# THE HISTORY OF PUBLIC WELFARE IN VERMONT



by

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with a foreword by

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## FOREWORD

A democratic state is the custodian of the common good of **all** its citizens. One of the primary duties of the State is to provide for the welfare of all its citizens. At times the voices of the underprivileged have been barely audible amidst the clamoring of great enterprises. As time goes on, however, the pleadings of the less fortunate become more intelligible.

It is also interesting to know how a government has legislated for the public welfare of its people. In this book we have a history of Vermont's legislation in regard to the public laws of its citizens. All history has great value. There is much to learn from the successes and failures of the past. From the successful enterprises we learn what paths are safe to follow and from the failures we learn what errors to avoid.

The problems confronting the early settlers of Vermont were manifold. The clearing of the land and the tilling of the soil demanded back-breaking work from which the pioneers eked a meager subsistence. When pestilence or calamity took from the struggling family the head of the household the family was forced to rely on the good will of the neighbors or the town. But these two sources themselves had very little to spare, so that the poverty of the individual was made greater by the poverty of the group. With such odds against our early settlers, it is interesting for us to look back and see how they solved their problems.

For several decades Vermont has witnessed the emigration of a great proportion of its youth. Their leaving the state has left behind the aged members of the family. Some of these who are left behind sooner or later come in need of assistance. To whom, therefore, shall they turn if not to the local, state, or federal custodians of their welfare? Much of the dependency of the aged could be avoided if the youth of the state could be convinced of the advantages of living in Vermont. Perhaps the day is not far distant when the boundless resources and opportunities of our state shall be developed in such a manner as to provide ample scope for the energies of our young people.

This **History of Public Welfare in Vermont** shows that much progress has been made in this field. Yet we cannot

afford to sit back and rest as though the problem has been completely solved. Much has yet to be done. The development of interest in this field, however, gives much encouragement so that we can look forward with renewed hope that this vital problem of public welfare shall not be forgotten.

Governor of Vermont

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If this study causes even a few persons to become more interested in the vital problems of public welfare today, the writer shall feel amply rewarded.

—L. D'A.

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# INTRODUCTION

On one of the granite blocks in front of the National Archives Building in Washington, D. C., there is engraved this inscription: "What is past is Prologue." History, if studied and applied, especially to the Public Welfare field, can help us in coping with many of the perplexing problems which confront us today. In the past, large segments of our population experienced the problems of poverty, dependency, and delinquency. Unfortunately, those problems are still with us today. In studying these problems through a knowledge of the past, we can see what measures were adopted to meet them, and we can profit by the successes or failures of the past. If we take advantage of the experiences of earlier days, in charting our course, we may learn better what shoals to avoid, what channels are safe, and what seas need further to be explored. Social and economic conditions of a state undergo a process of evolution down through the years. Sooner or later, especially in a democracy, contemporary opinions are reflected in legislation. Therefore, we may say that public welfare legislation provides a partial picture of the social and economic conditions of the time in which they were enacted.

## Purpose

The purpose of this study is to trace the attempts that the State of Vermont has made to promote public welfare for its people as these attempts are expressed through legislation. Until recent times there has been very little record, except through these laws, of the welfare work for the inhabitants of this State. Therefore, it is our intention to bring all of these laws, both past and present, into certain groupings in order that we may be able to see what has been done in the past and what laws have been enacted for the protection and care of those who lack the normal protections of life.

## Scope

This study concerns itself with all public welfare legislation for the underprivileged and dependent which has been enacted since the drafting of the first Constitution of the State of Vermont, in 1777, to the present time. Since Vermont legislation was greatly influenced by the State's early leaders, the inherent conservatism of its people and their customs, it was thought that a clearer picture of Vermont's public welfare legislation would be obtained if a brief history of the State and its population trends was included in this study.

In treating of public legislation this study will be concerned principally with State legislation passed for the welfare of its underprivileged citizens. This also includes that legislation which concerns local and federal aid. Hence, the account of private charitable enterprises will be included in the narrative only insofar as these activities have been aided by public funds and protective legislation. Certain services, therefore, such as free education for all classes, not being regarded and administered as "charities," will be mentioned only incidentally. The purpose of this study, moreover, is to present a picture of the laws that have been passed rather than the manner of their administration. Therefore, the practical working of the laws will occupy a secondary position in this study.

## Method

The basic data of this study were the enactments passed by the State Legislature from 1777 to 1947 which concern the dependent and the poor. Most of the material was gathered at the State Library in Montpelier and at the Congressional Library in Washington, D. C., over a period of three years of graduate study at the Catholic University of America. These legislative enactments were supplemented by committee reports, resolutions, etc., whenever such material was available. All of the Vermont Supreme



Court cases involving decisions connected with public welfare were consulted, and many of these are included in the study. Much material was also obtained from town reports, town histories, State histories, various public welfare and State health reports, etc. The data concerning the State's population were supplied by the reports of the U. S. Census Bureau and the U. S. Children's Bureau.

The method employed in considering the story of public welfare in Vermont is to treat each type of work that has been undertaken in separate chapters rather than to attempt a year by year account of all public welfare legislation. The order under each type is chronological, but each chapter is a unit in itself.

# CHAPTER I

## THE BACKGROUND

### The French In Vermont

Jacques Cartier, the French explorer, was probably the first white man whose eyes rested on the mountains of what is known today as the State of Vermont. In October, 1535, soon after he arrived at an Indian village near the present site of Montreal, an Algonquin Indian chief took him to the top of what was later called Mount Royal and showed him the country for miles around. We are told that the chief described to him the inland seas and rivers and the beautiful country lying to the south and east of them, and, as it was a clear day, it is not at all impossible that Cartier might have seen the northern tip of the Green Mountain Range which was less than forty miles away.[1]

The first white man that we know of who ventured into Vermont, however, was Samuel de Champlain. On July 4, 1609, he entered the lake to which he gave his name,[2] being accompanied at this time by two Frenchmen and sixty Algonquin Indians. Near Ticonderoga, or perhaps near Crown Point, they fought a battle with a band of Iroquois Indians and defeated them. Although in reality this battle was no more than a mild skirmish, it had far-reaching consequences in that it set the Iroquois permanently against the French, even though it won for the French the lasting friendship of the Algonquins.[3]

Strangely enough, very few Indian settlements are known to have existed in the State even though it was used rather extensively as a hunting ground, especially by the Iroquois.[4]

1 Champlain, Le Sieur de, **Voyage De La Nouvelle France Occidentale**, Paris, 1640, pp. 4 ff, referred to in A. Hemenway, **Vermont Historical Gazetteer**, II, p. 89.
2 Crockett, Walter H., **Vermont, The Green Mountain State**, Century Historical Co., Inc., 1921, I, p. 21.
3 Thompson, Charles Miner, **Independent Vermont**, Houghton Mifflin Co., Boston, 1942, p. 4.
4 Crocket, Walter H, **op. cit.**, I, pp. 31-70. Hall, B. H., **History of Eastern Vermont**, D. Appleton & Co., 1858, pp. 585-589.

Champlain, of course, had claimed all the vast territory surrounding the Lake for the King of France, and, indeed, years later Louis XIV had granted seigniories on both sides of the Lake. But the French colonists, fearful of the Iroquois, were reluctant to emigrate from Canada. Numerous French settlements, however, sprang up not far from the Northern Vermont border along the Richelieu or Sorel River.[5]

In 1665 the French did venture into Vermont in a more or less permanent fashion, but this was in the form of military occupation. In that year Captain de la Motte built a fort on Isle La Motte and called it Fort Saint Anne. A few years later the French erected fortifications further south, one at Chimney Point and another at Crown Point. All of these forts were along Lake Champlain, and small settlements did dare to begin within the shadow of these forts.[6] Several Jesuit missionaries lived at Fort Saint Anne from time to time, and in 1668, Bishop Laval, the first Bishop of Quebec and New France, journeyed there and administered the Sacrament of Confirmation to several of the members of the garrison.[7] Fort Saint Frederic (Crown Point) between the years 1731 and 1759 seems to have had between 600 to 800 people, with some 243 baptisms registered in the parish records at this time.[8]

During the first half of the eighteenth century the English colonists from the New England coast began gradually to move inland. This power receded from time to time only to return with greater force until it had conquered all before it.[9]

5 Thompson, Charles Miner, **op. cit.**, p. 5.

6 Crockett, Walter H., **op. cit.**, I, p. 204. Thompson, Zaddock, **History of Vermont, Natural, Civil and Statistical**, (Burlington) 1832, part II, p. 16.

7 Crockett, Walter H., **op cit.**, I, pp. 121-122.

8 Huden, John C., **Development of State School Administration in Vermont**, Vermont Historical Society, 1943, p. 9.

9 Thompson, Zadock, **op. cit.**, part II, p. 16.



The history of the seigniories in the Lake Champlain Valley is closely bound to the story of the development of Fort St. Frederic (Crown Point); as long as the French troops controlled the lake, the settlements prospered; from the moment military protection was withdrawn, the settlers followed the soldiers in retreat.[10]

In fleeing before the English tide the French inhabitants of the Champlain Valley merely delayed the day of their complete capitulation when all of Canada was ceded to the English after the defeat of the French armies in Canada in 1760.[11] Since the retreat of the French settlers of the Champlain Valley was so complete, unfortunately or otherwise, their efforts had little or no influence in the early formation of the State of Vermont.

### The English In Vermont

In the middle of the eighteenth century Vermont was a wilderness, separating the French, settled at its north and northwest, from the English at its south and southeast. We shall see that there were settlements precariously started by the English along the Connecticut Valley before 1760, but these were little more than outposts. During the French and Indian Wars, which lasted intermittently from 1744 to 1749 and from 1756 to 1760, Vermont was a traffic lane through which the armies of the French and the English would pass while engaged in various expeditions against each other.[12] This fact made it dangerous and impractical for either the French or the English colonists to settle in the interior. Until the end of the French and Indian Wars there were probably no more than two or three hundred English settlers in the State.[13]

In the early history Vermont was the subject of much tumult and confusion. Before the coming of the white man

10 Coolidge, G. O., "French Occupation of the Champlain Valley," **Proceedings of the Vermont Historical Society, New Series**, VI, No. 3, September 1938, p. 251; quoted also in Huden, J. C., **op. cit.**, p. 8.

11 Thompson, Zadock, **op. cit.**, part II, p. 16.

12 **Ibid.**

13 **Ibid.**, p. 17.

the territory which now comprises the State of Vermont was a bone of contention between the Algonquin Indians of the North and the Iroquois of the South.[14] Later, as has been noted, the French and the English struggled between themselves for its control.[15] Strangely enough, before and after the expulsion of the French the various English commonwealths began to dispute among themselves as to who should have control of this vast wilderness, Massachusetts,[16] New Hampshire and New York each claimed large shares of this territory.[17]

On the basis of such presumption of jurisdiction, Massachusetts, in 1724, erected Fort Dummer[18] in the southeastern corner of the present town of Brattleboro. This was the first English establishment within the present borders of Vermont.[19] Here, incidentally, was born the first white child of English parentage in Vermont, so far as the existing records show. The child was Timothy Dwight, born May 27,1726, the son of Timothy Dwight, the builder and first commander of Fort Dummer. He later grew to the height of six feet, four inches; he graduated from Yale in 1774 and became a prosperous merchant in Northampton, Massachusetts. His daughter, Elizabeth, was the mother of Theodore Dwight Woolsey, president of Yale College from 1846 to 1871. Another descendant of his, Timothy Dwight, was also president of Yale from 1886 to 1899.[20] Thus the first English child born in Vermont became the ancestor of one of New England's most distinguished families.

Massachusetts "granted" a few townships around Fort Dummer, the most northerly of these settlements being

[14] **Ibid.**, p. 16.
[15] Crockett, W. H., **op. cit.**, I, pp. 31ff.
[16] Hall, B. H., **op. cit.**, p. 13.
[17] **New Hampshire State Papers**, X, p. 202.
[18] **Massachusetts Archives, General Court Records**, XII, pp. 153-154.
[19] Thompson, Zadock, **op. cit.**, part II, p. 16.
[20] Crockett, W. H., **op. cit.**, I, p. 154-155.



Number Four, now Charlestown, N. H.[21] Most of these settlements of Massachusetts were gradually abandoned by the inhabitants during the French and Indian Wars.[22] After the French and Indian Wars, Massachusetts was no longer able to claim jurisdiction over any territory in Vermont, for in 1741 the wily Benning Wentworth was appointed Royal Governor of New Hampshire and through his schemes and insistence he succeeded in bringing, for a time, the whole territory between Lake Champlain and the Connecticut River under the jurisdiction of New Hampshire.[23] This territory, which now comprises the State of Vermont, became known as the New Hampshire Grants.

### The New Hampshire Grants

In the year 1750 the King of England had settled a boundary dispute between New Hampshire and Massachusetts. The decision maintained that the southern boundary of New Hampshire was to be an earlier prescribed line which began at the Atlantic three miles north of the mouth of the Merrimac River. This line was to follow the Merrimac westward, curve for curve, at the same distance of three miles until it reached a point three miles due north of Pentucket Falls. At this point the line was to run due west until "it meets with our other Governments."[24] One of the governments which New Hampshire would meet in its westward expansion would be New York because in 1664 Charles II had granted to his brother, then Duke of York, all the land from the west side of the Connecticut River to

[21] Conant, Edward, **The Geography, History, Constitution and Civil Government of Vermont**, The Tuttle Co., Rutland, Vermont, 1906, p. 136.
[22] Crockett, W. H., **op. cit.**, Vol. I, p. 167.
[23] Jones, M. B., **Vermont in the Making**, Harvard University Press, Cambridge, Mass., 1939, pp. 20-67.
Note: This is by far one of the best documented histories of the early controversy between New Hampshire and New York, and its result, i. e., the formation of the new State of Vermont. Much hitherto unpublished material regarding Vermont's formative years has been brought to light by this work. The author is deeply indebted to M. B. Jones and has used his book and sources quite freely.
[24] **New Hampshire State Papers**, XIX, 6. 536.

the east side of Delaware Bay. This grant was the basis for the royal province of New York.[25]

According to this, therefore, the western boundary of New Hampshire should be the Connecticut River, which is its western boundary today. But Governor Wentworth was not satisfied. Across the Connecticut River were millions of acres of unparcelled lands far from the government of New York. At this time, he, Benning Wentworth, was a bankrupt man, badly in need of money to reimburse himself for his own personal losses. If all this territory were "granted" through his office, there would accrue to him thousands of dollars in fees and thousands of acres of land for himself.[26] Accordingly, therefore, he established on the flimsiest basis, the western boundary of New Hampshire as a line twenty miles east of the Hudson River running northward till it meets Lake Champlain, [27] and by that stroke he added approximately ten thousand square miles to his domain. He later contended that he based his claim to these lands on the fact that Connecticut was allowed, and Massachusetts was being allowed, to settle lands up to twenty miles east of the Hudson River. These facts, he argued, were reason enough for New Hampshire to extend her borders.[28]

In accordance with his contentions, Benning Wentworth made his first grant of land within the present limits of Vermont in 1749, to a Colonel William Williams of New Hampshire and fifty-nine others. The new grant was named Bennington in his honor.[29] The first settler, however, did not come to Bennington until 1761.[30] Between 1749 and 1760 Governor Wentworth granted sixteen townships, but between 1761 and 1764 (after the French and Indian Wars) he feverishly "granted" one hundred and twelve more, making

25 **Documentary History of New York**, IV, pp. 331-334.
26 Thompson, Charles Miner, **op. cit.**, p. 39.
27 **New Hampshire State Papers**, XVIII, p. 390.
28 **Ibid.**, X, p. 208.
29 Jones, M. B., **op. cit.**, p. 22.
30 Conant, Edward, **op. cit.**, p. 147.



a total of one hundred and twenty-eight in all.[31] These township grants were usually six miles square and divided into sixty-four 500 acre lots; usually one of these lots was set aside for Governor Wentworth (free of charge), one for the Society for the Propagation of the Gospel in Foreign Parts, one for a glebe for the Church of England, one share for the first settled minister, and one share for the benefit of a school.[32] Governor Wentworth's share in the New Hampshire grants eventually totalled 65,000 acres, [33] not to mention the huge profit from the fees and bonuses. He was, furthermore, very liberal in dispensing lands free of charge to his relatives and friends.[34]

But what made all these transactions particularly burdensome and disastrous for the future settlers of Vermont was that, contrary to the English law of the time, Governor Wentworth had granted huge tracts of land to land speculators.

> Not only did Wentworth ignore the grant to the Duke of York on the flimsiest pretext, not only did he break his implied promise to Clinton (Governor of New York), but in making his grants he wantonly disobeyed the careful instructions drawn up by the English government to make clear to whom land could be granted. Now, if those instructions were not followed in any particular case, the grant could be declared forfeit. After specifying that each township should be six miles square, the instructions provided that no township was to be set out and no lands granted until fifty families were prepared to start settlement, and that the township when started should not have "the privileges customary among townships in his province" until one hundred families were actually domiciled in it. Each settler, moreover, was to "settle, plant and cultivate at least five acres in each fifty of his grant within five years of its date." The instructions further forbade granting

31 **New Hampshire State Papers**, XXVI.
Note: This disputed territory, which later comprised the State of Vermont, was for many years called the "New Hampshire Grants."
32 Crockett, W. H., **op. cit.**, Vol. I, p. 176.
33 **Ibid.**, p. 182.
34 **Ibid.**, pp. 182 ff.

> to any one person more than fifty acres for each man, woman, and child in his family at the time of the grant, and no grant could be made to a man too large for him to cultivate. The intention of the rules was to make sure that the land be allotted, not to speculators, but to hard-working, competent farmers who would bring the land to its highest usefulness.
>
> Not one of these instructions did Wentworth follow.[35]

At last New York awoke from its lethargy in regard to its northeastern territory and began to become concerned about what was happening there. Cadwallander Colden, lieutenant-governor of New York, became for a time acting governor. He began writing letters to the British Board of Trade complaining of what was happening in the so-called New Hampshire Grants. In 1763, he issued a proclamation

> reciting the grant of King Charles II to the Duke of York, asserting the jurisdiction of New York as far eastward as the Connecticut River, and enjoining the sheriffs of Albany County to return the names of all persons who, under cover of a New Hampshire charter, held possession of lands westward of that river that they might be proceeded against according to law.[36]

But Wentworth issued counter-proclamations declaring that the grant to the Duke of York was "obsolete," and urging the grantees not to surrender their holdings, and commanding all officers to "execute the laws and to punish disturbers of the peace."[37] Finally on July 20, 1764, the King of England gave a decision declaring that the western bank of the Connecticut River was the boundary between New York and New Hampshire. Soon after it reached him, in 1765, Colden issued the decision publicly.[38] Prodded by New York, the British Board of Trade had started to investigate. Wentworth tried to cover up his scandalous behavior, first, by pleading innocent, then, by using falsehoods. But it was too late; the Board by this time knew the truth and pressed

35 Thompson, Charles Miner, **op. cit.**, pp. 46-47.
36 **Documentary History of N. Y.**, IV, p. 346.
37 Thompson, Charles Miner, **op. cit.**, p. 50.
38 Jones, M. B., **op. cit.**, p. 75



him hard.[39] Finally, Wentworth was asked to resign and he was saved from any fine, imprisonment, or disgrace by the fortunate (for him) appointment of his nephew John to succeed him as Governor of New Hampshire.[40]

During the twentieth century the boundary question was again raised.

> The development of large hydroelectric plants upon the western banks of the Connecticut River during the first quarter of the twentieth century raised questions as to the right to tax that led Vermont and New Hampshire to seek a judicial determination of the exact location of their common boundary by the United States Supreme Court. The Court found it essential to a decision of the case to determine the 'meaning and effect' of the Order in Council of July 20, 1764, and upon this point held that the order confirmed and did not change the eastern boundary of New York as fixed by Charles II in his grant of that province to his brother James, Duke of York in 1664.[41]

This decision of the Supreme Court, given in 1932[42], decided the issue and seemed to add proof that the acts of Benning Wentworth were wrong and that the position of the leaders of Vermont who opposed New York's authority was illegal.

### Confusion Worse Confounded

The decision of the King's Court confirming the jurisdiction of New York, and the resignation of Benning Wentworth, did not settle the turmoil and confusion of the New Hampshire Grants. In fact, in the few years that followed, the situation became chaotic. Colden held that Wentworth's illegal grants were worthless, since the courts had judged that only New York had had and still had jurisdiction in that territory. But neither the English authorities nor Colden intended to disturb the actual settlers who held their titles in

39 **Ibid.**, pp. 56-59.
40 **N. H. State Papers**, III, p. 560.
41 Jones, M. B., **op. cit.**, p. 80.
42 See "State of Vermont vs. State of New Hampshire," **U. S. Supreme Court Reports**, vol. 289, pp. 593 and 605.

good faith.[43] As for the speculators, however, that was another story. The Board of Trade and Colden held that their titles were null and void.[44] But the speculators were a powerful group, and they began to spread rumors among the unsuspecting settlers until they finally succeeded in inducing the inhabitants to take up arms against the New York officials in the area. The history of these machinations, however, can only be outlined here. The speculators eventually won and successfully defended their illegal holdings by their cunning manipulations.[45]

Lieutenant-Governor Colden's first grant in this region was made in May, 1765, when he issued a charter for a tract of twenty-six thousand acres which became known as the Princeton Grant. Unfortunately, this tract included the land of some forty men who had bought their titles from New Hampshire and were actually settled or were getting ready to settle on their plots.[46] Eventually New York granted charters for some 2,000,000 acres in this disputed area,[47] while Governor Wentworth had already granted nearly 3,000,000 acres.[48] Furthermore, New York demanded that all those who had bought their land under the New Hampshire Grants should clear their titles with New York and pay a quitrent fee. All in all, these fees were not very large and many farmers did pay them, but the speculators who owned tremendous tracts of land and who were land-poor could not pay even such a small fee because of their large holdings. So they stirred the people to believe that New York was demanding something that was unjust and insupportable. Of course these speculators always insisted that the settled farmer was the one who was suffering; they never referred to the plight of the land speculator.[49] It is true that there were some innocent victims as there are bound to be in such

43 Jones, M. B., **op. cit.**, p. 80.
44 **Ibid.**, p. 78.
45 **Ibid.**, p. 97.
46 Crockett, W. H., **op. cit.**, Vol. I, p. 91.
47 **Ibid.**, I, p. 190.
48 Jones, M. B., **op. cit.**, p. 88.
49 **Ibid.**, p. 244.



a turmoil of affairs, but New York was not seeking to despoil the innocent settlers of their property.[50] The speculators, however, gave just the opposite picture. They led the settlers to believe that the "Yorkers" were bent on dispossessing them of their farms which they had paid for and on which they had worked so hard. There were charges and countercharges between the leaders of the opposition in the New Hampshire Grants (which comprised the territory of the present State of Vermont) and the authorities of New York. The settlers themselves became divided because some of them had received their titles from New York and others, having formerly received their lands through New Hampshire grants, had paid their quitrent fees to New York and were satisfied to live under New York rule. But those who favored New York were in the minority and could offer little or no effective resistance to the well organized maneuverings of the leaders of the New Hampshire Grants. Opposition to the "Yorkers" became a rallying point and a battle cry that became so unified and effective that it led to the formation and the independence of the State of Vermont.

### The Government

In the beginning the form of government within the New Hampshire Grants was simple and almost entirely local. Each town and each settlement in electing town officers and ordering town affairs had by its charter the right of self-government.[51] There was no attempt and no provision made for the grouping of the towns for purposes of government within the Grants. When, however, the New York courts repudiated these charters in 1770 and later upheld the decision of the King of England, given in 1764, denying the jurisdiction of New Hampshire, the towns west of the Green Mountains resolved

> to support their rights and property under the New Hampshire Grants, against the usurpation and unjust

50 See note 43 above.
51 Thompson, Zadock, **History of Vermont**, Part I, p. 224.

claims of the governor and council of New York, by force, as law and justice were denied them.[52]

In this resolve, therefore, of the various towns to get together to defend their titles against the authorities of New York, evolved a separate government within the Grants which was to become the government of the State of Vermont. Later these towns appointed Town Committees of Safety,

> Whose business it was to attend their defense and security against the New York claimants. These Committees afterwards met from time to time as occasion seemed to demand, in general convention to consult upon and adopt measures for their common protection.[53]

Most of these meetings between 1770 and 1776 were held in Connecticut or in Massachusetts in towns where some of the principal proprietors of the New Hampshire Grants lived, for very often several years would elapse between the granting of townships and the actual organization of town governments. In fact only about forty Vermont towns possessed regularly organized municipal governments prior to the Revolutionary War.[54] The following quotation describes this period quite well.

> The New Hampshire Grants, having never been recognized by the king as a separate jurisdiction, and having ever refused submission to the authority of New York, were, at the commencement of the Revolution, nearly in a state of nature being without any internal organization under which the inhabitants could act with system and effect. Their only rallying point and bond of union was their common interest in resisting the claims and authority of New York. Yet the same interests which drove them to resistance, gave the effect of law to the recommendations of their committees and the orders of their council of safety, while a few bold and daring spirits, as if formed for the occasion, gave impulse, and energy, and system to their operations.[55]

52 Hall, Hiland, **Vt. Historical Society**, Vol. I, pp. 4-5.
53 **Ibid.**
54 Crockett, W. H., **op. cit.**, II, p. 167.
55 Thompson, Zadock, **op. cit.**, Part II, p. 49.



In the meantime important events leading toward the Revolutionary War were happening outside of Vermont. All these events served to deflect attention from the inhabitants of the New Hampshire Grants whose leaders, as we have seen, were themselves directing an open rebellion against the authority of New York. If New York succeeded in enforcing her already proven legal authority, the speculators, who had bought their titles under the Wentworth Grants, would likely lose their holdings. There were, of course, some speculators who had received their titles under New York Grants, but these were powerless against the other faction.[56]

In order to protect themselves more forcibly against the New York claimants, part of the settlers of the Grants organized themselves into a militia called the Green Mountain Boys. Popular histories of the State picture these men as defenders of the poor against the rich, and the weak against the strong. But such was not the true picture. While some of them were as unselfish and sincere as Seth Warner, generally speaking, under the leadership of the Allens, especially Ethan Allen, "they were the tools of speculators."[57] They took the law into their own hands and not only did they whip and drive out New York officers from the Grants,[58] but they also caused great suffering and hardship to those settlers who had the misfortune either of having taken out the title for their lands with the government of New York or having accepted the decisions of the King and of the courts and rendered allegiance to New York. The inhabitants of the town of Guilford, for example, insisted on being subjects of New York. Ethan Allen descended on them with two hundred men after a Vermont "court" had decreed that the property of some of the inhabitants was to be confiscated. The inhabitants fled in panic.

> Upon these deserted premises the Vermonters entered, taking in the name of the state whatever they desired. They drove off one hundred and fifty head of

56 Jones, M. B., **op. cit.**, p. 98.
57 **Ibid.**, p. 208. See also C. M. Thompson, **op. cit.**, p. 120.
58 Jones, M. B., **op. cit.**, pp. 334-335.

cattle, besides sheep and hogs unnumbered. They took possession of barns well filled with produce, threshed out the grain and carried it away.[59]

These actions of the leaders of the New Hampshire Grants are important from the public welfare point of view, for they give us a picture of how a certain class of people was treated by the founders of the new State. The Guilford raid took place nearly ten years before Vermont was admitted into the Union, but a few years before that raid the leaders of the Grants had drawn up a constitution and set up the machinery for a new State.

The first mention of the desirability of a new State that we know of was made by Ethan Allen in a letter to Oliver Wolcott, Sr. in 1775.[60] Oliver Wolcott was a man well versed in political affairs in Connecticut, and in this letter Ethan proposes to ask advice as to the expediency of organizing a new State. A month later a convention of Cumberland County held at Westminster reveals its antipathy to New York and resolves to resist its authority until it can present the King "with an humble petition to be taken out of so oppressive a jurisdiction, and either annexed to some other government or erected and incorporated into a new one."[61]

During this period and the months that followed the strained relationship between England and the American Colonies burst into total war. Because of its geographical position the territory of Vermont separated the British troops in Canada from the important colonies on the eastern seaboard. In 1775, Ethan Allen at the head of a small group of Green Mountain Boys captured Fort Ticonderoga and its sleeping British garrison (without the loss of a single man on either side) to "make them (the Green Mountain Boys) appear consequential in the eyes of Congress, as a friend of

59 Hall, B. H., **op. cit.**, p. 452.
60 Wolcott, Oliver, **Connecticut Historical Society Manuscripts**, I, No. 1, as quoted in M. B. Jones, **op. cit.**, p. 356.
61 **Governor and Council: (Records of the Council of Safety and Governor and Council of the State of Vermont, 1775-1836)**, I, pp. 338-339; see also M. B. Jones, **op cit.**, p. 275.



the American Revolution," as Ira Allen later wrote.[62] Later Seth Warner at the head of another group of Vermonters captured Crown Point.[63] Congress urged and gave permission to the inhabitants of the New Hampshire Grants to raise troops to defend their borders against the British.[64]

General Conventions were called by the leaders of the New Hampshire Grants first to defend their borders against New York and later to raise troops to protect themselves against the King's troops. These conventions were at first small, but gradually more and more towns sent delegates. Some resolutions of these conventions might be mentioned. In 1774, at a convention held at Manchester, a resolution was passed "forbidding any person to act as an officer under a commission from New York."[65] At Dorset, in July 1776, the delegates

> Resolved, That application be made to the inhabitants of said Grants to form the same into a separate District.
>
> Voted, To choose a committee to treat with the inhabitants of the New Hampshire Grants on the east side of the Green Mountains, relative to their associating with this body.[66]

At Westminster, in January 1777, the Convention

> Voted, That the district of land commonly called and known by the name of the New Hampshire Grants, be a new and separate State and for the future to conduct themselves as such.
>
> Voted, That the declaration of New Connecticut be inserted in the News Papers.
>
> Voted, That Captain Heman Allen, Colonel Thomas Chandler and Nathan Clark, Esq., be a committee to prepare the Declaration for the press as soon as may be.[67]

In the Connecticut Courant of March 17, 1777, Vermont's

62 Allen, Ira, **History of Vermont**, p. 95.
63 Conant, Edward, **op. cit.**, p. 167.
64 Jones, M. B., **op. cit.**, p. 336.
65 Proctor, Redfield, **Facsimile Records of Conventions in the New Hampshire Grants**, p. 38.
66 Proctor, Redfield, **op. cit.**, p. 42.
67 Ibid., p. 63; see also **Governor and Council, op. cit.**, I, p. 39.

Declaration of Independence appeared. In that Declaration the jurisdiction of New York was completely repudiated; the boundaries of the new State were specified; complete support was given to the Continental Congress and the revolting Colonies; "the Said State to be called by the name of New Connecticut."[68] At Windsor in June 1777, the name was changed to the more poetic name of Vermont, which is a combination of two French words meaning green mountains. All these events reached their climax at the Constitutional Convention held at Windsor in July 1777, where a constitution, modelled on the Constitution of Pennsylvania, was presented and adopted.[69] Again at Windsor a second Constitutional Convention met in December 1777; the Constitution was amended to provide for an election on the third day of March and for the first meeting of the Legislature, Tuesday, March 12, 1778, at Windsor.[70] After the elections the new Legislature assembled. The first governor elected was Thomas Chittenden, of whom more shall be mentioned later. During this first Legislature the machinery of the new State was set in motion, but the State was to wait thirteen long years before it was admitted into the Union.[71] Speaking of the turmoil existing at the time of the birth of Vermont, Honorable David Read in an address later declared:

> We were now virtually an independent republic standing upon our own platform of nationality, and at war with New York on one side, and New Hampshire on the other, with a powerful foreign enemy hanging upon our northern border, with her savage allies.[72]

### The Leaders And The People

In discussing the history of the welfare laws of any commonwealth a description of the founding-fathers and the

[68] Reprinted in Force, **American Archives**, 5th Ser., II, Cols. 1300-1302.

[69] Jones, M. B., **op. cit.**, pp. 383-385, 391.

[70] **Governor and Council, op. cit.**, I, p. 78.

[71] **Ibid., III**, pp. 482-489.

[72] Read, Hon. David, "Thomas Chittenden, His Life and Times," in A. Hemenway, **Vermont Historical Gazetteer**, I, p. 914.



people of their time is always important. Just as Washington and his associates exerted a tremendous influence on the generations of Americans that followed them because of the government and laws which they set in motion, so also the leaders and the people who founded the State of Vermont affected the lives of the people who followed them for many generations. Because of this fact it is important to know something of these people, their leaders, and their times. Although much has been said about Benning Wentworth, one of the important figures of early Vermont, he was, strictly speaking, an outsider. He did not live in the present territory of Vermont, but in the State of New Hampshire. He had no part in the actual formation of the government, even though what he did fostered a rebellious attitude in many of the inhabitants against the authority of New York. After he was forced to resign his office as governor of New Hampshire, in 1764, he ceased to exert any influence in the Grants.

The Republic of Vermont existed from the adoption of the first Constitution in 1777 to the admission of Vermont into the Union in 1791. The last three decades of the eighteenth century were perhaps the most crucial and the most formative of Vermont's history. It was during this time that extremely important legislation was enacted, much of which has remained unchanged through the years. An insight into the spirit of these times may be gathered from a study of the laws which were enacted during these decades by the Legislature of the State. An examination of histories, diaries and documents that have come down to us serves to give us a clearer picture of the people and the leaders who inhabited the State during these very important years.

Geographically the State may be divided into the east and the west. Starting on Vermont's southwestern border, the Green Mountain Range runs through the State and tends towards the east as it stretches northward to the Canadian

border. Migration into Vermont advanced along the valleys running along both sides of the Green Mountains.[73] Because of the navigability of the Connecticut River, towns sprang up along this river in great numbers and soon outnumbered those on the western side of the mountains even though the first town organized in Vermont was Bennington which was west of the mountains.[74]

Not only were the people on the east and west divided geographically, but they were also divided in sentiment and in attitude.[75] But what is most important is that the vast majority of the leaders of the State, as, for example, Ethan Allen, Ira Allen, Thomas Chittenden and Seth Warner, came from the western part of the State.[76]

The people who settled along the Connecticut River were more conservative. Most of them had migrated from central Massachusetts and Connecticut and had retained many of their social customs. [77] Timothy Dwight, president of Yale, and "Pope of Connecticut," had a soft place in his heart for the people of this region, and he had much to do with "the cultural destinies of the upper valley," David Ludlum remarks.[78] In his **Travels,** Dwight observes that "steadiness of character, softness of manners, a disposition to read, respect for the laws of magistrates, a strong sense of the indispensable importance of energetic government are all predominant in this region."[79] The tendency of the people of this area to respect law and order is evident in the fact that

[73] Stilwell, L. D., "Migration from Vermont, 1776-1860," **Proceedings of the Vermont Historical Society,** New Series, V, No. 2, June, 1937, p. 78.
[74] Ludlum, David M., **Social Ferment in Vermont, 1791-1850,** Columbia University Press, 1939, p. 3. See also Stilwell, L. D., **op. cit.,** p. 78.
[75] Ludlum, David M., **op. cit.,** pp. 10-18. See also Stilwell, L. D., **op. cit.,** pp. 75-76.
[76] Crockett, W. H. **op. cit.,** I., pp. 259-260, **Governor and Council, op. cit.,** I, p. 41. Purcell, Richard J., **Connecticut in Transition,** American Historical Association, Washington, 1918, pp. 152-153.
[77] Stilwell, L. D., **op. cit.,** pp. 75-76.
[78] Ludlum, David M., **Ibid.,** p. 11.
[79] Dwight, Timothy, **Travels,** II, p. 334. See also Ludlum, David M., **op. cit.,** p. 11.



many of them accepted the jurisdiction of New York after 1764 and several towns reapplied to New York for a validation of their New Hampshire grants.[80]

But such conservatism was not the rule on the western side of the mountains. In fact, lack of conservatism seemed to be the rule. Speaking of this period (the 1780's and 1790's) and referring to this element, David Ludlum in his scholarly book, **Social Ferment In Vermont, 1791-1850,** writes:

> It is significant that Vermont was passing through the frontier stage of settlement at the very time that a new government and a new social order were arising in America. A remarkably vigorous and unmannered society came into being which showed little respect for traditional ties and institutions. Free for the moment of the controls of religion and the civil state, a postwar generation in Vermont indulged in a period of loose living and freethinking almost unparalleled in American history.[81]

Most of the people of Vermont had come from Connecticut,[82] and Connecticut during the last three decades of the eighteenth century was going through a period of spiritual disintegration and revolt.[83] Referring to Connecticut during this period Professor Richard J. Purcell states that "irreligion, deism, and dissent of every brand gained strength among those who revolted from Calvinistic teachings."[84] A great number of the inhabitants of Connecticut had belonged to the Calvinistic sect, and Congregationalism was the state religion until the beginning of the nineteenth century.[85] It is evident that the protestants against the established order had become imbued with their spirit in their native Connecticut and merely gave it free reign when they migrated to an unsettled land.

Evidences of how radical the early settlers of Vermont

[80] Jones, M. B., **op. cit., Appendix J.**
[81] Ludlum, David M., **op. cit.,** p. 1.
[82] See note 76, above.
[83] Purcell, Richard J., **op. cit.,** pp. 5-28.
[84] **Ibid.,** p. 2.
[85] **Ibid.,** p. 43.

were, especially those on the western side of the mountains, have come down to us. John Clark, a pious individual, migrated into Vermont in the 1780's from Connecticut in search of economic security and a Christian atmosphere for himself and his family. He finally seems to have found what he wanted in Hartford on the eastern side of the mountains only after he had spent two years of mental anguish on the western side of the mountains.[86] Here is the classic picture that he gives of Clarendon around 1785:

> I was here connected with a heterogeneous mass of people from all parts lately relieved from the incurtions (sic) of open Enemies and the more distressing apprehensions from intestine incendiaries but peace being established and animosities hopefully subsiding excited hopes of better times but I was still doubtful whether this could be a peaceful or profitable Religious retreat for me and my family some good Christians like here and there a berry in the uppermost bows but looking around must conclude vice predominant and irreligion almost epidemical Sabbath disregarded profanity debauchery drunkenness quareling (sic) by words and blows & parting with broken heads and bloody noses the Apostles caution seemed to apply if ye bite and devour one another take heed lest ye be destroyed one and another these gloomy appearances nearly discouraged me.[87]

Nathan Perkins, of missionary fame, writing of Manchester of 1789 considered it "a loose town."[88] John Pettibone, the town's historian, writing in the 1860's, mentions that after the Revolutionary War, "Manchester might be called an immoral place," and that drinking, gambling and promiscuity were common.[89] David Ludlum (**op. cit.**) quotes many

86 Ludlum, David M., **op. cit.**, p. 15.
87 Clark, John, "Account Book and Diary," quoted by Ludlum, David M., **op. cit.**, p. 20.
88. Perkins, Nathan, **A Narrative of a Tour Through the State of Vermont from April 27 to June 21, 1789,** (Woodstock, 1920), p. 14.
89 Pettibone, John, "History of Manchester," **Proceedings of the Vermont Historical Society,** December, 1930, p. 156.
90 Ludlum, David M., **op. cit.**, pp. 10-23.



sources and gives many more examples of loose living on the western side of the Green Mountains during this period.[90]

## Population Trends

The population trends of Vermont are especially interesting because Vermont has been almost constantly faced with a serious problem of emigration of some of its finest sons and daughters. Emigration started, according to Lewis D. Stilwell, even before Vermont itself was half settled.[91] This emigration progressed so rapidly that by 1860 certainly 43 per cent and perhaps more than **half** of Vermont people were living outside the state of their origin.[92] Most of the emigration was caused by the inability of the land to support its people and as a consequence they looked elsewhere to fulfill their dreams.[93] The population trends as viewed through the years portray the restlessness of the people of the State.

Dr. Williams estimated that in 1771 there were seven thousand people living in Vermont.[94] The Rev. Zodock Thompson estimated the population at 20,000 in 1776 and Rev. Dr. Samuel Williams at 30,000 in 1783.[95] The first national census which was taken in 1790, found that there were 85,425 people living in the State.[96] In the beginning,

91 Stilwell, L. D., "Migration from Vermont, 1776-1860," **Proceedings of the Vermont Historical Society,** New Series, V, No. 2, June 1937, p. 64. Note: This is a monumental work concerning the problem of emigration from Vermont. As far as Lewis Stilwell could determine, the first emigrant left the State about 1775 although during that year settlements had begun in only 80 out of the 230 towns in Vermont.
92 **Ibid.**, p. 65.
93 **Ibid.**, pp. 67-77, **passim.**
94 All population figures for the State before 1790 are estimates. **Governor and Council, op. cit.,** I, p. 403, (footnote): "The population of Cumberland and Gloucester counties, as taken by the authority of New York, was 4,669 in 1771 . . . . (Dr. Samuel Williams in **Vermont,** second edition, II, p. 478, remarks:) 'These two Counties, at that time, contained about two-thirds of the people in the whole district. The whole number of inhabitants therefore in 1771 must have been about seven thousand.' "
95 Thompson, Zadock, **History of Vermont,** (Burlington, 1853), part II, p. 30. See also **Proceedings of the Vermont Historical Society,** Oct. 15, 1878, p. 40.
96 **Statistical Abstract of the United States,** 1944-45, U. S. Bureau of Census, pp. 6-7.

Vermont did experience a great wave of immigration. One can get an idea of the magnitude of this immigration when one realizes that from 1771 to 1790 the population of the State increased more than 1120 per cent.

There are various reasons for this tremendous influx. Previous to 1760 many of the soldiers who had been engaged in the French and Indian Wars had become acquainted with and attracted to this territory.[97] Once this war was over and, especially after the Revolutionary War ended, the people to the south and east of Vermont flocked into Vermont "in search of cheap land."[98] Then again many Separatists left Connecticut to escape the hated religious tax whereby non-believers as well as believers had to contribute to the support of the Congregational or State Church.[99] Also, at this time the states of the union were all saddled with a huge debt, and taxes were high because of the cost of the Revolutionary War. Vermont had the distinction of being debt free and, as a consequence, there was very little taxation.[100] The infant government had accomplished this feat by expropriating the property of the Tories and the property of some "Yorkers" in the State.[101]

It is interesting to note that the early Vermonters were quite young. Even as late as 1800, two-thirds of the population of Vermont had not passed their twenty-sixth birthday and the proportion of young people when settlement first began must have been even younger.[102] Leaders like Ethan Allen and his brother, Ira, were only in their twenties when

97 Crockett, W. H., **op. cit.**, I, p. 204. See also Zadock Thompson, **op. cit.**, part II, p. 16.

98 Crockett, W. H., **op. cit.**, I, pp. 257-258. See also L. D. Stilwell, **op. cit.**, p. 77.

99 **Centennial Anniversary of the Independence of Vermont**, pp. 24-25.

100 Wood, Frederick A., **The Finances of Vermont**, Columbia University Press, N. Y., 1913, p. 20.

101 Allen, Ira, **History of Vermont**, pp. 95, 96, 111. See also **Vermont State Papers**, I, p. 6.

102 Stilwell, L. D., **op. cit.**, p. 66.



they were immersed in such activities as speculating in thousands of acres of Vermont land, leading militia against New York and later against the British and actually organizing the new State of Vermont.

The population of Vermont continued to increase during the first three decades of the nineteenth century although the rate of increase began to decrease. Between 1790 and 1800 the population jumped 80 per cent, and 40 per cent between 1800 and 1810.[103] During the next two decades the population increased 8 per cent and 19 per cent respectively,[104] so that by 1830 Vermont had almost 230 per cent more people than in 1790.

**Table I. Population In Vermont, 1790 to 1940**

| Year | Population | Increase Over Preceeding Census | |
|---|---|---|---|
| | | Number | Per Cent |
| 1790 | 85,425 | | |
| 1800 | 154,465 | 69,040 | 80.8 |
| 1810 | 217,895 | 63,430 | 41.1 |
| 1820 | 235,981 | 18,086 | 8.3 |
| 1830 | 280,652 | 44,671 | 18.9 |
| 1840 | 291,948 | 11,296 | 4.0 |
| 1850 | 314,120 | 22,172 | 7.6 |
| 1860 | 315,098 | 978 | 0.3 |
| 1870 | 330,551 | 15,453 | 4.9 |
| 1880 | 332,286 | 1,735 | 0.5 |
| 1890 | 332,422 | 136 | |
| 1900 | 343,641 | 11,219 | 3.4 |
| 1910 | 355,956 | 12,315 | 3.6 |
| 1920 | 352,428 | -3,528 | -1.0 |
| 1930 | 359,611 | 7,183 | 2.0 |
| 1940 | 359,231 | -380 | -0.1 |

The resources of a state, however, in proportion to their abundance or scarcity, can seriously affect the wealth or poverty of a great portion of the inhabitants. If a state has not sufficient natural resources or industrial development to

103 The exact figures are 80.8 per cent and 41.1 per cent, respectively. Sixteenth Census of the U. S., 1940. Population, Vermont, p. 9.

104 The exact figures are 8.3 per cent and 18.9 per cent, respectively. Sixteenth Census of the U. S., 1940, Vermont, p. 9.

support its citizens, it is natural that many of them will go elsewhere to earn a livelihood. Vermont's limited natural resources could not compete with the fertile lands of the West, and its slow industrialization was no match for the industrialized cities of the East. These are some of the reasons why such a large proportion of Vermont's young people have been leaving the State in such great numbers for more than a century.

From a glance at Table I, one can see that after 1830 Vermont's population was never again to increase by such large proportions. Indeed, with the exception of 1850, Vermont was never to increase more than five per cent in any decade. In 1860 Vermont's population increased only three-tenths of one per cent over the previous decade, but since 1860 there has been almost a levelling off of the State's population. It is true that the percentage of increase of the population of the United States has been gradually decreasing since 1860, but the national decrease has not been as sharp as it has been in Vermont. In 1880 it increased five-tenths of one per cent; in 1890 it remained practically at a standstill; in 1920 it decreased by one per cent, and in 1940 it had decreased one-tenth of one per cent over the previous census.

The population of Vermont fluctuated in certain areas through the years. Judging from the influx of population and from the increase in land values, Vermont seems to have experienced boom times during the quarter century between the close of the American Revolution and the passage of the Embargo Act (1783 to 1808).[105] But the Yankee spirit was a restless spirit. During the first decades of the nineteenth century some of the towns in the southeastern corner of the State began to lose heavily in population and the towns in the northern part of the State gained.[106] Once these northern towns were settled, the Vermont Yankee looked for new fields to conquer. Thousands of Vermont's young people

[105] Stilwell, L. D., **op. cit.**, p. 95.
[106] Wilson, Harold Fisher, **The Hill Country of Northern New England**, Columbia University Press, N. Y., 1936, pp. 23-24.



wandered to New York State and from there went further south and west,[107] until by 1860 perhaps half of Vermont's children were living outside the State.

The early Vermonters were quite prolific and much of the early increase in the State's population was due to the high fertility rate.

> Reproduction was also going on at an astounding rate. Most of the settlers, as has been pointed out, were young people. They married young. Many of them seem to have produced children as fast as was naturally possible. Extreme instances are almost typical. John Taplin of Berlin and Samuel Wood of Halifax had twenty-one children each. Abiah Edgerton of Pawlet died at the age of 85 leaving 209 descendants. Eight families in Clarendon Springs, Vermont, produced a total of 113 children, 99 of whom were attending school at the same time—and there was only one pair of twins in the lot. Fifty-one per cent of Vermont's population in 1800, and also in 1810, was composed of children under sixteen years of age.[108]

By 1870 Vermont was beginning to feel seriously the loss of its young people. According to the census of that year, the loss amounted to some 200,000.[109] The first report of the Board of Agriculture complained in 1872, "No country can stand the continuous drain of young men and capital that has been going on in Vermont for the past few years.....Who can value the educated minds, the productive power and enterprise that are lost by the removal of our young men?"[110] Since 1850, emigration from Vermont has averaged about forty per cent. M. O. Howe mentions that in 1880 fifty-four per cent of the native-born Vermonters were residing in other states and territories of the Union.[111]

[107] Stilwell, L. D., **op. cit.**, pp. 120-122. See also H. F. Wilson, **op. cit.**, p. 26.
[108] Stilwell, L. D., **op. cit.**, p. 96.
[109] Wilson, H. F., **op. cit.**, p. 65.
[110] Jamison, Z. E., "Vermont As a Home," **First Annual Report of the Vermont State Board of Agriculture, Manufactures and Mining for the Year 1872**; Montpelier, Vt., 1873, p. 556.
[111] Howe, M. O., "The Farms of Vermont," pp. 184-185.

The emigration of young people from the State and a decline in birthrate has noticeably increased the proportion of older people in the region. A comparison of the composition of the population of Vermont in 1850, 1920 and 1940 will illustrate the extent of this tendency. By separating the entire population of the State, as given in the census reports for these four years, into four age groups, it was found that the number of persons in each formed the following percentages of the total:[112]

**Table II. Percentage Of Population In Various Age Groups**

| Classification of Ages | Percentage in 1850 | Percentage in 1900 | Percentage in 1920 | Percentage in 1940 |
|---|---|---|---|---|
| Under 1 year | 2.1 | 2.0 | 1.9 | 1.6 |
| 1 yr. & under 5 yrs. | 9.9 | 7.6 | 7.9 | 6.7 |
| 5 and under 50 yrs. | 73.9 | 69.0 | 67.6 | 67.4 |
| 50 yrs. and over | 14.1 | 21.4 | 22.4 | 24.4 |

From Table II, one can see that young children make up a smaller portion of the State's population now than in 1850. The most significant change, however, is the marked increase in the proportion of elderly persons. This advanced from a little more than one-seventh of the total population in 1850 to almost one quarter in 1940. Thus at the end of the period 24.4 per cent of the inhabitants of Vermont were fifty years of age and over.[113]

### City Versus Farm

In the beginning practically all of the people of the State lived on farms and each family was very nearly self-sufficient, but soon, local industries and trades connected with farming, such as blacksmith shops, gristmills, sawmills, tanneries, etc., sprang up.[114] In 1850, the Federal Census began

[112] Rossiter, William S., "Vermont: An Historical and Statistical Study of the State," **Publications of the American Statistical Association**, New Series, XII, No. 93 (March, 1911) p. 425. See also **Rural Vermont**, by Two Hundred Vermonters, Vermont Commission on Country Life, Burlington, 1931, p. 13; also Sixteenth Census of the U. S., 1940, Population, Vermont, p. 17.

[113] Sixteenth Census of the U. S., 1940, Population, Vermont, p. 16.

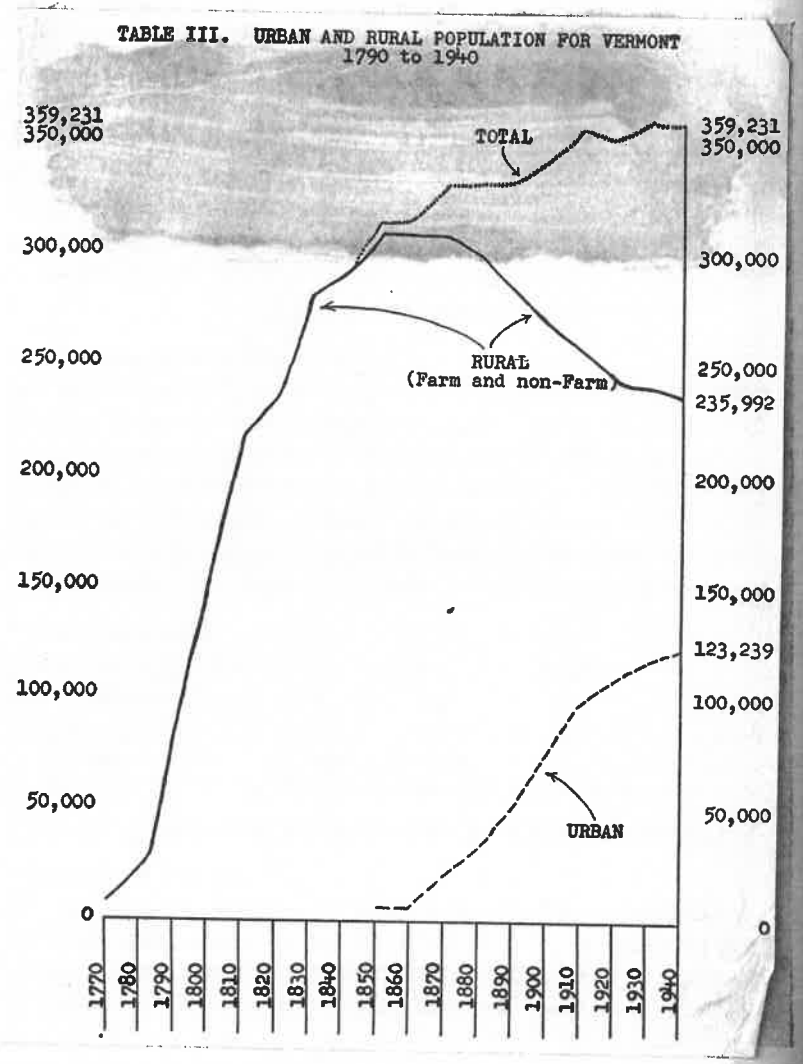
[114] **Rural Vermont, op. cit.**, p. 12.



distinguishing between urban and rural communities. Roughly speaking it considered any community of 2,500 and under as rural and any more populous community as urban. From 1920 on, the Federal Census made the further distinction of rural-farm and rural-non-farm, depending on whether or not a person lived or worked on a farm.

The Federal Census of 1850 showed that there were only 6,110 people in Vermont who could be considered as living in urban areas. In 1860 there were only 6,213 people living in urban areas, and the rural population of the State had reached its peak. After the Civil War the rural population of the State began to decline sharply and the census of 1870 showed that the urban population of the State had increased 269.5 per cent over the previous census. Table III shows the rapid decrease in the rural population since 1860 and the sharp increase in the urban population during the last 30 years. During this time the rural population has decreased from 98 per cent to 65.7 per cent and the urban population has increased from 2 per cent to 34.3 per cent of the total population.

TABLE III. URBAN AND RURAL POPULATION FOR VERMONT
1790 to 1940






The above figures do not, however, tell the whole story of the evolution that has been taking place in the State. Vermont is often referred to as a farming state, but this designation is not quite correct. Although the State is still predominantly rural, its farming population today is its smallest group proportionally.[115] The rural-farm population of the State was 35.3 per cent of the population in 1920 and it has decreased, in 1930 and 1940, to 31.1 and 29.4 per cent respectively. The **non-farm** (rural and urban) population of the State has so increased that in 1920, 1930 and 1940 it comprised 64.7 per cent, 68.9 per cent and 70.6 per cent of the total population.[116] When seven-tenths of a state's population is not working or living on a farm, it cannot be called a farming state.

## Vital Statistics

The birthrate in Vermont has gradually decreased as has also the birthrate of the United States. From 1915 to 1930, Vermont had almost consistently a lower birthrate than the country as a whole. From 1930 to 1940, however, Vermont's birthrate has been consistently higher than the rest of the country.[117]

Vermont has made great progress in the decrease of infant mortality. From 1916 to 1940 Vermont has decreased its infant mortality rate from 93.1 per 1,000 live births of infants under one year old to 45 per cent, a cut of more than 50 per cent. However, the national average is slightly better. Table IV compares Vermont with the United States in this regard.

115 Sixteenth Census of the U. S., 1940, Population, Vermont, p. 9.
116 Ibid.
117 Vital Statistics Rates in the U. S., 1900-1940, U. S. Bureau of Census, p. 687.

Table IV — Mortality rates of white infants under one year old per 1,000 live births for Vt. and U. S., 1916-1940 [118]

| Year | Vt. | U. S. | Year | Vt. | U. S. | Year | Vt. | U. S. |
|---|---|---|---|---|---|---|---|---|
| 1916 | 93.1 | 99.0 | 1924 | 70.2 | 66.8 | 1933 | 53.0 | 52.8 |
| 1917 | 85.0 | 90.5 | 1925 | 72.4 | 68.3 | 1934 | 52.6 | 54.5 |
| 1918 | 93.0 | 97.4 | 1926 | 72.0 | 70.0 | 1935 | 48.6 | 51.9 |
| 1919 | 85.5 | 83.0 | 1927 | 69.8 | 60.6 | 1936 | 58.0 | 52.9 |
| 1920 | 96.2 | 82.1 | 1928 | 65.2 | 64.0 | 1937 | 49.5 | 50.3 |
| 1921 | 77.8 | 72.5 | 1929 | 65.8 | 63.2 | 1938 | 48.4 | 47.1 |
| 1922 | 73.1 | 73.2 | 1930 | 64.8 | 60.1 | 1939 | 45.6 | 44.3 |
| 1923 | 76.0 | 73.5 | 1931 | 59.9 | 57.4 | 1940 | 45.0 | 43.2 |
| | | | 1932 | 63.2 | 53.3 | | | |

[118] **Ibid.**, pp. 572, 573, 578.

# CHAPTER II

## INFLUENCES UPON VERMONT LEGISLATION

The social philosophy that guided the colonial legislators of Vermont has influenced much of the legislation which has been passed concerning public welfare throughout the hundred and seventy years since the first Legislature of the State. Before entering into a detailed study of Vermont's poor law and welfare legislation, it is worth while to recall the foundation of this social philosophy.

