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A GUIDE
TO THE
LAWS OF WEST VIRGINIA
AFFECTING CHILD WELFARE

PRICE 25 CENTS
Special Price in Quantities



ISSUED BY THE
*West Virginia State Conference of
Charities and Correction*

West Virginia State Conference of Charities and Correction

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CONFERENCES: Wheeling, Nov. 22-24, 1915; Clarksburg, Nov. 20-22, 1918; Fairmont, Dec. 3-5, 1917. The fourth Conference, planned to be held in Charleston, then changed to Huntington, had to be postponed on account of war conditions.

PURPOSE. "The West Virginia State Conference of Charities and Correction exists to discuss the problems of charities, correction and prevention, to further disseminate information and promote reforms." *Preamble to Constitution.*

MEMBERSHIP. "The annual membership fee shall be \$1.00; the contributing membership fee shall be \$10.00; the sustaining membership fee shall be \$25.00 . . . Any board, institution, or association may enroll as such by paying an annual fee of \$2.00. All persons officially connected with such boards, institutions or associations who may attend any annual conference shall be registered as members and shall be entitled to all the rights and privileges thereof." *Art. 1.*

All persons and organizations interested in a "get-together movement" in the State looking to the improvement of social conditions in this difficult period of readjustment, are invited to send their membership fee for the year 1918-1919 to the treasurer, G. W. Dudderar, Clarksburg.

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Issued by the West Virginia State Conference of Charities and Correction with the co-operation of the Department of Economics and Sociology of the State University.

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The West Virginia Humane Society, L. H. Putnam, Director of Agencies, Capitol Building, Charleston;

The West Virginia Child Labor Committee, Miss Alice McChesney, Secretary, Capitol Street, Charleston;

The West Virginia Anti-Tuberculosis Association, Dr. Harriet B. Jones, Secretary, Glendale;

The Associated Charities of Morgantown, Mrs. F. L. Emory, Secretary;

The Home Service Section Ohio County Chapter Red Cross, Miss Nellie Rumble, Secretary, Wheeling;

The Home Service Section Tyler County Chapter Red Cross, Miss Lucy Davenport, Secretary, Sistersville;

The West Virginia State Sunday School Association, Rev. Walter A. Snow, Secretary, Clarksburg.

Copies may also be secured of the Chairman of the Committee, L. M. Bristol, Morgantown.

Single Copies, 25 cents; twenty-five or more, 15 cents.

INTRODUCTION

This "Guide to the Laws of West Virginia Affecting Child Welfare" was projected at the First State Conference of Charities and Correction, held at Wheeling, November 22-24, 1915, but many delays have prevented its earlier publication, chiefly a reconstruction of the analysis to bring it into conformity with the "Outline of Existing Legislation Affecting Child Welfare" issued by the Federal Children's Bureau.

The compilation has been done under the direction of the committee appointed by the State Conference of Charities and Correction, with the assistance of three graduate or advanced students in the Department of Economics and Sociology of the State University: Rev. Peerce N. McDonald, and Messrs. G. Blaine Nicholson and Julian L. Hagan. Hon. George C. Sturgiss, Juvenile Court Judge of Monongalia County, has rendered valuable assistance by way of suggestions and criticisms based on his long experience in dealing with delinquent, neglected and dependent children, and Professors J. R. Trotter and Leo Carlin of the Law School, Professor J. N. Deahl of the Department of Education and Professor E. H. Vickers of the Department of Economics and Sociology have also aided. To Professor Carlin the committee is indebted for the exposition of the "Rights and Liabilities of Minors" which necessitated references to common law practices in the state.

All of the references, except one of minor importance, are from the West Virginia Code edited by Uriah Barnes and from the official publication of the Acts of the Legislature of 1917. Some statutes referring to children have been omitted, but none, we believe, of special importance bearing on the general problem of child welfare that need to be found in a summary primarily for the use of those not skilled in legal matters. We have included, moreover, some statutes which may seem to be only indirectly related to the problems, yet which after all are vital; as, for example, the workmen's compensation act and the education code. This latter seemed especially important at this time as a basis for an intelligent discussion of the new education code which is to be presented for adoption at the legislative session of 1919.

This analysis and compilation was undertaken with the purpose of making it the background for needed changes in our laws, indeed with the hope that in the near future there might be a codification of the state laws affecting child welfare as has been done in Missouri and some other states. The War has made some of these changes especially urgent for it has revealed social conditions which few dreamed existed, has aggravated these conditions and has introduced some new social problems for which the State is not prepared. Legislation along some of these lines is almost sure to be passed at the coming session of the legislature and it is hoped that this "Guide" may prove of some practical value. The ravages of the venereal diseases among men in the army, for example, and the discovery that the home towns are the chief sources of infection, has led the Surgeon General to make drastic recommendations to State Boards of Health and city officials for the suppression of the social evil in all its phases, and these recommendations have been seconded by the Council of National Defense. Moreover, the discovery by actual mental tests that the majority of prostitutes are feeble-minded, has led to the recommendation by the Surgeon General that adequate provision be made in every state for the custodial care of this class. The following is a summary of the recommendations of the Surgeon General as to legislation deemed essential for the suppression of prostitution and venereal diseases:

1. Enlargement of the powers of the State Department of Health, if necessary, to combat the spread of venereal diseases.
2. Provision for the intensive treatment of infected persons in hospitals at public expense, together with adequate clinical facilities in different localities.
3. Establishment by the State Department of Health of a bureau of venereal diseases.¹

¹This has already been done in W. Virginia.

4. Provision at public expense of arsphenamine or an equivalent for use of physicians under certain regulations.
5. Examination of all prisoners for venereal diseases, and treatment.
6. Tests for syphilis and gonorrhoea at the state laboratories on request of physicians.
7. Due provision for follow-up work and social service in connection with the prevention of venereal diseases.
8. Institutions for the segregation of venereal disease carriers who cannot be controlled in any other way, including institutions for the custodial care of the feeble-minded.
9. The prevention of "floating" or "passing on" of persons from one community to another.

In addition to these recommendations, which we heartily endorse, we would call attention to certain recommendations made by Dr. Hastings H. Hart of the Russell Sage Foundation, in his report to the Executive State Council of Defense, which have special reference to problems of child welfare.¹

1. **A Proposed General State Hospital.** The suggestion is "that the State Hospital at Huntington shall become a general receiving and distributing hospital for all kinds of cases from all parts of the state, and shall cease to be used for the custodial care of feeble-minded, epileptics, and other classes of patients . . . Children of doubtful mentality would receive expert examination in order to ascertain whether they are really feeble-minded or epileptic or whether their mental condition was due to remediable causes. In the former case they would be speedily transferred to a school or colony for children of their class; in the latter case they would be subjected to such treatment and training as might be necessary to restore them to normal conditions. Crippled and deformed children would receive surgical treatment. . . . Inebriates, drug addicts, and victims of venereal diseases would receive skilled treatment during the acute stage of their disease and would then be transferred to working colonies until they become fit for restoration to citizenship. The Huntington Hospital would thus become a great clearing house for afflicted people from all parts of the state and would make it possible greatly to increase the efficiency of the hospitals for the sick and the insane, the institutions for children, the state reformatories, and the philanthropic agencies of the state."

2. **Delinquent Children.** "The juvenile court and probation system which exists in Charleston and Wheeling² should be extended to the rural counties, the State School for Boys at Pruntytown should be turned into a reformatory for young men, and a new state school should be built from the ground up with modern equipment. The conservation of juvenile morals is a matter of the utmost importance because the boys of the State must fill the places which will be vacated by the men who lost their lives or their productive energy at the front. The democracy, the community life, and the home life of the nation are to depend upon them . . ."

3. **Feeble-minded and Epileptic.** "The institutional care of feeble-minded—especially of the feeble-minded girls—is a matter of urgent importance . . . The war will greatly increase the number of defectives in the state and unless immediate action is taken the tide will be overwhelming. The feeble-minded girl is a constant menace to the morals of the community because of her inability to protect herself. A study in Virginia of 300 prostitutes indicated that at least 65 percent of them were feeble-minded, and statistics completed in New Jersey show that feeble-minded women are twice as prolific as normal women and that the majority of their children are also defective . . . The epileptics, though fewer in number than the feeble-minded, are almost equally in need of public care. We call attention only to the fact that epileptics should be cared for separately from delinquents, the insane, and the feeble-minded, and that it is no more expensive to provide separate cottages and separate institutions for the epileptics than

¹Copies of the report may be secured from Mr. Jesse V. Sullivan, Charleston, Secretary State Council of Defense.

²The juvenile court and probation system has not yet been established in Charleston, but it is in operation in Wheeling, Huntington, Morgantown, Fairmont, Buckhannon and possibly some other cities.

it is to provide for them by mingling them with the inmates of other institutions to the detriment of all concerned."

4. **Public Health Service.** The report calls attention to the lack of adequate registration of births and contagious diseases, and recommends an increase of appropriations for the work of the State Department of Health.

5. **An Advisory State Board of Charities.** "Our study of the social institutions of the State brought out the fact that there is a general demand for an Advisory State Board of Charities. Such a board is favored by the Board of Control, which is the executive board of charities. It is favored by the representatives of the University whose study of social questions has convinced them of its utility. It is favored by many intelligent citizens. Some have supposed that all of the functions of such a board could be discharged by the State Board of Control, but that Board is fully employed with its executive work, and the experience of Ohio, Illinois, and Minnesota has shown that there is abundant feeling for an advisory board to work in co-operation with the State Board of Control. The expense of such a board is comparatively small because the members serve without pay, and the secretary is the executive officer."

The committee considers this last recommendation of special importance for such a board would be able to study the whole field of social problems and conditions in the State and suggest from time to time the legislation most needed. The State Conference of Charities and Correction at its last session made provision for the appointment of a committee of five, including one official representative from the State Board of Control and one from the State Humane Society, to draft a bill to be presented to the Legislature at its coming session, creating such a state board. The State Conference has put itself on record, also, as favoring an institution specifically for the custodial care and training of the feeble-minded. This has been recommended by the State Board of Control in several of its annual reports and urged by the heads of different institutions. All that seems necessary is the awakening of public sentiment to the point that will make an appropriation possible.

In basing this Guide on the "Outline of Existing Legislation Affecting Child Welfare" prepared by the Federal Children's Bureau, legislation in this State was found to be lacking or very defective on the following questions:

Under "B--Health and Sanitation":

Blindness of infants, prevention of;
Hospitals for children;
Maternity hospitals;
Vital statistics; registrars, state and local;
Division of child hygiene in State Department of Health;
Public health or visiting nurses;
Playgrounds and recreation centers;
Public baths.

Under "E--Education Laws":

Fire drills and fire escapes in connection with schools;
Special provision for the sub-normal;
Truant and parental schools;
Continuation schools.

Under "F--Child Legislation":

Hours of labor for children;¹
Street trades;
Employment of women; before and after child birth;
Hours of labor; minimum wage.

Under "H--Delinquent, Neglected and Dependent Children":

Boarding out of Children.

Under "I--Defective Children":

Blind--state commission for; state aid within their homes; education of in public schools;
Crippled and deformed--general provision for; education of in public schools; state aid to; institutions and hospitals for.

In such a compilation mistakes and omissions are almost inevitable and the committee would appreciate corrections and constructive criticisms, as a new edition, with legislative changes, may be published at some future time.

L. M. BRISTOL,
WM. E. GLASSCOCK,
JAMES R. MORELAND.

Morgantown, West Virginia, November 20, 1918.

¹Of all the states and territories, only three have no regulations as to *hours of labor of children*: New Mexico, the Philippine Islands and West Virginia. See U. S. Department of Labor, Industrial Series No. 1, chart 2, to face p. 28.

A. PARENT AND CHILD

1. DUTIES AND LIABILITIES OF PARENTS.

a. Abandonment-Neglect-Non-Support.

(1) **Failure to Support Minor Children . . .** "Any parent who shall, without lawful excuse, desert or wilfully neglect or refuse to provide for the support and maintenance of his or her (legitimate or illegitimate) child or children, under the age of sixteen years, in destitute or necessitous circumstances, shall be guilty of a misdemeanor. Acts 1917, c. 51 s. 1.

(2) **Penalty for Non-Support.** "Upon conviction . . . [such parent] shall be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding one year with hard labor, or both. . ." Ibid.

(3) **Proceedings.** "Proceedings under this act may be instituted upon complaint . . . by the wife or child or children, or by any other person. Juvenile courts shall have original and concurrent jurisdiction with circuit, intermediate and criminal courts, in all cases arising under this act." Ibid. s. 2.

(4) **Temporary Order.** "At any time before the trial, upon petition of the complainant and upon notice to the defendant, the court or a judge thereof in vacation, may enter such temporary order as may seem just, providing for the support of the deserted wife or children, . . . and may punish for violation of such order as for contempt. Ibid. s. 3.

(5) **Release of the Defendant on Probation.** "Before the trial, . . . at the trial, . . . or after conviction, . . . the court in its discretion, . . . shall have the power to make an order . . . directing the defendant to pay a certain sum periodically to the wife, or to the guardian, curator or custodian of the said minor child or children, or to an organization or individual, approved by the court as trustee, and to release the defendant from custody on probation." Ibid. s. 4.

(6) **Extraditions.** "It shall be the duty of the local court . . . to provide the funds necessary for extraditing any person charged with an offense under this act, who has gone to another state." Ibid. s. 7.

b. Abuse and Cruelty.

Offense and Penalty. "Any person who shall cruelly ill-treat, abuse or in-

fract unnecessarily cruel punishment upon any infant or minor child, and any person, having the care, custody or control of any minor child, who shall wilfully abandon or neglect the same, shall be guilty of a misdemeanor, and shall be fined not less than ten dollars nor more than fifty dollars for each offense." c. 144, s. 16d (1) (B. p. 1194.)

c. Care and Support; Duty to Provide.

(In case of divorce or separation, see below, "3-b-Divorce"; for illegitimate children see above, "a-(1)," also below, "5-Illegitimacy." For death or disability of bread-winner, see "H-5-b-Relief of Mothers.")

d. Contributory Dependency or Delinquency.

(1) **Definition.** When the charge against any person under this act concerns the dependency or delinquency of a child or children, the offense for convenience may be termed contributory dependency or delinquency. c. 46A, s. 33. (B. p. 630.)*

(2) **Proof.** "In order to find any person guilty of violating this act it shall not be necessary to prove that the child has actually become dependent or delinquent; provided, it appears from the evidence that through any act of neglect or omission of duty or by improper conduct on the part of any such person the dependency or delinquency of any child may have been caused or merely encouraged." c. 46A, s. 41. (B. p. 631.)

(3) **Penalty.** "Any person who shall by any act cause, encourage or contribute to the dependency or delinquency of a child, . . . or who shall for any cause be responsible therefor, shall be guilty of a misdemeanor and upon trial and conviction thereof, shall be fined in a sum not to exceed five hundred dollars or imprisoned in the county jail for a period not exceeding one year, or by both such fine and imprisonment." c. 46A, s. 33. (B. p. 630.)

(4) **Modification of Penalty.** (a) Sentence may be suspended in lieu of a satisfactory bond not exceeding a thousand dollars to cover monthly payments for the care of the dependent child. c. 46A, ss. 34 and 35. (B. p. 630.)

