at twenty-one years of age. The parents are then no longer entitled to the services and earnings of the child.

1. With Reference to Marriage

No girl under the age of eighteen years, nor boy under the age of twenty-one years, will be granted a license to marry in New Jersey unless the written consent of the parents is obtained.

2. With Reference to Wills

A will made by a person under the age of twenty-one years is not valid in this State. However, a person under that age who is married and has a child, may make a will disposing of the custody of the child, provided the other parent consents in writing to the disposition of the child. Nothing else may be disposed of in such a will; it is valid only as to the custody of the child.

3. With Reference to Crimes

A child up to the age of seven years is incapable of having the criminal intent necessary to commit a crime. A child between seven and fourteen years of age is presumed incapable of having criminal intent. However, this presumption may be overcome by proof to the contrary. A child over fourteen years of age is capable of forming a criminal intent. If proof to the contrary exists, it may be produced in his defense when he is charged with a crime.

4. With Reference to Contracts (See page 18.)

C. CHILD LABOR LAWS (See also "Children" under "Labor Laws," pages 93 and 102.)

1. Children May Not Be Employed in Certain Occupations

No child under the age of fourteen years may be employed in a newspaper plant, printery, mill, commercial laundry or place where the printing or manufacturing of goods is carried on, nor in any mine or quarry. The practical interpretation of this law is that a child of fourteen years may not be employed except in agricultural pursuits.

No child under sixteen years of age may be employed or permitted to work in many occupations, among which are: woodworking, building and construction work, occupations where dangerous processes are used or where dangerous dusts or fumes accumulate or where there is excessive heat or cold. The prohibition does not apply to agriculture in any of its forms, but includes all occupations which are of their nature dangerous to the health and physical well-being of the child.

Children who are working as bootblacks or newsboys, or who are engaged in other similar occupations, are not affected by the above provisions unless they are performing the work in the capacity of

employees. Usually the child who is so engaged is "in business for himself" and if that is the case no complaint need be made unless the child is a truant from school or is impairing his health as a result of his occupation. If the child is a truant, the Board of Education should be notified. If he is not a truant but the social worker feels that he should not be allowed to work after school hours, a complaint may be made to the Juvenile Court or to a children's aid society that the child is being neglected or abused.

In some municipalities ordinances are in effect that regulate the conditions under which children may engage in occupations of this kind. The clerk of each municipality will be able to answer inquiries from the social worker on this point.

2. Penalty for Violations

Employers who hire children in violation of the above provisions are subject to a penalty of \$50.00 for the first offense, and for subsequent offenses, a penalty of \$100.00 and the possibility of having the place of employment declared a disorderly house and closed. In the latter event, the owner may be subject to a fine of \$1,000. or to three years imprisonment, or to both.

3. Working Papers (Age and Schooling Certificate)

No person shall employ a child under sixteen years of age, unless that child produces for the employer an Age and Schooling Certificate. (See Working Papers, page 31.) An employer who violates this provision shall be subject to a fine.

4. Hours of Labor for Children

No child under sixteen years of age is permitted to work more than eight hours a day or forty-eight hours a week. When attending continuation school, a child is not permitted to work more than forty-two hours a week. Children must not be employed after 7 P. M., before 7 A. M., nor on Sunday.

5. To Whom Complaints Should Be Made

Violations of the above regulations with reference to hours of labor for children, character of labor, etc., should be reported to the Bureau of Women and Children, Department of Labor, Trenton, New Jersey.

D. CHILDREN'S CONTRACTS

A contract made by a person under twenty-one years of age is voidable at his option, except when the contract is for necessities, such as food, clothing, medical care, etc., furnished to him at his own request.

In other words, a contract made by a minor, for anything other than necessities, may be disaffirmed by him. Such a contract is valid and binding until disaffirmed by an act of the minor. If, upon arriving at the age of twenty-one, he affirms the contract in any way, it is no longer voidable but valid and binding.

A person under the age of twenty-one will not be permitted to disaffirm the contracts made by him when, by falsely representing himself to be over twenty-one years of age, he induces another to enter into a contract with him by which he obtains a benefit, which benefit is retained.

E. CHILDREN'S COURTS

(See Family Court and Juvenile and Domestic Relations Court under "Courts," pages 46, 47.)

F. CHILDREN'S WORK AND WAGES

1. The Minor Child

The father and mother of a minor child are equally entitled to the services of their child. If their child works for anyone else, the father and mother are entitled to his wages.

2. The Emancipated Child

A child is considered emancipated when the parent leaves him to act on his own responsibility and in accordance with his own desires and pleasures with the same independence as though he had attained his majority. The parents of an emancipated child are not entitled to his services and earnings. There is no fixed rule in deciding whether or not a child has been emancipated. Consideration should be given to all the circumstances surrounding the relationship of parent and child, such as the age of the child, whether the child is living at home, is working and permitted to retain his wages, etc.

G. CUSTODY OF CHILDREN (See also page 144.)

1. The Rights of Parents to the Custody of Children

The rights of parents to the custody of their children are superior to those of any other person or persons when the parents are fit persons and are able to maintain and support the child properly.

The parents are the natural guardians of their child, their rights being superior to those of any other person or persons. If one parent is dead or unfit, then the other parent is considered the natural guardian. The child's welfare is, however, the determining factor in all cases which reach the courts. When a divorce is granted or pending, the rights of the parents to the custody of the child, in the absence of misconduct on the part of either, are equal. The wishes of the child are also considered and the decision of the court is based on what is considered best for the child.

The parents, by agreement, may give the custody of their child to a person, institution, or agency, but the agreement may be changed or voided by the court or may be retracted at any time by the parents.

When a child has been illegally taken away, the parent may regain custody by a Writ of Habeas Corpus. A Writ of Habeas Corpus is an order issued by the court directing the custodian of a person to produce that person in court for the purpose of determining the legality of the custody.

2. When Custody Will Be Taken from the Parent or Custodian

The child may be taken from the custody of his parents or custodian when the parents or custodian:

- a. Are grossly immoral or unfit to be trusted with the care and education of the child;
- b. Neglect to protect, maintain and educate the child;
- c. Are of such vicious, careless or dissolute habits as to make the child liable to become a public charge;
- d. Are guilty of abuse, abandonment, or cruelty to the child.

(Compiled Statutes of New Jersey, page 211.)

3. How Custody of a Child May Be Taken from the Parents

When the parent or custodian has been convicted of a criminal act against the child, proceedings to take the custody away from the parent or custodian are instituted in the Orphans' Court and the Surrogate of the County will supply full particulars as to the institution and conduct of the proceedings.

A person, private agency or institution, interested in the welfare of the child, may petition the Chancellor, a Justice of the New Jersey Supreme Court or a judge in the county in which the child resides, to take the child from the custody of his parent, parents or custodian.

The complaint is made to the clerk of the Juvenile and Domestic Relations Court. The judge of that court then summons the parent, parents or custodian to appear at the court for a hearing. The complainant should be present with all the witnesses necessary to prove that the defendant is an improper or unfit custodian. (These witnesses will be summoned by the court if they will not appear voluntarily.) If the facts disclosed at the hearing warrant, the court may grant the custody of the child to another person or institution until the child has attained the age of eighteen years, or pending further disposition by the court.

When a social worker comes in contact with a case of this kind, the matter should be referred to the case supervisor who should do one of two things:

- a. If there is a children's agency in the locality, the matter should be referred to it to make a study of the situation, and if necessary, to institute the court proceedings.
 - b. If there is no local children's agency, the supervisor or someone designated by the supervisor may bring the matter up for a hearing before the court.
4. Restoration of Custody of Child to Parent or Custodian
- The court may restore the custody of a child to the parent or custodian when sufficient proof is produced that he has become a fit person for the custody of the child.
5. When Parents Are Dead or Desert and Abandon the Child (See page 22.)

The State is considered the guardian of all the children residing therein. Through its agencies, the courts, the State may place the child in the custody of the person or institution who will best serve the interests of the child and the welfare of the State. The State may take the child from the custody of an institution or a person to whom it was committed and transfer the child to another, when the welfare of the child so demands.

H. DELINQUENT CHILDREN

1. Legal Definition

A delinquent child is one under sixteen years of age, who shall

- a. Violate a penal law or municipal ordinance;
- b. Commit an act for which he could be prosecuted criminally;
- c. Be a disorderly person or habitual vagrant;
- d. Be incorrigible or immoral;
- e. Knowingly associate with thieves or vicious or immoral persons;
- f. Be growing up in idleness or crime;
- g. Knowingly visit gambling places or other places, the admission to which, constitutes a crime;
- h. Idly roam the streets at night;
- i. Be a habitual truant from school;
- j. So deport himself as to endanger his own morals, health or general welfare.

2. Agencies for the Correction of Delinquent Children

a. Juvenile and Domestic Relations Court

A complaint may be made to the clerk of this court by anyone to the effect that the child is delinquent. Prior to the hearing, the court may direct that the Probation Office investigate the facts of the case, including the child's habits, background and environment. The court may also direct that a physical and mental examination of the child be conducted. When all these data are prepared, the court summons the child and the parents for a hearing. The hearing is not open to the public and only those interested in the case are permitted to be present. It is conducted by the judge without a jury. Evidence is taken and the judge decides whether or not the charge has been proven. If the child is found to be delinquent, the court may place him on probation upon the terms it deems will best serve the interest of the child, or it may commit the child to a public institution maintained by the city, county or State for the care, custody, instruction and reform of juvenile offenders, or to a private institution authorized by law or to the care, custody and control of the State Board of Children's Guardians.

b. Institutions for Delinquent Children (See page 83.)

I. DEPENDENT, ABANDONED AND NEGLECTED CHILDREN

1. Children's Aid Societies

There are several private children's aid and protective societies in this State which have been organized to assist whenever a problem arises which concerns the welfare of a child.

Quite frequently, the courts commit children to the custody of these agencies and, on other occasions, the agencies are called in to see that children are protected, aided or placed in foster homes.

Dependent children are generally committed to the care of the State Board of Children's Guardians, but occasionally, such children are not eligible for care from the Board because they lack legal settlement. When this is the case, a children's agency or family agency in the locality may be asked to assist in placement, care or treatment. The court cannot order payment for children who become a charge on the agency accepting the commitment.

2. State Board of Children's Guardians

a. Mothers with children in their homes (Home Life Act)

(1) Eligibility requirements

A mother, step-mother or woman who takes the place of a parent, with children under the age of sixteen years whom she is unable to support, is eligible to receive assistance if:

- (a) She is a widow;
- (b) Her husband is under indictment for desertion and has been missing for more than one year from the date of desertion;
- (c) Her husband is in a penal institution serving a sentence which will not expire for a year or more after the filing of the petition;
- (d) Her husband requires prolonged treatment in an institution or at home and his physical or mental illness makes support impossible.

If the mother applies for assistance, she must have a five-

year settlement in a county of New Jersey which she has not lost by a removal from this State and absence for a period of one year or more.

However, if the children are living with some person who takes the place of the parent, eligibility is based upon the legal settlement of the child rather than of the person who makes the application. That settlement may be either derivative or acquired by the child by means of residence.

The applicant must be physically, mentally and morally fit to care for the children, and there must be no legally responsible relative financially able to support them. (Chap. 263, P. L. 1932.)

(2) Application for aid, and procedure

A form of petition for aid may be secured from the office of the county clerk of each county or from the local office of the State Board of Children's Guardians. It should be filled out and witnessed before a notary public and returned to either of the above offices. The State Board of Children's Guardians then investigates the case and reports its findings to the court. A hearing is conducted at which the mother is required to be present and may be questioned by the court.

The court may grant an amount for the support of each child under sixteen, who is then placed under the supervision of the State Board of Children's Guardians. The child, although under the supervision of the State Board of Children's Guardians, still remains in the custody of the mother.

(3) Discontinuance of aid

Aid may be discontinued when:

- (a) The family income is increased so that no further aid is necessary;
- (b) The father recovers his health;
- (c) The mother is not caring properly for the child;
- (d) The child becomes sixteen years of age;
- (e) The father returns from the penitentiary.

A child may be discharged from the supervision and care of the State Board of Children's Guardians by obtaining an order from the court upon the recommendation of the Board and the County Adjuster.

b. Neglected and dependent children

(1) Eligibility requirements for aid

A dependent, abused, abandoned, neglected or cruelly treated child, who has a county legal settlement and is not entitled to receive aid under the "Home Life Act" is eligible for assistance from the State Board of Children's Guardians.

(2) Application for aid

A petition for the commitment of a child to the State Board of Children's Guardians under the Child Welfare Act (Chap. 263, P. L. 1932) may be secured from the office of the county clerk by any person interested in the welfare of the child. It should be filed with the Juvenile and Domestic Relations Court in the county where the child has legal settlement. The local Overseer of the Poor or the Director of Welfare may also institute the proceedings. (Chap. 265, P. L. 1932.)

The court may commit the child to the custody of the State Board of Children's Guardians upon the recommendation of the Board and the Freeholders of the county, after an investigation has been made. The county is ordered to pay for board, clothing, medical and surgical care, and the child is placed in a foster home or an institution. The guardianship of the child is vested in the State and responsibility for supervision and care remains with the State Board of Children's Guardians until the child comes of age, or economic or social conditions in the home of his parents or relatives permit the return of the child to their custody, or until the child is legally adopted.

J. CRIMES AGAINST CHILDREN

A person who shall abuse, abandon, be cruel to or neglectful of a child, shall be deemed guilty of "cruelty and neglect of children" and upon conviction, may be fined or imprisoned or both. (Chap. 246, P. L. 1915.)

1. Abuse of a Child Consists of:

- a. Disposing of the custody of the child contrary to law;
- b. Employing or permitting a child to be employed in any vocational employment injurious and dangerous to health or morals;
- c. The habitual use by the parent or custodian of profane, indecent, and obscene language within hearing of the child;
- d. The performance of an immoral act in the presence of the child that may endanger or degrade his morals.

2. Abandonment of a Child Consists of:

- a. Wilfully forsaking the child;
- b. Failing to care for and keep control of the child so that he is exposed to physical and moral risks;
- c. Failing to care for the child so that he may become a public charge and require support by private or public agencies.

3. Cruelty to a Child Consists of:

- a. Inflicting severe corporal punishment upon the child;
- b. Inflicting unnecessary pain or suffering, mental or physical, upon the child;
- c. Habitually tormenting, vexing or afflicting the child;
- d. Exposing the child to unnecessary hardships, fatigue or mental or physical strain that tends to injure the health or morals of the child.

4. Neglect of a Child Consists of:

Wrongfully failing to provide proper and sufficient food, clothing, medical attention, education, a clean and proper home, or doing anything which is detrimental to the well-being of the child.

5. Complaints

A complaint may be made by anyone to a society for the prevention of cruelty to children or to a Justice of the Peace, Police Court, Court of Quarter Sessions or Juvenile and Domestic Relations Court, that the child is being neglected or cruelly treated.

Action of the Court in such Matters

The court conducts a hearing and if the parent or guardian is found guilty, the court may place the child in the custody of a children's aid society or other society or suitable person, and direct the of-

fender to pay to the society a certain amount of money each week for the maintenance and support of the child. The court may also direct that the offender put up a bond to secure the performance of its order. In the event the offender fails to comply with these directions, he may be sentenced to jail.

6. Other Crimes Relating to Children

The following is a list of crimes relating to children and where they may be found in the law:

Sodomy	Compiled Stat. of N. J. P. 1759 Sec. 44
Incest	“ “ “ 1760 Sec. 45
Prostitution	“ “ “ 1760 Sec. 47A
Compelled prostitution	“ “ “ 1760 Sec. 47B
Detention in disorderly house	“ “ “ 1761 Sec. 47F
Transportation for prostitut'n	“ “ “ 1761 Sec. 47G
Fornication	“ “ “ 1761 Sec. 48
Intercourse	“ “ “ 1761 Sec. 49&50
Lewdness	“ “ “ 1762 Sec. 51
Sending indecent publications	“ “ “ 1763 Sec. 54
Employing minors for mendicant or immoral purposes	“ “ “ 1763 Sec. 54
Gaming by minors	“ “ “ 1769 Sec. 70B
Children in pool and billiard rooms	“ “ “ 2814 Sec. 43&44
Selling cigarettes and tobacco to children	“ “ “ 2814 Sec. 41&42
Rape	“ “ “ 1783 Sec. —
Rape and carnal abuse	“ “ “ 1782 Sec. —
Abduction and seduction	“ “ “ 1784 Sec. —
Kidnapping, enticing away	“ “ “ 1783 Sec. —
Children in dance halls, Laws of 1911, p. 207	
Children in theaters or moving picture shows. Laws of 1911, p. 207	

Complaints

When one of the above crimes is committed, a complaint should be made to the Prosecutor of the county in which the crime was committed. The matter will then be presented to the grand jury and the same steps will be taken as in any other criminal matter.

K. EDUCATION OF CHILDREN

Free public schools are provided for all persons over five and under twenty years of age, and to persons over the age of twenty years to whom the Board of Education of a school district may deem it wise to offer education.

1. Compulsory Education

Parents and custodians of children between the ages of seven and sixteen must send them to school. The child must attend school during that period unless it is shown to the satisfaction of the Board of Education of the school district that:

- a. The mental condition of the child is such that he will not benefit from the instructions given;
- b. The bodily condition of the child prevents him from attending school;
- c. The child has obtained an Age and Schooling Certificate.

2. Age and Schooling Certificates (See Working Papers, page 31.)

3. Punishment of Child for Failure to Attend School

A child within the age limits set forth above, who is absent repeat-

edly or away from school during school hours, and whose parents are unable to force him to attend school, is a juvenile disorderly person and may be brought before the Juvenile and Domestic Relations Court for treatment.

4. Punishment of Parents for the Failure of Child to Attend School

A parent, having custody of a child within the age limits, who does not compel that child to attend school, is deemed a disorderly person, and a complaint may be made to the Juvenile and Domestic Relations Court of the county where the school is situated. If the parent is found guilty, he may be fined \$5.00 for the first offense and \$25.00 for subsequent offenses.

The parent must also see that the child attends a continuation school after an Age and Schooling Certificate has been granted.

5. Special Schools and Classes

a. Education of deaf children

Every school district may make provisions for the deaf children within its limits and establish special schools and classes or provide home teachers for their education.

Procedure to obtain admission

Application should be made to the Superintendent of Schools for help for a deaf child. A physical examination is conducted and the child is placed in either a classroom or an institution equipped to instruct deaf children.

Occasionally a school district does not have special facilities for instructing deaf children. In that case, arrangements to instruct these children will be made with another school district equipped with the proper facilities. The school district where the child resides will make the necessary arrangements for transportation, etc.

b. Education of blind children

Same procedure as in case of deaf children

c. Education of crippled children

The Board of Education may provide equipment and facilities for transportation, accommodation, care, physical restoration and instruction of crippled children of school age who cannot be accommodated in the regularly provided classes.

The procedure to obtain instruction for crippled children is the same as outlined in case of deaf children.

d. Industrial training for Negro youth

A Manual Training School for Colored Youth, located at Borden-town, is supervised by the State Board of Education and is part of the State school system. Students are required to live at the school, which aims to provide education of high school grade, and to give each graduate proficiency in one of the trades taught. This institution is educational, not correctional or charitable. Tuition is free but a charge is made to cover living expenses at the school. Inquiries concerning the school should be addressed to the principal.

6. Special Schools for Dependent and Delinquent Children

The Board of Education of a school district may establish schools for the purpose of instructing and caring for delinquent and dependent children. These schools receive dependent and delinquent children under sixteen years of age who are habitual truants or

habitually insubordinate, incorrigible or disorderly during their continuance at school, and who are committed to a special school by the court.

A child under sixteen years of age, charged with a crime other than murder or manslaughter, may be held at such a school pending final disposition of his case by the court. After the child has been committed to the school, the court may direct that he be delivered to his parents, upon recommendation by the Board of Education that his conduct has improved. To ascertain whether or not provisions for the education of dependent and delinquent children have been made in a locality, inquiry should be made of the local Board of Education.

7. Vocational Schools

Each county may establish vocational schools, the purpose of which is to prepare children to enter a trade or to obtain proper instruction for an industrial position.

a. Requirements for admission to vocational schools

A child, at least thirteen years of age, residing in the county, who has completed the sixth grade of elementary school, is eligible.

b. Procedure to secure admission

A child, having the foregoing requirements, who desires to enter a vocational school should communicate with the Vocational School Board of Education of his county.

c. Courses for boys given in vocational schools

Provision has been made in vocational schools for the following courses to be given to boys: woodworking, cabinet work, carpenter work, mechanical drafting, electrical work—general and vocational, industrial chemistry, machine shop practice, pattern making, printing, restaurant work, and sheet metal work.

d. Courses for girls given in vocational schools

The following courses are provided for girls in vocational schools: art trades, beauty culture, general clerk, typewriting, cafeteria and tea room work, soda fountain and luncheonette service, tea room management, dressmaking, garment making and dental assistant.

8. Continuation Schools

a. Purpose

These are schools or classes, the purpose of which is to maintain a separate course of study for children who have been granted an Age and Schooling Certificate and who are working on a part time basis.

b. Admission

Application for admission to a continuation school should be made to the Superintendent of the Board of Education of the school district in which the child resides.

9. Schools for Sub-normal Children

a. For whom established

Children whose mental age is three years or more below their chronological age may enter special classes when such classes have been established for them by the Board of Education.

b. Admission

Application for admission to these classes should be made to the

Superintendent of Education of the school district in which the child resides. An examination of the child may be conducted and if the facts warrant, the child may be placed in a special class along with other children so handicapped.

L. GUARDIANSHIP OF CHILDREN

In early days of civilization, and even today, in some parts of the world, the parents were the sole and absolute guardians of their children and could do with them as they saw fit. Today, and in New Jersey, a new concept exists. The State is the guardian of every child within its boundaries and every child is a ward of the State.

What, then, of the general belief that parents are the guardians of children? It is true, but only because the State has so decreed it. Believing that the natural love and affection of parents for children should be sufficient protection for them, the State recognizes the parents as the natural guardians of their children and will not interfere so long as the parents are alive and do not neglect or misuse the children.

For its own protection and that of the child, the State reserves the right to take away the privilege of guardianship from an individual or agency to whom it has been entrusted and to award it to another person or agency. In taking away or granting the right of guardianship, the State acts through its agents, the courts, and the courts which may dispose of the guardianship of children are:

The Court of Chancery
The Surrogate's Court
The Orphans' Court
The Prerogative Court
Juvenile and Domestic Relations Court

NOTE: The term used in the Juvenile Court Act is custody instead of guardianship.

1. What is a Guardian

A guardian of a child is a person or agency, legally entitled to the custody and management of the person or property or both of a child under twenty-one years of age.

Guardianship is divided into two classes: guardianship of the person and guardianship of the property of a person. As previously stated, the parents are the natural guardians of a child until he reaches the age of twenty-one years, but they are not the guardians of the property of their child until they are appointed by the court.

2. Duties of a Guardian and of a Ward

The guardian of the person and property of a child must protect, support, maintain and educate the child and must manage and look after the property of the child. The necessary expenses for support, maintenance, etc., may be taken from the estate of the child. A guardian, unless he is a relative and responsible at law for support of the child, is not legally bound to support the child from his own funds.

The child is obligated to remain with and submit to the wishes of his guardian until a new guardian is appointed or until the child is twenty-one years of age. The guardian, of course, may not act illegally nor require the child to do so.

3. Procedure for Appointment of a Guardian

A person may apply to the Office of the Surrogate of the County in which the child resides or in which his property is situated. That

office will take all the necessary steps and will fill out the necessary papers for the appointment of a guardian.

4. Termination of the Relationship of Guardian and Ward

When the child arrives at the age of fourteen years, he may petition the court for the appointment of a new guardian. If no petition is made, the guardianship continues until the child is twenty-one years of age unless it is terminated sooner by the court or, in the case of a female minor, by marriage.

M. ILLEGITIMATE CHILDREN

1. Definition

A child born of parents not married at the time of his birth is considered an illegitimate child. If the parents subsequently marry, the child then becomes legitimate.

2. Who is Entitled to the Custody of the Child

The mother is entitled to the custody of an illegitimate child, provided she is a fit person.

3. Support of the Child

The child is entitled to support from his mother and father to the same extent as if he were legitimate.

4. Proceedings to Compel Support by Putative Father

When an illegitimate child is likely to become a public charge of the municipality in which he resides, proceedings may be instituted by the Overseer of the Poor to compel the father to support the child. A complaint relating the facts of the case may be made by anyone to the Overseer of the Poor, and an investigation may be made by him. If the investigation shows that the child has become, or is likely to become, a public charge, the Overseer will then make a complaint to the Police Court of the municipality. A warrant will be issued by the court for the arrest of the putative father. A hearing will be conducted and if the court finds the defendant is the father of the child, he will be directed to pay, either to the mother or to the Overseer of the Poor, a specified sum each week for the support of the child. The court will also direct that a bond be filed by the defendant to secure the performance of its order. In the event that the defendant fails to perform the court's order, he may be punished by imprisonment.

Proceedings to compel the father to support the child even though the child is not, or has not become, a public charge, may be instituted by anyone in the Juvenile and Domestic Relations Court or in the Police Court.

5. Compelling the Mother to Support an Illegitimate Child

If the mother fails to support an illegitimate child, a complaint may be made by anyone to the Juvenile and Domestic Relations Court of the county where the mother resides. A notice is then sent by the clerk of the court to the offender, directing her to appear before the court on a certain day. A hearing is conducted by the court, and if the facts warrant it, an order is entered directing the mother to pay a certain amount each week for the support and maintenance of the child. The court may also direct that the mother file a bond to secure the payment of the stipulated weekly sum. In the event the mother fails to perform the court's order, she may be held for contempt of court and punished by fine or imprisonment.

These proceedings may also be instituted in the same manner in the Police Court in the municipality where the mother resides.

When the child is likely to become a public charge or does become a public charge, the above proceedings may be instituted by the Overseer of the Poor of the municipality in which the child resides.

6. Status of Child on Mother's Subsequent Marriage

When marriage of the natural parents occurs, the child becomes legitimized and possesses all the rights of a legitimate child.

7. Birth Certificates of Illegitimate Children

Chapter 104, P. L. 1935 forbids issuing birth certificates revealing illegitimacy of children.

N. INJURIES TO CHILDREN—RIGHT OF ACTION FOR DAMAGES

1. Right of Parents to Recover Damages

When a child has sustained personal injuries by reason of a wrongful or negligent act of another, the parents of the child are entitled to recover damages for the loss of services and earnings of the child, and for medical and other expenses that they have incurred as a result of the injuries sustained by the child.

2. Right of Child to Recover Damages

When a child has sustained an injury by reason of the wrongful or negligent act of another, the child may recover damages for all the personal injuries, permanent or temporary that he has sustained, and for the pain and suffering that he was compelled to endure as a result of the injuries. This money belongs to the child and must be held for him. Before the money can be paid to anyone for the child, that person must be appointed the guardian of the property of the child. This is true even in the case of the natural parents.

O. MENTALLY HANDICAPPED CHILDREN

1. Mental Hygiene Clinics

There are numerous mental hygiene clinics situated throughout the State which administer treatment to mentally handicapped children. These agencies are enumerated in Publication #26 of the State Department of Institutions and Agencies.

2. Institutional Care and Training (See page 86.)

P. PHYSICALLY HANDICAPPED CHILDREN

1. Blind and Visually Handicapped Children

There is established in this State the New Jersey Commission for the Blind at 1060 Broad Street, Newark.

Procedure suggested with Reference to Blind Children

When a social worker comes in contact with such a case, she should immediately report it to the New Jersey Commission for the Blind. Services rendered by State Commission for the Blind

This body, after receiving a report, renders medical attention free of charge to children, sees that the mother or custodian is given proper instructions regarding the training of the child and arranges for his education.

(See also Education of Blind Children, page 10.)

2. Crippled Children

There is established in New Jersey, a State Commission for the care of crippled children. The office of the Commission is in Trenton.

Procedure suggested with Reference to Crippled Children

When the social worker comes in contact with a crippled child, she should communicate with the State Crippled Children's Commission at Trenton and report the case to them. The Commission will investigate the matter and see that proper arrangements are made for the care and education of the child.

The State Rehabilitation Commission, located at 1060 Broad Street, Newark, cooperates with the State Crippled Children's Commission by assisting the physically handicapped to become self-sustaining.

Institutions and Agencies for Aiding Crippled Children

There are numerous private and public organizations and institutions that render aid and assistance to crippled children. These agencies and institutions may be reached through the State Crippled Children's Commission at Trenton.

3. Tubercular Children

There are various agencies established throughout the State to aid tubercular children.

Suggested Procedure

The social worker should immediately report such a case to the County Tuberculosis League or to the New Jersey Tuberculosis League, located at Newark.

Arrangements will be made to have a nurse take the child to a proper clinic for an examination and the necessary treatment and education.

Q. SUPPORT OF CHILDREN

1. Legitimate Children

Both father and mother are obligated to support, educate and maintain their child until he attains the age of majority or is emancipated. The primary obligation is that of the father. However, if the father is unable to support the child, and the mother has sufficient funds, she is obligated to support the child. The grandparents, when they are financially able to provide it, are also legally responsible for the support of their descendants.

Enforcement of Duty to Support

a. Juvenile and Domestic Relations Court

A complaint may be made by anyone to this court to the effect that either parent has failed to support the child. The parent is notified to appear before the court on a certain day. A hearing is conducted by the court and if the facts warrant, an order will be issued by the court directing that the parent pay a certain stipulated sum each week for the support and maintenance of the child or children. The court may also direct that the offender put up a bond to secure the performance of its decree. In the event that the offender fails to perform the court's order, he may be held in contempt of court and punished by fine or imprisonment.

b. Police Court

The same proceedings may be instituted in the Police Court of the municipality in which the persons reside.

Proceedings to compel support may be instituted by the Overseer of the Poor when the child or children are likely to become, or have become, public charges of the municipality in which they reside.

2. Illegitimate Children (See pages 28, 29.)

3. Step-children

The natural parent of a child is under the duty to support, maintain, educate and care for him until the child attains the age of majority, or until he is emancipated. The step-parent, however, is not under any legal obligation to support a step-child.

R. SUPPORT OF PARENTS BY CHILDREN

The children or grandchildren of an old, poor, blind, lame or impotent person or other poor person not able to work, if they are of sufficient financial ability, are under a duty to support and maintain the parent or grandparent.

Enforcement of Duty to Support

1. To Whom Complaints Are Made

The Overseer of the Poor or two residents of the municipality or county where the poor person has a legal residence, may make a complaint either to the Family Court of the municipality, District Criminal Court, Juvenile and Domestic Relations Court or Court of Common Pleas of the county in which the poor person has a legal settlement when this duty is not performed.

2. Court Action

The offender or offenders are brought before the court and a hearing is conducted. The court then decrees which person or persons should support the poor parents and the amount to be paid for their support and maintenance. A person failing to perform the decree of the court for support, may be punished for contempt of court by fine or imprisonment.

3. Proceedings to Enforce the Decree of the Court

Upon the failure of a person to perform the decree of the court, a complaint setting forth the facts of the case is made to that court. The offender is directed to appear before the court and a hearing is conducted. If the facts of the complaint are substantiated, the court will adjudge the offender guilty of contempt, and will punish him accordingly.

S. VACCINATION OF CHILDREN

When children are enrolled in school by the proper officer, inquiry will be made as to the number who are unvaccinated. If the parents of the unvaccinated children desire them to be protected from smallpox, but are unable to pay for the vaccination, the Board of Education or the trustees of the school district may give the children permits to appear at the office of a physician in the district or municipality to be vaccinated at the expense of the municipality. The sum of 50c may be paid by the municipality for each vaccination.

T. WORKING PAPERS FOR CHILDREN

This is a certificate granted by a Supervisor of School Exemption Certificates in large school districts, or by the Superintendent of Schools in small school districts. The certificate authorizes the holder to cease attending school and permits him to take employment in some occupation lawful for children under sixteen years of age.

Procedure to Obtain Working Papers

Application may be made in behalf of a child of fourteen years of age by the parent, guardian or custodian of the child. Proof must be sub-

mitted that the child is at least fourteen years of age; has attended school for 130 days during the previous year; can read, write and spell, and has completed the equivalent of the sixth elementary class; is physically able to work.

If the Supervisor is satisfied with the proof submitted, he will issue a certificate. This certificate, however, may be revoked at any time. Children under the age of sixteen years who are granted such a certificate must attend a continuation school for six hours each week for at least thirty-six weeks in each year until they attain the age of sixteen.

An employer is not permitted to hire or employ a child under the age of sixteen unless he is satisfied that a School Exemption certificate has been issued to the child. If the employer fails to observe this provision, he may be subjected to a fine.

V

CITIZENSHIP

What is citizenship? This question has been answered by the Supreme Court of the United States as follows:

“There cannot be a nation without a people. The very idea of a political community, such as a nation is, implies an association of persons for the promotion of their general welfare. Each one of the persons associated becomes a member of the nation formed by the association. He owes it allegiance and is entitled to its protection. Allegiance and protection are, in this connection, reciprocal obligations. The one is a compensation for the other; allegiance for protection and protection for allegiance.

“—The object is to designate by a title the person and the relation he bears to the Nation. —Citizenship is now more commonly employed, however, as it has been considered better suited to the description of one living under a republican government, and it was adopted by nearly all the States upon separation from Great Britain and was, afterwards, adopted in the Articles of Confederation and in the Constitution of the United States.”

Prior to the adoption of the Declaration of Independence, the inhabitants of the various Colonies were British subjects. Immediately upon the adoption of the Declaration, the inhabitants of the Colonies became citizens of a new State. There was no United States citizenship at that time nor was national citizenship created or organized by the Articles of Confederation. State citizenship was, therefore, the older of the dual citizenships existing in this country.

National or United States citizenship was first created by and upon the adoption of the Federal Constitution. “Every person, and every class and description of person, who were, at the time of the adoption of the Constitution, recognized as citizens in the several States, became citizens of this new political body.” The Fourteenth Amendment to the Constitution and the Acts of Congress passed pursuant to the authority granted by Article 1, Section 8 of the Constitution, have fixed citizenship status and requirements in this country.

A. CITIZENSHIP OF THE UNITED STATES

The Fourteenth Amendment to the Federal Constitution, declared in force July 21, 1868, provides, in Section 1:

“That all persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

This Amendment was adopted after the Civil War to include all native and naturalized persons in the United States. After other territory had been secured, additional laws were passed, so that today the same citizenship privileges extend to the people in Porto Rico, the Virgin Islands, Hawaii and Alaska. In 1920, the right of suffrage was extended by the Nineteenth Amendment to include all United States citizens without regard to sex.

1. Acquisition of Citizenship, By:

a. Birth

- (1) All persons, including American Indians, who are born in

the United States and who are not subject to any foreign power, are citizens of the United States.

- (2) A foreign-born child, born before May 24, 1934, whose father was a citizen.
- (3) A foreign-born child, born after May 24, 1934, either of whose parents were citizens.

However, a child in the third class who never resided in the United States is a citizen only if the citizen parent resided in the United States prior to the birth of the child.

ILLUSTRATION

A and B, husband and wife, are citizens of the United States, residing in X, a foreign country. A child, C, is born to them. C continues to reside with his parents in X country and, by virtue of their citizenship, he, too, is a citizen of the United States. C marries W in the foreign country and a child, D, is born. Though C is a citizen, D is not and must be naturalized to become one.

Rights of citizenship shall not descend to a child born abroad of one alien parent, unless the child has resided in the United States five years prior to his eighteenth birthday and has, within six months after his twenty-first birthday, taken the Oath of Allegiance. Although such a child is a citizen at birth, his citizenship will terminate upon failure either to observe the requirements of residence or to take the Oath of Allegiance.

b. Naturalization

(1) Those eligible

- (a) Naturalization is specifically restricted to members of the white and African (Negro) races, except in the case of Filipinos performing certain services in the Philippine Constabulary.
- (b) There are special provisions, affecting certain Filipinos, Porto Ricans and alien seamen who have been serving upon ships of American registry for a length of time, aliens who enlist in the regular military establishment and other miscellaneous groups, which permit them to become citizens under modified regulations. Special situations should be taken up individually with the proper authorities as indicated elsewhere in this manual.
- (c) A person born in the United States, who had established permanent residence in a foreign country prior to January 1, 1917, and had become a citizen of the foreign country, may be naturalized upon compliance with the naturalization law, provided that he is eligible for citizenship and that he was admitted to the United States for permanent residence prior to March 3, 1931. In such a case, the five-year period of residence is not required. The Declaration of Intention may be made at any time after admission to the United States and the petition for citizenship may be filed after six months. The petition may be heard immediately provided the certificate of examination by a naturalization examiner has been filed with the clerk of the United States District Court at the time the petition for citizenship was filed.

- (d) An alien who marries a citizen after May 24, 1934, or an alien whose husband or wife is naturalized after May 24, 1934, does not become a citizen by reason of that marriage or naturalization, but if eligible, may be naturalized in accordance with the naturalization laws, except that a Declaration of Intention is not necessary and only three years' residence in the United States, Porto Rico, Hawaii or Alaska is required. The petition, of course, must be filed in the county court or the United States court having jurisdiction over the alien.
- (2) Those not eligible
- (a) Naturalization is denied to those who disbelieve in or are opposed to organized government, who belong to an organization opposed to organized government, who advocate the removal of governmental officials by force, assault or murder, or who are polygamists or approve the practice of polygamy.
 - (b) Naturalization is also denied to aliens who, being physically able, cannot speak the English language. Applicants are required to show a sufficient knowledge of American laws and customs to enable them to become useful citizens.

The United States Supreme Court has held that the burden of proving eligibility for naturalization is upon the applicant, and in a doubtful case, the benefit of doubt is in favor of the Government and against the alien.

In the case of *Rosika Schwimmer*, which was decided by the United States Supreme Court on May 27, 1929 (49 S. Ct. 448), it was held that naturalization law puts the burden upon every applicant to show by satisfactory evidence that he has the specified qualifications; that the views of applicants concerning their willingness to discharge the duty of bearing arms in defense of the United States, its Constitution and laws, may not be disregarded; that their opinions and beliefs, as well as their behavior, are subjects of inquiry under the statutory provisions governing naturalization and are of vital importance; and that when doubt exists as to any essential matter of fact, the United States is entitled to the benefit of the doubt and the applicant should be denied citizenship.

2. Jurisdiction in Naturalization Matters

Jurisdiction in naturalization matters is vested in the United States District courts and also in certain State courts. In New Jersey, the local naturalization court is the Court of Common Pleas, a county court which holds sessions in each county seat. The office of the clerk of the Federal District Court, of the Federal Naturalization Administration or of the county clerk may be consulted for information regarding naturalization matters. The Federal District Court Clerk's offices are in Trenton and Newark, and the office of the county clerk is at the county seat. The office of the Divisional Director in charge of naturalization and immigration matters for the twelve northern counties of New Jersey is located in the Post Office Building at Newark. The other nine counties are under the supervision of the District Director, located in the Post Office Building, Philadelphia, Pennsylvania.

3. Procedure to Become a Naturalized Citizen

a. First steps

The initial step in the proceedings for naturalization, which may be taken as soon as the alien has made an official entry into the United States, is to file an application for a Certificate of Arrival (if arrival was subsequent to June 2, 1906) and to fill out a preliminary form containing descriptive facts to be inserted into the alien's Declaration of Intention. (Naturalization Form A-2213.)

This form may be obtained from the local county clerk's office or directly from the naturalization office having supervision of the county. When filled out in accordance with the instructions printed thereon, the application form (A-2213) and two photographs 2 x 2 inches in size, (if the arrival was subsequent to July 29, 1906) with a Post Office Money Order in the sum of \$2.50 is mailed to the officer whose address is shown on the form. After the necessary Certificate of Arrival has been obtained, the applicant will be notified when and where to appear to make out the Declaration of Intention. The fee of \$2.50 is paid to the clerk of the court where the Declaration of Intention is made out. The cost for both the Certificate of Arrival and the Declaration of Intention is \$5.00. A Declaration of Intention cannot be made until the alien has reached the age of eighteen years.

b. Final steps.

The second and final step in the citizenship procedure is the "Petition for Citizenship." An alien cannot apply for the petition until he has resided within the United States continuously for at least five years immediately preceding the date on which his petition is filed. However, an alien may reside outside the country for not more than six months during the five-year period on a permit secured from the Department of Labor. This time may be extended for another six months on application to an American Consul, but an absence of one year breaks the continuity of the five-year period.

The applicant must have lived for the last six months of the five-year period in the county from which the application is filed. The petition must be filed within seven years after the first papers are taken out.

The facts concerning the applicant's residence in other parts of the country are customarily proven by depositions or affidavits secured by naturalization agents in those places.

The applicant should go to the clerk of the United States District Court at Newark or Trenton or to the county clerk and secure the proper form which contains full instructions regarding the procedure to be followed. The petitions contain fairly elaborate information about the alien, the present place of residence, date, place and manner of arrival, etc. A charge of \$5.00 is made for filing the Petition for Citizenship.

4. Procedure in Courts of Jurisdiction

Under regulations in force since 1926, there is a difference between the procedure in naturalization cases in the United States courts and the procedure in State courts.

a. State courts

After a period of at least ninety days from the time of filing the petition, the applicant is notified by the clerk of the court in which his petition is pending, to appear with his witnesses for

final hearing. The judge may, and usually does, examine the applicant to ascertain that he is able to speak, read and write English; that he is familiar with the fundamental facts concerning the history, Constitution and government of the United States; that he is not an anarchist or polygamist; that he believes in the principles of our government; and that he is of good moral character and qualified in every way to be admitted to citizenship.