### The Connecticut Influence

To begin with, most of the early settlers of Vermont and most of her early leaders came from Connecticut.[1] So close was the tie of Vermont's original inhabitants with Connecticut that the first name for the new State agreed upon by the delegates of the Convention at Westminster in January, 1777, was "New Connecticut."[2] Therefore, "from Connecticut, more than from any other source, were obtained laws, customs, and the idea of the town unit of civil organization . . . ."[3] During the first Legislature, Thomas Chittenden, the State's first governor, who had served as a representative in the Connecticut Legislature, had in his possession perhaps the only book used in that First Legislature of Vermont; that book was the statute-book of Connecticut.[4] Because of this the first Legislature made the decision "to adopt the laws of God and Connecticut until we have time to frame better."[5] It is true that, because of the friendship

[1] Crockett, W. H., **op. cit.**, I, pp. 259-260. Governor and Council **op. cit.**, I, p. 41. Purcell, Richard J., **op. cit.**, pp. 152-153: "Vermont was indebted to Litchfield County, (Connecticut) alone for her first governor, Thomas Chittenden, Ira and Ethan Allen, Governor Richard Skinner, Senator Samuel Phelps, Senator Horatio Seymour and many others less widely known."
[2] **Governor and Council, op. cit.**, I, p. 41.
[3] Crockett, W. H., **op. cit.**, I, p. 260. **Vermont State Papers**, I, p. 16, note. Slade, **Vermont State Papers**, p. 287.
[4] Walton, E. P., "The First Legislature of Vermont," in the **Proceedings of the Vermont Historical Society**, New Series, Oct. 15, 1878, p. 41.
[5] McCall, S. W., **Thaddeus Stevens**, Houghton Mifflin & Co., Boston and New York, 1899, p. 6, note.

of Ethan Allen and Dr. Thomas Young of Philadelphia, the first constitution of Vermont was almost an exact replica of the constitution of Pennsylvania,[6] yet the original laws and the spirit behind those laws, especially those that concerned the poor, were a carry-over of the Poor Laws of Connecticut.

Now the laws of Colonial Connecticut were not original any more than were those of the other colonies. The laws governing the treatment of the poor in seventeenth century Connecticut were almost an exact copy of the British Elizabethan Poor Law of 1601.[7] So closely did Connecticut adhere to these archaic laws through the years that a **Connecticut Commission To Study the Pauper Laws** in 1937 was able to make this statement:

> Since the beginning of statehood, Connecticut has not changed significantly its system of poor relief, as such . . . .[8]

In all fairness to Connecticut, it must be stated that this same death-hold of the Elizabethan Poor Law has been evident in the histories of all the original colonies, and even in many of the new territories of the West.[9]

### The English Influence

Vermont was no exception, and through Connecticut she inherited the Elizabethan Poor Law of 1601 even though she was founded 175 years after this law was first promulgated. Furthermore, more than 95 per cent of the early settlers of Vermont were of English ancestry and steeped in the traditions of their forefathers.[10] The lawmakers realized their ties with the English way of life. At first,

6 Walton, E. P., **op. cit.** (above note 4.), p. 28.
7 **Report of the Commission to Study the Pauper Laws**, State of Connecticut; Hartford, Conn., 1937, p. 39.
8 **Ibid.**, p. 40.
9 Creech, Margaret, **Three Centuries of Poor Law Administration**, Chicago University Press, 1936, p. XIII. Kennedy, Aileen E., and Breckenridge, Sophonisba P., **The Ohio Poor Law and Its Administration**, Chicago University Press, 1934, pp. 3, 14, 105.
10 Rossiter, W. S., as quoted in Crockett, W. H., **op cit.**, I, p. 259.



without specifying, yet in imitation of the English legal system, they made the common law the law of the State in March, 1778.[11] In the following year, however, the Legislature became more definite and passed the following act:

> **Be it further enacted, etc.**, That Common Law, as it is generally practised and understood in the New-England States, be, and is hereby established as the Common Law of this State.[12]

In June 1782, the law makers finally admitted and clarified their connection with the common law and statute law of England, when they passed the following act:

> An Act adopting the Common Law and Statute Law of England.
>
> Whereas it is impossible, at once, to provide particular Statutes adopted to all Cases wherein Law may be necessary for the happy Government of this people. And Whereas the Inhabitants of this State have been habituated to conform their Manners to the English Laws, and hold their Real Estates by English Tenures. **Be it enacted, etc.**, That so much of the Common Law of England, as is not repugnant to the Constitution or any Act of the Legislature of this State, be, and is hereby adopted, and shall be, and continue to be the law within this State. And Whereas the Statute Law of England is so connected and interwoven with the Common Law, that our jurisprudence would be incompleat without it;
>
> **Therefore, Be it further Enacted, etc.**, That such Statute Laws and parts of laws of the Kingdom of England as were passed before the first day of October, Anno Domini one thousand seven hundred and sixty, for the alteration and explanation of the Common Law, and which are not repugnant to the constitution, or some Acts of the Legislature, and are applicable to the circumstances of the State, are hereby adopted and made and shall be and continue to be Law within this State;

11 **Vermont State Papers**, I, p. 13. See also **Governor and Council**, **op. cit.**, I, p. 289; and Slade's **Vermont State Papers**, p. 450.
12 **Acts of the Vermont Legislature**, 1779, (November 4), p. 2.

> And all courts are to take notice thereof and govern themselves accordingly.[13]

By an act of November 5, 1796, and in the Revised Laws of 1839, the Common Law of England was again considered the law of the State.[14] There can be no doubt, therefore, to which country the lawmakers of Vermont admitted a legal affinity.

### Adherence to English Law Manifested in Practice

The documentary evidence quoted above shows the legal and social heritage of Vermont. Legislation for the care of the poor and the regulatory customs in this regard also reflect the influence of the English Poor Law.

In 1597, England had enacted a Poor Law which was a compilation of all the former poor-relief experience gathered together and moulded into one system.[15] This poor law with some slight modifications became the famous 43rd of Elizabeth and was passed in 1601, as was mentioned earlier in this chapter.

According to this Act each territorial unit (called a parish) was responsible for the poor of its area; supervision of all poor-relief was in the hands of the Justices of the Peace and the Overseers of the Poor, who provided aid for those unable to work and work for the able-bodied; there was a poor tax for the relief of the needy; children of the poor were to be bound out until twenty-four years of age, if males, or until twenty-one years, or marriage, if females; parents able to take care of their children were made legally responsible for them; and almshouses were to be erected if

13 Acts of the Vermont Legislature, 1782, (June), p. 4.
14 Acts of the Vermont Legislature, 1796, (November 5), p. 5. Revised Laws of 1839, Title XI, Chap. 27, Sect. 1.
15 In 39 Elizabeth, Chap. 3, 1397; An Acte for the Reliefe of the Poore: (This act is printed in Statutes of the Realm, IV, Part II, pp. 896 ff. See also Sir Frederic Morton Eden: The State of the Poor, a history of the laboring classes in England, with parochial reports, edited and abridged by A. G. L. Rogers, George Routledge and Sons, Ltd., London, 1928, p. 19; also E. M. Leonard: The Early History of English Poor-relief, C. J. Clay and Sons, London, 1900, p. 133.



necessary.[16] It was not until 1662, however, that a settlement law was passed.[17] Such a law became necessary to prevent the wholesale migration of the poor from one locality to another.[18]

Briefly, such were the provisions of the English Poor Law, and Vermont legislation followed this pattern, with some changes, into the 20th century. Much of the imitation will become apparent in subsequent chapters, but some brief references may be made in passing. In an Act of 1779 (p. 98) the Legislature stipulated that each town was to take care of, support, and maintain its own poor out of the town's treasury; and if selectmen or overseers neglected to give an account of the money spent on the poor, they were to be put in jail until account was given. The following occurred in 1783 and shows how insistent was the Legislature that the local government and not the State should give poor relief:

> The committee to whom was Refered the petitions of Abel Davis and Jonathan Elkeens (Elkins) Junr brought in their Report in the words following viz— "That in the opinion of your Committee that as there is no general rule to help the suffering inhabitants of this State therefore said petitions ought to be dismissed—Ebenr Drury for the Comtee"[19]

The poor were often placed in the same category as disabled persons. In 1779 there was passed "An Act for relieving and ordering Idiots, impotent, distracted and idle Persons."[20] This act provided that idiots, the aged, the sick, and the poor and any others who were unable to support themselves should be supported and maintained by rela-

16 Webb, Sidney and Beatrice, English Local Government: Part I, "The Old Poor Law," Longmans, Green & Co., London, 1927, pp. 64 ff. Tawney, R. H., The Agrarian Problem in the Sixteenth Century, Longmans, Green & Co., London, 1912, p. 280..
17 1662, Acts of 13 and 14, Charles II, Chap. 12.
18 Webb, S. and B., op. cit., pp. 323-324.
19 Vermont State Papers, II, (Feb. 20, 1783), p. 163.
20 Acts of the Vermont Legislature, 1779, pp. 15-17. (Henceforth the Acts of the Vermont Legislature shall be referred to simply as "Acts".)

tives; it imposed sanctions on the relatives who refused; it gave selectmen permission to put the poor, etc., to work; the overseer could be placed in complete charge over all the affairs of the poor and his family, etc., etc. Another act of 1787[21] stipulated that if the children of such poor had no work or had no one to take care of them, they were to be bound out as apprentices or servants by the above-mentioned authorities until they reached the age of 21 years, if male, and 18 years, if female. There was no mention of a poorhouse, however, until 1797 when, by an act of the Legislature, towns were given permission to erect poorhouses.[22]

Only a few instances have been given to show how the spirit of the English Poor Law of 1597 and 1601 was continued in the poor law legislation of Vermont. The subsequent chapters will show that that spirit still continues in the poor relief of this State.

21 Ibid., 1787, p. 115.
22 Acts of 1797, (March 3), Chap. 18, Sec. 12.

# CHAPTER III

## POVERTY AND THE PROBLEM OF INDEBTEDNESS

It seems fitting to include in a study of public welfare a chapter on the laws pertaining to debtors, because many of the poor in Vermont, especially before 1838, were punished as debtors and committed to jail instead of being given poor relief. If these same laws were still in operation many of the poor relief clients today would be punished instead of assisted.

### Poverty of the Early Inhabitants

The pioneers of Vermont, like other pioneers, came to the territory with high hopes and strong backs. Where the wilderness was conquered, it was conquered only by extreme hardship and deprivation. The planting season was short; the winters were long and the woods full of wild bears and at times hostile Indians. Starvation was not far removed in the very early pioneer days, and in more than one family children had to go to bed at night crying for lack of food.[1] At times even nature seemed to be against the inhabitants. In 1770 a plague in the form of a huge army of worms marched down the Connecticut valley and devoured the crops and even the leaves on the trees.[2] There occurred the great snow fall of 1780-1781 which cut the short growing season much shorter and caused great suffering.[3] In the year 1816 on the eighth and ninth of June there was a heavy snow fall followed by a "freeze." Snow could be seen on the hills every month of the year. Crops were destroyed and families were for weeks without bread.[4] The soil, too, was not as fertile as was thought and since the settlers made no attempt to revitalize the soil, it soon "wore out." But what the settlers

1 Crockett, W. H., op. cit., I, pp. 223, 261, 264.
2 Thompson, Zachary, op. cit., part III, p. 145; Benton, E. C., History of Guildhall, Vermont, Everett C. Benton, Waverly, Mass., 1886, p. 114.
3 Hemenway, A., op. cit., III, p. 888; IV, p. 89.
4 Three Score and Ten Club, Biographies of Early Settlers of Stowe, Vermont, account of William Cheney. See also Wilson, H. F., op. cit., p. 122.

feared most during a good part of the nineteenth century, and with good reason, were the epidemics and diseases which ravaged various communities from time to time. Influenza, smallpox, dysentery, typhus, measles, pneumonia, scarlet fever and hydrophobia kept breaking out, causing death or permanent disability to many.[5]

Financially the inhabitants of Vermont got off to a very bad start. In most instances the lands were purchased on credit and the new life was begun under a burden of debt.[6] Most of the people in the new towns were necessarily dependent upon the products of the soil to pay their debts. The markets were distant and the primitive methods of transportation made the cost of the products too high to compete with other producers. Even after the railroads finally came, Vermont could not compete with the cheaper production costs of the West. There was a great scarcity of money, and the capital of even the richest men was mainly tied up in land. Hence there was little money to be loaned no matter how high the interest or how good the security. Specie was rarely seen and the value of paper currency was uncertain.[7] Creditors, therefore, had to look mainly to the land and its products for repayment.[8] The result, of course, was almost a universal barter system. Although wheat was the medium of exchange most commonly used to meet notes, contracts, salaries and even taxes, many other items such as butter, corn, peas, beans, whiskey, potash, cattle, etc., were also used in such transactions.[9]

[5] See the long list of epidemics in Z. Thompson, **op. cit.**, part II, pp. 220-222. Also A. Hemenway, **op. cit.**, I, p. 735; II, pp. 612, 863; III, pp. 415, 694; IV, p. 577. Gallup, J. A., **Epidemic Diseases in Vermont**, T. B. Wait & Sons, Boston, 1815, pp. 36-50.

[6] **Governor and Council, op. cit.**, III, p. 358.

[7] The Vermont paper money reached a gold ratio of 72 to 1 in 1780. See L. Wilbur, **Early History of Vermont**, p. 167.

[8] **Governor and Council, op. cit.**, III, pp. 357, 358, 391.

[9] **Three Score and Ten Club, op. cit.**; Edward Moody: "I remember I worked (for) Joel Harris for a peck of corn a day." Mrs. Christina (Kenney) Moody: "Mother found a woman that would let her take carding and spinning and pay her in meal." See also accounts of Joseph H. Bennet and William Cheney. See also A. Hemenway, **op. cit.**, I, p. 395; III, pp. 142, 163; IV, p. 5, 78; L. Wilbur, **op. cit.**, I, p. 168; E. Miller and F. P. Wells, **op. cit.**, p. 97.



And poverty did abound. On September 4, 1786 Governor Chittenden in an address described the great poverty of the inhabitants of the State.[10] In 1789 Jonathan Perkins, a Protestant minister from Hartford, Connecticut, made a journey through Vermont as far as Burlington and back again. Throughout his report of this trip he emphasized the utter poverty of the people. Commenting on the famine of 1789, he remarked:

> It is supposed by the most judicious & knowing that more than ¼ part of ye people will have neither bread nor meat for 8 weeks—and that some will starve..... Several women I saw had lived four or five days without any food, and had eight or ten children starving around them—crying for bread & ye poor women had wept till they looked like ghosts. Many families have lived for weeks on what the people call Leeks—a sort of wild onion."[11]

Debts and mortgages were as common as the dire poverty of the inhabitants. In fact the State was divided between the farmers and laborers on the one hand and traders, lawyers and sheriffs on the other; debtors on one side and creditors on the other.[12] The first Constitution of 1777 specified how debtors were to be treated by the law, but strangely enough the part of the Constitution which mentioned debts was a section of a very liberal clause which outlawed slavery in Vermont. This clause, which placed Vermont far ahead of other states in respect to slavery[13], brought great hardship to a large segment of the State's population for more than sixty years. The anti-slavery clause is as follows:

> Therefore, no male Person, born in this Country, or brought from over Sea, ought to be holden by Law to serve any Person as a Servant, Slave or Apprentice, after he arrives to the Age of twenty-one Years, nor female in like Manner, after she arrives to the Age of

[10] **Governor and Council, op. cit.**, III, p. 357.

[11] Perkins, Nathan, **op. cit.**, p. 22.

[12] Reed, Hon. David, "Thomas Chittenden, His Life and Times," A. Hemenway, **op. cit.**, I, p. 926.

[13] Holcombe, Arthur M., **State Government in the United States**, Macmillan Co., N. Y., 1929, pp. 28, 83.

eighteen Years, unless they are bound by their own Consent after they arrive to such Age, or bound by Law for the Payment of Debts, Damages, Fines, Costs or the like.[14]

These words are still contained in the first article of the present Constitution but, as will be shown, laws have been passed which take some of the sting out of its enforcement. There were two other references to debtors and creditors in the first Constitution of 1777, as follows:

> (Chapter I, Section XII) No writ against the Person or Property of a Debtor shall be issued unless the Creditor shall make oath that he is in danger of losing his Debt.
>
> and
>
> (Chapter II, Section XXV) The Person of a Debtor, where there is not a strong Presumption of Fraud, shall not be continued in Prison, after delivering up, **bona fide**, all his Estate, real and personal, for the Use of his Creditor, in such Manner as shall be hereafter regulated by Law.

## Imprisonment For Debt

The effectiveness of the first section quoted is questionable since almost every foreclosing creditor is sure that he is in danger of losing his debt. In the second quotation the **bona fide** clause left much room for argument. Furthermore the beneficent effect of this clause was completely nullified by an Act of 1779 which specified that the estate of any person who refuses to pay a debt shall be sold 20 days after the notice by the sheriff. As much of the estate is to be sold as will pay the debt. **If the person have no estate or not enough, he is to be put in jail until the debt is paid.**[15] The same treatment is given for the non-payment of taxes.[16]

The uncertainty of the currency, the bulkiness and inadequacies of the barter system made payment of debts difficult and often impossible. The long-term promises and credits became hopelessly involved. As a consequence, forced collections would deprive debtors of homes and means

[14] **Constitution of 1777, Chap. 1.**
[15] **Acts of 1779, pp. 80-81; see also Acts of 1787, p. 61.**
[16] **Acts of 1782, p. 13.**



of support.[17] When the debtor and his family had been despoiled of all earthly possessions, if these were not sufficient to pay the debt, the person or the head of the family would be locked in jail until the debt was paid. Creditors were continually hounding the debtors, getting them put in jail and using up most of the debt to pay lawyers' fees.[18] In 1786 a group of debtors tried to stop the courts at Rutland and at Windsor and it was only by the prompt action of the government that a large scale rebellion was stamped out.[19] The pressure was relieved a few years later when the United States currency gradually began to appear. But the practices followed by the law-enforcing agencies in dealing with debtors hung on for many generations. Commenting on the times the Honorable David Read remarked:

> .....Credit was extended, suits brought and costs multiplied; property could not be sold even on execution, as no one had money to buy; that relic of barbarism, imprisonment for debt,.....was the end of almost every execution; and the prisons were filled with debtors, mere debtors, men and women, grey headed, young, and middle aged, honest and hard working, expiating the crime of poverty in close confinement as felons now (1863) expiate their crimes in the state prison.[20]

An example of the extreme hardship of the practice of jailing debtors is the case of General William Barton. General Barton when he was a lieutenant-colonel in the Colonial Army captured the British General Prescott in July, 1777, near Newport, R. I. Later, while in Vermont, he had become involved in debt, and, being unable to pay, he was kept in jail at Danville, Vermont, for **thirteen years.** When General Lafayette was visiting Vermont in 1825 he heard about the fate of his friend and paid the debt and thus enabled

[17] **Governor and Council, op. cit., III, p. 358.**
[18] **See L. C. Aldrich and F. R. Holmes: History of Windsor County, Vermont, pp. 185-186; M. E. Goddard and H. V. Partridge: History of Norwich, p. 258.**
[19] **Hall, B. H., op. cit., pp. 551-552; also Governor and Council, III, p. 336.**
[20] **Read, Hon. David, op. cit., in A. Hemenway, I, p. 926.**

General Barton to return to his family in Rhode Island.[21] The amount of debt made little difference and investigation revealed that the great number who were being punished for the "crime" of being poor were confined with real criminals. The county and local jails were for the most part unsanitary hovels. "In Middlebury for the six months ending June 1, 1831, no less than ninety-six men and women were incarcerated, twenty-five for sums of less than five dollars. It was estimated that over four thousand Vermont citizens annually suffered commitment to jails for debts."[22]

By an act of 1779 the Legislature stipulated that there should be set up a jail in each county seat at the expense of the county.[23] But the citizens were loathe to support the inmates of these jails, so the same act held that prisoners were to furnish their own maintenance or be put in service and that it was permissible for prisoners to provide or receive supplies for their maintenance.[24] Through experience the obvious fact was learned that persons placed in jail for reasons of poverty might not have the wherewithal to support themselves. So eight years later the act was amended to provide that a person committed to jail for civil matter or action and who had not sufficient goods for his maintenance in jail, must take an oath that all his possessions did not exceed the value of five pounds and that he was not lying. In such a case the creditor was to provide the expense of maintaining the prisoner. If the creditor did this the prisoner must remain in jail until he was able to repay all this expense to the creditor. If the creditor did not pay for his maintenance the prisoner was released **but his property was always liable for the original debt.**[25] However if the prisoner was put to work in jail or at a job in some way controlled by the jailer, the prisoner would be able to support himself,

[21] Conant, Edward, **op. cit.**, p. 249.
[22] Ludlum, David M., **op. cit.**, p. 212, referring to **Prison Discipline Society, Sixth Annual Report . . . .** 1831, p. 441.
[23] **Acts of 1779**, p. 32, Sec. 1.
[24] **Ibid.**, Sec. 2, and Sec. 3.
[25] **Acts of 1787**, p. 77, Sec. 6 and Sec. 7.



yet it could happen that he would never be able to earn enough to pay for the original debt. Thus he could be kept a prisoner indefinitely. Then, again, if he were released from jail because of the lack of opportunity to pay for or earn his keep or if the creditor refused to pay for his maintenance, freedom held little hope because the creditor was allowed to snatch from him everything he earned.

However, the Legislature made individual exceptions to this law. The first exception of this kind that is noted is made in the following act that was passed October 21, 1794:

> An act to free the body of Isaiah Parmeter, from arrest in civil process.
>
> Whereas Isaiah Parmeter of Stockbridge, in the county of Windsor, has referred his petition to this legislature, praying that by reason of certain losses, while he was executing the office of a sheriff, and through certain family misfortunes, he is unable to pay the demands which are against him, and that if he is imprisoned his family must suffer.
>
> It is hereby enacted, etc., That the body of Isaiah Parmeter be, and it is hereby freed from arrests, in all civil prosecutions, in which the cause of action accrued previous to the first day of October, anno domini, one thousand seven hundred and ninety four; for and during the term of five years, from and after the first day of October one thousand seven hundred & ninety four; any law to the contrary notwithstanding.[26]

Apparently Isaiah Parmeter was still in financial straits when the five years grace were over, for an act of November 1, 1799 extends the period for ten more years.[27]

The first instance in which one who was actually in jail for debt was released by the Legislature is recorded in "An Act to release from confinement the body of Samuel Beach, for the space of one year, and to secure his body from arrests, on civil process during that term." This act was

[26] **Acts of 1794**, (Oct. 21), p. 15.
[27] **Acts of 1799**, (Nov. 7), p. 102.

passed on October 28, 1794.[28] It impowers the Sheriff Bell to release Samuel Beach from jail for one year, **taking sufficient security.** If the debt is not satisfied in one year, he is to be returned to jail. Here again the time was not sufficient to clear the debt, for by an act of October 15, 1795 the time was extended to November 1, 1796.[29] But the voices of the jailed debtors were feeble and very few were sufficiently powerful to reach the ears of the Legislature. In 1794 there were three such releases granted by the Legislature.[30] In 1795 two more were granted.[31] In 1796 General Roger Enos was released from the jail in Woodstock for one year. He had been jailed because of inability to pay his taxes. In all, six debtors had been granted temporary relief by the Legislature that year.[32]

Gradually the members of the Legislature began to realize that a person in jail could not pay his debt as easily as if he were out of jail. Petitions for extension of time to become solvent became more and more frequent. Furthermore, it was found necessary to enact laws regarding food, treatment and amount to be charged prisoners for their maintenance. On March 9, 1797, therefore, there was passed "An Act relating to goals and goalers, and for the relief of persons imprisoned therein."[33] This act showed solicitude for the prisoner since, in addition to prison regulations already enacted by the Legislature,[34] it allowed a certain category of debtors to take the pauper's oath and granted them

[28] **Acts of 1794,** (Oct. 28), p. 49.

[29] **Acts of 1795,** (Oct. 15), p. 137.

[30] Besides the two already mentioned, a certain Edmund Willis of Woodstock was released. **Acts of 1794,** (Oct. 29), p. 81.

[31] **Acts of 1795,** (Oct. 22 and Oct. 27), pp. 85 and 88.

[32] **Acts of 1796,** (Nov. 4), p. 112. Also Oct. 20, 24, 29, Nov. 5 and 8.

[33] **Acts of 1797** (March 9).

[34] Acts relating to "Goals and Goalers" had been passed in 1779, 1782, 1787, 1791 and 1793.



"liberty of the jail yard"[35] if they could get someone to post a bond for them. However it stipulated that a debtor was forever liable for a debt even after his release. The act also contained a clause stating that prisoners committed for debts to the State were not allowed to take the pauper's oath or to be released.

### The Pauper's Oath

One of the sections of "An Act Relating to Goals and Goalers" of March 9, 1797 contained an important enactment in regard to debtors. It is true that the act was not specific enough and there were many loopholes which allowed sheriffs and creditors to keep debtors in jail. However it was a definite step forward although proper enforcement of the pauper's oath and release of the debtor from jail was not to come until 1838,[36] and for this reason is important. Section XII of the act of 1797 provided that persons imprisoned by virtue of execution of debt, contract, promise or cost, **"not having estate to the value of twenty dollars, necessary apparell and bedding for self and family excepted,"** could apply to a judge justice of the peace to take the poor man's oath and be liberated. His creditors were to be notified so that if they wished they could appear and show cause why the prisoner should not be allowed to take the oath and be liberated. The oath was in the following form:

> You ..... solemnly, sincerely and truly swear (or affirm) by the name of the ever living God, without evasion, equivocation, or mental reservation, that you have not any estate, real or personal, except necessary apparel and bedding for yourself and family, in possession, remainder, or reversion, to the value of twenty dollars in the whole, nor sufficient to pay the debt, dam-

[35] The "limits of the jail yard" specify certain territorial limits in which certain prisoners could operate upon posting a bond. These territorial limits, "the jail yard," were gradually increased from four square miles, to the county (**Act of 1851,** No. 13), to the whole State (**Public Laws of 1933,** Sec. 8821). Debtors, upon posting bond, which was difficult to obtain, were allowed the liberty of the jail yard by an act of 1782.

[36] "An Act to Abolish Imprisonment for Debt," **Acts of 1838,** Chap. 12, (Nov. 3).

ages, or cost for which you are committed, nor have you since your commitment disposed of the same, except for that you have not directly nor indirectly, disposed of all or any part of your estate to defraud or deceive any of your just creditors. So help you God. Or (in case of an affirmation) under pains and penalties of perjury.[37]

Before the passage of this act the debtor and his family could be despoiled of everything. By virtue of this act the creditors were allowed to take all or any part of a person's property and goods necessary to pay for the debt except twenty dollars worth of anything and the wearing apparel and bedding of the man and his family. It is true that did not leave the family with very much, and one wonders what good bedding is without a house around you on a winter's night in Vermont, but it was something definite that no one could take away from a pauper and his family.

The pauper's oath is still required in Vermont, but its extension and application is much broader. The list of exceptions, that is, the articles that cannot be attached and taken away from a family by any creditor, has grown. Since the first addition in 1811 the various Legislatures have kept adding unattachable articles so that now the list of possessions which a pauper family may keep, if indeed they have these possessions, is quite detailed. The list is as follows:

Such suitable apparel, bedding, tools, arms, and articles of household furniture, as may be necessary for sustaining life; one sewing machine kept for use; one cow not exceeding in value one hundred dollars; the best swine or the meat of one swine; sheep not exceeding in number ten, nor in value one hundred dollars, and one year's product of such sheep in wool, yarn or cloth; forage sufficient for keeping not exceeding ten sheep, one cow and two oxen or horses, as the debtor may select through one winter; ten cords of fire wood or five tons of coal; twenty bushels of potatoes; the pistol, side arms and equipment of a soldier in the service of the United States, and kept by him or his heirs as mementoes of

[37] "An Act relating to Goals and Goalers and for the Relief of Persons Imprisoned Therein," (March 9). **Acts of 1797**, Sec. XII.



his service; growing crops; ten bushels of grain; one barrel of flour; three swarms of bees and their hives with their produce in honey; two hundred pounds of sugar; lettered gravestones; the Bibles and other books used in a family; one pew or slip in a meeting-house or place of religious worship; live poultry not exceeding in value ten dollars; the professional books and instruments of physicians and dentists to the value of two hundred dollars; the professional books of clergymen and attorneys at law, to the value of two hundred dollars; one tool chest kept for use by a mechanic; one yoke of oxen or steers, as the debtor may select; two horses kept and used for team work; and such as the debtor may select in lieu of oxen or steers, but not exceeding in value the sum of three hundred dollars; one two-horse wagon with whiffletrees and neck yoke or one-horse wagon used for teaming, or one ox-cart, as the debtor may choose; one sled, one set of traverse sleds, either for oxen or horses, as the debtor may select; two harnesses, two halters, two chains, one plow, and one ox-yoke, which, with the oxen or steers or horses which the debtor may select for team work, shall not exceed in value three hundred and fifty dollars; but personal property shall not be exempt from attachment on an action brought to recover payment for the purchase price thereof, or for material or labor expended on the same.[38]

The act of March 9, 1797 and the privilege of taking the pauper's oath did not prove as effective as might be hoped, and by 1798 new petitions of debtors for relief from jail begin to appear in legislative annals.[39] But the legal enact-

[38] **Public Laws of 1933**, Title IX, Chap. 97, Sec. 2250. Most of the above list of exceptions were made by additions contained in the following acts: "An Act, relating to goals and goalers, and for the relief of persons imprisoned therein," March 9, 1797. "An Act, relating to levying execution, and to poor debtors," **Acts of 1811**, Sec. 3; and **Acts of 1818**, Sec. 3; **Acts of 1827**, Chap. 7; **Acts of 1843**, Chap. 8; **Acts of 1848**, Chap. 40; **Acts of 1849**, Chap. 11; **Acts of 1850**, Chap. 11; **Acts of 1856**, No. 18; **C. S. of 1851**, Chap. 45, Sec. 14; **Acts of 1856**, No. 19, Sec. 1; **Acts of 1859**, No. 19; **General Statutes of 1862**, Title XV, Chap. 47, Sec 13; **Acts of 1866**, No. 39; **Acts of 1872**, No. 48; **Acts of 1878**, **Revised Laws of 1880**, Title XI, Chap. 83, Sec. 1556; **Vermont Statutes of 1894**, Title XII, Chap. 90, Sec. 1746; **Acts of 1915**, No. 81, Sec. 1.

[39] See **Acts of 1798** of Oct. 26, Nov. 1, and Nov. 7.

ments at that time did not permit the legislators merely to grant a release for a specified period of time as had been possible in former years. There had already come to exist a complicated legal maze which had to be traversed before the debtor could be released from jail. As an example of the legal ritual that had already become part of the process of despoiling a debtor of everything he owned, save the few exceptions existing at that time, the following act, which was passed by the Legislature on November 1, 1798, is given:

An Act Granting Relief to Seth Wetmore

Whereas it has been represented by Seth Wetmore, of Middlebury, in the county of Addison, that by a train of misfortune, equally impossible to be by him foreseen and prevented, he is rendered unable to pay his just debts, and this assembly are fully satisfied as to the truth of his representation. Therefore.....

Then the act goes on to provide for the following procedure:

1. That three commissioners be appointed to receive the estate of Seth Wetmore. These have power to manage the estate, to sue and to discharge all debts. All are to take an oath of honesty.
2. The commissioners are to demand that Seth Wetmore deliver over all his estate, real and personal. They are to notify all creditors to meet in Addison County.
3. They are to divide claims proportionately. Notification of creditors is to be made by placing a notice in the paper.
4. They are to deliver all such clothing they deem proper to Seth Wetmore.
5. They are to take possession of any part of the estate which is trying to be concealed.
6. Seth Wetmore shall give proof to the commissioners that he has taken the pauper's oath..
7. Seth Wetmore is to be punished for perjury if he took the oath falsely.
8. The commissioners shall grant a certificate of freedom to Wetmore.
9. A summary of the settlement to be registered in the probate office, and "the said Seth Wetmore be, and he hereby is fully and finally released and discharged, forever, from all debts and demands of his creditors, from all contracts entered into, and from all debts and demands of whatever name or nature, they may be, which they, his said creditors, or any one of them may have against him at the time of passing this act. And that he, the said Seth, his heir, executors and administrators, or either of them, shall never be liable to a prosecution in law, in any wise whatever, for the recovery of any debt or debts now due from him."
10. The acts of the majority of the commissioners are binding.[40]



This was the legal red tape which was used to release a debtor from prison. Yet even this privilege was extended only to a few by legislative acts. There were three acts of relief to debtors recorded in the Acts of the Vermont Legislature in 1798, and two in 1800.[41]

In all the debt legislation to date there was one serious loophole of which many creditors took advantage in order to wreak vengeance on their defenseless debtors. The loophole was this, that if an imprisoned debtor had real or personal property and the creditor refused to accept the same no matter how small the debt, there was nothing the debtor could do about it but languish in jail. To do away with this serious impediment the Legislature of 1802 passed the following act:

An Act in alteration of, and to amend an act entitled "An act relating to goals and goalers and for the relief of persons imprisoned therein," passed March 9, 1797.

Whereas no provision is made, in and by the act aforesaid, for the relief of persons imprisoned, who hold and possess real and personal property, where the creditor refuses to take the same. By reason of which, many of the citizens of this state, have been, and still are subject to be long imprisoned, to their great injury; and against the principles of the thirty-third section of the constitution of this state. Which evils to prevent.....

The act goes on to specify that:

1. Debtors in jail may tender real or personal property to their creditors.

[40] **Acts of 1798** (Nov. 1).
[41] **Acts of 1800** (Nov. 7).

2. A creditor refusing or neglecting for thirty days to take such property, the debtor may sell and dispose of the same to any of his creditors.
3. After disposing of his property, the debtor is to be allowed to take the pauper's oath.
4. Then the debtor's body is forever free from arrest for the original debt.[42]

Subsequent acts changed this act in some details but the essential spirit remained. Still the problem was not solved because the law allowed debtors to be arrested and put in jail from which place it was extremely difficult to obtain counsel and funds. Appeals of debtors continued to be made to the Legislature and a fortunate few were granted relief during each session.[43] The following story of a debtor living during this period is taken from the Vermont Historical Gazetteer:

> Jabez Omsted (of Goshen), March, 1807, had put up the body of a small log-house, and moved his family. His wife had been sick for some time; but such was his anxiety to be on his land in the sugar season, with the assistance of three other men, he brought his wife on a bed, and took up their abode in a log-hut, without a floor, rafter, or roof, save a few boards and brush to cover their beds, and shelter them from the storms of that inclement season. Such accomodation for a sick person must have been anything but inviting. Omsted, at this time, was past middle age; had lost his property, and came here in debt, hoping to retrieve his broken fortune. With the assistance of his son Jonathan, he succeeded in clearing a few acres; worked hard, and fared harder, till his creditors thought best to close the concern. At that time the civil process ran in this wise: "And, for the want thereof, take his body." It did not require a very rapid scrutiny of Omsted's effects to satisfy the officer that the body must pay the debt. So Omsted was taken from his family, and incarcerated in jail, at Middlebury .....
>
> He wrote to his family, saying, on a certain Saturday night he would be at home. When that Saturday night came, his family watched with the greatest anxiety for his return; the children often running out, while day lasted, to see if there was any appearance of their father; and, after dark, listening to every sound in their eager anxiety to greet him. The mother would walk short distances in the direction she expected him to come, making it her rule not to go beyond sight of the house....." (Omsted had died on the way home.)[44]

[42] **Acts of 1802** (Nov. 12).
[43] **Acts of 1803** (Nov. 11); **Acts of 1806** (Nov. 3). See **Acts of 1803**, (Nov. 1); **Acts of 1804, passim; Acts of 1805 and Acts of 1806, passim.**



At times when particularly pitiful cases came to the attention of the Legislature, relief was often granted. By an act of November 5, 1807, for instance, a certain Ebenezar Markhom, a prisoner in the common jail at Middlebury, who had "by a paralytic fit, almost wholly lost the use of his limbs," was granted a discharge for a year to take care of his health. But he could not be discharged, however, until he had given bond as a security to his creditor.[45] In 1808 his time was extended for two more years,[46] and in 1810 his time was extended for another five years.[47] There is the case of Martin Dunning who had been in jail in St. Albans for a long time. He was unable to pay a bond which he had placed on his son. "He has a large family to support, with a wife sick for several years and unable to render him any assistance."[48] There is the case of Noah Smith who was released for five years because "he seems to have lost his mind."[49]

But debtors were still going to prison for small sums as is shown in the case of Joseph H. Ellis, who was put in jail through the action of "the President and Directors of the Vermont State Bank," for a debt of five dollars and one cent.[50] A survey of the Acts of the Vermont Legislature for 1813 gives an idea of the great increase of debt and pecuniary difficulties which were brought to the attention of the Legislature. Practically every other page contains some plea

[44] **Hemenway, A., op. cit., I, p. 35.**
[45] **Acts of 1807** (Nov. 5).
[46] **Acts of 1808** (Nov. 4).
[47] **Acts of 1810** (Oct. 18).
[48] **Acts of 1810** (Nov. 9); italics are of the author.
[49] **Acts of 1811** (Oct. 25).
[50] **Acts of 1811** (Oct. 30).

of a debtor to be released from some bond owed to the State or from some note due to the State Bank, or the account of some person pleading to be released from jail or for extension of time because of his inability to pay a debt. The suits of the Vermont State Bank loom large. The same is true of practically all the legislative annals until 1823 when such pleas are either disregarded or passed to other tribunals. Governor Jonas Galusha in an address in 1819 recommended to the Legislature that a law be passed freeing the body of a debtor from arrest and imprisonment for small debts.[51] During the legislative session of that year he did get action, for, on November 16, 1819, an act was passed forbidding a justice of the peace to commit anyone to jail for "any contract, made or entered into, after the first day of May next, unless the damages in such execution shall exceed the sum of fifteen dollars."[52] The act was repealed the following year, however.[53] Yet there was some helpful legislation passed in 1819, 1820, 1821 and 1822.[54]

### Attempts To Abolish Imprisonment For Debt

Meanwhile there was much agitation being carried on, especially by the Prison Discipline Society, to abolish imprisonment for debt. At every legislative session from 1820 to 1838, the year of final success, various bills for this purpose had been introduced,[55] but to no avail. A powerful clique of lawyers kept preventing their passage. In 1827, in a speech to the Legislature, Governor Ezra Butler admitted that there appeared to be a seeming impasse concerning such legislation. He spoke against a bill which was then before the Assembly[56] as being too much in favor of the creditor and added that "This subject is important—it has engrossed the minds of many for years past, and if nothing further should meet your approbation, I hope the propriety

51 Crockett, W. H., **op. cit.**, III, pp. 162-163.
52 **Acts of 1819** (Nov. 16).
53 **Acts of 1820** (Nov. 13).
54 See **Acts of 1819, 1820, 1821, and 1822.**
55 Ludlum, David M., **op. cit.**, pp. 212-213.
56 See end of **Acts of 1826.**



of compelling the creditor to provide for the support of his debtor, during his confinement, will be duly considered."[57] But the people would not stand passively by while the clique of lawyers who formed the Governor's Council stymied repeal of the imprisonment laws,—"Why then is it not repealed?" demanded the **Northern Sentinel** of Burlington. "The answer is this—a few cold hearted, miserly men control the elections of the freemen of Vermont. Freemen yet slaves—slaves to men who are slaves to their passions."[58]

Even the judiciary realized the strangle-hold that the creditor with legislative sanction had on the defenseless debtor. In a decision handed down by the Supreme Court in 1829 in a case involving a creditor and a debtor, Judge Bates Turner, referring to the gradual progress made in legislation since the Act of 1797 and hoping, no doubt, for further progress in the future, spoke these words:

> As people emerge from a barbarous to a civilized and refined state, they are less cruel towards the unfortunate, and hold out stronger inducements to industry and economy, and are more reluctant to permit the creditor to torture his poor debtor, or reek his vengeance without a prospect of obtaining his debt.[59]

In 1830 the Legislature attempted to reduce the length of imprisonment for debt by passing an act allowing a debtor, two hours after final judgment against him, to appear before a court or a justice of the peace and be examined as to his destitution. If the court judged him eligible for the pauper's oath, such a person could take the oath and "in such case no execution shall issue on said judgment against the body of such debtor."[60] It is true that this act did not prevent a debtor from being arrested, nor did it hasten his time for appearing in court, but it did help certain persons after they had been placed on trial and after a judgment

57 **Governor and Council, op. cit.**, VII, pp. 456-457.
58 **Northern Sentinel** (Burlington), October 30, 1829, as quoted from Ludlum, David M., **op. cit.**, p. 213.
59 David Leavitt vs. Joseph Metcalf, **Vt. Records**, II, p. 352 ff.
60 "An Act, in relation to Imprisonment," **Acts of 1830**, Chap. 5.

had been given. But a further step was taken in 1834 when the Legislature passed a very important act which provided that "no female shall be hereafter arrested, or imprisoned, on mesne process, or on any execution issued on a judgment founded on any contract, made and entered into after the first day of January next."[61] The women and mothers at least had obtained their freedom; it remained now to free the men and fathers. There were two bills entered in the Legislature of 1835[62] one of which would have abolished imprisonment for all debtors, but action on these bills was suspended.

### Abolishment Of Imprisonment For Debt

Finally on November 3, 1838, the long awaited measure, "An Act, to abolish imprisonment for debt," was passed by the Legislature.[63] The all important Section One of the act provided that "no person shall be, hereafter, arrested or imprisoned on mesne process or any execution issued on a judgment founded on any contract, expressed or implied, made or entered into after the first day of January next."

The remainder of the act has to do with absconding or concealing debtors, and also trustees of such debtors. This law finally gave the unfortunate and the poor part of the legal protection which they needed. It gave new hope to struggling people and families and allowed them to work to retrieve their losses out of jail where there was more opportunity than behind prison bars.

This law did not mean that a person could not be arrested for the non-payment of a debt, for Title XI, of P. L. 1839, Chapter 42, does state that if, in the levy of an execution, the goods are not sufficient, the debtor's body may be taken.[64]

[61] "An Act, to exempt females from imprisonment for debt," Acts of 1834, Chap. 8.
[62] "An Act, to abolish imprisonment for debt;" and "An Act, in addition to and alteration of an act, entitled "An Act, directing the proceedings against the trustees of concealed or absconding debtors," passed Oct. 30, 1797. See Acts of 1835.
[63] Acts of 1838, Chap. 12.
[64] Revised Laws of 1839, Title XI, Chap. 42, Sec. 14.



But this law does not allow the debtor to be kept in prison and forgotten. If no action was taken against the prisoner in fifteen days, he was to be set free.[65] Furthermore, if any poor person was in jail for a debt, and it was found that he could not pay and that he was guilty of no malice (such as trying to hide property), then the person was allowed to take the pauper's oath, his estate was delivered into the hands of commissioners, who examined his possessions, and he was released from prison.[66]

> If the commissioners find that the prisoner has not estate to the amount of twenty dollars nor sufficient to satisfy the execution on which he is committed, exclusive of such property as is by law exempt from execution, and has not disposed of any part of his estate to defraud his creditors, nor disposed of the same after his commitment for the purpose of defrauding the committing creditor, or of preferring other creditors to him, they shall admit such prisoner to the poor debtor's oath, and deliver to him two certificates.....[67]

It is true that when the commissioners get through dividing his property among the creditors,[68] he is practically "squeezed dry" if his property is little or his debt is large. But at least the person is free and can start all over again to work out a livelihood. Before the passing of the law of 1838 everything, save the few exceptions, could be taken away from him, and if his property were not sufficient to pay the debt, or if the creditor refused to accept the property or take action, the debtor could be kept in jail. If the man had a family all the members of the family suffered not only because of the humiliation of having the head of the family in jail, but also because the creditors could seize the slightest gain they could earn. The Revised Laws of 1839, Title XXIII, Chapter 103, which chapter is really a clarification of the law of 1838, stipulate that the discharged prisoner is

[65] Revised Laws of 1839, Title XXIII, Chap. 103, Sec. 16.
[66] Revised Laws of 1839, Title XXIII, Chap. 103, Sections 21, 22, 23, 24, 25, 26.
[67] Ibid., Sec. 27.
[68] Ibid., Sections 28 to 42.

not liable to arrest on any debt due to the same creditor.[69] In other words he can really start all over again and not have the creditor forever hounding him and hampering and pouncing upon the amount he might earn after his complete spoliation.

The Revised Laws of 1839 also prescribed a long and detailed ritual concerning the procedure to be followed when there was a levy of execution against the property of a debtor before his actual arrest. This chapter alone contained fifty-one sections.[70] It outlined the whole process from the very first writ of execution issued by the court against a person for a debt, to the serving of the writ by an officer of the law; the levying of all possessions; the advertising of them for sale; the auction of the goods with the few exceptions; the recording of the proceeds from the sale; then, if there was not sufficient money, the property was appraised by appointed appraisers; the problem of dividing a property, especially if indivisible; the disposal of rents and profits; problem of a lease; etc., etc.

There was a clause in the Revised Statutes of 1839 which provided that the debtor could be imprisoned if the creditor proved that the debtor was likely to abscond from the state or likely to hide property.[71] This clause could work serious hardship on a debtor if a case of suspicion were worked up about him. In 1845, however, the legislature modified this by providing that the body of the debtor is to be free when he promises to submit himself for examination to take the pauper's oath and when the authorities (not the creditor) believe he does not intend to abscond or hide property.[72] Furthermore, the Legislature plugged another loophole in the law when it passed an act providing that if a person is imprisoned and the creditor refused to take property, the prisoner might sell all his property to pay other debts and

69 Ibid., Sec. 41.
70 Revised Laws of 1839, Title XI, Chap. 42, Secs. 1 to 51.
71 Revised Laws of 1839, Title XI, Chap. 28, Sec. 63.
72 Acts of 1845, No. 28.



then take the pauper's oath.[73] In 1851, the Legislature extended the privilege of freedom from arrest or imprisonment for debt to any person who was a citizen of the United States, unless the creditor could prove that the person was about to leave the State, or was hiding property amounting to more than twenty dollars.[74]

A close scrutiny of the laws of Vermont regarding levying of execution, civil process and debts reveals that there has been very little change in legislation from 1839 to the present time. During the recent economic depression the force of the law was relaxed and in many cases suspended because a public emergency was declared by the Legislature to exist. The law held that from 1933 to 1935 certain foreclosures could not be effected without a hearing and others could not be carried out at all during the time of the emergency.[75] However, when the period of grace ran out the force of the law was restored.

### Protection Of The Homestead

This chapter would not be complete without taking cognizance of the extremely important laws which have been enacted in an effort to prevent the debtor and his family from being completely despoiled of shelter. Until 1849 there was no provision which permitted the debtor and his family, who had been allowed by law to keep their clothes and bedding free from attachment, to have their home to shelter their bedding, if the debt was large enough to consume the price of the home at auction. On November 12, 1844, however, the Legislature passed "An Act to Protect the Homestead."[76] This act contained the following sections:

1. The homestead of every housekeeper or head of a family, to the value of $500 and the yearly products thereof shall be exempt from attachment and execution after December 1, 1850.

73 Acts of 1845, No. 38.
74 Acts of 1851, No. 10.
75 P. L. 1938, Title 9, Chap. 98, Secs. 2296 to 2315 incl.
76 Acts of 1849, Chap. 20.

2. Whenever the real-estate of such housekeeper or head of family shall be levied upon by an execution, such portion as may be occupied by him as a homestead to the value of $500, shall be set aside and the remainder only goes to the creditor.

3. When the creditor and debtor cannot agree on the portion to be set aside, appraisers are to be appointed.

4. If any such head of family shall die, leaving a widow, the above homestead shall wholly pass to the widow and children without payment of his debts, unless for taxes or a special reason.

5. Such homestead cannot be alienated or mortgaged except by joint deed of husband and wife.

6. The homestead is attachable for all debts before or at time of purchase and for taxes. Registration of the deed in the clerk's office shall be the date acceptable.

The General Statutes of 1862 specified that the "homestead of every housekeeper or head of a family, consisting of a dwelling-house, out-buildings, and the land used in connection therewith, not exceeding five hundred dollars in value, and used or kept by such house-keeper or head of a family as such homestead, shall, together with the rents, issues, profits, and products thereof, be exempt from attachment and execution, except hereinafter provided."[77] Another section provided that the homestead, passing to the widow and children on the death of the father, the interest of the children was to cease as they attained majority.[78] In 1886 there were a few amendments to this act concerning the severance or sale of the homestead,[79] and in 1927 provision was made for the sale of the homestead and the proceeds to go to the minor children if the only surviving parent abandoned the children.[80] The Public Laws of 1933 increased the value of the unattachable homestead from $500 to $1,000.[81] Next to the law of 1838 which freed the body of the debtor from arrest, the Homestead Act of 1849 is probably the greatest boon which the poor debtor has won in his unequal struggle with the creditor and the Legislature through the years.

77 G. S. 1862, Title XXII, Chap. 68, Sect. 1.
78 Ibid., Sect. 5.
79 R. L., Chap. 93, No. 64. (Nov. 22, 1886).
80 Acts of 1927, No. 47, (March 24, 1927).
81 P. L. 1933, Title 11, Chap. 110, Se ct. 2559.

# CHAPTER IV

# RESPONSIBILITY FOR THE POOR

## Local Responsibility For The Poor

The Vermont Legislature intended each town to function as a governmental unit. The county in Vermont, being primarily a judicial district, is not an important governmental unit as it is in all of the other states of the Union outside of New England. With this in mind, therefore, the Legislature passed an act in 1779 placing on each town the responsibility of supporting and maintaining its own poor.[1] As will be shown further in this chapter, the ideas of local responsibility grew out of the tradition of the English Poor Law which was first promulgated in 1597.[2] The principle of local responsibility, however, still exists in Vermont. An important feature of the system of poor relief in Vermont, as well as in practically all other states of the Union, is that of "settlement," which is a legal device for determining the political unit liable for the care and support of a person or persons who are in need. This chapter, therefore, will show how a person acquires settlement in a town in Vermont, and it will also give a history of the laws which are concerned with the poor of Vermont who did not have the necessary settlement requirements when they were in need and applied for assistance.

## Relic Of The English Poor Law

It has been shown how the early legislators of Vermont followed the laws of Connecticut as a guide in formulating the laws of the new State. But "the principle of settlement is an importation from Great Britain which was put into practice in Connecticut in the 17th Century," notes the **Connecticut Commission to Study the Pauper Laws.** The Commission pointed out that "certain districts attracted needy individuals from neighboring municipalities, either because

1 Acts of 1779, (Feb. 15), p. 97.
2 An acte for the Reliefe of the poore; 39 Elizabeth, Chap. 3, 1397.

they made more generous provision or because they were geographically situated in strategic positions. There were, in addition, many immigrants who, as they became public charges, drifted over to the poor havens. Such occurrences led to the enactment of settlement laws similar to those of Great Britain, which provided, on the one hand, that a town was responsible for the care of only the poor having settlement in said town, and, on the other hand, rules and regulations under which legal settlement might be acquired."[3] Vermont, therefore, in copying the Connecticut Poor Laws, put into effect practices which were based on English precedents.[4]

### Tory Problem Calls For State Action

Consistent with the laws of Connecticut, which the first Legislature of Vermont formally adopted,[5] the towns were given the responsibility of supporting the needy. The Acts of 1779 (p. 98) further specified and insisted on the element of local responsibility. But the State authorities had to depart from this insistence because of circumstances which arose when Vermont entered the Revolutionary War against England on the side of the colonies. In order to support a state militia, the Legislature on March 26, 1778, voted to confiscate and sell for this purpose the property and estates of all those who were judged inimical to the American government.[6] This did, indeed, prove to be quite profitable to the government, but it caused great suffering for the families whose property was confiscated It happened not infrequently that a Loyalist, or Tory, as they were called, would flee from the State, in order to escape prosecution, leaving his wife and children.[7] When the property was confiscated the families became absolutely destitute and were forced to

[3] **Connecticut Commission to Study the Poor Laws, op. cit.**, p. 3.
[4] See also Josiah H. Benton, **Warning Out in New England**, W. B. Clarke Co., Boston, 1911, for a history of the development of these precedents and a discussion of the procedure followed out in early New England.
[5] See Chapter II, **passim.**
[6] **Vermont State Papers**, I, pp. 6, 7, 17; VI, pp. 6-10.
[7] **Ibid.**, I, pp. 17 (note), 72, 204.



become public charges. They, therefore, became the problem of the State government which had confiscated their means of livelihood. The government on September 12, 1777, had ordered that the wives and children of men, who had joined the enemy, be delivered to General Burgoyne's headquarters or some other branch of the British army.[8] But it was not feasible to transport all of the families. The government then tried to work out a formula whereby it could derive an income from renting, leasing, or selling the properties in question and still provide the families with the necessities of life by allowing them part of the proceeds. The following order of sequestration is an example of such action:

> State of Vermont. In Council of Safety, 3d Oct. 1777.
>
> To Captain John Simonds:
>
> Sir,—You are hereby authorized and impowered to Let or Lese all the Estate of Colonel James Rogers late of Kent, (now with the King's Troops,) both real & personal and all Real Estate (except so much as humanity requires for the Comfortable Support of the family left Behind) you will Sell at public Vendue and Return the Money Raised on such Sale (after the Cost is paid) to the Treasurer of this State. The improved Land you will Let or Lese to some proper person or persons as you shall judge will serve best the purpose of supporting the family & the Benefit of this State, not exceeding the Term of Two years.
>
> You will return to this Council an account of all the Estate both real and personal that you shall seize. You will Take the Advice of the Committee of the town of Kent with regard to what part will be sufficient to support the Family. You are to obey the orders of this Council from time to time, relative to said Estate, and settle your acts, with them or their Successors, or some persons or persons appointed for that purpose, & you are to do it on oath.
>
> By order of Council,
> Thomas Chittenden, Pres't.[9]

It might be mentioned in passing, however, that this par-

[8] **Governor and Council, op. cit.**, I, pp. 166, 260-261.
[9] **Ibid.**, I, p. 185.

ticular arrangement brought extreme suffering and hardship to the Rogers family, whose estate had consisted of several thousands of acres of land plus house, livestock and farm equipment. After several complaints had been made by the inhabitants of Kent to the State in favor of the suffering invalid wife and her five children, a more considerate procedure was followed in their regard in 1779.[10]

It often happened that when someone presented the name of a destitute Tory family to the government, the family was allowed to receive part or all of a year's rent "for the relief of said Children."[11] Quite often, however, the extent of relief voted by the Governor and Council was one cow "during the pleasure of the Council."[12] In this way did the government of Vermont attempt to solve its first problems of relieving its indigent poor of whose poverty the government itself had been the cause.

### The Settlement Law From 1777 To 1797

Early provisions of the pauper laws seemed to have two main purposes. One was to make the town primarily responsible for its own poor. The other consisted of an attempt to prevent the incurring of expense by a town for the care of individuals for whom it was not responsible.

From 1777, when the State Constitution was adopted, to 1779 the settlement law of Vermont was that which the people had brought with them from Connecticut. In 1779 the State Legislature passed its own law. This law, which may properly be considered the first general settlement law of Vermont, provided that:

1. A person was considered a transient until he had resided in a town for one year.
2. The inhabitants of a town could vote a person a member.
3. The selectmen of each town were authorized to

[10] **Ibid.**, II, p. 8; see also **Vermont State Papers**, VII, pp. 66-71, 155-156 (note).
[11] **Governor and Council, op. cit.**, I, p. 303; see also p. 285.
[12] **Ibid.**, I, p. 291; see also pp. 166 and 298.



warn any "transient" to depart from the town who was not of good behavior or who was liable to become a charge of the town.
4. If the warned person refused to depart he was to be transported, within twenty days after the warning, to the next town in the direction of his own town.
5. Expenses involved were to be paid by the person, or in default, by the town.
6. This warning could not be given to one who had resided in the town for one year.
7. If the transient was sick or lame and unable to pay for his maintenance, he was to be supported by the person in whose house he was staying when he became ill. However, if the head of the house reported the pauper to the selectmen, they were to bear the expenses from then on.[13]

That same Legislature provided that each town was to support a poor person who had been a resident one or more years.[14] The expedient of warning a person prevented him from becoming a resident of the town.

However, in 1787 a much more restrictive settlement law was passed. By this act the Legislature deprived of their settlement persons who would have been considered residents under the act of 1779. The act of 1787 provided "that no person shall gain a settlement in any town in this State, and be liable to be supported thereby, unless such person was born therein, or has owned, or shall own, estate in such town, of the value of two hundred pounds, clear of all demands against him or her, or of the yearly value of ten pounds."[15] These provisions placed the obtaining of settlement largely on an economic basis. The one year's residence requirement was disposed of in favor of a person's material assets. The poor must have become quite a problem because this act further empowered a justice of the peace to order the removal of a pauper or dependent to the place of his last legal settlement. It also empowered the constable to deliver the person to the place of settlement. The con-

[13] **Acts of 1779**, p. 25.
[14] **Ibid.**, p. 98.
[15] **Acts of 1787**, pp. 115-116.

stable was to deliver the person to one of the selectmen of the town of the dependent's place of settlement. If the selectmen of the town refused to accept him, a fine of four pounds was to be imposed on the selectmen. The County Court was given power to settle disputes concerning settlement of paupers which arose between the selectmen of the various towns. Furthermore, if any removed person returned to the town from which he was removed, he was to be punished by being whipped, not exceeding ten stripes "on the naked back."

However, in 1787, a much more restrictive settlement law had placed the requirements for residence on a purely economic basis. The town of Danby, for instance, in the town meeting of March, 1779, had voted to warn out all persons residing in the town at that time and not having any real estate.[16] The following is a copy of a warrant issued by the selectmen:

Danby, April YE 28th,1779.