(b) The custodian of the child having

*All references are to the Code of West Virginia edited by Uriah Barnes.

given bond may at the discretion of the court, retain the custody of the child. Ibid. s. 38. (B. p. 631.)

(c) Violations of the conditions of suspended sentence, make possible the imposition of the original jail sentence. Ibid. s. 38. (B. p. 631.)

(5) Interpretation of the Law. "This act shall always be liberally construed in favor of the state for the purpose of the protection of the child." c. 46A, s. 42. (B. p. 631.)

e. Maintenance; Allowance for Out of Child's Estate:

"Every guardian . . . shall have the custody of his ward . . . and management of his estate . . . and out of the proceeds of such estate shall provide for his maintenance and education, but the father of the minor, if living, and in the case of death, the mother, if fit for the trust, shall be entitled to the custody of the person of the minor, and to the care of his education . . ." c. 82, s. 7. (B. p. 980-1.)

2. RIGHTS OF PARENT AND CHILD.

a. Actions for Damages from Unlawful Sale of Liquor.

"Every . . . child . . . who shall be injured in person or property . . . by any intoxicated person, or in consequence of the intoxication . . . of any person, shall have a right of action . . . against any person who shall, by unlawfully selling or giving of intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons." c. 32, s. 26. (B. p. 376.)

b. Custody and Control of Child's Person and Property.

(See B, "Guardian and Ward," also below, "3-b-Divorce.")

c. Parental Rights; Termination of, etc.

"If the court shall . . . find that the parents, parent, guardian or custodian . . . are unfit or improper guardians or are unable or unwilling to care for, protect, train, educate in accordance with the general school law of the state, correct or discipline . . . [a] child, and that it is for the interest of such child, and of the people of this state that such child be taken from the custody of its parents . . . the court may make an order appointing as guardian . . . some reputable citizen, . . . and order such guardian to place such child in some suitable

family home or other suitable place." c. 46A, s. 7. (B. p. 624.)

d. Support of Parent by Child.

"The relations who are of sufficient ability, of any pauper, shall be liable in the following order, to support such pauper in such manner as shall be required by the county court of the county in which the pauper may be and to pay the expenses of burial when he dies, that is to say: 1. The children . . ." c. 46, s. 14. (B. p. 615-6.) (See also "H-5, County and Municipal Relief.")

3. MARRIAGE AND DIVORCE.

a. Marriage.

(1) Age of Consent: "The age of consent of the male shall be eighteen years, and of the female sixteen years." c. 64, s. 2.

(2) Consent of Parents. "If any person intending to marry be under twenty-one years of age, and has not been previously married, the consent of the father, or guardian, or if there be none, of the mother of such person, shall be given either personally to the clerk of the county court or in writing subscribed by a witness, who shall make oath before the clerk of said court that said writing was signed or acknowledged . . . by such father, guardian or mother as the case may be." c. 63, s. 2. (B. p. 915.)

(3) Void and Voidable Marriages. "All marriages between a white person and a negro; all marriages which are prohibited by law on account of either of the parties having a former wife or husband then living; all marriages which are prohibited by law on account of consanguinity or affinity between the parties; all marriages solemnized when either of the parties are insane, or incapable from physical causes from entering into the marriage state, or under the age of consent, shall, if solemnized within this state, be void from the time they are so declared by a decree of divorce or nullity." c. 64, s. 1. (B. p. 920.)

(4) Prohibited Degrees. Acts 1917, c. 19, p. 76.

(5) Property of Female Marrying Under 14 Years of Age. "If any female of the age of twelve and under fourteen years, shall marry without the consent of her father or guardian . . . the county court . . . shall, upon the petition of her next friend, commit her estate to a receiver, who shall give bond . . . and shall hold the said estate . . . until she arrives at the age of twenty-one years." c. 63, s. 12. (B. p. 917.)

b. Divorce:

(1) Grounds for, c. 64, s. 5. (B. p. 921.)

(2) Custody and support of children. "Upon decreeing the dissolution of a marriage, and also upon decreeing a divorce, . . . the court may make such further decree as it shall deem expedient, concerning . . . the care, custody and maintenance of the minor children, and may determine with which of the parents the children, or any of them, may remain; and the court may, from time to time afterward . . . revise or alter such decree; . . . and whether the divorce be granted or not, if the parties are living separate . . . the court may make such order or decree concerning the care . . . of the minor children . . . and may determine with which of the parents the children, or . . . any of them may remain, as to the court may seem proper . . ." c. 64, s. 11. (B. p. 922.)

4. ADOPTION.

a. Who May Adopt; Change of Name.

Any person not married, or any husband with his wife's consent, or any wife with her husband's consent, or any husband and wife jointly, may petition to adopt any minor child, also to have the name of the child changed. If the child is fourteen years of age or over, his written consent must be obtained; also the written consent of the parent or parents, if living and not insane. If not living, unknown, or insane, the consent of legal guardians must be obtained, and if there be none, the consent of some suitable person appointed by the court as next friend. The one adopting a child must be at least 15 years its senior. c. 122, ss. 2, 3. (B. p. 1105.)

b. Requirements of Petition.

Ibid. s. 3.

c. Court Procedure.

Ibid. s. 4.

d. Court Records.

Ibid. s. 4.

e. Effect of Adoption.

(1) Change of Name. See above "4-a," also below, "6-c.")

(2) Relation to Former Parents. "From the date of decree of adoption, the rights, duties, privileges and relations theretofore existing between the child and his or her parent or parents, shall be in all respects at an end, ex-

cepting the right of inheritance." Ibid. s. 4.

(3) Relation to Adopting Parents. "The rights, duties, privileges and relations between the child and his or her parent or parents by adoption, shall . . . in all respects be the same, including the right of inheritance, as if the child had been born to such adopted parent or parents in lawful wedlock, except only as otherwise provided . . . and the adopting parent or parents of the child shall be invested with every legal right in respect to obedience and maintenance on the part of the child, as if said child had been born to them in lawful wedlock." Ibid. s. 4.

f. Adoption of Dependent or Neglected Children.

(See "H-1-f," and "H-4-c, e.")

5. ILLEGITIMACY.

a. Responsibility of Father and Mother.

The putative father of a bastard child may be compelled to carry out the order of the court provided the complaint be made before the child is three years of age. c. 80, s. 1. (B. p. 977.)

(See also "A-1, Duties . . . of Parents.")

b. Illegitimacy Proceedings.

"Bastards shall be capable of inheriting and transmitting inheritance on the part of their mother, as if lawfully begotten. If a man, having had a child or children by a woman, shall afterwards intermarry with her, such child or children or their descendants, if recognized by him before or after the marriage, shall be deemed legitimate." c. 78, ss. 5, 6. (B. p. 974.)

c. Children of Void Marriages.

"The issue of marriages deemed null in law, or dissolved by a court, shall nevertheless be legitimate." Ibid. s. 7.

d. Inheritance and Property Rights.

(See above, "b" also J-2-d-(4))

e. Issue of Marriage Between Whites and Colored People.

c. 63, s. 8. (B. p. 916.) (See "J-2-d.")

6. MISCELLANEOUS.

a. Apprenticeship.

(See F-3-a.)

b. Bank Deposit.

c. 54, s. 81b. (16). (B. p. 789.)

c. Change of Name.

"Any person desiring a change of his own name, or that of his child or ward, may apply therefor to the circuit court of the county in which he resides; and thereupon such court in its discretion may order a change of the name, and thenceforth the new name shall be in

place of the former." c. 122, s. 1. (B. p. 1104.) (See above "4-Adoption.")

d. Consent to Military Enlistment.

"No person . . . shall be enlisted . . . under the age of twenty-one years, without the written consent of his parent or guardian." c. 18, s. 32. (B. p. 271.)

B. GUARDIAN AND WARD

1. APPOINTMENT OF GUARDIAN; QUALIFICATION.

a. General Provision.

"County courts . . . shall have jurisdiction in . . . the appointment and qualification of . . . guardians, . . . curators, and the settlement of their accounts, and in all matters relative to apprentices." Constitution, Art. 8, s. 24. (B. p. 31.) Code, c. 39, s. 9. (B. p. 456.)

The appointment of guardian may be

(1) by Will, (c. 82, s. 1), or

(2) by the County Court

(a) on its own initiative, either directly (c. 82, s. 3), or through its clerk in recess, (c. 114, s. 1), or

(b) on nomination of the ward if over fourteen years of age and the nominee is approved by the court, c. 82, s. 4.

(3) By the Circuit Court. (See below, "4-a-Duties of Circuit Court.")

b. Special Provision.

(1) Curator as Guardian. A curator may be appointed to act as guardian until the guardian is duly qualified. *Ibid.* s. 6.

(2) Married Woman as Guardian. "No married woman shall be appointed guardian, and the marriage of a female guardian shall terminate guardianship." *Ibid.* s. 7.

2. DUTIES, POWERS AND RESPONSIBILITIES OF GUARDIANS.

a. Control of Person and Property of Ward.

"Every guardian shall have the custody of his ward, and the possession, care and management of his estate, real and personal, and out of the proceeds . . . shall provide for his maintenance and education." *Ibid.* s. 7. (See below, "3-d.") (For sale of lands, see c. 83.)

b. Sale of Personal Estate.

The guardian may sell portions of the personal estate of his ward if the income of the estate is deemed insufficient for his proper maintenance and education, provided the court grants permission, the interests of the ward having been looked after by a guardian ad litem. *Ibid.* s. 8.

c. Liability for Interest.

The guardian is liable for interest on all monies received that should be invested, after thirty days. *Ibid.* s. 10.

d. Bond Required.

"Every guardian, unless in case of a testamentary guardianship the will otherwise directs . . . [and the court approves], shall give bond." s. 5.

e. Discharge of Trust.

"At the expiration of his trust, he shall deliver and pay all the estate and money in his hands or with which he is chargeable, to those entitled thereto." *Ibid.* s. 7.

3. TERMINATION OF GUARDIANSHIP

a. By Marriage of Female Guardian. (See above "1-b-(2).")

b. By Attainment of Age of Majority.

The guardian "shall continue in office until the minor shall attain the age of twenty-one years, notwithstanding the minor may marry before that time, or, in case of a testamentary guardianship, until the termination of the period limited therefor." c. 82, s. 7. (B. p. 981.)

c. By Removal.

Guardian may be removed for incompetency or neglect by the court which appointed. c. 87, s. 12, c. 82, s. 13. (See below, "4-a.")

d. By Adoption of Ward.

The court may empower the guardian with the authority to consent to an adoption of the child; provided that (1) the parents or former guardian consents to such order; or (2) that one of the parents is unfit to have the child; and (3) that the child, being over fourteen years of age, consents to such order. c. 46A, s. 20. (B. pp. 627, 628.)

e. By Removal of Child from Institution

(See "H-4-a-(7)-Jurisdiction after Commitment.")

4. STATE GUARDIANSHIP.

a. Duties of Circuit Court.

"The circuit court . . . may hear and determine all matters between guardians and their wards, require settlements . . . remove any guardian for neglect or breach of trust . . . and make any orders for the custody and tuition of an infant, and the management and preservation of his estate." c. 82, s. 13. (B. p. 962).

b. Officers of Institutions as Guardians.

(See "H-1-f-Dependent and Neglected; Guardianship," "H-4-a-(6)-Institutions for Delinquents and Dependents; Term and Guardianship," "H-4-a-(7)-Jurisdiction and

Supervision after Commitment," and "H-4-e-(1)-Orphan Asylums.")

c. State Humane Society as Board of Children's Guardians.

(See "G-1.")

5. RIGHTS OF WARD.

a. Maintenance and Education.

(See above, "2-a.")

b. Services of a Guardian ad Litem or Next Friend.

(1) **In Commitment Proceedings.** "In all proceedings before justices of the peace for commitment of youth to the industrial school . . . the justice shall appoint some discreet and disinterested person guardian ad litem . . . whose duty it shall be to represent the interest of the youth." Such guardian ad litem has the power to demand jury trial and may appeal. c. 45, s. 5. (B. p. 608.) The same privilege is granted a girl in commitment proceedings for the industrial home c. 45, s. 260.

(2) **In sale of personal estate.** (See above, "2-b.")

(3) **In suits.** (See "J-2.")

(4) **Summary Proceedings for Sale, Lease or Mortgage of Infant's Real Estate.** c. 83.

C. OFFENSES AGAINST THE CHILD

I. OFFENSES AND PENALTY.

a. Abandonment and Neglect by Parents

(See "A-1.")

b. Abduction—Kidnapping—Child Stealing.

"If any person seize, take or secrete a child under fourteen years of age . . . with intent to extort money or other pecuniary benefit, he shall be confined in the penitentiary not less than two nor more than ten years." If for any other purpose than the above, the penalty is from one to five years in the penitentiary, or in the county jail not exceeding one year with a fine not exceeding one thousand dollars. c. 114, s. 14. (B. pp. 1192-3.)

"Whoever abducts any person who is an inmate of any of the state benevolent, penal, or reformatory institutions shall be guilty of a felony . . ." c. 147, s. 12a (1). (B. p. 1212.)

c. Abortion.

"Any person who shall administer to, or cause to be taken by a woman, any drug or other thing, or use any means with intent to destroy her unborn child, or to produce abortion or miscarriage, and shall thereby destroy such child or produce such abortion or miscarriage, shall be confined in the penitentiary not less than three nor more than ten years. No person . . . shall be punishable where such act is done in good faith, with the intention of saving the life of such woman or child." c. 144, s. 8. (B. p. 1192.)

d. Abuse and Cruelty.

(See "A-1-b.")

e. Admittance to Dance Halls, Saloons, Etc.

"Any proprietor or any person in charge of a dance house, concert saloon, theatre, museum, or similar place of

amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals, who admits or permits to remain therein any minor under the age of eighteen years, unless accompanied by his or her parent or guardian, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding two hundred dollars." c. 144, s. 16d (5). (B. p. 1195.)

f. Age of Consent.

(See "Sexual Crimes" hereunder.)

g. Contributing to Dependency and Delinquency of Child.

(See "A-1-d" and "H-3.")

h. Cruelty; Societies for Prevention of.

(See "G-1.")

i. Disposing of Child for Unlawful Purposes.

(1) In certain Occupations: "Any person having the . . . control of any minor child under the age of fifteen years, who shall in any manner . . . dispose of such child, or any person who shall . . . employ such child for . . . any vocation injurious to the health, or dangerous to the life or limb, . . . or employ any minor child in . . . any place where any obscene, indecent or illegal, exhibition takes place, shall be guilty of a misdemeanor, and shall be fined not less than five dollars, nor more than one hundred dollars, for each offense." c. 144, s. 16d (2). (B. pp. 1194-5.)

(2) Begging in Streets. "Any person having the control . . . of any minor . . . child under the age of eighteen years, who shall use . . . or otherwise dispose of any minor child . . . for any mendicant business whatsoever in the streets, roads, or other highways of this State, and whosoever shall . . . employ . . . any minor . . . for any mendicant business whatever, shall be guilty of a misdemeanor and shall be fined not less than five dollars nor more than a hundred dollars." c. 144 s. 16d. (3). (B. p. 1195.)

j. Obscene Literature.