The witnesses are examined to secure corroboration of the information contained in the applicant's petition and the facts disclosed in the examination. If the witness cannot appear, the applicant should report the fact to the county clerk or the clerk of the United States District Court at once. Arrangements will then be made to have the case continued until substitute witnesses can be secured.

In the event that the judge is not satisfied on any point involved at the hearing, he may order the case adjourned to have the matter investigated or to permit the applicant to become better prepared for the examination. Otherwise, if the applicant does not measure up to the requirements of the law, the judge may deny the petition.

b. Federal courts

In the Federal courts, certain examiners connected with the Naturalization Bureau are designated to conduct a preliminary hearing. The applicant and the witnesses are notified to appear before the naturalization officer for examination. After the examination, this officer will recommend to the court that the petitioner be granted citizenship, or that the petition be continued or that it be denied. In case it is recommended that the petition be granted, the applicant will receive another notice to appear before the judge to take the Oath of Allegiance. This time the witnesses do not have to be present and all that takes place, except for possible questioning by the judge, who may want to satisfy himself on the applicant's information or desirability, is the administering of the Oath of Allegiance.

After the final hearing by the court, concluding with the Oath of Allegiance, the applicant has completed the naturalization proceedings and will receive a Certificate of Citizenship by mail, or a notification to call for it at the clerk's office as soon as it can be made out. This certificate is of vital importance to a new citizen and should always be kept in a safe place where it can be secured if necessary. The alien should have it with him when he goes to the voting district to register for the first time.

5. Rules and Regulations Applying to Women

a. **A native-born citizen.** Since September 22, 1922, a native-born woman citizen does not lose her citizenship because of marriage to an alien unless she makes a formal renunciation of it.

b. **A native-born citizen** who lost her citizenship by marriage prior to September 22, 1922, either because of residence abroad or by marriage to an ineligible alien, may regain it by naturalization if she is still eligible (and not a citizen of another country by her own affirmative act). She has the following advantages:

- (1) She needs no Declaration of Intention, no Certificate of Arrival and no residence in the country or county.
- (2) She does not need to declare her intention to be a permanent resident.

- (3) Her petition may be filed in any naturalization court.
 - (4) She may be examined by a naturalization examiner who will attach to her petition a certificate of examination and her application may be heard at any time subsequent to the filing of the examiner's certificate.
- c. **A native-born citizen** may make a formal renunciation of United States citizenship upon her marriage to an alien. This can be done before a naturalization court but cannot be made in time of war, or it becomes void if war is declared within one year after the renunciation is made.
 - d. **A native-born citizen** who has lost her citizenship by marriage shall not be denied naturalization on account of her race.
 - e. **A former American citizen** who acquired her United States citizenship status by reason of her marriage to a citizen and who has since lost her citizenship, cannot be naturalized under Section 2-b above, but must follow the regular procedure.
 - f. **An alien woman** who married or marries a citizen subsequent to September 22, 1922, did not or does not become a citizen of the United States by reason of that marriage, but if eligible to citizenship, she may be naturalized in compliance with the formal naturalization regulations, except that:
 - (1) No Declaration of Intention is required;
 - (2) Only three years continuous residence in the United States, Hawaii, Alaska, or Porto Rico is required.
 - g. **An alien woman** who married a citizen prior to September 22, 1922, became a citizen by reason of that marriage.
 - h. **An alien woman** whose husband became or becomes a naturalized citizen after September 22, 1922, did not or does not become an American citizen by virtue of his naturalization but may be naturalized as indicated in Section f above.
 - i. **An alien woman** whose husband became a citizen prior to September 22, 1922, became an American citizen by virtue of her husband's naturalization.
 - j. **An alien woman** who has the necessary qualifications for citizenship may become naturalized regardless of the fact that her husband is ineligible for citizenship.
 - k. **An unmarried alien woman**, if eligible, must follow the regular naturalization procedure.
 - l. **The widow of an alien** who filed a Declaration of Intention, but died before securing his final papers, may become naturalized by completing the necessary requirements without filing another Declaration of Intention.
6. **Rules and Regulations Applying to Children**
 - a. **Native-born children**

All children born in the United States or its possessions, (Alaska, Hawaii and Porto Rico), of parents not temporarily resident, are United States citizens regardless of the citizenship of their parents.
 - b. **Foreign-born children**
 - (1) A child born abroad after May 24, 1934, whose father or mother, or both, are United States citizens, is declared to be a citizen of the United States provided that the citizen parent had resided in the United States previously to the birth of the child. A child born abroad prior to May 24, 1934, is a

citizen if the father was, but the citizen father must have resided in the United States prior to the birth of the child.

- (2) When both parents are citizens, their child, born abroad and residing abroad, who desires to maintain a United States citizenship status, must appear before the United States Consul and file a declaration that he intends to become a resident of the United States and to remain a citizen thereof. Upon attaining his majority, he must take the Oath of Allegiance.
- (3) When one parent is an alien, a foreign-born child is not entitled to the rights of citizenship unless he resides in the United States continuously for at least five years immediately preceding his eighteenth birthday and takes the Oath of Allegiance within six months after his twenty-first birthday.
- (4) When both parents are aliens, a child born in a foreign country, shall be deemed a citizen if and when the father becomes a naturalized citizen or resumes American citizenship during the minority of the child; but the child's citizenship does not begin until he has taken up permanent residence in the United States.
- (5) When both parents are living, the child does not acquire citizenship by reason of the naturalization of the mother unless the parents are separated and the mother has legal custody of the child. The child becomes a citizen by reason of the naturalization of the mother if the father is dead.

7. Fees for Customary Papers and Services

The fees for papers and services necessary in naturalization proceedings, established April 19, 1934, are as follows:

Declaration of Intention.....	\$ 2.50
Petition for Citizenship.....	5.00
Certificate of Arrival.....	2.50
New Declaration of Intention or Certificate in lieu of one lost, mutilated or destroyed.....	1.00
(No charge to an alien veteran as defined by Section 1, Act of May 26, 1926)	
Certificate of Changed Name.....	5.00
Special Certificate	5.00
Certificate of Derivative Citizenship.....	5.00
Record of Registry.....	10.00

8. Rights and Privileges of Naturalized Citizens

- a. A naturalized citizen has all the rights and privileges guaranteed to citizens by the Constitution and law, with the exception that he may not become President or Vice-President of the United States.
- b. All naturalized citizens while in foreign countries are entitled to the same protection of life and property accorded to native-born citizens. These rights may be enforced by the President to any necessary extent not involving an act of war.
- c. A naturalized citizen has the right to expatriate himself by residing two years in his native country or five years in another foreign state. If he does this, it shall be presumed that he has ceased to be an American citizen but this presumption may be overcome by proof to the contrary. No citizen may expatriate himself when this country is at war nor within one year after a war.
- d. An alien, at the time of filing naturalization petition, may ask the

court to change his name so that his citizenship certificate will be issued in his new name. If the change of name is made at a later date by a special petition to the court in accordance with State law, a certificate of citizenship may be obtained in the new name upon a proper application.

- e. Certificates of citizenship may be cancelled if fraudulently or illegally procured. There are severe penalties laid upon aliens for these offenses and upon others, including naturalization officers or employees, who misuse the power and authority of their office, or aid in securing naturalization papers in violation of the law.
- f. If the necessary naturalization papers or documents are lost, mutilated or destroyed, new ones will be issued upon payment of the proper fee. Special certificates of citizenship for use in foreign countries are also issued by the Commissioner of Immigration and Naturalization. Certificates of citizenship may be issued to persons over twenty-one years of age who derived citizenship through a naturalized parent or husband.

9. Loss of Citizenship

- a. Citizenship may be lost by a naturalized citizen through expatriation, that is, returning to the native country and resuming citizenship, either by actually renouncing American citizenship or by remaining there for two years; by remaining abroad in another foreign country for five years; or by desertion from the military or naval forces of the United States.
- b. Citizenship may be lost by a transfer of allegiance to a foreign government or by a conviction of irregularity in obtaining citizenship.
- c. A citizen, upon marriage to an alien, may formally renounce his United States citizenship before a naturalization court, except in time of war. However, if war is declared within one year after renunciation, the renunciation shall be void.

10. Restoration of Citizenship

There are provisions permitting American citizens who served in the armies of the allies of the United States during the World War and who took the Oath of Allegiance to the country in whose army they served prior to the declaration of war by the United States on April 5, 1917, to apply for repatriation.

Citizenship otherwise lost may be restored by repatriation when not prohibited under the laws and regulations enacted to cover these cases.

11. General Statement Regarding Naturalization

Naturalization is a privilege, not a right. In the discretion of the court, naturalization can be denied an applicant who does not satisfy the court that he has fulfilled the preliminary requirements or is capable of becoming a useful American citizen. The regulations prescribed are framed as the most expeditious method of conducting the necessary proceedings to comply with the legal requirements.

When questions arise in naturalization matters, they should be referred to the clerk of the naturalization court (usually the county clerk) and if he cannot give a satisfactory answer, the Chief Naturalization Officer should be consulted. For the northern district of New Jersey his office is in Newark; for the southern district, in Philadelphia.

Aliens should be discouraged from accepting assistance in obtaining

citizenship papers, unless the assistance is given without charge by a properly qualified agency or individual.

B. CITIZENSHIP OF THE STATE

The second citizenship status is that of State citizenship as distinguished from citizenship of the United States. In each case, a citizen owes allegiance to a particular jurisdiction and is entitled to receive protection from each. State citizenship becomes important because, in some states, provision is made by law that after an alien has filed the Declaration of Intention, he is granted certain rights and privileges. Special privileges under State citizenship apply principally to laws respecting transactions of property.

Permanent residents of the District of Columbia are citizens of the United States but not of a State unless they take affirmative steps to maintain a permanent voting residence in one of the states.

C. RIGHTS AND PRIVILEGES GUARANTEED BY THE CONSTITUTION

1. By and under provisions of the Constitution of the United States, protection is guaranteed in these very important matters:
 - a. Religious freedom;
 - b. Freedom of speech and of the press;
 - c. Enjoyment of life, liberty and assembly and protection of property;
 - d. The right to vote;
 - e. Against unjust taxation;
 - f. Against unlawful arrest, unfair trial or unusual punishment.

D. DUTIES WHICH GO WITH CITIZENSHIP

1. To obey the laws;
2. To exercise the right to vote and participate in the government;
3. To uphold and protect the principles of American government and liberty against all enemies, foreign and domestic.

E. SOURCE OF INFORMATION

The source material for this chapter is found in the "United States Code of Laws, Title 8," "Immigration and Naturalization," and the amendments and supplements to May 24, 1934; and in the pamphlet issued by the United States Department of Labor, entitled "Naturalization, Citizenship and Expatriation Laws" as of January 1, 1932. Reference may also be made to the various treaties and special acts conferring citizenship on the citizens of Alaska, Porto Rico, Hawaii and the Virgin Islands.

VI

CIVIL ACTIONS

A civil action is a legal procedure instituted to adjust money differences, determine and enforce rights and obligations, compel the performance of acts, etc. It is distinguished from a criminal action in that its object is not the punishment of an offender.

A. BEGINNING AN ACTION IN THE COMMON PLEAS, CIRCUIT AND SUPREME COURTS

A civil action is usually started by the issuance of a summons and complaint from a court having jurisdiction over the matter. Jurisdiction of a court is the power to hear and determine a matter and to enforce its decrees. A summons is an order of the court notifying and directing the person being sued (called the defendant) to appear in court and answer the complaint filed by the plaintiff (person who is suing). A complaint is a recital of the facts upon which the plaintiff bases his claim. The summons is attached to the complaint and filed with the clerk of the court in which the suit is instituted. The summons and complaint must be served upon the defendant. The defendant has a certain number of days after he has been served with the papers, within which to file an answer to the complaint.

In District and Small Cause courts, the procedure to begin an action is practically the same as in the above courts, with the following exceptions: the complaint is called the State of Demand, the date for appearance is specified in the summons and no formal written answer to the claim of the plaintiff is filed with the court.

B. WHAT HAPPENS WHEN THE DEFENDANT DOES NOT ANSWER SUIT

If the defendant fails to answer the complaint within the time prescribed by law, the plaintiff may proceed with the case and obtain a judgment by default against the defendant. If a judgment is obtained by the plaintiff against the defendant, the plaintiff may obtain an execution. This is an order of the court to the sheriff or the constable to take the property of the defendant and sell it in order to raise enough money to pay the amount of the judgment and the costs. A judgment is enforceable for twenty years after it has been entered by the court and it may be renewed for another twenty years.

C. TRIAL OF CASES IN DISTRICT OR SMALL CAUSE COURTS

When a person has been served with papers from either the District or Small Cause courts, he should note the date set for him to appear in court. On that date, he should go to the court and listen carefully for the name of his case to be called. When the case is called, he should advise the court that he is present. The court will then instruct the defendant whether the case will be tried on that day or adjourned. The trial of the case in either of the above courts is usually conducted by the judge without a jury unless one is demanded in writing by either the plaintiff or the defendant. When the case is called for trial, each party presents his side of the controversy, and substantiates his version by witnesses, if he has any. The judge then renders a decision based upon an application of the law to the evidence presented to him.

D. TRIAL OF CASES IN COMMON PLEAS, CIRCUIT AND SUPREME COURTS

When a defendant is served with a summons and complaint from either of the above courts, he should immediately obtain the services of a reputable attorney. The defendant has twenty days from the date when he was served with the summons and complaint to file his answer. After an answer has been filed, steps will be taken by the plaintiff to have the case placed upon the court calendar. The trial of these cases is conducted before a judge and a jury. Each party presents his version of the case and produces his witnesses. At the conclusion of the case, the court instructs the jury regarding the law with reference to the particular case before it. The jury then retires and decides the case, applying the law as outlined by the judge to the facts of the case as brought out at the trial.

E. JUDGMENT

In the event that a judgment is entered against the defendant, he must pay the amount of the judgment plus the cost of the court proceedings. If he fails to pay, the plaintiff may bring about the collection of the judgment by having the defendant's property sold at a public sale and the proceeds applied to the payment of the judgment.

F. EXEMPTIONS FROM SALE UNDER JUDGMENT

There are several exemptions which the law allows the debtor against whom a judgment has been obtained. The most important of these, from the viewpoint of the social worker, is the personal property exemption. (See Distress Proceedings, pages 124, 125.)

Although set forth under Distress Proceedings, this exemption applies to all judgments except those for taxes or those which are the result of actions for the purchase price of the goods. There are other exceptions which are too involved to set forth here.

VII

CHARITABLE CORPORATIONS

In New Jersey, five or more persons or a society, association or club desiring to incorporate for social and charitable purposes but not for profit, may do so by filing a certificate of incorporation with the Secretary of State at Trenton.

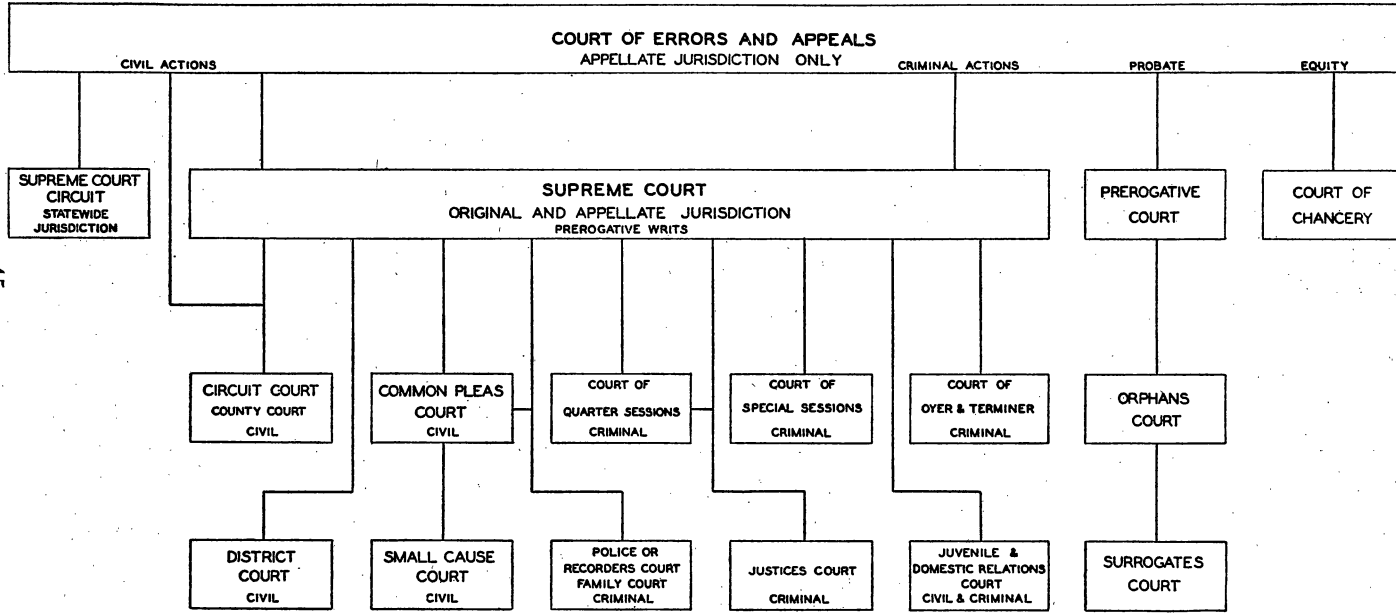
No such group may be incorporated unless it is certified to and approved by the Commissioner of Institutions and Agencies of the State. This provides a means of checking on all charitable organizations, and consequently, is a protection for the public against fraudulent and irresponsible organizations.

A properly organized church or a fraternal association may organize aid societies for the relief and assistance of its members and these aid societies may be incorporated without the approval of the Commissioner of Institutions and Agencies.

COURTS OF NEW JERSEY

NOTE: The lines in the form of arrows represent the course of appeals from the lower to the higher courts.

COURTS OF NEW JERSEY



THE LINES REPRESENT THE COURSE OF APPEALS FROM THE LOWER TO THE HIGHER COURTS

VIII

COURTS

The authority for the security and establishment of courts is found in the Constitution of the United States and in the Constitutions of the several States. The State Constitutions provide that certain courts shall be established and set forth their jurisdiction. They also provide that the legislatures may establish other courts. As to courts established by the Federal Constitution, the legislatures have no power either to abolish them or to impair their jurisdiction. This may be done only by an Amendment to the Constitution. The courts established by State Constitutions are subject to the powers of the legislature and may be abolished or have their jurisdiction impaired or changed.

A. UNITED STATES COURTS

The judicial power of the United States of America is vested in the United States Supreme Court and the inferior courts established by Congress, such as the United States Circuit Court, Court of Appeals, United States District Courts, etc. The judges of these courts are appointed by the President with the advice and consent of Congress. Each holds office during good behavior.

Federal Courts have jurisdiction in criminal and civil cases. They have the power to hear and determine cases involving the following matters: the constitutionality of a law passed by Congress, maritime affairs, controversies between two States, between the United States and a State, between a State and citizens of another State or between citizens of different States, bankruptcy and naturalization matters, etc.

The United States Supreme Court, which consists of one Chief Justice and eight Associate Justices, is the highest court in the United States and its decisions are final. It has original jurisdiction over cases affecting Ambassadors, public ministers and consuls, and cases where a State is involved. It has appellate jurisdiction over matters set forth in the preceding paragraph.

B. NEW JERSEY COURTS

1. Courts with which the Social Worker is Chiefly Concerned
 - a. Juvenile and Domestic Relations Court

This court was established by the Legislature of New Jersey and the major provisions of the Laws relating to it are to be found in Chapter 157, P. L. 1929. In larger counties, a special judge is appointed, but in less populous ones the Common Pleas judge sits as the judge of this court.

- (1) The juvenile division of the court

The purpose of the juvenile division of the court is to protect the interests of the children which are brought within its jurisdiction. When it is necessary for a child to be removed from his own family, the court strives to secure for him care, discipline and custody equivalent to that which should have been given by his parents. It may intervene at any time to save the child from neglect and injury, and to enforce the legal obligations due to and from the child.

This court has jurisdiction over juvenile offenders under sixteen years of age who:

- (a) Violate penal or municipal ordinances,
 - (b) Commit acts or offenses for which they could be prosecuted criminally,
 - (c) Are disorderly persons,
 - (d) Are habitually vagrant,
 - (e) Are incorrigible,
 - (f) Are immoral,
 - (g) Knowingly associate with thieves or vicious or immoral persons,
 - (h) Are growing up in idleness or crime,
 - (i) Knowingly visit gambling places or other places, their admission to which constitutes a violation of the law,
 - (j) Idly roam the streets at night,
 - (k) Are habitual truants from school, and
 - (l) So deport themselves as to endanger their health, morals, or general welfare.
- (2) Procedure when juveniles are involved

Complaints may be made to the court by anyone. Hearings with reference to children are private. They are in the nature of examinations into the social facts which are secured for the judge by social agencies or probation officers. The judge sometimes orders an examination by a competent physician to determine the physical and mental condition of the child. If a child is found to be delinquent, the court endeavors to dispose of the case to the best advantage of the child. The court may place the child under the supervision of the probation department, or in the custody of a proper person, or in a private or charitable institution or home. There is no jury trial in this court. The judgment of this court does not have the effect of a criminal conviction. A child will not at any time be confined with adults charged with or convicted of crime.

(3) Domestic relations division of the court

In cases involving the domestic relation, the court is chiefly concerned with intra-family differences and difficulties, as:

- (a) When one member of a family fails or neglects to satisfy or discharge his legal obligations to another member of the family.
- (b) When there is a dispute arising from the fact that support is not provided or is inadequately provided.
- (c) When there is a family dispute or misunderstanding and a divorce is not possible or not wanted.

In these cases, the court orders that a certain act be done and secures the performance of that act by obtaining a bond from the offender. **EXAMPLE:** A husband or father is ordered by the court to support his wife or children and to put up a bond to guarantee the performance of the court's order. The court also has the power to punish for contempt of court offenders who fail to carry out and perform its orders.

(4) Procedure when a domestic relations problem is involved

A case is brought before the court by means of a complaint or petition filed with the clerk of the court. It may be made by the aggrieved party or by an interested person either on actual knowledge of the facts or on reasonable grounds for belief. A probation officer usually investigates the case for the court and submits a report to the judge. The offender is notified to appear in court. At the hearing an interested social worker will be heard. If the charge is proven to the satisfaction of the court, it may impose the penalty provided by law or suspend sentence and place the offender on probation upon specific terms and conditions. In the case of an adult, the trial may be conducted before a jury, if one is demanded. Generally, the court seeks to arbitrate or adjust family difficulties rather than to mete out punishment. An appeal may be taken from this court to the New Jersey Supreme Court.

b. The Family Court

(1) Jurisdiction of the Family Court

This court has jurisdiction over all cases involving bastardy, non-support, desertion, fornication and adultery, within the city limits where it is established, except that a person charged with fornication or adultery may be tried only if he shall waive, in writing, indictment and trial by jury. It also has jurisdiction over cases affecting care, maintenance, education and neglect of children and crimes against children. However, cases involving desertion, non-support, education and neglect of children and their maintenance, are referred to the Juvenile and Domestic Relations Court unless the city is the complainant through the Overseer of the Poor who will make a complaint when a person has become, or is likely to become, a public charge. This court has recently been given jurisdiction over cases in which relatives are charged with the responsibility of supporting dependents and over lesser crimes over which the police courts would have jurisdiction.

(2) Procedure in Family Court

Complaints are made by the person aggrieved or any interested person to the clerk of the court and the persons are brought before the court for a hearing. The trial is in the nature of an informal examination and is conducted in private. A probation officer or an officer of the department of the Overseer of the Poor usually investigates the cases prior to the trial in order that the court may have the complete social picture. If a social worker is interested in one of these cases, information with reference to the individual concerned, should be given to the clerk of the court in order to aid the judge in making the proper disposition of the case. The court attempts to adjust the matters brought before it rather than to mete out punishment. An appeal from the court may be taken to the Court of Common Pleas in civil cases and to the Court of Quarter Sessions in criminal matters.

2. Criminal Courts

a. Justice of the Peace Court

This is the lowest court with both civil and criminal jurisdiction.

The office of Justice of the Peace is an elective office, and as a general rule, these courts are held only in rural communities. The Justices of the Peace sit as magistrates in summary actions for the recovery of penalties and the imposition of fines under statutes and local ordinances. EXAMPLES: Motor Vehicle Act violations, violations of the Fish and Game Act and other similar statutes may be tried before a Justice of the Peace. A Justice of the Peace may only try and dispose of a case when a minor offense is involved. When a serious offense has been committed, he may send the prisoner to the County Jail or place him under bail and refer the matter to the County Prosecutor for further action. Appeal from this court is to the Court of Quarter Sessions or to the New Jersey Supreme Court.

b. Police and Recorders' Courts

Police and Recorders' Courts are criminal courts established by statute. They have jurisdiction over minor offenses and the violation of ordinances, covering matters not inherently criminal, within the municipality for which they are established. When a person is arrested for the commission of a serious crime, the police judge or recorder may act as a committing magistrate and send the prisoner to the County Jail or place him under bail. The matter is then referred to the county prosecutor for further procedure. When a minor offense has been committed, the police judge or recorder may try the case and either fix the sentence or penalty or dismiss the matter. In a small community, a police judge is known as a recorder. An appeal may be taken from these courts to the Court of Quarter Sessions or to the New Jersey Supreme Court.

c. District Criminal Court

Chapter 204 of the Pamphlet Laws of 1926 provides that the Legislature may create criminal judicial district courts in any county. These courts have concurrent jurisdiction with police courts and Justices of the Peace in the violation of local ordinances and minor offenses. They have exclusive jurisdiction over these cases in the district for which they are established. Thus far, the only courts created under this law are the First and Second Criminal Judicial District Courts of Bergen County, and the First and Second Criminal Judicial District Courts of Passaic County. An appeal may be taken to the New Jersey Supreme Court.

d. Court of Quarter Sessions

This is a criminal court established in each county and presided over by the judge of the Court of Common Pleas and a Justice of the New Jersey Supreme Court. It has jurisdiction over all criminal offenses, except murder and treason, committed within the county where it is established.

e. Court of Special Sessions

This is a criminal court established in each county and presided over by a judge of the Court of Common Pleas. It is in all respects the same as the Court of Quarter Sessions, except that the judge sits without a jury and that the court can try only those persons charged with a crime who waive their constitutional right to be tried by a jury. An appeal may be taken to the New Jersey Supreme Court.

f. Court of Oyer and Terminer

This is a criminal court established in each county and presided

over by a Supreme Court Justice and a Judge of the Court of Common Pleas. It has jurisdiction over all criminal offenses committed within the county in which it is established, but usually only offenses of a serious nature, such as murder, treason, etc., are tried in this court. The trial is conducted with a jury. Appeal may be taken to the New Jersey Supreme Court.

The terms Oyer and Terminer are derived from the old French, brought to England in the eleventh century, and they mean "to hear" and "to decide."

g. New Jersey Supreme Court (See page 51.)

h. Court of Errors and Appeals (See page 51.)

3. Courts for the Trial of Civil Actions

a. Small Cause Courts (Justices' Courts)

The Justices of the Peace have civil as well as criminal jurisdiction. Civil suits involving amounts up to \$200.00, except in cases of replevin, slander, trespass, assault and battery, imprisonment, or actions where the title to land is in question, may be tried in Justice of the Peace Courts. These Small Cause Courts are held by Justices of the Peace in rural communities where no District Court exists. No civil action may be brought in a Small Cause Court of a judicial district where a District Court exists. Appeal may be taken to the Court of Common Pleas.

b. District Court

This is a court created by the Legislature and established throughout the State to hear civil matters involving not more than \$500.00, exclusive of costs, landlord and tenant cases, and other minor actions. Each is presided over by a District Court judge and has county-wide jurisdiction. In landlord and tenant cases, proceedings for the dispossession of tenants must be instituted in the District Court established in the judicial district where the property is situated. This court, however, may not hear cases involving the title to land. Cases are heard by the judge without a jury, but a jury may be had if a written demand is made for it. An appeal may be taken to the New Jersey Supreme Court.

(1) Small Claims Division

Wherever there is a District Court, a Small Claims Division may be established as a part of the District Court, provided the governing body of the municipality or the Board of Freeholders of the county shall so determine.

This court has jurisdiction only in contract actions and when the claim in dispute does not exceed the sum of \$50.00 exclusive of costs. The judge of the District Court is the judge of the Small Claims Division. When a person has such a claim and cannot pay the costs of suit, he may appear before the clerk of the District Court, explain the situation to him and make an affidavit to the effect that he is unable to pay the fees attendant upon the suit. The clerk will then fill out the necessary papers for the institution of suit and will have them served upon the defendant. An early date is set for the trial and the case is heard. If a judgment is rendered in favor of the plaintiff, the court may order that it be paid all at once or in instalments. An appeal may be taken to the New Jersey Supreme Court.

c. Common Pleas Court

There is at least one Common Pleas Court in every county of the

the State. This court is composed of one or more of the judges in each county who are, by reason of their appointment, judges of the Court of Oyer and Terminer, Quarter Sessions, Special Sessions, and of the Orphans' Court. A civil action within the county, not involving the title to land may be instituted in this court. It also hears appeals from the Small Cause courts and Police courts, and, by special authority of the Legislature, may try cases concerning insolvency, roads, wrecks, property of absconding debtors, application for exemption from military duties, suits against constables who neglect to execute warrants, etc. Cases tried in this court are tried before a judge and a jury. It is also the county court for naturalization, where all aliens within the county may appear for final hearing on their Petition for Citizenship. An appeal may be taken to the New Jersey Supreme Court.

d. Circuit Court

The Circuit Court has jurisdiction similar to the Court of Common Pleas, except that it may try all kinds of civil cases within the county. It is presided over in each county by a Circuit Court judge. It has jurisdiction over election contests, mechanics' liens, eminent domain, and the judge of the Circuit Court has the power to try those cases which have been instituted in the New Jersey Supreme Court. Cases tried in the Circuit Court are heard before a jury. An appeal may be taken from this court to the New Jersey Supreme Court or to the Court of Errors and Appeals.

e. New Jersey Supreme Court

This court is composed of a Chief Justice and eight Associate Justices. It has both criminal and civil jurisdiction; both appellate and original. Appellate jurisdiction is the authority to hear and decide cases appealed from lower courts and original jurisdiction is the authority to hear and decide cases for the first time. The Supreme Court is held in each county by a Justice of the Supreme Court or by a Circuit Court judge, appointed by the Justice in his stead. It has jurisdiction over all civil actions throughout the entire State, and has authority to review the proceedings of all inferior courts, both civil and criminal. It has jurisdiction over all inferior courts of law. It does not have original jurisdiction over criminal matters. When it exercises appellate jurisdiction, a single judge may not hold it. An appeal may be taken to the Court of Errors and Appeals.

f. Court of Errors and Appeals

This court is composed of the Chief Justice of the Supreme Court, eight Associate Justices, the Chancellor and six especially appointed judges for whom membership of the bar is not a requisite. The Chancellor is the presiding Justice. This is the highest court in the State and has appellate jurisdiction only. There can be no appeal from its decisions except in cases involving a constitutional question and then appeal is to the United States Supreme Court.

4. Probate Courts

a. Surrogate's Court

This court has jurisdiction over uncontested matters pertaining to wills, appointment of executors and administrators, guardians, etc. If a matter pending before it is contested, the court immediately loses its jurisdiction over the case and the proceedings must be continued in the Orphans' Court.

The Surrogate's Court has county-wide jurisdiction. The Surrogate, who is also the Clerk of the Orphans' Court, hears and decides cases without the aid of a jury. An appeal from this court may be taken to the Orphans' Court.

b. Orphans' Court

This court has county-wide jurisdiction over cases relating to guardianship, adoption, wills, executors, administrators, the recovery of legacies, mental condition of persons in the military, naval or marine service and distribution of estates of deceased persons. The matters are heard by the judge without a jury. The judge of the Court of Common Pleas is the judge of this court. An appeal may be taken to the Prerogative Court.

c. Prerogative Court

This court has jurisdiction over all matters relating to wills, administrators of estates of deceased persons, and hears appeals from the Orphans' Court. The majority of its cases are heard on appeal from the Orphans' Court. The Prerogative Court is presided over by the Chancellor, who is called the Ordinary while hearing a matter in this court. Usually, the Vice-Chancellors hold court for the Chancellor and are called Vice-Ordinaries. An appeal may be taken from this court to the Court of Errors and Appeals.

5. Court of Chancery

This court, directly descendant from the ancient English court, exists only in New Jersey and five other States of the United States. The Court of Chancery has what is called "equity jurisdiction" as distinguished from civil and criminal jurisdiction.

Equity jurisdiction covers foreclosure of mortgages, divorces, annulments, custody of children, etc., and all other matters where the law courts cannot give adequate relief in the form of money damages.

ILLUSTRATION:

A is the owner of a certain invention which has been patented by him. B, without A's consent, manufactures and sells the article. Ordinarily, A has a right to money damages from B for his action, but A is concerned in compelling B to stop infringing upon his patent. A, therefore, institutes a suit in the Court of Chancery to obtain an injunction against B to prevent his continuing this practice. The law could allow A to recover money damages from B, but this would be inadequate, and, therefore, A institutes his suit in the Court of Chancery where the relief desired may be obtained. The Court of Chancery will not entertain proceedings if the law courts can give adequate relief to the complaining person. This court is presided over by a Chancellor and Vice-Chancellors appointed by him. The Chancellor refers matters to the Vice-Chancellors for hearing. The matter is heard by a Vice-Chancellor without a jury. An appeal may be taken from this court to the Court of Errors and Appeals.

IX

CRIMES, POLICE AND ARRESTS

The relation between the social welfare field and the judicial departments is a close one and the information given in this chapter regarding arrests, the police and their jurisdiction, and procedures in criminal cases should be very pertinent to the problems of the social worker.

A. CRIMES

1. Definition

A crime is the omission of a duty commanded by law, or the commission of an act forbidden by law. It is an infringement of the rights of the people as a social group. Every person possesses the fundamental right to be secure in life, person, liberty and property. In order to protect these rights, the government, representing the people, has made certain prohibitive and mandatory laws and provided penalties for the non-observance of these laws.

2. The Social Worker and Crime

The social worker is directly concerned with two aspects of crime: those committed or alleged to have been committed by a client and those committed against a client. The treatment of the case and the advice given by the worker would differ in each instance.

a. When a client has been charged with the commission of a crime

Usually, when a social worker learns that a client is accused of having committed a crime, the client is already in jail awaiting trial or preliminary hearing. In that case, the first duty of the worker is to ascertain what the charge is against the client. This may be done by contacting, either personally or by telephone, the institution where he is confined.

If a client is accused of a crime which he did not commit or if the police hold a client without placing a charge against him, it may be advisable to interest a responsible lawyer in the case or to place the facts before the judge of the criminal court which has jurisdiction over the matter.

In almost every instance, a charge has been made against the prisoner and at a hearing before the court bail has been set. After bail in the amount prescribed has been deposited with the court, the prisoner may be released. The social worker may explain to the family the method of securing bail but should not undertake to obtain it for the prisoner. Bail should be arranged for by the family. Whether or not bail has been given, the trial is set for a certain date. If the accused is charged with a crime and has no money, the court will assign a lawyer to defend him. In that event, the worker should discuss the matter with the case supervisor. If the supervisor feels that the social facts, if known, would mitigate the offense, those facts should be presented to the lawyer assigned to the defense.

In some cases, the court assigns a probation officer to procure the facts of the case before trial. When a probation officer has been assigned to the case, the worker should contact him and make available all the known facts about the client and the family.

If the client has violated a municipal ordinance or committed a minor offense, no lawyer is assigned and there are two things which may be done. If there is a probation officer working out of the court, he should be contacted. If there is not, then the social facts relating to the case should be discussed with the case supervisor, and if they are thought to be of sufficient importance a written summary should be presented to the court. When this is done, the utmost discretion should be exercised to avoid the appearance of encroaching upon the court's judicial prerogatives. The method of contact is within the discretion of the supervisor, but action should be taken before the trial.

b. When a crime has been committed against the client

There are different aspects to a situation of this kind from the angle of the social worker. Crimes may here be divided into two categories: those which result in a personal injury, deprivation of liberty or injury to the property of the individual, and those that do not directly injure the individual.

If the crime is of the latter kind, the procedure is to make a complaint to the nearest police authority.

When the crime results in a personal injury, two steps may be taken. If the damage to the client is not sufficiently great to warrant a legal action for its recovery, with the attendant expense, a complaint may be made to the nearest police authority. If, however, a substantial damage has been suffered, the client may either make a complaint to the police or a lawyer may institute an action at law to recover damages for the injury, or both steps may be taken. If both procedures are decided upon, the lawyer should be consulted first. If, however, no civil action is to be started, a lawyer is unnecessary. The State acts as the prosecutor after the complaint has been made.

An act or an omission which results in an injury to the individual's person, property or liberty, is called a tort. An act or omission may be both a crime and a tort.

3. Crimes in Which Public Assistance Departments are Particularly Interested (C. S. 1709-1910-P1929 Sec. 9)

All persons who shall come from any place without this State, or from any city, county, township, borough or place in this State, and have no legal settlement in the places in which they may be found, and live idly and without employment, and refuse to work for the usual and common wages given to other persons for like work in the place where they then are, or shall be found going about from door to door, or placing themselves in the streets, highways, or roads to beg or gather alms, and can give no reasonable account of themselves or their business in such places, shall be deemed and adjudged disorderly persons. P. L. 1898, p. 944.

Who are Disorderly Persons (C. S. 1925-1930-p455 Sec. 1)

All paupers, who shall unlawfully return to the city or township from which they were legally removed without a certificate from the city or township to which they belong, or who shall leave their places of legal settlement; and all persons who shall go about from door to door, or place themselves in streets, highways, or passages, to beg, crave charity or collect alms, or who shall wander abroad and lodge in taverns, inns, beerhouses, outhouses, houses of entertainment, market-houses, barns or other places, or in the open air and not give a good account of themselves, or who shall wander

abroad, and beg or solicit charity, under pretense of being or having been soldiers, marines or seafaring men, or of loss by fire or other casualty, or by War, or other pretense or thing; and all persons who shall leave or threaten to leave their families to be maintained by the city, township, county or become chargeable thereto, or who, not having sufficient property or means for their subsistence or support, shall live idle, or not engage in some honest employment, or not provide for themselves or families, _____, shall be deemed and judged to be disorderly persons.

A complaint may be made, to one of the criminal courts in the municipality, of the commission of acts for which the offender may be punished as a disorderly person.

a. Receiving relief under false pretenses (See Assistance Laws, Pub. page 11.)

b. Compliance with law in respect to relief orders (See Assistance Laws, Pub. page 11.)

4. General Classification of Crimes

Many attempts have been made to classify crimes but it has proved impracticable because crime of its nature is complex and a criminal act injures more than one person, right or object. The following division of crimes under various headings is for the purpose of clarity and for reference.

a. In respect to the character of the crime

Primarily, crimes are divided into two groups. The more serious crimes are those involving an act which is wrong in itself. They are called crimes, **malum in se**. Examples are murder, burglary, arson, etc. The second group consists of those which are wrong because they have been declared to be so. These are called **malum prohibitum**. In this group are all crimes which are not fundamentally wrong in themselves but which have been declared to be detrimental to the general welfare. An example is the act of driving an automobile at an excessive rate of speed, which is not wrong in itself, but has been declared to be so for the good of the social group.

b. In respect to the governmental unit by whose laws and procedures the crime is tried and punished

(1) Crimes against the Federal Government

(a) Those against the existence of government: treason, inciting to rebellion, etc.

(b) Those against the operation of government: forging and counterfeiting, robbing the mails, etc.

(c) Those against public justice and morals: perjury, destroying records, using mails to defraud, bribery, violation of the Mann Act, illegal traffic in narcotics, etc.

(d) Those committed in maritime, admiralty and territorial jurisdiction: murder, rape, robbery, arson, etc., committed on the high seas or in places where the admiralty law obtains.

(2) Crimes against the State

The Legislature of New Jersey has passed laws concerning acts which are prohibited or compulsory, and which, when committed or omitted, become crimes. These crimes are enumerated in the Crimes Act and Criminal Procedure Act of New Jersey.

- (a) Crimes against public justice and the administration of government: interfering with officers of the law; aiding or permitting persons to escape from prison; stealing or destroying public records; bribery of jurors, court or public officials; improperly influencing labor leaders or plant foremen; corrupt practices in connection with elections, etc.
- (b) Crimes against public peace: sending threatening letters or other similar communications, fighting, carrying concealed weapons, the sale of or dealing in firearms, etc.
- (c) Crimes against public morals and the institution of marriage: adultery, prostitution and the allied crimes, seduction, unlawful marriage, bigamy, obscene and indecent publications, permitting children under sixteen years of age to be in various questionable places of business or amusement, desertion, abandonment of family, etc.
- (d) Crimes against public safety: wilful tampering with railroads, polluting water used for drinking purposes, transporting explosives, selling firearms to children under fifteen years of age, selling or disposing of narcotics, failing to comply with the health regulations, etc.
- (e) Crimes involving private injury: injury to the person or the individual, such as murder, manslaughter, homicide, poisoning, assault, kidnapping, robbery, larceny, etc.

Injury to property, dwellings, and other buildings, such as arson, burglary, breaking and entering, making or possessing burglary tools, tapping service pipes or wires, receiving stolen goods, etc., frauds and embezzlement by public officials, bankers, guardians and trustees, obtaining money or goods by false pretenses, counterfeiting, forgery, etc.