To the Constable of the town of Danby.
Greetings:

Whereas frequent complaints have been made to us by some of the inhabitants of this town, that there hath lately come into this town several persons and families, who still abide in town, who have no real estate, and by their continuance here, the town may be exposed to cost and charge.

You are hereby required forthwith to warn ———— and family to depart from this town, and make return to us or either of us forthwith.

Given under our hands the day and year above written.

Thomas Rowley )
Stephen Calkins ) Selectmen
Luther Colvin )

Danby, the 9th day of May A. D., 1779, This warrant faithfully served according to law, by me,
Ebenezer Wilson, Constable.[17]

[16] Hemenway, A., **op. cit.**, III, p. 588.
[17] **Ibid.**



These settlement laws were quite general and could be interpreted to include or exclude many categories of persons. However, a law passed in 1797 was intended to be more specific.[18] Section one of this act specified that legal settlement was obtained: a) by a person purchasing and paying for an estate to the value of one hundred dollars, and holding it for one year; b) or by renting or occupying property valued at twenty dollars for two years; c) or by being elected to some public office; d) or by paying one's share of the taxes for two years; e) or by being a servant or an apprentice in a town for three years. This first section stated further that "every other healthy, able-bodied person, coming and residing within this state, and being of peaceable behaviour, shall be deemed and adjudged to be legally settled in the town or place in which he or she shall have first resided, for the space of one whole year. And every bastard child shall be deemed and adjudged to be settled, in the town or place of the last legal settlement of his or her mother." This section, therefore, proved to be more comprehensive than any settlement provisions to date. It provided for those who had economic stability, for those who were servants, for those who were "healthy, able-bodied.....and being of peaceable behaviour," and for the children who were born out of wedlock. The other sections contained the usual provisions for the warning out, care and removal of sick and healthy transients. Section eleven, however, introduced a new element which has remained in the statute books ever since with little variation. It imposed a fine on anyone transporting a poor person to a place where he had no legal settlement. The fine imposed in this particular act was three hundred dollars.

### The Settlement Law From 1797 To 1839

The first Section of the Act of 1797, which was so comprehensive, was in effect only four years when it was repealed

[18] "An Act defining what shall be deemed and adjudged a legal settlement, and for the support of the poor, for designating the duties and powers of the overseers of the poor; and for the punishment of idle and disorderly persons," **Laws of Vermont**, March 3, 1797.

in 1801.[19] The new act, which was to take the place of the first section of the Act of 1797, made no mention of any property qualification necessary for settlement in a town. It did, however, give much latitude of action to the selectmen of a town by providing that they could warn out any poor person who came to settle in a town. It also provided a loophole by stating that no person who had been "warned" could gain a legal settlement. A person, therefore, who had been warned need not be removed from town if he had been warned but not served with a warrant of removal. A warned person could thus reside in a town for several years and still be unable to gain a settlement. Under such a condition he was living constantly under the liability of being removed to the place of his last legal residence. If, however, a person had not been warned within a year, he thereby acquired a legal residence. Furthermore, there was no mention made of the settlement of illegitimate children.

Doubtless some of the selectmen of the towns used more zeal than prudence in issuing warnings to people whom they wished to depart. In the following quotation from the History of Grafton it appears that the people who were once warned to depart later proved to be staunch and valuable citizens of the town.

> In 1808 John Barrett and Barzillai Burgess, selectmen, determined on being strict guardians of the interests of the town, pursued the old practice general then in the town of "warning out".....Among many others, Mr. Daniel Joslyn, an easy, mirth-loving, whole-souled farmer was warned to leave. Of which he took no notice except to joke over. And the energetic young bachelor, Barrett, little thought that he was commanding his future wife to depart, upon the plea that he believed she might be at some future time a town pauper. Had the jovial old gentleman seen fit to have obeyed the summons, the people of Grafton would not have been gladdened years afterwards by the genial countenance of that old lady, whose sympathetic heart and benevolent

[19] "An Act in addition to an act entitled 'An act defining . . . . etc.,' and for repealing part of the same," **Acts of 1801**, (Nov. 6).



> hand carried joy and gladness to many a sinking heart, and supplied the wants of so many needy ones.
>
> Also, a young physician came into town with no worldly goods but his saddle bags and a good name. The sleepless eyes of the guardians of the town were immediately upon him. A paper was put into the hands of the constable and read:
>
> "To Caleb Hall, Constable: You are hereby directed to summon Dr. John Butterfield to depart this town forthwith; hereof fail not, and make due return.
>
> Barzillai Burgess
> John Barrett Selectmen.
>
> And to the fact that the Doctor did not obey this mandate, Grafton has ever since owed much of the business energy for which the town has been and is still distinguished.[20]

The following two decisions, which deal with settlement, were handed down by the Supreme Court of Vermont, and the Court based its decisions on the Act of 1801. The first case is an appeal from the order of two justices removing a certain Abel Hubbard, Jr., a pauper, from the town of Middletown to Poultney. It appears that in the early part of May, 1816, the man moved with his family and small possessions from Danby to Poultney, where he was allowed to occupy a house next door to his wife's father, but belonging to someone else. On the third of November of that same year, leaving his wife and two small children with some provisions, he went to northern New York State to work and procure a farm of his own. One year later, November first, 1817, he returned to Poultney, and took his family to his farm in Northern New York. Years later he returned to Middletown, Vermont, as a poor man. The town of Middletown tried to remove him to Poultney as his last legal settlement in the State. Poultney objected and the Supreme Court decided in favor of Poultney. In giving the decision the judge maintained that under the statute of 1801, by which a settlement was acquired by a year's residence in any

[20] "History of Grafton," A. Hemenway, **op. cit.**, V, pp. 553-554.

town without being warned to depart, the residence of the man ceased when he departed from Poultney even though he had left his wife and children still living there. Since he had not lived in Poultney one whole year, the fact that his family remained did not continue the residence, so as to entitle him to legal settlement. This could happen only if they continued together keeping house as a family.[21] The act of 1797, however, had been more considerate than this act of 1801, for it did not require that the pauper should be constantly with his family, provided their place of abode remained his domicile.[22]

Another case in which the Act of 1801 was invoked is the Case of the "Town of Manchester vs. the Town of Springfield,"[23] which case was tried before the Supreme Court in February, 1843. This case is especially interesting because it involved the settlement of a person of illegitimate birth who had died and whose wife and seven children, being paupers, had been transported from Manchester, where he died, to Springfield where he was born thirty-two years before. He and his mother had resided only four months in Springfield. The decision was given in favor of Manchester and against Springfield. The reason for this was that although Section One of the Act of 1797 had stated that an illegitimate child took on the residence of its mother, the Act of 1801 repealed Section One of the Act of 1797 **in toto.** Since the Act of 1801 did not mention anything about the settlement of such children, they, therefore, came under common law while the Act of 1801 was in force. The rule of common law is that such children acquire settlement in the place where they are born and not from the residence of the mother. Because of this omission, these seven children and their mother were to be supported by the town of

[21] "Town of Middletown vs. Town of Poultney," **Vermont Records,** Vol. 2, pp. 437 ff.

[22] "Town of Burlington vs. Town of Calais," **Vermont Records,** Vol. 1, pp. 385 ff.

[23] "Town of Manchester vs. Town of Springfield," **Vermont Records,** Vol. 15, pp. 385 ff.



Springfield where the father was born thirty-two years before and where he had lived for only four months.

In order to avoid such situations and in order to clarify procedure in others, an act was passed in 1817[24] which extensively revised the settlement laws. According to the first section of this act, legal settlement which entitles a poor person to support, is gained in the following ways:

1. A married woman shall always have the settlement of her husband.
2. Legitimate children shall have the settlement of their parents.
3. Illegitimate persons shall have the settlement of the mother. But children of parents who have no legal settlement in a town shall not gain a settlement by birth in the town where they are born.
4. Every full age person who shall reside in a town of this state, and whose rateable estate, held in his own right, besides his poll, shall be set in the list of such a town at the sum of 60 dollars, or upwards, for five years in succession, shall thereby gain a settlement in such town.
5. Any person, who shall, in any town in this state, be for two years, appointed to, and sworn to the faithful discharge of certain public offices.
6. Any person may be admitted to a legal settlement by town vote.
7. Any person of full age, who shall have resided in this state one full year, and shall have his or her home, in any unorganized town in this state, at the time when the same shall be organized, shall, thereby, gain a legal settlement in such town.
8. Any person having a settlement in any town in this state, and of full age, who shall hereafter reside in any other town in this state, for the term of seven years, and during said term, maintain himself, or herself and family, and not become chargeable to either of said towns, shall be adjudged to gain a settlement in the town, in which he or she may so reside. **Provided**

[24] "An Act, in addition to, and amendment of, an act, entitled, 'an act defining what shall be deemed and adjudged a legal settlement, and for the support of the poor; for designating the duties and powers of the overseers of the poor, and for punishment of idle and disorderly persons'," **Acts of 1817,** (Nov. 4).

the person wishing to gain residence in a town register in the town clerk's office, his name, family and former place of legal settlement. Such new residence shall be computed from the time registry is made.

This act was much more specific than any of the previous acts. It specified the settlement of a married woman, of legitimate and illegitimate children, and all other persons. It also introduced an economic element again and provided that a person must have certain material resources for five years before he could gain a settlement. Furthermore, it extended to seven years the time necessary to gain settlement for a person who was self-sufficient and yet who did not have the required material resources. This last requirement of seven years, however, was repealed in October, 1823.[25] Furthermore, this act raised from 300 dollars to 500 dollars the penalty for the transporting of a pauper to any town with intent to make him chargeable to that town for support;[26] it provided that appeals from orders of removal be taken directly to the Supreme Court instead of the County Courts;[27] it stipulated that whenever an order of removal was given to a person, a copy of such order was to be given to the overseer of the poor of the town to which the pauper was to be removed.[28] By this act, the Act of 1801 was repealed.[29]

### Various Supreme Court Decisions Up To 1839

Various decisions of the Supreme Court clarified the implications of this act. In the case of the "Town of Georgia vs. Town of St. Albans" the judge stated that "the object of the Legislature in passing the fifth section of the act of 1817, directing that whenever an order of removal shall be made, an attested copy of such order shall be left with some one of the overseers of the poor of the town to which such pauper is to remove, within thirty days after the making of such

25 **Acts of 1823, (Oct. 21) Chap. 9.**
26 **Acts of 1817, (above), Sec. 2.**
27 **Ibid., Sec. 3.**
28 **Ibid., Sec. 5.**
29 **Ibid., Sec. 6.**



order, was to apprize the town, in which it was found the pauper belonged, of the proceedings; that they might look into the case and satisfy themselves whether they were chargeable or not, before the expense of a removal was had; and also to secure the right of appeal to the aggrieved party, which was not sufficiently so by the act of 1797."[30]

In the case of the "Town of Brookfield vs. Town of Hartland"[31] the residence of seven years necessary to gain settlement was further clarified. It was stated in this case that under the statute of 1817, in order to change the settlement of a pauper, by residence of seven years, the residence must be one of **sui juris.** Hence, since the woman in question resided six years with her husband, and five years, after his death, in the same town, she did not gain a settlement, for this was **not** a residence of seven years, within the meaning of the statute.

The manner in which this act regarded the family as a unit is brought out in the case of the "Town of Wells vs. Town of Westhaven."[32] Prior to the act of 1817 a wife had a derivative settlement from her husband, and the children from the father. Also, when a widow gained a settlement in her own right, her minor children, living with her, took her settlement. However, when a widow remarried, she took on the settlement of her husband, but her children by a former marriage did not follow her settlement thus obtained. In case the family became needy the mother and stepfather would be cared for by one town and the children by another. Such a situation could bring new hardships to the family. The act of 1817, however, changed this and allowed the family to be considered as a unit at all times, and be supported by the same town.

30 "Town of Georgia vs. Town of St. Albans," **Vermont Records,** Vol. 3, p. 45.
31 "Town of Brookfield vs. Town of Hartland," **Vermont Records,** Vol. 10, p. 424.
32 "Town of Wells vs. Town of Westhaven," **Vermont Records,** Vol. 5, pp. 322 ff.

The attitude or policy of the law toward a poor person during this period is very important. Judge Charles K. Williams of the Supreme Court stated the policy of the law as follows:

> Every person who can support himself without being a public charge should be permitted to take up his abode where his inclination may direct, and seek his living in those places where he can find the best prospects of success in his business or calling, and to consult his fancy or his interest in selecting the place of his residence without being liable to be directed in his choice, except in obedience to the laws of the government. The policy of the law, however, has directed that if from misfortune or fault he becomes unable to maintain himself or family, he may be restricted in his choice, and must remain in that place which the law points out as the place of his settlement. It may be remarked that whenever a person is thus reduced, so as to become the subject of a proceeding to ascertain the place of his settlement, he is passive, he has no voice in the proceedings, and however inconvenient or injurious it may be to his feelings or his interest, he has nothing to do but to obey the order, or be removed by a regular warrant.[33]

The Act of 1817 stipulated that if a person had the necessary property qualifications, he or she could not be removed from that town. But the overseers of the poor would sometimes force a person to sell his or her property and then they would apply the law and remove them from the town. The case of the "Town of Randolph vs. Town of Braintree,"[34] is an example of this. A twenty-four year old mentally deficient girl had moved to Randolph with her mother when her father died. She inherited a small share of the house, where she lived with her mother, and a piece of land adjoining the house. Because of the insistence of the overseer, the girl's share of the property was sold and she was then separated from her mother and removed to Braintree.

[33] "Town of Londonderry vs. Town of Acton," **Vermont Records**, Vol. 3, pp. 125-126.

[34] "Town of Randolph vs. Town of Braintree," **Vermont Records**, Vol. 10, p. 436.



The overseers of Braintree called the maneuver fraudulent, and the case eventually reached the Supreme Court. The Supreme Court maintained that: "it is **not** fraudulent for the overseers of the poor of the town, where a lunatic has real estate, to procure the appointment of a guardian, and the sale of the lunatic's real estate, with the intent to subject such a lunatic to removal, if the property is sold for a full consideration, and for the benefit of such lunatic, and was so sold as legally to divest the lunatic of all title to such estate." A lunatic female pauper, of full age, could be removed to the place of her settlement, although such removal would separate her from her family.

During this period there were several litigations between towns which were decided by the Supreme Court, and which were concerned with technicalities of the manner of issuing a warrant for removal to the paupers and to the overseers of the poor of the town to which the paupers were to be removed. The settlement of whole families was changed because of some slip in one of these technicalities.[35]

### The Settlement Law From 1839 To 1886

The Revised Statutes of 1839 contain two chapters of laws which deal with the settlement and removal of paupers.[36] In comparing these laws with the Act of 1817 it is found that there is little change. The terminology is much more legal and exact, but the extension of the law is about the same. The only new element of significance is the law re-

[35] See the following cases: "Town of Townsend vs. Town of Athens" **V. R.**, Vol. 1, pp. 284-285; "Town of Londonderry vs. Town of Windham," **V. R.**, Vol. 2, pp. 149 ff; "The Overseers of the Poor of Waterford vs. The Overseers of the Poor of Brookfield," **V. R.**, Vol. 2, pp. 200 ff; "Town of Shrewsbury, Appellees, vs. Town of Mount Holly, Appellants," **V. R.**, Vol. 2, pp. 220 ff; "Town of Strafford, Appellees, vs. Town of Hartland, Appellants," **V. R.**, Vol. 2, pp. 565 ff; "Town of Essex vs. Town of Milton," **V. R.**, Vol. 3, pp. 17 ff; "Town of Georgia vs. Town of St. Albans," **V. R.**, Vol. 3, p. 45; "Town of New Haven vs. City of Vergennes," **V. R.**, Vol. 3, p. 89; "Town of Middletown vs. Town of Pawlet," **V. R.**, Vol. 4, p. 202; "Town of Barre vs. Town of Morristown," **V. R.**, Vol. 4, p. 574; "The Overseers of the Poor of Bradford vs. the Overseers of the Poor of Lunenburgh," **V. R.**, Vol. 5, p. 481.

[36] **Revised Statutes of 1839**, Title VIII, Chapters 15, 16.

garding the settlement of married women. The Act of 1817 stated quite simply that a married woman takes the settlement of her husband. The Revised Statutes of 1839 add to the above that if the husband does not have a settlement in the State, the wife continues to maintain her own right to the settlement which she had before her marriage.[37] Chapter 15 concerns itself with the settlement of the following categories of people: married women, legitimate and illegitimate children, persons with estates rateable at $60 or more, persons holding public office, persons accepted by vote, persons living in a newly organized town, and persons having no rateable estate yet being self-sufficient. This chapter still continues the former requirement of residence of five years for those who possess estate of $60 or more before settlement is gained, and seven years residence if a person does not have the required estate. It also contains the earlier provisions concerning sick transients.

While the law did not specifically provide that a wife should not be forcibly separated from her husband because of poverty and residence requirements, the judiciary was often quick to keep the two together when it was not prohibited in the law. In March, 1843, the Supreme Court was faced with a settlement dispute in which one town was attempting to remove a wife from her husband.[38] The wife was to be removed to her last place of settlement because her husband had no settlement within the State. The Court ruled that a married woman was not liable to be removed, as a pauper, from her husband, or from the place of his actual residence, to the place of her own legal settlement, even though the husband may have had no settlement within the State. In giving the decision Judge Royce remarked:

> "We are not to suppose the legislature to have been unmindful of that great principle of social and moral policy, which forbids the coercive separation of the wife from her husband, except for crime."[39]

[37] **Ibid.**, Chap. 15, Sec. 1.

[38] "Town of Northfield vs. Town of Roxbury," **Vermont Records**, Vol. 15, pp. 622 ff. See also "Town of Rupert vs. Town of Windhall," **ibid.**, Vol. 29, pp. 245 ff; and "Town of Hartland vs. Town of Windsor," **ibid.**, Vol. 29, pp. 354 ff.



The local authorities, however, did not use the settlement laws in such a benign fashion. Some of the overseers looked upon these laws as a weapon rather than as a tool and used the letter of the law to defy its spirit. The following case provides a good example. In 1855 there lived in Moretown a crippled, feeble and mentally deficient old woman who was supported by the town. This woman was not married. Since the settlement law provided that when a woman married she took on the settlement of her husband if he had a settlement in the State, the authorities of Moretown set about to find a husband for this poor woman. They found a wretched good-for-nothing in the neighboring town of Middlesex who agreed to marry this poor creature for one hundred dollars. The old woman was forced to marry the person by being told that by law the overseer could marry a pauper to whomever he saw fit, and that if she refused she was going to starve to death. After three weeks, the man, who, by the way, was given sixty instead of the promised one hundred dollars, abandoned this woman, and the town of Middlesex was called upon to support her. It was protested that such a marriage brought about through fraud, force and fear was no marriage at all. The case eventually reached the Supreme Court and the marriage was declared null and void.[40] By this declaration of nullity the woman again became a resident and a charge of Moretown.

Until 1856 the residence requirement to gain a settlement was seven years for a person who had no property, and five years for a person who had a rateable estate of sixty dollars for five years in succession. In November 1856 this was changed.[41] The sixty dollars rateable estate necessary was reduced to three dollars. By this act many persons

[39] **Ibid.**, Vol. 15, p. 625.

[40] "Harriet Barnes vs. Jonathan Wyethe," **Vermont Records**, Vol. 28, p. 41.

[41] **Acts of 1856**, No. 25, (Nov. 18).

who previously would have had to reside seven years in a town before gaining a settlement, now gained a settlement after five years' residence. The same Legislature passed another law which fined, not more than 500 dollars nor less than 100 dollars, anyone who would bring a poor person into the State who had no visible means of support.[42]

The State was always loathe to accept the responsibility of supporting the indigent. An act passed in 1860 reminded the towns quite forcibly that the State still considered the support of the poor a local responsibility. This act, concerning the mentally ill in the "Vermont Asylum for the Insane," maintained that a patient was to be returned to the overseer of a town if, after ten days notice, the expense of keeping the patient was not paid to the trustees of the asylum.[43] This made the economic issue more important than the welfare of the patient.

When the General Statutes of 1862 were issued, Chapters 19 and 20, of Title VII, which contained laws concerning settlement, support and removal of paupers, proved to be practically a repetition of the Revised Laws of 1839. In fact there is little difference between the Poor Laws of 1862 and those of 1817. The Settlement Laws were to continue in this static condition until 1886.

The Legislature was often concerned with questions regarding the entrance into the State of persons who were poor. In 1867 it passed "An Act to Prevent Paupers from Becoming Chargeable to Towns Where They Have No Legal Settlement."[44] It stipulated that:

> Sec. 1. No person shall come from without this State into any town in the State, with intent to become chargeable as a pauper to such town, unless such a person has a legal settlement in such town, or has good reason to believe he has a legal settlement in such town.
>
> Sec. 2. Any person who shall violate the provisions of the preceding section, shall be fined not exceeding twenty dollars, or imprisoned in the common jail not exceeding six months.

[42] **Ibid., No. 24, (Nov. 12).**
[43] **Acts of 1860,** No. 58, (Nov. 20).
[44] **Acts of 1867,** No. 40, (Nov. 21).



The power granted by this act might be used to bring added hardship to the wandering poor. If the local justice of the peace interpreted as bad intentioned the action of a poor person who happened to need assistance soon after he settled in a town, the poor person could be punished as a criminal.

The following case is an example of the hardship caused by the settlement law. The pauper in question lived with her brother in Landgrove for more than seven years as a member of his family, he furnishing her with support and she doing sufficient work to compensate him for such support. She was not "what is called bright," but she was capable of doing knitting, sewing, kitchen work, and taking care of small children. She was able to read, and she was accustomed to attend church and behave with propriety. However, if left to look out for herself she was not capable of taking care of herself by seeking employment, or of providing herself with a place to live. She had to be directed, but under direction she could provide for herself. In time the brother moved to California, but before doing so he arranged with a certain Gates family of Ludlow to keep her for twenty dollars a year besides her work. After she had resided with the Gates family for a while, the overseer of the poor of Ludlow had her removed to Landgrove, for he did not want her to acquire residence in Ludlow. She had no relatives nor home in Landgrove, yet the Court ruled that according to law, the action of the overseer of Ludlow was correct.[45]

In another settlement case in 1873 the Supreme Court gave a decision which was contrary to the letter of the law, and thereby yielded to humanity rather than strict legality. In the case in question the mother of an illegitimate child

[45] "Town of Ludlow vs. Town of Landgrove," **Vermont Records,** Vol. 42, pp. 137 ff.

had married and thereby took the settlement of her husband. According to the law, however, the child born out of wedlock did not acquire the new settlement with the mother. The overseer of the town, therefore, sought to remove the child, thus separating it from its mother. In rendering a decision Judge Peck of the Supreme Court maintained that in spite of the letter of the law the little child could not be removed from the mother. He spoke as follows:

> Minor children whose tender age, or physical or mental weakness or condition, make it necessary that they should have the care, sympathy, and control of their parents, rendering it improper, upon the principles of humanity, that they should be separated, are irremovable from them, notwithstanding the general unqualified language of the statute.[46]

Another case which upheld the dependence of children upon the parents concerned a young man, who, although he was over twenty-one years of age, nevertheless, possessed the mentality of a child. In this case it was held that a mentally deficient person is not emancipated from the family on attaining his twenty-first year, and hence could not gain a settlement in his own right. The court charged the jury as follows:

> And if you are satisfied by proof that David had a mental infirmity, not that he was an idiot, but that from mental infirmity his mind was so far weakened that he was in a state of helplessness and dependence upon the care of his parents, that it was rendered proper and necessary that he should live with his parents and have their supervision, oversight, direction, and care, upon humane principles, then he is not emancipated.[47]

Another important decision which was given during this period (1883) concerned a person who had moved into Vermont. This person had come into Vermont from another state. He had resided in a particular town for seven years.

[46] "Town of Morristown vs. Town of Fairfield," **Vermont Records**, Vol. 46, p. 33.

[47] "Town of Westmore vs. Town of Sheffield," **Vermont Records**, Vol. 56, p. 239.



However, the Court ruled that, even though he had resided in that town for the required number of years, yet he did not gain a settlement in that town because he had no "starting point. A person must come from another town in the State in which he has a settlement, and reside in the new town of his residence for seven years in order to acquire a settlement by a continuous residence of seven years."[48] In other words under the existing law an immigrant could never hope to acquire a settlement in the State.

### The Settlement Law From 1886 To 1932

By an act of November 24, 1886,[49] the Legislature changed to a great degree much of the previous legislation concerning settlement. The person who was responsible for this great advance was Chief Justice Poland, and, in tribute to him, these laws became known as the Poland Pauper Laws. These new laws effectively lessened many of the hardships of the poor and did away with many of the legal battles of the various overseers of the poor. Simply, the Poland Pauper Laws may be stated as follows:

1. Every town must support those paupers who **reside** within their limits, regardless of how long they have resided there.
2. A person gains a settlement in any town in which he last resided for the term of **three** years maintaining himself and his family.
3. A poor person not having legal residence must be supported by the town in which he resides and the expenses are not recoverable from the town in which he has legal residence.
4. Only expenses incurred in helping a transient, strictly so called, are recoverable.

The intention of Judge Poland apparently was to have the relief of the poor taken care of as quickly and effectively as possible. This act changed completely the letter and the spirit of the law in regard to the poor. Indeed, the law was far from being perfect and it still left much to be desired,

[48] **Vermont Records**, Vol. 56, p. 241.
[49] **Acts of 1886**, No. 42, (Nov. 24).

but when it is compared with all the previous poor law legislation, it is amazing that one act should do so much.

The Poland Pauper Laws of 1886 stipulated that even though a town was bound to help paupers who resided in the town and who have not the necessary three years residence, yet no recovery of expenses could be made from the town in which the pauper last had legal residence. By an act of November 22, 1892,[50] however, the Legislature made all expenses incurred recoverable from the town where the pauper last resided for three years supporting himself and his family.

A question which was bound to come up as divorces became more common was the question of the residence of divorced women and their children. That question was settled by a decision of the Supreme Court in 1899.[51] At that time it was decided that a divorced wife no longer took the legal residence of the husband but became a **femme sole** and that by virtue of an Act of 1866 the town where she "resides" must support her. When a question arose between towns touching the liability to support minor children of divorced parties, if the custody had been decreed to the mother, it was her residence that must support the children.

The Act of 1886 in one grand sweep did away with warrants of removal, stipulations as to the residence of married women, and other such regulations and distinctions which were formerly on the statute books. Some of these stipulations gradually came back into the statute books. In December, 1905, the Legislature decreed that "a married woman who lives with her husband in a town where he last resided for three years, supporting himself and family, shall be deemed to have gained a residence in such town, and such town shall be liable for her support as a pauper."[52] This law was necessary to clarify the status of a married

[50] **Acts of 1892**, No. 55, (Nov. 22).
[51] "City of Montpelier vs. Town of Elmore," **Vermont Records**, Vol. 71, p. 193.
[52] **Acts of 1906**, No. 102, Sec. 1, (Dec. 6).



woman. The other law concerning the poor which was enacted by the Legislature of 1906 concerned the removal of paupers who had not resided in a town for three years. The law of 1886 merely stated that they were to be supported by the town where they resided at the time when they were in need. This act, entitled "An Act to Authorize an Overseer of the Poor to Remove Town Paupers to the Town Which Is Chargeable With Their Support,"[53] allowed the overseer of the poor to remove such paupers to the town chargeable with their support. However, he was not allowed to use force. If such paupers refused to be removed, the overseer of the town was to notify the overseer of the town in which such paupers have settlement that he would not thereafter furnish such paupers with support.[54] In this way the town avoided the responsibility of supporting the pauper and placed that responsibility with the town in which the pauper had legal residence, but was not now residing. If the town in which the pauper had legal residence did not furnish assistance, the pauper could, technically at least, starve.

This condition was tolerated until 1917 when an act was passed providing that "if a person is poor and in need of assistance for himself or family, the overseer of the poor of any town shall, when application for such assistance is made, relieve such person or his family, and if he has not resided in such town for three years, supporting himself and family, and is not of sufficient ability to provide such assistance, the town so furnishing the same may recover the expense thereof in an action of contract on this statute, from the town where he last resided for the space of three years supporting himself and family."[55] The act also provided that if the pauper died, the town in which he died must provide a decent burial and might then recover expenses. Once again, the law, at least, did attempt to make sure that the

[53] **Ibid.**, No. 103, (Dec. 18).
[54] **Ibid.**, Sec. 2.
[55] **Acts of 1917**, No. 110, (Feb. 9).

poor were relieved. A law of 1921, however, added that if a person had not resided in the State for one year supporting himself and his family, he was to be transported to the place where he entered the State.[56]

The laws of Vermont have usually imposed a fine upon anyone who brought a poor person from one town to another with intent to charge that town with the support of the indigent person. An act of 1919 again imposed a fine of 500 dollars on any person who was found guilty of such action. This fine was payable even if the poor person was transported to the town in which he had legal residence.[57] The law also provided a doubling of the fine for a second offense.

### Exceptions To The Settlement Law

In order to relieve the unemployed during the depression of the 1930's, Congress, in March, 1933, passed a law which provided for the setting up of the Federal Emergency Relief Administration. This agency was to disperse federal aid by means of grants to states for relief of the unemployed. As this program will be treated in the next chapter, only the residence requirements will be discussed here.

The question of residence requirements of those who would receive emergency relief in which federal money was used was settled by the Federal Emergency Relief Act. It was determined that "for the purpose of this act, settlement shall be defined as residence within a State for a period of one continuous year or longer."[58] For the assistance of those who were in need and who did not have the necessary one year's residence in a state, a Federal Transient Bureau was established to cooperate with states in caring for these individuals. Special funds were "earmarked" for State Transient Bureaus, which agencies and their functions were

[56] **Acts of 1921**, No. 112, (April 1).
[57] **Acts of 1919**, No. 107, Sec. 1, (March 14). See also **Acts of 1935**, No. 80; and **Acts of 1939**, No. 71.
[58] **The Federal Emergency Relief Administration Monthly Reports, May 22, through June 30, 1935**, Washington, D. C., p. 15.



financed entirely by federal funds. Vermont, however, was the only state which did not have a State Transient Bureau, as it neglected to cooperate with the federal government in this program.[59] After the F. E. R. A. program was terminated in 1936, the W. P. A. continued a work-relief program in the State with the same residence requirements. On December 4, 1942, the President ordered that all W. P. A. operations be terminated by February 1, 1943.[60]

### The Settlement Law From 1936 To 1947

In 1935 Congress passed the Social Security Act. Programs of Old Age Assistance, Aid to the Blind and Aid to Dependent Children were established in Vermont by the State Legislature as a result of this act and provided certain residence requirements for the various categories. As each law and program will be discussed in detail in later chapters, only the residence requirements will be mentioned at this point. When the Old Age Assistance program was first set up, one of the conditions for eligibility required that an applicant must have resided in the State five years within the last ten preceding application for assistance. Later the five years' requirement was changed to three years.[61] The Aid to the Blind program required that an applicant must have resided in the State for five years within the last nine preceding application, and continuously during the year immediately preceding application. Later the above five years' requirement was changed to two.[62] The Aid to Dependent Children program required that the child must have resided in the State for one year immediately preceding application for such aid, or the child must have been born within one year immediately preceding application, if its mother had resided in the State for one year immediately preceding the birth of the child.[63] The Social Security Act

[59] Brown, Josephine C., **op. cit.**, p. 260.
[60] **Social Work Year Book, 1943**, Russell Sage Foundation, N. Y., 1943, p. 562.
[61] **Acts of 1935**, No. 82; and **Acts of 1947**, No. 193, Sec. 2.
[62] **Acts of 1935** (Spec. Sess.), No. 12.
[63] **Acts of 1935**, No. 11.

and the State public assistance laws have proven very beneficial to the aged, the blind and the dependent children in that they have removed these people from the restrictions of town settlement.

In conclusion, mention might be made of legislative provisions for a person who needs assistance and who does not have the necessary residence requirements. Concerning such a one the law states that if a person in need applies for assistance and "if he has not resided in the State for one year, supporting himself and family, and is not of sufficient ability to provide transportation to the place from which he came into the State,.....(the) overseer may provide him with such transportation, and such non-resident pauper who again makes application to the overseer of the poor of a town for relief or support, shall be fined not more than ten dollars or imprisoned not more than ninety days or both....."[64] In order to be supported by a town, however, a person in need has to have a residence of three years in the town. The law specifies that if such a person "has not resided in such town for three years, supporting himself and family, and is not of sufficient ability to provide such assistance, the town so furnishing the same may recover the expense thereof in an action of contract, on this statute, from the town where he last resided for the space of three years, supporting himself and family."[65]

64 P. L. 1933, Sec. 3923.
65 Ibid.

# CHAPTER V

## ADMINISTRATION OF RELIEF

Until the 1930's, when the federal government began to assist in the support of the poor, Vermont legislation, in so far as it affected the resident poor in a town, changed very little. During the nineteenth century, however, the Legislature did gradually distinguish between the poor and the mentally ill and the physically handicapped. The laws governing the treatment of the poor, on the other hand, gave a great deal of power to the overseer of the poor and left much to his discretion as to the manner and amount of assistance a needy person was to receive. For several decades the laws were broad enough so that the overseer of the poor could auction off the poor and their families in a public place, he could bind them out to an employer for many years, he could put them in jail or a miserable poor house, etc. He was permitted to dispose of them separately with no regard for family ties. Many of these practices, however, have discontinued although the power of the local overseer of the poor still remains great.

In all fairness, however, it must be stated that in reviewing the records one meets now and then a personage who seems out of place and far ahead of his time. The opinions expressed by Chief Justice Chipman, in a case heard before him in 1790, are an example of this.[1] From the case in question it appears that the selectmen of Bennington had given relief to a pauper family made up of a man, his wife and two or three children. The selectmen provided assistance when the entire family was ill and in extreme poverty. The wife and one or more of the children died from this illness. When the husband had recovered, he moved out of the State. In 1790, when he happened to return to the State on business he was arrested and presented with a bill by the selectmen of Bennington for services rendered. It is not stated whether or not he could pay the bill when it was

1 "Selectmen of Bennington vs. McGennes," Chipman Reports, I, pp. 44-45.

presented. The case eventually was appealed to the Supreme Court and the verdict was rendered in favor of the pauper. Judge Chipman in giving the verdict remarks:

> The provision made, by law, for the relief of the poor is, in my opinion, a charitable provision. To consider it in any other light, detracts much from the benevolence of the law, and casts a reflection on the humanity of the richer part of the community. Poverty and distress give a man, by law, a claim on the humanity of society for relief; but what relief, if the town have a right immediately to demand a repayment, and to imprison the pauper for life, in case of inability to pay? This, instead of a relief, would be adding poignancy, as well as perpetuity to distress. If this be so, certainly the law raises no promise.[2]

Such sentiments in favor of the poor by a person high in authority were rare indeed. The actual treatment of the poor by town authorities betrayed a different philosophy.

How then was relief accorded the poor during the latter part of the eighteenth and half of the nineteenth century? What philosophy did the manner of treatment betray? In Abby Hemenway's **Vermont Historical Gazetteer**, the chronicler for the city of Burlington opens his section on the poor of the town using this text and with no apologies:

> Rattle his bones over the stones,
> He's only a pauper, whom nobody owns.[3]

As one reads through the various early records concerning the poor, one gets the feeling that the pauper was indeed regarded as a thing "whom nobody owns."

Poor relief was administered locally in various ways. There was what is known as the outpension method, i. e., relief was given to a pauper outside an institution. This was the case when the pauper and his family were allowed to live in their dwelling and grants were given by the town. However, if a pauper had no home, or if he were put out of

[2] **Ibid.**, p. 45.
[3] Hemenway, A., **op. cit.**, I, p. 505.



his home, he was often placed in the local or county jail and placed under the authority of the jail keeper. Even as late as 1836 the Legislature enacted a law stipulating how much per week a jail keeper could charge the State or a town for maintaining their poor.[4] This method was used because there was usually no other institution in which to house the poor.

### Responsibility Of Able Relatives

The needy poor, however, were not to be assisted by the town in any way until the assets of relatives had been investigated in an effort to find someone who could be forced to support the indigent person or family. Note also, in the following act of 1779 how the "idiots, impotent, distracted, and idle persons" and the poor are all lumped together in the same legislative category.

> An Act for relieving and ordering Idiots, impotent, distracted and idle Persons.
>
> Be it enacted, etc., That when, and so often as it shall happen, that any Person or Persons shall be naturally wanting of Understanding, so as to be uncapable to provide for themselves; or, by the Providence of GOD, by Age, Sickness, or otherwise, become poor and impotent, or unable to provide for themselves, and having no Estate wherewithal they may be supported; then they, and every one of them, shall be provided for and supported by such of their Relations as stand in the Line or Degree of Father or Mother, Grandfather or Grandmother, Children or Grandchildren, if they are of sufficient Ability to do the same; which sufficient Relations shall provide such Support and Maintenance in such Manner and Proportion as the County Court in that County where such Idiot, distracted, poor, or impotent Person dwells, shall judge just and reasonable, whether such sufficient Relations dwell in the same or another County. And the said Courts are hereby authorized, upon Application to them made, either by the Selectmen of the Town, or any one or more of such Relations,

[4] **Acts of 1836**, No. 12 (Nov. 3). See also **Acts of 1821** (Nov. 16), Chap. 16, and **Acts of 1829**, No. 8 (Oct. 23).

to order the same accordingly.[5]

If the relatives failed to pay the assessment the court was allowed to take action at each quarter of the year and secure the amount.

The next inevitable question was, what if the pauper or "idiot," etc., had no relatives, or what was to be done if the relatives had no resources? This same act of 1779 provided that:

1. If the pauper have any property, the county court may order and dispose of it in such a manner as it judges best for the support of the pauper;
2. The court may order or dispose the pauper to any proper work or service under the direction of the selectmen.
3. The Assembly may order the sale of all lands or houses of the pauper.
4. If the pauper have no possessions the selectmen or overseer of the poor is to provide support at the cost of the town. If the person belongs to no town in this or another state, then the Legislature is to support him.[6]

The act went on further to state that if it were thought that the person's poverty was caused "by idleness, mismanagement, or bad husbandry," then the selectmen were to appoint an overseer to manage almost completely the lives of the pauper and his family. While this management was in effect the pauper became incapable of making a bargain or contract without the consent of the overseer.[7] If in the opinion of the authorities such person did not reform, then he was to be apprehended and brought to court, and, after examination, he could be sent to jail.[8] If such a person absconded or failed to answer the warrant to appear in court, then the selectmen were to take the person and his family and "assign, bind or dispose of" them in service, as they judged best.[9] A provision, however, was made for the

[5] **Acts of 1779,** (Feb. 16), Sec. 1, p. 15.
[6] **Ibid.,** Secs. 3, 4, 5.
[7] **Ibid.,** Sec. 6.
[8] **Ibid.,** Sec. 7.
[9] **Ibid.,** Sec. 8.



person affected to complain to the county court if he thought he was treated unfairly.[10]

The act of 1779, as it stood, made the list of assessable relatives quite extensive. The provisions of the bill made grandparents liable for the support of their numerous grandchildren and their families. It also placed the burden of supporting pauper grandparents on a grandchild who was perhaps just starting out on his own. In 1787, therefore, an act was passed by the Legislature in favor of these self-sustaining persons. This act mitigated the act of 1779 by providing:

> That nothing herein contained shall be construed to oblige grandchildren to support their grandparents, unless so far as they have received estate, either mediately or directly, from the grandparents, nor to take so much property from a grandparent, for support of grandchild, as to deprive such parent of a comfortable subsistence, at the discretion of the said Court.[11]

It will be noted that this act still obliged grandparents to support their grandchildren, but it released the grandchild from the obligation of supporting the grandparents unless he had inherited some estate from them.

### Auctioning Off The Poor

Another common method of disposing of the poor was to auction them off before the assembled citizens of the town. Whoever would ask the lowest fee for their maintenance would be given the pauper and the town would pay to the bidder the weekly fee agreed upon. These people were thus auctioned off irregardless of family ties or housing conditions. Here are some examples:

> By a vote of the town in October, 1815, Joel Titus was put up as a town pauper, to the lowest bidder, to find him board and lodging and was bid off by Capt. Rood, at $2.25 per week, till March meeting. Mrs. Rogers was also bid off by him at $2.00 per week, if the select-

[10] **Ibid.,** Sec. 13.
[11] **Acts of 1787,** pp. 111, 112.

**men cannot get her kept cheaper.**[12]
It was also voted that the selectmen should agree with some person to keep the said Gibbs by the week, not exceeding fifteen weeks, and that they have the right to move him from place to place, in the town, as often as they choose, **in such a way that they get him kept by the person who will keep him the cheapest.**[13]

But the miseries of the auctioned poor did not end with the auction. Usually those who bid the lowest at the auction and who were awarded the pauper were extremely poor themselves and resorted to this method merely to secure some added income for the family.[14] Under such conditions the poor usually had miserable boarding places, and they were constantly in fear of being moved into even poorer places.

## Poor Houses

One of the methods of housing the poor in Vermont which began at the end of the eighteenth century, and which still continues today, was the maintenance of poorhouses or almshouses. As early as 1797 the Legislature passed a law part of which allowed "that the inhabitants of any town, or district with town privileges, in this state, may build, purchase or hire a house of correction, or work-house, in which to confine, and set their poor to work.....And such house may and shall be used for keeping, correcting and setting to work, vagrants, common beggars, lewd, idle and disorderly persons."[15] This same law gave permission "to fetter, shackle or whip, not exceeding twenty stripes, any person confined therein who does not perform the labor assigned him or her, or is refractory or disobedient to the lawful commands....."[16] The original law did not make any distinction as to the treatment to be accorded a pauper or a delinquent.

12 Adams, Andrews N., **A History of the Town of Fair Haven**, Leonard & Phelps, Fair Haven, 1870, p. 187.
13 **Ibid.**, p. 186. See also A. Hemenway, **op. cit.**, II, pp. 709, 818; III, pp. 516, 897. Italics in the two sections quoted are the author's.
14 Hemenway, A., **op. cit.**, II, p. 509.
15 **Acts of 1797**, (March 3), Sec. 12.
16 **Ibid.**



Several towns took advantage of the Legislature's permission to erect poorhouses. In 1821, for instance, the selectmen and overseers of the poor of Burlington appointed a committee to procure a poorhouse. At this meeting a set of rules was adopted which provided for a superintendent who was given the power "to fetter, shackle or whip, etc..."[17] This poorhouse and "house of correction" was eventually in operation and the overseers of the poor in their report of 1824 made these observations:

> The beneficial effects which resulted in consequence of the establishment of a poor house and house of correction in 1821 were sensibly felt the ensuing year, by diminishing the poor account and **ridding the town of a worthless population.**[18]

In 1837 the Legislature gave added impetus to the poorhouse movement and passed "An Act, in relation to the Poor."[19] This act allowed several towns to unite and erect a poorhouse; it provided for the appointment of superintendents of the poor; and Section 3 added: "The poor houses established agreeably to the provisions of this act, shall be work-houses and houses of correction in which to confine and set to work vagrants and idle and disorderly persons." This was, in some instances, a slight step forward. Up to that time, the prevailing institutions for the poor were the various jails. Although poorhouses were allowed by the act of 1797, by this act of 1837 the Legislature began to differentiate between the criminals and the poor. However, in this act, also, the poor, vagrants, idle and disorderly persons were considered together. Even today these are all lumped together in the statute books, for in the Public Laws of 1933 are found these words: "Such corporation shall have charge of the poor, idle, and disorderly persons, placed in the poorhouses of such towns....."[20]

17 Hemenway, A., **op. cit.**, I, p. 506.
18 **Ibid.** Italics are the author's.
19 **Acts of 1837**, No. 23, (Oct. 31).
20 **Public Laws of 1933**, Sec. 3969.

But even these categories do not describe adequately the population of the poorhouses. These institutions were often used as a dumping ground for many of the town's cast-offs. In 1850, for example, out of the State's total almshouse population of 1,878, there were 148 who were "deaf and dumb," 140 who were blind, 560 who were "insane," and 299 who were "idiots."[21] The following table gives the number of the "deaf and dumb, blind, insane and idiotic" inmates of the poorhouses of Vermont from 1850 to 1890.

Table V—Number of Physical and Mental Defectives in the Poorhouses of Vermont from 1850 to 1890.[22]

| | "Deaf and Dumb" | "Blind" | "Insane" | "Idiots" |
|---|---|---|---|---|
| 1850 | 148 | 140 | 560 | 299 |
| 1860 | 144 | 165 | 693 | 263 |
| 1870 | 148 | 189 | 721 | 325 |
| 1880 | 212 | 486 | 1,015 | 803 |
| 1890 | 249 | 448 | 823 | 901 |

With the opening of the State mental hospital in 1891, the number of mentally defective persons housed in the poorhouses of the State began to decrease. By 1903 there were 34 insane persons in the poorhouses and in 1910 the number had dwindled to eleven.[23] The number of persons who were feebleminded, however, continued to remain high. In 1903 there were 156 such persons and in 1910 there were 103 feeble-minded persons living in the almshouses of the State.[24]

The U. S. Census reports of 1903 and 1910 give a more detailed enumeration of the number and kind of inmates in the almshouses of Vermont. Table VI shows that a large percentage of the inhabitants of Vermont's poorhouses had other problems besides being poor.

21 **Report on Crimes, Pauperism and Benevolence,** (Eleventh Census), U. S. Census Bureau, Washington, D. C., 1895, Part II.
22. **Ibid.**
23 **Almshouse Population in the U. S.,** U. S. Census Bureau, Washington, D. C., 1904 and 1910.
24 **Ibid.**



Table VI. Defective Paupers in Almshouses in Vermont in 1903 and 1910.[25]

| | 1903 | 1910 |
|---|---|---|
| All Classes | 425 | 383 |
| Insane | 34 | 11 |
| Feeble-minded | 156 | 103 |
| Epileptic | 7 | 7 |
| Deaf-mute | 2 | 8 |
| Paralytic | 17 | 13 |
| Crippled, maimed, deformed | 57 | 54 |
| Old and infirm | 105 | 87 |
| Bedridden | 7 | 4 |
| Blind | 18 | 14 |

The ages of the inmates of these institutions were not more uniform than their problems. The U. S. Census reports of 1903 and 1910 showed that these institutions were also used to house children. In fact, children of paupers were housed in these institutions and sent to the town schools

Table VII. Ages of Almshouse Population in Vermont in 1903 and 1910.[26]

| Age | 1903 | 1910 |
|---|---|---|
| Under 5 | 12 | 36 |
| 5- 9 | 22 | 23 |
| 10-14 | 18 | 15 |
| 15-19 | 9 | 13 |
| 20-24 | 12 | 23 |
| 25-29 | 15 | 24 |
| 30-34 | 15 | 19 |
| 35-39 | 22 | 21 |
| 40-44 | 14 | 25 |
| 45-49 | 19 | 15 |
| 50-54 | 19 | 22 |
| 55-59 | 27 | 17 |
| 60-64 | 26 | 29 |
| 65-69 | 34 | 28 |
| 70-74 | 43 | 37 |
| 75-79 | 35 | 23 |
| 80- | 72 | 44 |

25 **Ibid**
26 **Ibid.**

during class hours when the laws of compulsory school attendance for children became effective. The Legislature of 1917, however, in an effort to stop the practice of keeping children in almshouses made it "unlawful to keep any dependent child in any poorhouse, except an infant, or young child with its mother and except in cases of emergency, and for a period not to exceed ninety days."[27] This law remains in force today.

Today the poorhouse is used mostly for the aged who have no one to care for them or who do not have adequate funds to maintain themselves. "The 'almshouse' or 'poorhouse' was once a home for the poor. Today it is a home for the old as well as the poor."[28] While this is a fact in Vermont, there is also a generous sprinkling of mental deficients in the poorhouses of the State. The following picture of a poorhouse has been called typical.

> They have fourteen men and two women. Nearly all of the men are old, ages running from sixty-nine to over eighty years. One crippled and one just returned from the State Hospital, still insane to some extent but apparently harmless. One of the women is about eighty years old and bedridden full of troubles, and I would judge from her looks she might have cancer. Is receiving medical treatment. The other woman is a deaf and dumb person but is able to do good work and does. She works about the house all the time, except for an occasional day when she has a spell of temper but this does not last.[29]

Though the maintaining of a poorhouse proves to be an expense for a town, yet it still seems to be favored by some overseers in that it can be used as a constant threat for those who seek relief from the town.[30] So the spirit ex-

[27] **Acts of 1917**, No. 244. See also **Acts of 1921**, No. 221; and **Acts of 1933**, No. 157.

[28] **The Need for Economic Security in the United States**, Committee on Industrial Security, Washington, 1934, Chart XII.

[29] "State Inspector's Report of August 6, 1936," quoted from George C. Vietheer, **Relief Administration in the Urban Communities in Vermont**, A Norwich University Study, 1937, pp. 65-66.

[30] Vietheer, George C., **Relief Administration in the Urban Communities in Vermont**, Norwich University, Northfield, Vt., 1937, p. 72.



pressed in the afore-mentioned report of the overseers of Burlington in 1824 is still being continued by their overseeing brothers today. And the threat has proved effective in many cases, for the old pauper, Seth Chase, remarked, "I'll starve or freeze to death there (in the woods) before I will go to that accursed poorhouse."[31]

### Families Of The Poor Who Were Mentally Ill

By an act passed in 1870 a great and salutary change was effected for the families of those who had become mentally ill, but unfortunately most of the good provisions of this act were repealed in 1874.

Before 1870, whenever the head of a family became mentally ill, his estate was put completely in the hands of local commissioners whose task it was to manage the estate in order to pay for the maintenance of the mentally ill father and his family. The wife and family had no authority whatsoever as far as the management of the property was concerned. If the estate was not sufficient to pay for the maintenance of the father and the family, it could be sold. But "An Act for the Relief of the Families of Insane Persons" (1870) stipulated that the town was to pay for the maintenance of the mentally ill if the proceeds of the estate were not more than sufficient to support the family. The act read as follows:

> Sec. 1. All insane persons having legal settlement in any town in this state, the annual income of whose estate shall not be more than sufficient for the support of the wife and minor children of such insane poor, shall be maintained and supported by such town at the insane asylum at Brattleboro; **and such town shall not be allowed to control or use such estate, or any part of the annual income thereof, for such maintenance and support.**
>
> Sec. 2. The county court in the county where such insane person shall have legal settlement, upon complaint made by the wife of such insane person, may,

[31] **Three Score and Ten Club, op. cit.**, the account of Seth Chase.

on due hearing, either upon the appearance or default of such town, order such town to maintain and support such insane person at the insane asylum; and upon such complaint said court may award costs to either party as justice requires.[32]

By this act, if the mother of the family could manage to support the family by having the farm or business run, she could devote her time to her primary responsibility of taking care of her minor children. However, the amendment of 1874 made it imperative that **the mother and minor children** work, if the town authorities so desired, to maintain or assist in the maintenance of the mentally ill father. From the following quotation it can be seen that the law, because of its vagueness and lack of protection, could be interpreted to cause real hardship on the family.

An Act In Amendment Of An Act Entitled "An Act For The Relief Of The Families Of Insane Persons"

It is hereby enacted, etc.:

Sec. 1. (The former law to read as follows):

All insane persons having legal settlement in this state, the annual income of whose estate, **together with the earnings of the wife and minor children of such insane,** shall not be sufficient for the support and maintenance of the wife and minor children of such insane persons, shall be supported and maintained by such town at the insane asylum at Brattleboro. And such town shall be entitled to the use and control of so much of the income of said insane person's property, and the earnings of said wife and minor children of such insane person, as shall be in excess of the expense of supporting and maintaining said wife and minor children.

In this act there was no mention made specifically about not requiring a wife and minor children to work. It did not prohibit an overseer from forcing minor children to work and assume the burden of supporting a mentally ill father.

### The Overseer Of The Poor

The overseer of the poor occupied a unique position. His authority and his decisions were, and to a great extent still

[32] **Acts of 1870, No. 33, (Nov. 10). Italics are the author's.**



are, supreme under the law. He could accept or refuse cases for relief, and he did not have to consult any one. The Supreme Court recognized the great powers which the Legislature had conferred upon the overseers when, in giving a decision, in 1880, Judge Henry Powers spoke these words:

> Under our pauper law the overseer is authorized to determine the question whether he will furnish relief in such cases, and whether the facts make the case one proper for him to furnish relief. He does not act under the restrictions of an agency, but with the authority of a principal. The town cannot revoke his authority; cannot itself discharge the functions of his office; and cannot repudiate his contracts made in matters coming within the purview of his official duty.[33]

[33] "Edward Holloway vs. Town of Barton," **Vermont Records,** Vol. 53, p. 301. (Aug. 1880). According to law the judgment of an overseer cannot be disputed and cannot be subjected to a law suit. This interpretation of the law is clearly brought out by Chief Justice Moulton in the case of "Pierre Nadeau vs. Charles E. Marchessault, Sr.," **Vermont Records,** Vol. 112, (Jan. 1942), pp. 309 ff. Chief Justice Moulton:

The declaration alleges in substance that the plaintiff . . . . became incapacitated and unable to support himself and the family; that he applied to the defendant, who was the overseer of the poor of the city, for assistance; and the latter knowing the need of the plaintiff and his family "carelessly, negligently and maliciously failed and refused to provide adequate food, shelter, clothing and medical aid to the plaintiff and his family." The defendant filed a demurrer which was overruled, subject to his exception.

The function of relieving the poor is properly governmental in its character and the overseer of the poor is not a general agent of the town or city, but is rather a public officer, since his authority is not delegated to him by the municipality but is conferred by law . . . . It is his duty to provide for the immediate relief of all persons residing or found in the town when they fall into distress and stand in need of relief, and this duty arises and becomes ineludible whenever he receives information however conveyed, that relief is sought. P. L. 3920. . . . .

But the function that an overseer performs in the discharge of this duty is not ministerial but judicial in nature, because it involves an inquiry of fact and the exercise of judgment and discretion upon the case presented . . . . Under our pauper law an overseer is authorized to determine whether he will furnish relief and whether the facts make the case proper for him to do so . . . .

When a public officer performs a judicial function involving the exercise of judgment and discretion, and acts within the limits of his authority, he is not liable for negligence in the execution of his duty at the suit of a private individual claiming to have been injured thereby. . . . . .

In other words the authority of the overseer was conferred by the law and was not delegated by the town. Neither could the town restrict that authority. The only way to curb an overseer was to remove him from office. In 1878, the Legislature had passed a law which allowed the judge of probate to remove an overseer when, in a town of 500 inhabitants or more, twenty-five taxpayers (including two justices of the peace) had complained, and if evidence presented at a hearing warranted the removal.[34] The smaller towns had to wait for the annual election before removing an overseer. However, by an act of 1884, the Legislature gave to the board of civil authority, in towns of more than ten thousand inhabitants, the power of appointment and removal of an overseer. It further stated that the overseer was to be under the "control and direction" of the selectmen.[35] In order to place a check on the expenditures made by the overseer the Legislature stipulated in the same act that the account book of the overseer should be open to inspection and examination at all times by taxpayers of the town.[36] Since the books of the overseer contained the names of the recipients of relief, this law destroyed the element of confidentiality in relief-giving. An amendment to this act was added in 1890, but the only change was the placing of the overseer under the direction and control of the selectmen in towns of five hundred as well as those of ten thousand inhabitants.[37] Confidentiality in relief-giving was again affected by an act of 1934 which demanded that the overseers of the poor hand over the names of all those who had received any relief during the preceding year to the liquor administrator in their respective towns. Whenever anyone became a public charge, his name was to be added to this list.[38]

[34] **Acts of 1878**, No. 85, (Nov. 27).
[35] **Acts of 1884**, No. 58, Sec. 1, (Nov. 25).
[36] **Ibid.**, Sec. 2.
[37] **Acts of 1890**, No. 43, Sec. 1, (Nov. 26).
[38] **Acts of 1934**, No. 1, Sec. 77, (April 18).



## The FERA And The Settlement Law From 1932 Through 1935

The depression of 1929 soon became a national problem and every state in the Union felt its effect. As the months passed conditions in the nation became acute. "The rapid and, to many, terrifying increase in the army of unemployed, the rising relief expenditures and the pressures upon inadequate and unprepared social work machinery, brought to a focus and into the national limelight the much debated and vital questions of governmental responsibility and source of funds; the place of private agencies and community chests in relation to unemployment relief; the responsibility of state and federal governments; and federal loans versus grants-in-aid to the states."[39]

One of the first steps taken by the federal government to assist in the crisis was the passage of the Emergency Relief and Construction Act of 1932. This act allowed the Reconstruction Finance Corporation to loan the states, at three per cent interest, up to $300,000,000. Vermont, however, was one of the six states of the Union which did not borrow under the Emergency Relief and Construction Act.[40]

In May, 1933, however, the Federal Emergency Relief Administration was set up to provide federal aid by means of grants to states for relief of the unemployed. The total amount allotted by Congress at this time was $500,000,000. Of this amount $250,000,000 was to be dispensed to the states on a matching basis, and $250,000,000 was to be given outright according to need.[41] When this amount was exhausted hundreds of millions more were granted to this agency by Congress until the FERA was liquidated in 1936.[42]

[39] Brown, Josephine C., **Public Relief, 1929-1939**; Henry Holt & Co., N. Y., 1940, p. 63.
[40] Abbott, Edith, **Public Assistance**, Chicago University Press, 1940, Vol. I, p. 668.
[41] Brown, Josephine C., **op. cit.**, p. 146.
[42] **Ibid.**, p. 146. Note: The total amount of Federal funds authorized for the use of or allocated to the Federal Emergency Relief Administration up to June 30, 1936, amounted to $3,088,670,625.