"If a person import, print, publish, sell or distribute any book or other thing containing obscene language, or any print, picture, figure or description manifestly tending to corrupt the morals of youth, or introduce into any family or place of education, or buy or have in his possession, any such thing, for the purpose of sale,

exhibition or circulation, or with intent to introduce it into any family or place of education, he shall be confined in jail not more than one year and fined not exceeding two hundred dollars." c. 149, s. 11. (B. p. 1221.)

k. Prostitution.

(1) Detention in Place of. "Whoever shall by any means . . . detain against her will . . . any female person in a house of prostitution . . . shall, upon conviction for the first offense under this act be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than one hundred dollars and not to exceed five hundred dollars, and upon conviction for any subsequent offense under this act shall be punished by imprisonment in the penitentiary for not less than one year nor more than three years." c. 144, s. 16a. (B. p. 1193.)

(2) Procuring Female for House of. "Any person who shall procure a female inmate for a house of prostitution or who . . . by any device . . . shall cause . . . a female person to become an inmate of a house of prostitution, . . . or shall . . . cause . . . an inmate of a house of prostitution to remain therein . . . shall be guilty of pandering, and upon a first conviction for an offense under this act shall be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than one hundred dollars and not to exceed five hundred dollars, and upon conviction for any subsequent offense under this act shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years." c. 144, s. 16b (1). (B. p. 1194.)

l. Cigarettes, Tobacco, etc.; Sales, Gifts

"It shall be unlawful for any person . . . to sell . . . or give away or furnish, or cause to be given away or furnished to any person under the age of twenty-one years, any cigarette, or cigarette paper, or any other paper prepared to be filled with smoking tobacco for cigarette use; and it shall be unlawful for any person . . . to sell, offer, give away or furnish, or cause to be given away, or furnished, to any person under the age of sixteen years, any cigar, pipe or tobacco in any form." c. 150, s. 20e. (1). (B. pp. 1235-6). (See "H-1-h-(2).")

m. Sexual Crimes.

(1) Age of Consent. "If any person

carnally know a female of the age of fourteen years or more, against her will by force, or carnally know a female child under that age, he shall be punished with death or with confinement in the penitentiary" . . . the duration depending on the verdict of the jury. c. 144, s. 15. (B. p. 1193.)

(2) **Attempted Rape.** "If any person take away or detain against her will a female, with intent to marry or defile her, or cause her to be married or defiled by another person, or take from any person having lawful charge of her a female child under fourteen years of age, for the purpose of prostitution or concubinage, he shall be confined in the penitentiary not less than three nor more than ten years." c. 144, s. 16. (B. p. 1193.)

n. Gaming; Lotteries.

"If any person knowingly permit a gaming table . . . to be kept or exhibited on any premises in his occupation, he shall be confined in jail." c. 151, s. 2.

Gaming at hotels prohibited. s. 6.

"If any person shall set up or promote or be concerned in . . . a lottery or raffle . . . or shall for himself or another person, buy, sell or transfer . . . a chance or ticket, . . . he shall be confined in jail not more than one year, and fined not exceeding five hundred dollars." c. 151, s. 11. (B. p. 1254.)

2. ENFORCEMENT AND ENFORCING AGENCIES.

a. Courts Having Jurisdiction.

(See "H-1-g," also State Cons. Art. 8. and Code, cc. 59, 112 and 114A, 153.)

b. Prosecuting Attorney.

"It shall be the duty of every prosecuting attorney in this State, to attend to the criminal business of the State in the county in which he is elected . . . and when he has information of the violation of any penal law connected with his county, shall institute and prosecute all necessary and proper proceedings against the offender." c. 120, s. 6.

c. State Humane Society.

(See "G-1.")

d. Probation Officers.

(See "H-3-c.")

e. Trustees of Orphan Asylums and Children's Homes.

The trustees of orphan asylums and children's homes are given the same authority with regard to dependent and neglected children as is given to the State Humane Society with the exception that children under fourteen are dealt with instead of under sixteen as in the case of the latter. c. 57, ss. 6-12. (B. pp. 850-2.) (See "G-1-c" also "H-4-e.")

f. Executive Officers of the Law as Sheriffs and Deputies, Constables, Policemen, Etc.

D. HEALTH AND SANITATION

1. ADMINISTRATIVE AND ENFORCING AGENCIES.

a. State: Department of Health.
(See "G-4.")

b. County.

(1) **County Health Officer.** (a) **Appointment.**—Appointed by the state board of health on recommendation of the county court, for a term of four years. His salary is fixed by the county court, but is not to be less than \$100 per year and necessary expenses. c. 150, s. 6. (B. p. 1228.) (b) **Duties:**

i. Receives reports from physicians concerning infectious or contagious diseases and reports at least quarterly to

the state board. ii. Is the executive officer of the county board of health. iii. Cooperates with the state board Ibid. s. 1 (2).

(2) **County Board of Health.** (a) **Organization.**—Consists of the president of the county court, the prosecuting attorney and the county health officer. Ibid. s. 6; c. 150, s. 22. (b) **Duties:**

i. To carry out the rules and regulations of the state board so far as applicable to the county. (See "G-4.") ii. May declare and enforce quarantine through the county or in any district of the county subject to investigation and ruling of the members of the state board residing in the congressional district. Ibid. s. 7. iii. "Upon petition of one

hundred voters of the county, shall direct and have enforced upon any party or parties compulsory vaccination or quarantine, in case of smallpox epidemic, in any city, town or village of the county." s. 21. (See "E-3-a.")

c. Cities and Incorporated Towns.

"All city, town, and village boards of health or health officers are secondary to, and subject to all orders of the state board, which may, if deemed expedient, act through the county or municipal board." Ibid. s. 6. (B. p. 1228.)

2. HOSPITALS.

a. General. Children Admitted.

"Duty of the state board of control to make suitable rules . . . requiring the superintendents of the three state hospitals . . . to admit to said hospitals for surgical or orthopaedic treatment and care children who are deformed, crippled or otherwise defective." Children to be cared for free of charge "when it is shown that the parents or guardians of such children are citizens of West Virginia, and are financially unable to procure . . . such care." Acts of 1917, c. 22, p. 79.

b. Tuberculosis Hospitals.

(1) State Tuberculosis Sanitarium at Terra Alta. Both pay and free patients. c. 15 L, s. 3. (B. p. 204.)

(2) State Colored Tuberculosis Sanitarium. Admits negroes under same conditions as whites in above. Acts 1917, c. 38, p. 137.

3. MIDWIVES.

a. Registration Required.

c. 150, s. 24. (B. p. 1238.)

b. Duty to Report Births.

Ibid. s. 25.

4. VITAL STATISTICS.

a. Births and Deaths; Registration of.

(1) State and Local Authorities. "State board of health shall have supervision of the state system of registration of . . . births and deaths." c. 150, s. 23. (B. p. 1238.)

"Clerks of the county court of every county shall keep . . . the register of births, and the register of deaths." Required to report annually or oftener to state registrar, [July 1] and transmit to

same prior to September 1 a copy of his register. c. 150, s. 28. (B. p. 1239); c. 63, ss. 18-29. Separate register for colored required. c. 63, s. 28. (B. p. 919.)

(2) Reports of Births and Deaths.

(a) By physicians, accoucheurs, etc. "Physicians, accoucheurs and accoucheuses shall be required, under a penalty of ten dollars . . . to report to the clerk of the county court, within thirty days from the occurrence, all births and deaths which may come under their supervision." c. 150, s. 24. (B. p. 1238); c. 63, s. 18.

(b) By Member of Family. If no physician is present the report is to be made by the oldest resident member of the family at whose residence it takes place. c. 63, s. 19. (B. p. 918); c. 150, s. 25. (B. p. 1238.)

(c) By Assessor. "The assessor shall make inquiry of all persons assessed by him . . . whether any . . . births or deaths took place within the county for that year which do not appear in said indexes." c. 63, s. 24. (B. p. 919.)

(d) By Coroner or Undertaker. "Every coroner, or the undertaker, shall . . . report every death coming within his cognizance to the clerk of the county court." c. 63, s. 20; c. 150, s. 26.

(3) Fees for Reporting. "Every person making a report . . . shall for every such report receive the sum of twenty-five cents to be paid out of the county treasury." c. 63, s. 21. The county clerk is allowed a fee of five cents. Ibid. s. 29.

(4) Penalty for Failure to Report. Fine of ten dollars. c. 63, s. 35. (B. p. 920.)

(5) Penalty for False Reports. Fine of from one hundred to five hundred dollars. c. 63, s. 37.

(6) Penalty for Giving False Information. Fine of from fifty to three hundred dollars. c. 63, s. 38.

(7) Enforcement of Law. "The prosecuting attorneys of the different counties shall prosecute all cases arising under this law." c. 150, s. 22. (B. p. 1238.)

5. MISCELLANEOUS HEALTH LAWS.

a. Administration of Anaesthetics to Female.

Presence of a third party required. c. 150, s. 20g. (B. p. 1237.)

b. Alcohol and Narcotics; Teaching of. (See "E-7-a.")

c. Anti-toxins.

"The state department of health shall provide, at its discretion, vaccine . . . and other forms . . . of serum or vaccine preventatives of disease, . . . and distribute same free of charge to county and municipal health officers, to be used for the benefit of the poor and indigent." c. 150, s. 2. (B. pp. 1226-7.)

d. Cigarettes, Tobacco, etc.

(See "C-1," also "H-1-h-(2) Miscellaneous; Children and Tobacco.")

e. Depositing Dead Animals, Slops, or Putrid Substance.

Forbidden "upon or into any river, creek or other stream within this State, or upon the surface of any road, street, alley, city lot, public ground, market place, or common, or on the surface within one hundred feet of any public road." c. 150, s. 20d. (B. p. 1235.)

f. Fraudulent Adulteration of Provisions

Punishable by fine not exceeding five hundred dollars and confinement in jail not more than one year. Ibid. s. 20.

g. Health and Sanitation in Schools.

(See "E-3-c.")

h. Health and Sanitation in Institutions.

(See "G-4-d-(1).")

i. Health of School Children.

(See "E-3.")

j. Medical and Dental Inspection of Pupils.

(See "E-3-b.")

k. Milk Regulations.

"Public health council shall make regulations to provide clean and safe milk and fresh milk products and . . . these shall be the minimum requirements to be enforced by local health authorities . . ." c. 150, s. 2. (B. p. 1227.)

l. Sale of Unwholesome Drugs or Provisions.

Penalty of not more than six months in jail and fine not exceeding one hundred dollars. Ibid. s. 19.

m. Use of Common Drinking Cup.

Forbidden. Ibid. s. 20h. (B. p. 1237.)

n. Visiting Nurse.

(See "E-3-d," also "G-4-d-(3).")

6. RECREATION.

a. Civic and Social Centers.

"The trustees may allow the school house in their charge to be used for holding . . . such . . . meetings as may be considered beneficial to the public generally." c. 45, s. 62. (B. p. 573.)

b. Dance Halls; Admittance of Minors

(See "C-1-e-Admittance to Dance Halls," also "H-1-h-Miscellaneous.")

c. Holidays; Designation of Certain Days.

c. 15, s. 31. (B. p. 247.)

E. EDUCATION LAWS

1. ADMINISTRATIVE SUPERVISION CONTROL.

a. State.

(1) **State Superintendent and Board of Education.** The free school system of the state is under the general supervision and control of a state superintendent elected every four years, and a state board of education composed of the state superintendent and five other persons appointed by him for a term of five years. The state superintendent devotes all his time to his duties, receiving a salary of \$4,000 annually and necessary expenses. The other members of the board are engaged in educational work and each receives a compensation of

five dollars per day, but not to exceed twenty-five days in any year, and necessary expenses. Constitution, Art. 12; Code. c. 45, ss. 33, 79-96, 124, 126-133; c. 11, s. 1a.

(2) **State Board of Regents.** This board consists of the state superintendent of free schools and four other members appointed by the Governor by and with the advice and consent of the senate. Each is appointed for a term of four years and receives a salary of \$1000 a year and necessary expenses. This board has general supervision and control of the educational departments of West Virginia University, the preparatory branch at Keyser, the state normal school and its branches, the W. Va.

colored institute, the Bluefield colored institute and the trades school at Montgomery. c. 15M, s. 19; Acts of 1917, c. 84.

(3) **The State Board of Control.** The board of control has charge of the business management of the institutions named above and full control of the industrial school for boys, the girls' industrial home, the school for the deaf and blind, the penitentiary and the state hospital at Huntington where the feeble-minded are trained. c. 15M, ss. 3, 4.

b. County.

The free school system of each county is under the general supervision of a superintendent elected for a term of four years. His salary ranges from \$700 to \$1500 according to the number of schools in the county (s. 118.) His duties are as follows: Visits and supervises schools (s. 121); examines buildings (s. 122); reports to trustees and boards of education concerning incompetency or neglect of duty (s. 122); approves plans for new buildings (s. 14); conducts examinations as directed by the state superintendent (s. 83); hears appeals from decision of boards of education concerning change of boundaries of sub-districts (s. 12); casts deciding vote in case of a tie in the election of boards of education (s. 4); fills vacancies occurring in boards of education (s. 5); supervises the education of children in county infirmaries (c. 46, s. 4a); arranges for county and district institutes (c. 45, ss. 105-111); acts as county financial secretary (s. 149a); reports to state superintendent (s. 123).

c. District.

(1) **Boundaries.** "Every magisterial district in each of the counties of the state shall be a school district, which shall be divided into such number of sub-districts as may be necessary for the convenience of the free schools therein." s. 2.

(2) **Board of Education.** The board of education consists of three members except where the district contains a city of more than ten thousand inhabitants, not an independent district, in which case it consists of five members, (ss. 3, 33). The duties are as follows: General control and supervision of the schools and school interests of the district (ss. 11, 16); change of lines of sub-districts where necessary (s. 11); inspection of school property and sale where not usable (s. 10); provide suitable school houses and grounds and fur-

nish the necessary furniture, fixtures and apparatus (s. 13); see that adequate school facilities are provided by the trustees of every sub-district (s. 65); discontinue schools when the average daily attendance for a month falls below 35% of the whole number of pupils enumerated in the sub-district (s. 17).

Where schools of a district are under a district supervisor the board of education may also hire the teachers. Ibid. s. 164.

(See also, below, "7.")

(3) **District Supervisor.** "The board of education of any district may and upon the application in writing of a majority of the tax payers of the district shall provide for district supervision of all the county, village and town schools in the district and establish rules and regulations necessary thereto. To this end they shall, if so requested, employ a competent teacher . . . who shall devote all his time during the school term to the thorough, careful and profitable supervision of such schools." c. 45, s. 163. (B. p. 598).

d. Sub-districts.

(1) Trustees.

(a) **Appointment.** The schools of each sub-district are under the immediate supervision and control of three trustees appointed for a term of three years by the district board of education. s. 53.

(b) **Duties.** The duties of the trustees are to employ teachers (s. 56); remove them, for cause (s. 58); inspect the schools and property (s. 60); purchase supplies (s. 61); see to the proper care of the building, including repairs (s. 61); grant permission for the use of the school house for other than school purposes (s. 62); keep an itemized account of all expenses (s. 64); provide for the transfer of pupils where necessary (s. 66); and make an annual report, with recommendations, to the district board of education (s. 63.) (See above, "C-(2)" Board of Education.)