5. Legal Procedures in Criminal Cases

a. Federal cases

Criminal procedures in the United States courts are in all respects similar to those in State courts, and require arrest under warrant, indictment by a grand jury, suitable pleadings before a trial is reached, trial (always before a jury) according to established rules of procedure and evidence.

b. Procedures in criminal cases in the county, municipality or State

There is established in each county of the State a grand jury and a prosecutor. The grand jury is composed of twenty-four citizens of the county from which they are chosen. They are selected by lot by the county jury commissioners. They convene three times a year or more often, if necessary, and at the first meeting one of the members is excused, leaving twenty-three to consider the matter brought before them by the prosecutor.

The prosecutor is a lawyer representing the State in the trial of individuals accused of crime. There is one in each county.

(1) Indictment

A person cannot be tried for a criminal offense unless an indictment has been found against him by the grand jury.

The accused, however, may waive this right in cases not pertaining to murder, rape, arson, treason, robbery, burglary, manslaughter, sodomy, etc. The indictment must be specific in all particulars in order to acquaint the accused with the crime charged against him and where and when it is purported to have taken place.

(2) Indictment before the arrest

Facts are presented to the grand jury by the prosecutor. The witnesses concerning the commission of the crime are produced by him. At this session the accused and his witnesses are not heard. The grand jury takes a vote, and, if twelve of the members consider the evidence sufficient to indict, they instruct the prosecutor to prepare an indictment. After indictment, a warrant is issued and the accused is arrested.

(3) Indictment after the arrest

A complaint under oath concerning the commission of a crime is made to a judge or magistrate. As a result of this complaint, a warrant is issued directing that the accused be arrested. After the arrest, a hearing is conducted by the judge who issued the warrant, and if the facts available concerning the commission of the crime are deemed sufficient, the judge submits them to the prosecutor or clerk to be presented to the grand jury for action. The grand jury then considers the matter, and if the evidence is sufficient, an indictment is returned charging the person with the crime designated. Pending this action by the grand jury, the magistrate or judge who conducted the hearing may order the accused placed in jail by the sheriff or fix bail to be given by the accused.

(4) Bail

After the accused is apprehended, and an indictment is returned by the grand jury, the court, in all cases except those involving murder or treason, must set bail to be given by the accused or by someone in his behalf to guarantee his appearance on a certain day to plead to the indictment. In cases of lesser offenses, the accused may be released in the custody of his attorney and no bail required.

Bail may be defined as something of value which is deposited with the court to insure the appearance of the defendant when he is wanted by the court. If the defendant fails to appear when wanted, the bail is forfeited and goes to the State.

(5) Pleading to the indictment

On the date set, the accused appears before the court, the indictment is read to him and he either pleads "guilty," or "not guilty" or "non-vult." In cases of murder, an accused person cannot plead "guilty." He must be tried before the court and jury.

If the plea of the accused is "guilty," or "non-vult," the court may impose sentence immediately or set a day for doing so. In effect "non-vult" means: "I am guilty but I ask the mercy of the court."

(6) Trial with jury

If the defendant pleads "not guilty," a date is set for the trial of the case. On that date, the prosecutor and the ac-

cused appear with all their witnesses. The evidence is presented to the judge and jury. At the conclusion of the presentation of evidence by both sides, the attorney representing the accused and the prosecutor make separate pleas to the jury. They review the evidence and request the jury to bring in a verdict in their favor.

The judge then explains to the jury the law applicable to the case.

The jury retires to a separate room and deliberates upon the evidence produced at the trial and the law explained by the court. When a verdict is reached, if it is "not guilty," the prisoner is released and his bail returned to him.

If a jury is unable to reach an agreement it is dismissed and the judge orders a new trial.

(7) Trial without jury

In these cases the prisoner waives his constitutional right to trial by jury, and the case is tried before a judge of the court, who hears the evidence, decides upon both fact and law, and either dismisses the case or imposes sentence.

(8) Sentence

If the verdict is "guilty," the court sets a day for sentencing the defendant. The judge may direct that the prisoner be put in jail until that date arrives or that he be released on bail. On sentence day, the court, after considering the penalty prescribed by law for the crime and the circumstances and facts of the case, sentences the prisoner.

(9) Appeal

The defendant may appeal to a higher court if the verdict is against him. In the event of an appeal, he may be released from custody on bail. He must make application to the judge who heard the case or to a Justice of the Supreme Court. The judge must first issue a certificate of reasonable doubt as to the guilt of the defendant before he will be entitled, as of right, to be released on bail pending the appeal.

(10) Witnesses

The court may direct that a material witness for the State be taken into custody and held until the trial, or that the witness put up bail to insure his appearance at the trial.

(11) Defendant without counsel

When an accused does not have an attorney, the court will appoint one, and in capital cases such as murder, the State will compensate the lawyer. In other cases there are no fees unless the accused is able and inclined to pay them.

6. When a Criminal may not be Tried

No person shall be tried or punished for treason unless the indictment shall be found against him within three years from the date of the commission of the offense.

No person shall be tried for a crime, not punishable by death, unless indictment shall be found against him within two years from the date of committing the offense.

A public employee may be tried and punished for forgery or embezzlement committed while in office when the indictment is found within five years from the time of committing the offense.

These provisions of the law do not apply when the accused person flees from justice and cannot be apprehended before the expiration of the specified time. These provisions mean that if the crime remains undiscovered or if the guilty person is not detected, within the stated periods of time, he may not be punished.

7. When a Prisoner is Unjustly Imprisoned

An application is made for a writ of Habeas Corpus. This is an order made either by the Chancellor, one of the Vice-Chancellors, a Justice of the Supreme Court, or Judge of the Court of Common Pleas, upon application of the defendant's lawyer, when a person is held unlawfully before he is convicted. It directs that the person held be produced by his keeper before the court issuing the writ, so that the court may investigate the legality of the detention. If, at this hearing the court decides that the prisoner is being unlawfully deprived of his liberty, it will order his release. In criminal actions, this writ is usually employed in cases when a judge fixes bail in an excessive amount considering the gravity of the offense. The prisoner may not be able to obtain such a high bail, and, therefore, will be imprisoned. The prisoner then, by habeas corpus proceedings, may test the right of the court to set so high a bail.

8. Protection of Those Accused of Crime

Every person is presumed to be innocent until proven guilty, and in every trial of a criminal nature, the State or Federal government must prove beyond a reasonable doubt that the accused is guilty of the crime charged. The jury, before finding a person guilty, must be satisfied by an abiding conviction that the accused committed the crime charged against him. In such a trial every doubt is decided in favor of the accused.

The accused has the right to have witnesses brought into court on his behalf and the court will issue subpoenas and bench warrants at his request.

An indictment by the grand jury is necessary in every capital or serious crime. No one may be put in jeopardy twice for the same offense, nor be compelled to testify against himself. Everyone has a right to a speedy trial before a jury and he must be informed of the nature and cause of the accusation and be confronted by the witnesses against him. He may have counsel for his defense. Excessive fines may not be levied, cruel and unusual punishment inflicted, nor may excessive bail be required.

B. POLICE AND THEIR JURISDICTION

1. Municipal Police

Each municipality may have its own police force to see that ordinances are enforced and that crimes are not committed within its limits. The police have jurisdiction only within the limits of the municipality, except when a person violates a provision of the Motor Vehicle Act in the presence of a policeman. In such an instance, the police have county jurisdiction and may follow the violator to any part of the county, arrest him and take him to a magistrate in the county.

2. County Police

In the counties there are two groups of police officers

- a. The county sheriff, an officer elected by the people, is the chief police officer in the county. He names a number of deputies to serve under him. Ordinarily the sheriff and his deputies do not

make arrests except upon specific warrants in civil cases. However, when the police of a municipality have been unable to give protection to the life and property of its citizens, the sheriff is called in, as the chief county officer, to maintain order. Under these circumstances, he may swear in as many deputies as are necessary to preserve order and protect property.

b. There may be special bodies of police to protect and control county parks or county highways. Their authority is generally limited to the area in which they operate.

3. State Police

The State Police or Constabulary is a force operating throughout the State to give protection to the residents in isolated townships and unincorporated settlements which have no effective police force of their own. The State Police are also responsible for the patrolling of State highways and they assist local officers when necessary.

C. ARRESTS

1. Arrests by Police Officers

a. A police officer may always make an arrest when he has in his possession a warrant for the apprehension of the individual.

b. He may always make an arrest without a warrant when a crime is being committed in his presence.

c. A police officer may always make an arrest without a warrant when he has reason to believe that a serious crime has been committed, such as murder, treason, rape, arson, sodomy, robbery or burglary, and that the person whom he apprehends is the perpetrator of the crime. In the event that the officer was in error and there was no crime committed, he is not liable in damages for false arrest to the person apprehended, provided he had reasonable grounds for his belief.

In the event that a police officer makes an arrest without a warrant in a situation which does not come within the rules set forth, he is liable in an action for damages for false arrest, by the person apprehended, even if the arrest be ordered by his superior.

2. Arrest by Private Individuals

A private individual may make an arrest only when a crime is committed in his presence or when a serious crime, as previously outlined, **has actually been committed** and he has reason to believe that the person apprehended is the perpetrator. When the crime is not committed in the presence of the individual, it is necessary for him to show that a serious crime was actually committed, for if he fails, he will be liable in damages to the person apprehended, for false arrest. If a private individual makes an arrest in cases other than those outlined above, he will be liable for damages to the person arrested.

X

PUBLIC HEALTH LAWS

This chapter deals with the Boards and Departments of Health in the State, their functions, and their relation to the social worker. These boards and departments are not primarily concerned with the curing of disease. Rather, their chief aim is to prevent disease and its spread in the State of New Jersey.

Curative and correctional agencies are dealt with in other chapters, such as "Public Institutions," "Children," and "Public Assistance Laws."

The original legislative act creating the State Department of Health gave it only advisory powers over the local Boards of Health, which were empowered to enact and enforce local ordinances on matters relating to public health in territories over which they had jurisdiction. Practically all power was in local boards.

Gradually, the State Department has been given more power and more duties. The original act still remains unchanged but later laws have added to the functions and powers of the State Department. Instead of having only advisory duties, the State Department of Health now has limited supervisory powers over the local Boards of Health. The local board is, however, the basic source of health administration in the State.

A. LOCAL BOARDS OF HEALTH

There are 564 Boards of Health in this State, one for each municipality. The majority of them, because of limited financial resources, are unable to employ trained health officers, and in order to offset this handicap, the Bureau of Local Health Administration of the State Department of Health provides advice and help to the local boards and maintains district health officers in several parts of the State.

1. Jurisdiction of Local Boards of Health

The jurisdiction of a local health department is confined to the geographical limits of the municipality which it serves. Its functions are administrative and not judicial. It has no power to impose a fine or penalty. In order to punish violations of the health laws, an action at law is brought by the Board, usually in the name of the health officer. The courts having jurisdiction are the municipal criminal courts, the District Courts and the Court of Chancery.

2. Duties and Powers of Local Boards of Health

- a. The prevention of the spread of communicable diseases.
- b. The collection of records of births, deaths and marriages, except in Hudson County where this collection is made by the Hudson County Board of Health, Bureau of Vital Statistics.
- c. The enforcement of local Health Ordinances, State Public Health Laws and the State Sanitary Code.
- d. The enforcement of the law with respect to the adulteration and misbranding of foods and drugs.
- e. The definition and determination of public health nuisances.
- f. The abatement of public health nuisances on public highways, streets, alleys, public or private places, etc.
- g. The procuring of sanitary conditions in tenement houses, jails, prisons, and all public buildings.

- h. The regulation and control of the dumping of garbage and the filling of sunken ground.
 - i. The regulation and control of the cleaning of sewers.
 - j. The control of the method of construction, location and emptying or cleaning of cesspools, privies, or other private systems of sewage disposal.
 - k. The regulation and control of the mode of connection of house drainage and plumbing.
 - l. The protection of the public water supply.
 - m. The establishment of isolation or quarantine.
 - n. The regulation of burial or disinterment of the human body.
 - o. The regulation of the practice of mid-wifery.
 - p. The enforcement of the requirement that the owner of a building occupied by two or more families provide proper heating.
 - q. The control of the wholesomeness of the local milk supply.
 - r. The regulation of boarding homes for children.
 - s. The enforcement of the requirement that certain communicable diseases be reported promptly by the physician or family of the patient.
 - t. The inspection of any place operated as a bakery, confectionery, cannery, packing house, slaughter house, dairy, creamery, cheese factory, restaurant, hotel, grocery, meat market, or any place used for production, manufacture, preparation, packing, storage or distribution of foods intended for sale or distribution.
3. What is Reportable to the Local Boards of Health
- a. Unsanitary conditions
 - b. Matters of unsanitary housing
 - c. Anything which, in the opinion of the social worker, is affecting or may affect the public health.

EXAMPLES:

- The breaking of quarantine
 - Overcrowding
 - Accumulation of filth
 - Defective drainage
 - Poor housing
 - Suspected cases of communicable disease, etc.
 - Sale of decomposed foods
- d. It is the duty of a physician, midwife, or other person attendant at the birth of a child, to transmit a certificate of birth to the recording officer of the municipality within five days after the birth occurs.
 - e. Every case of communicable disease, including venereal disease, attended by a physician, must be reported to the Board of Health within twelve hours after the diagnosis. When a case of communicable disease other than venereal disease occurs in a household and there is no attending physician, the head of the household must report the case immediately.
 - f. In the case of rabies in animals, it is the duty of the person owning the animal or of anyone having knowledge of the presence of the disease, to report it to the local Board of Health immediately. Within twelve hours, the recording officer of the local Board of Health must transmit this report in writing to the Director of the State Department of Health.

4. How Reports Should be Made

In the event that a health situation is reportable to the local health departments, the social worker should bring the matter to their attention either by telephone or in person. If the initial report is not effective, it should be followed by a written one, signed by the worker.

If a report is made to a health board or department in the community and no satisfactory result follows, the matter should be reported to the State Department of Health at Trenton.

When a local health department fails to take proper action on a violation of the State Sanitary Code or State law, or fails to eliminate an existing menace to health, it becomes the duty of the State Department of Health to take steps to remove the cause or potential cause of ill-health, and the cost may be charged to the municipality having jurisdiction.

If a situation is reportable to either the Board of Tenement House Supervision or the local Board of Health, a duplicate report should be forwarded to each body.

5. To Whom Reports Should be Made

When there is an organized health department, complaints should be made to the executive officer; when there is not, the secretary of the local Board of Health should be notified of a violation of the health laws.

In each municipality having a population of 10,000 or more, there is an executive officer. In communities having a population of less than 10,000, reports should be made to the secretary of the local board. (The Assessor of the municipality is a member, and very frequently the secretary, of the board.)

6. Important Phases of Public Health Work

a. Abatement of nuisances

Chapter 1 of the Sanitary Code of the State Department of Health of New Jersey reads as follows: "Nuisances hazardous to human health. No person or private or municipal corporation shall maintain or permit to be maintained anything whatsoever which is hazardous or dangerous to human health." The local Board of Health has the power to enforce this provision.

The local Board of Health serves a notice upon the owner or occupant of premises on which a nuisance is maintained. The notice draws attention to the unsanitary conditions and requests that they be removed. A reasonable time in which to abate the condition is allowed the owner or occupant.

If the condition is not removed, there are two procedures which may be followed:

- (1) The municipality may take the offender into court as a violator of the law. In this case, the court will inflict the proper penalty and order the offender to abate the nuisance. If he fails to comply with the court order, he is guilty of contempt of court and may be sentenced accordingly.
- (2) The municipality may proceed to abate the nuisance and recover the cost of the abatement in a court action.

In the event that the local Board of Health fails to act properly, or fails to procure an abatement of the nuisance, and a complaint is made to the State Department of Health, that department serves a notice on the local board to abate the nuisance.

and if this is not done, steps are taken by the State Department to end the nuisance and the costs are charged to the municipality.

An action for the abatement of a nuisance may be instituted by the Board of Health in the Court of Chancery. That court has the power to abate a nuisance by injunction or otherwise, and may charge the costs of the abatement against the property where the nuisance is found and may even sell the property to pay the costs.

b. Isolation and quarantine

Isolation is the setting apart from all other persons of one ill with a communicable disease.

Quarantine is the restriction placed upon the movements of persons ill with, or who have been exposed to, a communicable disease, or who for any other reason may be potentially capable of transmitting communicable disease infection to others.

If, in the opinion of the executive officer of a local health department, a case of communicable disease cannot be properly isolated where located, and if the transfer may be accomplished without undue risk to the patient, the health officer may compel removal to a suitable place.

No person affected with typhoid fever, scarlet fever, diphtheria, sore throat, diarrhea or suppurative process or infectious skin eruption or communicable disease or condition which may be transmitted through milk, or who is a carrier or the causative agent of these diseases, shall handle or be employed in the handling of milk or milk products, on dairy farms, or in milk plants, etc.

Whenever the health officer deems it necessary to establish the true character of a disease, the person affected must submit to an examination (except that a female cannot be compelled under any circumstances to submit to an examination by a medical practitioner of the opposite sex). Under certain conditions public funerals are prohibited when a person died of a communicable disease.

The health officer has a right to establish diagnoses and to destroy property that may have been infected. He may issue orders for the disinfection of premises where a case of communicable disease has occurred.

Isolation and quarantine may be established by the executive officer of every local Board of Health. The officer has discretionary powers in this matter. He is empowered to place isolation and quarantine restrictions on the movements of persons who have been exposed to certain communicable diseases. A case of communicable disease may not be removed from its original location without permission of the health officer of the community.

The executive officer and his representatives and agents have the right to enter and inspect premises. At the time isolation and quarantine are established, the health officer delivers written instructions to the attendant of the sick person. The purpose of the instructions is to prevent the spread of the disease.

c. Cases of tuberculosis

A health officer, or his agent, must visit every reported case of tuberculosis and give the afflicted person printed instructions explaining the means to be used to prevent the spread of the disease. Some health departments operate tuberculosis clinics.

d. Venereal disease cases

When a health officer receives from a physician in the State a report of a case of venereal disease, or a report that a person is suspected of suffering from a venereal disease, he shall have that person examined. If the person refuses to submit to examination, the health officer may isolate him until he submits to an examination.

The law provides that the person refusing to be examined may be isolated until the disease shall be found to be non-existent or non-infectious. Boards of Health may not make public records of venereal disease cases. (See page 68.)

When there is a possibility of transmitting the disease to others, a person suffering from a venereal disease is not permitted to handle food, or to nurse children or sick people.

- e. Cases of gonococcus infection are to be regarded as infectious until at least two successive smears taken not less than forty-eight hours apart fail to show gonococci. Cases of syphilis shall be regarded as infectious until all lesions of the skin and mucous membranes are fully healed. Cases of chancroid shall be regarded as infectious until all lesions are fully healed.

7. Free Treatments by Local Boards of Health

Local health departments, upon request, must administer free to indigent persons in the community:

- a. Smallpox vaccinations;
- b. Treatments for the prevention of rabies;
- c. Treatment for venereal diseases; and
- d. Diphtheria anti-toxin (on certificate of the attending physician).

A refusal of the local health department to administer these serums should be reported to the State Department of Health.

B. COUNTY BOARD OF HEALTH

There is only one county Board of Health in the State, and that is in Hudson County. Its functions are as follows:

1. Maintenance of a bacteriological laboratory where examinations and analyses of blood and other specimens are made free of charge for physicians.
2. Maintenance of a Bureau of Vital Statistics.
3. Maintenance of a Smoke Abatement Bureau to which all complaints regarding smoke, whether from industry or residence, are made.

C. STATE DEPARTMENT OF HEALTH

The New Jersey State Department of Health is divided into ten bureaus each having separate functions but all coordinating for the purpose of promoting the public health in New Jersey.

1. The Bureaus and Their Functions

a. Bureau of Administration

This Bureau, as the name indicates, is charged with the administrative and executive work of the Department and has a supervisory relation to the work of all other bureaus.

b. Bureau of Bacteriology

This Bureau is maintained for the purpose of examining specimens from suspected and known cases of communicable diseases and from suspected and known carriers of communicable diseases

and for other examinations that may be of value in protecting the public health.

Mailing outfits for specimens are provided by this Bureau to drug stores, local Boards of Health and physicians, and the bacteriological examinations are made without charge by the laboratory. The only expense to the sender is for mailing. A drug store, physician, or local Board of Health may obtain these outfits from the Department.

c. Bureau of Chemistry

This Bureau makes chemical and bacteriological examinations of samples of foods, drugs, water, sewage and trade wastes collected by the Bureau of Foods and Drugs in the enforcement of the Pure Food and Drug Act and Public Health Laws.

Analyses are also made of various drugs collected by the inspectors of the State Board of Pharmacy; rural school waters submitted by local boards of education; water supplies from camps maintained by benevolent associations; and other miscellaneous samples.

Investigations are made of establishments which produce chemicals that give rise to obnoxious or objectionable fumes and expert advice is furnished to local Boards of Health to assist in the abatement of such nuisances.

d. Bureau of Child Hygiene

This Bureau supervises mid-wives, licenses maternity homes and assists in the development of Child Hygiene work throughout the State.

In various localities "Baby-Keep-Well Stations" are conducted weekly. Mothers who cannot afford to take their babies to a physician, may go to these stations for health examinations to determine whether growth and development are normal. At these stations mothers receive instruction in the essential principles of infant hygiene.

Whenever information as to the location of these stations is desired, it is suggested that a letter be written to the State Department of Health.

e. Bureau of Engineering

This Bureau has many and varied duties, a few of which follow: Supervision of public water supply, approval of the source and of the method of treatment. Approval of plans for sewage treatment and disposal plants, etc.

Investigation of complaints relative to the pollution of water of the city which affects or may affect the public health.

Investigation of alleged violations of certain sections of the State Sanitary Code.

Issuance of literature to the citizens of the State relative to the location, construction and operation of devices of sewage disposal for individual dwellings. This literature may be secured by writing to the Bureau of Local Health Administration of the Department.

Collection and analysis of samples from all municipally and privately owned public potable water supplies at least four times a year.

f. Bureau of Foods and Drugs

This Bureau collects samples of foods and drugs offered for sale

in New Jersey and makes investigations of the production, preparation, storage and sale of the foods and drugs to ascertain whether or not wholesome foods and standard and potent drugs and medicines are sold without misrepresentation to the people. This Bureau also inspects slaughter houses, dairies, ice cream plants, canneries, etc.

Complaints and requests for investigation of violations of the Pure Food and Drug Act should be addressed to a local Board of Health in an urban municipality and to the State Department of Health, when the community is a rural one.

g. Bureau of Local Health Administration

The investigation, control and reporting of epidemic diseases are functions of the local health departments. Services of this type are usually furnished through the local Boards of Health which are responsible for the establishment of isolation and other preventive measures. All reports of communicable diseases made to local health boards by physicians are forwarded to the Bureau for review, tabulation and filing. The following matters are dealt with either directly or through local agencies: investigation and abatement of nuisances; adoption of local health ordinances; safeguarding of milk produced on farms where communicable diseases occur and the enforcement of the regulations of the State Sanitary Code pertaining to nuisances, private water supplies, camps and communicable diseases. Of these, the safeguarding of milk is treated directly by the State Department, the others indirectly through the local Board of Health.

During an epidemic, convalescent immune serum for treating cases of poliomyelitis is placed at points throughout the State convenient for physicians. Physicians, however, may secure the serum from the State Department at any time it is needed.

Employees of the Bureau make inspections at roadside stands and other eating places and at camps maintained in the State. A complaint about an unsanitary condition of a roadside stand or camp may be made either to the local Board of Health or to the State Department of Health.

At the present time, all barbers are required to secure a certificate of registry from the State Department of Health and this certificate must be renewed annually.

Members of the Bureau's Staff act as speakers on matters relating to their work and cooperate with other agencies in promoting public health throughout the State. A group desiring a speaker on public health matters should address its request to the State Department of Health.

h. Bureau of Public Health Education

Educational activities of the Department are centered in this Bureau through the medium of the "Public Health News," magazines and the public press, through which the Bureau disseminates educational information respecting diseases and their control.

i. Bureau of Venereal Disease Control

This Bureau furnishes certain drugs to clinics during their first year in operation and also in emergencies. The location of clinics and addresses of physicians are available upon written request to the State Department of Health.

Upon request, the Bureau will supply pamphlets relating to sex education of adolescent children.

Experienced speakers upon the subjects of gonorrhoea and syphilis are available to medical and lay groups and films are sometimes obtainable to illustrate the lectures. Pamphlets on these subjects are supplied in bulk to social organizations by the Bureau. Data and statistics will be sent to anyone upon request.

Physicians must report names and addresses of persons affected with venereal disease to the State Department of Health in every instance and to the local Boards of Health when ordinances require. These records are not public and all information contained in them is confidential.

j. Bureau of Vital Statistics

This Bureau records births, marriages and deaths, and instructs local registrars in the duties of office. Information is furnished by this Department in response to inquiries about records on file.

D. THE STATE SANITARY CODE

1. Establishment and Scope

The State Department of Health, by authority vested in it by the Legislature, enacted the State Sanitary Code which contains rules and regulations for the promotion of health and the prevention of disease.

The rules and regulations contained in the code supersede, as to those matters to which they relate, all local ordinances, rules and regulations, and they must be enforced all over the State by all local health authorities.

The local health authorities, however, may make such further ordinances, rules and regulations, as in their opinion may be necessary for their community, provided that these do not conflict with the laws of the State or the Sanitary Code.

2. Provisions of the Code

a. Public health nuisances

A public health nuisance is defined as anything which is hazardous or dangerous to human health. The maintenance of a public health nuisance is prohibited by law. It must be shown that the health of some individual in the community has been impaired before a condition is declared to be a public health nuisance. Whether or not such a nuisance exists must be decided by a reference to the facts of each case.

b. Communicable diseases

The following have been declared by the State Department of Health to be communicable:

Anthrax (Splenic Fever)

Chickenpox

Dysentery, amoebic and bacillary

Diphtheria (Membranous Croup)

Encephalitis Lethargia (Sleeping Sickness)

Glanders (primarily a disease of horses, sometimes affecting humans)

Influenza

Leprosy

Malaria

Measles

Measles, German
 Meningitis, epidemic cerebrospinal
 Mumps
 Ophthalmia, neonatorum (inflammation of the eyes of the new-born)
 Paratyphoid fever
 Pneumonia (broncho, lobar)
 Plague
 Poliomyelitis, acute anterior (Infantile Paralysis)
 Rabies (Hydrophobia)
 Scarlet Fever
 Smallpox (Varioloid)
 Tetanus (Lockjaw)
 Trachoma (inflammation of the eyelids)
 Trichinosis (a disease contracted as a result of eating under-cooked pork—a fever)
 Tuberculosis, all forms
 Tularemia
 Typhoid Fever
 Typhus Fever (Brill's Disease)
 Undulant Fever
 Whooping Cough
 Yellow Fever

The above list includes only those diseases declared by the State Sanitary Code to be communicable. There are other diseases which must be reported when they are found but these are provided for either by a special State law or by a municipal ordinance. It would be advisable to consult the local health authorities in order to make necessary additions to the list.

A householder or houseowner, who has reason to believe that a person in a building under his control is affected with a communicable disease, should report the facts in writing to the local health authorities, if no physician has attended the sick person, within twelve hours of his discovery of the condition. A social worker should report a communicable disease under similar circumstances.

A child attending school who appears to be affected with a communicable disease shall be sent home or isolated and the case reported immediately to the local health authorities.

c. Maximum period of incubation

The term which may elapse between the date of the last exposure to a given disease and the date of its development is declared to be as follows:

Chickenpox	21 days
Measles	14 days
Mumps	21 days
Scarlet Fever	7 days
Smallpox	20 days
Whooping Cough	14 days

d. Minimum period of isolation

Chickenpox—until twelve days after the appearance of the eruption and until the crusts have fallen and the scars completely healed.

Measles—until seven days after appearance of the rash, and until all abnormal discharges from the nose, ears and throat have disappeared and the cough has ceased.

Mumps—until two weeks from the onset of the disease.

Infantile Paralysis—until three weeks after the onset of the disease and until the temperature has returned to normal.

Scarlet Fever—until thirty days after the onset of the disease and until all abnormal discharges from the nose, ears, throat or suppurating glands have ceased.

Smallpox—until fourteen days after the onset of the disease and until scabs have all separated and scars completely healed.

Whooping Cough—until at least three weeks after the onset of the disease and until paroxysmal coughing has ceased.

e. Public funerals

No public funeral shall be held of a person who has died of cholera, diphtheria, leprosy, measles, German measles, meningitis, plague, infantile paralysis, scarlet fever, smallpox, typhus fever, whooping cough, or yellow fever unless a permit is secured from the local health officer or local Board of Health of the municipality in which the funeral is to be held.

f. Violations of the Code

Violations of the Sanitary Code are punishable by a fine of not less than \$25.00 and not more than \$100.00 which may be sued for and recovered by the local health authorities. (Section 4, Chapter 228, P. L. 1916.)

XI

IMMIGRATION, DEPORTATION AND REPATRIATION

The material in this chapter is presented in order that the social worker may have knowledge of the rules and regulations of the United States Immigration Bureau. Although it is impossible to make the chapter all-inclusive, the essentials are present. If a situation should arise to which the answer is not contained herein, it is suggested that a communication be addressed to the Assistant Commissioner of Immigration, Ellis Island, New York.

A. IMMIGRATION

1. Definition of an Immigrant

An immigrant is an alien coming to this country for the purpose of establishing a home and remaining here permanently. There are statutory exceptions to this rule, however, which permit certain classes of aliens to come to the United States and remain for limited or indefinite periods without acquiring permanent residence.

2. Those Who Are Permitted to Enter as Permanent Residents (Immigrants)

Immigrants are now admitted in accordance with quota (numerical) restrictions for each foreign country. These restrictions were established by Presidential proclamation dated March 22, 1929. The quota for each foreign country is the maximum number of aliens who are permitted to enter the United States from that country during each year, beginning July 1, 1929.

a. Aliens who may be admitted under the quotas

- (1) Quota immigrants: Those coming directly under the quota regulations up to the numerical limitations of each country for each year.
- (2) Preference quota immigrants: Each year the following preferences are allowed in the granting of visas:
 - (a) Up to fifty per cent of the quota for each nationality shall be available to quota immigrants who are the fathers or mothers or the husband, by marriage occurring after July 1, 1932, of citizens of the United States who are twenty-one years of age or over, and in the case of nationalities for which there is a quota of 300 or more per year, such immigrants as are skilled in agriculture and the wives and dependent children under eighteen years of age of such immigrants, if accompanying or following to join them.
 - (b) The remainder of the quota for each nationality for the year, plus any part of the first fifty per cent shall be made available in that year to immigrants who are the unmarried children under twenty-one years of age or the wives of alien residents of the United States who were lawfully admitted for permanent residence.
 - (c) The balance of the quota not used for the foregoing classes (a) and (b) is then available for visas to other immigrants from each country.

b. Non-quota immigrants: Non-quota immigrants are those who are permitted to come in irrespective of quota limitations. They are generally:

(1) Relatives of American citizens

(a) Unmarried child or children, under twenty-one years of age.

(b) The wife of a citizen who was married to him prior to the date of his visa.

(c) The husband of a citizen who was married to her prior to July 1, 1932.

Classes (a), (b), and (c) are admitted provided they do not have a contagious disease. If they have, they may land under detention until the extent and seriousness of the illness is determined. If it is incurable, the immigrant shall be immediately deported. If the disease is easily curable, and if the immigrant or his relatives are willing to bear the expense of treatment, he may remain. Otherwise, he is liable to deportation.

(2) An alien, who previously was lawfully admitted, and who is returning within the specified time limit from a temporary sojourn outside the United States.

(3) An immigrant born in certain American countries: Canada, New Foundland, Mexico, Cuba, Haiti, Dominica, Canal Zone, Central and South America; his wife and unmarried children under eighteen years of age, if they accompany or follow to join him.

(4) Recognized ministers of religion and college, seminary, or university professors who enter for the sole purpose of carrying on their professions, together with their wives and unmarried children under eighteen years of age, who accompany or follow to join them.

(5) A bona fide student at least fifteen years of age, who enters the United States for the purpose of studying at an accredited school, college, academy, seminary or university.

(6) A woman who lost her citizenship either by reason of her husband's loss of United States citizenship, or by her marriage to an alien and residence in a foreign country.

(7) A woman, of an eligible race (not Chinese, Hindu, etc.), who before July 3, 1930, married a citizen in the American forces in the World War, and who was subsequently separated from her husband through no fault of her own.

3. Visitors Who are not Considered Immigrants

a. An official of a foreign government, his family, attendants, servants and employees.

b. An alien visiting the United States temporarily as a tourist or for business or pleasure. His sojourn is limited, but an extension may be secured by application to the immigration officials.

c. An alien traveler or tourist passing in direct transit through the United States. His sojourn is limited.

d. An alien lawfully admitted to the United States, who travels from one part of the country to another through a contiguous foreign country.

e. Bona fide seamen landing temporarily at American ports solely in pursuit of their calling as seamen.

- f. Aliens entitled to enter the United States solely to carry on trade and commerce in pursuance of an existing treaty, together with their wives and unmarried children under twenty-one years of age, who accompany or follow to join them.

There is no time limitation placed upon aliens within classifications (a) and (f). They may remain the rest of their lives, upon condition, of course, that they do not violate the status under which they were admitted. At the same time they are not considered permanent residents. Their legal place of abode is the country whence they came. Persons in the remaining classifications (b), (c), (d) and (e) are admitted only for a specified period of time, which varies according to circumstances in each individual case.

4. Aliens who are not Permitted to Enter the United States

Visas shall not be issued if it appears to the Consular Officer that the applicant falls within prohibited classes. These prohibitions apply when the alien:

a. Is inadmissible under the law because of

- (1) Personal disqualifications: physical defects that would curtail earning capacity, disease, poor economic status (insufficient funds to provide transportation to destination and reasonable wants until employment is secured), illiteracy, criminal record, prior arrest, previous deportation, moral delinquency, prohibited political and economic beliefs (anarchy, overthrow of government by force and violence, polygamy, etc.).
- (2) Purpose and manner of immigration: contract laborers, members of the excluded classes who were assisted in entering by a resident of the United States; those without proper passports or visas; those who entered from a contiguous foreign territory without a reason and of whom there is no record at a port of entry (bootleg immigration); those who entered for immoral purposes.
- (3) Race, nationality or geographical location of native country: natives of the so-called "barred zone," Chinese, Hindus, East Indians, Koreans, etc.
- (4) Numerical disqualification under the annual allotment of the quota law. These individuals remain on the list of eligibles for the next year.

b. Has not complied with the provisions of the Immigration Law.

c. Is outside the quota limitations.

d. Does not come under the special specifications set forth above. (See A-3, a to f.)

e. Is the Chinese wife of an American citizen, married prior to May 26, 1924.

5. How to Secure Permission to Enter the United States

a. The Visa

Application for admission to the United States is made to a Consul or other designated officer in the American Consulate. At the Consulate the immigrant fills out an application for a visa. The completed application contains information calculated to indicate his eligibility for entry. If the information seems satisfactory the Consul will visa (approve) the application and it then becomes the statement of fact on which the immigrant bases his entry. If it proves to be incorrect or false it can be used against

the immigrant as evidence of illegal entry. A medical examination is necessary, and if his physical condition proves unsatisfactory, a visa will be denied. The Consul has considerable discretion as to the advisability of granting the visa. His knowledge of facts which are not brought out in the application may indicate that the immigrant is not suitable or that upon arrival in the United States he may not pass the inspector.

The mere possession of a visa has no effect or value other than as proof that the prospective immigrant has satisfied the consular official that he is entitled to apply for admission. The admissibility of a person entering the United States lies solely with an immigration inspector or a court of review at each port of entry.

b. How relatives of citizens may secure entry

A special procedure is provided whereby a citizen of the United States may petition the Commissioner of Immigration and Naturalization to authorize the issuance of a visa in favor of an immigrant relative. This may be a non-quota or a preference quota visa, depending upon the degree of relationship. If the petition is acted upon favorably, notice to issue the visa is sent through the Department of Labor at Washington, D. C., to the Department of State, and thence to the appropriate consular officer in the country in which the immigrant is residing.

c. What funds an immigrant needs

In addition to other requirements, the immigrant must pay a "head tax" of \$9.00 upon entry. He must have enough money to purchase transportation for himself and those who enter with him to their destination. He should also have enough money to supply their reasonable wants until employment is secured. If he has not this amount of money, it is unlikely that the consul will visa his application. If his application is visaed and it appears when he arrives that he is likely to become a public charge, he will be deported, unless it can be shown that he has friends or relatives who can and will take care of him and those who accompany him until he has secured employment.

B. DEPORTATION AND REPATRIATION

It is necessary to distinguish between **Repatriation** and **Deportation**. Repatriation means the act of re-establishing an individual or family in the country of origin. Deportation is the enforced expulsion of a family or individual from this country by the Federal government. Deportation, however, is frequently used as a means of accomplishing repatriation.

1. Deportation

Deportation is an action to expel an alien from the United States. It is an administrative proceeding, quasi-judicial in nature, under the direction of the Secretary of Labor at Washington, D. C. In these cases, the Secretary of Labor has wide and summary powers. It is provided that an alien, "Shall be, upon warrant of the Secretary of Labor, taken into custody and deported; pending determination, however, aliens so taken into custody may be released."

a. Classification of deportable aliens

Deportation cases come under three classifications as to time after entry within which the arrest, under a deportable charge, may be made. In one group there is a three-year limit, in another group a five-year limit, and in still others there is no limit prior to the acquisition of citizenship by the alien.

- (1) Within the three-year group are:
 Aliens who failed to register on entering the country, who came across the border or into the country without inspection, or who were stowaways (the so-called bootleg entry).
- (2) Within the five-year group are:
 - (a) Aliens who, unknown to immigration officials, were excludable by law, at the time of entry.
 - (b) Those who entered in violation of the law.
 - (c) Those who have become public charges.
 - (d) Those who have been convicted of a crime involving moral turpitude and have been sentenced for a year or longer.
- (3) Within the unlimited group are:
 - (a) Those who have been sentenced more than once, subsequent to May 1, 1917, for a term of one year or longer for a crime involving moral turpitude.
 - (b) Those who believe in or advocate anarchy, revolution or the overthrow by force or violence of the government of the United States or of all forms of law, or who advocate, believe in, teach or advise the unlawful destruction of property or the assassination of public officials.
 - (c) Those who have a criminal record prior to entry.
 - (d) Those who have engaged in or are in any way connected with prostitution or traffic in narcotics.
 - (e) Those who have violated the acts of war legislation against espionage, sabotage, conspiracy, etc., and who have refused to bear arms.
- (4) Special restrictions:
 - (a) An alien may be deported at any time if entry was illegal subsequent to July 1, 1924. If illegal entry occurred prior to June 3, 1921, and the alien is of a class eligible to register under the Act of March 2, 1929, his entry may be legalized as of the date of entry by complying with certain regulations and paying the attendant fee of \$20.00. If the application is acted upon favorably, the alien may then become a citizen if he chooses. Aliens who entered illegally between June 3, 1921, and July 1, 1924, are not eligible for registry and because of statutory limitations are not deportable.
 - (b) Recent legislation (P. A. 299-73rd Cong.) Act of June 8, 1934, provides for the registration of a class of aliens who entered the United States temporarily, prior to July 1, 1933, and who, prior to that date, could not be deported to any country to which it was lawful to deport them (Soviet Russia because of lack of diplomatic relations) and who were in the United States as bona fide political or religious refugees.
- (5) Exceptions to the above deportable groups:
 - (a) An alien convicted of a crime need not be deported if the judge who sentences him recommends otherwise.
 - (b) Special provisions apply to aliens who enter from American Insular possessions (Porto Rico, Hawaii, etc.).

(c) Deportation may be enforced irrespective of the time of entry unless specifically excepted.

b. Status of American born children

Children born in the United States cannot be deported. The Immigration Service has no control over United States citizens either here or abroad. It frequently happens that because of violation of law by one of the parents, which makes his deportation mandatory, separation of families would ensue unless a social service agency intervenes. In such cases arrangements can be made with local State Emergency Relief Administrations whereby expenses are defrayed from a Federal grant to cover the removal of the rest of the family from the United States. It is also possible for a private or public agency to make these arrangements.

c. Procedure in deportation cases

- (1) **Warrant.** Upon information of the illegal presence of an alien in the United States, a warrant of arrest may be issued upon request to the Central Office, Immigration and Naturalization Service, Washington, D. C. These warrants shall state in detail the immigration law violation of which the alien is accused.
- (2) **Arrest** is made by an immigration officer and a hearing is held for the purpose of permitting the alien to show cause why he should not be deported.
- (3) **Bond** may be given by the alien to permit him to go at liberty pending satisfactory disposition of the proceedings, and may be set at any amount, which rarely exceeds \$1,000.
- (4) **Hearing.** This usually takes place before an immigration officer at the immigration station within the territorial limits where the alien was taken into custody. The alien must be advised of the nature of the charges against him and of his right to representation by an attorney-at-law or a relative or friend. Attorneys are not assigned by the government.
- (5) **Evidence.** The burden of proving lawful presence and/or residence is upon the alien. During the proceedings he is entitled to a fair and impartial hearing and has the right to introduce evidence that is favorable to him. In the conduct of these hearings the strict rules of legal evidence are not followed.
- (6) **Decision.** After the evidence is in and the hearing completed, the record and the attorney's brief, if there is one, are forwarded to the Secretary of Labor, Washington, D. C., for review and decision. If the legality of presence and/or residence is established, the warrant of arrest is cancelled and the alien is released from custody. If it is not established, a warrant of deportation may be issued, designating the grounds for deportation, and the country to which the alien is to be deported.