In June, 1933, the Vermont Emergency Relief Administration was established by the governor, [43] but the Legislature never granted any State funds to be used in cooperation with the FERA to assist the thousands of unemployed in Vermont.[44] The burden of supporting the unemployed was left with the local governmental units. It was with these, therefore, that the FERA worked to assist the thousands of unemployed in Vermont during 1933, 1934, and 1935. The FERA operated in Vermont as a work-relief program, and the number of persons assisted increased to such an extent that in 1935, during the month of March alone, the FERA had assisted 34,694 persons.[45]

To assist the towns in carrying this burden, the federal agency granted nearly three and one half million dollars during the period under consideration. During this same period the towns spent more than two and one-half million in cooperation with the federal government and the State government's contribution amounted to less than $40,000. Although the Legislature had not specifically allocated this amount for this type of relief, this money was taken from the State's welfare budget.[46] During this period the total amount spent reached more than $6,000,000. Of this amount the federal government contributed 56.6 per cent, the local governments contributed 42.7 per cent and the State government contributed only 0.7 per cent.[47]

### Old Age Assistance

How to assist the aged poor has been a continual problem in Vermont. Since so many of Vermont's young people migrated out of the State, very often the aged poor had no children on whom they could depend. Until 1935 the State was reluctant to grant any assistance to the aged poor who had legal residence in a town in the State, and, as a result,

[43] F. E. R. A. Monthly Reports, May 1 through May 31, 1936, Washington, D. C., p. 45.
[44] Ibid., March 1 through May 31, 1935, p. 39. See also ibid., March 1 through March 31, 1936, p. 49.
[45] Ibid., March 1 through March 31, 1935.
[46] Ibid., Sept. 1 through Sept. 30, 1934, p. 24.
[47] Ibid., Monthly Reports from 1933 to 1936.



the primary responsibility for supporting these persons rested with the local governments. Since 1936, the State, cooperating with the federal government, assumed part of this expense. The State, however, from an early date had occasionally granted assistance to aged persons who did not have legal residence in a town or who were not living in an organized town. One of the earliest cases of methodical old age assistance granted by the State government is recorded to have taken place in 1781.

> The Committee appointed last session (of the Legislature) to confer with Isaac Hale on the subject of keeping his grandmother Ward brought in the following Report, viz: Your Committee beg leave to Report and do hereby Report, that whereas the trust reposed in us by your appointment at your last Sessions to confer with Isaac Hale in regard to keeping Ara Wards Widow his grandmother during her life and likewise to adjust his accounts for past charges expended for her relief and comfort in times past, that we have carefully examined and find his accounts for taking care of his grandmother in times past to be thirty-two pounds, three shillings and one penny exclusive of his own time, which account is justly due to said Hale from this State. — And we have agreed with said Hale as follows, viz. — Said Hale is to secure this State that his grandmother Phebe Ward be no further cost or charge to this State or any town therein, and that he will for the time past, present and to come pay and discharge all demands of himself or any other person or persons he or they have against this State on account of his grandmother Phebe Ward, and that this State convey to him the said Hale 26 acres of land laid out on the right of Joseph Murren also one hundred and forty two acres of undivided land to be laid on the right of Stephen Murren which we find belonged to Ara Ward lying and being in Wells and also one right or share in the town of Essex, or Burlington, or any town where said Ward has a right or share as said Hale shall chuse, and also a fifty acre lot in Essex that said Ward brought of Rember (Remember) Baker and if said Ward did forfeit or had no land at or near Onion River then said Hale is to have a right or share

in any one town that shall be granted by this State as he shall chuse.[48]

The Legislature made special provision from time to time for the care of two old infirm Indians named "John Vincent," and "Joseph Susuph,"[49] but for the most part the relief of the aged was left in the hands of the local overseer of the poor. In 1921, however, the State did volunteer to pay the burial expenses of certain non-resident paupers. It provided that "whenever a poor person, who has not resided in any town in the state for three years supporting himself and family, dies, the town in which such person dies shall provide a proper burial. The overseer of the poor of such town shall, under oath certify to the auditor of accounts that such person has been buried by the town, and the actual expense thereof. The auditor of accounts shall issue his warrant in favor of such town for an amount not to exceed seventy-five dollars."[50]

Even before the passage of the Social Security Act by the federal government, which act was passed on August 14, 1935, the State of Vermont passed legislation to cooperate with the future federal program. "An Act To Provide Assistance To Aged Citizens In Need Of Aid And To Make An Appropriation Therefor," passed on April 11, 1935, contained the following provisions.

**Declaration of policy.** Aged and "deserving" citizens of the State who are in need of assistance are entitled to aid from the State.

**Eligibility requirements.** An aged person will be assisted if he

a) Is a United States citizen;
b) Has resided in Vermont for five years or more within the ten years immediately preceding application for assistance;

[48] Vermont State Papers, Vol. I, pp. 189-190.
[49] See Acts of 1801 (Oct. 26); Acts of 1806, (Nov. 1); Acts of 1808, (Nov. 10); etc.
[50] Acts of 1921, No. 114.



c) Is not an inmate of any prison, jail, workhouse, insane asylum or public reform or correctional institution;
d) Has not adequate income when joined to that of his or her spouse's to provide a reasonable subsistence compatible with decency and health;
e) Has not assigned or transferred his property or income for the purpose of qualifying for assistance.
f) Has attained the age of sixty-five.

**Property qualifications.** No person is eligible who has an income in excess of $360 a year, or, if he is living with his spouse, whose income when joined with that of the spouse is more than $500 a year; nor any person whose property has an equity of more than $2,500, or if living with his spouse, whose combined property has an equity of more than $4,000. In computing the value of any house owned, used or occupied by the person or persons, $1,000 are deductible.

**Limitation of amount.** The maximum amount of monthly grant shall be $30 for a single person and $45 for a married couple. The amount of whatever other income the person or persons has is deductible from this amount. Earnings or gifts not exceeding $100 a year shall not be computed. Producing or non-producing property shall be given special consideration.

**Commission, appointment and salary.** An old age assistance commission is created made up of three members. They are appointed by the governor with the advice and consent of the Senate. They are to be paid on a per diem basis.

**Director, salary, assistants.** One of the members of the commission shall be appointed chairman by the governor. The chairman is to be the director of old age assistance. The director shall not receive a per diem pay, but his salary, fixed by the commission, shall not exceed $3,250 a year. The commission shall appoint assistants to the director. Salaries and costs of administration shall not

exceed five per cent of the amount appropriated for old age assistance.

**Local official; application and award; appeal.** The local agents shall be appointed by the selectmen of each town and the city council of each city. They shall also provide for his compensation. Application for assistance is to be made to the local agent who shall investigate and, within thirty days, forward the necessary papers to the commission. The commission shall decide to accept or reject the application, and fix the amount to be paid to the accepted applicants. If an application has been denied, an applicant may appeal within thirty days.

**Payments.** The commission shall issue to each accepted applicant a certificate for one year, stating the amount of each monthly payment. The certificate shall be renewed each year as long as the recipient is eligible for assistance. Recipients are to notify the commission immediately if there is any change in their circumstances.

**Appointment of agent.** If an applicant or a recipient appears incapable of taking care of his affairs, the commission may direct the payment of the assistance to a responsible person or corporation.

**Rights inalienable.** All rights to old age assistance are inalienable and cannot be transferred or attached.

**Aid exclusive of other aid; funeral expenses.** A recipient of old age assistance shall not receive any other assistance from the State, except medical and surgical aid. If an estate is insufficient to pay for funeral expenses, the commission shall allow up to $250 for such expenses.

**Review of award.** An investigation and suspension of payments may be made at any time if the commission suspects bad faith.

**Conviction of crime.** A person convicted of any crime or offense and imprisoned for more than a month shall not be entitled to assistance during his imprisonment. If the



person is married, the spouse shall receive assistance as a single person.

**Penalty.** Violation of the requirements of this act is punishable by a fine of not more than $100 or imprisonment for not more than 60 days, or both, with suspension of payments not to exceed one year.

**Fraud.** False statements or misrepresentation for assistance is punishable by a fine of not more than $500, or by imprisonment of not more than one year, or both.

**Report to Governor.** In order to obtain the benefits of any act passed by Congress, the commission is to send specified periodic reports to the proper federal agency. (The Social Security Act had not been passed at the time this law was enacted.)

**Payments from the federal government.** If the federal government shall reduce the maximum fifteen dollar monthly matching grant for each person, then the commission shall reduce its maximum monthly grant of thirty dollars proportionately.

**Lien.** Upon the death of the recipient a lien shall be enforced on the recipient's estate in favor of the federal government up to the amount paid for that year, in which the lien was enforced. The State has a preferred claim against the estate for all amounts paid to the recipient, plus an interest of four per cent. If a spouse still survives, special provisions shall be made.

**Appropriation.** The annual sum of $250,000 is to be appropriated annually for this purpose.

**Amount of aid; reimbursement by the federal government.** Each person entitled to old age assistance is to receive a maximum of $30 a month and the federal government is to pay half the monthly grant.[51]

[51] **Acts of 1935, No. 82.**

Since 1935 several amendments have been made to this act,[52] the most significant being an amendment of 1947 by virtue of which old age assistance is to be granted to any person who:

> (a) Has resided in the State of Vermont if a United States citizen for three during the ten years immediately preceding application for assistance or if a non-citizen has resided continuously in the United States for a period of twenty-five years and in Vermont for three during the ten years immediately preceding application for assistance.[53]

The mitigation of the former stringent citizenship clause thereby enables many who were formerly excluded to receive assistance. Furthermore, the original $30 maximum monthly grant for a single person and the $45 maximum monthly grant for married persons (which were raised to $40 and $60 respectively in 1945), were now increased to $45 and $80 respectively in 1947.[54] Even the administrative set-up was changed in 1947 when the separated Department of Old Age Assistance was abolished and it was incorporated in the new Department of Social Welfare.[55]

### The Reorganization Of 1947

In 1947, the Legislature passed an act which greatly changed the administrative phases of Vermont's public welfare system.[56] In order that the change may be more completely understood, all of the significant points of the new set-up will be briefly stated here rather than divided topically and incorporated piece-meal in the various chapters. This act (No. 187) passed in 1947, abolished the Department of

[52] See Acts of 1935, (Spec. Sess.), No. 8; Acts of 1936, (Spec. Sess.), No. 1, VIII, c (3); Acts of 1937, No. 65; Acts of 1939, No. 72; Acts of 1941, No. 56 and 57; Acts of 1943, No. 48; Acts of 1945, No. 55; Acts of 1946, (Spec. Sess.), No. 9.

[53] Acts of 1947, No. 193, Sec. 2.

[54] Ibid., Sec. 4. Note: The program of Old Age and Survivors Insurance (formerly Old Age Insurance), which became operative in Vermont in 1936, is not treated in this study because the State government has no part in its administration. It is administered entirely by the federal government.

[55] Acts of 1947, No. 187.



Public Welfare and the Department of Old Age Assistance. Instead of these two departments, the Legislature set up two separate departments: the Department of Social Welfare and the Department of Institutions and Corrections. Each new department has a policy-making board of three members. Each department has a commissioner who is appointed for four years by the appropriate board with the approval of the governor. The Department of Social Welfare will administer the following divisions and services: old age assistance, aid to dependent children, aid to the blind, services for the blind (including vocation rehabilitation), aid to crippled adults, child welfare services (including adoptions), committed children, and education of the "deaf, dumb, and blind." The Kinstead Home, since it is a shelter home for temporary care, is under the supervision of the Department of Social Welfare. All other duties and powers formerly invested in the Department of Public Welfare are inherited by the Department of Institutions and Corrections. All the mental and penal institutions of the State, therefore, come under the supervision of this latter department. The board of mental health operates under this latter department also, because of its duties respecting the mentally deficient and the mentally ill.

[56] Ibid., Note: The Vermont Department of Public Welfare had been set up from 1923 (Act. No. 7) by the Legislature. This Department succeeded the previous Board of Charities and Probation which had been organized in 1917 (Act No. 244).

# CHAPTER VI

## THE DEPENDENT CHILD

The extreme poverty of the early inhabitants of Vermont made the solution of the problem of dependency more difficult. Far from being opulent, Vermont proved to be a land which provided a meager existence for the vast majority of its families. This poverty inevitably affected the welfare of the children. During the early decades of the State's existence little thought was given to juvenile problems as such. It was a period of strife within and without the State; of adjustment to new surroundings, necessarily difficult under ordinary circumstances, but rendered still more trying because of the extreme poverty of the early settlers. For nearly a hundred years after the State's beginning there was very little distinction made between juvenile and adult paupers on the Vermont statute books. However, during this period, certain methods of dealing with dependent children were followed by most of the towns and were allowed by the vagueness of the law. There existed, in a way, a definite pattern of child welfare. However, the main preoccupation of the Legislature seemed to be to avoid assuming any responsibility for dependent children and the main preoccupation of the towns was to keep out any paupers who could be kept out.

There was practically no clear-cut distinction made between the various classes of the so-called dependent children. The poor, the blind, the deaf, the crippled, the feebleminded, the delinquent, and the child born out of wedlock were considered as belonging to that one category of persons for whom the town had to provide because of the failure of relatives or friends to do so. In a general way, these children were recognized as falling into two classes: those who were helpless because of their tender age and those who were dependent because of a physical or mental disability. As regards the former, they were usually apprenticed to a master, or "bound out" to some family until they reached their majority. A remnant of the legal authority for this



still exists on the statute books. Title 15, Chapter 160, Section 3947 of the Public Laws of 1933 stipulates that "the overseer of the poor may set to work such minor children as are chargeable to his town." Dependent children were also cared for by providing for their maintenance in their own homes or in the homes of some other inhabitants who would volunteer to look after them at the expense of the town. Some children also found their way to the poorhouses or private institutions when these became available. Almost until the beginning of the twentieth century the care and maintenance of the dependent children of the State seemed to be limited to the relief of immediate need in each case and little attention was given toward improving through forceful legislation the lot of those children.

One should remember that the early adoption of the English Poor Laws by the Legislature (See Chapter II) did not include any specific procedure to be followed by the towns in their application of these measures. Each town was free to develop its own method of care. But it is almost impossible to trace exactly when one system was discarded and another adopted. There was a continual overlapping, and often several methods of caring for dependent children were being used at the same time. For the sake of clearness, then, it seems advisable to trace the various methods that have been used and note the various acts of the Legislatures which affected these methods in any way.

### The Custom Of Binding Out

As often happened, the parents and relatives of a dependent child were in no condition to give assistance. As a solution, the overseer of the poor had recourse to a system which had been employed in England since the Sixteenth Century. The system called binding out or apprenticeship consisted in making a contract between the parent or guardian of a child in need of care and an adult willing to accept a certain responsibility for that care. Under the terms of the agreement, the child was bound to the master until he reached

his twenty-first year, if a male, or her eighteenth year, if a female. During these years the child had to work for the master. The master in turn promised to provide clothing, shelter and maintenance, and usually some education and trade. When the apprentice reached his majority, it was usually agreed that he would receive a certain sum of money, or some specific clothing.[1] "Indenture was a commercial bargain based upon the theory that every individual in the State must work his way, and if he is dependent the public may well enough bind him to a term of service by contract."[2] The settlers adopted this system not because they wanted to be particularly harsh, but because of the fact that this binding out did relieve the public of responsibility, and also because of a theory that was prevalent and still is to a certain degree. The theory is this: idleness is a sin of the poor, therefore, these children of the poor most be put to work as a matter of training and thereby learn habits of thrift and industry. "Apprenticing poor children seemed to offer an ideal solution of the problem of child dependency. The colonists argued it was in the interest of the child and at the same time saved the town and county money."[3]

The first formal enactment concerning "binding out" was passed in 1779.[4] This act simply stated that the children of the poor who had no work or had no one to take care of them, were to be bound out as apprentices or servants by the overseer of the poor or the selectmen of a town until the age of 21 if a boy or 18 if a girl. The father or guardian also had power to bind out his child. At this time there was no enactment which would provide the child with supervision or education or protection from abuse. An act of 1784, however, made apprenticeship a contract which was binding on both parties.[5] The law did not distinguish between the

[1] O'Brien, Edward J., **Child Welfare Legislation In Maryland**, Catholic University of America, Washington, D. C., 1937, p. 31.
[2] Kelso, Robert W., **The Science of Public Welfare**, New York, Holt, 1928, p. 353.
[3] Abbot, Grace, **The Child and the State**, University of Chicago Press, 1938, Vol. 1, p. 190.
[4] **Acts of 1779**, p. 98.
[5] **Acts of 1787**, p. 115.



binding out of a child by his father for the purpose of the child's learning a trade and the binding out of a child for reasons of poverty. The following is an example of such a contract and shows the obligations imposed on both parties.

> This Indenture made this 31st Day of March A. D. 1790 between Preserved Kellogg of Castleton in the County of Rutland and State of Vermont on the one part and Zadok Remington of said Castleton on the other part witnesseth that the said Preserved Kellogg Doth Put and Bind out his Son Sharley Kellogg a minor of sixteen years of age the 12th Day of June Last as an apprentice unto the Said Zadok Remington for and During the Term of until the Said Sharley arise unto the full age of twenty-one Years During all which Term he the said apprentice his Said Master faithfully Shall Serve his Secrets Keep his Lawfull Commands Gladly Obey he Shall Do No Damage to his Said Masters Goods nor lend them unlawfully to any he Shall not Commit fornication nor Contract Matrimony within Said Term he shall not absent him Self by Day or by Night without his Said Masters Consent but in all things behave himself as a Dutiful apprentice Should and ought to Do towards his Said Master During Said Term and the Said Master Doth Provide and Engage to Bring up Said apprentice in the art and business of Black Smith work and him to find suitable and Convenient Meat Drink washing and Lodging and Physick if need fitting for such an apprentice During Said Term and to Instruct the Said apprentice to Read well in the Bible and to write a legible handwriting and Do the four first rules of Arithmetick and at the End of Said Term Dismiss the Said Apprentice with Two Good suits of apparel fitting such an apprentice the one Suitable for Lord's Day the other for Every Day Both in Linen and Wooling and to provide for Said apprentice as afore Said both in Sickness and Health all things necessary and Convenient During the Term afore Said In Witness whereof the Parties of thereof Presents have Interchangeably Set their hands and Signed and Delivered.

In Presents of Zadok Remington.

Sharley Kellogg

Francis Colver
James Woodward[6]

To give the procedure legal force, the contract had to be in writing, signed before witnesses and a copy of the contract had to be placed in the office of the town clerk. But the contract did not specify the number of hours a day the child had to work. The condition was even more difficult in the case of girls and young children. Some of the young men would rebel against such servitude and escape. When this happened the master would place an advertisement in one or several newspapers in order to have a runaway apprehended and returned. The following is such an advertisement.

> Whereas, Abiah Church, an indented boy of between 17 and 18 years of age, having become remarkable saucy, impudent and ungovernable, and is strolling about—this is therefore to caution all persons against harbouring, trusting or employing said boy, as they will be proceeded against according to law—All masters of vessels are likewise cautioned against carrying off said boy.[7]

In reading through the various town records one is impressed by the lack of investigation of the home in which the minor had to live, and the absence of supervision once the minor was bound out. A good example of the lack of supervision is the case of Louisa Phelps.[8] On the ninth of March, 1824, a Nathaniel Carpenter, then overseer of the poor of Middlesex bound out Louisa Phelps, who was then only seven years old, to one Ziba (a man) Woodworth, then of Montpelier, by written identure, until she should arrive at the age of eighteen. Louisa lived with Ziba and his fam-

[6] Document in Town Clerk's Office, Castleton, Vermont, quoted from John C. Huden, **Development of State School Administration in Vermont**, Vermont Historical Society, 1943, p. 28-29, see also **ibid.**, p. 259.

[7] **Vermont Intelligence**, Bellows Falls, Vermont, May 28, 1821; quoted from John C. Huden, **ibid.**, p. 30.

[8] "Louisa Phelps vs. Daniel Culver." **Vermont Records**, Vol. 6, p. 430.



ily until he died when she was nine years old. Shortly after his death, a Daniel Culver, who was appointed to divide the estate, handed this child over to a son of Ziba to keep as his servant. No one seems to have been consulted; no one seems to have cared. Louisa left this latter home when she was fifteen years old. This court case contains many passages describing the utter lack of supervision and planning. The overseer of the poor seemed to be satisfied with any disposition made of the child.

Another case which eventually came before the Supreme Court[9] contains, in the decision of the judge, a good verbalization of the philosophy behind the principle of binding out. In this case there is also a good description of a mother who was forced to bind out her children for reasons of poverty when her husband died. Even the youngest child, who was about three years of age, was bound out until he attained the age of twenty-one.

## The Revised Statutes Of 1839

The Revised Statutes of 1839 contained clearer and more precise laws concerning "Masters, Apprentices and Servants."[10] Under this revision a whole chapter was inserted which was intended to take care of every detail in the following manner.

**Subject.** All minors may be bound out as apprentices or servants, males to the age of twenty-one and females to the age of eighteen; children under fourteen years of age may be bound out by the father, or if he is dead or incompetent, by the mother or the legal guardian; children born out of wedlock may be bound out by the mother; if children have no competent parent or guardian they may bind out themselves with the approbation of the selectmen; if a child is fourteen or older, he may be bound out, but his consent must be ex-

[9] "Warner vs. Swett and Way," **Vermont Records**, Vol. 7, p. 446.

[10] **Revised Statutes of 1839**, Title XVI, Chapter 66.

pressed; the overseers of the poor may bind out dependent children.[11]

**Contract.** Two deeds of the same form and tenor were to be made out, one to be kept by each contracting party,[12] but the minor's copy was to be deposited in the town clerk's office for safe keeping. The child was to be taught how to "read, write and cypher" and must receive other reasonable instruction.[13] All the money and goods paid by the master were for the sole use of the minor.[14]

**Responsibilities of parents, guardians, selectmen and overseers of the poor.** It was the duty of all persons responsible for the binding out of a child to inquire into the treatment of the apprentice, to protect him from abuse, and to register a complaint if necessary before the county court.[15]

**Prosecution of the master.** If he was found guilty of cruelty he must sustain the costs of the trial and the minor was to be bound out to another master.[16] If the complaints were not sustained those who complained were to pay costs.[17]

**Prosecution of the apprentice.** If an apprentice misbehaved, or ran away, the master could complain to the county court. At the trial the minor and his parents or guardian must appear. If the minor was convicted, the master was released from his obligations and the minor could be bound out anew. Parents, guardian or minor were to bear costs,[18] or the court could deduct costs and damages when minor received his discharge money.[19]

**Limitation of the contract.** The contract ceased at the death of the master and the apprentice could be bound out to someone else.[20]

[11] **Ibid.**, Secs. 1, 2, 3, 6.
[12] **Ibid.**, Secs. 4, 5, 8.
[13] **Ibid.**, Sec. 7.
[14] **Ibid.**, Sec. 9.
[15] **Ibid.**, Secs. 10, 11, 13, 14.
[16] **Ibid.**, Sec. 14.
[17] **Ibid.**, Secs. 15, 16, 17.
[18] **Ibid.**, Secs. 19, 20, 21, 22.
[19] **Ibid.**, Sec. 23.
[20] **Ibid.**, Sec. 24.



## Apprentice Laws From 1839 To 1933

Once the law providing for apprenticeship contracts was entered in the statute books of 1839 in all detail and precision, it remained the law of Vermont with very little change for nearly one hundred years. It was dropped from the law books in the revision of 1933 when the Public Laws of Vermont were published in that year. In its stead the law offered two solutions. One section (Sec. 3947) simply stated that the overseer of the poor may set to work such minor children as are chargeable to the town. Another section (Secs. 5446-5455) placed the authority to handle the problem of dependent children in the hands of the Juvenile Courts. "When a child is found to be dependent or neglected within the meaning of this chapter, the court may make an order committing the child to the care of the department of public welfare, or to some suitable state institution or to the care of some reputable citizen of good moral character who is willing to receive the child without charge, or to the care of some association willing to receive him, embracing in its objects the purpose of caring for or obtaining homes for dependent or neglected children, or commit the child to the care and custody of the state probation officer under such conditions as may be specified in the order of the court."[21] Previous to this law, the overseer of the poor could bind out a child.[22]

The only legislative enactment which was passed during all these years that would further define the duties of a master toward an apprentice was a law contained in the Revised Laws of 1880. This law stipulated that every child between the ages of eight and fourteen years must attend school at least three months a year. The parent, guardian or master permitting a child to violate this law was to be fined not less than ten dollars nor more than twenty dollars.[23]

The following is an interesting case dealing with the edu-

[21] **Public Laws of Vermont of 1933.** Title 24, Chap. 226, Sec. 5454.
[22] See **General Laws of 1917**, Sec. 4242.
[23] **Revised Laws of 1880**, Title 10, Chap. 40, Sec. 669.

cational question. It will be remembered that the law of 1839 stated that a minor might bind himself out or be bound out to secure the necessities of life. Just what all the necessities were, besides food, clothing, shelter and some education, was never clearly defined. In 1884, Middlebury College attempted to have an apprenticeship contract enforced by an interpretation which held that a college education was one of the necessities of life for a minor and, therefore, a valid liability under an apprenticeship contract. The Supreme Court, in rendering the decision, maintained that a college education is not among those necessities of life for which a minor could bind himself out. But a good common school education was recognized as one of these necessities. In giving the decision Judge Royce spoke as follows:

> "An infant may bind himself for necessaries and the reason anciently assigned was that without this power he might be exposed to perish of want. But though this was the alleged ground on which the infant's obligation was placed, yet the law has never limited its definition of the term necessaries to those things which are strictly essential to the support of life,—as food, clothing and medicine in sickness. The practical meaning of the term has always been in some measure relative, having reference as well to what may be called the conventional necessities of others in the same walks of life with the infant, as to his own pecuniary condition and other circumstances. Hence a good common school education, at the least, is now fully recognized as one of the necessaries of an infant..... (but not so a college education)."[24]

auctioning

### Venduing Of Pauper Children

"Venduing" of paupers was a system whereby the poor were auctioned off to the lowest bidder sometimes with the provision that children were to have the privilege of going to school in the winter.[25] The person who would ask the least from the town for the pauper's maintenance would be

[24] "Middlebury College vs. Lyman A. Chandler." **Vermont Records**, Vol. 16, p. 683.

[25] Kelso, Robert W., **The History of Poor Relief in Massachusetts**, 1620-1920, Houghton Mifflin Co., Boston, 1922, pp. 108 (n. 3), 109.



given the poor person. The Legislature, in 1797, permitted this practice by allowing by law each town "at the annual March meeting, to dispose of such (pauper) person, in such way and manner, and to make such provision for his or her support as the majority of the inhabitants present shall agree on."[26] References have already been cited to show that this method was used to dispose of the adult poor in the towns of Vermont.[27] However, it is not clear in most cases whether or not the law also applied to children. In the histories of Castleton[28] and Bradford,[29] for instance, it is related that the poor in general were auctioned off to the lowest bidder. There is no indication that there was any distinction made between children and adults. However, because of the prevalence of the system of binding out, it is most likely that, in the case of children, this system was the more common practice, and venduing was used mostly to provide some sort of care for the adult poor who had little or no earning capacity.

### Provisions For Home Care

#### The State

During the settlement period in Vermont history, there was no question of institutionalizing dependents because there were no institutions established for that purpose. The only solution for the care of a dependent child was to provide assistance for him in his own home or in someone else's home. Every possibility of forcing a relative of the child to contribute towards his support was first exploited. When the relatives were not able to assist, the child, and often the whole family, were bound out or "sold at auction." However, the Legislature did not forbid the actual granting of assistance to a family in its own home. Towns have resorted

[26] "An act defining what shall be deemed and adjudged a legal settlement, and for the support of the poor; for designating the duties and powers of the overseers of the poor, and for the punishment of idle and disorderly persons." **Acts of 1797.** (March 3).

[27] See Chapter V under title, "Auctioning Off the Poor."

[28] Hemenway, Abby, **op. cit.**, III, p. 516.

[29] **Ibid.**, II, p. 818. See also II, p. 704, and III, p. 897.

to this method, as shown in Chapter V, even though the assistance given has been, for the most part, a mere pittance.

The extreme poverty caused by economic reverses of some of the early settlers who did not live in organized towns, and the poverty caused by the complete confiscation by the State of property of families whose fathers were, or were suspected of being, in sympathy with the British during the Revolutionary War, placed many problems of dependency on the State government. The responsibility for such problems could not be forced upon the town governments. The State tried to rid itself of these exploited dependent "Tory" families by transporting them to the enemy lines, but this plan did not prove completely feasible. To some of these suffering families, the Legislature, or the Governor and Council, would grant some small home assistance. Sometimes it was a cow[30] (often one that had belonged to the family), sometimes it was grain or corn,[31] sometimes it was relief in the form of part of the rent which the government was receiving from their confiscated farm,[32] and sometimes the State would relinquish part of the farm to them.[33] Families in distress, who lived in unorganized districts, were given money grants by the State from time to time.[34] During this period of stress there seems to be no evidence that the State government bound out or auctioned off any children. When assistance was given, it took the form of home relief.

After the year 1800, the State gave very little direct home relief. It left the burden almost entirely on the local governments. However, during the Civil War the State did offer some relief to the extremely poor families of enlisted men. But in doing so it stipulated that families of deceased or discharged soldiers were not entitled to any benefits, but

[30] **Governor and Council, op. cit.**, I, p. 166. See also Vol. I, pp. 281 and 298.
[31] **Ibid.**, I, p. 226.
[32] **Ibid.**, I, p. 291.
[33] **Ibid.**, I, p. 285.
[34] **Ibid.**, I, p. 265. See also **Acts of 1799** (Oct. 30) and **Acts of 1800** (Oct. 28).



"in cases of extreme necessity, assistance may be continued to such family for a period not exceeding three months after such decease or discharge."[35] The next time that the State began to assume part of the burden of home relief was in 1917. Act No. 244 of that year authorized the establishment of the Board of Charities and Probation. Section 17 of this act allowed the board to grant a maximum of two dollars a week for a dependent child living with its mother. This "Mother's Aid" law and its successor, Aid to Dependent Children, will both be treated in separate sections.

### The Towns

There is ample evidence that home relief was practiced by the towns of Vermont. One has but to consult the reports of the overseers of the poor of the various towns, and it will become evident that this form of assistance, though extremely small in most cases, was given to families for the support of indigent children from the earliest times. This method is still practiced and its present day methods will be discussed under the captions Mother's Aid and Aid To Dependent Children.

In 1888 the State Legislature passed an act which forced the towns to furnish relief to children in a particular way. The act in question dealt with truancy and a section of that act stipulated that if a child did not attend school because of a lack of proper clothing, the overseer of the town must furnish this clothing if the parents could not.[36] This provision is still on the statute books.

### The Law Of Non-Support

By law, as shown in Chapter IV, the Legislature demanded that each town support its own poor, and the Legislature

[35] **Acts of 1862**, No. 42 and No. 43.
[36] **Acts of 1888**, No. 9. See also **Acts of 1892**, No. 22. See also the case of "Darius H. Rowell vs. Town of Vershire," **Vermont Records**, Vol. 63, p. 510. The children of this family missed much schooling because of lack of proper clothing. See also **Public Laws of 1933**, Sec. 4260.

stipulated also that the poor must be supported by their relatives whenever they were able to do so. In 1779 "An Act for relieving and ordering Idiots, impotent, distracted and idle Persons"[37] provided that these were to be supported and maintained by the following relatives: father, mother, grandfather, grandmother, children, grandchildren. According to this act, then, a dependent child must be supported by the father, mother, grandfather or grandmother if any of these relatives were able to do so. The act also allowed the county court to dispose of any property of these relatives to support the dependent members if the court saw fit to do so.[38] This law remained on the statute books with little variation until 1896 when brothers and sisters were added to the above list of relatives who were liable for the support of dependent persons.[39] However, in 1908 all of the above list was dropped from the statute books except father, mother, and children.[40] All of these laws, though they include the dependent child, were not passed primarily to fix responsibility for a child, but to fix the responsibility of relatives for any person who happened to be in need.

In 1890, however, the Legislature passed for the first time a separate act which specifically stated that a father was to provide the necessities for his family. The act read as follows:

> Any person who, being of sufficient ability, neglects or refuses to provide necessary food and maintenance for his wife or minor children, after having been notified so to do by the overseer of the poor of the town, shall be deemed guilty of a misdemeanor and fined not more than twenty dollars.[41]

In 1896 an act which might be called a preventive measure was passed. It provided that "any person who abandons or exposes any child under the age of two years whereby the life or health of such child is endangered, shall be imprisoned

[37] **Acts of 1779**, pp. 15-17.
[38] **Ibid.**, Sec. 3.
[39] **Acts of 1896**, No. 66, Sec. 1.
[40] **Acts of 1908**, No. 91, Sec. 1.
[41] **Acts of 1890**, No. 35, Sec. 1.



in the state's prison not more than 10 years, or fined not more than 1,000 dollars, or both."[42] In 1902, the Legislature added the penalty of a six months' prison term or either (according to the discretion of the county court) to the 20 dollar fine for non-support stipulated in the Act of 1890.[43]

The first comprehensive non-support law, however, was passed in 1915. "An Act Relating To Desertion and Non-Support of Wife Or Child Providing Punishment Therefor, and to Promote Uniformity Between the States In Reference Thereto" stipulated that

> 1. A husband who refuses to support an indigent wife, or any parent neglecting to support his child under sixteen years of age, shall be imprisoned at hard labor not more than two years or fined not more than 300 dollars, or both.
> 2. The wife, child, or any person may institute court proceedings agaist the negligent parent.
> 3. Before the actual trial the court or judge may make temporary provision for wife or child.
> 4. Before or at the trial, the court may place the defendant on probation and suspend the sentence instead of imposing the penalty.
> 5. If the guilty party violates the conditions of probation, the sentence may be imposed.
> 6. No special evidence of marriage and parenthood is required more than that which is sufficient in a civil action. Circumstantial proof is sufficient to show that desertion was wilful.
> 7. When husband is serving sentence of hard labor, his wife or the guardian of his minor child shall receive forty cents for each day's hard labor performed.[44]

An act passed in 1921 added that a parent is liable for the support of his stepchildren also.[45] Thus, the State by law, and the towns by enforcing it, have maintained that parents have the primary responsibility of supporting their children. While this has been true as far as the normal children are concerned, it will be shown how gradually the State and

[42] **Acts of 1896**, No. 54, Sec. 1.
[43] **Acts of 1902**, No. 123, Sec. 1.
[44] **Acts of 1915**, No. 101, Secs. 1-8.
[45] **Acts of 1921**, No. 80, Sec. 1.

federal governments have assisted in the care of physically handicapped children.

### Disposal Of Estates To Prevent Dependency

Strictly speaking the provisions and safeguards enacted by the Legislature concerning the disposal of estates left to children might not be accepted as relevant to a treatise on child dependency. But a child who is not destitute and yet who has no parents or whose parents are incompetent might easily become dependent because of his inexperience and immaturity. Since these enactments were passed to protect the child and prevent dependency, they might logically be treated here.

In 1779, the Legislature passed an act forbidding the sale of real estate of heiresses against their will. This act included adult females also. Another act was passed in 1779 which provided that all minors whose fathers were dead or whose fathers were judged incompetent were to have guardians appointed over them.[46] This act, however, did not allow guardians to sell any of the minor's estate. Whenever a guardian wished to sell any part of the estate of his ward, he had to ask special permission of the Legislature. On November 4, 1799, for instance, such permission was given in "An Act to enable Allen Hayes and Abner Forbes to sell and convey all the real estate of LEWIS R. MORRIS WEST, a minor." The property was being sold because it "could much benefit said minor, in his subsistence and education." The father and mother of this child had died. The act stated that the administrators must give complete account of the funds to a judge of the probate court and they must post a bond of 3,000 dollars.[47] In 1804, however, the Legislature empowered the Supreme Court, and in 1825 the Probate Court, to give this permission and thereafter such petitions were directed to these Courts[48] as well as to the Legislature.

[46] **Acts of 1779,** (Feb. 15), **Vermont State Papers,** I, p. 55; and **Acts of 1779,** (Feb. 17), **Vermont State Papers,** I, p. 57.

[47] **Acts of 1779,** (Nov. 4). See also similar petitions in **Acts of 1800** (Oct. 28 and Nov. 1).

[48] **Acts of 1804,** (Feb. 6). Also **Acts of 1825,** No. 8, and **Acts of 1827,** No. 11.



Even a widow, if she were appointed guardian of her children, had to procure permission for sale of the children's estates.[49]

It would sometimes happen that on the death of the parents of a child the creditors would leave the child none of the estate. In order to prevent this, an act was passed in 1803 which empowered the judge of probate to reserve from the estate as much of it as would have belonged to the widow as dower, had she lived, "or so much of the same as he shall think necessary, for the support of such infant child, or children, till he, she, or they, arrive at the age of seven years."[50] The acts of the Legislature which concern the appointing and duties of guardians, other than the selling of estates, are not included in this treatise. However, since 1779 the Legislature has progressively built up a very detailed code of laws regarding guardians and wards.[51]

### State Care For Dependent Children In Institutions

The State of Vermont has no state-managed and supported institution for dependent children who are normal. The state supported institutions are for children who are mentally deficient, physically ill, or delinquent. The one exception might be the Kinstead Home in Montpelier which houses about thirty dependent children. But this is not meant to be a child's permanent home, for the original grant of 1921 stipulated that the money was to be used for a "shelter home where dependent, neglected and delinquent children committed to the care and custody of the board of charities and probation may receive physical and mental examination and care **before being placed in private family homes.....**"[52] This shelter was established to care for a

[49] See, for instance, **Acts of Feb. 4, 1804, Nov. 5, 1816, October 28, 1818,** and **Oct. 28, 1820.**

[50] **Acts of 1803** (Nov. 12).

[51] See especially **Acts of 1779,** p. 32; **Acts of 1810** (Nov. 5); **Acts of 1821** (Nov. 5); **Acts of 1822** (Nov. 4); **Acts of 1825,** No. 8; **Acts of 1827,** No. 11; **Revised Laws of 1839,** Title XVI, Chap. 65; **Acts of 1870,** No. 32; **Acts of 1927,** No. 49; **Acts of 1939,** No. 57.

[52] **Acts of 1921,** No. 219. Italics are the author's.

child on a temporary and not on a long term basis. Institutions which house dependent children on a permanent basis, therefore, have been managed and supported chiefly by local or private organizations. State legislation has been passed, however, from time to time, regarding the licensing of these institutions, and the State has paid a share of the costs of maintaining some of the children in these institutions. It is chiefly in these two areas that the State enters the institutional field for normal dependent children.

In past years the State has, however, tolerated and even encouraged keeping dependent children in poorhouses or workhouses, for in 1824 one of the acts passed by the Legislature stated "that the overseers of the poor of respective towns and districts in this state, are hereby empowered to set to work, in their work-house, or elsewhere, children as are chargeable to such towns, or who do not employ themselves in some lawful business, and whose parents are unable to maintain them,"[53] It was the custom, therefore, to house children in the poorhouses of the various towns. There is an interesting case, concerning the school attendance of children, in the Records of 1900 of the Supreme Court of Vermont.[54] It appears that some of the children housed in the poorhouse at Sheldon were attending the local school. Since the Sheldon Poor House Association is a corporation made up of several towns, the inmates housed there came from various towns. The town of Sheldon forbade these children from attending the town supported school, on the grounds that they were not residents of the town of Sheldon. The poorhouse corporation entered suit against the town of Sheldon for this exclusion. The case eventually reached the Supreme Court and the case was decided in favor of the town of Sheldon. In rendering a decision the judge claimed that whenever a town keeps one of its paupers in another town, the pauper is a resident of the supporting town and

[53] **Acts of 1824**, Chap. 47, Sec. 18.
[54] "Sheldon Poor House Association vs. Town of Sheldon," **Vermont Records**, Vol. 72, p. 126.



the atmosphere of the supporting town, in legal effect, envelops the poor. Also, a town in which paupers of school age have settlement is alone chargeable with the duty of providing for their education, although they are kept in another town. However, the school directors of a town in which paupers of school age from another town are kept, may receive them into the schools under such terms and restrictions as they deem best, and the school directors of the town liable for the support of such paupers may provide for their instruction in the public schools of the towns in which they are kept, and may pay for such instruction. However, in 1917, a law was passed which stipulated that "it shall be unlawful to keep any dependent child in any poorhouse, except an infant or young child with its mother and except in cases of emergency, and for a period not to exceed ninety days."[55] In 1921 the Legislature specified what it meant by "young child" by adding the words "less than two years old" to the above law.[56]

In 1866, the Legislature granted the necessary funds for a state-managed and state-supported institution for delinquent minors.[57] Dependent children were not specifically forbidden to be placed in the Vermont Reform School, as it was called,[58] although it did not mention that they could be housed there either. Be that as it may, a law passed in 1875 makes one suspect that dependent children were being convicted of trivial misdemeanors and being sent there. A section of this law mentions that if the trustees of the school believe..... "that the conviction of any such inmate was for a cause so trivial as fairly to indicate that the purpose of his or her prosecution was to throw the expense of his or her support upon the State, rather than to further the cause of justice" they are to investigate the case carefully and dismiss the person if they see fit.[59] In an act of 1919, the Leg-

[55] **Acts of 1917**, No. 244, Sec. 16.
[56] **Acts of 1921**, No. 221, Sec. 1.
[57] **Acts of 1866**, No. 11.
[58] **Acts of 1867**, No. 33.
[59] **Acts of 1876**, No. 7.

islature did not specifically forbid the placing of a dependent child in the Vermont Reform School, but it did state that the approval of the Board of Charities and Probation was necessary before this could be done.[60] The act went on to state that "it shall be the duty of the Board of Charities and Probation whenever possible to place out the aforesaid dependent children of the state in institutions or homes where the aforesaid dependent children shall be brought up in the religion of their parents, or in case the parents are of different religious faiths but have agreed on bringing up their children in any particular faith, the local board shall abide by that agreement." This act, then, did not exclude the possibility of dependent children being placed in the Reform School.

The act of 1884, previously mentioned, did allow the probate court to commit any dependent child to "any institution in the State for poor and destitute children that will receive it for any time not exceeding its majority."[61] No provision for the State's paying for the maintenance of such child was mentioned. The system of the necessity of court process for all dependent children accepted by the State is still in effect. The act of 1917, which established the Board of Charities and Probation, however, did mention that if a foster home could not be found, a dependent child could be placed by the board in an appropriate institution and the board could pay for the child's maintenance.[62] Such expenses were to be shared equally by the town of the child's residence and the State.[63] When the Department of Public Welfare was established, it inherited the same powers formerly possessed by the Board of Charities and Probation in these matters.[64] In 1947, when the Department of Public Welfare was abolished, these duties were taken over by the new Department of Social Welfare.

[60] **Acts of 1919**, No. 207.
[61] **Acts of 1884**, No. 56.
[62] **Acts of 1917**, No. 244, Sec. 12.
[63] **Acts of 1917**, No. 206, Sec. 1.
[64] **Acts of 1923**, No. 7, Sec. 20.



## State Supervision Of Child Caring Institutions

The act of 1917, which established the Board of Charities and Probation, also imposed on the board the power and the duty to investigate at least twice a year the condition of its charges who were placed in foster homes.[65] This act also gave the board authority to investigate the poorhouses at any time and to report on the conditions found therein.[66] But what is most important is that the act states that "the board shall have the power of visitation in and over all institutions chartered by the state for the care of dependent classes which solicit public support for their work."[67] Such stipulation signifies the State's intent to enter in some way a field that it had left almost entirely in the hands of private initiative. Since the Department of Public Welfare, and the recent Department of Social Welfare, inherited these powers and duties, the act remains in force.

## Foster Home Care For Dependent Children

Indenture, or binding out, long antedated foster home placement as a form of providing care for a dependent child in the United States. While the two systems appear to be similar, actually they are far removed in both purpose and method. Theoretically "under a system of indenturing the child was placed with another person for the purpose of being prepared for a trade, while in a genuine foster home placement the purpose is to fit the child into another home where his own needs can be met as fully as they can be in a home other than his own. This involved a difference in the method as well. Indenture depended rather largely upon the willingness of any other person to receive a child for training; foster home placement involves the right and willingness of the parent to give up the child and requires a particular home for a particular child."[68] However, inden-

[65] **Acts of 1917**, No. 244, Sec. 13.
[66] **Ibid.**, Sec. 20.
[67] **Ibid.**, Sec. 18.
[68] Fink, Arthur E., **The Field of Social Work**, Henry Holt and Co., N. Y., 1942, p. 71.

ture often degenerated into the practice of finding for a dependent child a house in which to exist, regardless of how the child existed. Foster home placement, on the other hand, should be used to find for a dependent child a proper home in which to live and develop. This method, too, if it lacks the necessary supervision and safeguards, can degenerate into being just another system used by society to get rid of a dependent child.

It is difficult to determine exactly when the foster home movement began in Vermont or when the Legislature gave legal sanction by specific acts. It appears that the legislative acts which were passed to provide for indenture happened to be broad enough to allow the boarding out of children in a free as well as paying foster homes. A law entitled "An Act For the Better Protection of Children" which was passed in 1884 seems to have hinted at the possibility of foster home placement by its use of the word **commit**, even though it also mentioned binding out. The first section of the act read as follows:

> Whenever it shall be made to appear to any probate court that in a town within its jurisdiction, any child under fourteen years of age, by reason of orphanage, or from the neglect, crime, drunkenness or cruelty of its parents, is growing up without education or salutary restraint, and under circumstances exposing it to lead an idle and dissolute life, or is dependent upon public charity, such court may, after due notice to the parents or custodians of the child, if there are such within its jurisdiction, and to the selectmen or overseer of the poor in the town where such child resides, **commit such child to the care and custody of any respectable family** or any institution in the State for poor and destitute children that will receive it for any time not exceeding its majority. And the managers of any such institution which receives such child, are hereby authorized to arrange for the care, education and maintenance of such child within the institution, or may bind it out to some respectable family by indenture of two parts, signed, sealed and delivered by both parties, subject however, to the approval of said court.[69]



The fact that such power was given to the probate court (all dependent children must still be committed by courts), and the fact that no mention was made of the necessity of placing a child where it could learn a trade, seems to give legislative sanction to foster home placements.

It is interesting to note that foster home placements were being made in the State by outside agencies as early as 1866. in the **Fifth Annual Report of the Board of State Charities Of Massachusetts**, published in January, 1869, the State Visiting Agent reported that five of the dependent children of Massachusetts were then living in foster homes in Vermont.[70] Since the meagre supervision, when there was any at all, was carried on by the distant agency that originally made these placements, it is easy to see that abuse must have existed. The visiting agent describes the condition of one of his charges as follows:

> In Vermont, on one of the coldest days last winter, a girl fourteen years of age was found piling brush with her master, a mile away from home. She was thinly clad and must have suffered severely. She had been accustomed to outdoor work, had no schooling, no decent clothes, and had not attended church in the two years that she had lived there. These neglects were promptly remedied after my visit, but the girl was dissatisfied, and I removed her to a clergyman's family, where she is now doing well.....[71]

Under the provisions of the act of 1884, various children's institutions such as St. Joseph's Orphanage and the Home For Destitute Children, both of Burlington, were empowered to place and supervise dependent children in foster homes. Later, organizations such as the Vermont Children's Aid Society and the Vermont Chapter of the Catholic

[69] **Acts of 1884**, No. 56. Italics are the author's.
[70] **Fifth Annual Report of the Board of State Charities of Massachusetts, 1869**, Publ. Dec. 17, p. 180, cited by Grace Abbott, **op. cit.**, II p. 40.
[71] **Ibid.**, pp. 181-182; and p. 41.

Daughters of America, were given this same power. There is also a unique institution in Vermont which has, since 1916, been placing a large number of children in foster homes. This institution is the Sheldon Poor House Association. The directors of the Poor House describe the origin of this practice as follows:

> As far back as the year 1910 the records show that there were ten children being cared for at the expense of the Association, in homes such as the Warner Home for Children. Gradually the number of children that were taken to the poorhouse and thence to orphanages and public institutions of the sort increased until in 1916 the directors ceased to make a record of the number kept in such homes and formed a committee to investigate the possibility of caring for children in private homes in the surrounding towns. About sixty were being cared for at this time (1916).[72]

The number of children placed in foster homes by this Association has grown to be well over a hundred. The silence of the Legislature and the State Department of Public Welfare during all these years may be interpreted as being tantamount to acquiescence.

An act of great significance to the foster home movement in Vermont was passed in 1917. This act provided for the establishing of the Board of Charities and Probation.[73] Among the various powers granted to the board was the power to accept, as wards, delinquent or neglected children committed to it by juvenile courts. The board then could place the child as it saw fit whether in a home, hospital or institution. The words "apprenticeship" or "binding out" were not used, and the Legislature appears thereby to admit that such practices were a thing of the past. However, this act allowed other agencies in the State to enjoy such powers in respect to dependent and delinquent children, for Section 9 reads as follows:

[72] Kearney, E., **More Than One Hundred Years in the Sheldon Poor House History**, St. Albans, Vt., p. 19. See also George C. Vietheer, **op. cit.**, p. 70-71.

[73] **Acts of 1917, No. 244.**



> When a child is found to be dependent or neglected within the meaning of this chapter, the court may make an order committing the child to the care of the board of charities and probation, or to some suitable state institution or to the care of some reputable citizen of good moral character who is willing to receive him, embracing in its objects the purpose of caring for or obtaining homes for dependent or neglected children, or commit the child to the care and custody of the state probation officer under such conditions as may be specified in the order of the court.

Section 10 stipulated that all these agencies (boards, associations or individuals) had the power to place children in a family home, an institution or a hospital, and each could be a party in adoption proceedings. In other words, the court was to be considered the supreme arbiter in committing dependent children. The court in Vermont still maintains this same position.

It should also be mentioned that the State was not anxious to accept the responsibility of paying for the support of these children in foster homes, for the law stated that the court was to accept those homes which would receive these children free of charge. A further section (sec. 12), however, allowed the board to pay for foster care only as a last resort.

This act contained a strong plea for foster homes as the two following sections show:

> Sec. 12. The board of charities and probation shall take means to find suitable homes for all children which are taken under its care as soon as may be practicable. In the case of children needing immediate relief the board shall arrange temporary care in suitable homes which have been investigated and are approved by the board and such homes shall be paid a reasonable amount for care and maintenance. So far as possible children shall be kept without charge. If it is not found possible to obtain a sufficient number of such foster homes, they may be placed in suitable private homes at a reasonable expense for board and maintenance.....
>
> Sec. 13. It shall be the duty of said board to cause such child who is placed.....to be visited at least twice each year by the authorized agent of the board, who

> shall report upon the care, training and condition of the child to the board. If, for any reason, the home in which the child is placed does not prove to be a suitable and proper place for such child, the board may cancel its agreement with such home and take the child under its care for placement in another home or in an institution.

This act may truly be called the first foster home act for dependent children, for in no other act had such an attempt been made to set up a machinery which was to look for possible foster homes and inspect them, and follow up with semi-annual investigations after the placement had been made.

In 1919 the Board of Charities and Probation was given powers which definitely placed it above the other agencies, except the court, engaged in dependent child care. This act required that all out of state agencies making placements in the State seek approval from the board.[74] Secondly, no person was allowed to receive a dependent child under two years of age for board or care without first obtaining a license from the board. This also was required of a person "engaged in the business of placing children in homes."[75] A person who violated this act was to be fined 500 dollars.[76] As for the expenses involved in the maintenance of the children by the board, the state and the towns in which these children had settlement were to share equally.[77]

A further centralization of responsibility for the care of dependent children was affected by an act of 1921. This law stated that the overseer of the poor of each town must make an annual report to the Board of Charities and Probation concerning all cases of dependent, neglected and delinquent children in his area, including a report of expense incurred for their support. It stated also that "an overseer shall not place for more than ninety days a child, by adoption, or otherwise, in a home or institution or under the care of a

74 **Acts of 1919**, No. 208, Sec. 1.
75 **Ibid.**, Sec. 3.
76 **Ibid.**, Sec. 4.
77 **Acts of 1919**, No. 206, Sec. 1.



person until the Board of Charities and Probation had approved such placement."[78]

In 1923 the Board of Charities and Probation went out of existence. Section 20 of the act entitled "An Act to Reorganize the Civil Administration of the State Government and to Repeal and Amend Certain Sections of the General Laws Relating thereto" gave all the powers of the Board to a new agency, the Department of Public Welfare.[79]

### Aid To Mothers Of Dependent Children

The granting of relief to children in their own homes or in foster homes was the forerunner of the mother's aid in Vermont as well as in other states. There is an important distinction, however, between mother's aid and the other two forms of relief. Mother's aid was granted in order to help dependent children in the original family; foster home placement was outside the family. Moreover, the granting of home relief was left entirely to the discretion of the overseer, whereas mother's aid was dispensed according to laws enacted by the Legislature in 1917 and, since the State paid half of the grants, the entire program was under State supervision.

The fundamental principle behind mother's aid was, and is, that the home is the natural and proper place for a child. It was a recognition of the fact that children whose fathers were dead, incapacitated, or had deserted, would need care for a long period, and on a different basis from temporary relief. It was an attempt by the states to differentiate between poor relief and child welfare.[80] The White House Conference of 1909 had laid great stress on the principle that a child must not be taken out of the home for reasons of poverty alone.[81] Illinois, in 1911, was the first state to pass a law providing financial aid to mothers of dependent

78 **Acts of 1921**, No. 220, Sec. 1.
79 **Acts of 1923**, No. 7, Sec. 30.
80 Abbot, Grace, **The Child and the State, op. cit.**, II, pp. 231-232.
81 "Dependent and Neglected Children," **White House Conference on Health and Protection**, IV, C-1, D. Appleton-Century Co., New York, 1933, p. 59.

children for their care in their own homes. Many other states followed suit for "in two years twenty states, in ten years forty states, and by 1935 all the states except Georgia and South Carolina had passed some kind of mother's aid laws."[82]

The first law in Vermont which would approximate a mother's aid provision was part of the act of 1917 which established the Board of Charities and Probation to operate the program. Section 17 of this act read as follows:

> If upon investigation of the case of a child of a widowed or deserted mother, it is found that the child can remain with such mother only if she is aided in his care, and if it should appear that it is desirable that the family be maintained and that the mother is a proper person to have the care of such child and that it would be for the benefit of the child that it should remain with the mother, then the board may pay a limited amount to the mother, not to exceed two dollars per week, for the maintenance of the child, one-half of the same to be paid by the town and one-half by the board.[83]

By this measure the maximum grant was not to exceed two dollars a week per child and the costs were to be divided between the state and the town. In 1921, to the list of mothers who were eligible for this aid, was added "a mother whose husband is incapacitated by an incurable disease from earning a livelihood or is confined in a hospital, sanatorium or other institution....."[84] No other change was made until April 1935 when the maximum grant was increased to four dollars a week per child, state and town still paying equal shares.[85]. However, in December, 1935, all mother's aid was incorporated into a new program of aid to dependent children[86] in order to allow the State to receive federal funds which the passage of the Social Security Act had made available to states which would meet certain federal requirements. This new program will be treated in the section entitled Aid to Dependent Children.

[82] Abbot, Grace, op. cit., II, p. 229.
[83] Acts of 1917, No. 244, Sec. 17.
[84] Acts of 1921, No. 218, Sec. 1.
[85] Acts of 1935, No. 131, Sec. 1.
[86] Acts of 1935, (Spec. Sess.), No. 11.



In what way did the Vermont Legislature intend to have mother's aid interpreted? Did it wish it to be a pauper law or could a person receive mother's aid without being stigmatized as a pauper? In the Biennial Report of the Attorney General of the State of Vermont for the two years ending June 30, 1930, there is a decision given by the Attorney General in a case involving fundamentally the meaning of mother's aid grants.[87] It appears that the mother in question, living in Shoreham but not having lived there a year, was receiving a mother's aid grant, but the town of Bridgeport was paying the town's share because she had residence in the latter town. After she had resided in Shoreham for one year, the bills were transferred to Shoreham, and this town was asked to pay on an equal basis with the State. The Attorney General stated that he was of the opinion that the mother could not acquire residence in Shoreham while she was receiving aid from some other town. In other words, mother's aid seemed to be looked upon as a pauper's aid instead of a grant paid to a mother for raising children who were in need.

However, the Supreme Court was not of this opinion as it revealed in a decision given in 1935. It emphatically stated that the reception of mother's aid does not mark a person as a pauper. The decision, as given by Judge George M. Powers, is a veritable masterpiece and reveals the great social mindedness of the judge. The decision is quoted at length.

> Roy Barrington, with his family, lived in the town of Lyndon and had a residence there at the time of his death on February 1, 1929. He left a widow and several children who continued to live in Lyndon until July 1, 1929, when they removed to St. Johnsbury where they have ever since resided. The few hundred dollars left by Barrington were soon exhausted by funeral and liv-

[87] Biennial Report of the Attorney General of the State of Vermont, June 30, 1930, pp. 39-40.

ing expenses and in May, 1933, Mrs. Barrington applied to the town of St. Johnsbury for assistance. This was furnished, and the suit in hand is brought to recover the amount of money so expended by the plaintiff (Town of St. Johnsbury). In May, 1929, Mrs. Barrington began receiving aid under P. L. 5421 (mother's aid) from the department of public welfare; and she continued to receive the sum of two dollars per week for certain of her children until May, 1933, and the town of Lyndon has from time to time repaid the State one-half of it. Aside from this, neither Barrington nor his widow had received public aid prior to her application to the plaintiff as stated.