2. FINANCES AND SUPPORT.

"The Legislature shall provide for the support of free schools by appropriating thereto the interest of the invested "School Fund," the net proceeds of all forfeitures and fines accruing to this State under the laws thereof; the State capitation tax, and by general taxation of persons and property or otherwise. It shall provide for raising in each county or district, by the authority of the people thereof, such a proportion of the

amount required for the support of free schools therein as shall be prescribed by general laws." Constitution, Art. xii, s. 5.

3. HEALTH OF PUBLIC SCHOOL CHILDREN.

a. Compulsory Vaccination.

"The county court of any county in this state, upon petition of one hundred voters of the county, shall . . . have enforced upon any party or parties compulsory vaccination or quarantine, in case of smallpox epidemic . . . in their said county. . . . Any person refusing to be vaccinated when so directed by the county court . . . shall be placed under quarantine. . . . No child or person residing in a locality in which an epidemic is prevailing shall be admitted . . . into any of the public schools who cannot produce . . . satisfactory proof showing a successful vaccination. . . . For . . . the enforcement of this act . . . the county court may appoint competent physicians . . . who shall do vaccine work . . . Any violation of this act shall be a misdemeanor, and shall be punished by a fine of not less than ten dollars nor more than fifty dollars; provided that the provisions of this section shall apply in a county only after the county court thereof has passed an order adopting it." c. 150, s. 21. (B. pp. 1237, 1238.)

b. Medical Inspection.

(1) Inspector. "The board of education of each independent school district in this state shall, and other boards of education may . . . appoint one or more legally qualified practicing physicians in said school district to be known as medical inspectors of schools." c. 45, s. 77b. (1). (B. p. 576).

(2) Duties of Inspectors. (a) "to separately and carefully test each pupil in his school once during each school year to ascertain if the pupil is suffering from any defect or disability that would prevent the pupil receiving the full benefit of the school work . . ." s. 77b. (2).

(b) to "carefully examine any pupil for evidence of infectious or contagious disease. . . . Whenever any pupil shows symptoms of . . . any . . . contagious disease, the pupil must be sent home and the boards of health and education notified in writing." s. 77b. (3).

(c) to "carefully examine each pupil who has been absent . . . for five consecutive days for contagious or infectious disease." Ibid. 77b. (4).

(d) to "conduct investigations, furnish

information and advice and assist to formulate rules . . . pertaining to the health, vitality and development of the pupils." 77b. (5).

(e) to "keep an accurate and complete record of each pupil tested and examined." 77b. (6). For form of reports, see 77b. (6). (B. p. 577.)

c. Sanitation of School House and Grounds.

(1) Duties of Trustees Concerning. "The trustees shall visit every school under their charge . . . and ascertain . . . whether the school house and grounds, closets and outbuildings . . . are kept in good order; whether anything injurious to health is suffered to remain about the house or grounds; and whether the school house is well ventilated and kept clean and comfortable." c. 45, s. 60. (B. p. 573.)

(2) Duties of County Superintendent Concerning. Ibid. s. 121. (B. p. 588.)

(3) Duties of Medical Inspector Concerning. (See above, "b-(2)-(d).")

d. Teacher Nurses.

"If deemed necessary, the board of education may employ a teacher nurse to investigate the sanitary conditions of the pupil and home." Ibid. 77b. (5).

4. TEACHERS.

a. Qualifications.

"No person shall be employed to teach in the free schools of this state . . . who is not of good moral character and physically and mentally qualified to perform the duties of a teacher; who has not attained the age of eighteen years . . . and who does not at the time he enters upon his duty hold a valid teacher's certificate covering the period of his employment." c. 45, s. 80. (B. p. 578.)

b. Duties and Powers.

(1) Control of Pupils. "The teacher shall stand in the place of the parent and have control of all the children enrolled in his school from the time they arrive at the school grounds until they return to their respective homes, and may exclude from his school any pupil having a contagious or infectious disease, and may suspend any pupil guilty of disorderly, refractory, indecent or immoral conduct. But the action of the teacher in suspending any pupil shall be subject to review by the trustees." c. 45, s. 97. (B. p. 583.)

(2) Teacher's Register. "Every teach-

er . . . shall keep a register . . . in which shall be entered the date of the commencement and termination of the term of the school, the name and age of every pupil . . . and the daily attendance, distinguishing between male and female." c. 45, s. 98

(3) **Enumeration of Persons of School Age.** "The teacher or teachers in each . . . district shall annually . . . not later than the first day of April, take and report an enumeration of all the youth residing in such . . . district who will be of school age on the first day of July following . . ." s. 101.

(a) Classes to be enumerated. Ibid. s. 102.

(b) Penalty for failure to take such enumeration. s. 102.

(c) Filing of report. ss. 102, 104.

5. PUPILS.

a. Age.

"Every youth between the age of six and twenty-one years, and any other person, with the consent of the trustees or the board of education . . . and upon the payment of tuition fees not to exceed two dollars and fifty cents per pupil per month." s. 69. (B. p. 574.)

b. Compulsory Attendance.

(1) **Duty of Parents and Guardian.** "Every person having under his control a child between the age of eight and fifteen years shall cause such child to attend some free school for a period of twenty-four weeks, yearly, beginning with the opening of the school term . . . unless the pupil be thoroughly and systematically instructed . . . elsewhere; provided, there be a school in session within two miles of the pupils home." s. 72. (B. p. 575.)

(2) **Penalty for Violation.** "For every neglect of such duty, the person offending shall be guilty of a misdemeanor, and shall upon conviction thereof . . . be fined two dollars for the first offense, and five dollars for each subsequent offense . . . An offense . . . shall consist in the failure of such persons for two days in any week to cause such child to attend school, except . . . [for] reasonable cause." s. 72.

(3) **Truant Officer.** "The board of education of every district . . . shall appoint one or more truant officers whose duty it shall be to enforce the provisions hereof. Each officer so appointed shall use due diligence to ascertain any violation of this law, and . . . shall immediately

give written notice to the parent or . . . custodian of such child . . . and if such parent . . . or custodian . . . does not comply . . . at once, then such truant officer shall make complaint . . . before the nearest justice of the peace." s. 73.

c. Examination and Graduation.

c. 45, s. 79. (B. p. 579.)

d. Exclusion or Suspension.

(See above, "4-b-(1).")

e. Transfer to Other Districts, Transportation, Tuition,

(See below, "7-m, n.")

6. SPECIAL SCHOOLS AND LIBRARIES

a. Evening Schools.

"Boards of education in districts and independent districts, shall have the authority to establish and maintain night schools where practicable, for the education of all persons, including foreign-speaking people residing in the state, excepting, however, children and youths who are required by law to attend day schools." Acts 1917, c. 74, s. 78a.

b. Kindergartens.

"The board of education of any district . . . in which there is a city . . . of one thousand population or more, may establish in connection with the schools . . . a kindergarten, to which may be admitted children between the ages of four and six years . . ." c. 45, s. 34. (B. p. 568.)

c. Trades Schools.

"The Montgomery preparatory branch of the West Virginia University . . . is hereby changed to a trade school . . . All students of this state shall receive instruction in any of the vocational courses free of tuition." Acts 1917, c. 84, pp. 340, 341.

d. School Libraries.

"The board of education . . . may purchase books for school libraries. But not more than ten dollars shall be expended in any year for this purpose for any school." c. 45, s. 37. "The trustees of any sub-district where there is a school library containing two hundred volumes may upon the petition in writing of at least half of the taxpayers . . . employ a responsible person to care for such school library during the time school is not in session and to open the said

library for part of one day in each week at which time the patrons and pupils . . . may draw out books." c. 45, s. 38.

7. MISCELLANEOUS PROVISIONS.

a. Alcoholics and Narcotics, Teaching Effect of.

"There shall be taught . . . physiology and hygiene, and in connection therewith the nature of alcoholic drinks and narcotics, with special instruction as to their effect upon the human system." c. 45, s. 78.

b. Colored; Separate Provision for.

"White and colored pupils shall not be taught in the same school, or the same building, but it shall be the duty of the board of education to establish one free school, or more if necessary, in any sub-district wherein there are ten or more colored persons of school age and, if possible, . . . wherein there are fewer than ten." c. 45, s. 70. (B. p. 575.)

c. Civic and Social Centers.

(See "D-6-Recreation.")

d. Cigarettes, Smoking on School Grounds.

"Every person who shall smoke . . . a cigarette . . . in any school building . . . or on any land used for school purposes, shall be guilty of a misdemeanor." c. 150, s. 20e (4). (See also "H-1-h-Miscellaneous; Children and Tobacco.")

e. Common Drinking Cup.

Use prohibited in all public buildings and places. Ibid, 20h.

f. Consolidation of Schools.

"Boards of education shall have authority to consolidate two or more sub-districts into a single sub-district, and where practicable establish a graded or consolidated school therein, and if necessary, provide for the transportation of pupils." c. 45, s. 68.

g. District High Schools; State Aid.

Provision is made for the establishment of District High Schools which are classified on the basis of length of course, school term and number of teachers. Schools of the first class receive from the State eight hundred dollars annually, those of the second class, six hundred dollars, and those of the third class, four hundred dollars. c. 45, s. 30. (B. p. 566.)

h. Joint High Schools.

Boards of education of two or more contiguous districts, whether in the same or another county, may establish a joint high school. Ibid, s. 30 1-2.

i. Inducing Non-attendance.

"Any person who induces or attempts to induce any . . . child unlawfully to absent himself from school, or who harbors or employs any . . . child unlawfully . . . shall be guilty of a misdemeanor." s. 74. (B. p. 575.) (See "F.")

j. Subjects Taught.

In addition to the subjects usually taught, "the board of education of any district . . . or any county high school board may establish . . . classes for the teaching of manual training, home economics, agriculture, commercial subjects and such other industrial and vocational subjects as they may determine, and . . . may, at their discretion, provide for the continuance of such industrial and vocational instruction beyond the regular school term." c. 45, s. 78. (B. p. 578.)

k. Teachers' Institutes.

(1) County. "Every person employed as a teacher in the free schools of the state shall be required to attend a county institute for at least five days in the year . . . unless excused therefrom . . . For such attendance he shall receive pay at the rate of one dollar and fifty cents per day for not exceeding five days in any one year." s. 106.

(2) District. "The county superintendent shall . . . conduct district institutes or round tables . . ." s. 111.

l. Term.

The regular term of the district school is six months, or twenty-four weeks; of the high school, thirty-six weeks. ss. 21, 24, 27, 30a, 72.

The school term may be extended by the local board of education, or by vote of the electors of the district on petition of fifty tax payers, or by petition of a majority of the tax payers. ss. 27, 29.

m. Transfer of Pupils.

"Whenever any person authorized to attend school is so situated as to be better accommodated at the free school of an adjoining . . . district . . . whether in the same or in an adjoining . . . county, . . . it shall be the duty of the trustee . . . to transfer him . . . subject, however, to the approval of the trustees

. . . or the board of education . . . of the district . . . to which such pupil is transferred." s. 66. "The board of education of the district from which the transfer is made shall pay to the board of education of the district in which the school is carried on such proportion of the cost of teachers . . . as the pupils so transferred bear to the whole number of pupils taught in such school." s. 67.

n. Transportation of Pupils.

"Boards of education shall have authority to consolidate two or more sub-districts into a single sub-district . . . and if necessary, provide for the trans-

portation of pupils to and from such school at public expense." s. 68.

o. Text Books Free.

"The board of education of any district . . . may purchase the necessary text books prescribed to be used in the free schools under their control and furnish the same free to the pupils." s. 35.

p. Tuition.

(See, above "5-a" and "7-m".)

q. Vocational Training.

See above, "6-c" and "7-j".)

F. CHILD LABOR LEGISLATION

1. CHILD LABOR LAWS.

a. Minimum Age; Work Certificates.

(1) In Manufacturing Establishments. "No child under the age of fourteen years shall be employed, permitted or suffered to work in, about or in connection with any factory, mill, workshop or manufacturing establishment. It shall be unlawful for any person, firm, or corporation without written permission from the State commissioner of labor or county superintendent of free schools to employ any child under fourteen years of age in any business or service whatever during the hours when the public schools of the district in which the said child resides are actually in session." c. 15H, s. 71. (B. p. 195.)

(2) In Coal Mines. "No boy under fourteen years of age, nor female persons of any age, shall be permitted to work in any coal mine. Whenever any boy is so employed the parent or guardian of such boy shall make affidavit that his age is fourteen years or more, which affidavit shall be immediately filed with the employer, in duplicate, one of which said affidavits, in duplicate, shall be immediately filed with the district inspector of the district in which the mine is located, which affidavit shall as to the employer, be conclusive as to the age of such boy. Any operator, agent or mine foreman who shall knowingly violate the provisions of this section, or any person knowingly making a false statement as to the age of any boy under fourteen years of age, applying for work in any coal mine, shall, upon conviction, be fined not less than ten nor more than one hundred dollars, or be imprisoned in the county jail not less than ten nor more

than ninety days, in the discretion of the court." c. 15H, s. 24.

"It shall be unlawful for any person, operator, agent or mine foreman, to employ or permit any boy between the ages of fourteen and sixteen years, to work in or about a coal mine at any time in which a free school is in session in the school district where said boy resides. Before any person, operator, agent or mine foreman, employs or permits any boy to work in or about a coal mine at any time in which a free school is in session in the school district where said boy resides, he shall require from the parent or guardian of such boy, affidavits in duplicate, that such boy has, at the time of his employment or permission to work, reached the age of sixteen years. A duplicate of said affidavit, or affidavits, shall be immediately forwarded to the district inspector of the district in which the mine is located. No boy under the age of sixteen shall be employed or permitted to work in or about any coal mine, at any time in a position which, in the opinion of the district inspector, is hazardous. Any person violating the provisions of this section, or making any false statement in the affidavit required herein, shall be guilty of a misdemeanor and upon conviction, fined not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not more than thirty days, in the discretion of the court." s. 25.

"The provisions of this act shall apply only to coal mines in which five or more persons are employed in a period of twenty-four hours; but no mine employing less than ten men shall be required to employ a mine foreman." c. 15 H, s. 36e (5).

(3) **In Dangerous Occupations.** "No minor or female of any age shall be permitted to clean any of the mill gearing or machinery in such establishments [manufacturing, mechanical, mercantile, and other establishments] while the same is in motion." c. 15H, s. 59.

b. Employment Certificates and Records.

"No child under the age of sixteen shall be employed, permitted or suffered to work in, about or in connection with any of the establishments or occupations named in section one of this act [see, above, (1).] unless the person, firm or corporation employing such child procures and keeps on file, accessible to any truant officer, inspector of factories or authorized agent of the humane society, an employment certificate as hereinafter prescribed. On termination of employment of a child whose employment certificate is on file, such certificate shall be forthwith returned by the employers to the person who issued the same. The employment certificate shall be issued only by the superintendent of schools, or by persons authorized by him in writing, or where there is no superintendent of schools, then by a person authorized by the local school board: **Provided**, That no member of a school board or other person authorized, as aforesaid, shall have authority to issue such certificates to any child then in or about to enter such person's own employment or the employment of a firm or corporation of which he is a member, officer or employee. The person authorized to issue an employment certificate shall not issue such certificate until he has received, examined and approved and filed the following papers duly executed:

1. The school record of such child properly filled out and signed.

2. A passport or duly attested transcript of the school census record, showing the date and place of birth of such child.