The designation of the place to which the alien is ordered deported is optional with the Secretary of Labor. It may be to the alien's native country, port of embarkation, or some other place as circumstances may require.

In the case of non-criminal charges, the Secretary of Labor may permit a voluntary departure of the alien. An alien may be arrested on a charge of illegal residence more than once; an acquittal does not necessarily establish innocence.

(7) **Review.** On a Writ of Habeas Corpus to the United States District Court, relief may be had on behalf of an alien to review deportation decision, to question the right of custody of an alien, to consider a point of law, to secure bail or to end an unduly long detention, but this review by a Writ of Habeas Corpus can be had only on a question of law and not of fact.

2. **Voluntary Removal of an Alien to his Native Country**

An alien not subject to deportation who is in distress or receiving public aid, from causes which arose since entry, at his own request with the consent of the Commissioner General of Immigration and with the approval of the Secretary of Labor, may be removed at the government's expense to his native country at any time within three years after entry. After three years, if not in need of public assistance, an alien who desires repatriation must meet the expense personally.

C. EXPATRIATION

The Act of March 2, 1907, Sec. 2 (34 Stat. 1228) provides: That any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state. When any naturalized citizen shall have resided for two years in the native country from which he came or for five years in any other country, it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: PROVIDED, however, that such presumption may be overcome on the presentation of satisfactory evidence to proper authorities.

XII

INSTALMENT BUYING

Modern merchandising has developed a method of selling which is designed to make it easier for the buyer to purchase goods and to permit more goods to be sold. This is the so-called "instalment plan." The purchaser may select goods, pay a certain amount down at the time of selection, generally a minimum of ten per cent, have the goods delivered and pay for them in small weekly or monthly instalments.

A. INTEREST CHARGES

There is added to the original cost of the goods a percentage which is called a "carrying charge." This may vary from one and one-half per cent to four and five per cent, and is supposed to cover interest on the unpaid portions of the purchase price and the cost of bookkeeping. It is added in proper proportion to each periodic payment.

B. WHAT BUYER SHOULD DO WHEN PAYMENTS CANNOT BE MADE

It is impossible to place too much stress on the fact that one who has purchased on the instalment plan and is unable to meet payments should explain the circumstances to the vendor and **keep** in touch with him, in order that good faith may be shown. The majority of the business houses will go a long way toward helping one who evinces good faith, but if they are left "in the dark" as to the intentions and circumstances of the buyer, they can do nothing to help him, but must take steps to protect themselves.

C. FORM OF CONTRACT OR AGREEMENT OF SALE

This contract or agreement is in one of the following forms:

1. Lease

The agreement used in such cases is usually a lease under which possession of the goods purchased is delivered to the buyer upon condition that he pays a certain sum of money, either weekly or monthly, toward the purchase price of the articles. This agreement also contains provisions that the seller of the goods shall remain the owner until the full amount of the purchase price is paid. When the amount of the purchase price has been paid, the buyer automatically becomes the owner of the goods listed in the agreement. However, he should obtain a written statement from the seller to this effect in the form of a receipt in full.

If the receiver or purchaser becomes delinquent in his payments, one of two courses is open to the seller:

- a. The seller, in expectation that the purchaser may be able to resume payments, may be lenient with the purchaser and not press him for the payments.
- b. He may exercise his rights under the lease and take the property from the purchaser or receiver.

In the latter case, the seller takes back or "recaptures" goods in a condition in which the value has depreciated. Hence, the common practice among reputable merchants seems to be to defer taking drastic action as long as possible and to give the purchaser every reasonable opportunity to pay for the goods in full.

Should the merchant desire, he may retake the property as soon as

the purchaser fails to make a payment and the purchaser has no further rights.

2. Conditional Sale

a. Definition

A conditional sale is a contract whereby certain personal property, enumerated therein, is purchased and the possession thereof delivered to the purchaser, but the title is retained by the seller until certain conditions are performed. The purchaser has a right to possession of the property as long as he continues to perform the conditions set forth in the contract, provided, of course, that the contract is valid.

b. Recording of the agreement

Every conditional sales agreement must be recorded by the seller within ten days after the making of the agreement. The agreement, or a copy of it, must be recorded or filed in the county clerk's office of the county where the goods are first kept after the agreement is entered into, or if there is a Register of Deeds in that county, it must be filed in his office.

In the event that the conditional sales agreement is not recorded within the time required by law, it shall be void as to purchasers or creditors of the buyer who, without notice, purchase or acquire by attachment or levy a lien upon the goods of the buyer, before the contract is filed. If the contract is filed subsequent to the time set forth above, it is valid as against all persons from that date on, except as to those persons who may have acquired an interest in the property by writ of attachment, levy or otherwise, between the day when it should have been recorded and the date of actual recording.

c. Removal of goods

The purchaser is not permitted to remove the goods enumerated in the conditional sales agreement from the county where the agreement is filed for a period of more than thirty days unless he first gives to the seller at least ten days' written notice, either personally or by registered mail, of the place to which the goods are to be removed and the approximate time of such removal.

d. Sale or disposal of goods by the purchaser

- (1) If the purchaser should remove, sell, mortgage or otherwise dispose of the property without giving the seller the ten days' notice of his intention, the seller may retake possession of the goods, as in the case of a default in the payment of the money due under the contract.
- (2) When a purchaser removes the goods without notifying the seller, and this is done maliciously and with intent to defraud the seller, or when the purchaser destroys or conceals the goods, he is guilty of a crime.

These provisions do not apply when the seller expressly or impliedly consents to the purchaser's removal, disposal or mortgage of the property. In that case, the conditional sales agreement is void as to anyone except parties to the agreement.

e. Refiling when goods are moved

If the goods are removed from the county where they were originally kept prior to the performance of the conditions of the contract, the seller must record the contract in the filing district to which the goods are removed within ten days after he has notice

thereof, otherwise it shall be void as against creditors and purchasers of the buyer.

f. Seller may either sue or retake goods

The seller may decide to allow the purchaser to keep the goods and sue for the balance due, and in this event the purchaser then has the title as the seller receives a judgment for the price.

g. Retaking and sale of goods by the seller

If the purchaser defaults in the performance of any terms of the agreement, the seller may retake the goods, if he can do it peacefully; if not, then he must not use force but must institute legal proceedings (called replevin proceedings).

In the event that the seller retakes the goods, he may sell them at a public sale by giving the purchaser ten days' written notice personally or by registered mail, of the time and place of the sale, and by posting notices of the time and place of the sale at least five days before the date set therefor in three public places in the locality where the goods are kept.

If more than fifty per cent of the purchase price has been paid on account, the seller must conduct a public sale of the articles retaken. When less than fifty per cent of the purchase price has been paid, the seller does not have to sell the goods retaken unless the purchaser so demands.

h. Proceeds of the sale

The proceeds of the sale are applied first to the expenses of retaking and selling the goods, storing and keeping them prior to the sale, and the balance is applied toward the amount due under the conditional sales agreement. In the event of a deficiency, the seller may recover the amount of the deficiency from the purchaser by means of a law suit. If there is an excess, it goes to the purchaser.

i. Liability of purchaser where no public sale is conducted

When the seller retakes articles from the buyer but does not conduct a public sale of them, he thereby releases and discharges the buyer from liability for the balance due for the articles which have been retaken.

j. Cancellation of conditional sales agreement

In the event that the purchaser does perform all the conditions of the agreement, he is entitled to receive from the seller a written statement, acknowledging that the conditions of the agreement have been performed. The purchaser may present this to the County Clerk or Register of Deeds and have the conditional sales agreement cancelled and discharged from the record. If the seller refuses to give the purchaser this statement, he shall forfeit five dollars and be responsible for all damages that the purchaser may incur.

k. Refiling of conditional sales agreement

A filed conditional sales agreement is valid for only three years. However, the agreement may be refiled in the same office within thirty days preceding the expiration of the three years. It must contain a statement that the contract is still in force and must show the amount remaining due. This refileing is effective for one year from the date thereof and may be repeated from year to year, thirty days prior to the expiration of each one-year period.

XIII

PUBLIC INSTITUTIONS

This chapter contains information covering correctional, custodial and remedial institutions. Much of this material has been supplied by the State Department of Institutions and Agencies and may be found in the "Summary Report 1923-1933 and Handbook," published by that Department.

Before considering public institutions, a statement is given of the relation between the County Adjuster and public institutions, because the duties of the Adjuster are so closely related to the admission of indigents to such institutions.

In each county, there is a County Adjuster whose duties are mainly in the field of public welfare. He may be reached at the County Court House of each county. Among other things, he is authorized to prepare papers for the commitment or admission of insane, epileptic, feeble-minded and tubercular persons to State and county institutions; to determine the legal settlement and indigency of the prospective patient; to recommend to the court that a person be a State or county indigent patient, or that he or his legally responsible relatives (parents, grandparents, children or grandchildren) be required to pay part or all of the cost of care in the institution.

A. ALMSHOUSES AND WELFARE HOUSES

1. Number and Location

There are county institutions of this type in thirteen of the twenty-one counties, and municipal almshouses in six of the remaining eight. Two counties have no public almshouses or welfare houses located within their geographical limits.

For a complete list of these institutions and their locations, see Publication #26 of the Department of Institutions and Agencies entitled "The Directory of Social Welfare Institutions and Agencies in New Jersey."

2. Commitment to

a. County almshouses and welfare houses

When an individual possessing legal settlement in a municipality is in need of care in an almshouse or welfare house, the Overseer of the Poor may commit him to an almshouse or welfare house in the county in which the municipality is located and the expense becomes chargeable to the county.

In Morris and Warren counties, the County Welfare Board has assumed the functions executed by the municipal Overseer of the Poor in other counties and, therefore, all commitments to county welfare houses and almshouses in these two counties are made by the authority of this Board.

b. Municipal almshouses and welfare houses

If there is no county almshouse or welfare house, the Overseer of the Poor may commit the individual to a municipal almshouse or welfare house operated by the municipality. The operating costs of such institutions are a direct charge against the municipality.

3. Provisions for Care Where No Almshouses are Provided

The law provides that where there is no county or municipal almshouse, the Overseer of the Poor, with the approval of the governing

body of the municipality, may contract for the support of the poor person in a municipal almshouse of another municipality in the same county. (Chap. 132, P. L. 1924.)

The law also provides that one county may contract with another county for the maintenance of its permanent poor in the almshouse or welfare house of the second county. (Sec. 8, Chap. 132, P. L. 1924.)

If an individual has no legal settlement in the municipality but possesses legal settlement in the county, the Overseer of the Poor, by a written order, may commit and remove the poor person to a municipal almshouse in the county. Notice is then served by the Overseer upon the County Board of Freeholders, who must make provision for support and maintenance of the person as a county charge.

If no almshouse or welfare house is available, the law provides that the Overseer may provide for the permanent relief and support of the poor person in the manner which in the Overseer's discretion is most advantageous. Care may be provided in the poor person's home or elsewhere. (Sec. 47, Chap. 132, P. L. 1924.)

4. Eligibility Requirements for Admission to Almshouses or Welfare Houses
 - a. The individual must have uninterrupted residence in a municipality of the county for a period of five years.
 - b. The individual must be in need of permanent relief in an institution of this kind.
5. Procedure to Secure Commitment to Almshouses or Welfare Houses
Application must be made to the Overseer of the Poor of the municipality in which the individual resides. The Overseer then proceeds to investigate the case, and, if the facts warrant, he orders the commitment. In Morris and Warren Counties, application must be made to the County Welfare Board.

B. CORRECTIONAL AND PENAL INSTITUTIONS

1. Jails, Municipal

Municipal jails are usually used only for the temporary detention of persons held for minor offenses. Prisoners are incarcerated immediately after arrest and are rarely held over twenty-four hours. If a longer period of detention is necessary, a transfer is made to the county jail.

2. Jails and Workhouses, County

Each New Jersey county maintains a jail and, in addition, five counties (Camden, Essex, Hudson, Mercer and Middlesex) have workhouses. Workhouses accept only sentenced prisoners; those held for the grand jury, trial or transfer, sentenced prisoners and witnesses are consigned to the jails. Prisoners convicted of serious crimes and sentenced for relatively long terms are usually committed to workhouses while those convicted of less serious crimes and sentenced for shorter periods of time are committed to jails.

Distinction between State prisons, county jails and workhouses with relation to length of sentence

The State Prison will accept prisoners, serving a sentence of over one year, from all counties except Essex and Hudson. From these two counties, sentences must be for more than eighteen months before the prisoner will be accepted in the State Prison. Frequently,

the court will desire to give a longer sentence to be served in the county institutions, and when this is the case, two or more sentences of one year or of eighteen months each, to run consecutively, are imposed.

3. Juvenile Delinquents, Institutions for

a. Number and Location

There are two State, several county institutions and one municipal institution for juvenile delinquents in New Jersey. For a list of them, and the location of each, see Publication #26 of the Department of Institutions and Agencies, entitled "The Directory of Social Welfare Institutions and Agencies in New Jersey."

b. Distinctions between commitment to State and to other public institutions for juvenile delinquents

Legally there is no distinction between county and State homes in regard to commitment of juvenile delinquents. All counties, however, do not have county or municipal parental homes or institutions of this kind. In these counties, the judges send all juvenile delinquents needing institutional care to the State institutions. Where there are county or municipal homes, the choice of institution to which the commitment may be made is at the discretion of the judge.

The maximum age for commitment to the State Home for Boys is fifteen years and to the State Home for Girls, sixteen years. In addition to the commitment of juvenile offenders to these institutions, the judges generally commit to county or municipal homes those juveniles who are being held as material witnesses, or pending trial, or who are serving short terms. No juvenile, under the age of sixteen years, may be committed to or detained in a jail, workhouse or penitentiary when he is being held as a witness or at any other time. Other arrangements for their detention must be made.

c. Parole

If his conduct warrants, parole may be granted to a juvenile by the Board of Managers of the institution to which he has been committed on recommendation of the Institution Classification Committee. The juvenile is supervised by an officer of the Parole Division of the Department of Institutions and Agencies until he is twenty-one years of age. A juvenile parolee is returned to his home if it is a fit place for his continued rehabilitation; if it is not, another home is provided for him.

d. Discharge

Those committed to State homes for juvenile delinquents are discharged at the age of twenty-one. It is the custom to transfer boys and girls who reach the age of sixteen or seventeen years, while in an institution for juvenile delinquents, to the reformatories, if additional institutional care is needed. Discharge may be either from parole or from the reformatory.

4. Reformatories, State

There are three State reformatories, located at Rahway, Annandale and Clinton.

a. Persons committed

Persons are sent by the county courts to the State reformatories after conviction for a crime. The age, sex, previous record, of-

fense, etc., determine to which institution an offender shall be committed.

Rahway Reformatory

Males of the industrial type, sixteen to thirty years of age, who require maximal or limited security, who have been convicted of a crime punishable by imprisonment in the State Prison and who have no previous sentence in a State penitentiary or prison may be committed to this institution.

Annandale Reformatory

Males sixteen to twenty-six years of age, requiring minimal custodial security, who are suitable for training in vocational or agricultural pursuits, who have been convicted of a crime punishable by imprisonment in the State Prison and who have not previously been sentenced to a State Prison, reformatory or penitentiary in this or any other State, may be committed to Annandale.

Clinton Reformatory

All women prisoners seventeen years of age and over may be committed to this institution.

b. Parole and discharge

Parole. On the recommendation of the Institution Classification Committee, parole may be granted by the Board of Managers at any time to persons committed to a Reformatory. The granting of parole is dependent upon the progress of the individual along training and habit lines. If the offender has been transferred from the prison, he may be paroled by the Court of Pardons. He is then placed under the supervision of a parole officer of the Parole Division of the Department of Institutions and Agencies.

Discharge. Whether in the institution or on parole, the final discharge is automatically granted to those committed to a reformatory at the end of their maximum sentence.

5. Prisons and Prison Farms, State

There is one State Prison at Trenton and two prison farms, located at Bordentown and Leesburg.

a. Persons committed

Those committed to State Prison are the older men, men of the more hardened type, men who have had several commitments or who are convicted of serious crimes. Men of a type who need only minimal security detention are transferred from the main prison at Trenton to the Prison Farm at Bordentown or Leesburg upon the recommendation of the Classification Committee of the Institution. Younger men of the industrial type are transferred to the Rahway Reformatory. Upon the authority of the commissioner, offenders may be transferred to a hospital or institution if treatment is needed.

b. Parole

The Court of Pardons, composed of the Governor, Chancellor and the six lay Judges of the Court of Errors and Appeals, meets twice a year and considers applications of prisoners for parole. An inmate must have served at least ten months of a sentence which is greater than a year before he is eligible to make application to appear before the Court of Pardons. He may apply again only after two years have elapsed. At any time, a prisoner may

be called or recalled before the Court of Pardons by a member of the Court.

The Board of Managers of the New Jersey State Prison has parole power over inmates who received a minimum and maximum sentence, after the minimum sentence less earned commutation time for good behavior has been served. The parole is granted on the recommendation of the prison parole committee (warden, parole agent, physician and psychologist).

All inmates paroled from this institution are supervised by the prison parole agent and may be kept under the legal custody of the Prison until the actual completion of their maximum sentence, less commutation time, which is earned on parole as well as in the institution.

c. Discharge

A prisoner who has been committed for a definite sentence, is discharged at the end of his sentence, less "good time" through which several days a month are deducted "for faithful performance of assigned labor, for continuous orderly deportment and for manifest effort toward self-improvement and control." (Chap. 147, P. L. 1918.)

Prisoners committed from 1918 to July 1, 1926, had minimum and maximum sentences (Chap. 147, P. L. 1918; Chap. 155, P. L. 1924); those between July 1, 1926, and May 26, 1932, had definite sentences (Chap. 214, P. L. 1926); and those after May 26, 1932, minimum and maximum sentences (Chap. 166, P. L. 1932). Commutation time for good behavior, if provided by law, is now allowed on both maximum and minimum terms.

d. Women offenders

Women sentenced to the State Prison are sent for examination and classification directly to the State Classification Unit located on the grounds of the State Home for Girls, Trenton, and are then sent to Clinton Reformatory to serve their sentences, unless examinations reveal the need of care in an institution for the feeble-minded, epileptic or insane.

C. INSTITUTIONS FOR EPILEPTICS

1. Number and Location

There is only one institution in New Jersey for the care of epileptics. It is operated by the State and is located at Skillman, New Jersey.

2. Eligibility Requirements

To be eligible for admission, a person must be over five years of age, must be suffering from epilepsy and must have a legal settlement in the State. (Residence for a period of one year excluding time in charitable, hospital or correctional institutions.)

3. Procedure to Secure Commitment

Application blanks may be obtained from the institution, the County Adjuster or the Division of Classification of the Department of Institutions and Agencies. The procedure is the same as for admission to hospitals for mental diseases. (See page 88.)

If immediate institutionalization is necessary before the court hearing can be held, an order of temporary commitment may be obtained, prior to admission, from the judge of a court of record in the county. If that is impossible, admission may be granted through the application papers alone, provided they are accompanied by a statement as to the inability of the applicant to secure an order of

temporary commitment. In either circumstance, there must be a certificate signed by two physicians. Proceedings for the final court hearing must be instituted immediately if the patient enters with a temporary order or with only an application blank.

4. Temporary Visits

A patient may return to his parents or guardians for a visit of two weeks during the months of July and August, upon the authorization of the superintendent, but he remains, during that period, under the custody of the institution.

5. Discharge

A patient may be discharged if the medical director certifies to the chief executive officer that further treatment is unnecessary or undesirable; or by the Board of Managers upon the application of a responsible person, if the Board is satisfied that the patient can be given the proper care and attention; or upon court order. Written application for discharge may be made to the Board of Managers.

D. ISOLATION HOSPITALS

1. Number and Location

There are no State institutions of this kind. There are, however, three county and seven municipal institutions. For a list of them and the location of each, see Publication #26, of the Department of Institutions and Agencies, entitled "The Directory of Social Welfare Institutions and Agencies in New Jersey."

2. Admission and Cost

Admission to these hospitals is always arranged through the local Board of Health of the municipality in which the patient resides. The cost is charged to the patient or to his relatives, but if neither is able to pay the cost, it is charged to the municipality from which the patient is committed. Nearly all hospitals referred to above will take patients from other counties or municipalities, but the cost must be borne by the municipality from which the patient is committed. In some counties, there are general hospitals which have provisions for the care of contagious diseases, but here, too, commitments must be made by the local Board of Health.

E. INSTITUTIONS FOR THE MENTALLY DISEASED AND DEFECTIVE

1. Feeble-minded, Institutions for

a. Number, location and those eligible

There are four State institutions for the feeble-minded in New Jersey.

(1) State Colony for Feeble-minded Males, Woodbine

The following persons may be admitted to this institution: male idiots and low-grade imbeciles over five years of age who are not epileptic or psychotic; feeble-minded males under eight years of age, above imbecile level, for habit training looking toward possible transfer to Vineland Training School.

(2) State Colony for Feeble-minded Males, New Lisbon

Feeble-minded males eight years of age and over, of better than low-grade imbecile level who are not epileptic or psychotic may be admitted to this institution.

(3) Vineland State School

Feeble-minded females of all levels over five years of age who are not epileptic or psychotic may be admitted to this school.

(4) North Jersey Training School, Totowa

Girls between the ages of eight and twenty-five who are mentally retarded, but trainable and for whom the outlook is for community rather than institutional care, if they are not epileptic or psychotic or persistent and aggressive sex offenders or serious behavior problems, may be admitted.

The Training School at Vineland, a private institution, receives a limited number of State cases. It accepts white children of either sex, between the ages of five and fourteen years, of better than low-grade imbecile level who are trainable, cleanly in personal habits and capable of self-help. They must not be behavior problems, epileptic or psychotic. Children are committed directly to a State institution and then transferred to the training school if that is desirable.

b. Procedure to secure commitment

Preliminary application blanks may be obtained from the Classification Division of the Department of Institutions and Agencies, at Trenton. When filled in, they are returned to the Division for approval of admission to the appropriate institution. The Division decides to which institution the individual will be committed. The legal application form is then sent by the Division to be filled in by the person having the custody of the child or adult, and signed by two physicians who have made personal examinations. It must then be filed within ten days in the office of the County Adjuster who obtains the court order of admission from the Court of Common Pleas. Due to the large number of applicants, it has been necessary to establish waiting lists for each of the institutions for the feebleminded.

c. Temporary visits

A patient may be given permission by the superintendent to visit approved relatives and friends for designated brief periods of time.

d. Parole and discharge

When the institution has given the patient treatment and training and it seems likely that he may be able to live in the community under regular or special conditions, he is placed on parole during which time he is visited by the social service department of the institution or by an officer of the Division of Parole. After a sufficiently long trial has indicated that return to the institution is unnecessary, he may be discharged.

A patient may also be discharged directly from an institution upon the recommendation of the superintendent or the order of the Commissioner.

2. Mental Diseases, Hospitals for the Treatment of

a. Number and location

There are three State and six county hospitals providing treatment for persons suffering from mental diseases. For a list of them and the location of each, see Publication #26 of the Department of Institutions and Agencies, entitled "The Directory of Social Welfare and Health Agencies in New Jersey."

b. Distinction between county and State hospitals with reference to commitment

There is but one distinction. To be eligible for commitment to a county institution, an individual must have resided in the county

for five consecutive years. To be eligible for care in a State institution, the individual must have resided in the State for a period of one year. If the patient possesses a county residence, it is for him or his relatives to decide whether application will be made for admission to a county or a State institution. In either event, the patient or his legally responsible relatives must pay for care if they can. If they cannot, the State and county provide the care. The decision rests with the County Adjuster.

c. Persons eligible

Persons of both sexes suffering from mental disease are admitted to each of the three State hospitals. The hospital at Greystone Park receives most of its patients from Passaic, Bergen, Hudson, Essex, Morris and other northern counties; the hospital at Marlboro has patients from Union, Middlesex, Monmouth, Ocean, Sussex and Hunterdon counties and the one at Trenton serves the southern counties.

d. Procedure to secure commitment

An application for commitment may be obtained at the office of the County Adjuster, at the hospital, or through the Department of Institutions and Agencies. The application may be made by a relative of the patient or by a person having charge or care of the patient.

The application must be certified by two physicians testifying under oath to the insanity. The signing physicians must be residents of New Jersey and must have practiced in this State for at least five years. They must not be related to the patient or connected with or financially interested in the institution to which the commitment is to be made. Within ten days of the physicians' signing, the application must be in the hands of the County Adjuster of the county in which the patient resides or is found. If immediate temporary confinement is unnecessary, the County Adjuster fixes the day of the final hearing to establish the insanity, the legal settlement and the indigence of the patient. The day of the hearing shall not be later than twenty days after the application. The patient may appear personally or through his attorney at the hearings.

If immediate confinement is necessary, an order of temporary commitment may be obtained from a judge of a court of record in the county in which the person resides or is found, if the certifying physicians state the condition of the patient. If temporary papers cannot be obtained, the statements of the physicians as to the need of immediate care and the inability of the applicant to secure temporary commitment papers may be presented to the chief executive officer of the institution. In the former case, the County Adjuster will proceed with final commitment papers and in the latter, with temporary and then final commitment papers.

e. Admission of voluntary patients

A person believing himself about to become insane or in danger of losing his reason, may be admitted to a hospital for mental disease by filing with the chief executive officer at or before his admission, a written application, the form for which may be obtained from the institution or the County Adjuster. If he cannot furnish the cost of care in advance, or deposit a bond with sufficient surety as security, a copy of the application for admission is furnished to the County Adjuster who investigates the legal

settlement and indigence, and reports to the court, which issues an order covering payment for care.

f. Temporary visits

The chief executive officer of the Board of Managers of each hospital sets down the rules under which a patient, if his mental and physical condition permit, may be released to relatives and friends for brief periods while still in the custody of the hospital.

g. Parole and discharge

When a patient has improved to a point where release is advisable, it is the practice of the hospital to release him for a trial period to responsible persons in the community. During this period he is under the supervision of the social service department of the hospital. If he proves that he cannot adjust himself to people and to community life, he is returned to the hospital for additional treatment.

If, at the end of a year, he is no longer in need of care or supervision by the hospital, his case is reviewed by the physician and the social service department and he is discharged.

A voluntary patient, however, may be discharged directly from the hospital without parole upon the certification of the medical director to the chief executive officer that the patient is cured, or that further treatment is unnecessary or undesirable, or the patient may serve notice that he desires to leave and may then be released. A person transferred from a penal or correctional institution is returned to his original institution upon the improvement or cure of his mental disease unless his penal sentence has expired during his hospitalization.

F. SOLDIERS' AND SAILORS' HOMES

1. Soldiers' Home, Vineland, New Jersey

a. Eligibility requirements

(1) Disabled soldiers, sailors and marines

The service man must have been honorably discharged from his last enlistment, must be in need and unable to procure the means necessary for his support and care. He must have been a resident of New Jersey for at least seven years immediately preceding application.

(2) Wives of disabled soldiers, sailors and marines

The wife must have been married not less than ten years to a service man entitled to admission and must be not less than fifty years old.

(3) Widows of disabled soldiers, sailors and marines

The widow must have married the service man prior to June 27, 1915, or have been married at the time of his service and not remarried; and must have been for the past ten years a resident of New Jersey. She must prove that her husband, if living, would be entitled to admission to the Home. (Chap. 147, P. L. 1918, Chap. 232, P. L. 1921, and Chap. 62, P. L. 1930.)

b. Application and admission

Application papers may be procured from the Home. Admission is approved by the judge of the Court of Common Pleas, upon the written certificate of a reputable physician and other proof which the judge may require of the ability of the applicant to

meet the admission requirements. The Board of Managers then admits the applicant, if he is a fit subject for the care provided.

c. Discharge

A person may voluntarily leave the Home or may be discharged by the Board of Managers when he is able to support himself, or a relative is able to support him, or when he has failed to live up to the rules of the institution.

2. Menlo Park Home

a. Persons eligible

Honorably discharged soldiers, sailors, marines and male nurses are eligible for admission to this Home.

b. Eligibility requirements

In order to be eligible for more than temporary care, the service man must have resided in the State for a period of two years prior to his application. He must show proof of his service and honorable discharge. He must be incapacitated by age or service so that he cannot earn a living. (Chap. 276, P. L. 1931.)

Temporary care may be given to the soldier, sailor, marine or male nurse who has resided in New Jersey for a period of five years and who presents a written certificate signed by a reputable physician to the effect that he is in need of convalescent care. Temporary care for a period of six months may be given, and in special cases it may be extended to nine months. (Chap. 276, P. L. 1931.)

G. TUBERCULOSIS SANATORIA

1. Number and Location

There is one State and one municipal institution of this kind in New Jersey. There are ten county institutions. The counties which have no tuberculosis sanatoria contract with those counties which have, or with private nursing homes approved by the State Department of Institutions and Agencies. For a list of these, see Publication #26 of the Department of Institutions and Agencies.

2. Distinction between the State Sanatorium and the various County Sanatoria with reference to Admissions

The State institution at Glen Gardner accepts only cases having pulmonary tuberculosis in its early stages of a curable nature. The county institution accepts patients with all types and stages of tuberculosis. The requirement for admission to Glen Gardner or a county sanatorium is a legal settlement in the State (one year's residence in the State).

The State pays a certain sum to the counties for each patient cared for in a county sanatorium. When the patient does not have a county settlement but does have a State settlement, the State pays an additional amount for the care of that individual in the county sanatorium.

3. Eligibility

a. State sanatorium

The individual must be between the ages of five and fifty-five, must have a tuberculous disease of the respiratory organs which is of a curable nature, and must have had residence in this State for a period of one year prior to his application.

b. County sanatoria

The individual must possess legal settlement in the State, (residence for a period of one year) and must have a tuberculous disease.

4. Procedure to Secure Admission

Persons desiring to enter the State sanatorium or one of the county sanatoria, should be examined at the regularly scheduled tuberculosis clinics in the State. Information relative to these clinics may be secured from the New Jersey Tuberculosis League at 15 East Kinney Street, Newark, or the County Tuberculosis League in each county. For a list of these, see Publication #26 of the Department of Institutions and Agencies. Application may also be made to the superintendent of the institution. The County Adjuster acts on all cases except those of private patients who furnish bonds as security to cover the cost of care. All arrangements are made through the clinics.

XIV

LABOR LAWS

Under State laws that constantly change to meet new conditions, employers are compelled to keep their places of business as safe as possible for their employees, and to conduct their plants so that there will be a minimum of risk to a worker who obeys instructions and cooperates in the observance of all regulations set up for his benefit and protection. Other laws cover wages, employment and workmen's compensation. It is the purpose of this chapter to present these laws for the information of the social worker.

A. LAWS AFFECTING LABOR, WAGES, EMPLOYMENT AND WORKING CONDITIONS

1. Safety Appliances are Compulsory

Employers are compelled to install safety devices in their plants whenever necessary.

a. Procedure to compel installation of necessary safety devices.

The State Department of Labor has established rules for the operation of factories and other places of employment throughout the State. Inspectors of the Department visit these places and submit written reports of the conditions they find. In the event of infractions of the rules established by the Department, the employer is notified and is given time within which to correct the situation. In the event of a failure to comply with the order of the Department, the employer may be subjected to a fine or the place of business may be closed.

b. Complaints about unsafe conditions, etc., in places of employment

Anyone may make a complaint to the Department of Labor of the existence of unsafe conditions. The Department will investigate the matter and take the necessary steps to bring about a correction of the situation.

2. Hours of Labor for Adults

a. **WOMEN.** No female shall be employed or permitted to work in a manufacturing or mercantile establishment, bakery, laundry or restaurant more than ten hours in one day or more than six days, or fifty-four hours, in one week. In hotels and other establishments whose business is of its nature continuous, and where working hours for women do not exceed eight hours a day, the above provisions do not apply, nor do they apply to canneries engaged in packing perishable products, such as fruits and vegetables.

No female shall be employed or permitted to work in a manufacturing or mercantile establishment, bakery or laundry before six o'clock in the morning or after ten o'clock in the evening. This provision does not apply to canneries engaged in the packing of perishable products.

b. **MEN.** The only minimum hours applicable to men affect caisson workers, bakers, messenger boys and employees in public works. In such cases, the limit of a day's work is eight hours.

TO WHOM COMPLAINTS REGARDING EMPLOYMENT AND LABOR CONDITIONS SHOULD BE MADE

Complaints should be referred to the Department of Labor at Trenton.

Supervision of labor and labor conditions affecting women and children is now vested in the Bureau of Women and Children, State Department of Labor. The Bureau is in charge of the administration of the various laws and regulations for the protection of these two classes of workers and has its own inspectors to investigate and report observances or infractions of rules.

3. Age Limit In Employment of Children

No child under the age of fourteen years shall be employed or permitted to work in any employment other than agricultural pursuits. However, children over the age of ten years may be permitted to work after school hours.

No child under sixteen shall be employed or permitted to work unless he shall submit to the employer an Age and Schooling Certificate (See page 31.)

No child shall be permitted to work in any employment or establishment where conditions exist which are dangerous to his health or detrimental to his living and learning.

TO WHOM COMPLAINT SHOULD BE MADE

Anyone may call to the attention of the Bureau of Women and Children in the State Department of Labor, Trenton, the infraction of rules with reference to child labor.

4. Wages, Their Status and Collection

a. Definition

Wage is the compensation paid to a hired person for his services. It may be a specified sum for a certain period of service or a fixed sum for a specified piece of work. The payment, by agreement, may be made in media other than money.

b. Minimum wages

While there has been no legislation establishing minimum wage rates, these may become effective in agreements between employers and union labor or company union organizations.

c. Wage claims in case of bankruptcy of employer

In the case of bankruptcy of an employer, the law gives to the wage claimant a preference over other general creditors for the wages due to him from his employer. A wage claimant is entitled to a preference over other creditors of the employer only for work covering a period not exceeding three months. In the event that there is an amount due for more than a three months' period, the employee becomes a general creditor of the employer for the excess amount and shares pro rata with other general creditors.

PROCEDURE TO FOLLOW

The employee, immediately upon bankruptcy of his employer, should obtain a printed form called "Preferred Proof of Claim in Bankruptcy." This is a statement showing the amount of wages due the employee and the nature of the claim. This may be obtained at a legal stationery store and should be filled out by the employee, sworn to before a notary public and filed with the Trustee in Bankruptcy appointed for the employer. Upon filing this claim, the employee should obtain from the Trustee an acknowledgment of the receipt of the wage claim.

d. Wage claims in case of death of employer

The employee should make out a written statement showing the amount of wages due him from the deceased employer and the services for which the amount is due. This statement should be

sworn to before a notary public and filed with the person in charge of the estate of the employer. Upon filing this statement of claim, the employee should obtain a receipt therefor.

e. Wage claims in case of death of employee

The employer may pay the dependents of the deceased employee the wages due at the time of death, without letters of administration being issued for the estate of the deceased, when the amount of wages does not exceed \$75.00. The employer, however, is not compelled to pay the wage claim until an administrator is appointed for the estate of the employee.

f. Wage claims when employer's property is being sold or removed under process of law

The employee shall immediately serve a written notice upon the officer appointed to sell or remove the property of the employer, advising that an amount of money is due him from the employer for wages. When this is done, the officer of the court may not sell or dispose of the property until the wage claim is paid. The employee should obtain a receipt from the officer when he delivers the statement to him.

g. Wage claims for building and construction work

The Mechanics' Lien Law of New Jersey gives employees engaged in the construction and alteration of certain buildings a lien for money due to them. As a result, the employee has a claim for wages, not only against the employer but also against the building upon which the work was done. If an employee engaged in such work desires to avail himself of this law, he must adhere strictly to the procedure outlined therein before he starts to work on the building. This procedure is very technical and a reputable attorney should be consulted to take the necessary steps to protect the rights of employees.

h. Collection of wage claims through State Department of Labor.

There exists in New Jersey a Wage Collection Division which has been organized by the Department of Labor. This Division renders assistance in the collection of wages free of charge to employees.

PROCEDURE FOR COLLECTION OF WAGES BY WAGE COLLECTION DIVISION

(1) Filing of claim

The employee obtains from the Division a blank claim form which he fills out and which sets forth the amount and source of the claim for wages. The form is then mailed to the Wage Collection Division of the Department of Labor.

(2) Action of Wage Collection Division

Upon receipt of the statement of claim, this Division communicates with the employer and gives him every reasonable opportunity to pay the claim, either at once or in instalments. When the claim is paid in instalments, the payments should be made to the Wage Collection Division and not to the employee, for in this manner, the Wage Collection Division will always know the exact status of the case.

If the employer refuses to pay or is dilatory in making his payments, the Wage Collection Division will conduct a hearing, at which the employer and the employee are directed to appear with all their witnesses. After both parties present their evidence, the Wage Collection Division either dis-

misses the claim or renders a judgment in favor of the employee. If a judgment is rendered in favor of the employee, it has the same effect as a decree of a court and the property of the employer may be taken and sold in order to pay the judgment.

(3) Wage payment act

A law exists in New Jersey which directs that employers must pay to employees wages in cash at least every two weeks. If the employer violates this law, he is subject to a fine of \$50.00 for the first offense and \$100.00 for each subsequent offense.

COMPLAINTS

A complaint may be made by anyone concerned, to a criminal court or to the Department of Labor which will bring the matter to the attention of the court. After a complaint has been made, the employer is summoned to appear before the criminal court. A hearing is conducted and if the claim is well-founded, a judgment is rendered in favor of the employee. If the employer fails to pay the judgment within the time allotted, he will be subjected to a fine or imprisonment. The provisions of this act are not applicable to employees engaged in agricultural occupations.

i. Collection of wage claims through Small Claims Division of the District Court.

When the amount of wages does not exceed \$50.00, suit may be instituted in the aforementioned court. If the employee is unable to pay the costs of these proceedings, he may still institute such proceedings upon signing an affidavit supplied by the court to the effect that he does not have the money to pay for costs of suit. (See page 50.)

j. Wages may not be withheld without consent of employee

No employer, under pretense of assisting, relieving or maintaining his employees when sick or otherwise disabled, may retain or withhold for any purpose a portion of the wages of his employee without the voluntary consent of the employee. An employer who does this is subject to a fine and a complaint may be made to the Department of Labor at Trenton.

k. Assignment of wages

(1) By public employees

Earned salaries or fees of public employees may be assigned and these assignments will be recognized.

It is against public policy for these employees to assign unearned or future wages or salaries or a portion thereof and these assignments will not be recognized as valid.

(2) By employees in private industries

A valid assignment of present and future wages may be made by this class of employees. An assignment may be made as security for a present indebtedness and also for future advances made by the assignor.

(3) Consent of wife to assignment of wages

Under the Small Loan Act (\$300.00 or less) no assignment of wages to secure a loan is valid unless, before the loan is made, the assignment is accepted in writing by the employer and accompanied by a written consent of the wife of the assignor to the assignment. However, when the husband has

been separated from his wife for five months prior to the making of the assignment, her written consent is not necessary.

5. State Employment Agencies and Wage Collection Agencies under the State Department of Labor

The following is a list of branch offices throughout the State which are under the supervision of the Department of Labor and furnish free employment agency and wage collection service to all persons desiring the same:

ATLANTIC COUNTY

State Employment Service,
17-19 S., North Carolina Ave.,
Atlantic City.

BERGEN COUNTY

State Employment Service,
Post Office Building,
Hackensack. (2-6232)

CAMDEN COUNTY

State Employment Service,
9th Floor, New City Hall,
Camden.

ESSEX COUNTY

State Employment Service,
Commercial Department,
1060 Broad Street,
Newark. (Mitchell 2-4868)

State Employment Service,
Service Department,
46 Franklin Street,
Newark. (Market 2-2831)

State Employment Service,
16 North Center Street,
Orange. (Orange 5-3210)

HUDSON COUNTY

State Employment Service,
571 Jersey Avenue,
Jersey City. (Delaware 6-2350)

State Employment Service,
38th Street, corner New York Avenue,
Union City. (Palisades 6-0200)

MERCER COUNTY

State Employment Service,
109 West State Street,
Trenton. (2-2131 Ext. 229)

MIDDLESEX COUNTY

State Employment Service,
254 State Street,
Perth Amboy. (4-1103)

PASSAIC COUNTY

State Employment Service,
Commercial Department,
Rooms 201-203-205, Post Office Bldg.,
Paterson. (Sherwood 2-4876)

State Employment Service,
Service Department,
15 Church Street,
Paterson (Sherwood 2-4876)

UNION COUNTY
State Employment Service,
City Hall,
Elizabeth. (2-8652)

WARREN COUNTY
State Employment Service,
Room 5, Post Office Bldg.,
Phillipsburg. (5-0771)

6. Private Employment Agencies

The State Employment Agency, Department of Labor, also has in charge the licensing of private agencies throughout the State. It makes regulations permitting them to charge fees and requires that they file bonds with the Department of Labor. There are restrictions upon the activities of these agencies, such as: that no licensed agency is permitted to send, or cause to be sent, a female as a companion or servant to an inmate of a place of ill-fame; that no persons of bad character shall be permitted to frequent these agencies; that no licensed agency shall receive applications from a child under sixteen years of age or place or assist in securing employment for the child; that no agency shall cause to be published a fraudulent or misleading advertisement.

COMPLAINTS AND PENALTIES

Anyone may make a complaint to the Department of Labor that a private employment agency has violated one of the above regulations. The license of the private employment agency may be revoked by the Commissioner of Labor and also the agency may be subjected to a fine of not less than \$50.00 and not more than \$250.00. In addition, the owner may be imprisoned for one year.