It thus appears that when her husband died, Mrs. Barrington had a pauper residence in the defendant town, P. L. 3919. It also appears that she gained a residence in St. Johnsbury.....having lived there from July 1, 1929 until May, 1933, supporting herself and family.... unless the aid furnished by the welfare department prevented the acquisition of such a residence. So, as the case is presented, the only question before us is as to the effect of such aid, if any, in the matter of pauper residence. **It has none. P. L. 5421 is wholly and exclusively a child welfare enactment.** The whole tenor of Chapter 224 of the Public Laws shows this. The carefully chosen language of P. L. 5421 shows it. **The Legislature recognizing the advantage to young children of home and family life, made provision for keeping the family together in certain cases by granting meager assistance to make such a result possible. This mother was not pauperized by accepting the assistance furnished her by the welfare department.** So far as her standing before the pauper law was concerned, she was not affected by it. The grant was not made for her benefit, but for the benefit of the children. They were the objects of legislative solicitude. The money was passed over to her, to be sure, but only that it might be used to provide a home for the children. **There is no allusion to the pauper law, either in terms or by intendment.** The overseer of the poor has no voice in the matter of such aid and no duty to perform. The State alone investigates and acts. If the Legislature had intended that this kind of aid should affect the pauper standing of a widow in a case like this, it would have been a very simple matter to have so specified either by making the act a part of Chapter 160 of the Public Laws or otherwise.[88]



The decision held that mother's aid is not a pauper law but a child welfare enactment. It needs no further comment.

### Aid To Dependent Children

Soon after the Social Security Act was passed in August, 1935, the governor called a special session of the Legislature to pass certain State welfare laws in order that the State might be able to become eligible for the federal funds which had become available with the passage of the act. Several new laws were passed by the Legislature, but the most important one of all, as far as the dependent child in Vermont is concerned, was the approval on December 14, 1935 of Law No. 11.[89] This law set up a division within the Department of Public Welfare to administer grants to dependent children living in their own homes. This new act amended the last mother's aid law (P. L. 5421) on the statute books and made it conformable to federal conditions stipulated in the Social Security Act.

The new bill provided that children, in order to receive grants under this act, must meet the following requirements for eligibility:

They must be under sixteen years of age.

They must have been deprived of parental support or care by reason of death, continued absence from the home, or physical or mental incapacity of a parent.

They must be living with father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt in a place of residence maintained by one or more of such relatives as his or their home.

The maximum grant given under this act was four dollars a week for each child. The amount of assistance which the

[88] "Town of Lyndon vs. Town of St. Johnsbury," **Vermont Records, Vol. 107, p. 405, Italics are the author's.**

[89] **Acts of 1935 (Spec. Sess.), No. 11.**

federal government was pledged to grant, by virtue of the Social Security Act of 1935, was one-third of the amount expended in this program. The maximum federal matching allowed by the Social Security Act was one-third of the total monthly payment of $18 for the first child in the home and $12 for each succeeding child.[90] In the State law, however, the Legislature stipulated that the amount expended (four dollars a week for each child) was to be shared equally by the town, the state and the Federal government. Amendments to this act in 1939,[91] 1941,[92] 1943,[93] and 1945,[94] added adoptive relatives to the list of relatives with whom a child may live in order to receive ADC grants; increased the eligible age to eighteen if the person is still attending school; divided expenses in the following manner: half to be paid by the federal government, one-quarter by the town, and one-quarter by the State, and changed the manner and amount of aid to provide the child with a reasonable subsistence compatible with health and well-being. These changes were brought about to keep the State's Aid to Dependent Children program in conformity with changes that had been made by Congress in the Social Security Act. By enactments of 1946, the ADC maximum grant was raised to $24 a month for the first child and to $15 for each additional child. Of each grant the federal government pays two-thirds of the first nine dollars and one-half of the balance not exceeding the above-mentioned limits. Town participation has been reduced from one-fourth to one-eighth of each grant. These changes, too, were made to make the Vermont program conform with the recent amendments enacted by Congress to the Social Security Act which were made in 1946.[95]

[90] For an excellent treatment of the history of the ADC clause in the Social Security Act see Josephine Chapin Brown, **Public Relief, 1929-1939**, Henry Holt and Co., N. Y., 1940, p. 309 ff.

[91] **Acts of 1939, No. 130.**

[92] **Acts of 1941, No. 106.**

[93] **Acts of 1943, No. 89.**

[94] **Acts of 1945, No. 119.**

[95] See **Social Work Year Book, 1947**, Russell Sage Foundation, N. Y., 1947, pp. 373-374.

## CHAPTER VII

## THE CHILD OF UNMARRIED PARENTS

The early legislation of Vermont, in dealing with the child of unmarried parents, seemed to be primarily concerned not so much with the welfare of the child but with the financial burden which the support of such a child might impose upon a town. In its earliest enactments in this regard, the Vermont law was almost identical with the English Law of 1733,[1] in that, like the English law, it allowed the mother to have the putative father apprehended to answer for the support of the child.

One of the few cases which was judged by a court in Vermont, operating under the authority of New York, was a case of illegitimacy.[2] The case in question was acted upon in July, 1776, in Westminster, and at that time the New York courts were deciding such cases according to an act, passed in 1774, for "The Relief of Parishes and other Places from such Charges as may arise from Bastard Children born within the same."[3] This act, too, was almost identical with the English Law of 1733.[4] This act provided that the mother was to take an oath as to the truth of her accusation. Then the putative father was to be apprehended and confined to jail unless he could place a bond to indemnify the town for the maintenance of the child. Because such procedure by an "outside" government, operating in Vermont, seems to have set a pattern in early court procedure, the court record is being quoted **in extenso.**

County House, Westminster, 23d of July, 1776

Voted, to Take under Consideration the Complaint of Abigail Fuller of Rockingham, against Gardner Simonds of sd Rockingham viz., the Complaint of Abigail Fuller of Rockingham, in the County of Cumberland & province of New York, single woman, against Gard-

[1] See Nicholls, Sir George, **A History of English Poor Law**, Murray. London, 1854; 2, 22, for text of (6 George 2, c. 31).

[2] See **Governor and Council, op. cit.**, I, p. 352.

[3] **C. L. N. Y., 5, 689-92.**

[4] Schneider, David M., **The History of Public Welfare in New York State, 1609-1866**, University of Chicago Press, 1938, p. 80.

ner Simonds of sd. Rockingham yeoman shueth that the sd Gardner Simonds had Carnal Knowledge of February last several times, & has & Did there & then get yr complainant with Child with a Bastard Child, & that he the sd Gardner is the only father of sd Bastard Child these are therefore to Desire you to Cause ye sd Gardner Simonds to come before you that he may find surities for the maintenance of sd Bastard Child.

Signd,

Abigail Fuller

The sd Parties Being present & the sd Abigail Fuller, the above Complainant, after Being present and suitably Interegated by the sd Gardner Simonds & cautioned by this Body made solemn Oath that the above sd Gardner is Absolutely the father of a Bastard Child, which she is now pregnant with.

Therefore Resolved that the sd Gardner Simonds Give Bonds of Fifty pounds and Find two sufficient surities of Twenty-five pounds Each to answer a Future Tryal the Complainant of the sd Abigail Fuller as above Recorded or be Committed to Prison,—the above surities to be Holden and answer in Nine months.[5]

### Apprehension Of Putative Father

The first law passed by the Vermont Legislature concerning the child born out of wedlock followed closely the pattern which was used in the above case. It, too, seemed concerned about placing the necessary safe-guards lest the child become a charge of a town, not to mention the State. This first law, passed in 1779, provided for the accusation made by the woman, the examination as to the truth of what she said (under oath), the apprehension of the putative father, and his placing a bond as an assurance for the town that he would maintain the child. This act stipulated that the one whom the woman, under oath, accused "shall be adjudged the reputed Father of such child not withstanding his Denial thereof," and added that "he shall stand charged with the Maintenance thereof, with the Assistance of the Mother...."[6] The act provided, therefore, that the county court must take

[5] **Governor and Council, op. cit.**, I, p. 352.
[6] **Acts of 1779**, p. 32.



the mother also into account when deciding about the provisions for the maintenance of the child. This act left to the discretion of the court the amount of security involved. However, an act of 1813 empowered the justice of the peace to place a man charged with being a father of such a child under a bond of not less than $200 nor more than $500.[7]

An act passed in 1822 allowed the justice of the peace to issue a warrant for the arrest of a person accused by an unmarried woman as being the father of her child. Such a father was to post a bond of not less than $250 nor more than $500 that he would appear before the next county court session. No warrant was to be issued, however, unless the mother gave security as to costs involved.[8] The amount of tax for maintenance of the child was left to the county court to decide.[9] If the reputed father failed to place the bond, or failed to perform the orders of the court he was to be put in jail.[10] The manner of issuing a warrant for and apprehension of the putative father did not change materially until 1945. In that year the Legislature passed an act "to provide for the speedier entry, trial and disposition of Causes."[11] Section 36 raised the amount of bond to be posted by the father to not less than $500 nor more than $1,000. One of the conditions placed was that he was to appear before the county court within twenty-one days to answer charges, and Section 37 provided for a speedier exchange of records.

### Support Of The Child Of Illegitimate Birth

The primary concern in these cases seems to have been to protect the public from supporting the child. It was not the intent of the law to make these cases criminal in any way. In recognition of the supreme importance of the financial aspect in such cases, the Supreme Court stated, in 1835, that "a prosecution for bastardy is in effect but a civil suit,

[7] **Acts of 1813**, (Nov. 13).
[8] **Acts of 1822**, Chap. 2, Sec. 1.
[9] **Ibid.**, Sec. 2.
[10] **Ibid.**, Sec. 3.
[11] **Acts of 1945**, No. 29, Secs. 36 and 37.

though conducted under some of the forms of a criminal proceeding. Its object is wholly pecuniary, and bail for costs of prosecution is required, as in ordinary suits between individuals."[12] Therefore, the first act concerning "bastardy," passed in 1779, gave to the county court the power to rule for the maintenance of the child against the father, and the father was to "give Security to perform such Order, and also to have the Town and Place where such child is born, free from Charge for its Maintenance."[13]

The act of 1822 added a new note. It empowered the overseer of the poor to commence a prosecution in the name of the mother, or to control a prosecution commenced by her. The overseer, however, was not to compromise without the consent of the mother.[14] But if the woman gave security to idemnify the town, the power of the overseer ceased.[15] Furthermore, if the woman died or married before delivery, or had a miscarriage, the reputed father was to be discharged without further ado.[16] The following case involving the maintenance of a child of illegitimate birth is especially interesting in that under the circumstances the mother could not by law sue the putative father for maintenance of the child. The woman involved was married and it could be proven that the husband did not have access to her during the whole period when conception could have taken place. But at this time, in 1836, a married woman could not sue or be sued in her own name. So this married woman could not sustain a prosecution under the statute relating to "bastardy" and "bastards" for the purpose of compelling the putative father of the child, begotten and born during the coverture, to contribute to its support, even by showing total want of access of the husband of such woman. The law

[12] "Mary Gray vs. Fulsome and Fellows," **Vermont Records**, Vol. 7, p. 452. The same principle is expressed in "Charity Holcomb vs. Lovinus Stimpson, **ibid.**, p. 141. Italics are the author's.
[13] **Acts of 1779**, p. 82.
[14] **Acts of 1822**, Chap. 2, Sec. 5.
[15] **Ibid.**
[16] **Ibid.**, Sec. 4.



just did not provide for such a case at the time.[17] The following year a case came before the Supreme Court, which was similar, in a way, but which was managed differently. In this case the mother married, after the child was born, a man who was not the child's father. The overseer of the poor initiated a prosecution for maintenance of the child against the father, in the name of the married woman and her husband, the husband agreeing by signing the warrant. The procedure was declared proper by the Supreme Court.[18]

The Revised Statutes of 1839 did not change the laws for providing maintenance of children born out of wedlock to any great degree. These laws still left to the discretion of the county courts what was to be a sufficient amount to be paid by the putative father.[19] In 1843, however, these laws were amended. These amendments gave power to the overseer of the poor in that they allowed him to take action against a woman who, bearing a child out of wedlock, neglected to issue a complaint against the father; they allowed the justice to examine the woman and issue a warrant; the overseer could commence proceedings in his own name; and no discharge or compromise was valid without the consent of the overseer.[20] Sometimes the overseer would abuse his power, for in a case before the Supreme Court, in 1867, the main complaint against the overseer seemed to be that after he had sued a putative father, he placed the money received for the maintenance of the child in the town treasury and was reluctant to give any of it to the mother who was caring for the child.[21]

Another case involving illegitimacy, which came before the Supreme Court in 1883, shows just how the court considered the question of the obligation of maintenance on the part of the father of a child born out of wedlock. This case, already referred to in a previous chapter, involved a mother

[17] "Lucy Gaffery vs. Alvin Austin," **Vermont Records**, Vol. 7, p. 70.
[18] "Mary Sisco vs. Lathrop Harmon," **Vermont Records**, Vol. 9, p. 129.
[19] **Revised Laws of 1839**, Title XVII, Ch. 67.
[20] **Acts of 1843**, No. 42.
[21] "William Drake and Lucenia, His Wife, vs. Town of Sharon," **Vermont Records**, Vol. 40, pp. 35-39.

and eldest daughter, age fourteen, suing the agents which caused the death of the father.[22] The man and woman, not legally married, had lived together several years and had eight children. In the decision, the judge spoke as follows:

> As to the plaintiff, Mary E. Good, **she is the illegitimate child of the deceased and as to such a child, it is clear that the common law imposes no liability on the father as such to support it.** But he is liable on his expressed promise for its support. He is also liable on his implied promise, without affiliation, provided he has adopted the child as his own and acquiesced in any particular disposition of it. **But he may renounce the adoption and terminate the implied assumpsit.**[23]

The judge went on to say that only the legitimate child has a legal right to support. This case is especially informative because the Supreme Court did not have any occasion, previous to this case, to express the opinion of the court so clearly.

The Legislature, however, continued to enact laws for the support of the child of illegitimate birth. In an act of 1884, it provided that if the alleged faher had no means of paying for the support of the child, according to the decree of the county court, the mother could have him confined to jail until he did pay. If he was sent to jail he had to pay for his costs and keep, also.[24]

The laws regarding the maintenance of children of illegitimate birth have remained rather constant. In 1943 a report of a sub-committee of the Special Commission to Study Child and Family Legislation complained:

> It is the feeling of the committee on delinquency that the present law does not provide sufficiently for the prosecution of the father of an illegitimate child and that under the present provisions of the law prosecution of the father sometimes militates against the normal relation between a child and the mother. It is the custom

22 "Mary M. Good vs. Charles W. Towns and Charles Sullivan. Mary E. Good, By N. F. vs. Same," **Vermont Records**, Vol. 56, pp. 410 ff.
23 **Ibid.**, p. 416. Italics are the author's.
24 **Acts of 1884**, No. 96.



> of many courts to fix on a lump sum settlement to relieve the father of all responsibility from that time on. Such a sum is so small that the mother is unable to keep the child with her and has to resort to adoption or some other solution which takes the child from her and deprives him of a normal family relationship. It is felt that the law should provide under certain circumstances for continuing payment by the father on a weekly or monthly basis and that lump sums should not be acceptable unless they are sufficiently large to provide for the child until maturity.[25]

### The Right Of Such Child To Life

It must not be supposed, however, that the Legislature was entirely forgetful of the child. This was far from being the case. For example, an act passed in 1779 penalized by death a mother who disposed of a child of illegitimate birth as dead if she had no witness to prove that the child was born dead. The feature that would condemn the mother of a child born out of wedlock would be the secretive disposing of the body of the child. In such an instance the law was to presume that the mother killed the child, and, therefore, she was to be put to death.[26] Apparently this crime must have happened several times for the law is definitely accusatory and is couched in strong terms:

> And whereas many lewd women that have been delivered of bastard children, to avoid their shame, and escape punishment do secretly bury or conceal the death of their children, and after, if the children be found dead, the mother or mothers do frequently allege the said children were born dead;—whereas it sometimes falleth out, (although hard it is to be proved) that the said child or children were murdered by their lewd mothers, or by their assent or procurement:
>
> **Be it further enacted, etc.,**
>
> That if any woman be delivered of any issue of her body, male or female, which if it were born alive would by law be a bastard, and she endeavor privately, either by drowning or secret burying thereof, or any other

25 **Report of Special Commission to Study Child and Family Legislation**, State of Vermont, 1943, p. 22.
26 **Acts of 1779**, p. 94.

way, either by herself or the procurement of others, so to conceal the death thereof that it shall not be known whether it was born alive or not; in every such case the mother, so offending, shall be accounted guilty of murder; except such mother can make proof, by one witness, at least, that such child was born dead.[27]

A law of 1803, however, took away the death penalty for such a crime. It provided that when a child born out of wedlock was found dead, if the child was privately delivered and any presumption appeared that the child was born alive but died through premeditated and wilful neglect, violence or procurement of the mother, then the mother was to be fined $500 dollars, or sentenced to two years of hard labor, or both.[28] When the woman was indicted for murder of such a child and if the evidence was not sufficient to convict her of murder she could be convicted of high misdemeanor and sentenced as above.[29] An act of 1818 made such a person liable to a sentence not exceeding three years of hard labor, or 200 dollars, or both.[30] This law remained almost unchanged until it was repealed in 1941.[31]

### Settlement Of The Child

The problem of settlement of the child born out of wedlock was incorporated in Chapter IV when the whole problem of settlement of paupers was being surveyed. The legislation covering this phase of these children was usually incorporated in the laws governing the residence of paupers, and if this phase had been left out of Chapter IV, a void would have been all too evident. In order to give emphasis to the problem and yet in an effort to avoid too much duplication, an outline of the legislative enactments concerning this subject is being given. The problem, therefore, down through the years has been this. It often happens that children of

[27] **Ibid.**, and **Acts of 1787, p. 68.**
[28] **Acts of 1803,** (Oct. 31,) Sec. 1.
[29] **Ibid.**, Sec. 2.
[30] **Acts of 1818,** (Nov. 11), Secs. 5 and 6.
[31] **Acts of 1941,** No. 189.



illegitimate birth are born away from the usual family home of the mother. In an effort to avoid embarrassment to the family, the girl sometimes leaves of her own accord or is sent away to give birth to her child. Suppose the child, with the mother or alone, becomes in need, and suppose neither the putative father nor the relatives can give assistance, which town is liable for the support of the child? Is it the town where the mother has legal residence (settlement) or is it the town where the child was born? The Legislature has not been consistent in its choice. Sometimes it has made the town where the mother had residence liable; sometimes it has made the town of birth liable. The choice of the town where the mother had legal residence, however, has been the town more often chosen to support the child. At no time has the town in which the putative father had residence been said to be liable for the support of the child. An outline of legislation pertaining to the subject would be as follows:

From 1777 to 1797, common law covered the child, i. e. the child acquired residence where it was born.
From 1797 to 1801, the child born out of wedlock acquired the residence of the mother; it was not affected by the town in which it was born.
From 1801 to 1817, the child again reverted to common law and acquired residence where it was born.
From 1817 to the present, the child acquires the residence of its mother.

Various cases have already been cited regarding the treatment of children born out of wedlock. The following case is an example of the seemingly inconsiderate care to which some of these children were subjected. The following words of the judge contain sufficient detail so that nothing further need be added to get a complete picture of the child's distress:

The pauper in question was a boy named Charlie, about eight years of age, and the illegitimate son of one Ida Cudworth. When Charlie was about two years of age Ida Cudworth married John McCullen, and in the winter of 1888-9 was living with her husband in the

town of Randolph. They were extremely poor, and in August, 1890, agreed to separate. Thereupon the husband went to live at Royalton where he afterwards resided, while Mrs. McCullen with Charlie went to live at the house of one Lucy Sanders in Welbridge, where her father made his home, and where she continued to reside with Charlie until October 29, 1890. On that day she took the child to the Home for Destitute Children in Burlington, where he remained until April 18, 1891, when an officer of the Home brought the child to Middlebury and arranged with one Williamson to carry him to the house of Lucy Sanders. Williamson carried the child a part of the way when he met a boy of Lucy's who took Charlie home with him. He was refused admission to the house and remained on the door step for about two hours, when Lucy carried him to the defendant, who was the overseer of the poor for the town of Middlebury, in whose care he remained until the following day. Then the defendant re-transported him to the house of Lucy, and it was for this act that the suit was brought.[32]

In this case the Supreme Court ruled against the overseer of Middlebury, because Section 2844 of the Revised Laws of 1880 forbade the transporting of a pauper from one town to another with intent to charge the latter with the pauper's support, even though such latter town is legally chargeable for the support.

## Legitimation

The early legislation of Vermont made no provision for the legitimation of a child born out of wedlock. It is presumed that when there was no definite provision made, the common law of England was followed. The common law of England did not recognize a legal relationship between the mother and the child, nor between the putative father and the child. Furthermore, it did not provide for legitimation by subsequent marriage of the parents.[33] In 1817, however, there began a definite relaxation of the rigor of the law in

[32] "Town of Weybridge vs. William M. Cushman," **Vermont Records**, Vol. 64, p. 415-416.

[33] Grace Abbott, **The Child and the State**, op. cit., II, p. 494.



Vermont. During that year the Legislature passed "An Act to legitimatize an illegitimate son of Joshua Quinton."[34] It is interesting to note that the harsh legalistic language, prevalent at the time for such cases, is almost entirely omitted in this concrete case. The act uses the words "illegitimate" and "natural son" instead of the word "bastard" which is the word that is still used in the statute books of Vermont. In the case of Joshua Quinton, the Legislature voted to make his "natural son" his legitimate son, and bestowed on that son the same rights as if he had been born in wedlock. In 1821 there were two such cases in which the children were legitimized on the petition of the father.[35]

By 1821, however, the Legislature seemed to be in favor of recognizing children as legitimate if the natural parents married and the father considered them as legitimate. In 1821, in an act concerning inheritance, the Legislature stated that "bastard" children were capable of inheriting if the natural father and mother afterwards married and the children were recognized by the father as being legitimized.[36] In 1822 a law was formally enacted to cover such cases. This law provided that the putative father of such a child could legitimize the child by the child's consent (or its guardian's if the child was under the age of maturity) and by drawing up a document before a probate judge in the presence of three witnesses. The child could, however, signify his dissent within one year after arriving at full age.[37] The Revised Law of 1839, however, followed the same pattern but used the word "adoption" instead of "legitimation." This law, too, was interested mainly in the child's ability to inherit from the putative father.[38] The method of legitimizing a child by his being "adopted" by his putative father has been the more common practice in Vermont. The meth-

[34] **Acts of 1817**, (Nov. 5.)

[35] **Acts of 1821**, Chaps. 110 and 111.

[36] **Acts of 1821**, Chap. 3, Sec. 77. See also **Vermont Records**, Vol. 26, p. 365. The judge refers to this act and maintains that the child in such cases is to be recognized as legitimate.

[37] **Acts of 1822**, Chap. 9.

[38] **Revised Laws of 1839**, Title XII, Chap. 52, Sec. 6.

od of legitimizing a child has, therefore, remained rather static since 1822.[39] Since most of these laws were enacted to make a child of illegitimate birth capable of inheriting from his father and mother, these laws will be considered in greater detail in the next section.

### Rights Of Inheritance

As has been mentioned in the previous section, under Common Law the child born out of wedlock had no legal relation with the natural father or mother. Before specific legislation was enacted, therefore, such a child could not inherit anything from his parents, nor could they inherit from him. Early in the State's history, the Legislature began to grant exceptions to this law. Thus in 1788 an act was passed which allowed a Mary Campbell of Cornwall to take possession and to become heir of all the estate of Robert Costilow, her deceased son who was born out of wedlock.[40] In 1821 the Legislature passed "An Act, constituting Probate Courts, and defining their powers; and regulating the settlement of testate and intestate estates, and the guardianship of minors and insane persons."[41] This act, which has been previously mentioned, made these children capable of inheriting from the natural father and mother if the parents had been subsequently married to each other and if the father considered the children legitimized.

In 1834 a case was presented before the Supreme Court which was not specifically provided for in the statutes thus far. It was concerned with the problem of whether or not one child born out of wedlock could inherit from a brother or sister who had also been born out of wedlock. In this particular case the city of Burlington was trying to appropriate the property of one Thomas Jackson who was illegitimate and who had died intestate. But Thomas Jackson had

[39] See **Comp. Statutes of 1851**, Chap. 55, Sec. 6; **General Statutes of 1862**, Chap. 56, Sec. 6, and **Public Laws of 1933**, Sec. 3757.

[40] **Acts of 1788**, (Oct. 18).

[41] **Acts of 1821**, (Nov. 5). See also amendment in **Acts of 1822**, Chap. 9.



a sister living, a Rhoda Fosby, who was also born illegitimately of the same father and mother as Thomas. Rhoda claimed the property, as the living heir of Thomas. Both the County and the Supreme Court held that one illegitimate child could inherit from another illegitimate child of the same mother.[42] But illegitimate children could not inherit from legitimate children of the same mother.[43] The Revised Laws of 1839, containing basically the same points as the act of 1822 (see note 41), did also sum up all the legislation on this subject up to that time. The most pertinent paragraph is the following:

> Whenever the putative father of any illegitimate child shall wish to adopt such child, he may, with the consent of the child, or his guardian, if he is a minor, make an instrument in writing, under his hand and seal, attested by three credible witnesses, and by him acknowledged, before the judge of the probate court of the district, in which the father shall reside, declaring that he adopts such child, and renders him capable of inheriting, on his part, and cause such writing, so executed, to be recorded in such court; in which case, the child shall thereafter be considered, as respects such father, legitimate and capable of inheriting, and the same rights, duties and obligations shall exist between such father and child, as if the child were born in lawful wedlock.[44]

Section 7 stated that the adopted child could denounce the adoption within one year after his majority, if he so wished.

So much for the child who has been legitimized. But what of the child who has not been legitimized? It was not until 1867 that the Legislature established by law a legal relationship between such a child and its mother. This law stipulated that illegitimate children could inherit the estate of their mothers the same as if they were born in lawful wedlock. The reverse was to be true in a way, i. e. if an illegit-

[42] "Town of Burlington vs. Rhoda Fosby," **Vermont Records**, Vol. 6, p. 83.

[43] "John Bacon vs. Thomas McBride," **Vermont Records**, Vol. 32, p. 585.

[44] **Revised Laws of 1839**, Title XII, Chap. 52, Sec. 6.

imate child died leaving no issue or widow, the mother could inherit the estate of such child. Also, if the child died intestate, and left no issue, or widow, or mother, the estate could descend through the line of the mother, in the same manner as if the person so dying were born in lawful wedlock.[45] This law established a legal relationship only between the mother and the child; it did not have the same effect in regard to the father and the child. He could inherit property from his father, only if he had been legitimized. But even in such cases his ability to inherit from his father was very limited. A legitimized child could inherit only directly from his father. If his father were dead, for instance, he could not be considered a legal descendant and inherit an estate which his father would have inherited if he had lived. In other words, legitimation did not render such child capable of inheriting as the legal representative of his father, but only legitimized him in respect to the father. A Supreme Court case of 1876 stated this point. In this case the court decided that a Frederick Houghton, a legitimized son, could not inherit his father's share (his father being dead at the time) from his "grandfather's" estate. Judge Jonathan Ross left no doubt as to where a legitimized child stood in the eyes of the court when he said that "to Abel Houghton, the father (of the dead father of the illegitimate Frederick) and to all other kindred of George F. (Frederick's father), Frederick remained as before the adoption—an Ishmael—filius nullius—base-born, with no heritable quality in his blood. While he could inherit directly from his father, he was incapable of representing his father in the estate of Abel Houghton—(he is) in law the son of George F. Houghton, but not the grandson of Abel Houghton."[46]

### Recent Legislation

Recent legislation in regard to the child born out of wedlock has centered about the manner of issuing a birth certificate for such a child. This point has been the object of legislative enactments in 1937, 1939 and 1941. The laws up to 1937 in this regard simply stated that a physician or midwife, or, if either was not present, the head of the family must fill out and file with the town clerk a certificate of birth in the form prescribed by the State Board of Health.[47] If the child's name, or other pertinent facts, was missing, the certificate was to be sent to the father or mother who must write in the missing data and send the certificate to the town clerk within thirty days.[48] An act passed in 1937, however, made provision for the changing of a birth certificate by a town clerk upon notification of a competent court.[49] This act provided that whenever a town clerk received "a judgment, order or decree of such court relating to parentage, adoption or change of name of a person,"[50] the town clerk was to make the necessary correction on the original birth certificate "by drawing a line through matter requiring to be corrected and writing in new matter as required to show such legal effect."[51] Copies of the new birth certificate, with the old matter ruled out, were to be sent to the secretary of the State Board of Health and to the town clerks to whom was sent a copy of the original birth certificate. The secretary of the State Board of Health, was, in turn, to send a copy to the secretary of state. The secretary of state and the town clerks were to attach this copy to the original certificate. Thereafter, whenever a copy of the birth certificate was issued a version of the corrected copy was to be given, and mention was to be made of this act.[52] Section 3 of this act provided that whenever a probate court transmitted a certificate of final adoption (or an annulment of an adoption), or change of name such certificate was to be filed with the original birth record.[53] Provision was also

[45] **Acts of 1867, No. 38.**
[46] **"Safford, Guardian vs. Houghton's Estate," Vermont Records, Vol. 48, p. 236.**



[47] **Public Laws of 1933, Sec. 4080.**
[48] **Ibid., Secs. 4081-4093.**
[49] **Acts of 1937, No. 67.**
[50] **Ibid., Sec. 2.**
[51] **Ibid.**
[52] **Ibid.**
[53] **Ibid., Sec. 3.**

made for petition, hearing, and filing of a birth certificate in cases where no certificate was filed or recorded.[54] An act passed in 1939 did not materially change the features of the former act.[55]

There was much criticism of the law regarding the birth certificate of a child born out of wedlock, in that it did not guard sufficiently the confidentiality of the records which is much desired in such cases. Accordingly, in 1941, two acts were passed which corrected the former deficiency of the law. The new features concerning illegitimate birth records are: First, in cases of adoption, the new certificate is to contain no statement as to whether or not the person was born in or out of wedlock, and "the information respecting the parentage of such person shall be shown in such new certificate as though the adopting parents or parent were the natural parent or parents of such person,"[56] secondly, as for the manner of filing the original birth record which was most important, it was stated that "the town clerk filing a new birth certificate issued under.....(specified) provisions ..... and each town clerk or other officer to whom is transmitted a certified copy of such new certificate or a return based thereon, shall place under seal the original certificate, copy or return filed in his office, if any, and all papers relating to the new certificate, copy or return, superscribe a suitable notation to identify the packet and retain the same in his office. Such seal shall not be broken and such records and papers shall not be exhibited except by order of a county court, court of chancery or probate court. Such courts shall have jurisdiction upon petition in original or supplementary proceedings to make such orders for cause shown. When such orders have been complied with, such records and papers shall again be placed under seal as aforesaid."[57] In this law Vermont has set up machinery to protect the confidentiality of some of the aspects of illegitimacy in an effort to protect the innocent child and place him as much as possible on an equal footing with his playmates.

[54] Ibid., Secs. 4, 5, 6.
[55] Acts of 1939, No. 67.
[56] Acts of 1941, No. 63, Sec. 2.
[57] Ibid., Sec. 5.

# CHAPTER VIII

## THE ADOPTED CHILD

One law which the settlers of Vermont did not receive by heritage from England was an adoption law. Adoption, which by law creates parent and child relationship, was unknown to common law and such a statute was not enacted in England until 1926.[1] In the United States, except where the civil law was introduced by the Spanish and French, there was no provision made for legal adoption until the middle of the nineteenth century. Massachusetts, in 1851, was the first state to pass such a law. "Many of the earlier state adoption laws were intended merely to provide evidence of legal transfer of a child by the natural parents to the adopting parents, and provision for a public record of the transfer, similar to the registration of deeds, was all that was considered necessary."[2] Many times, as has been mentioned in the last chapter, adoption was used as a method of legitimizing a child by its natural father.

### The Legislature Grants Adoptions

Prior to the formal enactment of an adoption law, and for some years afterward, Vermont had made child adoption possible by granting to interested persons the right to petition the Legislature for such a purpose. Perhaps the first such petition on record is the following act of November 11, 1815.

> An Act to Alter the Name Mary Miranda Eldridge to That of Mary Miranda Chase.
>
> Section 1. It is hereby enacted, etc., That Mary Miranda Eldridge, an infant child, in the care of Charles V. Chase and Betsy P. Chase, shall and may hereafter be known and called, by the name of Mary Miranda Chase, in all cases the same as tho' the name had been so originally; the father of said child, having given her to the said Charles V. and Betsy P. and expressly consented that she should be subject to their authority and be called after their name.

[1] Abbott, Grace, **The Child and the State, op. cit., II, p. 164.**
[2] **Ibid., II, p. 165.**



> Section 2. It is hereby further enacted, That the said Mary Miranda Chase shall stand in the relation of a child to the said Charles V. and Betsy P. and shall be entitled to all the rights and privileges of nurture, maintenance, and heirship to the said Charles V. and Betsy P. the same as though she were their own natural born child, and shall, in all respects, be subject to their authority, in the same manner, as if they were her natural parents."

In 1817, the same Charles V. and Betsy P. Chase presented another petition for the "change of name" of a boy.[3] The petitions for adoption seemed to have been presented in the above form, and sometimes the word adoption was not used although the results were the same. For several decades adoption was left entirely in the hands of the Legislature. There seems to have been no effort made to question or investigate the suitability of the prospective home or parents. In the 1850's the law required that a list of the names of the children that had been adopted be placed on the last page of the legislative enactments that had been passed. The number reached as high as 23 names in 1867. For all purposes of law, however, the adopted child seems to have become a member of the family which received him, and seems to have enjoyed, at least from the wording of the petitions, all the rights and to have assumed all the duties of a natural child.

### The First Adoption Law

Vermont was one of the first states in the Union to enact an adoption law, although this first attempt was not strictly an adoption law. It was merely a transfer of deed. On November 30, 1853, just a little more than two years after the passing of the first adoption statute by any state, Vermont enacted its adoption code.[4] This act provided that "whenever any person other than a married woman, of full age and sound mind, shall wish to adopt any other person,

[3] **Acts of 1817, (Oct. 30).**
[4] **An Act to Provide for the Adoption of Persons and Changes of Name," Acts of 1853, No. 50.**

of full age and sound mind, except a married woman, as his child and heir at law, and to alter the name of such other person, the person so wishing to adopt may make an instrument in writing, under his hand and seal, attested by three credible witnesses, and by him acknowledged before the judge of probate of the district in which the person so to be adopted shall reside, declaring that he adopts such person as his child and heir at law, and renders him capable of inheriting, as such child, and shall, in the said instrument, designate the name he wishes the person so adopted thereafter to bear, and shall cause said writing, so executed to be recorded in such court;" and the adopted person, if he is able, is to follow a similar procedure as to writing, witnesses and registering.[5] If the child to be adopted is a minor, the parent, or parents, or guardian must follow the same procedure. If the child is over fourteen years of age, he must give his consent and signature before three witnesses and the probate judge.[6] A husband and wife adopting a person, minor or otherwise, must together follow this same procedure but the husband may proceed alone.[7] If the probate judge saw fit to approve the adoption or change of name, he was to have a notice of it placed in some newspaper of the district for a period of three weeks.[8] The judge was also to make returns to the secretary of state of all adoptions and changes of name. Such returns were to be published in the legislative annals every year.[9] Although this act was not as complete as the one adopted by Massachusetts,[10] nevertheless, it was at least a beginning. One of the glaring omissions in this act was that there was no provision made for any investigation whatsoever of the adopting parents and their home. Such an important provision was not to be incorporated in the adoption laws of the State until several

[5] Ibid., Sec. 1.
[6] Ibid., Sec. 2.
[7] Ibid., Sec. 3.
[8] Ibid., Sec. 4.
[9] Ibid., Sec. 5.
[10] See Grace Abbott, op. cit., pp. 164-165.



decades had elapsed. Thus far the adoption laws had presupposed a change of name whenever an adoption took place. A law passed in 1853 allowed adoptions to be made without change of name.[11]

### Parents Could Give Away Their Children

It must not be supposed, however, that, in permanently giving up children, the parents had to go through the formality of the children being legally adopted. This was not the case. The law did not forbid a parent from giving away a child. For instance, in 1847 or 1848, a child, George Lunt, when he was only eighteen months old, was given away by his parents to a man named Norman Cook. The child was feeble-minded, and the man to whom he was given became a town pauper when the child was five years old. The child eventually became the reason for court action between two towns, each claiming that the other should support the child. As to the "giving away" of the child by his parents to a person who proved to be wholly inadequate to care for and support a feeble-minded child, the Supreme Court called it "emancipation" and said that it was right and proper. According to the decision, a father had a right to declare a child emancipated from the family, and when that occurred the child was to be considered no longer a member of his natal family. In regard to this the judge declared that "the doctrine of emancipation of minor children is founded on principles of equity, humanity and domestic policy. The history of this most universal and important domestic relation, furnishes conclusive proof that the parent, by reason of misfortunes arising from circumstances over which he had no control, or from habits of intemperance and idleness, may be wholly unable to support and educate his offspring, or incapable of having the control of their person. The principle of emancipation is held to depend upon rights which may be waived or transferred, and not upon duties which

[11] Acts of 1853, No. 15.

are matter of legal or moral obligation."[12] Under the principle of emancipation, then, parents could give up their children permanently without going through the office of the probate judge. However, since this was never considered adoption, and since it fell into disuse, it will no longer be considered.

But even after the passage of the act of 1853 a child could be given away and its name could be changed by the receiving party without any formality. Here, too, the utter lack of investigation left the child a victim to the inadequacies and licentiousness of its foster parents. In such a situation the child had no one to protect it. The viciousness of such a practice is grossly apparent from the following case. Ella Lucas, when she was six years of age, was given away by her parents to a Mr. and Mrs. Sylvester Sterling. Her name was changed to Sterling and she was raised as the child of the latter parents. From the time Ella was ten years of age Mr. Sterling began his attempts to seduce her, and he finally succeeded after about a year. After that he frequently had relationships with her, telling her, in the meanwhile, that he had taken her as his child and she must do as he said. When she was sixteen years of age, Ella left the Sterling home during the night and went to her mother's house some eight miles away. She had difficulty in finding her mother's house as she had only visited it twice in ten years. She had left the Sterling house in June 1865 and she bore a child in March 1866; she claimed Mr. Sterling as the father of the child. He was declared the father by the court in the trial that followed since there was no evidence that anyone else, except Mr. Sterling, had had relationships with Ella during the time when the child could have been conceived. However, during the trial several of the boys of the neighborhood admitted that they had had relationships with her. It was evident that at times she had been the one who had done the soliciting. No doubt, her sexual precociousness can be

[12] "Town of Tunbridge vs. Town of Eden," **Vermont Records**, Vol. 39, pp. 22-23.



traced to the early seduction and continual abuse of her by her adopted father.[13]

### Adoption Without Parental Consent

The law thus far provided that the parent or parents must consent to an adoption before such adoption could be recognized in the eyes of the law. But suppose a person wished to adopt a child whose parents had abandoned him, or had absconded or removed from the State, or if the parents were entirely incompetent, how was a legal adoption to be effected in such cases? The law did not cover such cases. In 1867, however, the Legislature passed an act by which the probate judge of the district was empowered to appoint a guardian over such children whenever anyone applied to adopt them.[14] A law of 1878 gave the probate judge power to rule on all cases of adoption not provided for by law.[15]

### Child Caring Institutions And Adoptions

In 1882 child caring institutions of the State were brought into the adoption picture.[16] A law provided that such institution having by law the right to act as guardian over a minor child could by its president or secretary, execute and acknowledge the instrument of adoption in behalf of minor children, before the probate judge. In 1915, however, "any charitable or religious corporation organized under the laws of this state, and having no capital stock,"[17] was given this same power. Furthermore, another act of 1915 concerning the adoption of minors merely summed up all previous legislation in this regard and added almost nothing new.[18]

### Safeguard the Rights of the Adoptive Child

The all-important questions in adoption are, have the

[13] "Ella A. Sterling vs. Sylvester W. Sterling," **Vermont Records**, Vol. 41, pp. 80-96.
[14] **Acts of 1867**, No. 37.
[15] **Acts of 1878**, No. 132.
[16] **Acts of 1882**, No. 62.
[17] **Acts of 1915**, No. 108, Sec. 1.
[18] **Ibid.**, No. 107.

rights of the child been safeguarded by law? Has the law made certain that a child is being adopted for good motives and that the child will be cared for morally, physically and intellectually in its new home? Is the proviso that an instrument of adoption must be "signed, sealed or acknowledged" before a probate judge, a sufficient guarantee that no fraud, force or fear are being used in the proceedings? In a case before it in 1920, the Supreme Court maintained that the probate judge has no jurisdiction in this area at all.[19] When the instrument of adoption of a minor has been executed and filed as required by statute, the adoption becomes effective, and the status of the minor completely changed without the approval or action of the probate judge. "When the instrument of adoption is filed," stated the judge, "there is nothing to be heard and decided. The statute does not contemplate a juridical inquiry at that time. All the court is required to do is scan the papers to see if the law has been complied with. **Fraud, undue influence, and the welfare of the child**, which all agree is of paramount importance, and which involves a broad inquiry into not only the character and situation of the adopters, but the advisability of the arrangement as affected by the varying circumstances of different cases—**these are matters to which the court, under the statute, is not called upon to give attention.** So far, the proceedings are contractual merely. They begin and end in the instrument executed as above. The adoption becomes effective, the status of the minor completely changed, without the approval or action of the court. A record of the instrument is not essential to its validity. This appears from the language of the statute."[20] Thus far, then, the law did not provide for the protection of the fundamental rights of a child to be adopted. After so many years of the State's existence, it had not thrown its protective power where, at times, that power was desperately needed. Apart from giving a child the right of heirship, adoption

19 "In Re Agnes Camp," **Vermont Records**, Vol. 94, pp. 455 ff.
20 **Ibid.**, p. 457. Italics are the author's.



was comparable to a transfer of property; a child being the property in this case. The registration required was like the registration of a deed of transfer.

A serious attempt seems to have been made by the Legislature in 1923 to draw up a better adoption law.[21] Most of the two acts passed by the Legislature that year concerning adoption were a summary of all previous legislation on this subject, but there were two very important amendments. Most of these two acts dealt with who may adopt and who may be adopted,[22] who may represent a minor in an adoption,[23] adoption of children in institutions,[24] and drawing up and filing the instrument of adoption.[25] The most important innovations were the empowering of the probate court to investigate,[26] and the establishing a trial period of one year before an adoption could become final.[27] The importance of the investigation clause cannot be minimized. Previously the probate court was powerless to prevent an adoption if the form and filing of the instrument were correct, even if the rights of the minor were being violated. But this clause stated that "a probate court, before accepting an instrument of adoption for filing and record, may, in its discretion, make an investigation of the conditions and circumstances attending the proposed adoption and may require the suitability of such adoptions. State's attorneys, grand jurors, overseers of the poor and selectmen shall, upon request of a judge of the probate court before which such adoption is pending, furnish him a written report of the conditions and circumstances of the parties to the proposed adoption, residing within their respective jurisdiction. If, after investigation or hearing, the court disapproves of such adoption, it may refuse to file and record the instrument of adoption and

21 See **Acts of 1921**, No. 59 and No. 60.
22 **Acts of 1921**, No. 59, Sec. 1.
23 **Ibid.**, Sec. 2.
24 **Ibid.**, No. 60, Sec. 1 and Sec. 2.
25 **Ibid.**, Sec. 3 and Sec. 4.
26 **Ibid.**, Sec. 5.
27 **Ibid.**, Sec. 7.

the same shall be of no force and effect."[28] Here, finally, the judge, if he cares to put them to work, has a whole corps of investigators. It is true that societies and agencies, which would be very competent investigators, are not mentioned, but at least the principle of investigation has at last won itself a place on the statute books. An amendment to this clause in 1927 did not change it essentially.[29]

The other important amendment in this act of 1923 is the trial period. Previously, every adoption was final from the moment the instrument of adoption was signed by the necessary parties. The only exception in which an adoption of a minor could be vacated would be if a parent or guardian of a minor who had not been notified would protest the adoption within one year after the instrument was signed.[30] Now, however, the adoption in no way could become final until one year had elapsed. If the court had sufficient reason, it could vacate and annul the adoption at any time during this trial period.

## The Adoption Laws Today

In 1941 the adoption laws of Vermont were almost completely revised.[31] In 1943 an amendment was added making provision for a person in the armed forces of the United States to sign the final decree of adoption before a representative of the judge advocate's department, or, in the absence of such representative, before his company commander.[32] In 1945 some important amendments, advocated by the Special Commission to Study Child and Family Legislation, were added to the Adoption Laws of 1941.[33] In order to avoid needless repetition, a resume of the adoption laws as they were passed in 1945 shall be given and the laws of

[28] **Ibid.**, Sec. 5.
[29] **Acts of 1927**, No. 52, Sec. 1.
[30] See **Acts of 1884**, No. 54, Sec. 1, and **Acts of 1921**, No. 85, Sec. 1.
[31] See **Acts of 1941**, No. 46.
[32] **Acts of 1943**, No. 34.
[33] See **Report of Special Commission to Study Child and Family Legislation, op. cit.**, pp. 12-14. See also **Acts of 1945**, No. 41.



1941, which are the basis of these latter laws, shall be referred to only occasionally.

With the enactment of the laws of 1945, Vermont received one of the most complete and one of the most up-to-date codes of adoption laws in the country. Briefly, then, the new code contained the following provisions:

**Who may adopt.** Any person of age and sound mind, or a husband and wife together, may adopt any other person as his or their heir with or without change of name of the person adopted.[34]

**Rights and Duties of Charitable and Religious Corporations.** These corporations, properly licensed as child placing agencies, have the power to receive from proper persons any minor, properly relinquished, and file a petition for adoption and to sign, seal and acknowledge the final adoption decree required by law in behalf of such minor.[35]

**Jurisdiction.** Petitions for adoption are to be filed and final decrees recorded in the probate court of the district where adopting persons reside. If they are non-residents, the court where child resides is to have jurisdiction.[36]

**Adoption of Minors; Consent.** Consent for adoption of minor is to be given by both parents, or by the surviving or sole parent. Such consent is sufficient when given by: (a) one parent, if the other has absconded or is incompetent; (b) the guardian; (c) the mother, if the child is born out of lawful wedlock; (d) the minor and his spouse, if minor is married; (e) the Department of Public Welfare, if child has none of the above or if they are judged by court to be incompetent; (f) the Department of Public Welfare or a licensed child placing agency, if the child has been awarded to one of these by a court without limitation as to adoption; (g) a licensed child placing agency, if the child has been relinquished according to section 2 above; (h) by the parent or parents.[37]

[34] **Acts of 1945**, No. 41, Sec. 1.
[35] **Ibid.**, Sec. 2.
[36] **Ibid.**, Sec. 3.
[37] **Ibid.**, Sec. 4.

**Petition for Adoption.** The petition is to be presented in duplicate form. The forms are to be signed by persons adopting (with certain information) and by persons to be adopted. If persons to be adopted are minors, they are to be signed by the person or agency authorized to execute the adoption in behalf of the minor. Certain information concerning all parties is essential.[38]

**Investigation.** Judge of probate is to send the Department of Public Welfare a copy of every petition for adoption filed. Then the Department, or a licensed child placing agency designated by it, is to investigate the conditions and circumstances of the proposed adoption. Such reports are to be sent to the probate court within sixty days after the filing of the petition.[39]

**Trial Period.** Adoption is not to be made final until the child has lived one year in the home of the adopting parents. The Department of Public Welfare or a designated child placing agency shall supervise and investigate from time to time. At the end of the period another report is to be submitted to the judge of probate. The Department or agency may hand in a report and recommend immediate adoption before the expiration of the trial period. In such a case the judge may accept the recommendations.[40]

**Notice of Hearing.** After the expiration of such trial period, or after receipt of a recommendation for immediate hearing, the court shall set a date for a hearing on the proposed adoption. Such notice is to be sent to interested parties specified by law. If court thinks that a parent entitled to such a notice has not received one, it may order a notice of the adoption to be published for three weeks successively in a newspaper in the district where such parent last resided, or the district in which proceedings are pending.[41]

**Hearing.** At such hearing the court shall receive such further evidence as may be produced by any interested

38 **Ibid.**, Sec. 5.
39 **Ibid.**, Sec. 6.
40 **Ibid.**, Sec. 7.
41 **Ibid.**, Sec. 8.



party. From this and all other reports the court shall decide whether the signers of the petition for adoption have authority to execute the final adoption decree and whether the petition should be granted.[42]

**Final Adoption Decree or Order of Disapproval.** If, after the hearing, the judge is satisfied, he shall permit the parties to execute the final decree of adoption on a prescribed form and he shall append thereto his order of approval. If he disapproves the proposed adoption, he shall issue an order to that effect.[43]

**Execution of Final Adoption Decree.** Such final adoption decree shall be signed and sealed by the person or persons making the adoption and by party representing the minor as required by law. If the minor is over fourteen years of age he is to sign, in the presence of the probate judge, a statement in the decree consenting to the adoption. Provision is also made for persons being out of the state when their signature is needed.[44]

**Execution by Department of Public Welfare.** The commissioner of public welfare, or an agent authorized by him, shall execute and file all petitions for and decrees of adoption of minors committed to the care of the Department of Public Welfare.[45]

**Execution of Licensed Agency.** Only certain officers specified by law of a religious or charitable corporation licensed as a child placing agency shall execute and file all petitions for and decrees of adoption of minors relinquished or committed to their care.[46]

**Form of Final Adoption Decree.** The final adoption decree shall contain certain information required by law.[47]

**Petition for Adoption of Person of Full Age.** If a person of full age is sought to be adopted, the petition is to be pre-

42 **Ibid.**, Sec. 9.
43 **Ibid.**, Sec. 10.
44 **Ibid.**, Sec. 11.
45 **Ibid.**, Sec. 12.
46 **Ibid.**, Sec. 13.
47 **Ibid.**, Sec. 14.

sented as for a minor, but signed by the person to be adopted and his spouse, as well as the persons wishing to adopt him.[48]

**Investigation and Further Proceedings.** In such cases the judge of the probate court shall make an investigation of the conditions and circumstances. If he is satisfied, further proceedings and final adoption shall be made as for a minor. The final adoption decree shall be signed and sealed by the person or persons making the adoption and by the person to be adopted and his spouse.[49]

**Confidential Nature of Records.** All papers pertaining to an adoption shall be kept as a permanent record by the judge of the probate court in whose office the petition is filed. No person shall have access to such papers or the records thereof, except on the written order of such probate judge issued for a good cause.[50]

**Rights, Duties, and Obligations.** Upon the issuance of a final adoption decree the same rights, duties and obligations, and the same right of inheritance shall exist between the parties as though the person adopted had been the legitimate child of the person or persons making the adoption, except that the person adopted shall not be capable of taking property expressly limited to the heirs of the body of the persons making such adoption. The adopted person and his adopted brothers and sisters shall be able to inherit from one another, but this right shall not exist between the adopted and the predecessors in the direct or collateral line of kinship of the person or persons making the adoption. The natural parents of the minor shall be deprived, by the adoption, of all legal right to the control of such minor, and he shall be freed from all obligations of obedience and maintenance to them. Although the natural parents cannot inherit from the adopted, he can inherit from them, just as if he had not been adopted.[51]

**Annulment.** Failure to comply to the essentials of these

[48] **Ibid.**, Sec. 15.
[49] **Ibid.**, Sec. 16.
[50] **Ibid.**, Sec. 17.
[51] **Ibid.**, Sec. 18.



laws shall be ground for annulment of the adoption decree within two years after its date. The Department of Public Welfare and the child placing agency which executed the original adoption proceedings, or which had charge of the preliminary investigation, shall be made parties of any action in which the validity of an adoption of a minor shall be an issue.[52]

**Vacating Adoption.** If a person is adopted while a minor, he may, within one year after becoming of age, sign, seal and acknowledge before the judge of the probate court in which the final adoption decree was filed, a dissent from such adoption.[53]

**New Birth Certificate.** The probate court issuing a final adoption decree shall, if adopted person's name is changed, fill out a new birth certificate on a special form furnished by the State Board of Health, unless he is requested not to do so. The new certificate shall contain a notation in the beginning stating that it is issued under the authority of this act, and shall relate pertinent information as though the adopting parents were the natural parents of the child. **Such certificate shall contain no statement as to whether the person adopted was born in or out of wedlock.** The judge of probate shall sign the certificate and send it to the town clerk of the town in which the child was born. The judge shall also send, on a separate paper, the name of the adopted person as it appears on the original birth certificate. Upon receipt of these the town clerk is to file these papers according to the manner specified by law.[54] An amendment passed in 1947 added that if a minor has been adopted in a foreign country and if readoption is necessary for the purpose of naturalization as a citizen of this country, the Department of Public Welfare can give consent and decree the adoption.[55]

[52] **Ibid.**, Sec. 19.
[53] **Ibid.**, Sec. 20.
[54] **Ibid.**, Sec. 21.
[55] **Acts of 1947**, No. 139.

# CHAPTER IX

# CHILD LABOR

## Work Regarded As the Predominant Virtue

Clearing the land and building the settlements of early Vermont was a difficult task and the children of the early settlers were employed alongside their parents. In fact, inhabitants of Vermont looked upon idleness as a sin and believed that work for children was necessary to instill good habits of industry and frugality. A review of the early poor laws of the State betrays a continual insistence on the necessity of punishing the idle and a concern of the legislators that even the children of the poor must be put to work not only to free the towns from the expense of supporting them, but also to train the young to work. Work was considered one of the most basic elements in child education. This opinion was generally prevalent throughout the country. The settlers of Vermont had inherited this notion from the earlier settlers of New England, and the settlers of New England had inherited from their Puritan and Quaker ancestors.[1] Such prominent men as Alexander Hamilton, in 1791, urged that factories be developed because they would keep women and children from being idle. "It is worthy of particular remark," he said, "that, in general, women and children are rendered more useful, and the latter more early useful, by manufacturing establishments, than they would otherwise be. Of the number of persons employed in cotton manufacturies of Great Britain, it is computed that four-sevenths, nearly, are women and children; of whom the greatest proportion are children, and many of them of a tender age."[2] In the beginning, then, it was not so much a question of prejudice as it was a question of point of view.

[1] **The Child and the State,** Abbott, Grace, **op. cit.,** I, pp. 259 and 270.
[2] **American State Papers, Documents, Legislative and Executive,** Class III, Finance, Vol. I, p. 126. Cited in Grace Abbott, **op. cit.,** I, pp. 276-277.



## Definition of Child Labor

The child labor laws which were enacted in Vermont are concerned almost in their entirety with the children working in industry. The employment of children on the farms has been given little or no attention by the Legislatures. Since most of the farms on which the children work are owned or operated by fathers of the children, it is deemed very difficult to legislate without interfering with parental authority. The same, of course, is true for the rest of the country with the exception of some states where industrial farming is common.

Child labor, therefore, "is the employment of boys and girls when they are too young to work for hire, or when they are employed at jobs unsuitable or unsafe for children of their ages, or under conditions injurious to their welfare. It is any employment that robs them of their rightful heritage for healthful development, full educational opportunities, and necessary playtime. It does not mean the school activities of boys and girls nor does it include their home chores and duties."[3] Child labor laws are needed to protect the child from exploitation, to make sure that he gets a sufficient amount of schooling to prepare him for adult life, to rescue him from excessive hours of hard labor or from work that may impair his health or retard his physical development, to protect a boy or girl from some of the immoral practices which sometimes are wont to exist in industrial life. Since, however, many children, especially those from large families, have been forced by reason of poverty to leave school as soon as possible and go to work, it can be seen that child labor has been part of the broader picture of the lack of social justice.[4] The child labor law movement was also aided by the various educational movements which advocated compulsory school attendance of children up to a certain age. As such laws were passed and as their observance be-

[3] Manning, Lucy, **Why Child Labor Laws,** U. S. Children's Bureau, Publication No. 313, 1946, p. 1.
[4] **Ibid.**

came more universal, some of the younger children began dropping out of the factories. Credit, also, must be given to the various adult labor movements, which although they were motivated mostly by the hope of getting rid of the competition of cheap labor, nevertheless, did succeed in having child labor laws passed in several states.[5]

### First Factory Inspection Law

The first mention of any regulation of the working conditions of minors who were working in factories is found in the laws of 1837.[6] This law stipulated:

> That it shall be the duty of the selectmen and overseers of the poor within their respective towns in this state, to examine into the treatment and condition of any minor employed in any manufacturing establishment in their respective towns; and if in their opinion the education, morals, health, food or clothing of such minor is unreasonably neglected, or that such minor is treated with improper severity or abuse, or is compelled to labor at unseasonable hours or times, or in an unreasonable manner; it shall be the duty of the selectmen and overseers of the poor to admonish those having the charge or oversight of such minor; and may at any time, with the advice of a justice of the peace of such town, take and bind out such minor to some suitable trade, profession, calling or employment, for such length of time as they may deem proper, not exceeding the time at which such minor shall arrive at full age.
>
> **Provided,** That such selectmen or overseers of the poor shall in no case bind out such minor who has at the time a legal guardian.

This law was a beginning, but it was a very faint beginning indeed. It contained no mention of requiring a minimum age which a child must have attained; nor did it mention the maximum number of hours beyond which a child could not be required to work. The only sanction provided against an employer for exploiting children was an admonition or, if the child were a pauper, the withdrawal of the

[5] Abbott, Grace, **op. cit.**, II, pp. 161-162.
[6] **Public Acts of 1837**, Chap. 24.



child from the factory and binding him out somewhere else. There is no evidence to show that this law was effective. Nor should that fact be too surprising since it left so much to the opinion or initiative of the overseers of the poor or the selectmen.