3. The affidavit of the parent or guardian or custodian of such child (which shall be required, however, only in case no one of the above mentioned proofs of age is obtainable), showing the date and place of birth of such child. Such affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath without demanding or receiving any fee therefor.

"No employment certificate shall be issued until the child in question has personally appeared before the officer issuing the certificate nor until such of-

ficer has satisfied himself that the child can read and write legibly simple sentences in the English language, and that the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sufficiently sound health and physically able to perform the work it intends to do, which shall be stated. In all cases of doubt such development, health and physical fitness shall be determined by a medical officer of the board or department of health, or by a physician appointed by the school board.

"Every such employment certificate shall state the race, residence, sex, and the date and place of birth of the child, and that the papers required by the preceding sections have been duly examined, approved and filed. Every such certificate shall be signed in the presence of the officer issuing the same, by the child in whose name it is issued, and it shall show the date of its issue; the school record required by the act shall be signed by the principal or other chief executive officer of the school which such child has attended and shall be furnished on demand to a child entitled thereto. It shall contain a statement certifying that the child is able to read and legibly write simple sentences in the English language, and has received instruction equivalent to that given in the first four grades of the common schools. Such school record shall also give the date of birth and residence of the child as shown on the records of the school. The employment certificate provided for must be formulated by the state superintendent of free schools and furnished in blank by the clerk of the local school board." c. 15H, s. 72. (B. pp. 195, 196.)

c. Offenses.

"Whosoever, whether he be the employer, parent, guardian or custodian of any child, employs, permits, or suffers such child to be employed or to work in violation of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars nor more than fifty dollars for each and every offense." *Ibid.* s. 73.

d. Enforcement.

(1) **Commissioner of Labor.** "The commissioner of labor shall report to the prosecuting attorney of the proper county all . . . violations of this act." c. 15H, s. 4. "It shall be the duty of the commissioner of labor or his assistants to enforce the provisions of this act, and

to prosecute all violations of the same before any magistrate or court of competent jurisdiction in this State. *Ibid.*, s. 65. (B. p. 194.)

(2) District Attorney. *Ibid.*, ss. 4, 70, 74.

(3) Truant Officers, Inspectors of Factories and Authorized Agents of the Humane Society. Duty, "to expose all violations of this act to the prosecuting attorney." *Ibid.* s. 74.

e. Prohibited Occupations.

(See "C-i.")

2. COMPULSORY SCHOOL ATTENDANCE.

(See "E-5-b.")

3. APPRENTICESHIP.

a. Who May Apprentice.

(1) Parents and Guardians. c. 81, s. 1. (B. p. 978.)

(2) The County Court "may bind out as an apprentice any minor who is found begging . . . or is likely to become chargeable thereto." *Ibid.* s. 2.

(3) The State Board of Control. (See "H-4-a-(11).")

(4) The Board of Directors of Any House of Refuge. *Ibid.*

b. Unlawful Apprenticeship.

(See "C-i.")

c. Period.

"The term of every such apprenticeship shall be until the apprentice attains the age of twenty-one years, if a boy, or eighteen years, if a girl." c. 81, s. 3. In case of girls from the industrial home, however, the period lasts until twenty-one years. c. 45, s. 262.

d. Terms of Indenture.

"The master . . . shall be bound to teach him the same [trade], also reading, writing and common arithmetic." c. 81, s. 4. (B. p. 978.)

"The money which the master is to pay for any year except the last, shall . . . be paid to the father of the minor, or to the mother . . . as the court may direct, or it may be reserved to be paid to the apprentice at the end of his term with interest." *Ibid.* s. 8.

e. Proceedings on Complaint.

The circuit court has jurisdiction in all cases of complaint as to treatment received by apprentice, or by his master concerning the apprentice. *Ibid.* s. 11.

4. WORKMEN'S COMPENSATION; EMPLOYERS' LIABILITY.

The compensation laws affect children in two respects: First, as employees, and second, as dependents.

a. Employers and Employees Subject to Act.

c. 15P, s. 9. (B. pp. 231, 2.)

b. Employers and Employees Not Included.

The act is not compulsory nor does it include those employed in domestic or agricultural service, persons prohibited by law from being employed, traveling salesmen or those employed wholly without the state. *Ibid.*

c. Employers' Liability.

An employer of sufficient financial responsibility or adequately bonded, may elect to pay directly to the employees according to the compensation schedule, (s. 54.) All other employers coming within the scope of the act must pay the premiums required or be liable to suit for damages on account of injuries received by employees in accordance with common law or statute; but such employer cannot avail himself of the following common law defenses: "the defense of the fellow-servant rule; the defense of the assumption of risk; or the defense of contributory negligence; and further shall not avail himself of any defense that the negligence in question was that of some one whose duties are prescribed by statute." ss. 22-26.

"No employer or employee shall exempt himself from the burden or waive the benefits of this act by any contract." s. 23.

d. Reports.

All employers covered by the act are required to make such reports as are prescribed by the commissioner. ss. 10, 11, 19.

e. Administration.

The administration of the act is placed in the hands of a state compensation commissioner appointed by the Governor for a term of six years, with an annual salary of six thousand dollars and necessary expenses. ss. 1, 7.

f. Premiums.

Employers pay 90% of the premium and the employees 10%, which amount is deducted from their wages. s. 24. (B. p. 237.) The amount of the premium de-

pend upon experience of hazard in the twenty-two classes into which the industries of the state are divided. s. 18. (B. pp. 233-6.)

g. Benefits.

(1) **Medical, Surgical and Hospital Treatment** not to exceed one hundred and fifty dollars, except under certain specified conditions. s. 27.

(2) **Funeral Expenses** not to exceed seventy-five dollars if the death ensues from injury within the period of twenty-six weeks. s. 29.

(3) **Weekly Compensation:** For the first week after injury, only the above benefits can be claimed, but thereafter, weekly compensation according to wages received and degree of incapacity. s. 31. (B. pp. 240, 1.)

(4) **Death Benefit.** The amount of death benefit depends on whether or not the employee is over twenty-one, and on the number and relationship of the dependents. Compensation based on the dependency of children ceases for each child when it becomes fifteen years of age. s. 33.

5. EMPLOYMENT AGENCIES.

a. State Employment Bureau.

(1) **Establishment.** "The commissioner of labor is hereby authorized to organize and establish, in connection with the bureau of labor, a free public employment Bureau, for the purpose of receiving applications from persons seeking employment and applications from persons seeking to employ labor." c. 15H, s. 7. (B. p. 172.)

(2) **Fees; Assistants.** "No compensation or fee shall be charged . . . The commissioner of labor is hereby authorized to employ such assistance, and in-

cur such expense as may be necessary . . . not to exceed five hundred dollars per annum." Ibid. s. 8.

b. Private Employment Agencies.

(1) **License Required.** c. 32, ss. 2 (z), 39-43. (B. pp. 371, 378, 379.)

(2) **License Fee.** \$100 per annum. s. 109.

6. EMPLOYMENT OF WOMEN.

a. Prohibited Employments.

(1) **In Coal Mines.** c. 15H, s. 24. (See above, "1-a-(2),")

(2) **Cleaning Dangerous Machinery While in Motion.** Ibid. s. 59. (See above, "1-a-(3)")

b. Toilets and Water Closets.

"In every factory, workshop or establishment in this State, where females are employed, where unclean work of any kind has to be performed, suitable places shall be provided for such females to wash and to change clothing, and stairs in use by females shall, in all such establishments, be properly screened, and separate water closets shall be provided for the use of employees of either sex." c. 15H, s. 61. (B. p. 193.)

c. Seats.

Seats are to be provided in all establishments where females are employed. Ibid. s. 62.

d. Sanitary Conditions.

"All establishments, to which this act applies, must be kept in clean condition; the sanitary and hygienic regulations shall be such as will not endanger or be injurious to the lives or health of the employees employed therein." Ibid. s. 63. (B. p. 194.)

G. STATE CARE OF CHILDREN

General Provisions for Administration, Supervision and Maintenance.

1. THE WEST VIRGINIA HUMANE SOCIETY.

a. Organization and Purpose.

"There shall be and is hereby established a state board to be known as 'The West Virginia Humane Society' for the protection of children and the helpless aged, and the prevention of cruelty to animals; said board shall consist of five

reputable citizens, one of whom shall be from each of the five congressional districts, and may consist in part of women." c. 15J, s. 1. (B. p. 200.)

b. Appointment and Term.

The Governor appoints with the consent of the senate. The members hold office for five years. "The board shall constitute a body corporate . . . and by said name may sue and be sued." c. 15J, s. 2.

c. Duties.

(1) **Board of Children's Guardians.** "It shall be lawful for the board . . . to take or receive into its custody and control, children under sixteen years of age, who shall be voluntarily surrendered by their father, or . . . by their mother or by their guardian, to the care of said board." Ibid. s. 8.

(2) **To Prevent Abuse of Children.** "Whenever the board . . . shall have probable cause to believe that any child under fourteen years of age is abandoned, neglected or cruelly treated by its parent . . . or is habitually sent out . . . to beg upon the public thoroughfares . . . or is habitually an associate of idle or vicious persons, or that the parent of any child is in constant habits of drunkenness, or blasphemy, or of low and gross dachauchery, or is, by reason of moral depravity, unfit to have the training or control of such a child, such board . . . may present a petition setting forth such facts . . . to a judge of a circuit court, who may thereupon issue a writ of habeas corpus." Ibid. s. 9. (B. pp. 201, 2.)

If the facts set forth in the petition are sustained, the judge may commit the child to said board. Ibid.

(3) **To Place Out Children.** Children committed to said board may be placed

(a) "in any orphan asylum or children's home, incorporated under the laws of the state. Ibid. s. 11.

(b) in a private home. Ibid. s. 12.

(4) **To Aid in Enforcing Child Labor Laws.** c. 15H, s. 74. (B. p. 196.) (See "F-1-d.")

(5) **To Aid in Enforcing Non-support Laws.** c. 144, s. 16c. (1). (B. p. 1194.)

2. THE STATE BOARD OF CONTROL.

a. Organization.

The state board of control consists of three members, not more than two of whom may be members of the same political party. They are appointed by the Governor with the consent of the senate. Term of office is six years. Compensation, \$5,000 annually and necessary expenses. c. 15M, s. 1. (B. p. 205.)

b. Duties.

(1) **General.** "The board . . . shall have full power to manage, direct, control, and govern . . . the reform school, . . . industrial home for girls, . . . the schools for the deaf and the blind, and such other institutions, except educa-

tional, as may hereafter be created by law." Ibid. s. 3. (B. p. 206.) (See "H-4-a.")

(2) **Control of West Virginia Children's Home.** (See "H-4-c-(1).")

(3) **Supervision Over all Child Placing Agencies.** "All institutions or associations receiving children . . . shall be subject to visitation, inspection and supervision by the state board of control, and it shall be the duty of said board to pass annually upon the fitness of every such association as may receive . . . children under . . . this act, and every such association shall make report thereto, showing its condition, management and competency to adequately care for such children as are or may be committed to it." c. 46A, s. 18. (B. pp. 626, 7.)

Certificates are to be granted to associations meeting the requirements of the board. Ibid.

(4) **Transfer of Inmates of Institutions.** "The state board of control shall have authority . . . to cause the transfer of any patient or inmate from any state institution except the penitentiary, to any other state institution which is better fitted for the care or treatment of such patient or inmate, or for other good cause or reason." c. 15M, s. 28. (B. p. 214.)

(5) **Inspection of Institutions.** "The state board of control or one or more of its members shall visit each of the institutions under its control . . . in whole or in part as often as may be necessary, and may hold a regular meeting of the board at any such institution. During any such visitation the board . . . shall thoroughly inspect all the departments thereof and investigate the condition and management of the same; and for the purpose of aiding any such investigation . . . shall have power to . . . summon witnesses; . . . shall have access to all books", etc. Ibid. s. 9. (B. p. 208.)

(6) **Regulations of the Board.** "It shall . . . have the power to adopt rules and regulations for the government of the institutions . . . and shall therein prescribe . . . the duties of the persons connected with the management of the said institutions." Ibid. s. 11. (B. p. 209.)

(7) **Records.** Records of the several institutions to be kept in prescribed form and transmitted to the board. Ibid. s. 14.

(8) **Conferences.** The board "shall have authority to assemble the chief officers of the institution, or any of them . . . for the purpose of discussing any

question which may be common to their welfare." Ibid.

(9) **Duties Required by the Governor.** "The Governor may require the state board of control or the state board of regents to perform any duty or work pertaining to the management and control of any of the institutions . . . consistent with the object of this act." Ibid. s. 24.

(10) **Authorization of Foreign Child Placing Agencies Working in the State.**

"No association which is incorporated under the laws of any other state . . . shall place any child in any family home within the . . . state . . . unless the said association shall have furnished the state board of control with such guarantee as they may require that no child shall be brought into the state . . . having any contagious or incurable disease, or having any deformity, or being of feeble mind or of vicious character." c. 46A, s. 21.

(11) **Incorporation of Institutions for the Care of Children.** "No association whose objects embrace the caring for dependent, neglected, or delinquent children shall hereafter be incorporated unless the proposed articles of incorporation shall first have been submitted to the examination of the state board of control." Charter is not to be issued unless the board certifies "that in their judgment, the incorporators are reputable, reliable, and responsible persons, that the proposed work is needed, and . . . is desirable for the public good and the welfare of . . . children." c. 46A, s. 19. (B. p. 627.) (See "I-1-a-(3)-Provision for Incorporation.")

(12) **Required to Prepare Commitment Papers.** c. 45, s. 4. (B. p. 608).

(13) **Reports From County Boards of Visitors.** Standardized reports to be sent to the board. Acts 1917, c. 63, s. 23.

(14) **Other Duties.** The board is to perform the functions formerly performed by the boards of regents of certain institutions. c. 15M, s. 25; c. 45, s. 262.

3. THE STATE BOARD OF REGENTS.

(See "E-1-a-(2)".)

4. STATE DEPARTMENT OF HEALTH.

a. Organization.

"The state department of health shall consist of a commissioner of health . . . a public health council, of which the commissioner shall be an ex-officio member, directors of divisions, and other employees." c. 150 s. 1 (1). (B. p. 1224.)

b. Members and Duties.

(1) Commissioner of Health.

(a) **Appointment.** "Appointed by the Governor . . . with the consent of the senate; . . . shall be a physician skilled in sanitary science, and experienced in public health administration." Ibid. (2).

(b) **Term and Salary.** "The term . . . shall be four years; he shall receive an annual salary of three thousand dollars and necessary expenses." Ibid. (2.)

(c) **Duties.** "To administer the laws and regulations of the department; to prepare rules and regulations for the consideration of the public health council; and with the approval of said council, to appoint, remove and fix the compensation of the directors of divisions and all other employees; assist each local health officer; . . . study the cause of excessive mortality or morbidity from any disease in any portion of the state; promote efficient registration of births, deaths and notifiable diseases; inspect and report from time to time the sanitary condition of institutions, schools . . . factories . . . sources of water supply, and sewage facilities; endeavor to enlist the cooperation of all physicians, and volunteer health organizations in the improvement of public health." Ibid. (2). (B. p. 1224.)