7. Work in the Home (Sweat Shop Labor)

a. Regulation of

No dwelling, tenement house or room therein, or building situated immediately in the rear of a tenement or dwelling house, shall be used for the purpose of manufacturing, altering, repairing, finishing or distributing, for hire or reward, any goods whatsoever unless a license is secured.

b. Licensing

Application for a license is made to the Commissioner of Labor. An investigation will then be conducted and if the premises comply with the regulations that there must be 250 cubic feet of air space for each person working between 6 A. M. and 6 P. M., and 400 cubic feet of air space for those working between 6 P. M. and 6 A. M., a license will be granted for a period of one year. These premises are subject to inspection by the Department of Labor. Entrances to manufacturing rooms must be by a different stairway from the one leading to the living quarters. The rooms must be well-ventilated and heated.

The above does not apply to tailors and seamstresses.

c. Complaints and penalties

A person may make a complaint to the Department of Labor of

a violation of these provisions and one found guilty of a violation may be subject to a fine of \$25.00 for the first offense, and \$50.00 for the second offense, and if the violation persists, the premises may be declared a disorderly house and closed.

B. WORKMEN'S COMPENSATION

1. Under State Laws

There exists in New Jersey, a Workmen's Compensation Act, by reason of which compensation is paid by the employer for injuries to, or the death of, his employee, when the injuries or death have been brought about by an accident arising out of and in the course of his employment. This compensation is paid without regard to the negligence of the employee in all cases except when the injury or death is intentionally self-inflicted or when intoxication is the natural and proximate cause of injury.

There are two sections of the Workmen's Compensation Act which set forth the remedy to be used by an employee who has sustained injuries arising out of and in the course of his employment.

SECTION 1. Under this section, an employee sustaining injuries may institute a civil suit against his employer for damages. Such an employee is not covered by the schedule of compensation set forth in the Workmen's Compensation Act.

This section does not apply unless the employer and employee specifically agree in writing, prior to an accident, that they are not bound by Section 2 of the Workmen's Compensation Act.

SECTION 2. Under this section, compensation for personal injuries to, or the death of, an employee, by accident arising out of and in the course of his employment, shall be made by the employer without regard to the negligence of the employee. The amount of compensation is covered by a schedule contained in this section. Both the employee and the employer, unless they otherwise agree in writing, are bound by the provisions of this section and all claims for compensation for injuries or death arising out of and in the course of the employment, must be instituted under the terms of this section.

a. Who is covered by the Workmen's Compensation Act

(1) Employees other than public employees

All employees except employees of a governmental unit, domestic servants, agricultural, casual and work-for-relief employees are protected by this Act.

WHO ARE INCLUDED AS EMPLOYEES

By the term "employee" is meant a person who performs services for another for a financial consideration. This term excludes those who undertake casual employment.

CASUAL EMPLOYMENT

Casual employment is defined as employment which, if in connection with the business of the employer, arises by chance or is purely accidental; or, if not in connection with a business of the employer, is not regular, periodic or recurring.

ILLUSTRATIONS

A is a manufacturer living in Orange. On a certain morning, A requests B, a young man of the neighborhood, to drive him to New York in A's car and bring the car back to A's residence in Orange. A agrees to pay B \$5.00 for his time and effort. While driving the car back to Orange from New York, B is involved in an accident and sustains personal injuries. B is not entitled to Workmen's Compensation. He is a casual employee.

A is a manufacturer. On a certain day, he receives a large shipment of materials. Being short-handed, because one of his employees did not come to work, he hires B to unload the shipment of material. While so engaged, B sustains injuries by reason of an accident. B is not entitled to Workmen's Compensation, as he is a casual employee.

RECOURSE OF CASUAL EMPLOYEE FOR PERSONAL INJURIES OR DEATH

When a casual employee sustains personal injuries or death in an accident arising out of and in the course of his employment, the only recourse for him or his dependents is to institute a suit for damages in a civil court against the person, persons or company responsible for the injuries or death.

(2) Public employees

(a) Regular employees

Chapter 145 of the Laws of 1913 made it possible for the regular employees of the State, counties and municipalities to be covered by compensation insurance with the same classification of awards as is provided for employees in industry. Payments due to public employees under compensation awards shall be set up on the payrolls and made in the same manner as wages. Extraordinary payments must be made from incidental expense funds.

(b) Work-for-relief employees

In 1931, the Legislature provided for the extension of the benefits of the Workmen's Compensation Act to those working under a plan of relief approved by the State Director of the Emergency Relief Administration. Subsequently, by Chapter 81 of the Laws of 1933, this type of labor was declared to be casual employment and those engaged in it were declared not entitled to the benefits of the Act.

By Chapter 162 of the Laws of 1933, provision was made, in case of personal injury or death by accident arising out of and in the course of Emergency Relief Administration employment at any time, and upon satisfactory proof to the State Director that the accident so arose, for the State Director to make an award of damages to the injured person, or in case of death, to distribute the damages to the legal representative of the deceased person.

By this statute, the Director of the Emergency Relief Administration was authorized to subpoena witnesses, to administer oaths, to take testimony, etc., in order to conduct hearings for the purpose of ascertaining the

nature and cause of accidents or deaths. The amount of damages awarded is discretionary with the State Director of the Emergency Relief Administration, but in no case may the amount be greater than is allowed for injury or death under the Workmen's Compensation Act. The awards, in these cases, shall be paid out of appropriations made to the State Director or to the Emergency Relief Administration.

Under the provisions of the Workmen's Compensation Act, lawyers are not permitted to receive fees for bringing claims for compensation. A person bringing a claim or giving evidence with intent to defraud the State, shall be guilty of a crime and punished accordingly.

b. Who is not covered by the Act

- (1) Farm laborers and domestic help are not covered by the provisions of this Act. Compensation for injuries or death may be secured by these employees only by an action at law.
- (2) Public employees holding elective office or former public employees injured or disabled in line of duty and retired or pensioned by reason of the injury or disability, do not come within the scope of this Act.
- (3) Casual employees are not covered by this Act.
- (4) Work-for-relief employees are covered by Chapter 162, Laws of 1933, as above-mentioned.
- (5) A person engaged in the vending, selling or offering for sale, or delivering directly to the general public, newspapers, magazines, periodicals, or acting as a sales agent or distributor for a newspaper, magazine or periodical, shall not be considered as an employee within the meaning of the Workmen's Compensation Act.

c. Compulsory insurance by employers

All employers, except the State, county, municipality or school district, are required to carry insurance with an accredited company or to be self-insured; that is, to set aside a certain amount of money annually out of which to pay claims for injuries to or death of their employees.

PENALTIES FOR VIOLATION OF COMPULSORY INSURANCE PROVISION

An employer who fails to provide the insurance prescribed in the Act shall be guilty of a crime and, upon conviction for the first offense, shall be fined \$500.00, and for the second offense, fined \$500.00 or imprisoned for not more than thirty days or both.

d. Types of injuries covered by this Act

- (1) Injuries or death by accident, arising out of and in the course of employment.
- (2) Injuries or death sustained from certain occupational diseases contracted in the course of employment but not brought about by accident.

e. Elements which must be present before a worker may secure compensation under this Act

- (1) When injuries or death were brought about by an accident arising out of and in the course of employment, the following elements must be present:
 - (a) The relationship of employee and employer must exist

and arise out of regular employment as distinguished from casual employment.

- (b) Injuries received by employees must result from an accident arising out of and in the course of employment.
 - (c) The employee must not be guilty of wilful negligence which shall consist of: a deliberate act or failure to act; or such conduct as evidences reckless indifference to safety; or intoxication which operates as the proximate cause of the injury.
 - (d) Notice of the injuries or death sustained by the employee must be given to the employer immediately.
 - (e) Claim for compensation must be filed with Workmen's Compensation Bureau within two years after the date of the accident or the date of the last payment of the employer pursuant to a settlement agreement.
- (2) When the injuries or death were brought about by an occupational disease contracted in the course of employment, the following elements must be present:
- (a) The disability of the employee must have commenced within five months after the termination of his exposure to an occupational disease.
 - (b) The relationship of employer and employee must exist and arise out of regular employment as distinguished from casual employment.
 - (c) The employee must not have been guilty of wilful self-exposure to occupational diseases.
 - (d) Wilful self-exposure to occupational diseases shall include: failure or omission to observe the rules and regulations which are promulgated to prevent occupational diseases by the Department of Labor and posted in the plant by the employer; failure or omission to state truthfully to the best of the employee's knowledge in answer to inquiry made by the employer, the location, duration and nature of previous employment in which the employee was exposed to an occupational disease.

The following is a list of the only occupational diseases for which compensation may be secured:

- Anthrax
- Lead poisoning
- Mercury poisoning
- Arsenic poisoning
- Phosphorus poisoning
- Poisoning from benzine and its homologues and all derivatives thereof
- Wood alcohol poisoning
- Chrome poisoning
- Caisson disease
- Mesothorium or radium poisoning

- (e) Notice must be given to the employer of the contracting of an occupational disease within five months after the date when the employee has ceased to be subject to exposure to it.
- (f) Claim for compensation must be filed with the Workmen's Compensation Bureau within one year from the date on which the employee ceased to be exposed to

the occupational disease or the date of the last payment of the employer under a settlement agreement.

f. Benefits and awards available to employees and dependents

(1) Types of awards—for injuries

AWARDS FOR TEMPORARY DISABILITY

When an employee is injured, but not so severely that he cannot resume employment within a reasonable time, he may secure an award for a temporary disability. Such an injury might be the breaking of an arm or leg.

AWARDS FOR TOTAL PERMANENT DISABILITY

Awards for total permanent disability are available when an employee is so severely injured by loss of organs or parts of the body, or in other ways, that he is not fit to resume any occupation. These cases are referred to the State Rehabilitation Commission to decide what can be done to make the person self-sustaining. If the injuries are so severe as to eliminate that possibility, special provision is made by the Compensation Bureau to take care of the case.

AWARDS TO MINORS

Compensation awards to minors under fourteen years of age, employed in violation of the Labor Act, or to minors between the ages of fourteen and sixteen, employed without working papers, or to minors employed in occupations prohibited by law, shall be double the amount ordinarily made. For each extra penalty amount, the employer alone and not the insurance carrier is liable.

(2) Amount of payments

The award by the Workmen's Compensation Commission is 66 2/3% of the injured worker's weekly wages. This sum must come within the following limits: the minimum amount which he may be paid is \$10.00 per week and the maximum amount is \$20.00 per week.

BOARD AND LODGING COMPUTED AS WAGES

When board and lodging are furnished by the employer as part of the wages paid to the employee, these are valued at \$5.00 per week unless the value of these advantages has been otherwise fixed by the parties at the time of hiring.

PIECE WORK IN THE COMPUTATION OF WAGES

When the rate of wages is fixed by the output of the employee, the daily wage shall be calculated by dividing the number of days the employee was actually employed into the total amount of wages earned during the preceding six months, or so much thereof as shall refer to employment by the same employer.

(3) Limitation of payments

The maximum number of weeks during which payment is made for permanent partial disability, except in cases of dismemberment or the loss of parts of the body, is five hundred weeks; for permanent total disability, four hundred weeks; and for temporary disability, either total or partial, three hundred weeks.

(4) Time of payment of compensation

The Workmen's Compensation Bureau may order payments

made on a weekly basis or the sum of an award may be computed from the weekly payment basis to a lump sum.

After the accident, the employee is not entitled to compensation for the first seven days, which is called a waiting period. When the disability extends beyond seven weeks, the employee receives compensation for the waiting period.

- (5) Priority of compensation over other claims against employer
The right of compensation under this Act shall have priority on the assets of the employer over other creditors of the employer to the same extent as a claim for wages.
- (6) Claims not assignable—exempt from creditors of employee
Workmen's Compensation claims are not assignable. Creditors may not levy or attach claims or payments of the employee under this Act.

g. Compensation to dependents for death of employee

- (1) Who is entitled to compensation

In cases of death from injuries arising out of and in the course of employment, the Compensation Act provides that a percentage of pay be distributed to the various dependents of the deceased, such as the widow, widower, children, parents, step-parents, step-children, grand-children, brothers, sisters, step-brothers, step-sisters, nieces and nephews; but no dependents other than the husband, wife, parent or step-parent are entitled to benefits unless under sixteen or over forty years of age or incapacitated. They may be either partially or totally dependent.

- (2) Amount of payments

The percentage of wages which are paid to dependents in this category is fixed by the Workmen's Compensation Bureau.

- (3) Limitation of payments

A widow may receive payment for 300 weeks, but on remarriage the payments cease; children under sixteen years of age, 300 weeks; and others, 300 weeks.

- (4) Burial allotments

A maximum of \$150.00 in addition to other death benefits is payable in all cases.

h. Medical attention and hospitalization for employee

- (1) Who is eligible for medical attention and hospitalization

All injured employees covered by this Act are entitled to medical, surgical and other treatment, and to hospitalization services that may be necessary to enable them to recover from the injury and to restore the functions of injured members or organs of the body where restoration is possible. The employer is required to furnish treatment, unless the costs exceed \$50.00. In that event, the injured worker or some person in his behalf, must file a petition with the Bureau. This petition form may be secured from the Bureau. It sets forth the need of the extra services. If the Compensation Bureau considers the extra services necessary, it will issue an order requiring the employer to pay for or to furnish the same, and if he refuses to comply with this order, the employee may secure treatment or services and the employer shall be liable for them.

SUPPLYING ARTIFICIAL APPLIANCES

When an injured employee may be partially or fully relieved of the effect of permanent injury by the use of artificial appliances, the Compensation Bureau, acting under competent medical advice, is empowered to require the employer or his insurance carrier to furnish artificial appliances, such as artificial eyes, teeth, limbs, etc.

IN THE CASE OF AN OPERATION

If the employee needs an operation, the medical and surgical expenditures, up to a maximum of \$150.00, must be provided by the employer or his insurance company.

i. Procedure to secure benefits and awards

A worker who is thought to have a claim under the Workmen's Compensation Act should immediately be referred to an office of the Workmen's Compensation Bureau.

All matters with reference to Workmen's Compensation are handled under the supervision of this Bureau, which has the exclusive right to try matters arising under the Workmen's Compensation Act.

- (1) Unless the employer has actual knowledge or actual written notice of the occurrence of injury, he is not liable for payment of compensation. This notice may be served personally on the employer or upon a recognized agent of the employer, or by sending it through the mail to the employer, at his last known address or place of business within the State. It may be in any form sufficient to advise the employer that the employee received an injury in the course of his employment at or about a specified time and at or near a certain place. The notice may be sent by the employee himself or one of his dependents, or by an agent acting for him in case he is unable to send it himself. It should, however, be sent by registered mail—return receipt requested.

If the employee neglects to give notice for fourteen days, no compensation is due until the notice is given. If he does not give a notice for thirty days, it shall not be a bar to compensation, unless the employer can show to what extent he was prejudiced by the failure to receive this notice.

If notice is given within ninety days, and the delay was through mistake, misunderstanding or some other valid reason on the part of the worker, compensation may be allowed, unless the employer can show prejudice by failure of notification.

If notification is delayed beyond ninety days, compensation will not be allowed.

- (2) Forms to be signed by employees

There are several forms that the employer may request the employee to sign relative to reports that he is required to make. However, it is unlawful for the employer to request the employee to sign a blank form and under no circumstances should this be done.

- (3) Medical examination of employee

After the injury, the employee, if requested by the employer, must subject himself to an examination at some reasonable time and place within the State and as often as may be reasonably requested by a physician or physicians authorized

to practice under the State laws. The employee may have his own physician present to participate in the examination. A refusal of the employee to submit to examination shall defeat his right to compensation during the continuance of the refusal.

(4) Settlement agreement

The employer's insurance carrier, if there is one, and the injured worker may agree upon a settlement for the injury. This settlement must be in writing and must be approved by the Compensation Bureau before it is binding. If a compromise is not reached, the Workmen's Compensation Bureau arranges an informal hearing to be attended by the injured worker, representatives of the insurance carrier, if any, and the employer. An attempt is made to arrange the terms of a settlement that will be satisfactory to all concerned. There is nothing binding in this procedure and it is in the nature of an arbitration.

(5) When no settlement can be reached

A formal procedure is instituted for adjudication of the worker's claim. This hearing is conducted before an authorized deputy commissioner or referee in a summary manner, that is, not according to the rules that would be followed in a trial before a judge and a jury. The officials hearing these cases have the power to issue subpoenas, to compel the attendance of witnesses, to punish a witness for failure to attend, etc. The commissioners and referees try to bring out all the facts in each case, and every opportunity is given the worker to present the case in such a way that his rights will be established and protected.

The worker must file a petition in duplicate at the office of the Secretary of the Compensation Bureau in Trenton. This petition may be secured from a branch office of the Bureau. It must be filed within two years after the accident, or within two years after the failure of the employer to make payment according to the terms of agreement. Within five days after the filing of the petition, a copy is served on the employer and he is notified that he must file an answer within ten days. At the expiration of ten days, whether or not an answer has been filed, a time and place is fixed for a hearing. After the hearing, at which evidence for both sides is presented and considered, a statement of the decision of the presiding official is filed in the office of the Bureau at Trenton. This decision is equivalent to a judgment at law.

(6) Amount and effect of judgment

The amount of judgment is determined by the character of the injury, plus medical fees, attorney's fees and other incidental expenses. The judgment usually is for 66 2/3% of the worker's wages for a specified time. It is paid to the worker or his dependents by the insurance carrier or by the employer, if he is a self-insurer.

A copy of the decision of the official hearing of the case, if it is an award to the worker, is filed in the office of the clerk of the county in which the hearing is held. When so filed, it has the same effect as a judgment secured in the Court of Common Pleas, and may be enforced against the employer as any other judgment might be. The judgment

of the Bureau is final and conclusive between the parties, and bars subsequent action or proceeding unless the case is reopened by the Bureau, or appealed.

(7) Appeal of the case

An appeal may be taken to the Court of Common Pleas in the county where the hearing is held. If the employee desires an appeal, however, he must retain his own lawyer. In the proceedings mentioned above, it is not necessary that he retain a lawyer.

(8) Counsel fees

As a part of the verdict or settlement in a matter, the Bureau will determine the amount of counsel fees to be paid and direct how these fees should be paid. It is unlawful for a lawyer or other person acting in Workmen's Compensation cases to ask for, contract for, or receive a sum larger than that fixed by the Bureau.

(9) Modification of award or settlement agreement

When the injury received by the employee has become more serious or less serious since the time of the award or the date of the settlement agreement, either the employee or the employer, as the case may be, may file a petition with the Workmen's Compensation Bureau requesting a modification of the award or settlement agreement. The same procedure as in the original case is then followed. Notice of the petition is served upon the parties, a physical examination is made of the employee, and a hearing is held by the Workmen's Compensation Bureau. At this hearing, both parties appear and produce their evidence and the Compensation Bureau renders a verdict according to the evidence.

j. Directory of Workmen's Compensation Bureau branch offices

TRENTON

4th Floor Wallach Bldg.
State & Broad Streets,
Every Monday to Friday
9 A. M. to 5 P. M.
Saturday 9 A. M. to 12 M.

NEWARK

7th Floor Industrial Bldg.
1060 Broad Street,
Every Monday to Friday
9 A. M. to 5 P. M.
Saturday 9 A. M. to 12 M.

JERSEY CITY

2nd Floor 571 Jersey Ave.,
Every Monday to Friday
9 A. M. to 5 P. M.
Saturday 9 A. M. to 12 M.

PATERSON

2nd Floor Dept. of Labor Bldg.
Church & Van Houten Streets,
Every Monday to Friday
9 A. M. to 5 P. M.
Saturday 9 A. M. to 12 M.

HACKENSACK

Bergen County Court House,
2nd and 4th Fridays of each
month, 10 A. M.

ELIZABETH

District Court, Court House,
Every Wednesday, 10:30 A. M.

NEW BRUNSWICK

Court House,
1st and 3rd Tuesdays of each
month, 10:30 A. M.

PERTH AMBOY

City Hall,
2nd and 4th Tuesdays of each
month, 10:30 A. M.

ASBURY PARK

Electric Bldg.,
601 Banks Ave. & Emery St.,
District Court, 11th Floor,
2nd & 4th Mondays of each month,
10:30 A. M.

DOVER

New Moose Building,
63 N. Sussex Street,
1st Monday of each month,
10:30 A. M.

PHILLIPSBURG

143 South Main Street,
1st Tuesday of each month
10:30 A. M.

NEWTON

Court House,
2nd Thursday of each month
10:30 A. M.

CAMDEN

City Hall,
Every Wednesday, 10 A. M.

ATLANTIC CITY

City Hall,
District Court House,
Every Thursday, 10 A. M.

MILLVILLE

City Hall,
1st Tuesday of each month
2 P. M.

2. Under Federal Laws

a. Federal employees

Compensation to Federal employees injured in the course of duty is handled through a United States Employees' Compensation Commission. Federal Compensation laws cover all employees not in elective positions. The Commission is conducted along lines similar to those of the Compensation Bureaus in the different States. Compensation is awarded to the heirs-at-law or dependents

of those killed in performance of duty, unless the latter were guilty of wilful misconduct or injured themselves intentionally or were intoxicated when the accident took place.

(1) For total disability

An injured employee receives 66 2/3% of monthly wage during the period of disability.

(2) For partial disability

The employee receives during the disability period, 66 2/3% of the difference between wage earning ability before and after the injury. This is subject to changes in earning capacity and living expenses as ascertained in periodical examinations by the Compensation Commission.

(3) For accidental death

The dependents receive a varying percentage of salary according to relationship and state of dependents.

While receiving compensation, a Federal employee does not receive pay or other remuneration from the government.

b. Interstate carriers (Railroads, etc.)

All common carriers in interstate or foreign commerce are liable in damages for accidental injuries and deaths resulting in whole or in part from negligence of officers, agents, etc., or from defects in cars, equipment, appliances, etc.

(1) An action must be brought by the injured employee, or by the heirs of one who was killed, within two years from the time of accident in the United States District Court or in a State court of similar competent jurisdiction. A suit once started in a proper State court cannot be removed to a United States court.

(2) Contributory negligence is no longer a bar to recovery by the injured employee, but it may be set up in mitigation of damages. Contributory negligence cannot be relied upon in a case where a statute enacted for safety of employees was violated by the carrier. The assumption of risk of the employment by the employee cannot be relied upon as a defense when a statute enacted for the safety of employees was violated by the carrier.

XV

LANDLORD AND TENANT AND OTHER SIMILAR RELATIONSHIPS

The material in this chapter is presented to assist the social worker to solve the difficulties encountered in the landlord and tenant relationship and to elucidate such matters as eviction, distraint, dispossession and ejection.

A. LAWS AFFECTING THE RENTING OF REAL PROPERTY

1. Definition of Terms

A **landlord** is a person or corporation owning or having the right to the immediate possession of real estate in which another person or corporation, called a **tenant**, secures the right to occupancy or residence. The occupancy is called a **tenancy** and the relationship arises through an agreement made between the parties, called a **lease**. The **lease** may be defined as a conveyance or transfer of lands, buildings, or parts thereof, usually in consideration of rent. The lease may be written or oral, except where a statute provides otherwise, and may be made for a definite or an indefinite period.

Rent is the compensation, in the form of money, provisions, chattels or labor, received by the landlord from the tenant.

In the case of a landlord and tenant relationship, the tenant has the exclusive right to the possession of the property rented for the term of the lease, as long as he complies with all the provisions of the lease. The tenant has absolute control over the property to the exclusion of all persons and he may even forbid the landlord to enter his premises or may evict him therefrom.

2. Relationships often Confused with that of Landlord and Tenant

It is necessary to know the distinction between the landlord and tenant relationship and other relationships because there are numerous rights given to landlords and tenants which are not conferred upon others, such as the right of the tenant to exclusive possession and control of the property rented, the right of the landlord to evict a tenant by dispossession proceedings, the right of the landlord to distraint upon the goods of the tenant for unpaid rent, etc.

a. Hotelkeeper and guest

In the case of a hotelkeeper and guest, the rights of the parties are different; the guest merely has the use of the portion of the property occupied by him, the hotelkeeper has the control of it. The latter may enter that part to change the linens and to clean the rooms. He retains a key to the apartment so that he may enter it.

These conditions also apply in the case of an owner of a lodging or boarding house and the lodger and boarder. These relationships are set forth later in detail.

b. Buyer and seller of real estate

When a person moves upon land or into a building under a contract to purchase it, the relationship is not that of landlord and tenant but of buyer and seller.

c. Employer and employee

When one is employed as a workman and occupies the property of his employer as part compensation for his services, the relationship of landlord and tenant does not exist.

3. Determination of the Rights and Obligations of Landlords and Tenants

In order to determine the rights and obligations of a landlord or a tenant, it is necessary to know what type of tenancy exists. In each case, it must be determined by the agreement between the parties, whether the agreement is written or oral. The distinctions are very important because of the fact that there are different rights and obligations under each class of tenancy. The tenancy with which the social worker will be chiefly concerned is the "tenancy from month to month." This is, perhaps, the most widely used among the industrial class.

Second to this in common usage is the "tenancy for years." A general outline of the different classes of tenancy is set forth below. From this outline a social worker should be able to determine under which class a tenant or a landlord should be placed.

a. Tenancy for years

Characteristics of: The tenant is given a general right to possession and control over the property for a fixed and definite time. It may be for a week, month, number of months, year or years.

Termination: No notice is necessary from either party to terminate such a lease. The tenancy expires by its own terms. The lease definitely states the duration of the tenancy. There are occasions, however, when the lease may be for a definite period of time but may contain a clause to the effect that it will automatically renew itself unless the tenant gives notice to the landlord of his intention to vacate at the expiration of the term. In such a case, a tenancy for years exists but the notice to terminate, specified in the lease, must be given if the tenant desires to vacate. Otherwise, the lease is renewed.

Illustration: A landlord and tenant execute a lease for certain premises, at a stated rental, for two years, commencing January 1, 1930, and expiring December 31, 1931. This is a tenancy for years, the term is fixed and definite. In this case, no notice to terminate the lease is necessary; it expires of itself on December 31, 1931.

b. Tenancy from year to year

Characteristics of: The tenant is given a general right to possession and control of the property for an indefinite period, and the rent, provided for in the agreement, is computed by the year, half-year, or quarter-year, regardless of when it is payable.

Termination: It is necessary that at least three months prior to the expiration of the term the landlord give the tenant notice of his intention to terminate the lease. The tenant, however, must give the landlord six months' notice of his intention to terminate the lease. That notice must state that it will take effect on the day of the conclusion of the tenancy. In the event that neither party gives the other the above notice, the lease automatically renews itself.

Illustration: A landlord and tenant execute a lease, by the terms of which the tenant rents certain premises, commencing January 1, 1930, at the annual rental of \$1,200., payable in equal monthly instalments of \$100.00 on the first day of each month. This is a tenancy from year to year, as the term is indefinite and the property is rented for an annual sum, although that sum is payable by the month. In the event that the landlord desired to terminate the lease, he would have to give the tenant, on or before October

1, 1930, a notice of his intention that the lease is to terminate on December 31, 1930. The tenant must give notice before July 1, 1930.

c. Tenancy at will

Characteristics of: The tenant is given the general right to possession and control over the property for an indefinite period, terminating at the will of either party. This form of tenancy has been considered by the courts of New Jersey to have the same legal attributes as a tenancy from year to year.

Termination: In order for the landlord to terminate this tenancy, he must give the tenant at least three months' notice to take effect the day of the conclusion of the tenancy. If the lease commenced on January 15, 1930, notice to terminate it must be given by the landlord to the tenant on or before October 15, 1930. The tenant, however, must give six months' notice to the landlord to terminate such tenancy. In the event that the necessary notice is not given, the lease continues until notice is given.

d. Tenancy from month to month

Characteristics of: The tenant is given possession and control of the property for an indefinite period and the rent is payable by the month. It is practically the same as a tenancy from year to year, except that a tenancy from year to year provides for rent on an annual basis, even though it is payable monthly.

Termination: Either the landlord or the tenant must give to the other one month's notice to terminate this tenancy. If no notice is given, the lease continues and renews itself for each month until notice is given.

Illustration: A landlord and tenant execute a lease for an indefinite period of time either orally or in writing. The rent is \$20.00 per month and is payable on the first day of every month.

e. Tenancy from week to week

Characteristics of: This type of tenancy is the same as tenancy from month to month except that the rent is provided for by the week.

Termination: To terminate this tenancy, either party must give to the other one week's notice. The term is continued until notice is given.

f. Tenancy at sufferance

Characteristics of: This type of tenancy arises when a tenant, with the knowledge of the landlord, continues in possession of the premises after the expiration of the lease and does not pay rent.

Termination: No notice is necessary to be given by either party in order to terminate the tenancy. The tenant may move out of the premises at any time without giving the landlord notice. The landlord, however, before he can institute proceedings to oust the tenant, must serve a written demand upon him for the surrender of possession of the premises.

Illustration: A landlord and tenant execute a lease for one year commencing January 1, 1930, and expiring December 31, 1930. At the expiration of the lease, the tenant continues in possession of the property but does not pay rent to the landlord. The tenant thus becomes a tenant at sufferance.

g. Holdover tenancy from year to year

Characteristics of: This type of tenancy arises when a tenant

under a lease continues, with the consent of the landlord, in possession of the premises after the expiration of the lease. When a lease for years or a year expires and the tenant continues to remain in possession of the premises and pays rent to the landlord who, by accepting such payment, consents to the tenant's continuing in possession, a holdover tenancy from year to year is created.

Termination: Three months' notice to terminate the lease must be given to the tenant by the landlord and six months' notice must be given by the tenant to the landlord. The notice must be given prior to the end of the term, otherwise the term will be renewed for another year.

h. Holdover tenancy from month to month

Characteristics of: The period of the holdover tenancy varies with the terms of the original lease. If the original tenancy was from month to month and the tenant holds over with the consent of the landlord a month to month tenancy is created and one month's notice is necessary to be given by either party to the other to terminate the lease. This lease renews itself until the proper notice is given.

4. Rights and Obligations of the Landlord

a. Rights of the landlord

The landlord has the right (1) to receive the rent provided in the lease; (2) to notify the tenant to vacate the premises at the expiration of the term of renting; (3) to receive the premises back in the same condition in which they were rented except for reasonable wear and tear; if they are damaged beyond that extent, he may sue the tenant for damages; (4) to regain possession of the premises if the terms of the lease are violated or if rent is not paid; he may regain possession only by bringing legal action for that purpose; (5) to put a distraint upon the goods of the tenant for unpaid rent (see Distress Proceedings); and (6) to such other rights as the agreement or lease may contain. The manner in which he may enforce these rights is set forth in detail in other sections of this chapter (see index).

b. Obligations of the landlord

The landlord is obligated (1) to allow the tenant to have complete possession and control of the premises rented as long as the tenant complies with the terms of the lease. The landlord may not interfere with this possession in any way until given permission to do so by the court. If he does, he is liable for damages which may be recovered in an action by the tenant. (2) The landlord, as long as he allows the tenant to remain in possession of the property, is obligated to provide him with the necessary facilities for the full use and enjoyment of that property, unless the lease provides otherwise. This is true whether or not the rent is paid. (3) The landlord must fulfill the other obligations which are provided for in the lease or agreement. If the landlord desires to be relieved of the responsibility of providing water, he must either have made provision in the lease or must dispossess the tenant. The landlord has no right to shut off the water or permit it to be shut off. In the event that it is shut off, the fact should be reported to the local Board of Health and the Board will see that it is turned on immediately.

When a building, housing more than two families, contains equipment to provide general heating of the building, it is implied that

the owner agrees to supply the heat unless the lease specifically provides to the contrary.

When it is the duty of the landlord to provide heat, it must be supplied from the first day of October to the first day of May of each year. The temperature of the apartment during that time shall be kept at 68° Fahrenheit or above, between the hours of 6 A. M. and 10 P. M. A violation of these regulations should be reported to the local Board of Health or to the Board of Tenement House Supervision or to both.

5. Rights and Obligations of the Tenant

a. Rights of the tenant

The tenant has the right to enjoy the peaceable possession of the property without interference. To all intents and purposes, he has purchased the property for a period of time set forth in the lease, and the only restrictions to the use of the property are those contained in the lease. As long as he complies with the terms of the lease, he may use the property as his own and may not be interfered with or disturbed. In any case, neither the landlord nor any other person may interfere with the tenant's possession of the property except by order of the court.

b. Obligations of the tenant

The tenant is obligated (1) to pay rent; (2) to give the landlord proper notice of his intention to move, otherwise, he is bound in accordance with the law as set forth in "Determination of the Rights and Obligations of Landlords and Tenants;" (3) to make necessary repairs to the property unless the lease provides otherwise; (4) not to use the property for illegal purposes or in an illegal manner; and, (5) to do such other things as are provided for in the lease.

6. Terminating the Relationship of Landlord and Tenant

a. Notices to terminate

(1) In general, the notices to terminate, discussed for the various types of tenancies, do not have to be in writing. It is advisable, however, to give a written notice and to retain a copy of it or to send the notice by registered mail and secure a receipt for its delivery. Then, in the event of a controversy, the copy of the notice or the receipt for it may be used as corroboration of the termination of the tenancy.

(2) When the tenant moves without giving notice, he is responsible to the landlord in damages for the loss of rent suffered by the landlord, for the period of the lease that the property remains vacant.

(3) When the landlord fails to give notice, he cannot evict or oust the tenant from possession of the premises until the expiration of the term and until he serves the tenant with a proper notice. This applies provided the tenant performs his part of the agreement.

(4) Essentials of Notice

(a) The notice should be given to one with authority to receive it, that is, to a member of the family over fourteen years of age.

(b) It should state the date when the notice is to take effect.

(c) If it is in writing, it should be signed by the landlord or the tenant or by someone in behalf of the landlord or the tenant.

- (d) It should state the location of the premises intended to be vacated.

The fact that the tenant gives notice that he intends to vacate the premises before the expiration of the lease, does not release him from the obligation to pay rent until the expiration of the lease. A notice does not take effect until the end of the term.

ILLUSTRATION

A landlord and tenant execute a lease, covering certain premises, commencing January 15, 1930, at an annual rental of \$1,200, payable in monthly instalments of \$100.00 each. Here a yearly tenancy is created. If the tenant desires to terminate the lease he must give the landlord six months' notice to take effect on January 14, 1931. A notice to take effect prior to that date is invalid. If the landlord desires to terminate the lease, he must give the tenant three months' notice, to take effect on January 14, 1931. A notice to take effect prior to that date is invalid.

b. Surrender of a lease

(1) Definition

Surrender of a lease is a legal term used to describe the result accomplished when a landlord and tenant mutually agree that a lease existing between them shall terminate and be of no further effect. The tenant thereby relinquishes his possession of the property and whatever benefits he may have under the lease to the landlord, who releases and cancels the obligation of the tenant on the lease from the date of the surrender.

(2) Classification of surrender

(a) Express surrender

The landlord and tenant sign an agreement to effect a cancellation of the lease and their respective rights and obligations under the lease.

ILLUSTRATION

A landlord and tenant execute a lease on January 1, 1930, for a certain property, at a specified rental for a period of two years. On September 1, 1930, the landlord and tenant sign an agreement, cancelling the lease, releasing each other from their respective obligations under the lease, and relinquishing to either one or the other all rights and benefits that they may have under the lease. This is an express surrender and from that date on the lease is cancelled and has no effect. This agreement must be in writing.

(b) Implied surrender by act and operation of law

When the parties to a lease orally agree to relinquish their rights as landlord and tenant respectively, and carry out that verbal agreement by acts which refer unequivocally to the verbal agreement, there arises a surrender of the lease by act and operation of law. This may also arise when a tenant abandons the property and the landlord, by his acts, consents to the abandonment and releases the tenant from any obligations under the lease. In such a case, however, there must be not only an abandonment of the property by the tenant, but an acceptance of the abandonment by the landlord by his acts. When a tenant abandons the property and the

landlord enters upon that property and makes such use of it as is inconsistent with the continued relationship of landlord and tenant, the landlord will be deemed in law by his acts to have consented to the abandonment, thereby releasing the tenant from any obligations under the lease. In determining whether a surrender by act and operation of law has taken place, each case must be decided upon its own facts in accordance with the rules stated above. For this reason, some of the decisions of the courts in this State are inserted here.

ILLUSTRATIONS

A tenant leased a hotel, and after occupying it for several months, vacated it. The landlord went upon the property, made extensive alterations, and changed the structure of the building so that it was no longer a hotel. He then leased the building to a new tenant. In deciding a suit for rent, the court held that the landlord could not recover since there existed a surrender of the lease by act and operation of law. In this case, there was an abandonment by the tenant and an acceptance by the landlord of that abandonment by his acts. (*Meeker v. Spalsbury*, 66 N. J. L. 60.)

A tenant abandoned property before his lease expired. The landlord, upon learning of this fact, informed the tenant that he would hold him responsible for the rent. The landlord subsequently went through the property and made some minor repairs and endeavored to re-rent it. In answering a suit for rent the tenant claimed that the landlord, by his acts of repairing and attempting to re-rent, accepted the abandonment and that therefore a surrender by act and operation of law arose, which released the tenant from his obligation on the lease. The court held that the abandonment was not accepted by the landlord, since he had so informed the tenant and therefore, no surrender of the lease by act and operation of law arose. (*Banks v. Berliner*, 95 N. J. L. 267.)

A tenant moved to another store owned by the landlord at the landlord's suggestion, after the tenant had requested the landlord to reduce the rent on the former store and the request had been refused. In deciding a suit for rent due on the former store, the court held that there was a surrender by act and operation of law and the landlord could not succeed in his suit. (*Ambrose v. Peerless*, 6. N. J. Misc. 1028.)

A landlord and tenant executed a lease. Before it expired, the tenant abandoned the property. The landlord re-rented the property to another. In a suit for rent by the landlord, the tenant claimed an abandonment by him and an acceptance and consent thereto by the landlord, thereby releasing him. The court held that the mere fact that a landlord, after the tenant abandons the premises, re-rents the property, does not, as a matter of law, create an acceptance of the tenant's abandonment. (*Jones v. Rushmore*, 67 N. J. L. 157.)

- (c) Effect of a valid surrender
Surrender of a lease, whether it be express or by act

and operation of law, has the effect of terminating the lease and cancelling the rights and obligations of both parties to the lease. It must be remembered, however, that if the court decides that the act relied upon by the tenant to establish consent to his abandonment does not constitute a surrender, the tenant is liable for the rent accruing as long as the lease is in effect.

c. Eviction

(1) Definition

The term "eviction" is often used to designate the proceedings by which a landlord regains possession of property. In this sense, it is misapplied, as those proceedings are called "Dispossess Proceedings" and are set out in detail in another section of this chapter. Eviction is merely an act by which a landlord deprives a tenant of the use and enjoyment of the property occupied by the tenant. The eviction may be either actual or constructive.

(2) Consequences of eviction

An eviction releases the tenant from his obligation to pay rent accruing subsequent to the date of his eviction. When there is an eviction, the tenant is justified in vacating the premises immediately. However, should the court decide that the acts complained of do not constitute an eviction, the tenant is liable for the rent accruing as long as the lease is in effect.

(3) Classification of evictions

(a) Actual eviction

This is an act by the landlord or by someone under his direction which ousts the tenant from possession of the property rented or which deprives the tenant of the enjoyment and the use of the property.

ILLUSTRATION

A landlord and tenant execute a lease for a period of two years, commencing January 1, 1930, for a certain apartment, at a rental of \$50.00 a month. On March 20, 1931, because the tenant owed him rent for January, February and March, the landlord instituted dispossess proceedings in a District Court, and the tenant was ousted by the court's entering a judgment in favor of the landlord for possession and directing the tenant to vacate. As a result of these proceedings, the tenant moved from the property on March 30, 1931. In a suit for rent, the landlord may recover from the tenant only for the months of January, February and March, 1931, and as for the rent accruing for the balance of the term of the lease, the landlord is barred from any right to recover since he brought about the eviction of the tenant.

The result would be the same, if on March 20, 1931, the landlord, while the tenant was out, had changed the lock on the apartment and refused to permit the tenant to enter until the arrears of rent were paid. As a result of this action, the tenant abandoned the property and obtained new living quarters. The landlord in the case would be guilty of an actual eviction and could only

recover the rent that had already accumulated, that is, for the months of January, February and March, 1931, but not for the rent to accrue for the balance of the term of the lease. (*Hunter v. Reiley*, 43 N. J. L. 480.)

(b) Constructive eviction

A constructive eviction is an act of the landlord or his agent by which the property is re-rented or made unfit for the purpose for which it was leased, or which seriously interferes with the beneficial enjoyment thereof, and in consequence of which the tenant abandons the property. Whenever this takes place, the tenant is released from the obligation under the lease to pay rent accruing after the abandonment.

In order that the tenant may be able to claim a constructive eviction as a defense to a suit for rent, he must have moved out of the premises within a reasonable time after the act complained of was committed. In determining whether a landlord has been guilty of an actual or constructive eviction, each case must be decided upon its own facts.

ILLUSTRATIONS

A landlord rented an apartment in his building to a tenant to be used as a dwelling. He permitted another apartment in that building to be used by another person for lewd purposes. The landlord was requested by the first tenant to correct the situation and refused to do so. The tenant, as a result, moved out of the apartment. The landlord sued the tenant for rent accruing subsequent to the tenant's removal. The court held that the landlord was guilty of a constructive eviction by his conduct; that the tenant was justified in moving and, therefore, that the landlord was not entitled to the rent accruing subsequent to the date of the removal. (*Weiler v. Pancoast*, 72 N. J. L. 414.)