In 1867, a law was passed which might strictly be called an educational law, but which is, in a way, related to child labor. This law stipulated that every child between the ages of eight and fourteen must attend public school three months in each year.[7] It added that "no child between the above ages, **who has resided in this State one year,** shall be employed in any mill or factory, unless such child has already attended a public school three months within the year preceding."[8] The penalty against any parent, guardian, owner or employer was set at not less than ten dollars nor more than twenty.[9] The most peculiar feature of this law is that it excludes from its protection children who have not resided in the State for one year. Even here settlement was a sine qua non.

### Vermont's First Child Labor Law

Vermont was the last state in New England to enact an age and hour law for children. In 1867, twenty-five years after Massachusetts passed such a law, Vermont passed an age and hour law stating the minimum age required for a child in order to be employed in a mill, and also the maximum number of hours a child up to a certain age could be required to work.[10] This act, entitled "An Act in Relation to the Hours of Labor of Children Employed in Manufacturing and Mechanical Establishments," provided that:

[7] **Acts of 1867, No. 35, Sec. 1.**
[8] **Ibid.**, Sec. 2. Italics are the author's.
[9] **Ibid.**, Sec. 3.
[10] **Acts of 1867, No. 36.** The following states prescribed a maximum of ten hours: Massachusetts, in 1842, for children under twelve years; Connecticut, in 1842, for children under fourteen years; New Hampshire, in 1847, for children under fifteen; Maine, in 1848, for children under sixteen; and Rhode Island, in 1853, established eleven hours as the maximum working day for children twelve to fifteen. (See Grace Abbott, **op cit.**, I, p. 260 n.).

Sec. 1. No child, under the age of ten years, shall be employed in any manufacturing or mechanical establishment within this State.

Sec. 2. No child under the age of fifteen years, shall be employed in any manufacturing or mechanical establishment, more than ten hours in one day.

Sec. 3. Any owner, agent superintendent or overseer of any manufacturing or mechanical establishment who shall knowingly employ or permit to be employed any child, in violation of the preceding sections, and any parent or guardian who allows or consents to any such employment, shall, for such offense, forfeit the sum of fifty dollars.

Sec. 4. It shall be the duty of the town grand jurors, State's attorneys and constables, in any city or town, to see that the provisions of this act are complied with, and to prosecute offenses against the same in accordance with the laws of this State.

### Vermont's Educators Help to Regulate Child Labor

These two laws, the compulsory attendance law and the child labor law of 1867, were the results of a long battle on the part of some Vermont educators. Previous to 1864 free, tax-supported schools did not exist in Vermont. There had been various systems of raising money for schools and teachers in vogue in the State, practically all of them taxing only the parents of the children who attended school. This, of course, encouraged non-attendance although it was a relief to the very poor. In 1864, however, the Legislature abolished the rate-bill and the common schools in the State became free and entirely tax-supported.[11] But the fact that the common schools were free did not automatically induce parents to send their minor children. J. Sullivan Adams, Vermont's State School Secretary from 1857 to 1867, in every report since his appointment complained of the lack of attendance at school.[12] Even in his last report of 1867, before the passage of the compulsory attendance law, he

[11] For an excellent account of this period see John C. Huden, **Development of State School Administration in Vermont**, op. cit., pp. 69-79.

[12] **Report of the Secretary of State Board of Education, 1867**, p. 122.



estimated that half of the minor children of school age were not attending school, and he complained of the lack of legal penalties to enforce attendance.[13] Yet after the passage of the compulsory attendance law, the secretary's report still estimated non-attendance at fifty per cent, much of which was due, he stated, to the lack of cooperation on the part of the law enforcing agencies.[14] Since the authority of the compulsory attendance law of 1867 was thus disregarded, it is safe to presume that perhaps the child labor law of that year had a similar effect. It must be borne in mind also that there was no legislation which attempted to regulate the labor of minors engaged in farm work. At great intervals the educators won concessions from the legislators which indirectly helped the problem of child labor also. For instance, in 1888, part of the educational revision act passed that year contained laws forbidding the employment of any child between the ages of ten and fourteen, who had resided in the State for at least one year, in a factory, unless he had attended public school for at least twenty weeks during the preceding year.[15] It further stipulated that no person was to give employment to a child under fourteen years of age who could not read or write and who was capable of receiving such instruction.[16]

These compulsory school attendance laws comprised the sum total of Vermont's child labor laws until 1904. In that year the Legislature passed "An Act Relating to the Employment of Child Labor,"[17] which changed the child labor law of 1867 in several ways. First of all, this act raised the minimum age of employable children "in any mill, factory or workshop, or in carrying or delivering messages for any corporation or company,"[18] from the age of ten years to twelve. It further stated that no child under the age of

[13] **Ibid.**, p. 119.

[14] **Report of the Secretary of State Board of Education, 1868**, pp. 14-15.

[15] **Acts of 1888**, No. 9, Sec. 154.

[16] **Ibid.**, Sec. 155.

[17] **Acts of 1904**, No. 155.

[18] **Ibid.**, Sec. 1.

fifteen years was to be employed "during the school hours in any part of the term during which the public schools of the town, city or incorporated school district in which the child resides are in session, or after eight o'clock in the evening of any day."[19] The law stated that no one up to sixteen years of age could work in the above mentioned places unless he presented a certificate signed by the proper authorities proving that he had attended a school (public, private or parochial) for 28 weeks during the current year.[20] If this act was violated both the employer and the consenting parent or guardian were to pay a fine of 50 dollars.[21]

## The Hired Girl

There is no legislation in Vermont that provides supervision for a girl, a minor or otherwise, working and boarding with a family other than her own. Yet there has existed, and there still exists, the custom for poor parents with large families, to hire out their daughters from the age of ten upwards to keep house or assist in housekeeping. Sometimes, however, these girls are so placed in towns, by parents in country places where there are no high schools, in order that their daughters might attend high school and yet earn their maintenance by doing household chores after school. Of course, where the placements are good, there are many advantages that accrue to the girl and the family. But there is ample proof that too often the life of some of these girls is a story of underpayment and abuse for immoral purposes. The following cases were chosen from the Supreme Court Records and are given as examples of how abuse can creep into a practice which began as a form of relief.

The case of Mary M. Good vs. Charles W. Towns and Charles Sullivan[22] brought to light the following facts:

[19] **Ibid.**
[20] **Ibid., Sec. 2.**
[21] **Ibid., Sec. 3.**
[22] **"Mary M. Good vs. Charles W. Towns and Charles Sullivan," Vermont Records,** Vol. 56, p. 410.



Towns owned a hotel and Sullivan tended the bar and unlawfully sold Peter Good a great quantity of liquor which he drank and from which he died. Peter Good had married Mary E. Marcy in 1854; they lived together till Mary left him in 1867. They had never divorced. In 1867 Peter "procured" Mary M. Good, a fourteen year old girl, to be his housekeeper and they lived as man and wife. She thinking him divorced married him after the first child was born. She bore him eight children, the last one being born two days after he died. In this case the mother is suing the defendants for support of herself and her children on the grounds that by the death of Peter she lost her source of maintenance. The judge, in giving the decision, stated that she could not claim support from Peter Good. His words are as follows:

> As to the plaintiff, Mary M. Good, it needs no argument to show that Peter Good was under no legal obligation to support her. His marriage to her was void; and as between the parties thereto it imposed none of the legal obligations of the law of matrimony.

The Case of the State vs. Noakes,[23] also might be cited in which the child of an unmarried hired girl died because of negligence. Upon investigation it was found that her employer was the father of the child. There is the case of Ella Wilkins vs. Homer Metcalf[24] in which the son of the employer is declared by the Supreme Court to be the father of the child of the unmarried hired girl. If all the cases were cited the list would be long, indeed.

The following case involves a woman, who, when given a psychological examination while in her thirties, was judged to have a mental age of seven years and three months.[25] This woman began attending school when she was six years old and she continued going to school until she was sixteen years of age at which time she was in the sixth grade. She then went to live in New York state with her aunt and uncle

[23] **"State vs. Noakes," Vermont Records,** Vol. 70, p. 256.
[24] **"Ella Wilkins vs. Homer Metcalf," Vermont Records,** Vol. 71, p. 103.
[25] **"State vs. Fred W. Jewett," Vermont Records,** Vol. 109, p. 73.

and assisted with the housework for about five years. While she lived there her uncle began having relationships with her. Finally, she thought she "was in trouble" and she returned to her mother's house in Vermont. She was operated on and told that she could have no children. When she was thirty-two years old she came to work as housekeeper for the respondent in the case, and illicit relationships began on the second day there when he came into her room. After protesting, she finally consented when the man promised to marry her "if anything happened." Once, when the respondent left the farm, he told her to have relationships with the hired man, so that if "anything happened," the hired man could be blamed. Finally she did become pregnant. At first she blamed the hired man and later blamed the respondent. She had worked for him two years.

The following case is concerned with the wages that a hired girl was thought to be entitled to in 1883. According to the court decision the only wages to which a hired girl is entitled are those that are clearly specified in the agreement when the girl is hired. In this case, M. V. B. Ashley and wife, Ellen Ashley vs. C. R. Hendee, the hired girl took care of the housework for two years; she did chores in and out of the house; she also took care of boarders. For all of this she received nothing. Although at the trial she stated that the defendant promised to pay but never did, the court stated that the contract to pay was not sufficiently proved. The girl lost the case.

Before concluding this section on the hired girl, it must be stated that the hired girl who lives in some farmhouse situated on a lonely country road and at a distance from a populous place is in need of supervision and protection. Practically all of the cases which reached the Supreme Court came from such surroundings. The hired girls who live in urban areas seem to fare much better.

### Prohibited Employment For Minors

In 1906 the minimum age required for a child at work was



raised to sixteen, and the school requirement was raised also. It was provided that no child under sixteen years of age, "who has not completed the elementary course of study of nine years prepared for the public schools" was not to be employed "in work connected with railroading, mining, manufacturing, or quarrying, or be employed in delivering messages by any corporation or company, except during vacation and before and after school, unless said child deposits with his employer in work herein specified a certificate from the town superintendent of schools....."[26] The child attending a private or parochial school had to do likewise. Furthermore the eight o'clock employment curfew was extended to this age group. Also the town superintendent of schools was given power to inspect any of the above establishments to see if this law was being observed.[27]

The "sixteen year old" law is still in effect in Vermont, but the list of prohibited employment for these has increased. The law, starting by vaguely prohibiting children from working in a factory or a mill during specified times, gradually added specific occupations in which such children could not be employed, until today the list of prohibited employments is as follows:

> 1. Preparing any composition in which dangerous or poisonous acids, dyes, or gases are used; manufacturing of paints, colors or white lead; working in a cigar factory or other factory where tobacco is manufactured or prepared, or in a brewery or distillery, or in a mine or quarry or in a tunnel, or in the building trade or the handling of explosives;
>
> II. Sewing machine belts in any workshop or factory, or assisting therein in any capacity whatever; adjusting any belt to any machinery, oiling, wiping or cleaning machinery or assisting therein;
>
> III. Operating circular or band saws, wood shapers, wood jointers, planers, sandpaper or wood polishing machinery, picker machines, machines used in picking wool, cotton, hair or any upholstering material, paper lacing machines, leather burnishing machines, burnish-

[26] Acts of 1906, No. 52, Sec. 1.
[27] Ibid., Sec. 2.

ing machines in any tannery or leather machines and apparatus, job or cylinder printing presses operated by power other than foot power, emery or polishing wheels used for polishing metal, woodturning or boring machinery, stamping machines used in sheet-metal and tinware manufacturing, stamping machines in washer and nut factories, corrugating rolls such as are used in roofing and washboard factories, steam boilers, steam machinery, or other steam generating apparatus, dough brakes, or cracker machinery of any description, wood or iron straightening machinery, rolling mill machinery, punchers or shears, washing, grinding or mixing mills, calendar rolls in rubber manufacturing. laundering machinery, crushers of stone, slate, marble or granite, railroad machinery or apparatus, including switches, any machinery having an unguarded belt, elevator or hoisting machines.[28]

### Minimum Age And Maximum Hours

In regard to minors there has been a gradual evolution of minimum age and maximum hour laws governing their employability in certain industries. In order that this evolution may be more apparent, a summary of the laws will be given.

Before 1867—No age or hour limit in the employment of minors.

1867—No child between 8 and 14 years of age was to be employed unless he had attended school at least three months the preceding year. No child under 15 years of age was to be employed for more than 10 hours a day.[29]

1888—No child between 10 and 14 years of age was to be employed in any mill or factory unless he had attended school for at least 20 weeks the preceding year. No person was to give employment to a child under 14 who could not read or write, and who was capable of receiving such instruction.[30]

1904—Twelve was the minimum employable age for a child in any mill, factory or workshop, or in carrying messages for any corporation or company. No

[28] Acts of 1937, No. 176, Sec. 6.
[29] Acts of 1867, No. 35 and No. 36.
[30] Acts of 1888, No. 9, Secs. 154 and 155.



child under 15 years of age was to be employed in such places during school hours during the school term, or after 8 o'clock in the evening. No child under 16 years of age was to be employed in any mill, factory or workshop unless he had attended 28 weeks of school during the current year, and had presented a certificate of such attendance signed by his teacher. Children attending private or parochial schools must present certificates signed by the superintendent of schools or some member of the local school board.[31]

1906—The law required that children under 16 years of age could not work in certain industries unless they had completed nine years of elementary school (unless they were excused in writing by the local superintendent of schools). The time limit of eight o'clock in the evening was also extended to these children.[32]

1908—A district superintendent or the chairman of the prudential committee could also sign a certificate for a child under 16 years of age.[33]

1911—No child under 14 years of age was permitted to work in certain specified industries that employed more than 10 persons. No female under 18 was to be employed in any occupation which compelled her to remain standing.[34]

1913—No child under 18 years of age (or any woman) was to be employed in laboring in a manufacturing or mechanical establishment for more than 11 hours a day and 58 hours a week. No child under 16 years of age could be employed for more than 9 hours a day and 50 hours a week, or earlier than 7 o'clock in the morning or later than 8 o'clock at night.[35]

1917—A child under 16, in order to be employed, must present a certificate signed by the commissioner of industries. Such child could not be employed more than 8 hours a day and 6 days a week, or earlier than 6 o'clock in the morning or later than 7 o'clock in the evening. A child over 16 and under 18 years of age (or a woman) could not be employed more

[31] Acts of 1904, No. 155, Secs. 1 and 2.
[32] Acts of 1906, No. 52, Sec. 1.
[33] Acts of 1908, No. 44, Sec. 1.
[34] Acts of 1910, No. 69 and No. 70.
[35] Acts of 1912, No. 75 and No. 85.

than 10½ hours a day or more than 56 hours a week. (A woman could not be employed in certain industries within two weeks before or four weeks after child-birth).[36] The commissioner of industries, with the approval of the governor, could suspend the operation of the law relating to the hours of employment of women and children while the United States was at war.[37]

1931—The local superintendent of schools, when ordered to do so by the commissioner of education, could examine a child under 16 years of age who was applying for a permit of employment. The superintendent was to send his report to the commissioner of education, who, in turn, must send a copy to the commissioner of industries. The commissioner of industries could refuse a permit to an applicant if in his judgment the physical condition of the applicant made it unwise for him to do the work he had applied to do.[38]

1937—A child over 16 or under 18 years of age (or a woman) must not be employed in laboring in a mine or quarry, manufacturing or mechanical establishment more than 9 hours a day and 50 hours a week. As for children under 16 certain documents as to amount of schooling, age and physical condition were required before the commissioner of industries could decide to issue a permit for employment to such child.[39]

1943—In time of emergency (but not because of a condition created by World War II) children over 16 and under 18 (and women) could be employed not more than 10 hours a day or 60 hours a week in certain specified industries for a specified time. Permission of the commissioner of industries is needed in such cases.[40]

## Industrial Work Accidents To Legally Employed Minors

It is to be expected that a number of those injured while employed in industry would be minors. The injured minors

36 Acts of 1917, No. 177, Secs. 1, 4 and 6.
37 Acts of 1917, No. 172.
38 Acts of 1931, No. 115.
39 Acts of 1937, No. 177, Secs. 1 and 2.
40 Acts of 1943, No. 130.



fall into two groups; those who are legally employed and those who are illegally employed. The latter group will be considered in the following section. As for those minors who were legally employed, no special legislation has been enacted concerning the employers' liability. Even when the Workmen's Compensation Act was enacted in 1915, minors were not singled out for any separate consideration, but they were covered to the same extent as adults.[41] In Vermont, prior to the Workmen's Compensation Act, compensation for injuries sustained while employed, excluding the limited compensation act of 1911,[42] was governed by common law. "Under the common law doctrine of employers' liability, as developed by the English and American courts since 1837, workmen could recover the full cost of injuries they sustained while at work provided they had not assumed the risks incident to their employment, the accident was not due to their own negligence or the negligence of a fellow-employee, or was not the result of untoward circumstances for which the employer was not responsible."[43] Since the costs of litigation are so expensive, and since so many industrial accidents cannot be proven to be due to the negligence of the employer, it often happened that the injured employee collected very little.[44] The passage of the workmen's compensation laws ensured the collection of a fixed percentage of wages or definite sums for specific injuries. For instance in 1909, which was prior to the passage of the Workmen's Compensation Act, a sixteen year old boy severely injured his fingers while operating a mangle.[45] The county court judged in favor of the boy, but the Supreme Court reversed the decision and judged in favor of the company. The Supreme Court judge stated that in an action by an inexperi-

41 Acts of 1915, No. 164, Sec. 1.
42 Acts of 1910, No. 97.
43 Abbott, Grace, op. cit., I, p. 598.
44 Ibid.
45 "Lyslie L. Wiggins vs. E. Z. Waist Company," Vermont Records, Vol. 83, pp. 365 ff. See also "Hayes vs. Colchester Mills," Ibid., Vol. 69, pp. 1 ff; "Williamson vs. Sheldon Marble Co.," Ibid., Vol. 66, pp. 427 ff; "Bolton vs. Ovitt," Vol. 80, pp. 362 ff.

enced and uninstructed servant of sixteen years of age, for injury to his hand by having it drawn into a mangle that he was attending, evidence was examined, and it was held that the danger was obvious. As a matter of law, he was chargeable with knowledge and comprehension thereof, so that he assumed the risk and could not recover. The Supreme Court used the same principle in reversing a decision of the county court, when it (the Supreme Court) judged that a man who tripped over a board and caught his hand in a planer could not collect for the injuries sustained.[46] Under common law it was considered that such risks were evident and the employee assumed them when he was hired.

On the other hand not all accidents fell under the "assumption of risks" clause. For instance, in 1914, a 19 year old boy was severely injured while operating a faulty circular saw.[47] Both the county and Supreme Court judged in favor of the boy because he had not been advised of the fault in the working of the saw. In this decision the Supreme Court defined what was meant by "assumption of risk." It stated that the term "is commonly employed with reference to risks that inhere in the employment, sometimes called ordinary risks, and to risks that exist through negligence of the master, frequently called extra-ordinary risks." In ordinary risks there is no claim for injury. In extra-ordinary risks, if the servant knowing and comprehending the danger, voluntarily exposes himself to it, there is no claim. If the risk is extraordinary because of the negligence of the master, and the servant is not warned, then there is basis for claim.[48]

Under the present workmen's compensation law, a person receiving a temporary or permanent injury receives a percentage of the salary he was receiving at the time of his injury, for several weeks. Since the wages of young workers

46 "John Hartigan vs. Deerfield Lumber Co.," **Vermont Records**, Vol. 85, pp. 136 ff. See also "Abbie Duggan vs. Thomas J. Heaphy," **Ibid.**, pp. 515 ff.
47 "Albert Carelton vs. E. and T. Fairbanks Co.," **Vermont Records**, Vol. 88, pp. 537 ff.
48 **Ibid.**, p. 549.



is considerably less than they expect to receive as adult workers, the very obvious disadvantage of the law in regard to minors is recognized by some states as being unfair.[49] To compensate a minor for a permanent injury, such as the loss of a hand, on the basis of his probable adult earnings would be much more equitable.

### Work Accidents To Illegally Employed Minors

In Vermont, illegally employed minors are not entitled to the benefits of compensation laws when they are injured at work. In such an occurrence the parents or guardian of the child can have recourse to civil action. In some states, however, illegally employed minor are included in the workmen's compensation laws, and are paid on the same basis as legally employed minors.[50] The Report of the Subcommittee on Employment and Emancipation of the Special Commission to Study Child and Family Legislation favored still another plan for the protection of these children. It favored a law that would provide compensation which would be double that provided for legally employed minors.[51] A case of a minor who was injured while she was illegally employed was brought before the Supreme Court in 1924.[52] In rendering a decision Judge Watson stated that the remedy provided by the Workmen's Compensation Act was not applicable to illegally employed minors, and furthermore, in such cases, the employer could not even invoke the defenses of common law.

### Enforcement Of Child Labor Laws

Since the passage of the first child labor law in 1867, the Vermont Legislature has always appended some proviso for its enforcement and supervision. But in all of the acts, until 1913, local agencies were utilized to enforce the law. As has been mentioned previously, these local agencies proved to be

49 Abbott, Grace, **op. cit.**, I, p. 599.
50 **Ibid.**
51 **Report of Special Commission to Study Child and Family Legislation, op. cit., pp. 33-34.**
52 "Cecilia Wlock vs. Fort Dummer Mills," **Vermont Records**, Vol. 98, pp. 242 ff.

inadequate, and, as a result, the effect of the law was seriously hampered. In 1913, however, the Legislature provided that the governor appoint a state factory inspector.[53] The inspector was given various duties including those concerning child labor and it was stipulated that whenever the inspector "finds a violation of the provisions of this act and of the law relating to the employment of children, minors and women, to health, lives and limbs of operatives in workshops and factories, railroads and other places, to the payment of wages and to the protection of the working classes, he shall submit the evidence thereof to the state's attorney of the county in which such violation occurred who shall thereupon prosecute the offender."[54] Here, finally, was a law-enforcing agency that was free from local pressure.

In 1917, the office of inspector of factories was abolished and his powers were included in the new office of commissioner of industries.[55] This commissioner, besides his other powers, was given the power to "make examinations and investigations to see that the laws pertaining to the employment of minors and women and to the weekly payment of wages are being complied with and for such purposes may enter any place where persons are employed, summon witnesses, administer oaths, and demand the production of books and papers."[56] It was his duty, at least three times a year, to investigate concerning the employment of minors in any of the occupations employing child labor, and he was given the power to call for the production of certificates deposited with the employer, to see if the provisions of the law were being observed. The office of the commissioner of industries is still the most important agency of the State for the supervision and the enforcement of the child labor regulations.

53 Acts of 1912, No. 188.
54 Ibid., Sec. 2.
55 Acts of 1917, No. 171.
56 Ibid., Sec. 1.



## The State Legislature And The Federal Child Labor Regulations

The first federal bill concerning child labor was introduced in 1906, but a law was not passed by Congress until 1916. This first attempt to establish minimum child labor standards effective without regard to state lines was declared unconstitutional in 1918 by the Supreme Court of the United States.[57] Another law, passed in 1919, was again declared unconstitutional in 1922.[58] The National Industrial Recovery Act, passed by Congress in 1933, also contained provisions for establishing child labor standards. This, too, was declared unconstitutional in 1935.[59] In 1938, Congress, attempting again to regulate child labor on a national basis, passed the Fair Labor Standards Act, part of which act contained child labor provisions. The constitutionality of this law, with all its provisions, was upheld by the Supreme Court of the United States.[60] The child labor provisions of the Fair Labor Standards Act of 1938 are operative, therefore, in Vermont. Briefly, this act sets "the following minimum ages for the employment of minors in or about establishments producing goods for shipment to other states or to foreign countries:

16 for any employment during school hours;

16 at any time in manufacturing, mining, or processing occupations or in occupations requiring the performance of any duties in workrooms or work places where goods are manufactured, mined, or processed;

16 at any time in operation of elevators, or operation of any power driven machinery, except office machines, and in other specified occupations;

18 in occupations found and declared particularly haz-

57 "Hammer vs. Dagenhart," 247 U. S. 251.
58 "Bailey vs. Drexel Furniture Co.," 259 U. S. 20.
59 "Schechter Poultry Corp., vs. United States," 295 U. S. 495.
60 "United States vs. F. W. Darby Lumber Co., 312 U. S. 100.

ardous by order of the Chief of the Children's Bureau (six such orders have been issued);

14 outside school hours in limited occupations (occupations other than those specifically enumerated as having a 16- and 18-year minimum age), but boys and girls 14 and 15 years of age may be employed under specific safeguards as to hours and night work."[61]

Now the State of Vermont has no choice concerning the operation of a federal child labor law operating within its boundaries. At one time, however, its legislators refused to accept such a principle. In 1924, Congress passed a proposal for an amendment to the federal constitution which would give Congress unquestionable authority to legislate on the subject of child labor.[62] The proposal was then submitted to the states for ratification. The crucial first section of the article stated that "the Congress shall have power to limit, regulate, and prohibit the labor of persons under eighteen years of age."[63] In 1925 when it was brought before the Legislature of Vermont for ratification, it was promptly resolved "that the Legislature of the State of Vermont hereby rejects said proposed amendment to the Constitution of the United States because the said proposed amendment tends to contravene the Fifth Article of the Constitution of Vermont as follows:

'Article V. That the people of this State by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of same'.....

Believing, therefore, that the proposed amendment would tend to invade and vitiate the rights of the State of Vermont, as set forth in the foregoing articles, we

61 Why Child Labor Laws?, op. cit., pp. 5-6.

62 "Child Labor and the Federal Government," The Child, U. S. Children's Bureau, Vol. 5, No. 9, March, 1941.

63 Acts of 1925, No. 225.



hereby formally refuse to ratify and do hereby reject the same;....."[64]

The Federal Fair Labor Standards Act now operating in all the States of the Union accomplishes a part of what the above amendment intended to do.

64 Ibid.

# CHAPTER X

# THE PROBLEM OF MENTAL DEFECTIVENESS

## The State's Concern For The Mentally Defective

As there was no separate provision made for the care of mentally defective children and adults, or for the mentally ill and the mentally deficient, during the early decades of Vermont's statehood, these categories will be treated together. The term mentally "defective" will also include the mentally deficient unless specified. The first mention made of the mentally defective in the government of Vermont was in the first Constitution of 1777. In granting powers to various courts of the new State, the Constitution mentions that these courts shall have in their jurisdiction "the Care of Persons and Estates of those who are non compotes mentis."[1] It can be said, therefore, that from its very beginning the State was mindful of the problem of the mental defective. Two years later when the Legislature began to enact a permanent code of laws, it did not make special provisions for the mentally ill or the mentally defective. These were grouped together with others who needed community assistance in this fashion: "An Act for relieving and ordering Idiots; impotent, distracted and idle Persons."[2] This act simply stated that all of these persons who were in need were to be taken care of by their relatives. In case there were no relatives able to do so, then the selectmen or the overseers of the poor were to make provision for the maintenance of these people. If any of these people had any estates the Legislature could have them sold to provide such maintenance. If such persons belonged to no town in this or another state, then the Legislature would support them. At this early date, the State assumed responsibility for some of the mentally ill even though it insisted on local responsibility first.

[1] **Constitution of 1777, Chap. II, Sec. XXI.**
[2] **Acts of 1779, p. 15.**



In 1821, when constituting the probate courts and defining their powers, the State again showed its concern for the mentally defective and their families. It stipulated that the "probate courts, within their respective districts, shall have the power on request of a friend, or relation, of any idiot, **non compos**, lunatic or distracted persons, residing in said district, to issue a commission to the selectmen and civil authority of the town, in which such persons reside, to make inquisition in the premises; and if said person shall be found by them, or a major part of them, on being notified, and examined by them, to be incapable of taking care of him, or herself, they shall certify the same on said commission, and return the same to such court; and said court shall, thereupon, appoint some suitable person, so long as he or she shall remain incapable of taking care of him or herself; and also appoint guardians over the minor children of such persons, in the same way, or manner, as though he or she, were dead. And whenever it shall be made to appear, that such person is capable of taking care of him, or herself, said court shall order, and decree the said letters of guardianship over such person, or his, or her children, repealed."[3] In order that a person be protected from being declared "insane" without sufficient evidence, this law made it imperative that the person to be investigated be notified in advance, that after the inquisition the probate court send a notice to the person of appointment of guardian, if one was to be appointed, and if the person objected, he had a right to appeal for a trial by jury. This law was used to decide a case which came before the Supreme Court in 1829.[4] In this case an aged person was declared by relatives to be a "lunatic" and an investigation was started by a commission appointed by the probate court without any notification being sent to the aged person. A guardian was also placed over him and his property without any warning. The person appealed for a trial by jury and the probate court denied that such evi-

[3] **Acts of 1821, Chap. 3.**
[4] **"John Shumway, jun. et al., appellees, vs. John Shumway, appellant," Vermont Records, Vol. 2, pp. 339 ff.**

dence could be re-examined and decided by a trial by jury. The Supreme Court, however, reversed the decision of the lower court and declared that the guardianship was null and void. A person declared to be a "lunatic" had a right to notification before the investigation, another one before the actual appointment of a guardian, and he had a right to appeal the decision in a trial by jury. Judge Bates Turner upholding the necessity for this procedure stated that "the right of trial by jury is too well secured to have any one arbitrarily deprived of a privilege so dear to every American citizen. Our independence cost too much to have our liberty and property wrested from us, and be put under guardianship without even the form of a trial. Should we sanction these proceedings, no one in the evening of life could dwell secure, but would tremble at the approach of any one that entered his door, lest he was then to be called to surrender all that would render life desirable."

There was no legislation passed for the criminally insane until 1825.[5] Since a person who had committed a crime, when he was insane, could not be judged responsible, the question arose of what to do with such a person if he were still judged dangerous. This act of 1825 stipulated that a person thus acquitted and still dangerous may be committed to jail. The jail was chosen for the custody of such person because there were no other places in the state suitable or equipped. The expenses involved for maintaining him were to be provided by the person's estate, or by relatives, or if these were not able to do so, then by the town of settlement.[6] Two judges of the county court could discharge such a committed person if he would not be dangerous.[7] Furthermore, a friend of such a person could apply for and be granted the custody of such a person if the friend posted a bond.[8]

Among the many settlement cases which came before the Supreme Court for decision, several concerned the support

[5] Acts of 1825, No. 7.
[6] Ibid., Sec. 1.
[7] Ibid., Sec. 3.
[8] Ibid., Sec. 4.



of mental defectives. One of the first of such cases occurred in 1829.[9] This case revealed that even at that time these persons were considered ill. From the account it appears that the town of Londonderry had supported a William Nourse and his wife and many children. Since the head of the family had a legal residence in Windham, the town of Londonderry sued to be reimbursed by that town for the expenses incurred. One of the pertinent points brought out by the decision of the Supreme Court was that a "mentally deranged" person is not considered so ill that he cannot be removed to his town of residence. The town of Londonderry could not collect.

### The First Institution For Mental Defectives In Vermont

The first institution in the State for the relief of the "insane" got its start from a bequest of ten thousand dollars left in the will of an Anna Marsh of Hinsdale, New Hampshire, in 1834. Three trustees were named in the will to choose a site for an institution for the care of mental defectives. A large house in Brattleboro, Vermont, was chosen as the most suitable place, but it was found that the sum of thirty thousand dollars would be nearer the amount needed.[10] The Legislature became interested from the start, and in 1835 it appropriated annually for five years the sum of two thousand dollars.[11] Accordingly, the work of remodelling the dwelling bought for this purpose was begun. At a meeting of the trustees, Dr. William H. Rockwell, of Hartford, Connecticut, who was for several years previously assistant physician at the Connecticut Retreat, was elected as superintendent. In December, 1836, the Vermont Asylum for the Insane was ready to receive its first patient. Dr. William Rockwell proved to be very competent, and he kept the post until his resignation in 1872. The Legislature kept allocating money from time to time and up to the year of Dr.

[9] "Town of Londonderry vs. Town of Windham," Vermont Records, Vol. 2, pp. 149 ff.
[10] Hemenway, Abby, op. cit., V, p. 150.
[11] Acts of 1835, No. 1.

Rockwell's resignation, it had appropriated in all about twenty-three thousand dollars.[12] Today about 380 state patients are being cared for at this hospital,[13] and the State allocates several thousands of dollars to the institution for the maintenance of these patients. Although this still remains a private institution it evoked a quick response from the Legislature from its very start.

### First General Appropriation For The "Insane Poor"

When the legislative grants were given to the Vermont Asylum for the Insane, they were given "to enable the said trustees the more efficiently to promote the benevolent designs of said institution."[14] In 1841, however, the Legislature granted the sum of two thousand dollars annually for the relief of the mentally defective who were poor, regardless of town of settlement.[15] This assumption by the State of part of the responsibility of supporting and assisting indigent persons who had local residence was something new. This money was entrusted to a commission that had already been formed for the assistance of the deaf and mute.[16] This act showed the interest of the Legislature in this problem, for it stipulated that the boards of civil authority in each town were to assume certain duties in regard to the mental defectives in their districts. They were to report annually to the county clerks the number of the "insane," their ages, condition and circumstances, duration of insanity, attempts made to restore reason, whether they were proper subjects of charity of the State, whether the present guardians or friends were willing to place them in the Vermont Asylum for the Insane.[17] Furthermore, each county clerk was to pass on the reports to the commissioners for the deaf and dumb. The commissioners were, accordingly, given the

12 Hemenway, Abby, op cit., V, p. 152.
13 A Comprehensive Welfare Program of Vermont, Department of Public Welfare, 1946.
14 Acts of 1835, No. 1.
15 Acts of 1841, No. 22.
16 Ibid., Sec. 1.
17 Ibid., Sec. 2.



power to admit subjects under this act, draw money from the treasury, and support subjects at the Asylum.[18] An amendment added to this act in 1842 allowed the selectmen of each town to appeal directly to the commissioners for the relief of an insane poor.[19] A further act that same year made the governor the commissioner of the deaf, dumb, blind and insane poor.[20]

### The Reports And Their Aftermath

The reports received must have been very impressive, for in 1843 the Legislature passed a resolution "That the Governor be requested to appoint a committee, to devise the best means of alleviating the unfortunate condition of the insane who are deemed incureable, and to report to the next General Assembly by bill or otherwise."[21] The work of the committee bore fruit. The following year an act was passed appropriating three thousand dollars annually to the Asylum as payment for the care of the insane poor of the State who were being kept there. This act also asked that the trustees of the Asylum report annually to the state auditors, and if the expenses were less than three thousand dollars, the appropriation was not to exceed the expenses. Furthermore, the towns were to contribute toward this sum in proportion to the number of their citizens being provided for out of this appropriation. The towns were also allowed to make special regulations in relation to their insane poor.[22] This assistance proved not to be sufficient to meet the need, so in 1845 the Legislature raised the annual grant to five thousand dollars and appointed a commissioner for the insane. This commissioner was to make monthly visits to the Asylum, and examine the receipts, expenses, the welfare of the patients, etc.[23] Even the mental defectives at the state prison were remembered, and permission was granted to transfer any of

18 Ibid., Sec. 3.
19 Acts of 1842, No. 15.
20 Acts of 1842, No. 16.
21 Acts of 1843, No. 47.
22 Acts of 1844, No. 14.
23 Acts of 1845, No. 14.

these to the Asylum. However, the prisoner was to be returned to prison if he became sane. If he absconded from the Asylum after he became sane, he was to incur the same penalty as if he had absconded from jail.[24] An amendment added in 1848 to this act provided that if a prisoner at the Asylum were still insane when his sentence had expired, he was to be kept at the State's expense until the town of his settlement could be determined.[25]

During these years the great apostle for the humanitarian treatment of the insane, Dorothea Lyne Dix, was crusading in this country. She was pleading that millions of acres of free land be given by the federal government to the states for the benefit of the insane. A bill, inspired by her, eventually passed both Houses of Congress only to be defeated by the veto of President Pierce, in 1854.[26] Three years before, her voice had been heard in Vermont, and the following act was passed:

Did Dorothea Dix visit the state in 1851?

> Resolved, by the Senate and House of Representatives, That our senators in Congress be instructed, and our representatives be requested, to use all consistent and constitutional means to effect the passage of a similar bill (sale of public lands), the funds therefrom to be appropriated for the endowment of hospitals for the indigent insane, or for the support and education of asylums for any of the above mentioned classes of indigent persons or for reform schools for youth, as the legislatures of the several States may judge expedient.[27]

Since the towns were loathe to support anyone who did not have the necessary residence requirements, the pauper who was in need and who did not have legal residence was in a pathetic condition. From time to time the condition of some of these transients, as they were called, would reach the attention of the Legislature. During 1853 and 1854 several pleas for the assistance of insane transients were sent to the Legislature, and on several occasions the Legislature passed

[24] **Acts of 1845, No. 13**
[25] **Acts of 1848, No. 26.**
[26] Marshall, Helen E., **Dorothea Dix, Forgotten Samaritan**, University of North Carolina Press, Chapel Hill, North Carolina, 1937.
[27] **Acts of 1851, No. 81.**



an act directing that these persons be transported to the Asylum and the State would pay the expense for transporting and maintaining the pauper.[28] So far there was no definite policy for the caring of these people, and any assistance to them had to wait months until the Legislature was in session when a separate bill could be passed for each individual. Most of these individuals could not be covered by the grants for the insane because such grants demanded the participation of a town. This procedure was cumbersome and very inadequate. To expedite the granting of assistance to these insane transients, an act was passed in 1854 which stipulated that the State would support all insane transient persons who had no relatives in the State who were legally bound to supoprt them, and who had no residence in any town in the State.[29] The act, however, brought into action a certain amount of red tape. By virtue of this act the selectmen of any town, on application of the overseer of the poor of the town, were to examine and inquire whether the insane transient person had ability to maintain himself, and also whether such a person had any relatives in the State who were bound to support him, and whether this person had any legal settlement in the State. This evidence was then to be presented to a judge of the probate court, and if he were satisfied that the person, or his relatives, or a town, was unable to support this insane transient, then he was to issue an order for the removal of the defective to the Asylum in Brattleboro.[30] However, even in this act, the State showed that it was not quite ready to assume complete responsibility and dispense the local government entirely. It stated that "the costs and expenses incurred by the examination and removal of any insane transient person to the Vermont Asylum, as aforesaid, shall be paid and discharged by the town instituting such enquiry."[31] Furthermore, "whenever such person shall be lawfully dis-

[28] **See Acts of 1853, No. 146; and Acts of 1854, Nos. 117, 118, 119.**
[29] **Acts of 1855, No. 39.**
[30] **Ibid., Sec. 2.**
[31] **Ibid., Sec. 4.**

charged from said asylum, it shall be the duty of the town so causing him to be removed to said asylum to take charge of and support such person in the same manner as if he had not been removed from such town, and any town not complying with the provisions of this section shall pay to any town suffering therefrom all such damages, to be recovered in an action on the case."[32] Such clauses might cause some overseers of the poor to try other avenues for getting rid of transient insane persons which would free them entirely of such persons, even though the welfare of the transient might suffer. As for the insane at the Asylum whose care was to be paid by a town, if the town was delinquent in its payments, the trustees of the Asylum were told that they could simply return the insane person to the town after a ten days' notice.[33]

The Legislature, wary lest persons were being forcibly kept at the Asylum who were not insane, appointed a committee of two senators and three members of the House of Representatives "to visit, investigate, and make report upon the condition of persons confined in the Vermont Insane Asylum as insane persons, and whether any persons are now or have been confined there during the last two years as insane persons who are not or were not insane, with full power to send for persons and papers."[34] This committee was also appointed to visit the insane asylum at Concord, New Hampshire, and the one at Northampton, Massachusetts, "for the purpose of comparing the condition and treatment of the patients in the two asylums."[35]

### Partial State Subsidy For All Mental Defectives In The Asylum

Thus far the State had been limiting its grants in aid for those insane poor who had settlement requirements in a town to a definite amount annually. An act of 1874 in-

32 Ibid., Sec. 5
33 Acts of 1860, No. 58.
34 Acts of 1872, No. 104.
35 Ibid., No. 105.



augurated a new trend. By this act, the State agreed to pay the sum of seventy-five cents a week towards the support of every insane pauper maintained at the Vermont Asylum, regardless of the towns from which these persons came. Besides this, the State would pay the transportation expenses involved in taking a person to the Asylum, at a rate of ten cents a mile as measured by the nearest practical route from the respective residences to the Asylum. The towns in which these paupers had legal residence had to pay the remainder of the fee for maintenance at the Asylum,[36] which fee had been established at three dollars a week by the Legislature.[37] The State was never to relinquish its acceptance of part of the responsibility of caring for the indigent insane. This partial acceptance on the part of the State was to increase gradually until the State was to assume the whole burden of supporting, maintaining and attempting to restore to social life these defective members of its population.

### Total State Support Of The Indigent Insane

In 1884 the State assumed the total support of the mental defective paupers by enacting that "any person now confined or who may hereafter be confined in any asylum in this State, under an order of the court,..... shall, if he have not sufficient estate of his own for that purpose, be supported at such asylum at the expense of the State."[38] This act effectively did away with the barriers of legal residence and town responsibility and much delay in the care of the mentally defective paupers. In 1886 and 1888 additional requirements were added for eligibility of state aid in that the probate court was the medium which was to examine and to judge whether a person was insane, destitute and without relatives legally bound to support him. After these factors had been examined it was up to the probate judge to declare whether or not a person was eligible for state assistance.[39]

36 Acts of 1874, No. 66.
37 Acts of 1869, No. 47.
38 Acts of 1884, No. 50.
39 Acts of 1888, No. 95

In deciding whether or not an insane person was to be supported in whole or in part by the State, the probate judge was to take into consideration the earnings of the wife and minor children if the insane person were the head of a family.[40]

### The Vermont State Hospital

The Asylum at Brattleboro, being the only such institution in the State, became too small to take care of the demand. In 1886, the Legislature passed a resolution to request the governor to appoint a committee of three "to investigate as to the advisability and location of a separate building for the care of the criminal and convict insane, and all matters germane to the subject, and to report to the next Legislature."[41] One of the results of this report was the passage of "An Act Providing For The Care, Custody And Treatment Of The Insane Poor And Insane Criminals Of The State."[42] This act was thus far the biggest effort made by the State in coping with the problem of the insane. Three trustees were to be appointed by the governor, and one hundred thousand dollars were appropriated to purchase a suitable site and erect suitable buildings for this purpose. If this were not sufficient, the state treasurer was authorized to borrow money. Detailed duties of the trustees, the medical superintendent and others were outlined. Provision was made for the insane criminals and the insane poor to be transported from the Asylum at Brattleboro to the new state institution. A site was chosen at Waterbury, and The Vermont State Asylum for the Insane was opened in 1891.[43] The name was later changed to The Vermont State Hospital for the Insane,[44] and still later to its present title, The Vermont State Hospital. This institution, though quite impressive for a state the size of Vermont, is now seriously in need of expansion. Having a capacity today of 858, it is now caring

40 See **Acts of 1888**, No. 39; **Acts of 1894**, No. 66; **Acts of 1902**, No. 57.
41 **Acts of 1886**, No. 121.
42 **Acts of 1888**, No. 94.
43 **A Comprehensive Welfare Program For Vermont, op. cit.**, p. 6.
44 **Acts of 1898**, No. 63.



for 1,100 patients. The institution employs about 200 men and women and it has a yearly appropriation of $450,000.[45]

### Examination For Institutional Admission And Discharge

An early method of examination to determine whether a person should be declared insane and for the admission into the Asylum at Brattleboro has already been treated. The Legislature appeared equally solicitous about the premature discharge of a patient from an institution. In 1874, an act was passed stipulating that if friends or guardians desired to remove a person from any asylum while the superintendent did not deem him restored, two physicians, elected by the friends or guardian of the person, and the commissioner of insane must examine the person, and if he was not "restored," the person was to be retained on the filing of a certificate by the examiners.[46] A more stringent examination for admission into a mental asylum was ordered in 1878.[47] No person was now to be admitted into any asylum in the State as an inmate until after an examination by two physicians, and a certificate of admission was to be signed by them. An order from the Supreme Court committing one to an asylum was to be an exception to this rule. The punishment for a physician certifying one as insane without a careful examination was set at not less than fifty dollars nor more than one hundred dollars. A person who received a patient into an asylum without the certificate could be sentenced to the state prison for a term not exceeding three years. Furthermore, no prisoner was to be sent to the asylum as insane without a certificate signed by two physicians and a probate judge. From time to time amendments were added to such bills as a greater precaution lest anyone who was not insane be confined in an asylum. For instance, in 1882, a bill was passed providing that such examinations should be conducted not only by two qualified physicians, but these physicians were to be disinterested as well.[48] It also provided that relatives

45 **A Comprehensive Welfare Program for Vermont, op. cit.**, p. 29.
46 **Acts of 1874**, No. 67.
47 **Acts of 1878**, No. 59; No. 60.
48 **Acts of 1882**, No. 48.

could appeal for the release of a patient, and it stipulated further punishment for officials of an asylum who would receive a person whose insanity was not attested. The last item of this bill is especially interesting in that it greatly restricted the type of mental defectives who could be kept in an asylum. Section Four maintained that "idiots and persons **non compos**, who are not dangerous, shall not be confined in an asylum for the insane. And if any such persons are so confined the supervisors of the insane shall cause them to be discharged." Legislation of this kind was an attempt by the State to cut down the number of the mental defectives being maintained by the State at the Asylum at Brattleboro. Once such mental defectives were released from the institution, they became the wards of the local governments. This was indeed a backward step in the history of the State's concern for the members of this group. This clause also revealed that the legislators were not too convinced about the curative possibilities of mental defectives in an institution, but were thinking in terms of custodial care for those who could be classified as dangerous. There is no evidence of the number of mental defectives that this act forced back on the town, but if the law was strictly enforced, the number must have been high. Further acts were passed as amendments which concern the procedures for court hearing of a person alleged to be insane and a proper subject for the State's support, the examination of such person and his confinement.[49]

### State Supervision Of Mental Defectives

Although the State had provided for some amount of inspection and supervision of its mental defectives in the past, it was not until 1878 that it set up a permanent board for "the supervision of the insane and the discharge of patients from insane asylums."[50] In virtue of this act three supervisors were to be appointed by the Legislature. Their duties were to investigate periodically all institutions where insane

[49] See **Acts of 1884, No. 51; Acts of 1910, No. 119; Acts of 1935, No. 81.**
[50] **Acts of 1878, No. 60.**



patients were kept; to review all cases referred to them by the governor; to listen to appeals addressed to them by friends or relatives of institutionalized patients; to call the necessary witnesses for an investigation; and to discharge certain patients, after the superintendent had been heard. Compensation was allowed the board, and witnesses who refused to appear when called were to be penalized. In 1884, an amendment was added which stipulated that the supervisors were to visit the Asylum at Brattleboro as occasion required and at least once a month.[51] These acts were the beginning of a comprehensive system of inspection which, if properly enforced, would do much to ameliorate the condition of the mental defectives of the State. A further act in 1888 allowed the governor to appoint these supervisors, with the consent of the Senate, one for two years, one for four years and one for six years. Thereafter at each biennial session the governor was to appoint one member of the board for a term of six years to replace the member whose office would be expiring. Two of the supervisors were to be physicians, but none of them should be a trustee, superintendent, employee or other officer of an insane asylum in the State.[52]

In order to protect the rights of the mental defectives who were being kept under private auspices, the Legislature enacted during that same year (1888) a bill forbidding any person from conducting an asylum for the private care and treatment of the insane except after a license had been issued to the asylum.[53] The power to issue the necessary license was vested in the supervisors.[54] If, after due investigation, they considered the person and place adequate, they could issue a license whose validity would be good for not less than two years nor more than six.[55] The supervisors were empowered to visit such institutions at any time and

[51] **Acts of 1884, No. 52.**
[52] **Acts of 1888, No. 86.**
[53] **Acts of 1888, No. 92, Sec. 1.**
[54] **Ibid.**, Sec. 2.
[55] **Ibid.**

to revoke any license if they saw fit to do so.[56] If any person kept an asylum for the private care and treatment of the insane without a license to do so, he was to be fined not more than five hundred dollars.[57] Section Five of this act, however, seems indefinite and might be open to misapplication. It reads: "If any person keeps or domiciles upon premises owned or occupied by such person, 2 or more insane persons, such persons for all the purposes of this act shall be held as keeping an asylum for the private care and treatment of the insane." When the Department of Public Welfare was organized in 1923,[58] the Department was also given the power "to exercise the rights, powers and duties now vested by law in the state board of supervisors of the insane....."

### Feeble-Minded Children

As has been pointed out before, the State made no distinction for several decades in its legislation between adult and childhood mental defection. Nor did it distinguish between the various kinds of mental defects (mental illness or mental deficiency). From time to time, however, insistence was placed on the "dangerous insane." In 1872, the Legislature did single out the mentally defective children by passing "An Act Providing for the Training and Instruction of Idiotic and Feeble-minded Children."[59] This act was truly a landmark in the care of children of Vermont, even though at first sight the act itself does not seem very potent. A sum not exceeding two thousand dollars annually was appropriated "for the benefit of idiotic and feeble-minded children of indigent parents,"[60] for instruction at "the Massachusetts school for idiotic and feeble-minded youth" at Boston.[61] Furthermore, the town boards of authority were to certify to the county clerk annually the following information regarding such mentally defective children:

the "dangerous insane"

[56] Ibid., Sec. 3.
[57] Ibid., Sec. 6.
[58] Acts of 1923, No. 7, Sec. 30.
[59] Acts of 1872, No. 19.
[60] Ibid., Sec. 1.
[61] Ibid., Sec. 2.



a) the names of these children between the ages of 5 and 14;
b) pecuniary ability and circumstances of their parents;
c) whether the child is a proper subject of state charity;
d) whether the parents or guardian are willing to send the child to the institution at Boston.[62]

From these reports the governor was to designate the beneficiaries.[63] The State would pay for the room, board and tuition of these children, but the parents or the towns had to supply the travelling expenses to and from the institution.[64] By means of these annual reports the government was to be supplied with the facts and figures of the problem of mentally defective children in the State. This small beginning in 1872 was to culminate about forty years later in the erection of Vermont's own school for feeble-minded children.

Children who were deaf and mute, and blind had been granted assistance by the Legislature even before any aid had been given to feeble-minded children. At the time of the enactment of the act mentioned above, grants were being given to the amount of four thousand dollars annually for the "deaf and dumb" and the same amount annually for the blind.[65] In 1874, the amount granted for the deaf and dumb was increased to five thousand dollars.[66] In granting the total eleven thousands dollars, the Legislature of 1898 granted it for all the above categories (including "idiotic and feeble-minded children") considered as a group.[67] In 1904 the amount was raised to twenty thousand dollars,[68] and to this group was added epileptic children,[69] with another raise of five thousand dollars in the total grant.[70] Still again in 1913, this amount was raised to thirty thousand dollars.[71]

[62] Ibid., Sec. 3.
[63] Ibid., Sec. 5.
[64] Ibid., Sec. 6.
[65] Acts of 1869, No. 12.
[66] Acts of 1874, No. 81.
[67] Acts of 1898, No. 30.
[68] Acts of 1904, No. 51.
[69] Acts of 1906, No. 55.
[70] Acts of 1906, No. 57.
[71] Acts of 1912, No. 82.

But something much more important was started in 1913 as will be evident from the following section.

## The Brandon State School

Previous to the establishment of a special school for mentally deficient children in Vermont, the only places in the State where such children could be kept away from home were the poorhouses, the two mental hospitals in the State, and the school for delinquent children at Vergennes. Obviously these places were very unsatisfactory for the care and training of such children. In 1913, the important act, entitled, "An Act To Provide For The Care, Training And Education Of Feeble-Minded Children," was passed.[72] This act called for the founding of a school, The Vermont School For Feeble-Minded Children, "for the care, training and education of idiotic and feeble-minded children, otherwise called mentally defective children, between 5 and 21 years of age."[73] For this purpose a board of trustees was created, consisting of the governor ex-officio, and four other persons appointed by the governor. The governor was to be chairman of the board and the board was to appoint a vice-chairman, secretary and treasurer.[74] One or more of the trustees was to visit the school at least once a month and make report to the whole board at its next meeting. Annually the board was to furnish a report to the governor, and also a summary of it for publication.[75] The board was to hold at least four meetings a year, and the entire board must officially visit the school at least twice a year.[76] Since the school was not yet established, the board was given complete authority to establish proper rules for the conducting of the school, and to purchase the site and equipment, and to contract for the erection of the school.[77] The board was also given complete authority to hire teachers, clerks, employees, and a physician, and to determine their salary.[78] As for eligibility of attendance and maintenance, it was stated that "any indigent and needy children of this State between 5 and 21 years of age, who may be considered proper subjects within the purview of this act and who have no parents, guardians or other persons able to provide for and educate them, may be received into said school as state charges: and all other such children whose parents, guardians, or kinsmen are bound by law to care for and educate them and are able to pay, may be received into said school, upon payment of such sum and upon such terms for their care, training, education and maintenance as the trustees shall provide."[79]

72 Acts of 1912, No. 81.
73 Ibid., Sec. 1.
74 Ibid., Sec. 2.
75 Ibid., Sec. 3.
76 Ibid., Sec. 4.
77 Ibid., Sec. 8.



In order for a mentally deficient child to be admitted to the school, (except those children who are committed there by official action) the parent, guardian, or selectmen of a town are to apply in writing to the probate judge. Upon receipt of the application, the judge appoints a day for hearing. At the hearing a certificate, signed by two qualified physicians stating that such a child is a suitable subject for commitment to such a school, shall be filed also. After the hearing, if the judge thinks that such a child ought to be committed to the school, he is to issue such an order addressed to the trustees of the school. The trustees are to receive the child if there is room in the school.[80] Provision is also made for appeal from any order coming under this act, the same as an appeal from a commitment for insanity.[81] A pupil may be discharged by an act of any of the three trustees in writing filed with their secretaries, or by a superior judge after proper hearing and upon an application in writing of any person considered by the judge as no longer needing the services of the school.[82] For all this a sum not exceeding twenty-five thousand dollars was appropriated.[83] During

78 Ibid., Secs. 9 and 10.
79 Ibid., Sec. 11.
80 Ibid., Sec. 13.
81 Ibid., Sec. 15.
82 Ibid., Sec. 16.
83 Ibid., Sec. 17.

the following legislative session this amount was increased to sixty-five thousand dollars.[84]

As a result of these acts, Vermont's own school for mentally defective children became a reality. The maximum age limit was extended to include, in 1919, all women up to the age of forty-five;[85] in 1943, this limit was extended to include mentally deficient males also; and in 1947 all age limits were removed.[86] Even the name was changed, in 1929, to the Brandon State School. In order that the census of feeble-minded children in the State would be more complete, the board of listers in each town were asked to report yearly on all mentally deficient children in their area between the ages of five and fourteen. In the report they were to include the condition of the children, the pecuniary ability of the family, etc.[87] In 1923, when the Department of Public Welfare was organized, the Department was empowered "to exercise the rights, powers and duties now vested in the governor as commissioner of the deaf, dumb, blind, idiotic, feeble-minded or epileptic children of indigent parents and as the board for their instruction."[88]

### Sterilization

The annual reports concerning mental defectiveness which were being sent to the state government each year gave the State some idea of the number of persons in this category in Vermont. A private committee conducted its own investigation and published the results, in 1927, 1928, 1929, and 1931, under the name of a Eugenical Survey of Vermont.[89] In the very beginning the committee went on record as favoring a sterilization law of the "unfit."[90] These reports were

84 **Acts of 1915**, No. 78, Sec. 2.
85 **Acts of 1919**, No. 60.
86 **Acts of 1943**, No. 102; and **Acts of 1947**, (Revised Laws).
87 **Acts of 1921**, No. 61.
88 **Acts of 1923**, No. 7, Sec. 30.
89 Perkins, Henry R., Director, **A Eugenical Survey of Vermont**, University of Vermont, 1927, 1928, 1929, 1931.
90 **Ibid.**, Second Annual Report, 1928, p. 4.



supposed to augment whatever information was already known. The Vermont Survey, however, did state that it had other purposes as well as the enactment of a restrictive law in mind.[91] The survey estimated that there were perhaps five thousand feeble-minded persons in Vermont at the time of its first survey, and less than three hundred were being cared for in the State institutions at Brandon and Vergennes.[92] In its Third Annual Report, in 1929, the Survey gave superficial case histories for several generations of the mental defective offspring of two feeble-minded mates. In answer to a demand for the other side of the picture, the Survey was forced to admit that after it had included all of the offspring that could be considered mentally defective in any way, these represented only 6.5 per cent of all the descendants. The other 93.5 per cent of the descendants of these two "insane," mother and father, was made up of successful farmers, lumbermen, businessmen, hotel owner, ministers, teachers, musician, attorney, social workers, town and state officials, etc., etc. From these facts, the Survey was forced to admit that these "low grade stocks are thus seen capable of making an important contribution morally, intellectually, economically and socially to the same communities....," but it persistently added that "this is not to be taken as offsetting any arguments advocating measures for the restriction of propagation by defectives."[93] In 1931, the Legislature passed an act permitting sterilization of the "unfit" in Vermont.