(2) **Health Council.** "The public health council shall consist of the commissioner of health and six other members . . . It shall be the duty of the public health council to promulgate rules and regulations; . . . approve plans and appointments; . . . establish and from time to time amend regulations under the public health laws." Ibid. (3.)

(3) **Inspectors, Examiners and Employees . . .** "may be appointed at such time or times as . . . deemed necessary; and they shall act as representatives of the commissioner of health, and . . . shall secure the enforcement of the public health laws and regulations." Ibid. (4.)

c. Divisions of Department.

"There shall be in the state department of health the following divisions: Division of preventable diseases; division of sanitary engineers." Ibid. (5.)

d. Functions of Department.

(1) **General.** "The state department of health shall have the authority to enforce all the laws of the state concerning the public health, and shall take care to protect the life and health of the inhabitants of the state and to that end

shall make or cause to be made sanitary investigations and inquiries respecting the cause of disease . . . and the means of prevention, suppression or control . . . It shall inspect and examine food, drink and drugs, . . . in such manner as shall be deemed necessary . . . The commissioner of health or any member of the public health council, may make complaint and cause proceedings to be instituted against any person . . . for a violation of any of the health laws of this state, without the sanction of the prosecuting attorney of the county in which proceedings are instituted . . . Whenever the character and location of plumbing, drainage, water supply, sewers and disposal of sewage, garbage, or other waste materials of cities, towns and villages . . . and labor camps; and the ventilation, warming, natural lighting and excreta disposal in workshops, prisons and all other public institutions, are such as to endanger the public health, the public health council shall have power to make and enforce rules regulating the same . . . The state department of health may adopt rules and

regulations to obstruct and prevent the introduction or spread of small pox or other contagious . . . diseases into or within the state, and shall have the power to enforce these regulations by detention and arrest, if necessary . . . The public health council shall make regulations to provide clean and safe milk and fresh milk products and when promulgated these regulations shall be the minimum requirements to be enforced by local health authorities throughout the state." Ibid. s. 2. (B. p. 1226.)

(2) **Enforcement of Duties of Local Health Authorities.** Ibid, s. 3.

(3) **Cure and Prevention of Tuberculosis.** "The state department of health shall have the advisory medical supervision of the state tuberculosis sanitarium. The director of the division of preventable diseases . . . shall encourage measures for the suppression of tuberculosis, such as clinics, camps, open air schools, sanitarium, district nursing, anti-tuberculosis societies, diffusion of knowledge, and other means." Ibid. s. 4,

H. DELINQUENT, DEPENDENT AND NEGLECTED CHILDREN

1. GENERAL.

a. Delinquent Child. Definition.

"The words 'delinquent child' shall mean any male or female child who, while under the age of eighteen years violates any law of this state; or is incorrigible, or knowingly associates with thieves, vicious or immoral persons; or without just cause and without the consent of its parents, guardian or custodian absents itself from its home or place of abode, or is growing up in idleness or crime; or knowingly . . . visits a house of ill-repute; or knowingly . . . visits any . . . place where any gaming device is operated; or . . . visits any public pool room . . . ; or who wanders about the street in the night time . . . ; or who wanders about any railroad yard or tracks, or who . . . attempts to jump on any moving train; or who enters any car or engine without lawful authority; or who writes or uses vile, obscene, vulgar, profane or indecent language; or who is guilty of indecent, immoral or lascivious conduct." c. 46A, s. 1. (B. p. 620.)

b. Dependent Child, Definition.

"The words 'dependent child' and 'neglected child' shall mean any male or female child who while under the age of eighteen years, for any reason is destitute, homeless or abandoned; . . . or is found in any house of ill-fame or with any vicious or disreputable person; or has a home which is . . . an unfit place for such a child; and any child who while under the age of ten years is found begging . . . or playing any musical instrument for gain upon the street . . . or being used in the aid of any person so doing." c. 46A, s. 1. (B. p. 620.)

c. Adult Responsibility for Delinquency and Dependency.

(See "A-1-d.")

d. Capacity to Commit Crime.

"The court may in its discretion in any case of a delinquent child permit such child to be proceeded against in accordance with the laws that may be in force in this state governing the commission of crime . . . ; in such case the petition filed . . . [in juvenile court]

shall be dismissed. c. 46A, s. 11. (B. p. 625.)

e. Bringing Into State.

(See "G-2-b-(10)").

f. Dependent and Neglected. Disposition; Guardianship; Support.

(1) Disposition and Guardianship.

(a) "The court may allow such child to remain at its own home subject to the friendly visitations of a probation officer, or to report to the court."

(b) "If the parents are . . . improper guardians, the court may make an order appointing as guardian . . . some reputable citizen . . . and order such guardian to place such child in some suitable family home or other . . . place which such guardian may provide."

(c) "The child may be committed "to some suitable state institution, organized for the care of dependent or neglected children, or to some . . . industrial . . . or children's home finding society." c. 46A, s. 7. (B. pp. 623, 4.)

(d) "Where such child is committed to an institution or association, the court shall appoint the president, secretary, or superintendent . . . guardian over the person of such child, and shall order such guardian to place such child in such institution, or with such association . . . and to hold such child, care for, train, and educate it subject to the rules . . . governing such institution or association." Ibid. s. 9.

(2) Support of Child. "If it shall appear . . . that the parents . . . or any person . . . named in such petition who are in law liable for the support of such child, are able to contribute to the support of such child, the court or judge shall enter an order requiring such parents . . . or other person to pay to the guardian so appointed or to the institution, association, society or person to which such child may be committed, a reasonable sum . . . for the support . . . of such child." Acts 1917, c. 63, s. 27.

The judge may order payment to be made out of wages, salary or commission, and execute an assignment thereof. Acts 1917, c. 63, s. 28.

(3) Religious Preference. "The court in committing children shall place them as far as practicable in the care and custody of some individual holding the same religious belief as the parents of said child, or with some association which is controlled by persons of like religious faith with that of the parents of said child." c. 46A, s. 22. (B. p. 628.)

(4) Interference; Contempt of Court. "Any person who shall interfere with the . . . disposition of any child under any order of the court concerning the child or with any probation or other officer, . . . in carrying out the directions of the court . . . shall be held in contempt of court." c. 46A, s. 32.

g. Courts Having Jurisdiction.

(1) Justice of Peace. (See "H-4-a-(3).")

(2) Circuit Courts. "The circuit courts . . . shall have original jurisdiction in all cases coming under the terms of this Act, except . . . where a court of common pleas or intermediate court having chancery jurisdiction . . . may be created, such court shall have exclusive original jurisdiction . . . subject to appeal to the circuit court; . . . provided, that . . . when there is a criminal court and no court of chancery jurisdiction other than the circuit court, such criminal court, on the law side thereof, shall have concurrent jurisdiction with such circuit court as to all cases arising under this Act." Acts 1917, c. 63, s. 2.

(3) Transfer From Justice Court. "When, in any county where the court is held . . . a . . . child under the age of eighteen years is arrested . . . such child may, instead of being taken before a justice of the peace or police magistrate, be taken directly before such court or the judge in vacation." Acts 1917, c. 63, s. 15.

h. Miscellaneous.

(1) Legal Provisions.

(a) A jury may be demanded in any trial of a child. Acts 1917. c. 63, s. 2. (See below, "3-d-(3)") and "4-a-(3).")

(b) Judge may exercise his powers in vacation. Ibid.

(2) Children and Tobacco.

(a) **Smoking or Possession of Tobacco.** "It shall be unlawful for any person under the age of twenty-one years to smoke, or to have about his person or premises, any cigarette or cigarette paper . . . Any person violating the provision of this section shall be punished by a fine of not exceeding five hundred dollars; provided, that the court or justice trying the case may remit the penalty . . . upon the disclosure by the person charged with the offense of the name of the person, firm or corporation, from whom he obtained any such cigarette or cigarette paper." c. 150, s. 20e (2). (B. p. 1235.) (See "C-1.")

(b) **Enforcement of Law.** All officers of the law have power to arrest under

this Act. But if information is given either before or after the arrest as to the person, firm or corporation from whom the cigarette or cigarette paper was obtained, further proceeding against the individual is waived.

"Any officer failing to perform the duties required of him by this section, shall be fined not exceeding five dollars for each offence."

"Justices of the peace and police judges are hereby given concurrent jurisdiction with the circuit and criminal courts of this state of offenses under this chapter." c. 150, s. 20e (3) (B. p. 1236.)

(3) Visiting Dance Halls and Places of Questionable Amusement. (See "C-1-e.")

(4) Visiting a Public Pool Room. (See "H-1-a-Delinquent Child; Definition.")

(5) Gambling at Public Place. Betting or playing at a gambling table or device is forbidden. c. 151, ss. 4, 5. (B. p. 1253.)

(6) Playing Games at Public Places. "If any person . . . at any hotel . . . or public place . . . play at any game except bowls, chess, backgammon, draughts, or a licensed game, or bet on the sides of those who play, he shall be fined not less than five nor more than one hundred dollars," etc. Ibid. s. 4.

(7) Cheating at Gaming. "If any person, playing at any game . . . cheat or by fraudulent means win . . . money or other valuable thing, he shall be confined in jail not more than one year and fined not less than five times the value of the money or thing won." s. 9.

(8) Carrying Weapons. Carrying weapons without a license is a misdemeanor for the first offense and a felony thereafter, and minors are not permitted to take out a license. c. 148, s. 7. (B. pp. 1215-6.)

For other offenses, see above, "1-a," and code, cc. 143-149.

2. TREATMENT OF DELINQUENT MINORS APART FROM JUVENILE COURT AND INSTITUTIONAL LAWS

a. Courts Having Jurisdiction.

(See "H-1-g.")

b. Appeals.

"Cases under this act tried in any inferior court may be reviewed by a writ of error or appeal to the circuit court, and if tried in a circuit court . . . to the supreme court of appeals." Acts 1917, c. 63, s. 30.

c. Release of Minor Convict on Parole or Probation.

"In any case in which a person under the age of twenty-one years is convicted before a court of this state, of any offense not capital, if it appears to the court . . . that it is expedient that the offender be released on probation of good conduct, the court may . . . direct that he or she be released upon his or her entering into a recognizance, conditioned to keep the peace and be of good behavior . . . for such period of time as the court may prescribe." c. 152, s. 29. (B. p. 1260.)

d. Sentence to House of Correction or County or City Workhouse.

(See below, "4-b-(2), (3).")

3. JUVENILE COURTS.

a. Creation.

(See "H-1-g-Courts Having Jurisdiction.")

Designation. "The finding of the court shall be entered in a book . . . and known as the 'Juvenile Record,' and the court may for convenience be called the 'Juvenile Court.'" Acts 1917, c. 63, s. 3.

b. Jurisdiction.

(1) Delinquent and Dependent Children Defined. (See above, "1-a,b.")

(2) Contributory Delinquency of Parents. "See "A-1-a, d.")

(3) Extent. "All persons under the age of twenty-one years, shall for the purpose of this act only, be considered wards of this state and their persons shall be subject to the care, guardianship and control of the court." c. 46A, s. 1. (B. p. 619.) (See above "1-a.")

c. Probation Officers.

(1) Appointment. "The circuit courts and other inferior courts . . . which have chancery jurisdiction shall have the authority to appoint." Acts 1917, c. 63, s. 6.

(2) Compensation. "In counties having a population of over thirty thousand, . . . two may be appointed, who shall each receive a salary of not exceeding \$600 per year," with expense allowance not to exceed \$100.

"In counties having a population of over fifteen thousand and less than thirty thousand, one probation officer . . . at a salary not to exceed \$600 per year," with expense allowance not to exceed \$100.

"In any county of less than fifteen thousand population, one . . . may be ap-

pointed at a salary of not to exceed \$300 . . . whenever in the opinion of the judge, the county superintendent of schools, and a majority of the board of county commissioners . . . it shall be necessary." Ibid.

(3) **Qualifications.** "The county superintendent of schools and the county commissioners . . . shall constitute a board to investigate the competency of any person appointed to act as a probation officer whenever such probation officer is to receive a salary." Ibid.

(4) **Duties.** "It shall be the duty of such probation officer to make investigation . . . , to be present in court to represent the interests of the child when the case is heard, to furnish such information and assistance as the court or judge may require, and to take charge of any child before and after the trial as may be directed by the court." Acts 1917, c. 63, s. 6.

(5) **Powers.**

(a) **Police Powers.** "Probation officers receiving . . . compensation . . . are hereby vested with all the power and authority of police . . . to make arrests and perform any other duties ordinarily required . . ." Persons not receiving compensation may be given like powers by certificate of judge. Ibid.

(b) **Supervision of Delinquent and Dependent Children.** (See above "1-f.")

(c) **File Complaints.** "Probation officers having the powers of . . . police officers . . . shall have the right to file complaints against any person . . . and to prosecute any such case." c. 46A, s. 40. (B. p. 631.)

(6) **Assistant Probation Officers.** May be appointed in counties having over thirty thousand population. Acts 1917, c. 63, s. 6.

d. **Procedure.** ----

(1) **Petition.** "Any reputable person, being a resident of the county, may file . . . a petition in writing setting forth that a certain child . . . is either dependent, neglected or delinquent . . . and that it is for the interest of the child . . . that [it] be taken from its parents . . ." Petition must set forth, if known, name, i, of person having custody of the child; ii, of each surviving parent; iii, of guardian. All such named persons shall be defendants in the case. c. 46A, s. 4. (B. pp. 620, 1.)

(2) **Summons.** "The summons shall require the person alleged to have the custody of such child to appear with the

child . . . also . . . all defendants." Summons returnable in twenty days; may be served by sheriff or probation officer. Service may also be had through publication in certain cases. Failure of person having custody of child to appear makes him liable for contempt. Acts 1917, c. 63, s. 5.

(3) **Trial.**

(a) **Child's Representative.** "The court . . . when the child is not represented . . . may appoint some suitable person to act on behalf of child." c. 46A, s. 5. Also c. 45, s. 5. (B. p. 608.)

(b) **Legal Provisions.** (See above "1-h-(1)," also below, "4-a-(3).")

(c) **Deposition of Child as Evidence; Name.** "A deposition of any child . . . shall not . . . be lawful or proper evidence against such child for any purpose whatever, except in subsequent cases against the same child under this act; nor shall the name of any child . . . be published in any newspaper, without a written order of the court." c. 46A, s. 1.

(4) **Appeal.** (See above, "2-b.")

(5) **Criminal Prosecution.** (See above "1-d.")

e. **Disposition Pending Hearing.**

"The court . . . may allow such child to remain in the possession of its custodian or in its own home subject to the friendly visitation of a probation officer, or it may order such child to be placed in the custody of a probation officer . . . or of any suitable person . . . to be kept in some suitable place provided by the city or county authorities, but in no event, except under order of the court or judge, to be held in the county jail or city lockup." Acts 1917, c. 63, s. 5.

f. **Final Disposition of Child.**

(1) **If Delinquent.** The court (a) may allow the child to remain at home under the supervision of a probation officer; or (b) may allow the child to remain at home but under the guardianship of some other person; or (c) may order the guardian to cause the child to be placed in some suitable family without expense to the county; or (d) may commit the child to some institution or association having as its purpose the care of delinquent children; but in no event is a child under twelve years of age to be committed to a jail or police station. c. 46A, ss. 9, 16.