A landlord rented certain property to a tenant and subsequently re-rented a part of the same property to a third person, and as a result, the tenant vacated the property. The landlord will be considered to have evicted the tenant and, therefore, will not be entitled to recover rent accruing subsequent to the date of eviction. (*Morris v. Kettle*, 57 N. J. L. 220.)

A suit was instituted by a landlord against a tenant for rent. In defense the tenant claimed an eviction and based his contention on the fact that on a certain day a drain pipe from the roof became clogged and resulted in the accumulation of a large quantity of water, which leaked through the roof and soaked the walls and ceiling of the bedroom. The court held no eviction, and said that the obstruction of the tenant's enjoyment of the property was temporary and not an act by the landlord. (*Lorenz v. McCloskey*, 5 N. J. Misc. 27.)

7. Dispossessing the Tenant

In the minds of many persons, the differences between dispossession, eviction, ejection and distress proceedings are not clearly defined and often these terms are used interchangeably. Therefore, the following distinctions are made.

Dispossess proceedings are used by the landlord to remove the tenant from the property, usually because of non-payment of rent. The proceedings are brought by the landlord in the District Court and details are set forth later in the chapter. (See pages 118-121.)

Eviction is not a proceeding in a court, it is merely a term applied to the result accomplished by means of dispossess proceedings. In other words, after proceedings are finished and the tenant is out of the premises, there has been an eviction by means of dispossess proceedings. If the landlord commits some act or fails to do something which will give the tenant the right to move from the premises, there is said to have been a constructive eviction by the landlord. (See pages 116, 117.)

Ejectment is a legal proceeding brought by a person who claims the right to the immediate possession of the property against the one in possession. In other words, the plaintiff wants to put out the present tenant and take possession himself. A landlord may bring such an action against a tenant, but this is rarely done because dispossess proceedings are much more simple and less expensive and serve the same purpose. (See pages 121, 122.)

Distress proceedings are the legal proceedings brought by the landlord against a tenant in order to seize and sell, for unpaid rent, the furniture of the latter. (See pages 122-125.)

a. Dispossess proceedings

Dispossess proceedings are instituted by the landlord against the tenant to oust or remove the tenant from possession of the premises. It is the quickest means of determining the right between the landlord and the tenant to the immediate possession of the premises.

The right to institute these proceedings exists solely by virtue of the Landlord and Tenant Act and the District Court Act. Therefore, the provisions of these statutes must be strictly observed.

(1) When dispossess proceedings may be used

- (a) Dispossess proceedings may be used when a tenant holds over and continues in possession of premises after the expiration of his term and after the landlord or his agent has served upon the tenant a written notice demanding the surrender of the premises. This notice is served personally upon the tenant by handing him a copy or by leaving a copy at his usual place of abode with some member of his family over fourteen years of age. If, for any reason, the service of the demand cannot be made personally, a copy may be affixed upon the door of the dwelling occupied by the tenant.

When the tenant holds over or continues in possession of the premises, after the expiration of the lease, it is incumbent upon the landlord to prove to the court that the lease has expired prior to the institution of the dispossess proceedings, either of itself or by the landlord's giving the proper notice of termination to the tenant. In the latter case, one must look to the agreement in determining what kind of tenancy was created, so that it may be decided how much notice the landlord was obliged to give to the tenant in order to terminate the lease. These notices were discussed under the heading "Determination of the Rights and Obligations of Landlords and Tenants." To illustrate: If the lease were

from month to month, the landlord would be obliged to give the tenant one month's notice to terminate the lease; if it were from year to year or at will, the landlord would have to give the tenant three months' notice; and if from week to week, one week's notice would suffice. In addition to proving the expiration or termination of the lease, the landlord is required to show that he has served a written notice upon the tenant demanding the surrender of the premises.

- (b) Dispossess proceedings may be used when a tenant is in default in the payment of rent pursuant to the agreement under which he is occupying the premises.

When dispossess proceedings are instituted because the tenant has defaulted in the payment of rent, no notice is necessary to be served upon the tenant by the landlord, prior to the institution of these proceedings.

- (c) Dispossess proceedings may be used when a tenant uses the premises for purposes of prostitution or assignation. The lease thereupon becomes void and the landlord may recover possession of the premises in the same manner as in the case of the tenant's holding over after the expiration of his lease. The landlord follows the procedure set forth in paragraph (a), that is, serves the tenant with a written notice stating that the lease is at an end and giving the reason therefor and demanding possession of the premises.

- (2) Where proceedings are instituted

Dispossess proceedings may be instituted only in a District Court or a Justice of the Peace Court in the county where the premises are situated. However, Justices of the Peace may not hear proceedings to dispossess tenants from premises situated in Essex or Hudson Counties or within a city or judicial district in which a District Court has been established.

When the premises, from which the tenant is to be removed, are situated within a city or judicial district in which there is a District Court, the proceedings must be instituted in that court. When there is no District Court in the city where the property is located, dispossess proceedings may be instituted in any District Court of the county.

- (3) The actual proceedings

The landlord or his agent makes an affidavit and files it with the clerk of the court. This affidavit must state all the facts of the case, such as the agreement under which the tenant is in possession, the location of the premises and the reason for the institution of the proceedings. If the proceedings are instituted because the tenant holds over or continues in possession after his lease has expired, the affidavit must show that the lease has been terminated by a proper notice and that a written demand has been made upon the tenant to surrender the premises. If the reason for the proceedings is a default in the payment of rent, the affidavit should state the amount of rent in arrears.

The clerk of the court then issues a summons directed to the tenant, requiring him to surrender possession of the premises to the landlord or to appear before the court at a time and day specified, and show cause why he should not sur-

render possession of the premises to the landlord. The time set in the summons for appearance shall not be less than five days nor more than fifteen days from the date of the summons.

The summons is served upon the tenant personally by an officer of the court, or a copy of the summons is left at the tenant's usual place of abode with a member of his family over fourteen years of age.

On the date appointed, the court hears both sides of the case. If the court finds that the landlord has complied with the statute as to procedure, and that the facts entitle him to a judgment for possession, the judgment will be entered in his favor. It is **always advisable** for the tenant to appear in court on the day set in the summons so that he may explain the situation to the court, even if he has no defense to the action, because if he does this, the court usually permits him to remain on the premises for a few days, during which he has an opportunity to obtain a new residence.

If a judgment for possession is entered and the tenant does not vacate the premises after the expiration of the time set by the court, the landlord may obtain from the clerk of the court a warrant to remove or dispossess the tenant. This warrant may not be issued until at least three days have elapsed from the date of the judgment for possession. The warrant is directed to an officer of the court and demands that he oust the tenant from the premises and deliver possession to the landlord. The officer, in removing the tenant, is not obliged to move the furniture and other chattels, but he may give the tenant an opportunity to move them. If the tenant refuses then the officer has authority to remove the tenant and his chattels from the premises. The chattels may be removed to the yard or other place within reasonable limits.

(4) Trial by jury

In dispossess proceedings the tenant or the landlord may demand a trial by jury. This demand must be made in writing and filed with the clerk of the court at least one day before the date set for the hearing. The person demanding the jury must also pay to the clerk the costs of summoning the jury.

In the event that a demand for a jury is properly filed, the clerk of the court summons a jury to hear and determine the facts in the case and to render a judgment in accordance with the law as outlined by the judge and the facts as produced by the evidence.

(5) Payment of rent due may end proceedings

When dispossess proceedings are brought because of a default in the payment of rent, the tenant may pay the clerk of the court, on or before the date set for appearance, the rent claimed to be in default, together with the costs of dispossess proceedings. He will obtain from the clerk a receipt therefor, and thus terminate the proceedings. The money is given to the landlord.

(6) Fees

The following are costs of dispossess proceedings required to be paid to the clerk of the court: \$2.00 for summons,

plus a fee for the number of miles traveled by a constable or officer of the court when serving the papers; \$1.00 for the entry of the judgment for possession; \$1.60 for the warrant for possession, plus mileage.

(7) Appeal

There is no appeal from dispossess proceedings. The only course open to the tenant is to apply to the Supreme Court to review the facts of the case upon the ground that the District Court or Justice of the Peace Court did not have jurisdiction.

(8) What can the social worker do about a dispossess notice

Usually a dispossess notice is issued by the landlord because of non-payment of rent. If the relationship of landlord and tenant exists, there is nothing that can be done by the tenant except to appear in court on the date set in the notice. This appearance should always be made, as it results in time being allowed the tenant for the purpose of moving. If the relationship of landlord and tenant does not exist, the social worker may go with the client to the District Court and inform the judge of the true facts of the case. Most landlords serve the tenant with a written notice to vacate the premises within three days. If the tenant does not move, the landlord may not evict him but must go through the procedure heretofore set forth. At the hearing, the tenant is given a certain time, usually one week, in which to move and at the expiration of that time, the landlord may have the tenant's possessions moved from the premises.

When a dispossess notice is served and there exists a case of communicable disease, permission of the local health department must be obtained before the eviction may be accomplished. When such a condition exists, a court order to move may be disregarded, provided it is called to the attention of the local health department when it is received. The matter then becomes a controversy between the court and the health department, and the tenant need do nothing further until notice is received from the health department.

b. Ejectment proceedings

Ejectment is a proceeding to oust a person from possession of premises and to determine the right to immediate possession of real property involved in the proceedings. Because of the technicalities involved, this action should not be started without the services of a lawyer.

(1) When ejectment may be used

This action is instituted by the person claiming the right to immediate possession of the premises against a person already in possession, or if the property is unoccupied, against a person exercising ownership of the property.

Ejectment proceedings are used for recovering possession when the relation of landlord and tenant does not exist between the persons involved, although it may also be used for that purpose.

(2) Procedure in ejectment suits

An ejectment suit may be instituted in any court in the county where the property is situated, except the District Court and the Court of Common Pleas.

- (a) A complaint is filed with the clerk of the court, setting forth the case of the plaintiff (person bringing the action).
 - (b) These papers are served upon the defendant who has twenty days in which to file an answer to the complaint.
 - (c) A trial is held before a judge and jury, and if a judgment is rendered in favor of the plaintiff, he may obtain a Writ of Possession from the clerk of the court.
 - (d) A Writ of Possession is an order calling upon the sheriff to oust the defendant from possession of the premises and turn them over to the plaintiff.
8. Holding the Furniture and Property of the Tenant (Distrain of Goods and Personal Property)

a. Definition

These proceedings are called Distress Proceedings. Distress is a remedy for the collection of rent by virtue of which the landlord may take the furniture and property of the tenant wherever it may be found and sell it and apply the proceeds to the payment of the arrears of rent due from the tenant. It is, in effect, a seizure and sale of the tenant's property to pay his debt for rent to the landlord.

The landlord may not seize and sell property which is in the tenant's possession unless it belongs to the tenant. Furniture which is being purchased under a conditional sales agreement and to which the tenant has not full title may not be distrained.

b. Essentials

The right to distrain for arrears in rent is given to the landlord solely by statute, and, therefore, the provisions of the statute must be strictly observed. It is essential that the relationship of landlord and tenant exists; that the amount of rent due is fixed and certain, or capable of being reduced to a certainty and that the rent is due and unpaid at the time of the institution of distress proceedings.

c. Procedure

When a tenant is in arrears of rent, the following procedure is used by the landlord in distraining the property of the tenant.

(1) Inventory

The landlord, or a constable or sheriff, goes upon the premises of the tenant and makes an inventory or list of the property, located upon the premises, which belongs to the tenant.

(2) Notice of seizure of chattels

The landlord, or a constable or sheriff, gives the tenant a copy of the inventory, together with a written notice to the effect that the landlord, or constable or sheriff, has seized the goods and chattels set forth in the inventory. This notice shall also state the location of the premises and exactly how many months' rent is unpaid. This notice advises the tenant that unless he pays the rent or institutes proceedings, within ten days from the date of service of the notice, to retake the goods and chattels enumerated in the inventory, they will be appraised and sold. However, if the tenant cannot be found or is not available, the notice may be posted on the dwelling house or other most conspicuous place on the premises for which the rent has accrued.

(3) Notice of appraisal

At the expiration of ten days from the date of service of the notice, the landlord, or constable or sheriff, gives to the tenant two days' notice that the goods and chattels enumerated in the inventory will be appraised by three sworn appraisers. The landlord, or constable or sheriff, then summons three appraisers (any disinterested persons) and they take an oath to appraise at their true value the goods enumerated.

(4) Notice of sale

After the goods and chattels are appraised, the landlord, or constable or sheriff, advertises by public notice posted in at least three public places in the neighborhood where the distraint is to be made, that the articles levied upon (enumerating them) will be sold at public sale for the best price available. The proceeds will be applied toward the satisfaction of the rent and the cost of the distress proceedings. The public notice must be given at least five days prior to the date of the sale and must set forth the time and place the sale will be held.

(5) Sale

On the date set in the public notice, a sale is conducted and the property is sold to the highest bidder. The proceeds of the sale are applied to the costs of the distress proceedings, appraisal and sale, and to the payment of the rent due to the landlord. Any surplus remaining in the hands of the landlord, constable or sheriff, is returned to the tenant.

(6) Storage of goods seized.

It is not necessary for the landlord, after levying the distress, actually to seize and lock up the goods and chattels enumerated in his inventory. However, he may do so if he believes that it is necessary to protect his interest in the property. In the event that the landlord does seize the goods and chattels levied upon, he must store them in one, and not in several places.

d. Distress must not be unreasonable

The distress levied by the landlord must be reasonable and not too great. If the amount of rent in arrears is small in proportion to the amount of property owned by the tenant, the landlord cannot levy and distraint upon all of the property of the tenant, but must select only so much as is necessary to satisfy his claim for rent. If the distraint or levy of the landlord is unreasonable, and too great, he will be liable in damages to the tenant.

e. Removal of chattels after they have been distrained

If the landlord, or constable or sheriff, has actually seized the goods and chattels of the tenant and locked them up for safe-keeping, anyone, including the tenant, who breaks into the storage house or premises where the goods are kept and takes them away, shall be liable in damages in a suit brought by the landlord, for three times the value of the goods taken from the premises or storage house.

f. Wrongful distress

In the event that the landlord or constable shall levy and sell the goods and chattels of the tenant when no rent is due from the tenant to the landlord, the tenant may sue for and recover, as

damages from the landlord, double the value of his goods sold, together with the costs of suit.

g. Removal of chattels before they have been distrained

In the event that a tenant shall carry off his goods and chattels from the premises, and leave rent unpaid, the landlord, or constable or sheriff, may follow the goods and chattels and retake them as a distress for the arrears of rent. The landlord may sell them in the same manner as if distress proceedings had been instituted before the tenant had removed the goods. The landlord, or constable or sheriff, however, can only follow and retake the goods or distrain upon them within thirty days after the tenant has carried them off. Moreover, if, after the tenant has carried off the goods and chattels and before the landlord seizes them or levies upon them as a distress, the goods are sold to a third person who does not have notice of what the tenant has done, and who has paid for the goods and chattels, the landlord may not seize or levy upon them.

A tenant removing his goods and chattels from the premises and leaving rent unpaid, and a person knowing this fact and aiding the tenant in removing the goods, shall forfeit and pay to the landlord double the value of the goods and chattels carried off. This amount may be recovered in an action at law. When a tenant owing rent, removes his goods and chattels and locks them up, the landlord may break into the place of storage and seize the goods and chattels of the tenant, or he may designate a constable or a sheriff to do so.

h. Deficiency at distress sale

If, at the sale held under the distress proceedings, sufficient money with which to pay the costs of the proceedings and sale and the rent owed to the landlord is not realized, the landlord may again institute distress proceedings upon any other property that belongs to the tenant, or may institute a law suit to recover the balance due him.

i. Goods exempt from distress sale

A tenant who has a family residing in the State is entitled to exemption from distraint on all wearing apparel and, in addition, on goods and chattels to the value of \$200.00. If the value of the tenant's property, excluding wearing apparel, does not exceed \$200.00, the landlord may not sell it in distress proceedings. When a tenant has no family in this State, only his wearing apparel is exempt from distraint.

In distress proceedings, the tenant who has a family residing in this State may select from the inventory or list of goods, articles amounting to \$200.00 in value and may notify the landlord or constable that he claims exemption for them. (See page 125.)

If the tenant or a member of his family cannot be found, the selection may be made by the appraisers, and the goods selected may be left for the use of the family of the tenant.

j. Removal of tenant's goods by virtue of legal proceedings instituted by someone other than the landlord

When a tenant owes rent, no person by virtue of legal proceedings may take the goods of the tenant which are situated on the rented property unless he first pays the landlord the amount of rent due from the tenant. If the goods of the tenant are taken by virtue of legal proceedings, they shall not be sold by the officer until

ten days have elapsed from the date of seizure. During the ten days, the landlord shall give notice to the officer of the amount of rent that remains due and unpaid by the tenant. This notice must be given by delivering it to the officer or by leaving a copy at the court which issued the judgment. In the event that a notice is given, the person for whom the officer seized the goods of the tenant must pay the landlord the amount of rent due, but he is not obliged to pay more than one year's rent. The officer shall not sell the goods seized until the amount set forth in the notice is paid to the landlord. If the landlord does not give notice to the officer before ten days have elapsed, the officer may sell the goods.

In order for the landlord to prevent a person from removing the goods and chattels of the tenant by virtue of a legal process, when the tenant owes him rent, the amount of rent must be fixed and certain.

If a sheriff, after notice that the tenant is in arrears with his rent, removes the goods or part of them under a legal order of someone other than the landlord, the sheriff is responsible to the landlord in damages.

k. Procedure by tenant after receipt of distress notice

There are only **three** things that the tenant may do when the landlord institutes distress proceedings.

- (1) The tenant may pay the rent.
- (2) When the tenant has a defense to the claim for rent, such as, that the relationship of landlord and tenant does not exist, or that rent is not owed, or that the furniture or household goods are the property of another person or corporation, he should not surrender to the purchaser the goods sold in distress proceedings. It will then be necessary for the purchaser to institute a replevin suit (action to gain possession of chattels unlawfully withheld) and in this action the tenant may set up his defense and the court will decide the propriety of it.
- (3) When the tenant is served with the notice of sale, he may select the goods he wants exempted, to the value of \$200.00, and may serve a notice upon the landlord or constable, listing these articles and stating that:

I hereby notify you that I claim exemption, as allowed by Statute of this State, of the following goods and chattels, from the sale to be made by you on....., 19....., viz., (follows list of goods).

(Tenant's Name)

9. When the Landlord Sues for Rent

If the rent is actually owed, there is nothing that can be done by the tenant except to answer the summons. He will be given an opportunity to explain his default. If the rent is not owed, then an attorney should be retained to present whatever defenses the tenant may have.

B. FURNISHED ROOMS, HOTEL, BOARDING AND LODGING HOUSE KEEPERS

The relationship established by the hiring of rooms in the house of

another person depends upon the intention of the parties as shown by the terms of the contract and the surrounding circumstances.

Consideration must be given to the type of building in which the rooms are located and to the ownership and control of the rooms hired. If the building is generally considered to be a hotel, boarding or lodging house, the relationship is apt to be one of hotelkeeper and guest; or lodging or boarding house keeper and lodger. If the building is generally considered an apartment or tenement house, the relationship is probably that of landlord and tenant.

When the relationship of landlord and tenant does not exist, it is not possible to institute distress or dispossess proceedings.

1. Lien of Hotelkeepers—Boarding House Proprietors

All hotel, lodging or boarding house proprietors may hold baggage and property belonging to guests, boarders and lodgers of the hotel, inn or boarding house, in default of the payment of the amount due for the hire of rooms or board.

2. Right to Evict

All persons engaging rooms in hotels, lodging or boarding houses may be evicted by the proprietor after he has given them a written notice to move within three days. The notice must state and demand the amount due unless there is a special agreement regarding payment other than that established in the hotel, lodging or boarding house.

At the expiration of three days, the hotel or lodging house keeper may lock the door to the guest's rooms while he is off the premises, and the guest has no right to have further access to them. The keeper may also hold the baggage or property within the rooms and sell it if the bill is not paid.

In the event the hotel or lodging house keeper does not give the guest or lodger three days' notice prior to evicting him, the former may be subjected to a lawsuit for damages sustained by the guest or lodger by reason of the wrongful eviction.

3. Sale of Baggage or Property

Six months from the date of detention, all baggage or property held by the proprietor of the hotel or lodging house shall be sold at public auction, after a notice of sale has been published for three days in a local newspaper. The proceeds are applied to the payment of the lien and the expenses of sale, and the balance, if any, is paid to the owner of the property or to his representatives. If a balance from the sale is not claimed within thirty days, then it is paid to the Overseer of the Poor of the city or town wherein the hotel or lodging house is located.

C. POOR HOUSING CONDITIONS OR NUISANCES ON PROPERTY

Definition of a Nuisance

A nuisance is an unreasonable use or maintenance of property which, arising from negligence or want of care, interferes with and injures those who lawfully enter upon that property.

There are three types of nuisances:

1. Public Nuisances

Public nuisances are those that affect the rights enjoyed by people in general as members of society; such as the right to use the public highways, sidewalks, streets, etc.

ILLUSTRATION

A person owning a building constructs cellar doors on the sidewalk in front of his property. Such use of the property is reasonable and

permissible. However, if he neglects to keep the cellar doors in repair and permits them to become defective and dangerous so that an individual using the sidewalk might fall and be injured, such maintenance is unreasonable, and the owner is responsible for maintaining a nuisance.

A building in such a dilapidated condition that it is liable to fall and injure people is a public nuisance. Excessive smoke, noise, bad odors and the like, may be public nuisances.

Abatement of Public Nuisances

a. To maintain a public nuisance is a crime and a complaint may be made to the prosecutor of the county. The prosecutor will notify the offender to abate the public nuisance. If he refuses to do so, the prosecutor will take action against him as in the case of the commission of any other crime. The matter will be presented to the grand jury for an indictment and, if one is found, the offender will be placed on trial.

b. See Local and State Boards of Health, sub-heading "Abatement of Nuisances," pages 63 and 64.

2. Private Nuisances

A private nuisance is one that affects a single individual in the enjoyment of some private right that he has, not in common with the general public.

ILLUSTRATION

One maintains a private nuisance if he allows a radio to be played loudly and incessantly so that his neighbor is deprived of the right to a peaceable enjoyment of his property.

Abatement of Private Nuisances

a. An injured person may retain a lawyer to institute proceedings in the Court of Chancery to restrain the offender from continuing the nuisance.

b. An injured person may call the matter to the attention of the local Board of Health if the private nuisance endangers health.

3. Public Health Nuisances

A public health nuisance is a condition, dangerous to health, which exists on a property.

Very frequently situations reportable to the local health authorities are also cognizable by the Board of Tenement House Supervision. In general, the work of each of these departments complements and supplements that of the other.

The local health department or the Board of Tenement House Supervision may declare a building to be unfit for human habitation and order it to be vacated.

When a building is condemned a notice to vacate is served upon the owner or his agent, and upon each of the tenants. In the event that the owner cannot be found, the order is posted in a conspicuous place in front of the building. If the landlord or the tenant fails to comply with the notice, the health department takes the matter to a court of jurisdiction which orders that the premises be vacated. Failure to comply with the order of the court is contempt of court and sentence may be imposed upon the offender.

D. TENEMENT HOUSES

The Tenement House Act

1. Purpose of the Act

The Tenement House Act, which became law on March 26, 1904,

and which was amended March, 1931, contains numerous provisions with reference to the maintenance, construction, alteration and repair of tenement houses in the State.

2. Definition of a Tenement

A **tenement** is a house or dwelling, or portion thereof, which is rented, leased, let or hired to be occupied, or is occupied, or is intended or arranged or designed to be occupied, as the home or residence of three families or more, living independently of each other and doing their own cooking on the premises.

3. Board of Tenement House Supervision

The Board consists of five persons appointed by the Governor with the advice and consent of the Senate. The Board sees that the regulations and provisions of the Tenement House Act are performed. The Board may appoint assistants and hire employees as the need arises. The office of the Board is located at 1060 Broad Street, Newark.

4. Complaints

Complaints of violations of the provisions of the Tenement House Act may be addressed to the Board of Tenement House Supervision.

5. Tenement House Inspectors

Duties of Inspectors of the Board of Tenement House Supervision are to investigate complaints, to visit tenement houses, to inspect tenement houses already erected and those under construction, and to see that the terms of the Tenement House Act are performed.

6. Operation of Board of Tenement House Supervision

The tenement house inspectors visit all parts of the State in the performance of their duties. They submit written reports to the Board. In the event that a violation of the Act is reported, the Board sends a written notice to the offender, directs his attention to the violation and requires him to correct it within five days from the date of service of the notice. After that period of time has elapsed, another inspector is sent to see whether the violation has been corrected. This inspector also submits a written report to the Board. If the violation has not been corrected, the Board may refer the case to the office of the Attorney General in Trenton and direct him to institute proceedings either for the recovery of the penalty imposed for the violation or for the dispossession of the owner and the occupants of the tenement house.

If an offender fails to remedy a violation of the Tenement House Act after receiving a notice, the Board is at liberty to take immediate legal action to compel him to do so and in the case of a serious offense, such as failure to provide fire escapes, proceedings will be instituted immediately. However, when the offense is a minor one, such as failure to whitewash the outside of a building facing a court, the Board will be more lenient.

7. Penalties for Violation of the Act

a. Fines

All persons who shall violate the provisions of this Act, or who shall aid or assist a violator, shall be subject to a penalty of \$100.00 fine if the violation is wilful and of \$50.00 fine if the violation is not wilful.

b. Collection of fines

The above penalty may be collected by the Attorney General on

behalf of the State Board of Tenement House Supervision by instituting suit in a District Court or Justice of the Peace Court.

c. Dispossessing owner and occupant of tenement

When the owner of a tenement house is guilty of a violation and does not correct the condition after proper notice, the Board shall order the tenement house vacated by the owner and the occupants. If they refuse, a District Court judge or Justice of the Peace in the county where the property is located shall issue an order directing that the owner of the tenement house and the occupants thereof appear before him and show cause why the tenement house should not be vacated. This order is issued after a complaint under oath has been filed with the District Court judge or Justice of the Peace by some person on behalf of the State Board of Tenement House Supervision. The order issued by the court is served upon the owner and occupants. It contains the date when they must appear before the court. On that date if no good cause is shown for refusal to vacate, the judge shall issue an order directing a constable of the court to dispossess the occupants and owner of the tenement house immediately.

8. Authority to Enter and Inspect Premises when Admission is Refused

When a complaint is made under oath before a judge of a District Court, Justice of the Peace, Police Justice or Recorder, that the complainant believes a building or structure is being used in violation of the provisions of the Act, the District Court judge, Justice of the Peace, Police Justice or Recorder shall immediately issue a search warrant authorizing an officer or employee of the State Board of Tenement House Supervision to enter, search, examine and inspect the building or structure.

9. Essential Provisions of the Tenement House Act

a. Lights

Lights shall be kept burning in the halls of the first and third floors from sundown to sunrise, and in all other halls up to ten o'clock in the evening.

b. Fire escapes

Every three-story building must have fire escapes accessible from one room of each apartment, or two independent stairways accessible to all apartments.

A building having four or more stories must have fire escapes accessible from one room of each apartment.

c. Decrease of light and air

No alteration or addition shall be made to a tenement house so as to decrease the light and ventilation of any part of the tenement house.

d. Balustrades

All stairs in apartment or tenement houses shall be provided and maintained with proper balustrades and railings and kept in good order.

e. No combustibles stored

No tenement house nor any part thereof, nor the lot upon which it is situated, shall be used as a place for the storage, keeping or handling of combustible (semi-explosive) articles, except where permitted by a local ordinance and where, in cities, there exists a Board of Combustibles, which has jurisdiction over the storage

of such articles. The State Board of Tenement House Supervision usually refers cases of this kind to the Board of Combustibles.

f. Dangerous articles stored

No tenement house nor any part thereof, nor the lot upon which it is situated, shall be used as a place for the keeping or handling of live stock, or of articles which produce chemical fumes or which are dangerous and detrimental to life or health; nor for the storage, keeping or handling of feed, hay, straw, excelsior, cotton, paper stock, feathers or rags.

g. Living in cellar or basement

No room in the basement or cellar of an existing tenement house shall be occupied for living purposes without a written permit from the Board. This permit shall be kept readily accessible in the main living room in the apartment containing such a room. The permit shall not be granted unless the room has at least one window opening on a street, court or yard, and is well-drained and dry and fit for habitation. The permit may be cancelled by the local Board of Health having jurisdiction, if the room subsequently becomes unfit for habitation.

h. Cleanliness and sanitary conditions

Every tenement house and every part thereof shall be kept clean and free from accumulation of dirt, filth or garbage, or other matter in or on the premises, or in yards, courts, passages or alleys connected with them and belonging to the tenement house. The owner of every tenement house or part thereof shall cleanse thoroughly all rooms, stairs, passages, floors, windows, doors, walls, ceilings, privies, water-closets, cesspools, drains, halls, cellars, roofs and all other parts of his tenement house to the satisfaction of the Board. He shall maintain all parts of the house in a clean condition at all times.

If the tenant violates the provisions of this section, the Board, after notice to correct has been ignored, may sue the owner for the violation and the tenant for assisting the owner in the commission of the violation. After a judgment is obtained, the Board discontinues the proceedings against the owner, and the tenant is responsible for the act or acts.

i. Maintenance of roofs and leaders

Every tenement house hereafter erected or now existing, and all parts thereof, shall be placed and maintained in good repair and the roofs shall be kept so as not to leak; and all rain water shall be drained and conveyed therefrom to prevent its dripping on the ground or causing dampness in the walls, ceilings, yards or areas.

j. Separate water-closets

Every tenement house hereafter erected or now existing shall be provided with proper water-closet accommodations for its tenants, separate and distinct from the water-closet accommodations of any other tenement house.

k. Number and location of water-closets

In every tenement house hereafter erected, there shall be within each apartment, at least one water-closet, and there shall also be provided similar water-closet accommodations for a store or workshop which may be located on the premises. These water-closet accommodations shall be separate and distinct from those provided for an apartment.

In every tenement house now existing there shall be one water-closet for every two tenants.

l. Sinks

Every now existing tenement house shall have at least one sink within each apartment

m. Exclusion of light or air by fence

A person who shall erect, or suffer to remain, a fence or other structure designed or intended to exclude the light and air from a tenement house in this State, shall be subject to a penalty of \$10.00 for every day the fence or structure remains after notice is received from the Board to remove it. This penalty shall be recovered in an action to be brought by the Board before a District Court judge, Justice of the Peace, Police Justice or Recorder, and the proceedings shall be same as provided in paragraph 193 of the Act.

E. DEEDS TO PROPERTY

A deed is an agreement transferring real estate from one person to another. It must contain the names of the persons, the description of the property and the conditions agreed upon by the parties thereto. It must be signed by the person transferring the property and, in the event that he is married, his wife must sign the deed with him. If the wife owns property, her husband must sign the deed with her. If the wife does not sign, she retains her dower interest in the property no matter who the owner may be, and upon the death of her husband, she becomes entitled to that interest for life. If the husband does not sign, he retains his curtesy interest no matter who may have the property at the time of the death of his wife.

XVI

MARRIAGE AND DIVORCE

The social worker is frequently called upon to advise a client with regard to a problem arising out of the domestic relation. The information contained in this chapter is given in order that the worker may have a fundamental knowledge of the law relating to marriage and divorce and of the legal concepts of the various phases of these two subjects.

A. DEFINITION AND ESSENTIALS OF MARRIAGE

Marriage is a relationship recognized by law, in which a man and a woman, not prohibited by law from entering into such a relationship, take each other for husband and wife. There must be present the mutual consent of the persons to the assumption of the relationship, and in addition, there must be a solemnization (legal ceremony) or a mutual assumption of the marital rights, duties or obligations as defined by law.

A marriage, unless dissolved by legal proceedings, exists during the lifetime of the two persons.

B. THOSE WHO MAY NOT MARRY

1. A Man shall not Marry
 - a. An ancestor,
 - b. A descendant,
 - c. His sister,
 - d. The daughter of his brother or sister,
 - e. The sister of his mother or father.
2. A Woman shall not Marry
 - a. An ancestor,
 - b. A descendant,
 - c. Her brother,
 - d. The son of her brother or sister,
 - e. The brother of her mother or father.

A marriage within the foregoing degrees of consanguinity is void, but its validity may be questioned only during the lifetime of both persons. If either of the persons dies prior to an adjudication as to the validity of a marriage, no one, thereafter, may question the legality of the marriage.

It is not necessary for the invalidity of a marriage to be established by an adjudication of the court. However, it may be advisable that a proceeding be instituted to bring about an adjudication because of the rule enunciated in the preceding paragraph with reference to the validity of such a marriage after the death of either of the persons.

C. KINDS OF MARRIAGE

In New Jersey there are two kinds of marriage. One is called the ceremonial marriage and is the result of a ceremony performed by someone having the proper authority. The other is known as the common law marriage and no ceremony is needed to make it binding.

1. Ceremonial Marriage
 - a. License to marry
 - (1) Who may issue

A marriage license may be issued by:

- (a) The registrar of vital statistics;
- (b) The clerk of the city, borough, town, or village;
- (c) The assessor of a township. (A deputy, designated by any one of the above-mentioned officials, may issue a license in the absence of the official.)

(2) Where obtained

When a marriage is to be performed in New Jersey, if the female is a resident, the license must be obtained in the municipality where she resides. If she resides outside the State and the male is a resident, it must be obtained in the municipality in which he resides. If both reside outside the State, then it must be obtained in the municipality where the ceremony is to be performed. The license authorizes the performance of the ceremony anywhere in the State.

(3) Procedure

Both persons must appear before the issuing officer. Application must be made forty-eight hours before the license is issued, and there must be present to verify the statements of both persons a witness of legal age, who is a resident of the municipality where the application is made. A form is filled out by both persons with reference to former marriage, age, physical and mental conditions of each. The persons must swear to the truth of the statements made in the application, and if either makes false statements, he or she may be subject to a charge of perjury. The license fee is two dollars. In the event that the persons desire both a civil and a religious, or two religious ceremonies, the license may be issued in duplicate.

(4) When license shall not be issued

- (a) When the male is under the age of twenty-one years or the female under the age of eighteen years, unless the consent of the parents of the minor person or persons is given in writing on a form supplied by the License Bureau, the license shall not be issued. As long as the parents consent in writing, a marriage license will not be refused to a minor.

NOTE: If either of the persons was under age at the time of the marriage, the marriage is voidable at the option of that person when he arrives at the legal age, regardless of the fact that his parents have consented in writing. However, if the person under age, upon arriving at the legal age, continues to live with her husband or his wife, as the case may be, then the person who was under age will be considered to have affirmed the marriage, and it is no longer voidable, but valid, and can never be annulled because of nonage.

- (b) When either of the persons applying is affected with gonorrhoea, syphilis, or chancroid in a communicable stage, or is under the influence of intoxicating liquor or a narcotic drug, or is an imbecile, or of unsound mind, or an epileptic, a license shall not be issued, nor shall a license be issued to one who has been an inmate of an insane asylum or institution for indigent persons, unless that person has been satisfactorily discharged.

(5) Effect of marriage without license

A marriage performed without a license is valid, except when it was entered into by persons enumerated in paragraph B-1 and B-2, in which instance it is void. When, however, the persons who entered into such a marriage come within any of the provisions of C-1-a-(4)-a or C-1-a-(4)-(b), the marriage is voidable but valid until declared void in proper legal proceedings. These proceedings are discussed later under "Dissolution of Marriage."

No authorized person shall perform a marriage ceremony unless a marriage license has been secured. If he does the marriage may be valid, but he is liable to be penalized if he is apprehended.

b. Performance of ceremony

The ceremony cannot be performed until twenty-four hours after the issuance of the license, except when a person shall be arrested on a criminal charge of rape or fornication (having carnal knowledge of an unmarried female) and the accused person consents to marry the female, the marriage may be performed immediately and the consent of the parents is unnecessary even if the persons are minors.

A marriage may be performed by a legally authorized person: minister, priest, police judge, justice of a higher court, recorder, mayor, etc.

c. Record of marriages

All marriages performed by a proper official must be registered in the State Bureau of Vital Statistics, at Trenton.

2. Common Law Marriage

a. Definition

Common law marriage is a relationship recognized by the law of New Jersey. It is created by the cohabitation of a man and a woman who intend to live together as man and wife and who evince this intention by their actions.

b. Essentials

A common law marriage may be established only by definite proof that the following essential elements are present:

- (1) The persons must be legally capable of entering into the contract of marriage.
- (2) They must live together as husband and wife with the intention of establishing the relationship of husband and wife.
- (3) No marriage ceremony shall have been performed.

c. Proof of such marriage

When a man and woman have cohabited for a considerable length of time and have publicly recognized and treated each other as husband and wife during that time, with the result that they are generally understood among their acquaintance to be married, a presumption of marriage arises even though there is no documentary evidence of a ceremony. In the absence of positive evidence to the contrary (such as a previous undissolved marriage) the presumption is conclusive.

The fact that a man and a woman live together and cohabit does not in and of itself create a common law marriage, although their

relationship may become a common law marriage if the above elements occur.

d. Effect of common law marriage

If there is a common law marriage, a divorce is necessary to dissolve it. All the rights and obligations that exist in a ceremonial marriage also exist in a common law marriage. The children of this marriage are legitimate and have the same rights as those born of a ceremonial marriage.

e. Determination of the existence of a common law marriage

There is no direct legal procedure that one may institute to have a relationship declared a common law marriage. This is determined as a collateral issue in a proceeding where a question of the fact of marriage arises.

ILLUSTRATIONS

A, a man, and B, a woman, have been living together for a period of years as husband and wife. All the essentials of a common law marriage are present. A, at the time of his death, has a bank account of \$5,000. Under the laws of the State, as A did not make a will and as he left no children, his personal property (in this case the money in the bank) would go to his wife, or if there is no wife, to his brothers and sisters. Surviving A are B, the woman with whom he lived, and C, his brother. B and C claim the \$5,000. Proceedings are instituted in court by B to obtain the money. In order to obtain it, B must establish that she was the wife of A. In this proceeding the legal relationship that existed between A and B prior to his death must be determined by the court as a collateral issue, in order to establish who is entitled to the money.

A, a man, and B, a woman, live together for a period of time as husband and wife. All of the essential elements of a common law marriage are present. A deserts B and refuses to support her. B institutes proceedings in court for support. In this proceeding the relationship existing between A and B must be determined by the court before it can decide whether A shall be compelled to support B. If the court decides, from the facts, that a common law marriage between A and B existed, it will order A to support B. If the court decides that there was no common law marriage, then A is under no obligation to support B.

D. DESERTION AND NON-SUPPORT PROBLEMS

Every husband or father is obliged to support and maintain his wife and children, and every mother to support and maintain her children. In the event that either fails to perform the obligation, he or she may be compelled to do so by court order.

Definition of Non-Support

A person is guilty of non-support when he or she fails to provide sufficient funds for the maintenance of his wife or of his or her children if they are in destitute or necessitous circumstances.

Enforcement of Duty to Support

Whenever a person has failed to perform his or her duty as stated above, resort may be had to the following:

1. Family Court

When a husband or father fails to support and maintain his wife and children, or when a mother fails to support and maintain her

children, a complaint is made by the injured person to the Overseer of the Poor of his municipality. The Overseer investigates the matter, and if he finds that the wife and children have, or may, become public charges on the municipality, he will make a complaint to the Family Court. A notice to appear in the court on a certain day will be sent to the offender. A hearing is conducted by the court, and if the offender is found guilty, he will be ordered by the court to pay, either to the Overseer of the Poor for the dependents, or directly to them, a stipulated weekly sum for maintenance and support. The court may order that a bond be filed by the offender as security for the performance of its orders. If the offender fails to perform the provisions of the order of the court, he may be punished by a fine or by imprisonment. In the event that the circumstances warrant, the court may direct that the husband support his wife and children and remain away from them. The court may alter and revise a support order from time to time as the situation requires.

2. Juvenile and Domestic Relations Court

Proceedings in non-support matters may be instituted in this court even though the injured persons are not, or will not, become public charges by reason of the failure of the offender to support them. All that is necessary is failure to support. The Juvenile and Domestic Relations Court has county-wide jurisdiction in non-support matters, whereas the Family Court only has jurisdiction in the municipality in which the offense is committed. Moreover, an injured person may make a complaint directly to this court without application to the Overseer of the Poor.

It is preferable to take up the matter of non-support with this court because it has at its disposal the Probation Department. The complaint is made to the clerk of the court and the subsequent court procedure is the same as in the Family Court. However, the weekly payments may be ordered paid to a probation officer, who will see that the provisions of the order are strictly performed.

Either the injured persons or the probation officer may bring to the attention of the court failure to perform the order to support. In that case, the clerk will have a notice to appear in court served upon the offender, and if he is unable to offer a satisfactory explanation of his default, he will be punished for contempt of court by fine or imprisonment.

3. Police Court

The same procedure is followed in the Police Court as in the Family Court. However, where there is a Family Court, proceedings are usually brought before it.

A person guilty of non-support may also be prosecuted criminally. In such a case, the complaint is made to the Police Court or the Family Court. A warrant is issued and the offender is apprehended and brought before the court issuing the warrant. If the offender by means of a written statement waives indictment and trial by jury, the court may try him for the offense charged. If the offender refuses to sign the waiver of indictment and trial by jury, the court will set bail to be given by the offender to secure his appearance on the day of the trial. The court then forwards the complaint to the prosecutor of the county who presents the matter to the grand jury. The grand jury considers the facts, and if they are sufficient, an indictment for desertion will be returned against the person charged, and from that time on, the case is tried as a criminal matter.