The sterilization act stated that "henceforth it shall be the policy of the State to prevent procreation of idiots, imbeciles, feeble-minded or insane persons, when the public welfare, and the welfare of idiots, imbeciles, feeble-minded or insane persons likely to procreate, can be improved by voluntary sterilization as herein provided."[94] In order for the operation to be legal two qualified physicians had to ex-

91 **Ibid.**
92 **Ibid.**, p. 15.
93 **Ibid.**
94 **Acts of 1931**, No. 174, Sec. 1.

amine the person and decide: (1) that such a person is an idiot, imbecile, etc., and is likely to procreate the same if he or she is not sterilized; (2) that the health and physical condition of such person will not be injured by the operation of vasectomy, if a male, or salpingectomy, if a female; (3) that the welfare of such person and the public welfare will be improved if such person is sterilized; (4) whether such person is or is not of sufficient intelligence to understand that he or she cannot beget children after such operation is performed. The physicians are then to sign duplicate certificates and take an oath before a justice of the peace or notary public that any qualified physician and surgeon of the State may perform such operation, provided: (1) he decides that it is best for the person's and the public's welfare; (2) the patient has requested it in writing, if possessing sufficient intelligence to understand all its implications; (3) or the person's natural or legal guardian has requested it in writing, if the person does not possess sufficient intelligence; (4) such person voluntarily submits to the operation. After the operation the physician and surgeon is to endorse the two certificates, state when and where the operation was performed, keep one certificate and mail the other to the commissioner of public welfare at Montpelier.[95] The last section of the act deals with the State's choice of a physician and surgeon, and the maximum price to be paid for the examination and operation.[96]

Vermont institutions have freely made use of this permission,[97] and in applying it some of its citizens have been most seriously abused, as the following account of the director of one of the State's adoption agencies shows:

> Recently we met a sailor lad, in our office, with tears in his eyes. He wanted a child. His wife had been sterilized in one of our State institutions when she was fourteen years old. She claimed she did not understand

95 Ibid., Sec. 2.
96 Ibid., Sec. 2.
97 See Biennial Report of the Department of Public Welfare, 1946, State of Vermont, p. 73.



> the implications when she gave her permission to submit to the operation.
>
> This girl was fit to be the wife of a sailor lad who serves his country—at least he thought so—but was unfit to give that sailor lad a son. I wonder what master mind deprived this country of a future sailor boy—and why? Where are we headed? Very interesting but tragic.[98]

## Psychiatric Services

By an act of 1939, the Legislature provided "to establish clinics for the study of mental diseases, otherwise called psychiatric clinics, within the department of public welfare and to make an appropriation therefor,"[99] and thereby inaugurated the beginnings of a program of cure and prevention. The public welfare survey sums up the State's endeavor in this regard in the following words:

> These clinics are primarily for the treatment of children. They were started with one full time psychiatrist and a secretary. The major portion of the work is still conducted by one full time psychiatrist, who conducts clinics at seven centers throughout the state. In addition, the medical director of the Brandon State School holds clinics at Burlington and Rutland, while a psychiatrist at Bennington conducts a clinic at that city on a volunteer basis. Within the space of seven years since this program was inaugurated, these clinics have demonstrated their usefulness so that it is now impossible for one full time psychiatrist to completely meet the load placed upon her. At this time, no psychiatric clinic for the treatment of adults is available.[100]

98 Vermont Catholic Review, Vol. V, No. 1, August, 1945, p. 10.
99 Acts of 1939, No. 141.
100 A Comprehensive Welfare Program for Vermont, op. cit., p. 26.

# CHAPTER XI

# THE PROBLEM OF PHYSICAL DEFECTIVENESS

## General Health Concern

One of the things which the early settlers of Vermont dreaded, and with good reason, was an epidemic. The State experienced several of these epidemics. There is record to show that soon after the settlement of the first town in Vermont, which was Bennington, a "plague" of small pox broke out, and a meeting was called "to see whether the town will give liberty to inoculate for the Small Pox, with suitable restrictions, and upon a vote being taken, it passed in the negative."[1] During the Revolutionary War a serious epidemic of small pox spread among the American soldiers in Canada and contributed greatly to the failure of that campaign. In an effort to stem the epidemic, the people of Bennington, in 1777, voted to establish a Pest House wherein were to be placed all those afflicted with the disease.[2] Many of the people, thinking that they would become immune, deliberately came in contact with those who were infected. In order to put a stop to this practice of self-infection, a fine of twenty pounds was imposed on anyone who gave or took it without permission of a committee.[3] But the most disastrous epidemic which ever occurred in the State was one that spread throughout the State during the winter of 1812-13. The "spotted fever," or cerebrospinal meningitis as it has since been identified, cause the death of an estimated 6,400 persons during those five winter months.[4]

The Legislature took an early interest in the health of the people, and in 1787 it passed "An act to prevent the spreading of Smallpox."[5] This act stated that the selectmen

1 Hemenway, Abby, op. cit., I, p. 179.
2 Ibid.
3 Ibid.
4 See Joseph A. Gallup, Sketches of Epidemic Diseases in the State of Vermont From Its First Settlement to the Year 1815. See also Zachary Thompson, History of Vermont, op. cit., part II, pp. 220-222; Abby Hemenway, op. cit., I, p. 735; II, pp. 6, 707, 708, 863; III, pp. 415, 694; IV, 577; Rural Vermont, op. cit., p. 205.
5 Acts of 1787, p. 142.



of each town must provide a place for the isolation of those who have small pox. Such persons must be removed to this establishment unless a physician or nurse declared that such removal would endanger the person's life. If the sick person was unable to pay, the selectmen must provide a physician and a nurse at the town's expense, or at the expense of a relative of the sick person. Furthermore, penalties were imposed for wilfully giving or taking the disease; and also for not reporting the disease when it was known.

The efforts of the Legislature to protect the people from disease soon extended to the prohibition of the sale of contaminated goods. In 1799, an act was passed "to prevent the hawking and vending of feathers," in certain cases, because the government had "great reason to believe that sundry evil minded persons import into this state, quantities of feathers, on which persons who were afflicted with the putrid or yellow fever, in the cities of Philadelphia, New York, and other places, have actually died, by which the infection may be brought into this state."[6] Therefore, persons selling feathers that did not come from this State or Canada were fined not exceeding seven dollars and not less than three dollars, and the goods were to be destroyed. Tavern keepers were also fined if they allowed such men to linger for more than four hours in their taverns.[7]

At the beginning of the nineteenth century, the number of physicians in the State began to increase because of the educational opportunities leading to this profession offered at the University of Vermont. In 1809, the University bestowed an honorary degree of Doctor of Medicine on Dr. John Pomeroy, and elected him "Professor of Physic, Anatomy and Surgery." It was also announced that any person attending two of the professor's courses of lectures and delivering a dissertation on some assigned medical topic would be eligible for the degree of "Bachelor of Physic."[8] This op-

6 Acts of 1799, (Nov. 5).
7 Ibid.
8 Rural Vermont, op. cit., p. 205.

portunity fostered an increase of physicians in the State.

In order to protect the people from incompetent practitioners, the Legislature, in 1820, passed "An Act, regulating the practice of Physic and Surgery within this State."[9] By this enactment, physicians and surgeons were prohibited from collecting professional fees unless they were members of a legally constituted Medical Society of the State. Furthermore, they must have a Bachelor's or Doctor's degree of Physic from an authorized academy, college, or university; and they must have a license to practice in the State.[10] Physicians and surgeons may be licensed by any Supreme Court Judge of the State with the assistance of two competent physicians.[11] This law, however, was repealed in 1838.[12] In 1876 another law was passed to supervise the standards of those engaged in the medical profession.[13] This law obliged every incorporated medical society in the State to elect a body of censors who were to examine and issue licenses to those physicians and surgeons whom they judged competent. It now became a misdemeanor to practice medicine in the State without a license. In 1898 this law was further clarified and midwives were included among those who must have a license to practice their profession.[14] After 1904, however, the power to admit practitioners was taken out of the hands of the censors elected by the state medical societies, and a more stable organization called the Board of Medical Registration was instituted.[15] Two years later the powers of this board were broadened to empower it to revoke licenses for certain malpractices.[16]

The State started early the practice of inspecting certain foods which were liable to bring disease to the population. As early as 1823 a law was passed demanding that beef and

9 **Acts of 1820, No. 15.**
10 **Ibid.**, Sec. 1.
11 **Ibid.**, Sec. 2.
12 **Acts of 1838, No. 20.**
13 **Acts of 1876, No. 102.**
14 **Acts of 1898, No. 112.**
15 **Acts of 1904, No. 133.**
16 **Acts of 1906, No. 164.**



pork be inspected,[17] and in 1834 flour was added to the list.[18] By 1839 a blanket prohibition against the sale of any diseased or unwholesome foods was passed.[19] This enactment, entitled, "Of Offences Against Public Health," provided that the selling of diseased or unwholesome provisions was punishable by a fine not exceeding three hundred dollars; adulterating food or drink with any substance injurious to health was punishable by a fine not exceeding five hundred dollars; and adulterating drugs or medicines so as to render them injurious to health was also punishable by a fine not exceeding five hundred dollars. A further salutary act in regard to the sale of medicines was passed in 1846,[20] but it was repealed the following year.[21] This act stipulated that medicines exposed for sale must be properly labelled, stating the ingredients, etc. It also provided penalties for neglecting to label or for putting false labels on medicines. It further provided that apothecaries were to designate active poisons by bottle and label, and they were to keep poisons separate from medicines.

It was not until 1909, however, that a milk inspection law was passed. In January of that year a law was passed which forbade any person from selling milk or cream from house to house unless he had first obtained a license to do so. Such license was to be issued by the board of health of the town in which the milk was to be sold only after a rigid examination of the cows, stables, utensils, etc. This license was to be renewed yearly.[22] Another act passed during that same month, entitled "An Act To Prevent The Spread Of Bovine Tuberculosis By Creameries," stipulated that a public creamery which returned skim milk or butter-milk to its patrons must thoroughly pasteurize or sterilize the same before returning it.[23]

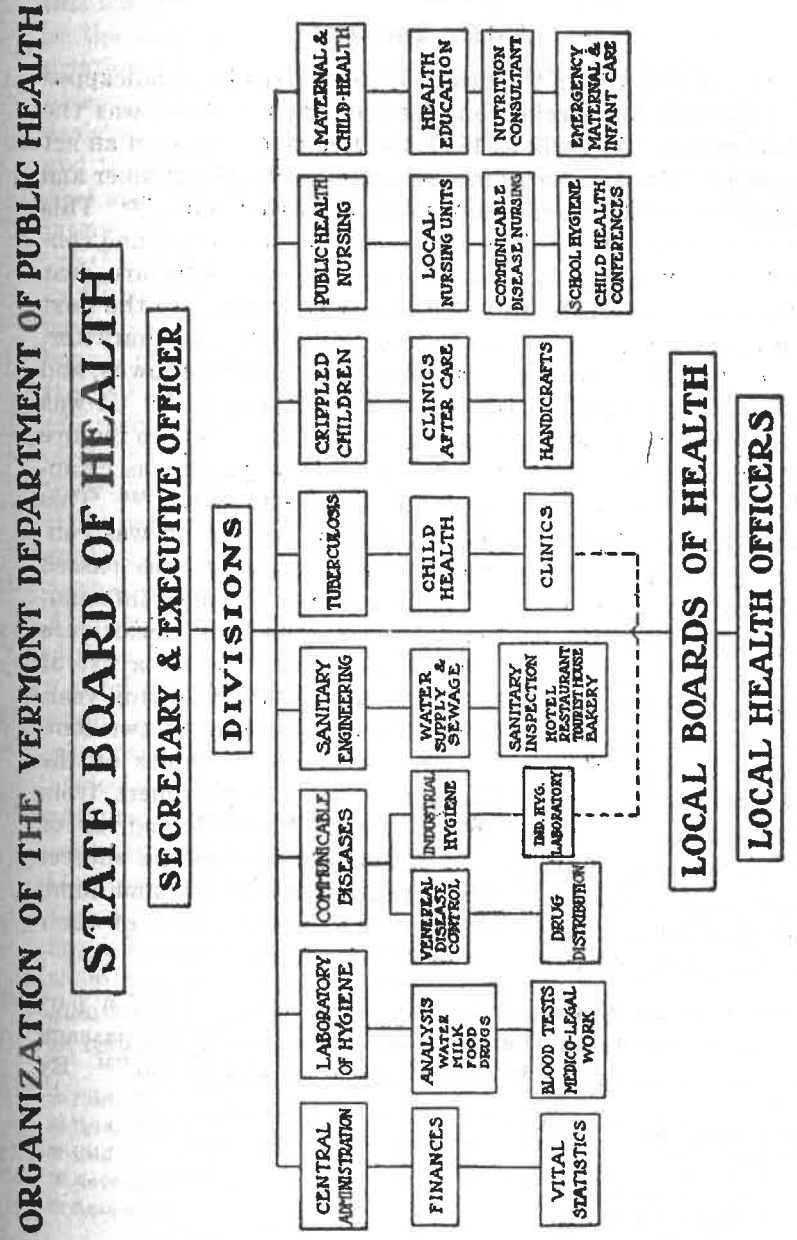
17 **Acts of 1823, No. 18.**
18 **Acts of 1834, No. 24.**
19 **Revised Laws of 1839**, Title XXIII, Chap. 100.
20 **Acts of 1846, No. 27.**
21 Acts of 1847, No. 35.
22 **Acts of 1908, No. 118.**
23 **Acts of 1908, No. 119.**

## The State Board Of Health

The State's concern for the protection of the health of its citizens finally led to the creation of a State Board of Health in 1886.[24] The Board was to be made up of three members appointable by the governor. These members were in turn to elect an executive secretary. The Board was empowered to enforce any regulations that it saw fit to protect and preserve the public health. This, of course, was a great step forward, but such a board could not possibly detect and pass judgment on the multiple occasions in which the public health was endangered. In order to cover the State more adequately, an act was passed in 1892 by which the State Board was reorganized and local boards and local health officers were appointed.[25] Local boards of health were to be appointed in each town, city, and incorporated village, and the secretary of the board was to be the local health officer. The local boards were to correct any condition which could be constituted a danger to public health. Physicians and householders were to report any case of contagious disease to the local health officer, and the health officer was to investigate as to its cause and make a report to the secretary of the State Board of Health. In 1900, the State Board was further organized, and it was given more extensive powers.[26] The State Board of Health has experienced several reorganizations during the sixty years of its existence, and in 1923 it was instituted as a special department under the name of the Department of Public Health.[27] During those decades its duties and powers have increased many fold as the following chart shows.[28]

[24] Acts of 1886, No. 93.
[25] Acts of 1892, No. 82.
[26] Acts of 1900, No. 91.
[27] Acts of 1923, No. 7, Sec. 3.
[28] From the **Thirty-Fifth Report of the State Board of Health of the State of Vermont, 1945.**





## Aid To The Deaf

One of the first in the group of the physically handicapped singled out for special consideration by the State was the deaf-mutes. As early as 1817, the Legislature passed an act entitled, "An Act, providing for ascertaining the number and condition of deaf and dumb persons in this State."[29] This act asked each town clerk "to ascertain the number and condition of persons, in their respective towns who are deaf and dumb; and ..... to make report in writing, to the next session of this Legislature, of the name, age and character, of each deaf and dumb person, in their respective towns, and the ability of their parents to educate them....."[30] It was further stipulated that the secretary of state was to inquire about the school in Hartford, Connecticut, which was established for the education of the "deaf and dumb."[31] This subject lay dormant as far as further legislation was concerned until six years later when a resolution was passed asking that the governor appoint a person to collect information relative to the deaf and dumb.[32] The town clerks were again asked to forward to the secretary of state a list of the deaf and dumb living in their town. The following year, 1824, it was resolved to have the governor appoint two commissioners to meet and confer with the directors of the American Asylum (in Hartford) and commissioners from Massachusetts, New Hampshire, and Rhode Island, or of such states as may appoint commissioners "on the subject of making provision for the education of the deaf and dumb of this state, at said asylum and to make report of their doings at the next session of this Legislature."[33]

Finally on November 9, 1825, the beginnings of a permanent office to aid the deaf was established by the passage of "An Act, for the benefit of the Deaf and Dumb."[34] By

29 **Acts of 1817, (Oct. 24).**
30 **Ibid., Sec. 1.**
31 **Ibid., Sec. 2.**
32 **Acts of 1823, No. 40.**
33 **Acts of 1824, No. 42.**
34 **Acts of 1825, No. 31.**



this act three commissioners were to be appointed annually by the Legislature who were to dispose of an annual appropriation of three thousand dollars in favor of deaf and dumb persons.[35] These commissioners were: to appropriate and designate the object of the State's charity, to superintend and to direct all concerns relating to the education of the deaf and dumb who were inhabitants of the State, to superintend the expenses of suitable subjects desirous of receiving the benefits of education offered by the American Asylum in Hartford, and to make an annual report of accomplishments and expenditures to the Legislature.[36] Furthermore, boards of inquiry were established in each town, made up of the town clerks, magistrates, and selectmen, or a majority of them, whose duty was to send annually to the county clerk: the number of such persons living in their town; their age, condition and circumstances, and the ability of their parents to educate them; whether they were proper subjects of State charity; and whether the deaf and dumb or their parents were willing that they attend the American Asylum in Hartford.[37] In order for these subjects to be eligible for the benefits of this act, the parents had to post a bond to indemnify the State against any expenses that might accrue because of illness, clothing or transportation. As a consequence, those who were extremely poor would be neglected. In order to do away with this difficulty, the Legislature, in 1830, allowed the commissioners to admit persons who were in extreme poverty to the benefits of the Hartford Asylum without requiring that a bond be posted for them.[38] Later on, the towns were allowed to pay for the transportation expenses of these individuals to enable them to attend the school at Hartford, if the parents or guardians of the same were too poor to assume this cost.[39] In 1862, the governor was made ex-officio commissioner of the

35 **Ibid., Sec. 1.**
36 **Ibid., Sec. 2.**
37 **Ibid., Sec. 3.**
38 **Acts of 1830, No. 36.**
39 **Acts of 1858, No. 3.**

board of the deaf and dumb, and the blind.[40] The annual appropriation for the deaf and dumb, which had remained rather constant, was again set at three thousand dollars.[41]

### The Austine Institution

The legislation for the deaf-mutes changed very little, except for increases in the annual grants,[42] until 1911. During this year, the Legislature appropriated the sum of fifty thousand dollars, payable in specified sums over a period of five years, to the Austine Institution located in Brattleboro, "for the purpose of erecting a suitable building or plant for the use of said corporation....."[43] It was further stipulated that this appropriation was being made "upon condition that said Austine Institution shall bind itself by a contract to the satisfaction of the governor, that it will at all times receive, take, instruct and care for, at actual cost, all such deaf and dumb children as the governor may designate under chapter 169 of the Public Statutes, to be received by said corporation."[44] This grant was by far the largest single appropriation ever made by the State in favor of deaf-mutes.

### 1915 And After

A law of 1915 made it obligatory for a deaf child within school age to attend, with certain exceptions, an institution within the State designated for that child by the governor.[45] Parents or guardians of the child were punishable if this law was violated. When the Department of Public Welfare was organized in 1923, the care of deaf-mutes was transferred from the office of the governor to the new department,[46] where it has since remained. In 1939, a law was passed which gave the commissioner of public welfare the

40 General Statutes of 1862, Title XIII, Chap. 23, Sec. 1.
41 Ibid., Sec. 2.
42 See Acts of 1865, No. 44; Acts of 1874, No. 81; Public Statutes of 1906, Title II, Chap. 57, Sec. 1079;Acts of 1906, No. 57; Acts of 1912, No. 82.
43 Acts of 1910, No. 74, Sec. 1.
44 Ibid., Sec. 2.
45 Acts of 1915, No. 17.
46 Acts of 1923, No. 7, Sec. 30.



power to "provide for the instruction of blind, deaf and dumb children over four years of age, and of blind adults, in such schools without the State as he may designate, but such schools shall be selected with a view to furnishing instruction in such trades or lines of work as will be best calculated to enable such persons to become self-supporting."[47] The only other significant legislation in regard to this class since 1915 has been the various annual grants.[48]

### Aid To The Blind

No special board was in charge of providing special aid to the indigent blind of Vermont until 1833. Previous to that date a blind person who needed assistance came under the general class of those who were poor. Occasionally the Legislature would give a grant to an indigent blind person, as in 1800 when one hundred and fifty dollars was appropriated for a certain Knight Sprague who "by the total loss of his eyes, hath become unable to labour, and is destitute of the means of support for himself and family."[49] In 1833, however, the Legislature appropriated one thousand and two hundred dollars for ten years to be used for the education of the blind.[50] The commissioners of the deaf and dumb were to supervise the distribution of this money which was to be used to pay expenses for the needy blind of the State to attend the New England Institute For Instruction of the Blind in Boston.[51] The town clerks were to report annually on the number of blind in their towns, as they were already obliged to do for the deaf and dumb.[52] The machinery of State aid to the blind was continued in this fashion until 1842 when, as has been previously noted, the duties and powers of the three commissioners of the deaf, dumb and blind were transferred entirely to the governor.[53] The gov-

47 Acts of 1939, No. 140, Sec. 1.
48 See Acts of 1917, No. 68; Acts of 1919, No. 53; Acts of 1923, No. 28.
49 Acts of 1800, (Oct. 28).
50 Acts of 1833, No. 21, Sec. 1.
51 Ibid., Sec. 2.
52 Ibid., Sec. 3.
53 Acts of 1842, No. 16.

ernor exercised this office until 1923 when these duties and powers were transferred to the newly organized Department of Public Welfare.[54] Most of the legislature during this period concerned itself with increasing the annual grant for the instruction of the indigent blind.[55] Whatever laws were passed during this period, except the monetary ones, were concerned with: empowering the governor to use part of the money for maintaining the blind who were privately instructed in the State,[56] regardless of the age of the recipient;[57] making attendance obligatory for school age children;[58] and with requiring physicians to use the necessary precautions with all their patients to prevent blindness caused by ophthalmia-neonatorum.[59]

## Services For The Blind[60]

In 1925, a private organization which had been existing for some time, the Vermont Association for the Blind, was recognized by the State Department of Public Welfare for its work among the blind of the State. During that year various members of that organization appeared before the State Legislature for assistance in their work.[61] As a result of this demonstration a law was passed in 1927 which allowed the Department of Public Welfare to work in conjunction with the Association to assist the blind of the State. The Department was permitted "to act as a bureau of information and industrial aid for the blind and for this purpose in

54 **Acts of 1923, No. 7, Sec. 30.**
55 See **Acts of 1858, No. 3; Acts of 1861, No. 34: General Statutes of 1862, Title XIII, Chap. 23, Sec. 2; Acts of 1865, No. 44; Acts of 1869, No. 12; Revised Laws of 1880, Title 10, Chap. 41, Sec. 682; Acts of 1898, No. 30; Public Statutes of 1906, Sec. 1079; Acts of 1906, No. 57; Acts of 1912, No. 82, Sec. 1; Acts of 1917, No. 58; Acts of 1919, No. 53; Acts of 1923, No. 28.**
56 **Acts of 1884, No. 39; and Acts of 1906, No. 56.**
57 **Acts of 1908, No. 49.**
58 **Acts of 1915, No. 77.**
59 **Acts of 1910, No. 220.**
60 The author is indebted for much of the material in this section to the writer of **The History of Public Assistance to the Blind in Vermont,** by Sister Mary Joseph, R.S.M., an unpublished master's thesis, St. Michael's College, Winooski Park, Vermont.
61 **The History of Public Assistance to the Blind in Vermont, op. cit.**



its discretion may furnish materials and tools to any blind person and may assist such blind persons as are engaged in home industries in marketing their products and may assist the blind in finding employment and in developing home industries for them and may ameliorate the condition of the blind by devising means to facilitate the circulation of books, by promoting visits among the aged or helpless blind in their homes, and by such other methods as it may deem expedient; but such department shall not undertake the permanent support or maintenance of any blind person."[62]

In order further to facilitate the work of directing and guiding the blind, the Department of Public Welfare was also authorized "to prepare and maintain a register of the blind in the State which shall describe their condition, cause of blindness, capacity for education and industrial training and such other data as said department may deem advisable."[63] Another provision allowed the department "to contribute to the support of blind persons from Vermont receiving instructions in industrial institutions outside the State."[64]

In August, 1927, the State Association and the County Associations combined funds in order to engage a worker to assist and teach the blind. In 1929, however, the Legislature made an appropriation of $3,000 to pay for the salary and expenses of a worker with the understanding that the Vermont Association for the Blind would then use its entire funds directly for the needs of the blind. In 1931 the Legislature made a similar appropriation for the salary of a worker who would help the blind to learn skills in order to make salable articles. In 1941 the Legislature appropriated "the sum of $1,000 to the Vermont Association of the Blind, Inc., for each of the fiscal years ended June, 1942 and June, 1943, to be expended by said Association to provide medical and surgical treatment and hospitalization designed to al-

62 **Acts of 1927, No. 37, Sec. 2.**
63 **Ibid., Sec. 1.**
64 **Ibid., Sec. 3.**

leviate the condition of children with defective sight whose parents are not financially able to defray in whole or in part the cost of such treatment and hospitalization." This same appropriation was made for the years 1944 and 1945. An increase of $500 brought the appropriation up to $1,500 for the years 1946 and 1947.[65]

The passage of a federal bill by Congress in 1943, providing increased federal financial assistance for the rehabilitation of the handicapped, made possible the expansion of the State program for rehabilitation of the blind.[66] The program of Vocational Rehabilitation for the Blind in Vermont started July 1, 1944.[67] The aim of this program was the rehabilitation of those blind people between the ages of 16 and 65 who were potentially employable. This program has contributed much towards making many of the blind self-supporting.

The present Division of Services for the Blind also maintains the Home Teaching program for the blind. The Home Teacher "is concerned not only with teaching an art or craft to the blind individual but with assisting him to regain or assume as far as possible his normal place in the family, in his community, and more important, in his own attitude and thinking toward himself and others. The Home Teacher must thus be a social worker among the blind."[68] This office also maintains a small circulating Braille library and talking-book machines for the blind of the State. The Home Teacher also assists the blind by teaching them certain skills such as basket making, chair caning, weaving, knitting, crocheting, sewing, typewriting, Braille, etc. These articles are salable and give the blind an added income.

65 **The History of Public Assistance to the Blind in Vermont, op. cit.**

66 **Vocational Rehabilitation Act**, Public Law 113, 78th Congress, U. S. Government Printing Office.

67 **Biennial Report of the Department of Public Welfare, June 30, 1946**, State of Vermont, Montpelier, Vermont, p. 22.

68 **Ibid., p. 24.**



## The Social Security Act And Vermont Legislation For The Blind

Title X of the Social Security Act, passed by Congress in 1935, provided assistance for the blind whose state programs were approved by the Social Security Board.[69] By this act the federal grants-in-aid were to be given to states with approved plans for aid to the needy blind to cover half the cost of assistance not in excess of thirty dollars a month. At a special session, in 1935, legislation was enacted by Vermont in keeping with the provisions of the Social Security Act.[70] In order that a blind person could receive assistance under this law, he had to have the following requirements: be a citizen of the United States; have lost his sight while a resident of the State, or had resided in the State five years during the past nine; was not an inmate or receiving private or public institutional aid; had not sufficient income; had not transferred his property or income to fall within this law; and was twenty-one years old or over.[71] The maximum amount payable to any individual was to be thirty dollars a month.[72] Application for this assistance was to be made to the Department of Public Welfare, and the Department was to investigate each application.[73] Once the application was approved a certificate of eligibility for one year would be issued to the applicant.[74] Each certificate had to be renewed yearly, and another investigation was to be made before each renewal.[75] Though there have been some recent amendments to the law of 1935, basically it has remained the same. In 1943 the maximum monthly grant to a blind person was raised to forty dollars a month to allow the State to take advantage of an amendment to the Social Security Act by which the federal government was to pay half of a state's grant-in-aid to the blind up to a monthly maximum of forty dollars. In 1947 the maximum monthly grant was

69 **Social Security Act**, Public Law No. 271, Seventy-Fourth Congress, U. S. Government Printing Office.

70 **Acts of 1935** (Spec. Sess.), No. 12.

71 **Ibid.**, Sec. 2.

72 **Ibid.**, Sec. 3.

raised to $45 a month. The federal government is to pay two-thirds of the first $15 and one-half of the balance of the grant not exceeding $45.[76] The citizenship clause was dropped in 1946 by Vermont.

### State Aid For Tubercular Patients

Prior to the twentieth century the State did not accept any responsibility for the care of tubercular patients. That was left entirely to private individuals or to the local governments. As a result, the persons who were afflicted with this disease, and who were poor, were assisted in whatever manner was prevalent at the time for helping those who were in need for any cause. However, during this present century public officials began to single out these patients and place them in a separate category as being worthy of special attention.

In 1902, the Legislature had become sufficiently interested in this problem so that it passed a law requiring all physicians to notify the State Board of Health of the existence of all cases of tuberculosis.[77] The secretary of the Board was to keep a record of all such cases, and, if possible, he was to furnish information helpful to the patient.[78] But what was even more important, was the appointment of a "Tuberculosis Commission" during that same session.[79] This commission was to investigate the prevalence of the disease among human beings in Vermont, together with its distribution and causes, and to try to devise ways and means of controlling it. For this purpose the commission was to meet once every three months, and report to the next Legislature. The Legislature of 1904 heard the report of the commission and reappointed such a commission to continue its work for the next two years.[80] This commission was again appointed

73 **Ibid., Sec. 3**
74 **Ibid., Sec. 6.**
75 **Ibid., Sec. 7.**
76 **Acts of 1943, No. 90, Sec. 1; and Acts of 1947, No. 192.**
77 **Acts of 1902, No. 117.**
78 **Ibid., Sec. 2**
79 **Acts of 1902, No. 116.**
80 **Acts of 1904, No. 142.**



in 1906 to continue to "conduct a campaign of education throughout the State regarding the best known methods of preventing and curing tuberculosis and of limiting, by modern sanitary precautions, the spread of such disease among the people."[81]

An act passed in 1913 entitled, "An Act Relating To The Care Of Indigent Tuberculosis Persons," is especially important because it allowed more definite aid to be given to such patients. The act read as follows:

> Section 1. The governor shall, by virtue of his office, be commissioner of indigent tuberculous persons, and as such commissioner shall constitute the board and shall biennially report to the general assembly his doings under this act, with an account of his expenditures.
>
> Section 2. A person wishing treatment under this act shall be examined by two physicians in the town or city in which such person resides; and such physicians shall then make a report in writing of their findings to the selectmen of the town or the mayor of the city, who shall investigate the financial condition of the person applying for treatment. The selectmen or mayor after finding such person worthy of treatment under this act shall make a complete report of their findings together with the report of the physicians to the governor.
>
> Section 3. The governor may designate beneficiaries under this act and shall direct the time when and the place where such beneficiary shall be treated, and the auditor of accounts shall draw orders for such treatment upon the certificate of the governor and he may in his discretion take a bond to indemnify the State against expenses which accrue in consequence of the clothing or transportation of a beneficiary.
>
> Section 4. The selectmen of the town or the mayor of the city may execute in their official capacity in behalf of their respective towns or cities, without a previous vote, the bond which may be required to be given by the town or city to indemnify the State against expenses which may accrue in consequence of the clothing or transportation of beneficiaries from such town or city.

81 **Acts of 1906, No. 167.**

Section 5. When a person is designated a beneficiary, the town or city in which he resides shall defray the expenses of his conveyance to and from the institution to which he is sent for treatment, and shall provide necessary clothing.

Section 6. The beneficiaries specified in this act shall receive treatment in the Vermont Sanatorium at Pittsford or a similar institution.

Section 7. The sum of five thousand dollars is hereby annually appropriated for the purpose of carrying out the provisions of this act.

Section 8. This act shall take effect from its passage. (January 30, 1913).[82]

The State was not engaged in a permanent program to combat tuberculosis. These beginnings were eventually to assume large proportions. In 1921, the State took over the maintenance of the Vermont Sanatorium located at Pittsford.[83] This sanaforium, opened in 1907, had been operated under private auspices.[84] This institution, having a capacity of 74, employs 31 persons, and is operating under a present yearly appropriation of $70,000.[85] Ten years later the State took over the control of the Washington County Sanatorium located at Barre.[86] This institution, which had been opened in 1921 as a county tuberculosis sanatorium, now has a capacity of 57, employs 23, and has a yearly grant of $50,000.[87] Furthermore, the State, especially since 1923,[88] has been engaged in a definite program of prevention. The Department of Public Health conducts such a program in cooperation with the Vermont Tuberculosis Association. Clinics are held in various sections of the State periodically for examinations and X-rays. Children who are in danger of becoming infected with tuberculosis are sent to the Caverly Pre-

82 **Acts of 1912, No. 219.**
83 **Acts of 1921, No. 120.**
84 **A Comprehensive Welfare Program for Vermont,** Department of Public Welfare, 1946, p. 19.
85 **Ibid.**
86 **Ibid.**
87 **Ibid.**
88 See **Acts of 1923, No. 73.**



ventorium with expenses paid in whole or in part if they are poor. The preventorium is at the present time owned and operated by the Vermont Tuberculosis Association.[89] Vermont has indeed accepted the responsibility of waging a fight against this disease, and the indigent tubercular patients are now being adequately cared far. The following table, showing a sharp decrease in the number of deaths occurring from tuberculosis in the State during the last forty years, portrays part of the great progress made.[90]

Deaths From Tuberculosis In Vt., 1900-1940

| Year | Deaths | Year | Deaths |
|---|---|---|---|
| 1900 | 154 | 1920 | 82 |
| 1905 | 139 | 1925 | 71 |
| 1910 | 113 | 1930 | 66 |
| 1915 | 92 | 1935 | 42 |
| | | 1940 | 42 |

**Recent Services For The Crippled And Handicapped**

In 1921 the Legislature enacted a law in favor of crippled and handicapped children. It stipulated that "if the department of charities and probation finds that the parents or guardian of a physically defective or crippled child, which needs medical or surgical treatment, are willing to furnish such treatment, but are financially unable to do so, it may provide such treatment."[91] This act was the beginning of the State's special interest in the crippled and the handicapped. In 1933, the Legislature began what was to be an annual appropriation for the after-care of persons suffering from infantile paralysis.[92] The expenditure of the allotment was to be under the supervision of the State Board of Health, which board set up the Infantile Paralysis After-Care Division to do this work. However, when the State, in 1935, passed legislation to allow the Board of Health to take advantage of federal grants for crippled children to be

89 **A Comprehensive Welfare Program, etc., op. cit.,** pp. 19-20.
90 **Vital Statistics in the United States,** U. S. Census Bureau, U. S. Government Printing Office, 1943, p. 360. (Rates are the round number of deaths in the specified group per 100,000).
91 **Acts of 1921, No. 217, Sec. 1.**
92 **Acts of 1933, No. 93**

allotted by the passage of the Social Security Act, this division became known as the Crippled Children's Division and its program was expanded.[93] The needy adults, who could not qualify for assistance under the above grants, were made a special object of appropriations in acts passed in 1939 and 1941,[94] and regularly thereafter. An act passed in 1937 had allowed the Board of Education an appropriation to cooperate with the federal government in the work of rehabilitating the physically handicapped. A similar act, with emphasis on children, was passed in 1939.[95]

### Maternal And Child Health Services

A joint resolution enacted by the Legislature in 1925 allowed the State Board of Health to cooperate with the federal government so that the State would become eligible for grants of money for maternal and child care services.[96] Out of this resolution arose the Maternity and Infancy Division of the State Board of Health. In 1936 this division's name was changed to Division of Maternal and Child Health and its services were expanded because of the increases in the State and federal grants.[97]

93 **Acts of 1935** (Spec. Sess.), No. 10, Sec. 3. See also **The Twenty-First Biennial Report of the State Board of Health, 1936-1937**, p. 27.
94 See **Acts of 1939**, No. 134; and **Acts of 1941**, No. 109.
95 **Acts of 1937**, No. 76; and **Acts of 1939**, No. 85.
96 **Acts of 1925**, No. 223.
97 See **Acts of 1935** (Spec. Sess.), No. 10, Sec. 1; and **The Twenty-First Biennial Report of the State Board of Health, 1936-1937**, p. 30.

## CHAPTER XII

## CRIME AND DELINQUENCY

No special provision was made by the Legislature for the separate treatment of adult and child offenders in Vermont before the latter half of the nineteenth century. Even common law did not provide for any distinct procedure based upon the age of the offender. However, "under the common law in both England and the United States the child was assumed not to have acquired discretion or the capacity to distinguish between right and wrong before he was seven years of age, and he could not, therefore, under that age, be held guilty of felony. While children between seven and fourteen were assumed to be responsible for their acts, courts could find that a child between these years was not capable of discerning between good and evil and hence not subject him to criminal law."[1] But, if a child was convicted of a misdemeanor or a crime, he became subject to the law the same as an adult. There is ample evidence, as will be pointed out, that well into the nineteenth century, the local jails and poor houses were used to house men, women and children irrespective of age or offense.

### Early State Laws Regarding Punishment For Offenses

The early code of laws for meting out punishments for offenses was extremely severe. There is no evidence that the legislators considered the aspect of rehabilitating the offender or assisting him in becoming a useful member of society. The philosophy of the early legislators of Vermont seems to have been that punishments for crimes and misdemeanors should be so severe that the plight of the offender would serve as an example to deter others from committing the same offense. This attitude is expressed in one of the first laws passed concerning immoral behavior. In this act the county courts are asked to punish the offenders in such a way, "that such **seasonable** and **exemplary** Punishment may

1 Abbott, Grace, **The Child and the State, op. cit. II**, p. 323.

be inflicted on such Offenders in that Kind, that others may hear and fear."[2] Accordingly, therefore, the code of 1779 contained the following law concerning adultery:

> That whosoever shall commit Adultery with a married Woman, or one betrothed to another Man, both of them shall be severely punished by whipping on the naked Body not exceeding Thirty-nine Stripes, and stigmatized, or burned on the Forehead with the Letter A, on a hot Iron; and each of them shall wear the capital Letter A, on the Back of their outside Garment, of a different Colour, in fair View, during their Abode in this State. And as often as such convicted Person shall be seen without such Letter, and be thereof convicted before an Assistant or Justice of the Peace in this State, shall be whipt on the naked Body, not exceeding Ten Stripes.[3]

A law of 1783 omitted branding from the above punishment.[4] Unnatural immoral acts, however, were punishable by death;[5] and so, too, was rape.[6]

The punishment for burglary and robbery was exceedingly severe as the following law of 1779 shows.

> Be it enacted, etc., That whosoever shall commit Burglary, by breaking up any Dwelling-House, or shop, wherein Goods, Wares and Merchandize are kept, or shall rob any Person in the Field, or High-Way; such Person so offending shall for the first Offence be branded on the Fore-Head with the capital Letter B, on a hot Iron, and have one of his Ears nailed to a Post and cut off; and also to be whipt on the naked Body Fifteen Stripes.
>
> And for the second Offence, such Person shall be branded as aforesaid, and have his other Ear nailed and cut off as aforesaid, and be whipt on the naked Body Twenty-five Stripes.
>
> And if such Person shall commit the like offence a Third Time, he shall be put to Death, as being Incorrigible.[7]

[2] Acts of 1779, p. 4. Italics are the author's.
[3] Ibid., p. 3.
[4] Acts of 1783, (Oct.)
[5] See Acts of 1779, p. 74; and Acts of 1787, p. 67
[6] Acts of 1779, p. 5.
[7] Acts of 1779, p. 84.



There were various other offenses punishable by branding, and accompanied oftentimes with whipping and total confiscation of property. Such punishments were to be meted out for horse-thieving,[8] counterfeiting,[9] impeding justice,[10] manslaughter or "the wilful killing another Person, without Malice, or Forethought,"[11] etc. Outright murder was punishable by death;[12] so, too, was the wilful maiming a person in certain parts of his body.[13] Lying, profanity, purjury, and defamation were singled out for such punishments as fines[14], whipping[15], pillory[16], and cutting off of the ears.[17]

By 1785 a reaction began to set in as is evidenced by several acts presented by the Council of Censors to the Legislature of that year to mitigate the disproportionate punishments attached to the comission of certain misdemeanors. The idea of reform of the offender begins to be expressed. For instance, it was recommended that the Legislature repeal an act passed in 1779 entitled, "an act to prevent riots, disorders and contempt of authority within this state, and for the punishment of the same,—on account of the uncommon severity of the punishments to be inflicted for breaches of said act, and their disproportion to the offences, it being unjust and impolitic in the opinion of this Council, as well as contrary to the humanity manifested in the constitution to inflict punishments which render a person and his connexions infamous and preclude all reformation for crimes which are not infamous in their nature—And because it puts a person who simply and often inadvertently commits a trespass in so desperate a situation as in its consequences may be prejudicial to the peace of society."[18] A similar plea was

[8] Acts of 1791, p. 282.
[9] Acts of 1779, p. 46.
[10] Acts of 1779, p. 13.
[11] Acts of 1779, p. 93.
[12] Acts og 1779, p. 94.
[13] Acts of 1779, p. 74.
[14] Ibid., p. 88.
[15] Ibid.
[16] Ibid., p. 96.
[17] Ibid.
[18] Vermont State Papers, Vol. III, part III, p. 177.

voiced for the mitigation of the severe punishment for the offence of counterfeiting.[19] Slowly there began to be introduced a gradual mitigation of the punishment laws of the State, but most of the change took place only after the State prison was opened in 1809, because then it was felt that incarceration and hard labor could act as a sufficient deterent.

### The County Jails

The original drafters of the first constitution of Vermont entered therein a section concerning the erection of jails. It was their opinion that "to deter more effectually from the Commission of Crimes, by continued visible Punishment of long Duration, and to make sanguinary Punishments less necessary, Houses ought to be provided for punishing by hard Labour, those who shall be convicted of Crimes not capital; wherein the Criminal shall be employed for the Benefit of the Public, or for the Reparation of Injuries done to private Persons;—all Persons, at proper Times shall be admitted to see the Prisoners at their Labour."[20] The emphasis, therefore, was to be the making of a public spectacle of offenders imprisoned at hard labor for a long duration. The Legislature of 1779, however, enacted a great amount of "sanguinary" punishment laws, probably because there were no regularly constituted jails as yet.

In 1779, "An Act for regulating Goals and Goalers" was passed.[21] This act provided that one jail was to be set up in each county seat at the expense of the county. The prisoners, however, were to pay for their own maintenance or to be "put in service." It was even permitted for the prisoner or his family to provide supplies for the maintenance of the prisoner. The jailer was warned not to cause any injury to the prisoner, or he would be fined treble the damages. Several amendments were made to this act in 1787 which pertained to the treatment of persons imprisoned for debt.[22]

19 **Ibid.**
20 **Constitution of 1777, Chap. II, Sec. XXXV.**
21 **Acts of 1779, p. 32.**
22 **Acts of 1787, p. 77.**



Since the amount to be charged a prisoner for his maintenance by a jailer was not too well regulated, it was easy for abuses to creep in. Accordingly, therefore, an act was passed, in 1791, to prevent jail keepers from charging excessive prices to prisoners for their room and board.[23] Two years later laws were passed in regard to the plant itself.[24] This act maintained that county jails were to be kept in good repair at the expense of the county. It was the duty of the grand jurors to inspect each county jail to see that it was habitable. The sheriff was to be held responsible for the upkeep of the building, and an annual county tax was to be levied for this purpose. But the conditions of the county jails became deplorable, and, in an effort to remedy the situation, an act was passed in 1797 entitled, "An act relating to goals and goalers, and for the relief of persons imprisoned therein."[25] This act was by far the most extensive legislation on this subject up to this time. It showed a real solicitude for the prisoner as to his treatment, food and expense. The State, however, was to pay for the maintenance of State prisoners at the various county jails, but the maximum charge was to be one dollar a week.[26] Yet there was no mention of any separation of prisoners according to age, sex, or crime.

### The State Prison

The State was loathe to take on the expense and responsibility of maintaining its own prison. Until the State prison was opened in 1809, nothing was done to carry out that section of the constitution to provide in certain cases that prisoners be "disposed of in service."[27] Doubtless the principal reasons for this delay of more than thirty years were "the inexpediency of incurring a large expenditure while the population of the State was sparse and unable to bear a heavy tax, and the difficulty of finding a location where re-

23 **Acts of 1791, p. 282.**
24 **Acts of 1793, p. 58.**
25 **Acts of 1797.**
26 **Acts of 1798, (Oct.)**
27 **Governor and Council, op. cit., V, p. 466.**

munerative labor could be expected" for the prisoners.[28] From 1793 the subject was frequently considered, and in 1803 Governor Tichnor presented strong reasons for a State prison.[29]. His plea resulted in the passage, in 1804, of "An act appointing a committee to receive proposals for building a Work House."[30] Three years later, Governor Israel Smith, in 1807, in a speech before the Legislature, asked for a reorganization of the criminal code of the State "to substitute generally for corporal punishments, confinement for the purpose of initiating the culprit into a habit of useful industry, or in more common phraseology, confinement to hard labor."[31] All this endeavor culminated in the passage, in 1807, of an act for the building of a state prison.[32] This act provided that five commissioners be appointed who were to choose a place for a prison and buy proper lands. They could appoint an agent to superintend this work for them. Strict account must be kept of all expenditures, and the building must not cost more than thirty thousand dollars.

Now that a place was to be provided for the confinement of prisoners, the legislators began to change the punishment laws. In 1808 an act was passed which provided that convicted persons be kept in the State prison to be erected at Windsor.[33] The State prison was also to receive federal prisoners. Furthermore the courts were given the power to dispense with pillory and whipping for crimes already committed, and, in the future, the courts were to exchange all pillory and whipping punishments to confinement at the State prison. No corporal punishment was to be given for crimes of any kind hereafter committed. It is also interesting to note that this act stipulated that persons committed to the State prison for life were to operate as dead as regards marriage and settlement of estate. A further act passed in 1810 stipulated that persons convicted of certain

28 Ibid.
29 Ibid.
30 Acts of 1804, (Jan. 31).
31 Governor and Council, op. cit., V, p. 399.
32 Acts of 1807, (Nov. 3).
33 Acts of 1808, (Nov. 9).



high crimes and misdemeanors could be sentenced to a term of not more than seven years of hard labor at the State prison.[34] Also, confinement to hard labor for a term not exceeding three years was to be substituted for the punishment of cropping of ears.[35] In 1818, a new code for the punishment of high crimes and misdemeanors was drawn up,[36] and in 1821 a new code for certain inferior crimes and misdemeanors was enacted.[37] The codes have not changed very seriously since that time.

Although most of the prisoners sentenced to the State prison were condemned to hard labor, the labor was provided for them within the bounds of the prison. In 1836, however, an act was passed which authorized the superintendent of the prison to hire out the convicts to contractors.[38] But three years later the State decided to place greater supervision over this practice, mostly in an effort to gain more income from the labor of the prisoners. In 1839 a committee of three was appointed to supervise the hiring out of prison labor. This committee was instructed to sign contracts with persons making the most agreeable propositions to the State.[39] The facts were to be published in newspapers in Montpelier and in Windsor. From time to time various other aspects of the prisoners were taken into consideration, such as appropriating one hundred dollars outright and twenty-five dollars annually for a library at the prison,[40] and allowing $2,500 for the erection of a chapel and work shop.[41]

## The Juvenile Offender

As has been noted, during the first half of the nineteenth century the Legislature did not single out the juvenile of-

34 Acts of 1810, (Nov. 3).
35 Ibid., Sec. 4.
36 Acts of 1818, (Nov. 11).
37 Acts of 1821, Chap. 1.
38 Acts of 1836, No. 33.
39 Acts of 1839, No. 3.
40 Acts of 1854, No. 65.
41 Acts of 1860, No. 131.

fender as the object of any special concern. The children who were convicted of crime, and whom the courts held responsible, were subject to the same sentences as adult offenders. In 1855, however, the Legislature began to show some concern for young delinquents, and stipulated that "any person under the age of sixteen years committed to any jail in this State, shall, during the period of such commitment, be kept separate and apart from other persons of maturer age who shall have been likewise committed to such jail to await trial of, or on conviction of, any crime."[42] This was, indeed, the beginning of special consideration for the young offender. But this stipulation of separation was not sufficient, and, doubtless, the Legislature realized the difficulty of enforcing this law in all the jails in the State. Obviously there was need in the State for a separate institution for juvenile offenders. In 1857, therefore, the Legislature passed a resolution "that the governor be requested to appoint some suitable person, who, under the advice of the governor, shall visit some of the institutions in other States for the reformation of juvenile offenders, and obtain all such information on the subject as he shall be enabled to do, and report to the legislature, at the next session, such facts as he may judge material, together with a bill providing for such an institution in this State."[43]

But, unfortunately, the Civil War occurred before such an institution could be established, and all further action on this subject was postponed until after the war. In the meantime the State prison and the other jails of the State were used to house juvenile and adult offenders.[44]

### A Separate Institution For Juvenile Offenders

Once the Civil War was over, the Legislature lost little time in returning to the question of establishing a separate institution for juvenile offenders. In 1865 it passed "An Act

42 Acts of 1855, No. 44.
43 Acts of 1857, No. 74.
44 Governor and Council, op. cit., I, p. 471.



To Establish The Vermont Reform School."[45] It was now felt that mere incarceration for the juvenile was not the answer to the problem. The element of reform of the youth was expressed in the act, for it stipulated that "there shall be established.....an institution for the discipline, correction, and reformation of juvenile offenders, to be called the Vermont Reform School, to which shall be committed, for discipline, correction, and instruction, such persons, not exceeding eighteen years of age, as it is by this bill provided thus to commit."[46] The persons to be committed to the reform school by the courts of the State were any male or female under the age of eighteen "found guilty of any crime or offence against the laws of the State."[47] The governor was authorized to change the sentence of those in any jail in the State who came under this category, and have them transferred to the reform school. This is the first time, with the exception of certain debt regulations, that women have been singled out in any of the punishment laws. Other sections of this act provided that three commissioners be appointed, one acting and the other two advisory. The acting commissioner was to receive $800 a year plus board for himself and family; the other two were to receive three dollars a day while discharging their duty, which was not to extend more than fifty days a year.[48] The commissioners were to choose a site, buy the land (but not more than two hundred acres), and build a school with provision for the separation of sexes. All this was not to cost more than $6,000.[49] There was an additional $5,000 allotted for paying for assistants, fuel, food, clothing, machinery, etc., for one year.[50] The commissioners' powers were to be quite extensive, for, if any male minor was judged incorrigible by them, he could be called before the county court and resentenced to more severe discipline at the Reform School

45 Acts of 1865, No. 1.
46 Ibid., Sec. 1.
47 Ibid., Sec. 5.
48 Ibid., Sec. 2.
49 Ibid., Sec. 3.
50 Ibid., Sec. 4.

or sent to the county or State jail for the remainder of the sentence. The commissioners could even release a reformed person, for it was stipulated that the "Commissioners shall have the power, with the approval of the governor, to discharge any minor, as reformed, whenever they shall become satisfied that his longer detention in said school shall be to the disadvantage or injury of said minor.[51] Apparently by this act the Legislature proposed more than it cared to handle, for in the following year many of its proposals were considerably watered down. An act passed in 1866 stipulated that "no persons but boys under sixteen years of age shall be sentenced to the Vermont Reform School, or received therein."[52]

Now that the Vermont Reform School, located at Waterbury, was becoming a reality, the Legislature enacted new legislation in 1866, for the government of the reform school.[53] Under this act the government of the school was to be vested in a board of three, elected for one year.[54] This board of trustees was to be in charge of the general interests of the school; adopt proper by-laws; "see that strict discipline is maintained therein;" provide employment for the inmates and bind them out, discharge or remand them; appoint a superintendent and other officers, and fix salaries.[55] "They shall cause those committed to said school to be instructed in religion, morality and such branches of useful knowledge as are adapted to their age and capacity."[56] One of the trustees must visit the school once each month, and the board was to visit the institution each quarter.[57] The custody of the school was to be vested in the superintendent, who was to post a $10,000 bond.[58] This same Legislature even granted an additional $5,000 to purchase more land for

51 Acts of 1865, No. 1, Sec. 9.
52 Acts of 1866, No. 10, Sec. 10.
53 Acts of 1866, No. 10.
54 Ibid., Sec. 1.
55 Ibid. Sec. 2
56 Ibid., Sec. 3.
57 Ibid., Sec. 5.
58 Ibid., Secs. 6 and 7.



the school, and another $1,500 to enlarge the building if it were necessary.[59]

Being responsible for the welfare of juvenile delinquents was a new experience for the Vermont Legislature, and judging from the various changes in the laws regarding the school, it is evident that there was much uncertainty in the minds of the legislators as to the purpose and the government of such a school. Gradually the laws allowed the scope of the school to become broader and the rules to become more precise. Whether or not all the changes could be termed as progress has been seriously questioned by various investigations which have been made at the institution. Be that as it may, the Legislature, in 1867, added several amendments to the act of 1866 concerning the regulation and government of the Vermont Reform School.[60] Previous to this act, the school could receive only those boys under sixteen who had been sentenced by the court. The minors within this age limit who were awaiting court action and who were not able to furnish bail, were being kept in the various jails throughout the State until the county court convened and their case was judged. This new amendment, however, allowed such minors to be confined in the Reform School instead of a jail until the county court session.[61] When a boy so committed to the school had posted bail, he was to be released from the school.[62] This act even allowed parents or guardians to commit children to the school, with permission of the judge of probate, on condition that they pay half the fees.[63] The superintendent, also, was given more power in this new legislation. He was authorized, for breaches of discipline, with the advice of the trustees, to have boys committed to common jails.[64] The term of the sentence of a boy committed to the Reform School was never to be less than six months nor more than the child's ma-

59 Ibid., No. 11.
60 Acts of 1867, No. 33.
61 Ibid., Sec. 1.
62 Ibid, Sec. 5.
63 Ibid., Sec. 19.
64 Ibid., Sec. 2.

jority,[65] but four years later the six months clause was dropped.[66] The court was allowed to add another sentence as an alternative in case the boy refused to live up to the rules of the school.[67] Even for want of room a boy could be given an alternate sentence.[68]

Between 1867 and 1874 the Legislature allotted several grants to the Vermont Reform School at Waterbury over and above its annual operational allotments. Although some of these grants were made in the form of investments in various efforts to direct the labor of these children at the school into sources of profit for the State, nevertheless several of the grants were outright allotments for the improvement of the institution. In 1867, an appropriation was made for the erection of a workshop and a fence; the appropriation being $3,000.[69] Two years later, however, $13,000 was granted for general expenses and improvement of the buildings.[70] By 1870 there was need for expansion of the school. To meet this increased demand, the Legislature appropriated $25,000 for the erection of a new building which was to house not less than two hundred boys and officers.[71] This amount proved not to be sufficient, so in 1872 an additional $10,000 was allotted for this purpose.[72] That same session also granted $15,000 for the purpose of purchasing machinery, a lot and a building for manufacturing chairs,[73] and another $3,000 was granted for various improvements.[74] Unfortunately, a great part of the Vermont Reform School was destroyed by fire in 1874, and the school was never rebuilt at Waterbury. Another site in the town of Vergennes was chosen for the school.

65 **Ibid.**, Sec. 11.
66 **Acts of 1870**, No. 101, Sec. 1.
67 **Acts of 1867**, No. 33, Secs. 11 and 16.
68 **Ibid.**, Sec. 18.
69 **Acts of 1867**, No. 34.
70 **Acts of 1869**, No. 56.
71 **Acts of 1870**, No. 102.
72 **Acts of 1872**, No. 85.
73 **Ibid.**, No. 83.
74 **Ibid.**, No. 84.



## The Vermont Reform School At Vergennes

After the disastrous fire of 1874, a decision had to be made whether to rebuild the school at Waterbury or to move the school to another place. After much discussion, it was decided to buy the old Champlain Arsenal property at Vergennes, and rebuild there.[75] A special session, which convened in 1875, appropriated $49,000 for the rebuilding of the school.[76] Of this amount $30,000 was to be used for the erection of a suitable building and equipment, $11,000 was to be used to purchase the Champlain Arsenal property, and $8,000 to purchase additional land.[77] The property at Waterbury was to be sold and the proceeds returned to the State.[78] After the buildings had been completed, the trustees and the superintendent were to remove the boys from Waterbury to Vergennes.[79]

## Admission Of Girls To The Reform School

The third act passed by the Special Session of 1875 provided for the admission of girls at the new Vermont Reform School.[80] This act stipulated that "girls not less than ten years of age, nor more than fifteen, shall be admitted to the Vermont Reform School upon the same terms and for the same crimes and offenses that boys are now admitted. And the several courts within this State shall have the same powers to sentence or commit girls to the Vermont Reform School, that they now have or may hereafter have by the laws of this State to sentence or commit boys[81]..... The trustees of said school shall arrange buildings for the complete separation of sexes, except for educational and religious instruction, and such recreation as may be allowed by

75 Hemenway, Abby, **op. cit.**, IV, p. 867.
76 **Acts of 1875**, No. 1.
77 **Ibid.**, Secs. 1 and 2.
78 **Ibid.**, Sec. 4.
79 **Ibid.**, No. 2.
80 **Ibid.**, No. 3.
81 **Ibid.**, Sec. 1.

the trustees and superintendent, in their discretion."[82] The sum of $5,000 was appropriated to carry this out.[83]

A further act passed during this same Legislature concerned itself with the commitment of very young children. Previously, there was no minimum age limit for commitment to the Reform School on a delinquency charge. An act passed on this subject stipulated that no boy under the age of ten was to be sentenced to the Reform School for any offense which by the general law was punishable by fine. If, however, a boy under that age should be sentenced to pay a fine, or a fine and costs, and he is unable to do so, such a child is to be committed to the Reform School instead of to a county jail.[84] In certain cases, therefore, ability to pay a fine determined whether or not a child under the age of ten would go to the Reform School or be set free.