(2) **If Dependent or Neglected.** (See above, "1-f.")

(3) If Sick. "The court may, when the health or condition of any child found to be dependent, neglected or delinquent, requires it, order the guardian to cause such child to be placed in a . . . hospital." c. 46A, s. 12. (B. p. 625.)

g. Parole.

"Whenever it shall appear to the court . . . that the home of a child or of its parents, former guardian or custodian is a suitable institution where it may be helped and educated and equipped for industrial efficiency and useful citizenship." c. 46A, s. 26. (B. p. 629.)

h. Construction and Purpose of Act.

"This act shall be liberally construed to the end that its purpose may be carried out, to-wit: that the care, custody and discipline of the child shall approximate as nearly as may be that which should be given by its parents, and in all cases of dependency where it can be properly done, that the child shall be placed in an approved family home, and become a member of a home and family by legal adoption or otherwise, and in cases of delinquency, that as far as practicable any delinquent child shall be treated, not as a criminal, but as misdirected and misguided and needing aid, encouragement and assistance, and if such child cannot be properly cared for and corrected in its own home, or with the assistance and help of the probation officers, then, that it may be placed in a suitable place for such child . . . the court may enter an order to that effect returning such child to its home on probation, parole or otherwise." c. 46A, s. 10. (B. p. 625.)

4. INSTITUTIONS FOR DELINQUENTS AND DEPENDENTS.

a. Institutions for Delinquents; State

(1) Establishment.

(a) For Boys. West Virginia Industrial School. "This school shall exclusively be charged with the care and training of male youth of the state, but white and colored shall be kept separate." c. 45, s. 1. (B. p. 607.)

(b) For Girls. The West Virginia Industrial Home. c. 45, s. 253. (B. p. 611.)

(2) Object and Jurisdiction.

(a) Industrial School for Boys. "Any male youth under the age of eighteen and not under the age of ten years, may be committed to and received into the West Virginia industrial school for

boys . . . : i. By a justice of the peace . . . on complaint . . . by the parent, guardian or other person having the custody and control of such youth, that by reason of incorrigible or vicious conduct such youth has rendered his control beyond the power of the parent, or guardian or such other person and made it manifestly requisite that, from regard for the morals and future welfare of such youth and the peace and order of society, he shall be placed in said school. ii. By the same authority, upon complaint under oath, and due proof before the justice that such youth is a vagrant, incorrigible or vicious in disposition and conduct, and that his parents, guardian, or other person having custody of him . . . are depraved or otherwise unfit, unwilling or unable to exercise care or discipline over such youth. iii. By the several courts of this state." iv. By the governor "when in the judgment of the warden of the penitentiary and the superintendent of the industrial school it is advisable to remit the penalty of any offender under the age of eighteen years confined in the penitentiary." c. 45, ss. 2, 9 (B. p. 607-9.) (See above, "1.")

(b) Industrial Home for Girls. "Girls eligible to be received into said home are those who are from seven to eighteen years of age and who may be committed by any justice of the peace of this state, on complaint and due proof made to him by the parent, guardian or next friend of such girl, that by reason of incorrigible or vicious conduct, such girl has rendered her control beyond the power of such parent, guardian or next friend, and made it manifestly best that such girl should be placed in said home; or by any criminal, circuit or intermediate court of this state." c. 45, s. 258. (B. p. 611.)

"Girls may be . . . committed for vagrancy up to eighteen years of age, or where parents, guardians, or next friends agree and contract with the board of regents* for their support and maintenance, or girls up to fifteen years of age, who may be found in houses of ill fame or assignment houses, upon conviction thereof before any justice of the peace, mayor of a town or city; or girls convicted by any of the courts of this state, of felony or misdemeanor, punishable by imprisonment, the judge in his discretion, instead of confining such girl in the county jail or sending her to the penitentiary, may transfer such girl, so convicted to said home, from any county of this state; provided there is room there for such girl. Every girl committed to said home shall remain there un-

til she is twenty-one years of age, unless sooner discharged by the board of regents.* Ibid.

"Any girl who may be found incorrigible, or pregnant, or otherwise an improper subject for admission to said institution, may be returned by the board of regents* to the court, justice or other authority by whom she was committed." Ibid. s. 259.

*Now by board of control. c. 15M, s. 25. (B. p. 213.)

(3) Procedure on Commitment.

(a) By Juvenile Court. (See above, "3-d, f.")

(b) By Justice of Peace. "In all proceedings before justices of the peace for commitment of youth to the industrial school . . . the justice shall appoint some . . . person guardian ad litem for such youth . . . and the guardian ad litem for the youth shall have the right to demand a jury." c. 45, s. 5. (B. p. 608.)

(4) Supervision and Inspection.

(a) By State Board of Control. (See "G-2-b.")

(b) By County Board of Visitors. "The court or judge of each county having jurisdiction may appoint a board of six reputable inhabitants of such county who will serve without compensation, to constitute a board of visitation, whose duty it shall be to visit, as often as once a year, all institutions, societies, associations and persons receiving children under this act." Board is to report from time to time to judge, and annually to board of control. Acts 1917, c. 63, s. 23.

(5) Health and Sanitary Regulations and Inspection. (See "G-4-b(1).")

(6) Term and Guardianship. "The guardianship under this act shall continue until the court shall by further order otherwise direct but not after such child shall have reached the age of twenty-one years." c. 46A, s. 13; c. 45, s. 258.

(7) Jurisdiction and Supervision After Commitment. "The court shall appoint the president, secretary or superintendent to such institution or association, guardian over the person of such child and shall order such guardian to place such child in such institution or with such association, whereof he is such officer, and hold such child, care for, train and educate it subject to the rules and laws that may be in force from time to time governing such institution or association." c. 46A, s. 9. (B. p. 624.)

The guardian is to report to the court as required. Ibid. s. 14.

(8) Expenses and Support; Liability for.

(a) By County. "The county court of every county shall pay into the state treasury the sum of fifty dollars a year on account of each youth from the county who shall be received in said school." c. 45, s. 10. (B. p. 609.)

(b) By Parents or Guardians. "If the child is committed on complaint of a parent or guardian, "the parent if of sufficient means, and the guardian where the youth has sufficient estate, shall annually reimburse the county." Ibid. (See above, "1-f-(2).")

(9) Enticement from. "If any person shall entice or attempt to entice away from the industrial school any youth legally committed . . . or shall aid or abet any youth to escape . . . or shall, without the permission of the superintendent, give or sell . . . any money, fire-arms, intoxicating drinks, tobacco, cigarettes, or other articles whatsoever, [he] shall be deemed guilty of a misdemeanor." c. 45, s. 8. (B. p. 609.)

(10) Placing Out of Children.

(a) By the West Virginia Humane Society. (See "G-1.")

(b) By Order of the Court. See above, ("1-f.")

(c) By a Children's Home Finding Society. (See above, "1-f(1)")

(11) Apprenticing of Children.

(a) From the Girls' Industrial Home. By the state board of control. c. 45, s. 58. (B. pp. 611, 2.) As superseded by c. 15M, s. 25. (B. p. 213.)

(b) From Houses of Refuge. By the Board of Directors. c. 47, s. 49d. (2). (B. p. 659.)

(12) Parole-Transfer-Discharge.

(a) By the Court. (See above "3-g.")

(b) By the Board of Control. "The state board of control shall have authority . . . to grant, on recommendation of the superintendent, a parole to any inmate of the industrial school; but while said inmate is on such parole, and until he is discharged according to law, he shall remain in legal custody of the board of control." c. 45, s. 13. (B. p. 610.)

The same authority seems to be granted over inmates of the industrial home for girls. Ibid. s. 258 as superseded by c. 15M, s. 25. (B. p. 213.)

(For transfers, see "G-2-b(4)")

(13) Agents of Juvenile Reformatories.

"It shall be the duty of the . . . management of any state institution to which juvenile delinquents may be committed . . . to maintain an agent . . . whose duty

it shall be to examine the homes of children paroled from such institution for the purpose of ascertaining . . . whether they have suitable homes; to assist children paroled or discharged . . . in finding employment and to maintain a friendly supervision over paroled inmates during the continuance of their parole." c. 46A, s. 17. (B. p. 626.)

b. Institutions for Delinquents; County and City.

(1) Detention Home.

(a) Establishment; Maintenance. "The county court . . . shall have the power to . . . provide . . . and maintain a detention home for the temporary care and custody of dependent, delinquent or truant children, and to levy and collect a tax to pay the cost . . . provided, the sections of this act relating to the establishment and maintenance of such a detention home be adopted by the legal voters." c. 46A, s. 44. (B. p. 632.)

A tax of one mill on the dollar valuation of property is available for this purpose. Acts 1917, s. 48.

(b) Equipment; Management. "Such detention home shall be so . . . furnished and conducted, that, as nearly as practicable, for their safe custody, the inmates thereof shall be cared for as in a family home and public school . . . The superintendent and matron shall reside in the home and at least one of them shall be competent to teach and instruct children in all branches of education similar to those embraced in the curriculum of the public schools of the county." Ibid. s. 45.

(c) Employees. All employees "shall be . . . appointed by the county court to serve during the pleasure of said court." Ibid. s. 46.

(d) Supplies. "The supplies or necessary repairs . . . shall be furnished upon the requisition of its superintendent or matron to the president of the county court." Ibid.

(e) Admission; Record. "It shall be the duty of the superintendent . . . to receive . . . all children who are committed to the home by the circuit or other court of the county, and to keep a complete record of all children committed . . . A record shall also be kept . . . of all expenditures."

(f) Report. An annual report shall be made to the county court . . . The circuit or other court . . . or the president of the county court, may at any time demand . . . information . . . concerning the conduct, maintenance, or inmates of said home." Ibid.

(g) Adoption of Act. "The electors of any county may adopt and make mandatory upon the county court of such county the provisions . . . of this act in the following manner: Upon the petition of one hundred legal voters, who are freeholders of such county, the county court shall submit the proposition for the establishment and maintenance of a county detention home . . . to the legal voters of said county and shall cause a vote to be taken upon the question . . . at the succeeding general election . . . or, if the petition so specifies, the court shall order a special election . . . not later than ninety days from the filing of such petitions." Acts 1917, s. 49.

(h) Discontinuance of Detention Home After Establishment. By the same method as above. Ibid. s. 50.

(i) Supervision by the State Board of Control. (See "G-2-b(3).")

(j) Return to Home. (See above "3-g.")

(2) County and City Workhouse.

(a) Establishment. "The commissioners of any county may unite with any city, located in said county, in the erection, management and maintenance of a workhouse for the joint use of such county and city . . . provided . . . that the question of erecting such workhouse shall first be submitted to a vote of the people of the city and county." c. 39A, s. 1. (B. p. 478.)

(b) Management. By a board of five directors "appointed by the mayor and the county court or other tribunal acting in lieu thereof . . . with the approval of the council of such city and county commissioners." Ibid. ss. 2, 3.

(c) Accounts and Reports. Full reports to be submitted annually to the city council and county commissioners, and published. Ibid. s. 10.

(d) Commitments. When a person over sixteen years of age is convicted of an offense punishable by jail sentence, "The court, mayor or justice of the peace . . . shall sentence the offender to the workhouse, if there is such house in the county." Ibid. s. 16.

(e) Commitments From Other Counties. The directors of such a workhouse may receive persons from other counties where there is no such institution, upon such terms and for such length of time as may be agreed upon by the officials of the two counties. Ibid. s. 17.

(f) Parole. The board of directors "have power to establish rules and regulations under which . . . any prisoner may be allowed to go upon parole outside of

the buildings and enclosures." Ibid. s. 24.

(3) Houses of Refuge or Correction.

(a) Establishment and Management. Such may be established by the council of any city or town with at least five thousand inhabitants under such management as the council may by ordinance provide. c. 47, s. 49d (2).

(b) Commitments. "All children under the age of sixteen years, who shall be convicted of any offense made punishable by imprisonment under any ordinance of said city or town . . . may be confined in such house of refuge, and may be there kept or apprenticed out . . . until they arrive at the age of eighteen years, unless for good cause sooner discharged by law." Ibid. Children over sixteen may also be committed. Ibid.

(4) County and Municipal Jails. (See above, "3-e, f.")

c. Institutions for Dependents; State

(1) The Children's Home (for white children).

(a) Establishment. "A state institution to be called the West Virginia children's home is hereby established and shall be carried on in . . . buildings . . . provided by the state . . ." Acts 1917, c. 23.

(b) Supervision. i. By the state board of control. "This institution shall be under the direction and control of the state board of control . . . [It] shall make such rules and regulations relative to the management, government, instruction, discipline, employment and disposition of the children in the said home, . . . as said board may deem proper and shall appoint such officers, agents, and servants as . . . necessary . . . and may designate their duties and fix their compensation." Acts 1917, c. 23, ss. 1, 2.

ii. By the county board of visitors. (See above "4-a(4).")

(c) Admission; Commitment. "A temporary home for the white children surrendered to the care or committed to the custody of the West Virginia humane society. Said board may there keep such children until they can be placed in suitable homes elsewhere." c. 15K, s. 2. (B. p. 264.) (See "H-3-F" also "G-1.")

(2) The West Virginia Colored Orphans' Home.

(a) Establishment. "A state institution to be called the West Virginia colored orphans' home is hereby established . . . at the present site of the West Vir-

ginia normal industrial school for colored orphans, near Huntington." c. 57B, s. 1. (B. p. 852.)

(b) Supervision. i. By the state board of control. "Under the management, direction, control and government of the state board of control." Ibid. ii. By county board of visitors. (See above, "4-a(4).")

(c) Admission. "Orphan colored children under sixteen years of age and such other colored children of like age that shall be surrendered by their father and mother in case the latter are invalids, or such children as may be surrendered to said home by authorized agents of the humane society of West Virginia, or the overseer of the poor of any city or town, or county court of any county, within this state, and they shall be kept and maintained and educated therein until said children can be placed in suitable homes elsewhere." c. 57B, s. 4.

d. Institutions for Dependents; County.

(1) County Infirmaries.

(a) Establishment. Every county court "may purchase lands for the use of the poor . . . provide stock and implements of husbandry . . . and provide a county infirmary, workhouse and other improvements necessary for the use and benefit of the poor." c. 46, s. 3. (B. p. 613.)

(b) Education of Children. "The county court . . . shall have the power . . . to employ a suitable teacher to educate the children at the place of reception for the poor." Ibid. s. 4a.

(c) Inspection. i. By one or more members of the county court, or by one or more of the overseers of the poor monthly. s. 21. ii. By the county board of visitors. (See above, "4-a(4).")

(d) Health and Sanitation. Inspection by the state board of health. (See "G-4.")

(e) Admission. The agent of the county court in charge of the infirmary "shall receive persons into the infirmary . . . only on the order in writing of an overseer or of the said court." Ibid. s. 20.