Desertion and non-support constitute a crime. If a person deserts those legally dependent upon him, but continues to provide them with ample support, he is not guilty of a crime.

4. The Court of Chancery

When a husband deserts his wife and fails to provide sufficient money to support and maintain her and their children, the wife may institute proceedings in the Court of Chancery for support and separate maintenance.

The purpose of this proceeding is to obtain a legal separation and an order of the court directing the husband to pay to the wife a certain amount each week for the support and maintenance of herself and her children.

The amount decreed by the court to be paid is based upon the assets of the husband and the station in life in which he and his wife were accustomed to live.

a. Procedure

In these proceedings for separate maintenance the services of an attorney should be obtained by the wife. Proceedings are instituted in the Court of Chancery by the attorney who files a petition, which contains all the facts in her case. The papers are served upon the husband who has an opportunity to file an answer or defense to his wife's charges. A hearing is then conducted by the Advisory Master, who informs the Chancellor of his findings. If the court is satisfied that the husband has deserted his wife and failed to provide money for her support and maintenance, it will issue a decree directing him to support his wife and children.

b. Support during pendency of suit

Prior to the hearing in a case of this kind, the court may issue a temporary order directing the husband to pay his wife a certain amount for attorney's fees to enable her to carry on the proceedings, and an order for the support of herself and children during the pendency of the suit.

In determining the amount that the husband should be directed to pay to his wife, the court takes into consideration his assets, his income and the station in life in which he and his wife have been accustomed to live.

If the husband fails to perform the provisions of the order of the court, he may be adjudged guilty of contempt and punished by imprisonment.

c. Elements which must be proved

In order to maintain a suit for support and separate maintenance, it is necessary that the following elements be proved: (1) that the parties are husband and wife; (2) that the husband has deserted his wife and children and failed to support them or that the wife has deserted and/or failed to support her children.

E. DISSOLUTION OF MARRIAGE

1. Annulment

Annulment is a proceeding instituted in the Court of Chancery for the purpose of having the court adjudge that the supposed marriage relation between two persons never existed. In effect, decrees of annulment say that a marriage never existed between the persons. Such a decree would, ordinarily, make children of such a marriage illegitimate because the parents were never married. However, the

Legislature has remedied this situation by declaring that when the child has been born of a ceremonial marriage which was subsequently annulled or declared void, the child shall be considered legitimate.

a. Grounds for annulment are present:

- (1) When the marriage is bigamous.
- (2) When it is between relatives prohibited from marrying.
- (3) When either of the persons was physically impotent and incompetent at the time of the marriage. If, however, the disappointed person ratifies the marriage after discovery of the incapacity of the other by continuing to live with the other, the right to nullity no longer exists.
- (4) When one or both persons was incapable of giving consent to the marriage. Example: When one person was intoxicated or under the influence of drugs at the time of marriage, grounds for annulment exist. The person so incapacitated must not have continued to live with the other after the ceremony and when not under the influence of drugs or liquor; otherwise, he or she will be considered to have consented to the marriage and the right to annulment will be lost.
- (5) When the marriage was brought about by reason of fraud, fear, force or undue influence.
- (6) When one or both persons was under the age of eighteen at the time of marriage, provided it was not confirmed or ratified after the legal age was attained. When there has been a confirmation or ratification after the impediment has been removed, the right to an annulment is lost. Confirmation or ratification in the above sense, means continuing to live with the other after arriving at the legal age. (Taub v. Taub, 87 N. J. E. 624.)
- (7) When one of the persons at the time of the marriage was insane and the other did not know of this fact, the innocent person may obtain an annulment of the marriage provided that he or she, upon discovering the fact of insanity in his or her husband or wife, did not ratify the marriage by continuing to live with the insane person.

b. Procedure to secure annulment

The procedure in annulment cases is practically the same as that for divorce and reference should be made to the procedure under "Divorce."

In annulment proceedings, however, no definite period of residence for either person is necessary. It is only necessary that one of the persons be a bona fide resident of this State at the time of instituting the proceedings.

2. Divorce

A divorce is a proceeding instituted in the Court of Chancery whereby the marriage relationship is severed. The proceeding presupposes the existence of a valid marriage and by the divorce decree, the court states that the persons were married but that from the date of the final decree the marriage is dissolved.

a. Types of divorce

- (1) Absolute divorce

A decree of absolute divorce completely dissolves the mar-

riage tie and the persons revert to their former status of single persons. In the final decree, the court makes provision when necessary for alimony, the custody of children and property rights.

A divorce deprives either party of the right to receive a dower or curtesy interest in the real property of the other.

(2) Divorce from bed and board (legal separation)

This decree differs from absolute divorce in that it:

- (a) Does not dissolve the marriage.
- (b) Prohibits remarriage.
- (c) Does not change the dower and curtesy rights in property.

The decree directs that the persons live apart from each other for a time, depending upon what the court believes reasonable and necessary under the circumstances. The care and custody of the children and the maintenance and support of the wife and children may be provided for in the decree. The separation may be terminated by a reconciliation, and a suspension of the decree of separation can be secured from the court. The grounds for legal separation are the same as those for absolute divorce.

b. Grounds for divorce

(1) Adultery

Adultery is the voluntary sexual intercourse of a married person with a person other than the husband or wife.

Proceedings for divorce may be instituted by the injured person immediately after the discovery of the commission of the act.

It is not necessary to prove the act of adultery in order to obtain a divorce on these grounds. Adultery is assumed to have been committed if inclination, desire and opportunity for the act are proven.

(2) Extreme cruelty

The determination of extreme cruelty necessarily rests upon an analysis of the attendant circumstances and the physical and mental condition of the persons involved. For instance, the abuse which would imperil the health of a frail person might be endured with comparative unconcern by one more robust.

It is not necessary that physical acts of violence be shown in order to prove extreme cruelty.

In the case of *Close v. Close*, 25 N. J. E. 27, the court said, "Where the husband has been guilty of, or there is reasonable ground to apprehend that he will be guilty of, actual violence which will endanger the safety or health of the wife, or where he has inflicted upon her any physical injury accompanied by such persistent exhibition of ill-feeling and opprobrious epithets as will endanger her health and render her life one of such extreme discomfort or wretchedness as to incapacitate her from discharging the duties of a wife, his conduct will be legal cruelty."

When a person has made the life of his wife or her husband so miserable and unbearable as to endanger health and ren-

der life of such extreme discomfort as to incapacitate him or her from discharging the duties of husband or wife, this conduct will constitute extreme cruelty.

Thus, extreme cruelty may be mental as well as physical and that which may constitute extreme cruelty in one case may not in another.

When extreme cruelty is the ground for divorce, the petition may be filed only after six months have elapsed from the last act of cruelty complained of in the petition. Either person, however, must have been a resident of this State for at least two years immediately prior to the institution of the suit.

(3) Desertion

Desertion must be wilful, continued and obstinate for a period of two years. The elements of wilfulness, continuance and obstinacy must all be present at the same time, and if any of these essentials is missing, the divorce will not be granted. The desertion must be voluntary and intentional on the part of the deserter. A person who is serving a jail sentence cannot be considered a deserter as his absence is not voluntary.

The desertion must continue uninterruptedly for a period of at least two years in order to provide grounds for divorce. The desertion must be obstinate and against the will of the deserted person, who must make a reasonable and sincere effort to effect a reconciliation, and must prove to the court that such an effort was made. However, if it is shown that efforts would have been unavailing or unreasonable in view of the attitude of the guilty person, the court may dispense with this requirement.

Desertion may be constructive as well as actual. When, as a result of marital misconduct, such as adultery or extreme cruelty, the injured person leaves the offender, the latter will be considered the deserter.

ILLUSTRATION: A and B are husband and wife. A commits adultery and B leaves him. A is guilty of constructively deserting B even though B left A, and at the expiration of two years, B may institute a suit for divorce on the grounds of desertion.

It has been held that unjustified refusal of sexual intercourse, persisted in wilfully, obstinately and continuously for a period of two years, constitutes desertion.

In an action for divorce on the ground of desertion, one of the persons must have been a resident of the State for at least two years immediately prior to the filing of the petition for divorce in order for the court to have jurisdiction.

A divorce will not be granted by a court of this State upon any grounds when the court is satisfied that the proceedings for divorce are instituted as a result of collusion between the persons.

c. Defenses to actions for divorce

If the defendant in an action for divorce proves to the satisfaction of the court that any of the following conditions is present, a decree will be denied to the petitioner:

- (1) That the defendant did not commit the act about which the complaint was made.
- (2) That the defendant did commit the act complained of but that the petitioner, knowing the facts, forgave him or her. This is called condonation.
- (3) That the defendant did commit the act complained of but that the other is also guilty of marital misconduct, that the misconduct of the one cancels that of the other, and there are no grounds for divorce. This is called recrimination.

ILLUSTRATION: A and B are husband and wife. A commits adultery. B, upon discovery of this fact, leaves him. Subsequently, B commits adultery. If B sues A for divorce on the grounds of adultery, A may show that B has also committed adultery and if the court is convinced that both persons have been guilty of marital misconduct, the divorce proceedings will be dismissed.

- (4) That the facts have been falsified by the petitioner and a fraud has been committed upon the court.
- (5) That the defendant did commit the act complained of but that the other enticed him or her into it, so that the other really consented to the commission of the act.

d. Court procedure in divorce actions

Actions for divorce are instituted in the Court of Chancery by a counselor-at-law on behalf of the petitioner. The petition contains a complete recital of the facts in the case and an affidavit signed by the petitioner to the effect that the proceedings are not instituted with the collusion of the other person and that the facts set forth are true. After this petition is served upon the defendant, and the answer, which must be filed within twenty days, has been entered, the case is referred by the Chancellor to an Advisory Master to hear the evidence. The hearing is conducted and the Advisory Master recommends granting or refusing the divorce. The decree granting a divorce is signed by the Chancellor and filed with the Clerk in Chancery at Trenton. If the Advisory Master decides against a divorce, a decree dismissing the petition is filed with the Clerk. This is the final disposition of the case, unless an appeal is taken to the Court of Errors and Appeals.

e. Divorce decrees

(1) Decree nisi (temporary decree)

If the Advisory Master recommends a divorce, a decree nisi is filed with the clerk of the court. This decree embodies the recommendations of the Advisory Master upon all the aspects of the case, but it does not sever the marriage relation.

After the making of the decree nisi, the persons are legally separated but not divorced. They may not do anything which would constitute an offense against the marital status. If the petitioner, after the decree nisi is made and before the final decree, conducts himself in such a manner that he is guilty of marital misconduct, or if marital relations are resumed, the right to a final decree will be revoked. If these facts are brought to the attention of the court, the proceedings will be dismissed. An appeal must be taken within three months from the date of the decree nisi and before

the final decree is entered. No appeal may be taken from the final decree.

(2) Final decree

When the decree nisi has been on file for three months and no appeal has been taken, a final decree is entered provided the persons have not violated any of the conditions mentioned. The final decree severs the marriage tie and contains provisions with reference to custody of children, alimony, resumption by the woman of her maiden name in the event she is the petitioner, etc.

f. Recognition of decrees of divorce

The decree of the court of one State must be recognized as valid by every other State in accordance with Article 4, Section 1, of the United States Constitution, which provides that "full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State." This is interpreted to mean that when one State has decided a legal matter, the judgment is final and all other States must recognize it.

Generally then, a divorce secured in X State must be recognized as valid in any other State, PROVIDED that the court of X State had jurisdiction when the case was decided.

The validity of a divorce may be contested only if it is established that the court which granted it did not have jurisdiction. **Jurisdiction** is the lawful right of a court to hear and determine the matter before it.

Jurisdiction in Divorce or Annulment Proceedings

In order for a divorce or annulment to be valid, the court granting the decree must have jurisdiction over the subject matter and the parties to the proceedings.

(1) Jurisdiction of subject matter

In order for a court to have jurisdiction of the subject matter in divorce or annulment proceedings, it is essential that the residence of both persons or of one of the persons involved be within the State. Residence in this respect is the physical presence of a person in the State for a prescribed period of time, plus his intention to make a permanent place of abode in the State. It is also essential that the cause complained of shall be recognized as grounds for divorce by the State in which the proceedings are instituted.

(2) Jurisdiction over the persons

This is obtained by giving the defendant a notice of the suit. It may be accomplished in one of two ways:

Personal Service—When the defendant resides within the State, the papers must be served upon him personally.

Service by Publication—When the defendant resides outside the State, the papers must be served upon him in accordance with an order of publication made by the court. This order directs that a notice be published in a newspaper for a certain length of time. The notice must be directed to the defendant, must state that annulment or divorce proceedings have been instituted against him or her and the grounds upon which the action is based, and must call upon the defendant to enter his defense on or before a certain day, if he or she desires. This order is made by the court only after

proof has been presented, in the form of an affidavit of the sheriff, that the defendant could not be found within the State. An affidavit by the petitioner, to the effect that the defendant is not a resident of the State, is also necessary. The order of publication further directs that a copy of the notice be sent by registered mail to the last known address of the defendant.

3. Divorce for the Poor (Divorce in Forma Pauperis)

This is a divorce for which the petitioner does not pay counsel fees or court costs. It is available to a poor person, man or woman, who has a just cause for divorce, who has no property in excess of \$100.00 and who has no means of securing funds to bring the action. A form of affidavit may be obtained from the Clerk in Chancery at Trenton. This form must be filled in and sworn to by the person desiring the divorce. The affidavit is then returned and referred to the Chancellor who will name a special officer of the court to investigate the facts. The official reports to the Chancellor the result of his investigation, and if the Chancellor deems the facts warrant, he assigns counsel to the petitioner.

The case of Johnson v. Johnson, 4 N. J. L. J. 241, holds that the court can provide counsel to defend an action for divorce in the same manner as it can to prosecute such proceedings. There is no mention of securing annulment in this manner, but it would seem fair to assume that it could be done.

F. ALIMONY

Alimony is an allowance made to the woman for the support of herself and her children out of the estate or income of her former husband. It may be payable as the court decrees. Alimony may be granted in divorce or annulment proceedings.

1. Temporary Alimony

Temporary alimony is generally allowed by the court while the divorce or annulment suit is pending. The court also usually allows a reasonable amount to be paid by the husband to his wife's attorney for the prosecution or defense of the suit.

When the proceedings are instituted by the husband, the wife is entitled to temporary alimony and counsel fees, provided she denies under oath the charges made by the husband.

2. Permanent Alimony

Permanent alimony is the amount of money fixed by the court at the time of the final decree to be paid by the husband to his wife for the support of herself and her children. The amount is based upon the assets and income of the husband, the financial situation of the wife and the disposition and custody of the children. Alimony claims are strictly enforced, and if in default, a husband can be and very frequently is, put in jail until the amount owed is paid.

When the court has granted a divorce to the husband, no alimony will be allowed to the wife unless there are children and she has custody of them, in which case, the alimony will be granted only for the support and maintenance of the children.

3. Increase in Alimony

An application may be made to the Court of Chancery for an increase or decrease in the amount of alimony.

4. Effect of Death on the Payment of Alimony

The duty to pay alimony ceases at the death of either the husband or the wife.

5. Priority of Alimony

Alimony has priority over other debts of the husband.

6. Effect of Subsequent Marriage

If the former wife remarries and the Court of Chancery is notified, the provision for alimony will be abolished from the final decree and the wife will no longer be entitled to receive alimony. However, if there are children who are living at the home of the mother, the father must continue to pay for their support and maintenance.

G. DOWER AND CURTESY RIGHTS

Dower is the right of a widow to the use and enjoyment of one-half of her husband's real property during her natural life. The dower right does not apply to personal property.

Curtesy right is the similar right of a widower to an interest in his deceased wife's real property during his natural life.

The right of dower or curtesy does not attach to real property in which the husband or wife had an interest as a partner, nor does it attach to corporation property even though the husband or wife was the sole owner of the corporation. The right to either dower or curtesy can never be taken from the wife or husband except by his or her own act. When the wife signs a deed with her husband, she signs away her right to dower in that property. In the same way, the husband, when he signs with his wife a deed transferring property owned by her, gives up his right of curtesy in the property.

A valid divorce bars the right of dower and curtesy in New Jersey.

It is held that when there is a will, the wife or husband may insist on dower or curtesy instead of the provisions of the will.

When real estate has been transferred by the husband without the signature of his wife, the right of dower attaches to it no matter how many times the property is thereafter conveyed. The fact that the wife does not sign the deed when her husband sells his real estate does not make the sale void, but the property sold is still subject to the dower right.

The same conditions apply with respect to the curtesy right of the husband when his wife sells her real estate without obtaining his signature to the deed.

H. CUSTODY OF CHILDREN (See also pages 19, 20.)

Proceedings may be instituted by either the husband or the wife in the Court of Chancery to determine the right to the custody of the child or children.

The proceedings are instituted by filing with the court a petition stating the claim to the custody of the child. The court then issues a Writ of Habeas Corpus directed to the sheriff of the county where the person who has custody of the child resides. This writ commands that the person produce the child in court on a certain day. On that day, a hearing is conducted and the husband and the wife present their claims to the custody of the child.

If the court deems that one of the parents is unfit to have the custody of the child, either because of character, habits or inability to give the child proper care, it will award custody to the other parent.

The court may take the child away from the person to whom custody was given, if it is subsequently proven that the best interests of the child are not being served.

I. RIGHTS OF MARRIED WOMEN

The Married Women's Act was passed in New Jersey in 1852 and by this act married women were released from the English Common Law prohibitions regarding ownership, possession and enjoyment of property. Today, a married woman, citizen or alien, can own, enjoy and dispose of whatever property she acquires herself just as if she were single, except for the right of her husband to a curtesy interest in all real estate which she owns at the time of her death. This interest is renounced by the husband if he signs the deed when his wife sells her real estate.

A married woman is responsible for her own debts. However, when husband and wife are living together, he is obliged to supply her with the things necessary for her to carry out her household duties. The wife may purchase these articles and the husband is obligated to pay for them. The husband is also obliged to supply his wife with articles necessary for her own personal use and with medical care, etc.

The husband must supply his wife with a home and she must live in the place and the style which he chooses.

In the event that the husband and wife are separated, but still married and the wife has not committed an act for which the husband could obtain a divorce, he is still obliged to supply her with sufficient funds for her support and maintenance. The wife may charge to him articles purchased for this purpose. However, when they are separated and still married, in order for a husband to be responsible for articles purchased by his wife, it must be shown that she is not the cause of the separation and that he has not supplied her with sufficient funds for her maintenance and support.

A married woman may enter freely into contracts or agreements. She may conduct her own separate business, make a will, sue and be sued, receive all kinds of property by deed or gift from her husband or others, retain wages or salary earned by her. A married woman is liable in damages as a single person and her separate property is not subject to the debts of her husband.

Ordinarily, when a married person transfers real estate, the deed must be signed by both the husband and the wife in order for the purchaser to obtain the real estate free and clear of the right of dower or curtesy. However, when one person is not competent to sign the deed by reason of absence or physical disability, the Court of Chancery may decree that the property be transferred without his signature.

A woman may make valid agreements with her prospective husband, affecting or concerning both his and her property or estate, before their marriage.

In 1927 and 1929, statutes were passed changing the Rights of Dower and Curtesy by which a widow or widower of a person who dies intestate, shall be endowed for the term of his or her natural life, with one-half part of all land and real estate of the husband or wife not theretofore released by deed or release, or other method prescribed by law.

XVII

MORTGAGES

The subject of mortgages is one with which the social worker is often called upon to deal. Therefore, data regarding real estate and chattel mortgages are presented in this chapter.

A. REAL ESTATE MORTGAGES

1. Definitions

A **mortgage** is a transfer of real property as a pledge or security for the payment of a debt or the performance of an obligation. It gives the creditor a lien on the property mortgaged so that he may have the property sold, if the debtor fails to pay his debt or perform his obligation.

A **mortgagor** is the owner of real property and is the one who gives the mortgage.

A **mortgagee** is the one to whom the mortgage is given.

2. Recording the Mortgage

Every mortgage should be recorded as soon as possible in the office of the clerk of the county where the mortgaged property is situated. (The county clerk is also the clerk of the Court of Common Pleas.) In the event there is a Register of Deeds in the county, the mortgage is filed with him instead of with the county clerk.

3. Failure to Record a Mortgage

Every mortgage which is not recorded is void against:

- a. Any person or persons who obtain a judgment against the property covered by the mortgage without notice of the existence of the mortgage.
- b. A bona fide purchaser of the property who purchased without notice of the existence of the mortgage.
- c. Anyone taking a mortgage on the property without notice of the existence of the unrecorded mortgage.

An unrecorded mortgage is valid only as between the mortgagor and the mortgagee. After the mortgage is recorded, it is valid against all persons.

4. Cancellation of a Mortgage

a. When it is held by an individual

When a mortgage held by an individual is to be cancelled and discharged from record, it is necessary for an authorization to cancel the mortgage, addressed to the clerk of the Court of Common Pleas or to the Register of Deeds, as the case may be, to be written on the back of the mortgage and endorsed by the holder. The endorsement must be witnessed and certified by a notary public or by someone authorized to take acknowledgments.

b. When it is held by a corporation

When the holder of the mortgage to be cancelled is a corporation, an authorization to cancel the mortgage, addressed to the Register of Deeds or to the clerk of the Court of Common Pleas, must be written on the back of the mortgage and endorsed by a duly authorized officer of the corporation and the corporation seal must be affixed.

5. Foreclosure of Mortgages on Real Estate

a. What is foreclosure

Foreclosure is a judicial proceeding taken by the holder of a mortgage to bar the right of the mortgagor to redeem the mortgaged property. As a result of foreclosure, the mortgagee secures title to the property for himself.

b. Procedure to foreclose

When the conditions of a mortgage have been violated, foreclosure proceedings may be instituted in the Court of Chancery or the Circuit Court of the county in which the property is located. A lawyer should be retained, whether one is a plaintiff or defendant, as the procedure is technical.

The defendant will be served with a subpoena, notifying him that proceedings have been instituted and that he must file a defense within twenty days. If no defense is filed within that time, a decree is entered against the defendant.

If a decree is entered, the property may be sold to satisfy the claim and a writ of fieri facias (the name given to an instrument directing the sale of property) is then issued to the sheriff.

The sheriff gives notice of the sale by advertising at least once each week for four consecutive weeks in two newspapers circulated in the county where the property is situated. The notice is also posted in five or more public places in the county. It contains the names of the persons involved, a description of the property, the purpose, time and place of the sale. The property is sold to the highest bidder. The deed is given to the purchaser by the sheriff.

If the sale yields more money than is due on the mortgage, the surplus is refunded to the mortgagor after the costs of the sale are deducted. If the sale brings less money than is due, a judgment for the balance may be taken against the mortgagor.

After the sheriff gives the purchaser the deed, the latter becomes the owner of the property. If anyone refuses to surrender possession of the property, he may apply to the Court of Chancery for a **Writ of Assistance**. This is an order directing the sheriff to oust the occupants of the property and deliver possession to the purchaser.

B. CHATTEL MORTGAGES

A chattel mortgage should not be confused with a conditional sale. The former instrument transfers title but the mortgagor keeps possession. In a conditional sale, the purchaser has the right to possession while title is retained by the seller.

1. Definition of Terms

a. **Chattels** is a term which applies to all property that is movable: such as furniture, boats, automobiles, clothing, stoves, etc.

b. A **chattel mortgage** is an agreement in writing whereby title to personal property therein enumerated is transferred by the owner to another person. This transfer is made as security for the payment of a debt or the performance of conditions contained in the agreement. The possession of the property is retained by the owner and when the condition is performed or the debt paid, the transfer of title becomes void and of no effect.

c. **Chattel mortgagee** is the legal term used to describe the person

to whom the mortgage is given, that is, the holder of the chattel mortgage.

d. **Chattel mortgagor** is the legal term for the person who gives the mortgage on his personal property as security for the performance of some condition.

2. Recording a Chattel Mortgage

A chattel mortgage must be recorded immediately, or as soon as is reasonably possible under the circumstances, with the Register of Deeds, if there is one, or with the clerk of the county where the property is situated.

3. Cancellation of a Chattel Mortgage

In order to cancel and discharge a chattel mortgage from record, the holder must endorse upon the back of the mortgage an authorization to cancel the mortgage, addressed to the county clerk or the Register of Deeds as the case may be. The endorsement of the holder must be witnessed and certified by a notary public or a person authorized to take acknowledgments.

A chattel mortgage may also be discharged and cancelled from record by making application to the judge of the Circuit or the Common Pleas Court of the county, by stating that the conditions of the chattel mortgage have been performed and by petitioning that an order be issued directing the county clerk or Register of Deeds to discharge and cancel the chattel mortgage.

4. Some Important Facts regarding Chattel Mortgages

Chattel mortgages are governed not only by the terms of the agreement between the parties, but by the Chattel Mortgage Act, 1 Comp. Stat., P. 464.

a. If the chattel mortgage is not recorded immediately or as soon as is possible under the circumstances, it may be considered void in certain cases. However, it is only void as to those persons whose interest in the property mortgaged accrued between the making of the chattel mortgage and the date of its recording, if it is subsequently recorded.

An unrecorded chattel mortgage is void as to:

(1) Creditors of the mortgagor, regardless of whether they knew of the existence of the unrecorded mortgage.

(2) Subsequent purchasers or mortgagees of the chattels who were unaware of the existence of the unrecorded mortgage. In this case, the burden of proof is upon the purchaser or mortgagee, who must show that he had no knowledge of the unrecorded mortgage.

b. Every chattel mortgage must contain an affidavit signed by the mortgagee, stating the exact transaction between the parties to the mortgage and the reason for giving the mortgage. If there is no affidavit, the chattel mortgage is void as to all persons except the immediate parties.

c. When the affidavit contained in the chattel mortgage is false or defective in that it does not explain precisely the transaction, the chattel mortgage is void as to all persons except the immediate parties (mortgagor and mortgagee), even though it has been properly recorded.

d. A chattel mortgagor who, without the consent of the holder of the chattel mortgage and with the intent to defraud, removes any of the mortgaged property from the county where it was situated at the time it was mortgaged, or secretes, destroys, sells

or exchanges the property without the consent of the mortgagee, shall be guilty of a crime.

5. Foreclosure of a Chattel Mortgage

In foreclosing a chattel mortgage for breach or default of the conditions therein contained, the parties must follow the course set out in the chattel mortgage agreement. There is no provision in the Chattel Mortgage Act outlining the specific procedure to be followed. The chattel mortgage usually contains a provision giving the chattel mortgagee the right, in the event of a default in the performance of the terms of the agreement, to take the mortgaged property and offer it for sale by giving public notice and by conducting a public sale.

XVIII

PAROLE

The subject of parole is dealt with here in a general way. If information relative to parole from a particular institution is desired, the reader should refer to the chapter on Public Institutions.

A. WHAT IS PAROLE

Parole is the conditional release of a prisoner from a correctional or penal institution. It is an extension of the authority and effort of the State beyond the doors of an institution and beyond the time of incarceration. Parole is not a form of clemency or leniency; it is not employed for the purpose of shortening the term of an offender; nor is it a reward for being a "good prisoner." The offender on parole is still a ward of the State, and is still subject to control and may be brought back to the institution if he violates the parole.

The parole period is a period of adjustment, under the supervision of a parole officer, from the unusual and artificial life in an institution to a normal life in society.

B. THE OBJECT OF PAROLE

"The primary object of supervision is the restoration of the offender to society as a participating and law-abiding member, as personally happy and socially useful as possible."

Competent supervision involves two main aspects:

1. The personal guidance and influence over the offender by the parole officer.
2. The use or manipulation of social agencies and community forces in the interest of the rehabilitation of the offender and the welfare of his family. The parole officer should be active in helping the offender to find work, in straightening out difficulties in his family and other relationships and in encouraging him in the wholesome use of his leisure time. The parole officer should enlist and coordinate the services of clubs, religious organizations, local, State and Federal governmental organizations and institutions.

C. VIOLATION OF PAROLE

Parole is violated when a parolee fails to comply with the conditions of parole. His non-compliance may be by commission or omission.

Among the most frequent violations that will be encountered by the parole officers are:

1. Repeated and inexcusable failure to report to the parole officer.
2. Failure to keep employed.
3. Failure to support dependents.
4. Association with bad companions or frequenting of harmful resorts.
5. Absconding from the jurisdiction of the parole board.
6. Committing another crime, etc.

If it appears that further parole supervision will be fruitless, the parolee may be returned to the institution.

D. THE PAROLE OFFICER AND THE SOCIAL WORKER

It should be made clear that these terms are not opposed to each other but are differentiated merely for the sake of clarity. A parole officer is a social worker in a special field.

The social worker and the parole officer should work together in regard to those individuals or families in which they are both interested. There should be close cooperation at all times.

XIX

PARTNERSHIPS

A partnership is a business enterprise entered into by two or more persons. It differs from a corporation in that its members are each liable for all the debts of the partnership, while in a corporation, liability for debts is limited to the amount of money each one actually puts into the business through the purchase of stock.

A. LIABILITIES ATTENDANT UPON THE RELATIONSHIP

The relationship in a partnership is precarious even under well-drawn articles of agreement. The liability for debts is always great and the responsibility for these debts falls equally on all partners. There is always the possibility of one partner's absconding with everything or signing away property or binding the other partners contrary to their desires.

B. PROTECTIVE MEASURES

If a partnership is formed, there should be a written agreement signed by all the partners, setting forth the name of the firm, the purposes of the business, the duration of the relationship, the amount of cash and the value of property or good will contributed by each member, the way the business is to be managed and operated, the manner in which profits are to be divided and all other details necessary for the proper conduct of the business.

The laws of this State provide that in the selection of a partnership name, if a designation is adopted in which "and Company" or "& Co." is a part of the firm or partnership name, or if the name under which the business is to be conducted is other than the real names of the persons conducting the business, there must be filed in the office of the clerk of the county where business is being done, a certificate giving the names and addresses of all persons who are members of the partnership.

XX

PAWNBROKERS

Material covering the operating of the business of pawnbrokers is presented in this chapter.

A. LICENSE

No person may carry on the business of a pawnbroker unless he has first obtained a license to do so from the Department of Banking and Insurance at Trenton.

B. LOANS AND INTEREST CHARGES

A pawnbroker is not permitted to charge more than two per cent interest per month on the unpaid balance of the loan. He may charge an additional three per cent on the entire loan for insurance against loss and theft of the article pledged.

C. RECORDS OF PAWNBROKERS

All pawnbrokers must keep complete records of the pledges and a description of the articles pledged, the names and addresses of the owners and the amount and terms of the loans.

D. PAWNBROKER'S TICKET

Upon making a loan on an article, the pawnbroker must give to the person receiving the loan, a receipt which contains a description of the article pledged and the terms of the loan. In the event that this ticket is lost, notice must be given in writing to the pawnbroker immediately and the owner must make an affidavit of the loss. Then the pawnbroker will issue a new ticket.

E. SALE OF ARTICLE PLEDGED

No pledged article shall be sold by the pawnbroker before the expiration of twelve months from the date of the loan, unless it is otherwise agreed in writing by the parties to the loan, or unless the sale is authorized by the Department of Banking and Insurance.

F. WHEN THE PLEDGED ARTICLE IS SOLD

The following procedure must be pursued in conducting a sale of an article pledged. Written notice must be sent to the last known address of the owner of the article at least twenty days before the date of sale. This notice must specify the time, place, date and purpose of sale. The notice must be published for three consecutive days in the newspapers in the locality where the pawnbroker is situated. On the date set for sale, the auctioneer sells the article at public auction to the highest bidder.

G. PROCEEDS OF SALE

The auctioneer's charges are paid first and then the interest and principal of the loan is paid. The balance, if any, is returned to the former owner of the article pledged. The pawnbroker must send a written notice within thirty days from the last date of sale to the last known address of the owner of the article pledged. The notice must state that a surplus exists to which he, the owner of the article, is entitled. If, after five years from the date of this sale, the surplus is unclaimed the broker is entitled to it. The pawnbroker must pay a proportionate share of the expenses of publishing the notices in the newspaper.

H. BROKER NOT TO ACCEPT PLEDGES FROM MINORS

No pawnbroker is permitted to accept a pledge from a minor under sixteen years of age.

I. RESPONSIBILITY OF PAWNBROKER FOR LOSS OR THEFT

The pawnbroker is legally responsible for the loss or theft of the article pledged. However, if he can show that the loss or theft was not occasioned by want of care on his part, he will not be liable. The burden of proof is on the pawnbroker.

J. COMPLAINTS

A complaint relating to a pawnbroker should be sent to the Department of Banking and Insurance, Trenton.

XXI

PROBATION

Probation is a method of aiding, supervising, disciplining, and if possible, reforming offenders without imprisoning them, by allowing them to remain in the community and placing them under the careful supervision of a trained probation officer. Probation is a conditional release from a term of imprisonment.

A. PROBATION DEPARTMENT SET-UP IN NEW JERSEY

In New Jersey, probation is organized on a county unit basis, the county probation department serving all of the courts which use probation. There is a chief probation officer and as many other probation officers as are needed in each county.

B. COURTS WHICH USE PROBATION

1. All of the higher Criminal Courts.
2. Police, Recorders, and Family Courts.
3. Juvenile and Domestic Relations Courts.
4. Court of Chancery.

C. WORK OF PROBATION DEPARTMENTS

The Probation Departments have two functions: investigation and supervision.

1. Investigation by Probation Department

Frequently, pre-hearing and pre-sentence investigations are made for the court. These investigations include not only the circumstances of the present offense, but a complete legal and social history of the defendant. Social agencies which have had contact with the defendant or his family are asked to submit summaries of this contact. These summaries are placed before the court together with the probation officer's report. If it is found advisable to have a physical and mental examination of the offender, an examination is made and a report submitted to the court with the completed investigation. These pre-hearing and pre-sentence investigations are invaluable to the court in making a proper disposition of the case. The probation officer is frequently called upon to make special investigations during the course of court proceedings.

In Chancery matters, the probation department may be called on to investigate the financial status of a person applying for a divorce in forma pauperis and in cases involving custody of children.

2. Supervision by Probation Department

Before the advent of probation, the court could either suspend sentence or commit the defendant to a penal institution. There was no method by which the defendant could be placed under the supervision of a proper person outside of an institution.

Since probation the following courses are taken:

a. Criminal and quasi-criminal actions

Courts having jurisdiction over criminal or quasi-criminal actions, have the power after indictment or after a plea of "guilty" or "non-vult" for any crime or offense, to suspend the imposition or execution of sentence, and place the defendant on probation.

b. Juvenile and domestic relations cases

Courts having jurisdiction over cases involving children or the domestic relation, have the power to place the offender on probation. In the case of a child under the age of sixteen, the child cannot be continued on probation beyond his eighteenth birthday.

c. Chancery—Marital actions

The Court of Chancery may order alimony payments to be made through the probation department and to be distributed to the beneficiaries.

D. PERIOD OF PROBATION

The court has power to place an offender on probation for a period of from one to five years. The terms vary with the type of offender and the court imposing the sentence. Almost all juvenile offenders are placed on probation for one year, although in some cases the term may be set at two or three years. There may be an extension at the end of the original period.

Domestic relations offenders are usually given terms of three years, as are the greater number of those placed on probation by the county criminal courts. Probation terms set by the Police and Records' Courts are usually for one year.

As a reward for good conduct most probationers are discharged before the expiration of the full term.

E. CONDITIONS, RULES AND MODIFICATION OF PROBATION

Among the usual probation conditions which may be modified or added to during the term of probation are the following: the probationer shall avoid injurious, immoral or vicious habits and places or persons of disreputable or harmful character; he shall report to the probation officer as directed by the court; he shall permit the probation officer to visit him at his place of abode or elsewhere; he shall answer all reasonable inquiries on the part of the probation officer; he shall work faithfully at suitable employment; he shall not change his residence without the consent of the court or probation officer; he shall pay a fine or the cost of the prosecution, or both, in one or several sums; he shall make reparation or restitution to the aggrieved persons for the damage or loss caused by the offense; and he shall support his dependents.

F. COLLECTION OF MONEY—FINE, RESTITUTION, SUPPORT

The judge in criminal and quasi-criminal matters may order a fine to be paid or restitution to be made through the probation department.

In non-support and alimony cases, the money may be ordered to be paid through the probation department. Several hundred thousand dollars are collected each year through probation departments for the support of families.

G. VIOLATION OF PROBATION

If the probationer does not live up to the conditions and rules of probation, or if he commits a new offense, the court may issue a warrant for arrest, or the chief probation officer may arrest him without a warrant. The case is again heard and the judge may impose a prison sentence or may continue the probation.

H. DISCHARGE FROM OR EXTENSION OF PROBATION

The court may discharge a person from probation or may extend the probationary period within the limits of the maximum period of five years. This may be done upon the initiative of the court or upon recommendation by the chief probation officer of the county.

XXII

PUBLIC RECORDS

Public records within the State of New Jersey are considered in this section, but occasionally it will be necessary for the social worker to secure information relative to public records in other States.

When such information is desired, it is suggested that a letter be addressed to the Secretary of State of the State from which the record is sought and that he be requested to forward the information to the proper official.

Copies of Bills pending in the New Jersey State Legislature and copies of laws enacted during the past and the current year may be secured by addressing a request to the Custodian of the State House at Trenton.

A. ADOPTION RECORDS

1. Where Located

All records with reference to adoption of children are filed in the office of the surrogate of the county where the adoption occurred. Adoption proceedings are instituted in the county where either the adopting parents or the child resides.

2. How Secured

Anyone may obtain copies of these records from the office of the surrogate. There is a charge for each copy supplied, varying with the contents of the paper requested. A person may inspect the records and transcribe them himself without charge.

3. Contents

The order of adoption contains the names of the adopting persons and the name of the adopted child, permission to adopt the child and the right of the child to use the name of the adopting parents and in all respects to be considered the same as a natural born child.

B. BIRTH RECORDS

1. Where Located

Records of all births occurring within this State are filed with the Bureau of Vital Statistics and the local Bureau of Vital Statistics of the municipality where the child is born. In the event that the municipality does not have a Bureau of Vital Statistics, the information can be obtained from the State Bureau of Vital Statistics at Trenton. In Hudson County, the source is the County Bureau of Vital Statistics.

2. How Secured

Information with reference to the records may be obtained from either of the above sources. There is a charge of fifty cents for each copy supplied.

3. Contents

Birth records contain the following information: the place and date of birth, name of child, name, description, occupation of father and mother, number of their other children alive or dead, name and address of doctor in attendance at time of birth.

a. Birth Certificates of Illegitimate Children

Chapter 104, P. L. 1935 forbids the issuance of birth certificates revealing illegitimacy of children.

C. BIRTH RECORDS OF FOREIGN-BORN

1. Where Located

These records may be obtained by writing to the place of birth of the individual and giving the name and approximate date of birth and the name of each parent.

Information with reference to the above may also be obtained by writing to the Department of Immigration and Naturalization, Washington, D. C., and furnishing that Department with the name of the individual, date of arrival in this country, class of passage and name of the ship. However, these records may not be so authentic as those obtained directly from the place of birth.

D. CONDITIONAL SALES AGREEMENTS

1. Where Located

All records with reference to conditional sales may be inspected in the office of the clerk of the Court of Common Pleas of the county in which the property covered by the conditional sales agreement is located. When there is a Register of Deeds in the county these records are kept in his office.

2. How Secured

Copies of these may be obtained from either of the above named sources. A small charge, varying with the length of the conditional sales agreement, is made for each copy. A person may inspect these records and make a copy himself without charge.

3. Contents

These conditional sales agreements contain the names of the parties, description of the property, amount of the purchase price of the property, and other terms and conditions agreed upon between the parties to the conditional sales contract.

E. DEATH RECORDS

1. Where Located

Records of deaths occurring in this State are filed with the Bureau of Vital Statistics, Trenton, and the local Bureau of Vital Statistics at the place of death. In Hudson County, there is a county Bureau of Vital Statistics.

2. How Secured

Copies of these records may be obtained from either of the sources mentioned. There is a charge of fifty cents for each copy.

3. Contents

These records contain the name, description, occupation, former address and birthplace of the deceased, the date, place and cause of death and a certificate of death signed by a physician.

F. DEEDS

1. Where Located

Records of all deeds may be inspected by any person at the office of the clerk of the Court of Common Pleas of the county in which the real estate is situated. When there is a Register of Deeds in the county the records are kept in his office.

2. How Secured

Copies may be obtained from either of the above named sources. A charge, varying with the length of the deed, is made for each copy. A person may inspect these records and make a copy of them without charge.

3. Contents

The deeds contain the names of the persons, description of the property and the various conditions and agreements of the transfer.

G. DIVORCE RECORDS

1. Where Located

Records of divorces granted in this State are filed with the Clerk in Chancery, Trenton.

2. How Secured

Information with reference to divorce records may be obtained by writing to the Clerk in Chancery, Trenton, giving the names of the persons, the approximate date of the institution of the divorce proceedings and requesting the information desired. Copies of the records may be obtained upon payment of a charge varying with the length of the paper requested. A person may make a copy of these records without charge.

H. INSTITUTIONAL RECORDS

1. Where Located

Whenever a person has been committed to an institution, a copy of the order of commitment is forwarded to that institution. All information with reference to the length of, and reason for, the commitment, etc., may be obtained by writing to the superintendent of the institution.

I. MARRIAGE RECORDS

1. Where Located

These records are kept at the Bureau of Vital Statistics, Trenton, and the local Bureau of Vital Statistics of the municipality where the marriage license was issued.

2. How Secured

These records are open for inspection by the public and a copy may be secured for fifty cents. A person may make a copy himself without charge.

3. Contents

These records contain the names, residences and occupations of the individuals, the place and date of the marriage, the names of the witnesses and the name of the person performing the ceremony.

J. MORTGAGES, PERSONAL PROPERTY (CHATTEL)

1. Where Located

Records of all chattel mortgages may be inspected at the office of the clerk of the Court of Common Pleas of the county in which the property mortgaged is situated. When there is a Register of Deeds in the county these records are kept in his office.

K. MORTGAGES, REAL ESTATE

1. Where Located

Records of all real estate mortgages may be inspected at the office of the clerk of the Court of Common Pleas of the county in which the mortgaged real estate is situated. When, however, there is a Register of Deeds in the county the records are kept in his office and may be inspected there.

2. How Secured

Copies of these records may be obtained from either of the above named sources. A charge, varying with the length of the mortgage,

is made for each copy. A person, upon inspecting these records, may make a copy of them without charge.

3. Contents

The real estate mortgages contain the names of the parties, description of the property mortgaged, duration of the mortgage and various conditions and agreements decided upon by the parties to the mortgage.

L. MOTOR VEHICLE RECORDS

1. Where Located

All records with reference to motor vehicles are kept by the Department of Motor Vehicles, Trenton.

2. How Secured

Copies of these records may be obtained from the Department of Motor Vehicles. A charge, varying with the length of record, is made for each copy. If information regarding the ownership of a motor vehicle is desired, the license number of the vehicle should be mentioned in the request. There is no charge for this service. If the worker desires information as to whether an individual is the owner of an automobile, this information may be obtained by writing to the Department of Motor Vehicles and giving the name and address of the individual. There is no charge for this service.

M. POLICE RECORDS

1. Where Located

Police records are kept in the office of the State Bureau of Identification, Department of State Police, Trenton.

2. How Secured

Ordinarily, this information is not available to persons not connected with the police. However, the Bureau will cooperate with recognized social agencies.

Information will be given upon the written request of a social agency. This request should give as many details as possible concerning the person involved and should include name, aliases, description, age, residence, characteristics, etc. The Bureau will not furnish copies of records.

3. Kind of Records Kept

The following information is kept by that Bureau:

Names and information relative to all persons convicted of an indictable offense within the State.

Names and information relative to well-known and habitual criminals.

Names and information relative to all persons confined in a workhouse, jail, reformatory, penitentiary or other penal institution.

N. TAX RECORDS, PERSONAL PROPERTY

1. Where Located

Information with reference to taxes on personal property may be obtained from the tax office of the municipality in which the personal property is situated.

2. How Secured

The above information may be secured by a personal or written request to the tax office. The request should state the name and address of the owner of the property.

3. Contents

These records contain a description of the property, the name and address of the owner, the amount for which the property is taxed, the amount of taxes remaining unpaid and the dates thereof.

O. TAX RECORDS, REAL ESTATE

1. Where Located

Information with reference to real estate taxes on property may be obtained from the tax office of the municipality in which the real estate is situated.

2. How Secured

This information may be obtained by communicating with the tax office and giving the name of the owner and location of the property involved. When information concerning the status of real estate taxes for only a few years is requested, the tax office will furnish this information without any charge. However, when more complete information with reference to taxes due on certain real estate is requested and a tax search is necessary the tax office charges a fee.

3. Contents

Tax records contain the address of the property, the name of the owner, the amount for which the property is taxed, the amount of taxes remaining unpaid on the property and the dates for which the taxes have been levied.

P. WILLS

1. Where Located

All information with reference to wills may be obtained at the office of the Surrogate of the county in which the deceased resided at the time of death.

2. How Secured

These records are open for inspection by anyone and copies may be obtained upon the payment of a small charge. A person may make a copy of the information without charge.

XXIII

SMALL LOANS

Under the New Jersey laws, "small loans," that is, loans that do not exceed \$300.00, are regulated by and are under the supervision of the Department of Banking and Insurance. The last Act in connection with this subject was passed in 1932 and it repealed all other laws passed on the subject up to that time. Under this law any person, corporation or association, desiring to make loans of this character, must first be licensed by the Department of Banking and Insurance. The application must indicate that the applicant has at least \$25,000. available for making loans under the Act at the location designated in the application. In addition, the applicant must have liquid assets of at least \$25,000. and must be otherwise satisfactory to the Department.

When the loan is made, the licensee must give the borrower a statement upon which is printed, in English, a copy of the regulations regarding interest charges, the nature of the security for the loan, etc. The licensee must also give plain receipts for all payments indicating the amount of the balance due. Payments in advance are permitted. Upon repayment of the loan, every obligation or security given by the borrower must be marked indelibly "paid" or "cancelled" by the licensee. If this is not done, it should be demanded, and if the licensee refuses, a complaint should be made to the Department of Banking and Insurance. No licensee shall take confession of judgment or power of attorney in connection with any loan.

A. TERMS AND CONDITIONS OF SMALL LOANS

No small loan may be made for a sum in excess of \$300.00.

No small loan shall be made with real estate as security.

Interest at the rate of two and one-half per cent per month may be charged on the unpaid balance during the period of the loan. If a payment is not made on the day due, one thirty-first of two and one-half per cent interest may be charged for each day that the balance is overdue. Interest may be compounded and is to be computed only on the balance of the principal remaining unpaid.

No deductions may be made by the small loan company for interest charges at the time of making the loan. In other words, the full amount of the loan must be given to the borrower. FOR EXAMPLE: If a person obtains a small loan of \$200.00, the company may not give the borrower \$175.00 and explain that it has deducted the interest charges in advance. In the event that the small loan company makes such deductions the entire loan is void and the borrower may recover any payments made to the company on this loan.

B. ASSIGNMENT OF WAGES

Frequently, small loan companies demand from the borrower an assignment of wages to secure the repayment of the loan. Such assignments are valid, but they must be consented to by the wife of the borrower and by the employer. If the borrower is a married man and has been living apart from his wife for more than five months, her consent is not necessary.

C. CHATTEL MORTGAGES TO SECURE SMALL LOANS

The small loan company may demand that a chattel mortgage be given by the borrower to secure repayment of the small loan. The chattel mortgage must be signed by the borrower and, if he is married, by his

wife, unless he has been living apart from her for more than five months.

D. COMPLAINTS AND PENALTIES FOR VIOLATION OF SMALL LOAN ACT

This Act has been passed for the benefit of persons in poor circumstances who have not the facilities for securing loans of credit or financial assistance from banks, building and loans, or other institutions of that kind. In order that persons in this position shall be amply protected against exploitation, penalties for the violation of the provisions of this Act have been made very drastic by the Legislature. A person or institution pretending to make loans of \$300.00 or less, and violating the provisions of the Act, should be reported at once and the proper investigation will be made. Reports should be made to the Department of Banking and Insurance, Trenton.

E. WHEN THE LOAN IS OVER \$300.00

The foregoing provisions apply only when the loan is under \$300.00. If it is over that amount, then charges are restricted to six per cent per annum allowed by law, and for a violation of that provision of the law, the offender will be penalized by the law courts to the extent of taking away the right to collect interest at all. The borrower may defend a law suit by the lender by proving that the lender is exacting usurious interest charges.

XXIV

TAXES

This chapter deals with the various methods of tax levy employed in New Jersey, the collection of taxes and appeals from tax assessments.

A. ASSESSMENT OF TAXES

1. Real Estate

All real estate situated within this State is subject to annual taxation. The tax assessor of the tax district wherein the real estate is situated assesses the property at its market value during the year for which it is assessed.

After the assessor has completed the list of assessments, he publishes a notice in a newspaper circulated in the tax district. This notice states the time and place where the list of assessments may be inspected by the taxpayer to enable him to ascertain the assessment made against his property. This is done so that the taxpayer may take up with the tax assessor the matter of adjustment of the assessment, if he deems it incorrect.

2. Personal Property

All personal property (this includes all movable property) located within this State, is subject to annual taxation at its true value, to be determined by the assessor of the tax district wherein the personal property is located.

Each municipality has a Board of Assessments, and a tax assessor who secures from owners a list of their personal property as of October 1st of the current year. If an owner refuses to give this information, or if he cannot be found, the tax assessor estimates the value of the personal property. When an individual or corporation is in business, debts owed in connection with the business may be deducted from the estimated value of the personal property, provided a list of the debts and a written demand for their deduction is presented to the tax assessor. A taxpayer may be examined under oath by the assessor concerning deductions. When the personal property assessed is tangible property, the owner is taxed on the basis of his interest in it. If he owns only a portion of it he may secure from the tax assessor a form to be filled in and filed with the tax assessor who will reduce the assessment to cover only the taxpayer's interest in the property. **EXAMPLE:** A has personal property valued at \$500.00 and is assessed on that amount. He purchased it from X, paid only \$200.00 and owes the balance, (\$300.00), to X. He files the proper form and his assessment is reduced to \$200.00, and the balance of the assessment, (\$300.00), is charged against X.

Notice of the personal property assessment is published in the same manner and for the same purpose as when real estate is involved.

3. Poll Tax

A poll tax of one dollar is levied on every citizen of the age of twenty-one and over, except paupers, idiots and insane persons. The tax is payable April 1st of each year, and if unpaid on June 1st of that year, it is considered delinquent and the taxpayer will be charged interest. A city may charge delinquents interest up to eight per cent on all taxes.

4. Income Tax

a. State income tax

There is no State income tax in existence in New Jersey at this time.

b. Federal income tax

This is a tax levied by the United States government on the income of every citizen of the United States, whether residing at home or abroad, and on every person residing in the United States, citizen or alien, when the income is over \$1,000. for a single person or \$2,500. for a married person.

(1) Who must file an income tax return

- (a) Every person having a gross income for the year of \$5,000. or over, or a net income of \$1,000. or over if single, or if married and not living with husband or wife.
- (b) One who has a net income of \$2,500. or over for the taxable year if married and living with husband or wife, or if single but the head of a family.
- (c) If a husband and wife, living together, have an aggregate net income for the taxable year of \$2,500. or over, or a gross income of \$5,000. or over, each must make a return, or the income of each must be included in a single joint return.

(2) Persons exempt

City, county and State employees are exempt from a Federal income tax. This exemption applies only to regular employees. Employees of organizations such as the Emergency Relief Administration are subject to the Federal income tax but are allowed an exemption for the amount of their salaries which is paid from State funds.

(3) Procedure with reference to income tax

Forms called "Income Tax Returns" are obtainable from any office of the Department of Internal Revenue. These forms are filled out and filed with the Internal Revenue office of the district in which the individual resides. They must be filed on or before the fifteenth day of the third month following the close of the fiscal year or, if the return is based upon a calendar year, then on or before March 15th. These Income Tax Returns are inspected by the Department of Internal Revenue, and if found to be erroneous, the individual is notified and must pay the excess amount of the tax, if there is an excess.

(4) When taxes are payable

Income taxes are payable on or before March 15th of the calendar year, or if the return is based on the fiscal year, then it is payable on the fifteenth day of the third month following the close of the fiscal year. It is also payable in four equal quarterly instalments.

Payments may be made at the local office of the Department of Internal Revenue or a check for the amount due may be mailed to that office.

5. Sales Tax

On July 1, 1935, under authority conveyed by Chapter 268, P. L. 1935, a State sales tax became operative.

This tax, administered by the State Tax Department, Sales Tax Division, 1060 Broad Street, Newark, New Jersey, is a privilege tax of 2% of gross receipts of every individual, partnership or corporation engaged in the business of selling tangible personal property at retail. This tax must be charged to the consumer. While the rate is set at 2%, the Tax Department has issued a schedule to govern the amount payable when a straight two per cent impost would result in fractions of a cent.

Under this act, each retail establishment must take out a license, costing \$1.00 per year. (Licenses run for the State's fiscal year, July 1 to June 30 inclusive.) Licenses may be obtained at any Motor Vehicle Department Agency. These agencies will not, however, be in a position to answer questions nor give rulings concerning the operation of the tax.

Tangible personal* property within the meaning of this act is defined as, "anything that you can see or touch and which is valuable for its own sake." Thus, any material thing which can be bought at a retail store is subject to the tax unless specifically exempt.

Food, clothing, drugs and prescriptions, automobiles and parts are taxable. While milk products, such as cream, butter, cheese, etc., are taxable, whole fresh milk is exempt. Gasolene and alcoholic beverages are subject to special taxes and are therefore exempt. Motor oils and motor fuel not otherwise taxed are taxable. All sales of 12 cents or less are exempt.

Sales made directly to governmental agencies are exempt. Sales made on relief orders, however, are subject to the tax.

This is not intended as a conclusive review of the provisions of the Sales Tax Act. Detailed inquiries should be addressed to the State Tax Department, as indicated in the second paragraph.

B. COLLECTION OF TAXES

1. Real Estate

If taxes on real estate are not paid by December 1st of the year for which they are assessed, they are considered in arrears and become a lien on the property. Tax liens take precedence over any conveyance, transfer, mortgage, etc.

a. Sale of real estate for taxes

The law provides that whenever taxes on real estate remain unpaid on the first of July following the year when they became in arrears, the tax collector for the municipality shall sell the property. The collector gives public notice of the time and the place of the sale, and copies are set up in five public places in the municipality. Once each week for four consecutive weeks preceding the sale a copy of the notice is published in a newspaper circulated in the municipality. When his address is known a notice is sent to the owner. A sale is then held. The purchaser of the property sold for tax delinquency receives a certificate of sale which states that he has purchased the property described and which sets forth the amount of taxes. If there are no bidders, the property is purchased by the municipality.

b. Redemption of the property

At any time within two years from the date of the sale, the property may be redeemed by the owner if he pays the tax collector

* See index for reference to definition of real and personal property.

the amount of taxes for which the property was sold, plus costs of advertising, etc., and eight per cent interest. This right of redemption by the owner may not be cut off until two years from the date of the sale, and unless cut off by proper proceedings, it exists for twenty years.

c. Collection of rent to pay tax arrears

The city may apply to the Court of Chancery for a rent receiver after taxes remain delinquent for six months. The tax collector of the city gives five days' notice to the owner of the property that an application will be made to the Court of Chancery for the appointment of a receiver to collect the rents of the property to satisfy the delinquent taxes and expenses. The court appoints a receiver who may not charge fees but who collects the rents from the property until enough have been collected to satisfy the delinquent tax debt. The receiver serves copies of the order of appointment (the order of the court naming him receiver) upon the tenants and they must pay the rent to him until he is discharged. After the receiver is discharged, he serves a copy of the discharge upon the tenants and then they may pay the rent to the regular landlord.

d. Barring the right to redeem property

The purchaser of land sold for taxes may, at any time within twenty years after the purchase, give notice to all persons having an interest in the property that they must redeem or repurchase the land. If notice is served within eighteen months after the sale, it shall state that the right to repurchase will be barred unless exercised within two years from the date of sale. If the notice is served after the expiration of eighteen months from the sale, it shall state that the right to repurchase will be barred unless exercised within six months from the date of service. This notice is served personally whenever possible, but if personal service cannot be made, service may be made by publication in a newspaper in accordance with the law.

If the right of redemption is not exercised after notice, within the time stated, the right to redeem is barred and the purchaser obtains complete title to the property. The certificate of sale, the notice to redeem, the affidavit of service of the notice, an affidavit that the property has not been redeemed and a certificate from the tax collector showing that all subsequent taxes have been paid must be filed with the county clerk or Register of Deeds, if there is one in the county where the property is situated.

Another method of barring the right of redemption is by foreclosure proceedings in the Court of Chancery, which may be brought at the expiration of two years from the date of the tax sale whether or not a notice to redeem has been given. All those having an interest in the property are made defendants and served with a subpoena notifying them that the proceedings have been instituted. The court issues an order which states that the defendants in the suit shall pay the amount due, taxes, interest and costs, before a certain day. In the event of failure to pay, the the right to redeem is forever barred.

2. Personal Property

If taxes on personal property are not paid by December 1st of the year for which they are assessed, the tax collector may proceed to sell the personal property for the taxes remaining unpaid. If an

amount sufficient to pay the taxes is not realized, the tax collector may have the taxpayer arrested and, if he does not pay the tax, he may be put in jail until the tax is paid. Before the personal property may be sold, the tax collector must advertise the sale publicly and give five days' notice. In the event there is a deficiency after the sale, the tax collector may seize other property of the taxpayer and sell it.

3. Income Tax

If income taxes are not paid when due, the individual is chargeable with interest of one per cent per month.

If the taxes are unpaid, the department sends out notices to the individuals and threatens to levy upon their goods and chattels and sell them for the taxes. If the tax is still unpaid, the department takes that procedure.

If an individual cannot pay the income tax within the required time, he may go to the Internal Revenue office in his district and make application for an extension of time.

C. APPEALS

1. County Board of Appeals

A taxpayer may appeal from the real or personal property tax assessment in the following manner:

On or before August 15th of each year, the taxpayer may file with the County Board of Taxation a petition of appeal (forms may be obtained from the County Board of Taxation). A copy of this appeal is served upon the clerk of the city or municipality in which the property is situated. The original is filed with the County Board of Taxation. An affidavit must also be filed with the County Board of Taxation to the effect that a copy of the petition has been served upon the municipality or tax district. A date is set for the hearing at which witnesses appear, books are presented and testimony regarding the correctness of the tax assessment is taken. The County Board of Taxation is made up of three members and a majority constitutes a quorum. The County Board of Taxation must render its decision upon the appeal within three months from the date of hearing. If no decision is rendered by that Board, the appeal will be considered as dismissed and the taxpayer may then appeal to the State Board of Appeals.

2. State Board of Appeals

Within three months from August 15th of each year, the taxpayer, if he has first appealed to the County Board of Taxation, may appeal to the State Board of Appeals. He obtains forms of petitions of appeal from that Board at Trenton. After filling out the necessary data, he serves a copy of the petition upon the County Board of Taxation and the municipal Board, and files the original petition and an affidavit stating that such service has been made upon the County Board and the municipal Board, with the clerk of the State Board. The State Board then grants a hearing and decides the appeal upon the merits of the case.

In the event that a taxpayer feels aggrieved by any assessment or appeal, he should pay the tax levied by the city in order to save interest charges, for if he succeeds in his appeal, the city will rebate the amount of taxes which the County Board or State Board decides have been in excess.

XXV

VETERANS AND THEIR DEPENDENTS

An attempt has been made in this chapter to set forth those laws, relating to veterans, with which the social worker will be concerned. To give the laws in their entirety and in detail would require too much space and clarity would, of necessity, be sacrificed.

If a question arises which is not fully or completely answered in this chapter, the veteran should be referred to the Veterans' Administration, at Washington, D. C., or to the Regional office at Lyons, New Jersey. If the veteran writes to the Veterans' Administration and presents the facts of his case, he should receive the information he desires.

Laws providing for hospitalization, residence in a Soldiers' Home, compensation, pension, disability allowance and retirement pay for the benefit of a veteran and/or his dependents, were consolidated in what is known as Public No. 2 of the 73rd Congress (passed March 20, 1933). Subsequently, Congress delegated to the President substantial power to make rules and regulations in connection with veterans.

A. BENEFITS AND SERVICES PROVIDED BY THE FEDERAL GOVERNMENT

A veteran is a person who has been in active military or naval service.

1. Those Eligible to Receive Benefits and Services

a. An honorably discharged veteran of any of the following wars and his dependents is or are entitled to receive benefits:

- (1) Spanish-American War
- (2) Boxer Rebellion
- (3) Philippine Insurrection
- (4) World War
- (5) Civil War
- (6) Indian War

b. An honorably discharged person who has served in the regular Army, Navy (including Marine Corps) or Coast Guard, and whose disability was incurred in or aggravated by active military or naval service in line of duty, is entitled to disability benefits.

2. Benefits and Services Available to the Veteran

a. Compensation

If a veteran is suffering from a disability (physical injury or chronic illness) traceable to his wartime service, and if he can comply with the conditions laid down by the Veterans' Administration to establish eligibility to benefits, he will receive compensation through the Administration in accordance with scheduled rates for that disability. If a veteran becomes permanently or totally disabled subsequent to his discharge, he may be entitled to compensation based upon scheduled rates for that disability.

A veteran, sixty-two years of age and over, of all wars except the World War, is entitled to a special pension under the regulations. When a veteran is suffering from a non-service-connected disability, neither he nor his dependents are entitled to a pension when his annual income exceeds \$1,000. if he is single, or \$2,500. if he is married.

b. Compensation during hospitalization

While a veteran is receiving hospitalization or is in a Soldiers' Home, he receives only a percentage of the compensation to which he is entitled; the balance is paid by the Veterans' Administrator to his wife or other dependents.

c. Hospitalization

A veteran, when suffering with a disability, disease or defect, may receive hospital treatment and domiciliary care under the following rules and regulations laid down by the Veterans' Administration:

- (1) When the veteran is suffering with injuries or a disease incurred in, or aggravated by, the line of duty in military or naval service or in the Coast Guard.
- (2) When the veteran has no adequate means of support and is suffering with a disability.
- (3) When the veteran can establish the fact that he is unable to pay the cost of necessary hospitalization or domiciliary care.

d. Medical care

An honorably discharged veteran of any war, or man who has been honorably discharged from the Army, Navy, Marines or Coast Guard, and who has a disability arising out of his military or naval service, is entitled to the necessary treatment at a hospital.

e. Adjusted compensation

All veterans who served in the military or naval forces during the World War for more than sixty days have been allowed an adjusted service compensation or a virtual increase in pay for the period during which they were in service. The rate is based upon so much per day of actual service in this country or abroad. If the additional amount to which the veteran is entitled is \$50.00 or less, he receives it in cash from the Veterans' Administration.

If, however, it amounts to more than \$50.00, the veteran receives an "Adjusted Service Certificate" which represents the amount of 20-year endowment life insurance that his adjusted service balance, plus 25%, would buy in accordance with the ordinary rules of life insurance companies. The application for adjusted service compensation must have been filed on or before January 2, 1935, by either the veteran himself, or by his widow or other survivor, if the veteran died between May 19 and July 1, 1924. The veteran may name a beneficiary who will receive the amount of his adjusted compensation upon his death. He may borrow not more than 50% of the face value of the certificate from any bank or bank and trust company in the United States or from the Veterans' Administration itself. If the veteran, without naming a beneficiary, dies before the certificate becomes due, the amount which it represents will be paid to his widow and children or mother and father if they are the sole survivors, in accordance with the regulations established by the Veterans' Administration.

The Adjusted Service Certificate or any rights for payment based upon an Adjusted Service Certificate cannot be assigned nor can they be made security for a loan except when the loan is made in accordance with the law set forth in the preceding paragraph.

The Veterans' Administration shall not make payment of the pro-

ceeds of a certificate to any person other than the beneficiary or the dependents of the veteran, should he die without naming a beneficiary.

f. Life Insurance

Under the War Risk Insurance Act and succeeding legislation, it is possible for persons serving in the Army, Navy, Marines or Coast Guard subsequent to 1917, to take out insurance in a government department established for that purpose. Policies are written in multiples of \$500.00, with a maximum of \$10,000. and they carry the customary rights and privileges of a life insurance policy.

A government life insurance policy is not assignable and the proceeds from it are exempt from all taxes. It is not subject to claims of creditors of the insured, or of his beneficiary, but only to claims of the United States arising under the War Risk Insurance Act and the World War Veterans' Act.

g. Burial benefits

When an honorably discharged veteran of any war dies there may be paid by the Veterans' Administration, a sum not to exceed \$100.00, to apply to the burial and funeral expenses of a veteran, provided his net assets at the time of his death, exclusive of debts, compensation or insurance, do not equal or exceed the sum of \$1,000. A veteran may be buried in a National Cemetery where no charge is made for the plot of ground and his relatives may secure from the Veterans' Administration, or from any branch office thereof, an American flag for the purpose of draping the casket of the veteran.

h. Free information

A veteran may obtain free information from the Veterans' Administration or its various offices, regarding pensions, bonuses, insurance, compensation and other matters of a similar character.

i. Preference in obtaining government work

In obtaining government positions, a veteran has certain privileges and advantages which may be ascertained by writing the United States Civil Service Commission at Washington, D. C.

j. Privileges in obtaining government lands

A veteran may have certain privileges and advantages in obtaining government homestead lands situated in various parts of the country. Information may be secured by writing the Department of the Interior, Washington, D. C.

3. Procedure to Secure Veterans' Benefits

Application for various benefits may be made directly to the Veterans' Administration at Washington, D. C. In New Jersey, the application may be made through the Veterans' Administration Regional office, located at the United States Veterans' Hospital, Lyons, New Jersey. In cases requiring hospital treatment or domiciliary care, it is advisable to support the preliminary request with a physician's statement showing the disease or injury from which the veteran is suffering, and describing in definite terms the physical condition. In applying for domiciliary care, it is advisable to explain the applicant's financial and family situation very accurately and completely.

4. Benefits and Services Available to the Widow and Dependents of the Veteran

a. Pensions

Upon the death of a veteran of any of the wars mentioned, (Sec. A, 1, a), the widow and dependents are entitled to pensions established by law in accordance with rules and regulations laid down by the Veterans' Administration. The amount of these pensions varies according to whether the veteran was receiving or was entitled to wartime, peace-time or non-service-connected compensation. The total amount per month, payable to all dependents, is established by law and the regulations of the Veterans' Administration. In this connection, the Veterans' Administration has established formal rules and procedure for applying for pensions and has also adopted regulations defining the widowhood and the extent to which payments will be made to children and other dependents.

b. Compensation to widows and children

When the children of a deceased veteran are not living with the veteran's widow, the amount of the pension to which these dependents are entitled will be apportioned between the widow and the children by the Director of the Veterans' Administration.

c. Burial

The widow of an officer buried in the National Cemetery, may be buried in an adjoining plot to him, and the widow of an enlisted man may be buried in the same grave with her husband.

d. Free information

The widow and dependents of a veteran may have free information from the Veterans' Administration concerning pensions, compensation, etc.

5. Procedure for a Widow and Dependents to Secure Benefits

Widows and other dependents may apply for a pension and other benefits and privileges directly to the Veterans' Administration offices at Washington, D. C. Those living in New Jersey may apply to the Regional office of the Veterans' Administration, located at the United States Veterans' Hospital, Lyons, New Jersey.

6. Appeals

All questions or claims involving benefits under the Veterans' laws may be appealed by the veteran, by his legal guardian, or by some representative to whom he has given a power of attorney in the matter, but the representative must perform his services without pay. Appeals must be made within one year after a decision or within one year after July 1, 1933, whichever is the later date.

Only one appeal is permitted unless new and very material evidence is secured from a governmental service. Full information concerning appeals will be furnished a veteran or his dependents by the Veterans' Administration.

B. BENEFITS AND SERVICES PROVIDED BY THE STATE OF NEW JERSEY

1. Bonus Payments

A bonus payment has been made available for each person who was a regularly enlisted man or officer or nurse in any branch of the service and who was a resident of New Jersey at the time of enlistment. Payment is made on the basis of \$10.00 per month, and the total is not to exceed \$100.00.

2. Tenure of Office of Public Employees

Under the "Tenure of Office Act," veterans holding public office

cannot be removed except when good cause is shown. They are entitled to hold office during good behavior.

3. Burial

Indigent soldiers, sailors and marines of all wars shall be given proper burial by some authority designated by the Board of Freeholders in each county. The expense of the funeral is limited to \$200.00.

4. Tuition for War Orphans

There is appropriated annually \$5,000. for the use and benefit of war orphans, the amount for each orphan not to exceed \$150.00 annually. This sum is to defray the expense of education of a war orphan at a State educational or other technical or professional school of a secondary or college grade. This sum is to be used for tuition fees, books, board, room rent, etc. A war orphan, coming under this Act, is a child between the ages of sixteen and twenty-one who is domiciled in this State for twelve months prior to the enactment of the law, June 27, 1933, and who is the child of an officer or enlisted man, in any branch of the service, who was killed in action, or who died of other causes during the period of war, April 6, 1917, to July 2, 1921.

5. Licenses to Peddle or Vend Merchandise

An honorably discharged veteran of the Spanish-American War, Boxer Rebellion, Philippine Insurrection, World War, Civil War, or Indian Wars may secure a license permitting him to hawk, peddle or vend merchandise, goods or wares to the public.

In order to secure this license, he should present an application to the county clerk of the county in which he resides. The application should be sworn to and his certificate of honorable discharge should be presented with it.

6. Procedures to Secure State Benefits and Services

Applications for bonus payments and for orphans' scholarships should be made to the office of the Adjutant General of the State of New Jersey at Trenton. An application for the burial of an indigent soldier should be made to the Board of Freeholders in the county in which the soldier died.

7. State Soldiers' Home

See Public Institutions, pages 89, 90.)

XXVI

VOTING

The Constitution of the State of New Jersey contains the following provision:

Every citizen of the age of twenty-one years and over who has been a resident of the State for one year and of the county in which he claims his vote for five months immediately prior to the election, shall be entitled to vote.

A. THOSE WHO MAY NOT VOTE

The State Constitution provides that the following may not vote:

Paupers, idiots, insane persons and persons convicted of the following crimes unless pardoned or restored by law to the right of suffrage:

Blasphemy	Rape	Forgery
Treason	Sodomy	Perjury
Murder	Polygamy	Subornation of Perjury
Piracy	Robbery	Larceny above the value
Arson	Conspiracy	of six dollars

B. DEFINITION OF SOME TERMS USED ABOVE

The word "law" in the clause "restored by law to the right of suffrage" means lawful action by the Court of Pardons and not by the Legislature. (In re: —matter of the creation of the Court of Pardons by Chancellor Walker—3 Misc. 585.)

A "pauper" is a person who is an inmate of an almshouse or institution of that class. A person who is receiving relief but has not been committed to an institution is not considered a pauper within the meaning of the article of the Constitution with reference to voting.

An "idiot or insane person" includes persons committed to institutions for the insane or the feebleminded.

The above definitions are accepted as binding by the county election boards.

XXVII

WILLS AND LAWS OF DESCENT AND DISTRIBUTION

A will is the legal declaration of a man's intentions as to the disposition of his property after his death. It may be written or unwritten and may be made by any person twenty-one years of age or over, except an idiot, lunatic or person of unsound mind or memory.

A will does not take effect until the death of the person making it and that person may, therefore, change it at any time prior to his death.

A. REQUISITES OF A VALID WILL

Ordinarily, a will must be in writing although an oral will may be valid if it fulfils certain requirements. Every will should be in writing because an oral will is difficult to prove and the courts are very strict with reference to admitting it to probate. Therefore, a written will only will be considered here.

1. The following are the requirements of the law: The will
 - a. Must be made by a person of the age of twenty-one years or over who is not an idiot, lunatic or person of unsound mind or memory;
 - b. Must be in writing;
 - c. Must be signed by the person making it;
 - d. Must be acknowledged and declared to be his last will in the presence of two persons, who shall sign their names as witnesses, at the request of the person making the will, in his presence and in the presence of each other.

The will should be signed by the person making it but a person not able to write may sign by mark as follows:

	his	
John	x	Doe
	mark	

In order that a will be valid in New Jersey, it must be made in accordance with the requirements outlined above. If these requirements are not fulfilled, the will is defective and the person will be considered to have died without leaving a will. His property will be disposed of in accordance with the State laws relating to intestacy. Intestacy is discussed later in this chapter.

2. An Illustration of a Will in Proper Form

I, JOHN DOE, of the City of Newark, County of Essex, and State of New Jersey, being of sound and disposing mind, memory and understanding, do hereby make, publish and declare this as my last Will and Testament.

FIRST: I hereby direct that all my just debts and funeral expenses be paid as soon after my death as practicable.

SECOND: I give, devise and bequeath unto my wife, JANE DOE, the sum of one thousand dollars (\$1,000.) and my two farms, "Whiteacre" and "Greenacre."

THIRD: I give, devise and bequeath unto my two sons, JOHN DOE, JR., and JAMES DOE, jointly, my farm known as "Blackacre."

FOURTH: The balance of my property, real and personal, I give, devise and bequeath to the Home for the Aged at Ivy Hill, New Jersey.

FIFTH: I hereby nominate, constitute and appoint my son, JOHN DOE, JR., as Executor of this, my Last Will and Testament, and direct that he need not furnish a bond for the faithful performance of his duties.

IN WITNESS WHEREOF, I have subscribed my name this fifteenth day of November, one thousand nine hundred and thirty-four.

(Signed) JOHN DOE.

The foregoing instrument was signed by the said John Doe in our presence, and by him published and declared to be his Last Will and Testament, and at his request, and in his presence and in the presence of each other, we subscribe our names as attesting witnesses at Newark, New Jersey, this fifteenth day of November, one thousand nine hundred and thirty-four.

Name	Address
(Signed) John Brown,	207 Market Street, Newark, New Jersey
(Signed) George Jones,	800 Broad Street, Newark, New Jersey

3. Amending or Changing a Will

This is done by means of a writing called a **codicil** which must fulfill the same requisites as a will and, at the time it is made, there must be a last will in existence. A change should be made either by a codicil or a new will, but in no other way.

The effect of a codicil is to add to, or to change the terms of a will. The codicil and will must be read together and equal effect given to both, except where the provisions of the codicil are inconsistent with those of the will. In that instance, the provisions of the codicil prevail and are given preference over the provisions of the will to which they are contrary and inconsistent.

4. Revocation of a Will or Codicil

A will or codicil is revoked when:

- a. A subsequent will or codicil is made and expressly states that it revokes the former will or codicil.
- b. A subsequent will or codicil is made, the provisions of which are inconsistent with and contrary to the former will or codicil.
- c. The person who made the will burns, tears or obliterates it with the intention of revoking it. If this is done by mistake, the will is not revoked. Proof of this is, however, a question of fact.
- d. There was no natural born or adopted child in existence at the time of the making of the will and one is subsequently born or adopted and is alive or in being at the time of the death of the person making the will.
- e. Marriage alone does not revoke or change a will.

5. Those Who May Not Receive Property under a Will or Codicil

No person who signs a will or codicil as a witness may receive any bequest under that will or codicil. This rule applies even though there were more than the necessary two witnesses to the will.

6. Probate of Wills (Proving a Will)

a. Definition

The probate of a will is the proof before an officer authorized by law, that a writing offered to be proved, is the last will or codicil of the deceased person, whose act it is claimed to be.

b. Courts having jurisdiction

The following courts have jurisdiction in probate proceedings: Surrogate's, Orphans' and Prerogative Courts.

c. Where a will may be probated

The will may be probated before one of the above courts in the county in which the person resided at the time of his death. However, if there is any question as to the validity or existence of a will, probate proceedings may not be heard by the surrogate but will be conducted by the Orphans' Court of the county.

d. Procedure to probate a will

A will may be probated after ten days have elapsed from the death of the maker of the will. The executor (person named in the will to carry out its provisions), or the person who has custody of the will, appears with at least one of the witnesses to the will, before the surrogate of the county. A petition is filled out by the executor on a form supplied by the office of the surrogate. The witnesses take an oath and swear that they were present at the time the deceased signed the will; that they saw him sign the will; that the signature on the will is his; that he declared it to be his Last Will and requested them to sign their names as witnesses; that they did so and that the signatures on the will presented before the surrogate are theirs. The will usually appoints a person to carry out its provisions. He is called the executor. If no executor has been named in the will, the surrogate will appoint one. If the surrogate is satisfied that the will was made in accordance with the formalities of the law, he will issue an order directing that it be probated. The executor is usually required to file with the surrogate a bond in double the amount of the value of the estate, to insure the faithful performance of his duties. However, if the will directs that no bond be filed, the executor need not file one. (The executor collects all debts due to the estate and pays all debts due from the estate, and after this is done, distributes the balance of the estate in accordance with the terms of the will.)

B. DISPOSITION OF PROPERTY WHERE THERE IS NO WILL (Laws of Descent and Distribution)

When a person dies without leaving a will or when one has been made but declared to be invalid, the person is said to have died intestate. Both real and personal property of the deceased are distributed in accordance with the laws of descent and distribution.

Statutes are in effect today which provide to whom property shall go when a person dies without leaving a will. For further information relative to these statutes, an inquiry should be made at or addressed to the office of the surrogate of the county at the county court house.

Procedure where there is no will

When a person dies without leaving a will, his nearest relative or some other interested person, even a creditor, may apply to the Surrogate's, Orphans' or Prerogative Court (usually the Surrogate's Court) of the county where the deceased resided at the time of death, for the appointment of an administrator to distribute the personal property left by the deceased to those entitled to receive it by the laws of descent and distribution. Forms are supplied by the surrogate and the necessary routine is handled by him. A bond in double the amount of the estate is required. An administrator has nothing to do with real estate since title to that vests in the heirs of the deceased immediately after the death of the deceased.

It is not necessary to institute administration proceedings where the total amount of real estate and personal property left by the deceased person is not valued at more than \$200.00.

C. PROCEEDINGS TO HAVE A MISSING PERSON DECLARED DEAD

When a person who is a resident of this State shall remain beyond the sea or absent himself from this State and shall not have been heard of for seven years consecutively, proceedings may be instituted by an interested person to have him or her declared legally dead. Application is made to the Surrogate of the county in which that person resided at the time he left or abandoned this State. The court then issues an order which is published in the newspapers, and which sets a date for a hearing to be conducted as to the proof of the absence of the person involved. On the day set for the hearing, testimony is taken and proof is produced before the court to the effect that the person involved has been absent and not heard of for at least seven consecutive years. If the court is satisfied with the proof produced, an order is entered declaring the person legally dead. Proceedings may then be instituted to administer the estate.

Anyone taking property under these proceedings must give a bond to indemnify the person declared dead, in the event that he should be alive and return.

If, after the property is distributed, the person who has been declared dead returns, the property is restored to him; but if it has been disposed of, then a sum equal to the value of it is paid to that person from the bond given by the person by whom the property was taken.

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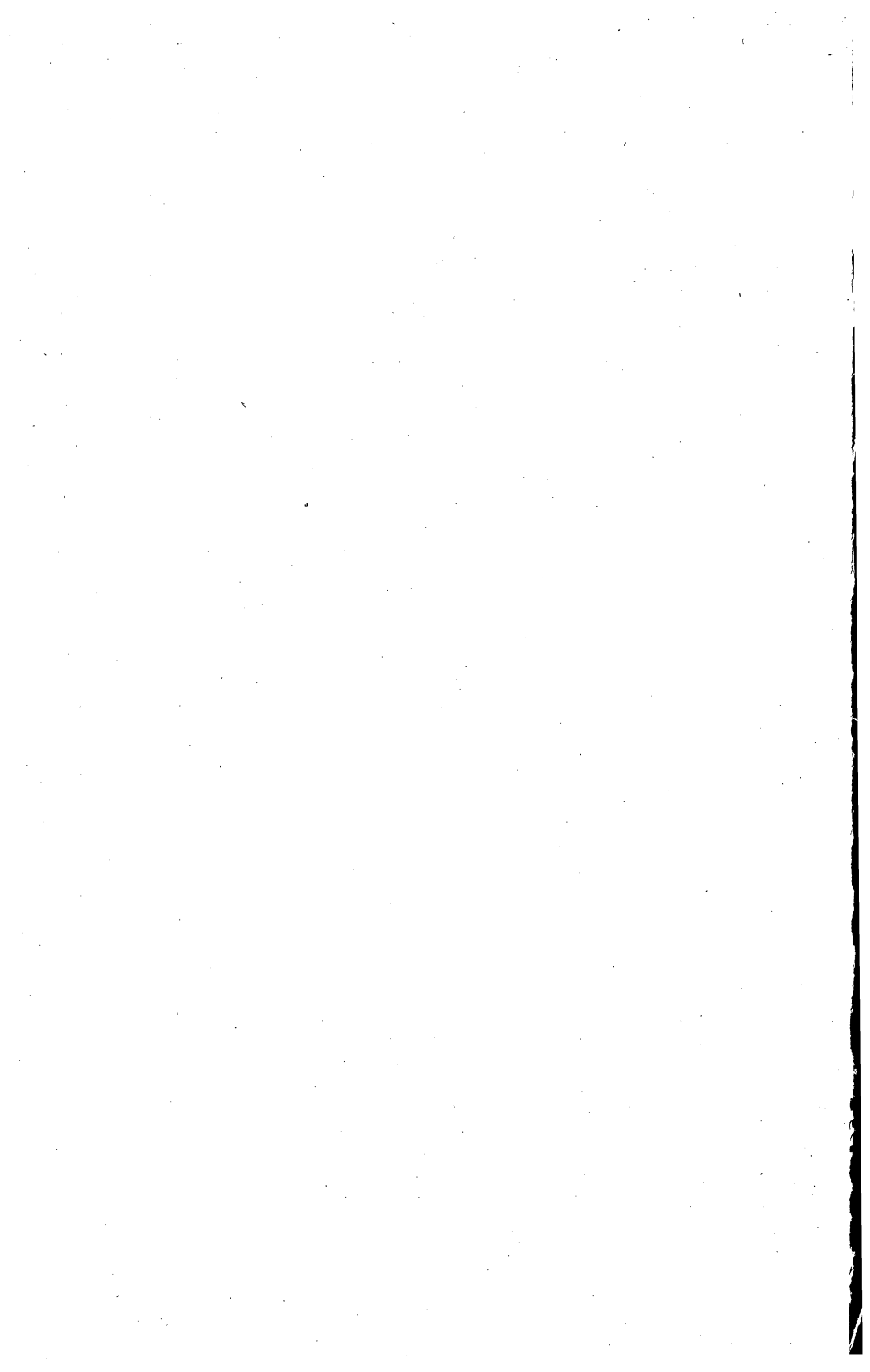
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