(f) Records. "He shall keep a register of all such persons, showing the name and age of each person, the date when he was admitted, whether he was admitted upon the order of the county court, or an overseer of the poor . . . length of time . . . and shall note with the proper dates which of them were discharged, or removed, escaped or died, with such other information as he may deem useful." Ibid. s. 21.

(g) Annual Financial Statement by County Court. The county court is re-

quired to make an annual statement and have the same published concerning the number of poor assisted, name, color, sex, length of time, whether at infirmary or elsewhere, nature of assistance, work secured from each, and other items. *Ibid.* s. 27.

(h) Annual Levy for Support of the Poor. "Upon the completion of said statement the county court . . . shall provide in the county levy for such amount as it may deem necessary for the support of the poor for the ensuing year, including the payment of arrears . . . In such levy the county court may include an amount not exceeding one mill on each dollar of assessed valuation, to provide for such payments as the county court shall in its discretion make for hospital service or medical or surgical or institutional attention given to poor persons resident or found in the county." *Ibid.* s. 29. (B. p. 618.)

(2) County Detention Home. (See above, "4-b-(1).")

e. Institutions for Dependents. Private.

(1) Orphan Asylums and Children's Homes.

(a) Organization. "It shall be lawful for the directors of any corporation formed . . . for the purpose of an orphan asylum or children's home . . . to take under their guardianship all children who may be placed under their care and management" by methods specified by law. c. 57A, ss. 1. 5. (B. pp. 849, 850.)

(b) Admission. i. Children under fourteen voluntarily surrendered. ii. Children under fourteen committed by some judge or court, or by the clerk of some county court. *Ibid.*

(c) Purpose. i. Guardianship of boys until twenty-one years of age and girls until eighteen. ii. Placing of children in suitable homes "having scrupulous regard to the religious and moral character of those with whom such children are placed, in order to secure to them the benefits of good example and wholesome instruction, and the opportunity of becoming intelligent and useful men and women." *Ibid.* s. 2. A bond of not less than one thousand dollars required of persons receiving such child." *Ibid.* s. 3.

"The said directors or trustees shall have power to remove a child or children from a home, when, in their judgement, the said home has become an unsuitable one, and they shall, in such case, resume the same power and authority over such child or children as they originally possessed. Provided, the said directors or

trustees, may in their discretion, return the said children to parents . . . or guardians . . . or discharge them in their own care." *Ibid.* s. 5.

(d) Commitment. By a circuit court or judge on petition of the board of trustees or directors. *Ibid.* ss. 6, 8, 9.

(e) Interference With Custody. "Any person who shall either personally or by agent entice or attempt to entice away a child from the custody of such trustees or directors . . . shall be guilty of a misdemeanor." *Ibid.* s. 10.

(f) Placing Children in Orphan Asylum or Homes. Power granted to directors or trustees of corporations formed under this act. *Ibid.* s. 11.

(g) Taking Orphans From Almshouses. "The county court of any county in the state may . . . allow any organization, corporation or association operating in this state, that has for its object the care of orphans, to take from its almshouse any or all orphans that may be at any time permanent inmates. In no case shall any orphan . . . be taken from the almshouse without his or her consent." *Ibid.* ss. 13, 16.

(h) Visitation. By county boards of visitors. (See above, "4-a-(4).")

5. COUNTY AND MUNICIPAL RELIEF

a. By Overseers of the Poor.

Overseers of the poor have authority to grant to mothers in necessitous circumstances, with one or more legitimate children, weekly allowances not to exceed ten dollars per month for one child under fourteen and five dollars per month for each additional child under fourteen, the total amount not to exceed twenty-five dollars in one month. c. 46, s. 6. (B. p. 614.)

b. By County Court; Relief of Mothers.

(1) Applicants. "A woman whose husband is dead, or whose husband has become permanently incapacitated for work by reason of physical or mental infirmity, or confined in some West Virginia state institution, or has been abandoned, or a woman who is the mother of two or more children under the age of thirteen years, may file an application for relief under this act." Acts 1917, c. 46, s. 2.

(2) Official Investigation and Report. By a member of the county court under direction of the court. Report with recommendation to be filed. *Ibid.* s. 3.

(3) Petition. A petition for the granting of relief may be filed by the member of the court making the investigation, or

by any reputable person of the county. s. 4.

(4) **Summons; Hearing.** The respondents to be summoned before the court and given a hearing on the application, on the basis of which the court may make an order on the sheriff to pay a certain specified sum monthly to the mother. ss. 4-9.

(5) **Amount of Allowance.** "The allowance made to such mother shall not exceed fifteen dollars per month, when such mother has but two children under the age of thirteen years; and if she has more than two children under such age, the relief granted shall not exceed five dollars per month for each additional child, provided, that in no event shall the relief granted upon such application exceed the sum of twenty-five dollars per month." s. 10.

(6) **Conditions Upon Which Relief is Granted.** The mother must be a citizen of the United States with at least five years residence in this State, and two years residence in the county. She must be considered a proper person to bring up the children; the relief is to be granted only on condition that the children live with the mother; that the mother is in necessitous circumstances and does not permit any adult person not a member of the family, to remain at her home. Satisfactory reports must be given by the teacher in the district school stating that the children of the recipient of this fund are attending school, provided, they are of proper age and physically able to do so. Ibid. s. 11. Relief may be continued for a child between the ages of thirteen and sixteen years of age provided it be ill or incapacitated for work. Ibid. s. 12.

I. DEFECTIVE CHILDREN

1. BLIND AND DEAF.

a. General Provisions For.

(1) **Constitutional Provision.** "The Legislature . . . shall, whenever it may be practicable, make suitable provision for the blind, mute and insane." Art. 12, s. 12. (B. p. 37.)

(2) **Registration of.** "The assessors of the state are hereby required to register in a book to be furnished them by the auditor for the purpose, the names of all the deaf and the blind persons in their respective districts with the degree and cause of deafness and blindness in each case as far as can be ascertained, from the heads of families, or from other persons whom the assessors may conveniently consult, their ages, the names of their parents or guardians, their post office address, and such other facts as may be useful in making the institution [for the deaf and blind] efficient in ameliorating . . . their condition. They shall complete the registration as early as possible and forward their report to the auditor who shall . . . make an alphabetical abstract of all the facts furnished him by the assessors' reports, and shall send the same . . . to the principal of the West Virginia school for the deaf and the blind." c. 45, s. 234. (B. p. 607.)

(3) **Provision for Incorporation of Institutions.** cc. 54, 55. (See, also, c. 46A, s. 19.)

(4) **Exemption of Institutions from Taxation.** c. 29, s. 57.

b. Institution for.

(1) **Name and Location.** "The West Virginia school for the deaf and the blind . . . shall remain at Romney and be known as 'The West Virginia School for the Deaf and the Blind.'" c. 45, s. 219. (B. p. 606.)

(2) **Management and Maintenance.** See "G-2-b.")

(3) **Supervision and Inspection.** By state board of control. (See "G-2.")

(4) **Health and Sanitation.** Under control of the state department of health. c. 150, s. 2. (B. p. 1226.)

(5) Admission or Commitment.

(a) **Admission.** "All . . . deaf and blind youth resident of the state, between the ages of eight and twenty-five years, shall be admitted to the institution on application to the principal, until the institution is filled." c. 45, s. 230.

(b) **Commitment.** If dependent or neglected, may be committed. (See "4")

(c) **Transfer to or from Other Institutions.** (See "G-2-b-(4).")

(6) **Expenses and Support of Child.** "All such deaf and blind pupils shall be admitted as above directed without charge for board and tuition; and when not otherwise provided with clothing they shall be furnished therewith by the institution while they are pupils therein, and the principal shall make out an account therefor in each case against the respective counties from which said pupils come, in an amount not exceeding

forty dollars per annum for every such pupil." c. 45, s. 231. (B. p. 606.)

(7) **Education and Training.** "The course of instruction in the institution shall be prescribed by the board of regents* with the advice of the principal, and shall be as extensive both in the intellectual, musical and mechanical departments as the capacities and interests of the pupils may require." c. 45, s. 233. (B. p. 607.) *Now under the complete control of the state board of control. (See "G-2-b.")

(8) **Period of Attendance; Special Admission.** Pupils may remain in the institution five years, or longer if deemed advisable. If room permit, those below and above the prescribed ages, may be admitted. Ibid. s. 232. (B. p. 607.)

2. CRIPPLED AND DEFORMED.

(See "D-2.")

3. FEEBLEMINDED AND EPILEPTIC.

a. General Provisions for.

(1) **Admission to a State Hospital.** "Any relative or friends . . . of any imbecile, idiot or other incurable mental defective, may make application to the state board [of control] for his treatment in a state hospital." c. 58, s. 11.

(2) **Care in a Jail.** "When any person

is confined in any jail as an insane person, or an epileptic, or an idiot, or other incurable defective, the jailor shall certify the fact to the circuit court of the county at the next ensuing term, and the court shall thereupon cause such person to be examined . . . The court shall then make such provision for the care and maintenance while in jail of such person as it may deem proper." Such provision, however, is supposed to be only on condition that such persons are refused admission to a state institution. c. 58, s. 19. (B. p. 858.)

(3) **Return to Home from State Institution.** The board of control is required "to cause to be returned to their relatives, or to the counties whence they came, patients who are harmless and incurable, including dotards, feeble-minded, imbeciles and idiots." Ibid. s. 3. (B. p. 853.)

b. Institutions for.

"There shall also be admitted to the Huntington state hospital epileptics and idiots, and also such other incurable mental defectives as the state board may deem eligible; but in no case to include tubercular, cancerous or leprous persons." c. 58, s. 12. (B. p. 857.)

4. INSANE.

c. 58. (B. pp. 853ff.)

J. RIGHTS AND LIABILITIES OF MINORS

1. RIGHTS AND LIABILITIES IN GENERAL.

a. Age of Majority.

In general the common law holds, hence the age of majority is twenty-one years. Exceptions:

(1) **Age of Consent as to Marriage.** "The age of consent of the male shall be eighteen years, and of the female sixteen years." c. 64, s. 2. (B. p. 920.) (See "A-3-a-(1).")

(2) **Capacity to Make a Will.** "Minors eighteen years of age or upwards, may, by will, dispose of personal estate." c. 77, s. 2. (B. p. 968.)

b. Minors as Witnesses.

"Children who appear incapable of receiving just impressions of their obligations to tell the truth, or the facts respecting which they are to be examined" are declared incompetent to testify. c. 50, s. 108. (B. p. 694.)

2. MISCELLANEOUS RIGHTS AND LIABILITIES.

a. Actions.

In general, it may be said that rights of action, either for or against infants, so far as the question of infancy is concerned, are controlled practically entirely by the common law; while the procedure by which such rights of action are enforced is largely regulated by statutes, which, however, in many instances, are only declaratory of the common law. In any instance where such a cause of action exists, the infant may either sue or be sued. Infancy, in either instance, does not defer institution of the action. The only question is whether a right of action exists, which, necessarily, depends to a great extent upon the contractual capacity of the infant. The one exception to the infant's contractual capacity is that he is liable on his contracts for necessities. On the other hand,

he is generally liable for his torts, or civil wrongs, with the exception that the tort must not be one based on contract, e. g., fraud or deceit growing out of contractual relations.

As to infant plaintiffs, the right of action reposes in the infant himself, although he can not sue by himself to enforce the right of action. Nor can he appear by attorney, without further representation, because, while an attorney is an officer of the court, as to his client he is only an agent, and an infant lacks contractual capacity to appoint such an agent. In the circuit, or superior courts, the infant sues by his *prochain ami*, next friend, either at law or in equity. He is usually, though not necessarily, the infant's next of kin. He may be a stranger. no formal appointment of a next friend by the court is necessary, although the court, under proper circumstances will inquire into his fitness to represent the infant, e. g., as to whether he is a disinterested party. The next friend is responsible for the costs of the suit, if the defendant prevails. It should be noted that the suit is not instituted in the name of the next friend, but in the name of the infant by his next friend. The function of the next friend is to look after the infant's rights in general, as involved in the litigation; in other words, to supply on the infant's side of the proceeding the discretion which the infant is presumed to lack.

In the circuit, or superior court infants defend by their *guardian ad litem* [guardian for the suit], who may be appointed either by the clerk of the court at rules in his office, or by the court in term time. His functions are the same for infant defendants as the functions of the next friend for infant plaintiffs. He is not liable for costs, however. Although, if an infant sue in his own capacity without the aid of a next friend, the irregularity may be cured if the defendant fails to plead in abatement. The rule is not the same where an infant is proceeded against without a *guardian ad litem*. In the latter instance, the proceeding is fatally defective. c. 82, s. 14. (B. p. 982); c. 125, s. 13. (B. p. 1112.)

When the proceedings are before magistrates or justices of the peace, a "guardian for the suit" is appointed. c. 50, ss. 23, 24, 39. (B. pp. 680, 682.)

For limitation of actions, see c. 104, s. 16; c. 132, s. 7; c. 133, s. 5.

b. Citizenship of Minor.

"All persons residing in this State, born, or naturalized in the United States,

and subject to the jurisdiction thereof, shall be citizens of this state." W. Va. Cons. Art. 2, s. 3.

c. Contracts.

In general, the contractual status of infants in West Virginia, is that of the common law, hence an infant does not have capacity to bind himself by contract except to secure for himself the necessities of life. His contracts, however, are voidable only, and not void; hence when sued, in order to take advantage of incapacity due to his infancy, he must plead infancy. And, in general, in such case, he must return any consideration received by him under the contract if he has not parted with it or put it beyond his control. Note the following statutes:

"No action shall be brought in any of the following cases: . . .

To charge any person upon a promise made, after full age, to pay a debt contracted during infancy; or upon a ratification after full age, of a promise or simple contract made during infancy . . . unless the promise . . . ratification, or some memorandum or note thereof be in writing and signed by the party to be charged thereby or his agent. But the consideration need not be set forth or expressed in the writing and it may be proved (where a consideration is necessary) by other evidence." c. 98. (B. p. 1016.)

d. Inheritance and Testamentary Rights

(1) **General.** (See "1-a-(2).")

(2) **Rights of Pretermitted Children.** (See c. 77, ss. 16, 17. (B. p. 970.)

(3) **Rights of Posthumous Children.** "Any person in ventre sa mere who may be born in ten months after the death of the intestate, shall be capable of taking by inheritance in the same manner as if he were in being at the time of such death." c. 78, s. 8.

(4) **Rights of Bastards.** Except as provided by statute, bastards come under the common law rules and are incapable of inheritance. Exceptions:

"Bastards shall be capable of inheriting and transmitting inheritance on the part of their mother, as if lawfully begotten.

"If a man, having had a child or children by a woman, shall afterwards intermarry with her, such child or children, or their descendants, if recognized by him before or after the marriage, shall be deemed legitimate." c. 78, ss. 5, 6. (B. p. 974.)

(5) Rights of Children of Void Marriages. "The issue of marriages deemed null in law, or dissolved by a court, shall nevertheless be legitimate." Ibid. ss. 5, 6, 7.

(6) Rights of Adopted Children. c. 122, s. 4. (See "B-Guardian and Ward.")

(7) Rights of Infants to Contest. c. 77, ss. 29, 33.

e. Acquirement of Rights Through Naturalization of Father .

(See s. 2172, Revised Statutes of U. S.)

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