### Legislation For The Vermont Reform School, 1876-1880

In 1876, the Legislature passed an act designed to force the various towns to contribute something toward the maintenance of their subjects confined in the Reform School. This act demanded that the town or city where a boy or girl, committed to the school by a justice of the peace, had residence, pay fifty cents a week to the trustees of the school.[85] The justice was to specify the residence of the boy or girl so committed, and it became the duty of the superintendent of the school to notify the selectmen of the town or city. This law was later amended so that when a child was committed to the Reform School on conviction of a criminal offense, the town in which the child last resided was to pay one dollar a week as long as the child remained under twelve years old. After that age the fee was to be fifty cents a week during the term of the commitment.[86] Such fees did not and were not intended to pay for the total

82 Ibid., Sec. 2.
83 Ibid., Sec. 3.
84 Ibid., No. 4.
85 Acts of 1876, No. 6.
86 Acts of 1882, No. 58.



cost of maintaining a child at the Reform School. Apparently, some of the towns began to arrange some way of sending their charges to the school even though they were not delinquent. Accordingly, therefore, the Legislature warned the trustees of the school to be on the lookout for such a practice, and to investigate very closely the reasons given for sending a minor to the school to prevent non-delinquent children from being supported by the State.[87] Two years later it was stipulated that "the governor of the State and trustees of said school are hereby constituted a board of examination, and shall, in the months of January and June of each year, inquire into the cause for the commitment of each minor in said school, and, on separate and private examination, shall hear any complaint, request or petition that he or she shall make, and shall also confer, if in their judgment the case shall require, with the authority committing any minor to said school; or with the selectmen of the town, or the eldermen of the city, from which such minor was committed; and a majority of said board shall have the power to discharge any minor from said school, in case they shall become satisfied that his or her longer detention in said school shall be to his or her disadvantage or injury."[88] This law, therefore, provided a board of examination which could scrutinize each case and see that no child was being unduly confined or abused. This Legislature also showed further solicitude by appropriating $10,000 to have the school enlarged.[89]

### The Law Of 1880

An act passed in 1880 entitled, "An Act Relating To The Vermont Reform School And Children Ordered To Be Confined,"[90] is especially important because it endeavored to ameliorate the condition of delinquents under the age of twelve, and it provided for the placing of delinquent chil-

87 Acts of 1876, No. 7.
88 Acts of 1878, No. 10.
89 Ibid., No. 12.
90 Acts of 1880, No. 2.

dren out of the Reform School and into foster homes. In the case of a child under the age of twelve, it provided that such a child, charged with an offense not punishable by death, should not be brought for a hearing until a notice had been given to a selectman of the town where the child resided.[91] It was to be the duty of the selectman to attend the hearing, and to act as a friend and guardian of the child.[92] "If the child is convicted or bound over and no one appears to become bail for an appeal or for such child's appearance at the county court, and the offense is such that the child will be committed to the reform school or county jail, for failure to furnish bail, the selectman designated by the justice to act as guardian and friend of the child shall, if in his opinion it is not for the good of the child to be imprisoned, deliver to the justice a written statement to that effect; and the justice shall thereupon order a stay of all further proceedings against the child, and shall deliver the child into the custody of such selectmen."[93] No longer did an unwanted delinquent child have to be sent to the county jail or the Reform School just because he did not have the necessary money, if the selectman was interested in the welfare of the child. But much did depend upon the generosity and interest of the selectman.

The following section, however, was something new. It provided that "the selectman to whom the child is so delivered shall find a good home for the child and cause the child to be placed therein; and the selectman may bind by contract the town in which such child last resided prior to the proceedings had against such child, to pay the person taking the child the same sum per week while such child is under fourteen years of age that such town would be required by law to pay the trustees of the Reform School toward the maintenance of such child if such child were confined in said Reform school. And if such child has a settlement in the State, the town paying such sums may recover the sums paid

91 **Ibid., Sec. 1.**
92 **Ibid., Sec. 2.**
93 **Ibid., Sec. 3.**



of the town where the child has a legal settlement."[94] If the selectman changed his mind, he could apply any time within one year to have the original judgment enforced.[95] If the original judgment was to bind over the child until the next session of the court, the child could be committed immediately to the Reform School; if, however, the judge was competent he could issue a sentence.[96] But after the expiration of one year the original sentence could not be enforced.[97] This act shows how interested the Legislature was becoming in seeking forms of treatment other than confinement for the child. It was attempting something much more constructive than it had done thus far. The act went on to state that all children sent to the Reform School were to be treated as on probation "until such time as inquiry into the cause of their commitment and the previous character of the child shall show whether a long detention is necessary or **only a transfer from former bad influences to a good home.**"[98] Insisting still further on this principle of exploiting the benefits of placing a child in a good home outside the institution, the act stated that "the trustees of the reform school may find places for any child committed to said school for a longer or shorter time as in their judgment is best for the child in each case, and are instructed to investigate and give the probation or placing system such reasonable trial as in their judgment can properly be made, with a view to shorten terms of detention at said school."[99] The superintendent was to act as probation officer, and he was to keep in touch with his wards as long as he thought might be necessary. He could even appoint a local agent in the vicinity where the child is placed who was to report at stated intervals concerning the conduct and the welfare of the child. Such agent, however, was to serve without expense to the State.[100] The superintendent must hand in a biennial re-

94 **Ibid., Sec. 4.**
95 **Ibid., Sec. 5.**
96 **Ibid., Sec. 6.**
97 **Ibid., Sec. 7.**
98 **Ibid., Sec. 10.**
99 **Ibid., Sec. 11.**
100 **Ibid., Sec. 12.**

port on the "probation system."[101] If the families with whom these children were placed wished to receive payment, the trustees could not pay them more than one dollar a week.[102]

Another notable aspect of this act was its stipulation that the children at the Reform School must be separated into two age groups. One group was to be made up of all boys under fourteen years of age, and the other made up of the remainder. These two groups were to be kept apart at all times except in the workshop, the school room, the dining room, the chapel and while doing farm work.[103] Provisions were to be made in building accommodations for the separation of the two groups. Further accommodations were to be made "to provide a suitable play ground, gymnasium, sleeping room, wash room, and reading room, with suitable books and papers therein, and such other accommodations as in their judgment may meet the wants of the school. Every boy confined in the school who conforms to the regulations of the school, shall be permitted to spend not less than two hours out of every twenty-four in said reading room. When the repairs and enlargement of the buildings are completed, the trustees are authorized to employ the larger boys in the school a portion of the time each day at cabinet making or some similar remunerative employment."[104] There was even mention of providing for a hospital.[105] This act was, indeed, the most thorough one enacted for the school up to that time.

An act passed in 1884 allowed parents or guardians, through a judge of probate, to have children up to sixteen years of age placed in the Reform School for disciplinary reasons.[106] If the child was accepted at the school the parent or guardian must pay half the expenses. If they were

101 **Ibid.**, Sec. 13.
102 **Ibid.**, Sec. 14.
103 **Ibid.**, Sec. 15.
104 **Ibid.**, Sec. 16.
105 **Ibid.**, Sec. 17.
106 **Acts of 1884, No. 53.**



unable to do so, then the child could be accepted without charge after an investigation. In 1900, an appropriation of $3,000 was made to the Vermont Industrial School, the new name for the Reform School, to purchase a cottage near the school to isolate those who had been committed to the school for truancy or minor offenses.[107]

### Reform School Legislation From 1906

The Vermont Industrial School continued to operate under the supervision of a board of trustees until 1906. In that year the board of trustees was abolished, and the school, together with the State prison and the house of correction, was placed under the authority of a newly created board of penal institutions.[108] This board was to be composed of three members appointed by the governor. As far as the Reform School was concerned, the board was to inherit all the powers which the board of trustees possessed. Later, in 1923, the duties and powers of this board were transferred to the newly created Department of Public Welfare.[109] In 1937, the name of the school was changed to the Weeks School.[110]

All in all, the legislative enactments and changes have not been too different since the Act of 1880. There have been some minor changes, and some sizeable appropriations from time to time, however. But the school has been under periodic attack from outside agencies almost from the time of its first establishment. In response to some of the more recent attacks, Roy L. McLaughlin, superintendent of the Connecticut School for Boys, was asked to and did conduct, in 1944, an investigation of the school. Some of the more important recommendations of the McLaughlin report were: "appointment of an Advisory Board; expansion of education and training, psychiatric and religious activities; removal of girl students to a separate institution; limitation of the age of admission to 16; and a provision forbidding courts to com-

107 **Acts of 1900, No. 130.**
108 **Acts of 1906, No. 191.**
109 **Acts of 1923, No. 7.**
110 **Acts of 1937, No. 137.**

mit feeble-minded persons to this school."[111] One of the most important aspects which make the school difficult to manage and still open to attack is the fact that the school contains such a mixture of population. It houses boys and girls in various stages of delinquency, and in ages from the very young to those approaching their twenty-first year; it is sometimes used as a temporary boarding school for dependent children; and it contains mentally deficient persons in various degrees of feeble-mindedness. The failure of the Legislature to appropriate funds for the building of separate institutions for the accommodation of the various categories of the population of the Weeks School is one of the factors which make this institution one of the most difficult schools to operate successfully. The recent appointment of a special advisory board to the Weeks School may prove very beneficial.

### The House Of Correction

Even after the authorization to rebuild the Reform School in 1875, it was felt that there should be a special institution to house delinquent youths between the ages of sixteen and twenty-one. Accordingly, the Legislature authorized, in 1876, the construction of a Work House, later called the House of Correction, "for the safe keeping, correction, employment and reformation of all persons above the age of sixteen years, convicted of offenses for which the punishment, by law, is only fine and imprisonment in the county jail, or by both fine and such imprisonment, with or without costs of prosecution—and, also of all persons not less than sixteen nor more than twenty years of age at the time of conviction, convicted of offenses punishable, by law, by imprisonment in the State prison, when the court shall be of the opinion that the circumstances of the case do not require imprisonment in the State prison."[112] Three commissioners were to be appointed by the governor to carry out the pro-

111 **Biennial Report for 1944,** Department of Public Welfare, State of Vermont, p. 7.
112 **Acts of 1876, No. 3.**



visions of this act. If any county would contribute $20,000 toward the erection of such an institution, the State would match that amount. Since the county of Rutland pledged the required amount, the House of Correction was built in Rutland.[113] An act of 1878 appropriated $11,000 more for completing and furnishing the new institution.[114] As for commitment, it was further specified in 1880 that "where an offense is declared by law to be punishable by imprisonment, and it is not specified that such imprisonment shall be in the state prison, it shall be construed to mean imprisonment in the house of correction, if the offender is over sixteen years of age if a man, or fifteen if a woman, at the time of conviction."[115] These activities continued at the House of Correction in Rutland until the Legislature voted in 1919 to transfer the male population to the State prison at Windsor and set up a house of correction unit there.[116] Within a few months after the passage of this act the institution at Windsor became known as The State Prison and the House of Correction, under which name it continues to operate today.

### The Women's Reformatory

There was a reason for the Legislature's transferring of the male population from the House of Correction at Rutland to the State prison at Windsor. There existed, at the time, a serious need for a separate institution for adult woman offenders, and instead of building a separate institution, the Legislature voted to transform the House of Correction at Rutland into the Women's Reformatory where the State could house its adult women offenders. After remodelling it for this purpose, operation was begun solely as an institution for women in 1921.[117] However, there has been a movement in recent years to transform this institution back into a specialized school for the training and treatment of juvenile

113 **Acts of 1878, No. 4.**
114 **Ibid., No. 6.**
115 **Acts of 1880, No. 3.**
116 **Acts of 1919, No. 200.**
117 **A Comprehensive Welfare Program for Vermont, op. cit.,** p. 39.

delinquents between the ages of sixteen to twenty-one. Although the Women's Reformatory is equipped to handle a capacity of seventy-five, it has been averaging an inmate population of about twenty-five. Since there have been in 1946 about sixty boys between the ages of sixteen and twenty-one housed either at the House of Correction at Windsor or the Weeks School at Vergennes, it is being urged that such a change be made to take care of this group at the plant at Rutland and build a smaller institution for the women now being housed there.[118]

## The Laws Of 1913 And 1915

The Legislature of 1913 and 1915 made special effort to provide better care, protection and treatment of dependent and, especially, of delinquent children.[119]

It will be noted that these acts make mention of probation officers, but at this time there were no full time probation officers in the State. An act of 1898[120] gave authority to the county courts to appoint a probation officer in each county who was to work on a part time basis. Full time probation officers were not to be appointed until 1937. Previous to this the probation officers were allowed salary and expenses only when they were dealing with some specific case.

These laws were a sincere attempt on the part of the State to establish juvenile courts in Vermont; they were an attempt to distinguish between the criminal offender and the juvenile delinquent. By these the State wanted to inject into its legal system the point of view that the child offender was not to be regarded as a criminal but as a delinquent, "as misdirected and misguided and needing aid, encouragement, help, and assistance."[121] Vermont, however, did not set up separate courts which were to deal only with juveniles, nor did it appoint judges who were specialists in the field, nor

118 **Ibid.**, pp. 39-40.
119 See **Acts of 1912**, No. 113; and **Acts of 1915**, No. 92.
120 **Acts of 1898**, No. 128.
121 This language was used in the Colorado law of 1903, the Missouri law of 1909, and the Tennessee law of 1905. Cited from Grace Abbott, **op. cit.**, II, pp. 331 and 332 (n).



did it establish social work or psychiatric machinery in conjunction with these courts. It merely indicated that its established judiciary system was to give special attention to cases of juvenile delinquency. Because it failed to advance beyond the first stages, Vermont has recently been excluded from among those states mentioned as having a juvenile court system.[122] Be that as it may, the laws of 1913 and 1915 did emphasize the treatment aspect in regard to the juvenile delinquent.

Act Number 113, of the Acts of 1913, placed all the jurisdiction for handling juvenile cases with the probate courts of the State. Act Number 92, of the Acts of 1915, makes city, municipal, and county courts, and even justices of the peace competent to handle juvenile cases. Other than this the two acts are identical. To avoid repetition, only the act of 1915 will be referred to for the remainder of this section. The basic points of the act of 1915 are still in effect today. Since the aspects of this act which deal with dependent children have already been treated in a previous chapter, these sections will not be emphasized and, in certain cases, will be omitted entirely. A review of the aspects of the act of 1915 which concerns juvenile delinquents follows:

**Definition.** The act concerns itself only with children under the age of sixteen; "provided, however, that when a child under the age of sixteen years shall come into custody of the juvenile court under the provisions of this act, said child shall continue for all necessary purposes of discipline, a ward of such court until, if said child be a boy, he attains the age of twenty-one years, and if said child be a girl, until she attains the age of eighteen years, unless sooner discharged as hereinafter provided. The words 'delinquent child' shall, for the purposes of this act, include a child under sixteen years of age who violates a law of this State or a city or village ordinance; or who is incorrigible; or who is a

122 Crays, Orville, in a speech given at the New England Area American Legion child welfare conference. Cited from **The Rutland Herald**, February 10, 1947.

persistent truant from school; or who associates with criminals, or reputed criminals, or vicious or immoral persons; or who is growing up in idleness or crime; or who wanders about the streets in the night time; or who frequents, visits, or is found in a disorderly house, house of ill fame, saloon, barroom or a place where intoxicating liquors are sold, exchanged or given away; or who patronizes, visits, or is found in a gambling house or place where a gambling device is operated; or who uses vile, obscene, vulgar, profane or indecent language, or is guilty of immoral conduct."[123]

**Jurisdiction of juvenile cases.** The city and municipal courts, and the justices of the peace of the State have jurisdiction in such cases. The child, and his parents or guardian, have a right to appeal any of the decisions. "The court shall keep a separate record of proceedings under this act to be known as a 'Juvenile Record.' "[124]

**Complaint.** A petition in writing and under oath may be made by any reputable resident of a county who has knowledge of a child who appears to be delinquent.[125]

**Summons.** After the petition has been filed, a summons is to be issued requiring the person having custody of the child to appear at a stated place. The parents, guardian, or, if there are none, some suitable appointed person, are to be notified of the proceedings. If there is a refusal to appear a warrant may be issued. "Pending the final disposition of the case the child may be retained in the possession of the person having charge of the same, or may be kept, in the discretion of the court, in some suitable place provided by the city or town authorities or by some private individual or association, or placed in charge of the probation officer."[126]

**Investigation.** The probation officer of the county shall, at the request of the court, investigate the case, and he shall take charge of the delinquent if the court sees fit.[127]

123 **Acts of 1915, No. 92, Sec. 1.**
124 **Ibid., Sec. 2.**
125 **Ibid., Sec. 2**
126 **Ibid., Sec. 4.**
127 **Ibid., Sec. 5.**



**Custody.** Besides the probation officer, the court may commit a delinquent child to the care and custody of his own home, or a suitable family home with or without maintenance expenses. Such homes are to be subject to the periodic visitation of the probation officer. Such a child may also be committed to a reputable citizen or to an association or to the Vermont Industrial School (Weeks School).[128] In the case of private institutions, associations or persons receiving or desiring to receive such a child, the court may ask for proper reports and information.[129]

**Arrest procedure.** If a child is arrested for a crime not punishable by death, he shall be brought before the court and all the above procedure shall be followed just as if he had been summoned because of a petition.[130] In no case shall a child under sixteen, unless he is charged with a crime punishable by death, be committed to a jail or a prison. If such a child is not able to give bail, he may be placed in the custody of the sheriff, police officer, probation officer, or he may be held as the court suggests.[131]

**Fees.** If there is any payment involved toward the support of the child, the court shall inquire as to the ability of the parents and levy accordingly.[132] The fees of the officers and courts shall be paid by the State, but in certain cases the court may assess costs against the parents.[133]

**Policy.** "This act shall be liberally construed to the ends that its purpose may be carried out; that the care, custody and discipline of a child shall approximate, as nearly as may be, that which should be given by his parents; and that the restraint of a delinquent child shall tend rather toward his reformation than to his punishment as a criminal."[134]

128 **Ibid., Sec. 8.**
129 **Ibid., Sec. 11.**
130 **Ibid., Sec. 9.**
131 **Ibid., Sec. 10.**
132 **Ibid., Sec. 12.**
133 **Ibid., Sec. 13.**
134 **Ibid., Sec. 15.**

## The Board Of Charities And Probation

In 1917 the Board of Charities and Probation was established,[135] and much of the supervision of juvenile delinquents came under its jurisdiction. The Board was to be made up of five members, appointed by the governor, and was in turn to appoint an executive secretary. It was to have supervision of such dependent, neglected and delinquent children as would be committed to its care by the juvenile courts.[136] The Board or its secretary could institute proceedings in a court concerning a child which it judged to be delinquent.[137] It now became the duty of all overseers of the poor to report to the Board all cases of delinquency in their area. The Board was to have the general supervision of persons placed on probation, and it could prescribe rules not inconsistent with the orders of the court placing a person on probation.[138] The secretary of the Board of Charities and Probation was to be the State probation officer, and was to have jurisdiction throughout the State.[139] The powers and duties of all the former probation officers were to be transferred to the State probation officer as were all the persons under the care of former probation officers. All records, files and documents were to be transferred immediately to the custody of the State probation officers.[140] The Board, with the approval of the governor, could appoint deputy probation officers, both male and female.[141] The State probation officer was also to have supervision of all persons placed on parole by the governor and, when requested by the governor, was to investigate and report upon applications for pardon or parole.[142] The duties of probation officer were just one segment of the manifold duties of the executive secretary of the Board of Charities and Probation. In 1923, when the Department of

135 **Acts of 1917, No. 244.**
136 **Ibid., Sec. 7.**
137 **Ibid., Sec. 8.**
138 **Ibid., Sec. 22.**
139 **Ibid., Sec. 23.**
140 **Ibid., Sec. 24.**
141 **Ibid., Sec. 25.**
142 **Ibid., Sec. 27.**



Public Welfare was established, these duties were inherited by the commissioner of public welfare, who, by virtue of his office, was the State probation officer also.[143]

## The Probation And Parole Division

The Probation and Parole Division was established as a separate unit within the Department of Public Welfare in 1937.[144] This division "exercises supervision over all cases of probation and parole, collects fines, costs, restitution and support on court orders, and makes pre-court investigations on delinquent boys twelve years of age or older and girls sixteen years of age or older. The staff responsible for these duties consists of a director, several full time male officers and five women officers who work on a **per diem** basis."[145] In 1946 the division maintained seven officers in various parts of the State. Of these, five have offices, while the others must use part of their homes as an office. In 1946 the division was carrying a case load of 868 cases.[146] In 1937 the Legislature amended an existing law in regard to summoning a delinquent to appear before a court. This law, if faithfully carried out, would place upon the probation officers the duty of playing a very active role in the care of juvenile delinquents. The law stipulated that "upon the filing of such petition the court, before any further proceeding is had in the case, shall give notice thereof to the State probation officer who shall immediately inquire into and make full examination of the parentage and surroundings of the child and all the facts and circumstances of the case and report the same to the court....."[147] Under this provision the court from the beginning would have a more complete and adequate picture of the child's situation before any judiciary decision was made concerning the juvenile delinquent. A further act passed

143 **Acts of 1923, No. 7.**
144 **Acts of 1937**, No. 48.
145 **A Comprehensive Welfare Program, op. cit.**, p. 22.
146 **Biennial Report, Department of Public Welfare**, State of Vermont, 1946, p. 29.
147 **Acts of 1937, No. 136.**

in 1945, part of which dealt with the commitment of delinquent children, did not essentially change the relationship of the delinquent and the various public agencies as they had been existing before the passage of this recent law.[148]

[148] Acts of 1945, No. 119.

# CHAPTER XIII

## RETROSPECTION

### 1777 To 1800

The State of Vermont was born amidst turmoil and confusion. When the first Constitution was adopted at Windsor in 1777, there was disagreement between the towns on the eastern and western sides of the State; there existed a virtual rebellion between the leaders of the new State and their rightful government, the State of New York; a certain clique in New Hampshire were still desirous of cutting a large slice off of the new State; and a powerful British army was beginning its march southward from Canada. The little group that met at Windsor hastily adopted the prepared Constitution, set up a machinery of government, which was controlled by the rebelling speculators, and adjourned to defend their homes against the British invasion. The governor and his council were given supreme dictatorial power to administer the State as best they could until the next legislative assembly. The welfare enactments which were contained in the Constitution were the extent of the provisions enacted for the poor. But even many of those articles of the Constitution which might be termed public welfare enactments had to wait several years until a more stable government was in operation before they could be put into effect.

The Constitution of 1777 made slavery illegal in the State, and Vermont thus became the first state to abolish slavery. The Constitution guaranteed the rights and liberties of all the citizens of the State. It provided for a right of habeas corpus and the right of a trial by jury. It did, however, allow a person to be imprisoned for inability to pay a debt. The Legislature which met in 1778 was still uncertain and confused, but it did recognize the need for laws in order to give the new government some uniformity of action. It accordingly made the English common law the law of the State. This blanket proviso was to cover the law in its detailed

application. This enactment was not as general and as vague as it would seem at first. The common law was the law practised in England and the early settlers of New England were using it as a basis for their own legal system. In dealing with the poor, with illegitimate children, with criminal and delinquent offenders, etc., the common law was being interpreted with some semblance of uniformity. But in 1779, the Legislature enacted the State's first detailed code of laws. This code, as regards the poor and the offenders, while it did protect some rights, was nevertheless harsh in its provisions for the protection of society against the dependent and delinquent classes. In terms of our contemporary thinking many of the provisions seem brutal, but they probably seemed less severe to a struggling pioneer group who were undergoing deprivation and hardship in their struggle to survive and to build a new society. This code, out of all proportion to some of the offenses, allowed branding, cutting off of ears, whipping, public humiliation, etc. It allowed imprisonment for a debt of even the smallest amount. It lumped together the poor, "idiots, impotent, distracted and idle persons" in one great category, and it stipulated that "bastards" were to have very few legal rights. True to the tradition of the English Poor Law, the poor had to be supported and maintained by the local government. The State government did not wish to take on any of the responsibility for supporting these dependents. Since the towns, as a rule, were reluctant to contribute to the support of the dependent poor, for the reason that there was very little surplus to give, they grudgingly relinquished their mite only to the poor who had a legal right to such assistance. The problem of whether or not a pauper possessed legal residence (not whether he needed assistance or not) loomed large. The Legislature of 1779, therefore, defined what was to be considered a legal settlement in the State. Although it was quite liberal in that it required only one year's residence to acquire settlement in a town, it did allow, through its system of warning out, much opportunity to the overseers of the poor to interfere with the liberty of paupers.



The Legislatures passed laws, during the remainder of the eighteenth century, regarding the maintenance of the poor, the debtors and the offenders housed in the local and county jails; they revised almost completely the original settlement laws; they passed laws concerning the binding out of orphan and pauper children; they tolerated the auctioning off of paupers to the lowest bidder; and they passed some laws to prevent the spreading of contagious diseases. The laws of this period, however, made very little distinction between the treatment which should be accorded adult and juvenile paupers, and adult and juvenile offenders. Children born out of wedlock were to have absolutely no rights of inheritance either from the father or from the mother. Such children were considered to have settlement in the place where they were born, so that if they belonged to a family that was in need and the settlement of the rest of the family was different from theirs, they could be taken from the family and removed to the town where they were born.

## 1800 To 1850

Some important changes occurred in the laws regarding the poor, the dependent and the delinquent during the first half of the nineteenth century. The opening of the State prison in 1809 brought a change in the punishment laws. The "sanguinary" and whipping laws were almost all done away with and imprisonment at hard labor in the State prison was substituted. During this period the deaf, mute, and blind were singled out for special consideration by the State. The State made provision for a certain number of these to be sent to specialized schools outside the State to be instructed. When the Vermont Asylum for the Insane was being organized in Brattleboro in 1835, the Legislature became immediately interested and appropriated a special grant to assist in its foundation. Thereafter the State gave annual grants for the support or partial support of the "insane poor" who were being cared for in that institution. The problems of settlement, illegitimacy, and the relief of the

poor continued to occupy the attention of the Legislature during this period. In 1837, the State's first child labor law was passed.

One of the most important laws passed during this period, however, in regard to the poor, was the abolishment of imprisonment for debt. Many of the inhabitants of the State had been in debt. When a creditor had a person imprisoned because of a debt, the debtor's situation became even more desperate. When the person imprisoned was a father or mother of a family, the whole family became affected. The passage of the act of 1838 allowed a person to take the pauper's oath in almost all cases of indebtedness, and be set free. Of course the debtor had to give up almost all of his property if that were needed to pay the debt, but at least he had his liberty and he could start all over again. In 1849 an act was passed which allowed a debtor and his family to keep part of their homestead even if the sale of all of his other goods was not sufficient to pay the whole debt.

## 1850 To 1900

A survey of the welfare laws passed during these five decades shows evidence of the State's concern for the care of the juvenile delinquent. As early as 1855 a law was passed stipulating that minors who were confined in prisons or jails were to be kept separate from adult offenders. In 1865 the Legislature emphasized this concern by appropriating a large sum of money for the erection of a separate institution for juvenile offenders in Waterbury. The Vermont Reformatory School at Waterbury was given several appropriations until it was destroyed by fire in 1874. A special session was called in 1875 and new funds were allocated for the rebuilding of the school in Vergennes.

Another group which received special attention from the various Legislatures during this period was the mentally ill. Ever since the foundation of the Vermont Asylum at Brattleboro, the State had been allocating special grants of money either for the improvement of the institution or for the support of the "insane poor." In 1888, however, the Legislature took action to begin a State hospital for the mentally ill. In 1891, the Vermont State Hospital for the Insane became a reality. Other important items such as founding of the House of Correction, the organization of the State Board of Health, medical laws, pauper laws, settlement laws, etc., engaged the attention of the Legislatures, but the questions of the juvenile offenders and the mentally ill comprised most of the welfare enactments during this period.



## 1900 To 1948

During the first decade of this century, the Legislature continued to show its concern for minors by passing certain laws in regard to school attendance and child labor. Health laws, too, were passed concerning the medical profession, contagious diseases, and the selling of contaminated or adulterated goods. The second decade, however, brought with it a great increase of public welfare legislation. During this period detailed child labor laws were passed, the very important Department of Charities and Corrections was organized, and the school for mentally deficient children at Brandon was opened. This decade also saw the beginning of juvenile courts in Vermont. All these enactments make the years from 1910 to 1920 the most important public welfare legislative years in the State's history. It was during this decade, also, that funds for the Women's Reformatory were allocated. It was during this period, too, that the first Mother's Aid law was passed.

The State had been conducting surveys for several years to ascertain the number of tuberculous patients in the State. These surveys showed that there were many tuberculous patients in the State who were too poor to afford adequate care for their condition. The Legislature, in 1921, allocated sufficient funds to take over the privately conducted Ver-

mont Sanatorium for the care of tuberculous persons. Another public welfare enactment passed during this period which stands out above all the others was the reorganization of the Department of Charities and Corrections, and the changing of its name to the Department of Public Welfare. Special funds were also allocated for the medical and surgical care of crippled and physically handicapped children.

The passage of the Federal Social Security Act in 1935 brought about a great expansion of the public welfare field in Vermont. Great credit must be given to the legislators for the promptness with which they acted to make the State's welfare laws conform with laws passed by Congress, thereby enabling large amounts of federal money to go to the poor of the State. During the regular and special sessions held from 1933 to 1937, the Legislature passed laws regarding the federal public works program, aid to dependent children, aid to the blind, old age assistance, maternal and child health services, and child labor laws. In 1939, the State allocated funds for psychiatric services for children. In 1945 the State adoption laws were almost completely remodelled.

In 1947 the State public welfare system was reorganized. The Department of Public Welfare was abolished, and two new departments were set up: the Department of Social Welfare and the Department of Institutions and Corrections. Each new department was to have a policy-making board of three members, and each department was to have a commissioner. The Department of Old Age Assistance was abolished and incorporated in the Department of Social Welfare. The Department of Social Welfare, therefore, was to administer old age assistance, aid to the blind, aid to dependent children, and other services. The Department of Institutions and Corrections was to administer all of the State institutions except the Kinstead Home, which is a shelter home and not an institution for long time care.

Public welfare legislation has made great strides down through the years. There has, however, been a definite lag,



a kind of unwillingness to part with the past, evident in Vermont's public welfare enactments. Then, again, some of the public welfare laws have not accomplished all the good that was intended because of the non-cooperation of some of the local overseers of the poor. During much of Vermont's history, the local overseer of the poor has had great power over the granting or denying of assistance to an indigent person or family, and this power has been sometimes abused. But this feature has not been peculiar to Vermont alone. Much has yet to be accomplished, but the progress made in public welfare legislation in Vermont in recent years augurs well for the future.

# *Appendix I*

# APPENDIX I

## EMPLOYMENT SERVICES AND UNEMPLOYMENT COMPENSATION

### Vermont Employment Service

In 1931, Congress appropriated a sum of money to the Department of Labor to enlarge federal employment services and to establish such offices in every state.[1] In conformity with this action, the Vermont Legislature passed an act (No. 117) in 1931 stipulating that "the commissioner of industries shall maintain employment offices in such municipalities as the governor and said commissioner may designate provided said municipality furnish suitable quarters, heat, light, telephone and janitor services."[2] This law also allowed the employment offices to cooperate with the United States employment service. The only office established, however, under the authority of this act was the office at Burlington.[3]

In 1933, Congress passed the Wagner-Peyser Act which created the United States Employment Service in the Department of Labor. "The Act provided for a network of local employment offices to be administered by the states under the general supervision of the federal government, the offices to be financed by the states and the federal government on a fifty-fifty matching basis."[4] It was not, however, until 1935 that this act was accepted in Vermont. In that year, the Legislature passed an act which designated the commissioner of finance as the agency of the State "with full power to cooperate with all authorities of the United States having powers or duties under such (Wagner-Peyser) act and to do and perform all things necessary to secure to the State of

[1] **Social Work Year Book, 1943,** Russell Sage Foundation, N. Y., 1943, p. 285.
[2] **Acts of 1931,** No. 117.
[3] **Biennial Report of the Commissioner of Industries, 1934,** Montpelier, Vt., p. 18.
[4] **Social Work Year Book, 1947,** p. 171.

Vermont the benefits of such act in the promotion and maintenance of a system of employment offices."[5]

This act created the Vermont State Employment Service to administer "a system of public employment offices for the purpose of assisting employers to secure employees and workers to secure employment."[6] The state treasurer was authorized to receive, on behalf of the State of Vermont, all funds granted to the State by the federal government.[7] Furthermore, the Legislature allowed sufficient money to be appropriated annually to this office to match the federal grant to the State dollar for dollar, but the maximum amount furnished by the State was not to exceed $10,000 for any one fiscal year.[8]

At the Special Session of 1936, the Legislature created the Vermont Unemployment Compensation Commission and transferred the Vermont State Employment Service as a separate division under the Commission.[9] The unemployment service continued to function on this basis until 1942, when, because of a request made by President Roosevelt asking that all state employment services be transferred to the federal government as of January 1, 1942, the division with all its property, records and personnel was loaned to the federal government. This service was operated entirely by the federal government all during the war, until, by an act of Congress (effective November 15, 1946) authorizing the employment service offices to be returned to the states, the Vermont State Employment Service once again became a division under the Vermont Unemployment Compensation Commission. The central office of the employment service is located at Montpelier and it maintains fourteen field offices located at Barre, Bellows Falls, Bennington, Brattleboro,

[5] Acts of 1935, No. 164, Sec. 2.
[6] Ibid., Sec. 3.
[7] Ibid., Sec. 4.
[8] Ibid., Sec. 5.
[9] Acts of 1936, (Spec. Sess.), No. 1, Sec. 9.



Burlington, Middlebury, Montpelier, Morrisville, Newport, Rutland, St. Albans, St. Johnsbury, Springfield and White River Junction. A Veterans' Placement Service is also maintained with a central office at Rutland.

### Vermont Unemployment Compensation Commission

A concise history of the organization of the Vermont Unemployment Compensation Commission is given as follows in the Commission's annual report of 1941:

> .....In August 1935 Congress passed the Social Security Act providing, among other things, for a uniform excise tax on payrolls of certain employers against which might be credited contributions paid into a certified state unemployment compensation fund. The Vermont General Assembly, meeting in special session in December, 1935, refused to pass legislation setting up a state unemployment agency, apparently believing that the Supreme Court would declare the Social Security Act unconstitutional. However, another special session in December, 1936, saw the passage of the Vermont Unemployment Compensation Law. At this time the direction of the Vermont State Employment Service was transferred from the Commissioner of Finance to the Vermont Unemployment Compensation Commission.
>
> The General Assembly of 1937 amended the hastily drawn 1936 Act to make it more workable. At first the Commission was concerned with the setting up of a new tax-collecting agency and the determination of liable employers. The payment of benefits, not effective until January, 1938, was not considered a difficult problem. However, a minor recession in the fall of 1937 established a large backlog of unemployed workers who descended in great numbers upon the local offices early in January, 1938. This tremendous initial load of benefit claims resulted in many procedural and organizational changes in the interest of efficiency. The Vermont agency established a reputation for prompt payment of benefits early in that year.

In 1939 the General Assembly liberalized the benefit formula, changed the optional reserve account and pooled fund system of employers' accounts to the present combined reserved-pool basis, and extended coverage to those employing fewer than eight workers in Vermont, but who were covered under Title IX of the Social Security Act.

To conform with the federal act, coverage of railroad workers was transferred to the Railroad Retirement Board, with considerable loss to the fund. This year saw a rise in employment and a resultant decrease in benefit payments.

In August, 1939, Congress amended the Social Security Act, transferring all tax-collecting provisions to the Internal Revenue Code. Coverage was also extended to member banks of the Federal Reserve System. Among other technical changes was one providing for the States' "establishment and maintenance of personnel standards on a merit basis," which resulted in the establishment of the Vermont Merit System Council in February, 1940, and the necessity for classifying and examining the personnel of the agency. Merit system examinations were given during 1941 for all positions in the agency.

In January 1940 several changes in law and administrative procedure became effective. Wages in excess of $3,000 a year paid to an individual by an employer became non-taxable. Certain operations, such as fiscal accounting and statistical reporting, of the Unemployment Compensation and the Employment Service Divisions were combined. Employer contributions were changed from a monthly to a quarterly basis, thereby lessening the reporting requirements of employers to the Commission.

The 1941 General Assembly again amended the law. The principal changes were in the benefit provisions: raising the maximum duration of benefits from 14 to 15 weeks, shortening the waiting period from three to two weeks of total unemployment, and establishing $5.00 as the minimum weekly benefit amount for total unemployment compensation at the expiration of their period of enlistment. The section of the law dealing with the merit rating of employers' accounts was changed to conform with the federal act. Reduced contribution rates for employers with good employment records became effective in 1941, and resulted in contribution savings to about one-fifth of all employers covered by the law.[10]



After 1941 there were a few changes made in the original law, mostly to keep the program in conformity with changes made in the program by subsequent acts of Congress.[11]

[10] Annual Report of Vermont Unemployment Compensation Commission, 1941, Montpelier, Vt., 1941, pp. 1-2.

[11] See Acts of 1943, Nos. 121, 122, 123, 123; Acts of 1945, Nos. 140, 141, 142 143, 144; and Acts of 1947, Nos. 194, 195, 196, 197, 198, 199.

# *Appendix II*

## APPENDIX II

## VOCATIONAL REHABILITATION DIVISION[1]

### (State Department of Education)

The Vermont Legislature of 1937 passed an Enabling Act authorizing our State Department of Education to participate in the civilian Vocational Rehabilitation Program with the federal government. They appropriated $6,000 for the work. The program has expanded considerably, the last appropriation being $20,000 per annum. The State appropriation is spent 100% on case work and is matched dollar for dollar by federal money. The federal government reimburses the State 100% for all administrative costs including salaries of personnel.

Since 1937 up to January 1st, 1947, 634 Vermont citizens have been restored to employment or maintained on their job through the services of this Division. As of January 1st, 1947, 317 handicapped individuals were in the active process of rehabilitation and 264 applicants were undergoing investigation and medical diagnosis to establish their need for service.

The economic returns to the State in earning capacities restored and maintained, as against the dependence of these same handicapped people, is only part of the total social gain on the total investment on the program. The average first year's wages of those handicapped individuals placed on jobs during the past two years was 6½ times the actual cost of rehabilitation. These self-supporting citizens pay high dividends on the dollars Vermont invested in them.

[1] From a mimeographed bulletin issued by the Vocational Division at Montpelier, Vermont.

# *Appendix III*

## APPENDIX III

## AN EXAMPLE OF HOW A DEPENDENT FAMILY WAS DRIVEN OUT OF TOWN BY AN OVERSEER OF THE POOR[1]

Somewhere between 1825 and 1830, a carpenter and joiner, named Downer, came with his family from Canada to build the house where Elijah Whitney now lives, for Jacob Putnam, and moved his family into a house about 2 miles easterly from Worcester Corner, and owned by Wm. Arbuckle. Downer, for some reason, went to Canada in the winter, and left his wife and four or five children in Worcester, and during his absence they were aided by the town. Danforth W. Stiles then lived where he had made the first beginning, on what is now known as the Nichols' place, above Putnam's Mills, and the Downer family came there and to Jacob Putnam's on a visit. When they were ready to return home, they procured a team, and a boy started to drive them home and take the team back, but they were met near the line by Worcester men, who turned their team around, and told them to drive back into Middlesex, and they returned to Stiles'. Stephen Herrick was overseer of the poor in Middlesex, and Stiles immediately notified him of the affair, and he started with his team to carry the family back. He took the woman and children, and accompanied by Stiles, they proceeded to within about a mile and a half of the house, which distance was through a thick woods, when they were stopped by two men who were felling trees across the road so lively that after considerable effort to cut their way through, they returned with the family to Middlesex, leaving the family at Esquire Baldwin's.

Herrick went home, arriving there about dark, and rode about that part of the town to inform the men of his defeat and procure assistance, and was soon on the road to Worces-

[1] Hemenway, Abby, **Vermont Historical Gazetteer**, IX, pp. 234-235.

ter again, accompanied by Elijah Holden, with a span of horses and double sleigh to carry the family, and by Horace Holden, Moses Holden, Xerxes Holden, Asa Chapin, Torry Hill, Josiah Holden, Abram Gale, John Bryant, George Sawyer, Jeremiah Leland, Sanford White, Lewis McElroy and others, in all 22 men, with 9 teams and plenty of axes, bars and levers, with which to clear the track, and they were joined by Stiles when they reached his place, making 23 men. When they reached the woods they were again stopped, this time by 16 Worcester men with axes, who commenced to fell trees into the road, as fully resolved to prevent any further tax to support the Downers, as the Boston "tea party" were to avoid paying the three cent tax on tea. The Middlesex men commenced clearing the road, and proceeded some distance in that way, but the 16 men kept the trees so thick in the road ahead, that Herrick ordered his men to leave the road, and cut a new road through the woods around the fallen trees. In this way they succeeded better, and when the trees became too numerous ahead, they dodged again, and bushed out a road around them, Holden following close behind with the family. As soon as it was certain that they would succeed, Herrick proceeded alone to the house, to protect that from being destroyed, and to have a fire when the woman and children should get there.

Very soon after he reached the house, William Hutchinson entered with a firebrand, and was about to set fire to the house, when Herrick seized him, threw him to the floor, and seating himself on Hutchinson, held him fast. Torry Hill soon entered, with a gruff "whose here?" Herrick answered, "I am here, and here is this little Bill Hutchinson, who bothered me yesterday by felling trees into the road." "Let me have him," said Torry. Herrick released him, when he sprang for the fire, determined to carry out his purpose, but Torry seized him by the collar, and snapping him to the door, gave him a kick that made him say, "I'll go!" "Yes, you will go, and that d——d quick, too," said Hill, giving him another kick, that sent him many feet from the house.



Soon after both parties arrived at the house, and the family was escorted in about daybreak. A war of words followed, with some threatening. One tall, muscular, Worcester man, named Rhodes, stepped out, and threatening loudly, exclaimed, "I can lick any six of you!" Torry Hill sprang in front of him, and smacking his fists together, replied, "My name is six, come on!" but no blows were struck.

Herrick was soon called before Judge Ware, of Montpelier, to answer to the charge of violating the statute against removing any person or persons from one town in this State to any other town in the State without an order of removal. It was proved conclusively that all the home they had was in Worcester, that they were visiting in Middlesex, and desired to return, and that the defendant only helped them to return to their house in Worcester. Wm. Upham and Nicholas Baylies, counsel for Worcester, and Judge Jeduthan Loomis for defendant.

Although the Worcester people were beat, they did not give up, but arranged a double sled so that the driver's seat was attached to the forward sled, and a blow or two with an axe would free the hind sled and body, and taking the family on the sled, they gave them a free ride up north, and when in a suitable place the driver detached the forward sled, and trotted off towards home, leaving the woman and children in the road, comfortably tucked up in their part of the sled, and where they would be under the necessity of soliciting the charity of Her Majesty's subjects in Canada.

# *Appendix IV*

## APPENDIX IV

## RELATED CASES HEARD BY THE SUPREME COURT OF VERMONT

**The following cases from the Records of the Supreme Court of the State of Vermont** have been cited in this study.

**Bacon, John, vs. Thomas McBride, Vol. 32, pp. 385 ff.**

**Barnes, Harriet, vs. Jonathan Wyethe, Vol. 28, pp. 41 ff.**

**Bolton vs. Ovett, Vol. 80, pp. 862 ff.**

**Camp. In re Agnes, Vol. 94, pp. 455 ff.**

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**Overseers of the Poor of Waterford vs. Overseers of the Poor of Brookfield, Vol. 2, pp. 200 ff.**

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Town of Essex vs. Town of Milton, Vol. 3, pp. 17 ff.

Town of Georgia vs. Town of St. Albans, Vol. 3, pp. 45 ff.

Town of Hartland vs. Town of Windsor, Vol. 29, pp. 354 ff.

Town of Londonderry vs. Town of Acton, Vol. 3, pp. 125 ff.

Town of Londonderry vs. Town of Windham, Vol. 2, pp. 149 ff.

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Town of Manchester vs. Town of Springfield, Vol. 15, pp. 385 ff.

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Town of Randolph vs. Town of Braintree, Vol. 10, pp. 436 ff.

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Town of Tunbridge vs. Town of Eden, Vol. 39, pp. 22 ff.

Town of Wells vs. Town of Westhaven, Vol. 5, pp. 322 ff.

Town of Westmore vs. Town of Sheffield, Vol. 56, pp. 239 ff.

Town of Welbridge vs. William M. Cushman, Vol. 64, pp. 415 ff.



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Wilkins, Ella, vs. Homer Metcalf, Vol. 71, pp. 103 ff.

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# *Appendix V*

## APPENDIX V

## PUBLIC WELFARE LAWS OF VERMONT, 1777-1948

The following laws were used in the composition of this study. The public welfare clauses of the first Constitution of 1777 are also included. The various dates at the beginning of each section are the years in which the Legislatures which approved the laws, convened.

### 1777

Chap. I., Sec. 1. (No slavery allowed in the State).

Chap. I., Sec. 10. (Rights of the accused. Personal liberty. Waiver of jury trial).

Chap. I., Sec. 12. (Writ against person or property of a debtor).

Chapter I., Sec. 13. (Trial by jury).

Chap. II., Secs. 25, 26. (Imprisonment for debt. Prisoners bailment. Habeas Corpus).

Chap. II., Sec. 21. (Care of persons and the estates of those who were "non compotes mentis").

Chap. II., Sec. 35. (Punishment at hard labor).

### 1778

An act adopting the common law as the law of the State.

### 1779

An act for securing the general privileges of the people, and establishing the common law and Constitution, as part of the laws of the State.

An act against polygamy.

An act against adultery.

An act for the punishment of lascivious carriage and behavior.

An act for the punishment of incest, and for preventing incestuous marriage.

An act for the punishment of rape.

An act to prevent riots, disorders and contempt of authority, with this State, and for the punishment of the same.

An act for regulating goals and goalers.

An act for the punishment of theft.

An act for the punishment of divers capital and other felonies.

An act relating to guardians and minors.

An act concerning bastards and bastardy.

An act for the punishment of burglary and robbery.

An act for the ordering and disposing of transient persons.

An act for relieving and ordering idiots, impotent, distracted and idle persons.

An act for the probate of wills and settlement of testate and intestate estate.

An act against high treason.

An act directing and regulating the levying and serving of executions.

An act for the punishment of lying.

An act for the punishment of man-slaughter.

An act for the punishment of murder.

An act for the punishment of perjury.

An act for maintaining and supporting the poor.

An act for the punishment of defamation.

An act against profane cursing and swearing.



## 1782

An act adopting the common and statute law of England.

An act for collecting and paying rates.

An act permitting prisoners within certain descriptions the liberty of the goal yard and appointing some person or persons to affix the bounds of the said goal yards in several counties in this State.

An act, in addition to an act regulating goals and goalers.

## 1783

An act against adultery, polygamy and fornication.

An act in addition to an act, entitled an act for regulating goals and goalers.

## 1784

An act in addition to an act entitled an act for regulating goals and goalers.

## 1787

An act directing and regulating the levy and serving of execution.

An act for the punishment of divers capital and other felonies.

An act for regulating goals and goalers.

An act providing for, and ordering, transient, idle, impotent and poor persons.

An act to prevent the spreading of small pox.

## 1788

An act to enable Mary Campbell, of Cornwall, in the

county of Addison, to take possession of, and become heir, to all the estate, real and personal, of Robert Castilow, late of Rutland, in the county of Rutland, deceased.

### 1791

An act for regulating goals and goalers.

An act against counterfeiting the hard money orders of the State, and orders drawn by the clerk of the supreme court.

An act in addition to an act, entitled, an act for the punishment of theft.

An act regulating the duty of goalers.

### 1793

An act in addition to an act, entitled, an act to empower sheriffs and constables to commit persons to goals out of their county.

An act in addition to an act, entitled, an act regulating goals and goalers.

### 1794

An act to discharge Isaac Gage from an execution in a certain case therein mentioned.

An act to release from confinement the body of Samuel Beach, for the space of one year, and to secure his body from arrests on civil process during that term.

An act discharging James Steel and James Blodgett from payment of two notes therein mentioned.

An act to free the body of Isaiah Parmenter, from arrest in civil process.

An act to suspend the collection of a certain note executed by Abel Spencer, and James Claghorn, for about



thirty-nine pounds, to the treasurer of the State of Vermont, for the payment of a fine and cost, laid and taxed against Solomon Spafford, for the term of one year from the date thereof.

### 1795

An act to continue in force, until the rising of the General Assembly in October, anno domini one thousand seven hundred and ninety-eight, an act, entitled, an act to suspend prosecutions against Edmund Willis, of Woodstock, in Windsor county, passed the thirty-first day of October, one thousand seven hundred and ninety-three.

An act for the relief of Nathan Osgood in his capacity as bondsman for Augustine Hibbard.

An act, in addition to, and to continue in force, an act, entitled, an act to release from confinement the body of Samuel Beach, for the space of one year, and to secure his body from arrest on civil processes, during that term, passed October twenty-eight, A. D. one thousand seven hundred and ninety-four.

An act (to suspend prosecution for one year against) Harding Willard.

### 1796

An act adopting the common law of England.

An act for the relief of General Roger Enos.

An act granting a suspension of prosecution against Thomas Butterfield, for one year.

An act granting a suspension of suits, acts, etc., against Albia Colburn, for the time therein limited.

An act to suspend prosecutions against Edward Fullerton of Newfane in the county of Windham.

An act granting a suspension of all civil process against Daniel Cross of Wells, for the time therein limited.

An act granting a suspension of prosecutions against Daniel King for the time therein limited.

### 1797 (Laws of the State of Vermont)

Chap. 9. An act for the punishment of certain capital and other high crimes and misdemeanors.

Chap. 18. An act defining what shall be deemed and adjudged a legal settlement, for the suppprt of the poor; for designating the duties and powers of the overseers of the poor, and the punishment of disorderly persons.

Chap. 55. An act, directing the proceedings against the trustees of concealed or absconding debtors.

### 1797

An act relating to goals and goalers, and for the relief of persons imprisoned therein.

### 1798

An act for the removal of prisoners from the goal in Vergennes, to the goal in Burlington.

An act granting relief to Seth Wetmore.

An act suspending prosecution against Thomas Archibald, for the term of five years.

An act regulating fees.

### 1799

An act to prevent the hawking and vending of feathers, except in the manner therein directed.

An act for the relief of Isaiah Parmeter.

An act for the relief of Jonathan Eggleston.

An act to enable Allen Hayes and Abner Forbes to sell and convey all the real estate of Lewis R. Morris West, a minor.



### 1800

An act empowering the judge of probate for the district of Caledonia, to grant license to Enos Stevens, to sell certain lands within said district.

An act empowering Elijah Hammond to dispose of all the real estate of Abraham Page, deceased.

An act to free the body of John Besse, from all arrests on any civil process for the term of time therein mentioned.

An act to suspend the operation of an extent in favor of the treasurer of this State against Joel Griffin.

An act suspending civil process against Jabez Rogers, jun. of Middlebury, in the county of Addison, and the State of Vermont, for the term of five years.

An act granting relief to Knight Sprague, of Kingston, in the county of Addison.

### 1801

An act granting relief to an infirm indian, by the name of Joseph.

An act in addition to an act entitled, an act defining what shall be deemed and adjudged a legal settlement, and for the support of the poor, for designating the duties of idle and disorderly persons, and for repealing part of the same.

### 1802

An act in alteration of, and to amend an act entitled, an act relating to goals and goalers, and for the relief of persons imprisoned therein, passed March 9, 1797.

### 1803

An act in addition to an act entitled, an act for the probate of wills and settlement of testate and intestate estate.

An act freeing the body of Timothy Clements from arrest.

An act in alteration of, and to amend an act entitled, an act relating to goals and goalers, and for relief of persons imprisoned therein, passed the ninth day of March A. D. one thousand seven hundred and ninety-seven.

An act in addition to, and in alteration of an act, entitled, an act for the punishment of certain capital, and other high crimes and misdemeanors.

### 1804

An act to authorize the supreme court to empower guardians to sell the real estate of their wards.

An act appointing a committee to receive proposals for building a workhouse.

An act granting relief to Nathan Osgood, esq. of Rutland.

An act suspending civil process against Charles Willard for four years.

An act suspending civil process against Matthew Cole for five years.

An act authorizing a widow, guardian, to execute deeds and convey certain lands in this State of minor children, her wards.

### 1806

An act in amendment of an act entitled, an act for the punishment of certain capital and other high crimes and misdemeanors.

(Several acts concerning suspension of action against poor debtors.)

### 1807

An act providing for the building of a State prison.

An act for the relief of Ebenezer Markham.



### 1808

An act providing for the regulation of the State's prison.

An act for the relief of John Vincent, an infirm indian.

An act for the relief of Ebenezer Markham.

### 1810

Chap. 3. An act for the relief of Ebenezer Markham.

Chap. 92. An act, in addition to the act providing for the regulation of the State's prison, and altering the punishment of crimes.

Chap. 117. An act, in addition to an act, entitled, an act, for the relief of idiots and distracted persons.

### 1811

Chap. 32. An act, relating to levying execution, and to poor debtors.

Chap. 36. An act, for the relief of Noah Smith.

Chap. 42. An act, for the relief of Joseph H. Ellis.

### 1813

Chap. 43. An act in addition to an act, entitled, an act relating to bastards and bastardy, passed February 27, 1797.

### 1816

Chap. 40. An act, for the relief of Talitha Burnham.

### 1817

An act, providing for ascertaining the number of deaf and dumb persons in this State.

An act, in addition to, and amendment of an act, entitled, an act defining what shall be deemed and adjudged a legal settlement, and for the support of the poor, for designating the duties and powers of the overseers of the poor, and for the punishment of idle and disorderly persons.

An act to legitimatize an illegitimate son of Joshua Quinton.

An act to alter the name Mary Miranda Ildridge to that of Mary Miranda Chase.

### 1818

Chap. 13. An act, relating to levying execution, and to poor debtors.

Chap. 23. An act, authorizing Annis Jenks, guardian to execute deeds and convey certain lands in this State of minor children, her wards.

### 1819

Chap. 18. An act for the relief of poor debtors.

### 1820

Chap. 15. An act, regulating the practice of physic and surgery in this State.

Chap. 16. An act, repealing an act therein named.

### 1821

Chap. 1. An act, for the punishment of certain inferior crimes and misdemeanors.

Chap. 3. An act, constituting probate courts, and defining their powers, and regulating the settlement of testate and intestate estates, and the guardianship of minors and insane persons.

Chap. 10. An act, for the relief of sheriffs, and prisoners, in certain cases.



Chap. 16. An act, providing for the relief and support of poor persons who may hereinafter be confined in jail, and having no legal settlement in this State.

Chap. 110. An act altering the name of Ephraim Hibbard to that of Ephraim Blood.

Chap. 111. An act altering the name of Sophronia Parmeter, to that of Sophronia Thayer.

### 1822

Chap. 2. An act relating to bastards and bastardy.

Chap. 9. An act in addition to an act constituting probate courts, and defining their powers; and regulating the settlement of testate and intestate estates, and the guardianship of minors and insane persons.

Chap. 11. An act in addition to an act entitled, an act defining what shall be deemed and adjudged a legal settlement, and for the support of the poor; for designating the duties and powers of overseers of the poor, and for the punishment of idle and disorderly persons.

(Several acts relating to the release of poor debtors from jail.)

### 1823

Chap. 1. An act, in addition to an act to authorize the supreme court to empower guardians to sell the real estate of their wards.

Chap. 9. An act to repeal a part of an act therein mentioned.

Chap. 15. An act, in addition to an act, entitled an act, relating to jails and jailers, and for the relief of persons imprisoned therein.

Chap. 18. An act to regulate the inspection of provisions intended to be exported from this State.

Chap. 40. (A resolution that the governor appoint a person to collect information relative to the "deaf and dumb.")

1824

Chap. 42. (A resolution that the governor appoint two persons to meet and confer with the directors of the "deaf and dumb" from certain New England states.)

1825

No. 7. An act, in addition to an act, entitled an act for the punishment of certain capital and other high crimes and misdemeanors, passed November 11, 1818.

No. 8. An act in addition to an act, entitled an act, constituting probate courts and defining their powers; and regulating the settlement of testate and intestate estates, and the guardianship of minors and insane persons.

No. 31. An act, for the benefit of the deaf and dumb.

1827

No. 7. An act in addition to an act, relating to levying execution and to poor debtors.

No. 8. An act in addition to an act entitled, an act authorizing the visitors of the State prison to procure a bell and for other purposes, passed November 18, 1824.

No. 11. An act in explanation of, and in addition to an act, entitled an act, constituting probate courts and defining their powers; and regulating the settlement of testate and intestate estates, and the guardianship of minors and insane persons

1829

No. 8. An act, in addition to, an act establishing permanent salaries for certain officers and for regulating certain fees and taxable costs.

1830

No. 5. An act, in relation to imprisonment.



No. 36. (A resolution that commissioners be appointed to admit "deaf and dumb" persons to the American Asylum without the necessity of posting a bond.)

1833

No. 21. An act for the benefit of the blind.

1834

No. 8. An act to exempt females from imprisonment for debt.

1835

No. 1. An act, directing the treasurer to pay the "Trustees of the Vermont Asylm for the Insane" the sum therein named.

1836

No. 12. An act, relating to jailers' fees.

No. 33. An act, relating to the State prison.

1837

No. 23. An act, in relation to the poor.

No. 24. An act, for regulating the treatment of minors in manufacturing establishments.

1838

No. 12. An act, to abolish imprisonment for debt.

No. 20. An act, repealing an act regulating the practice of physic and surgery.

1839

No. 3. An act, relating to the State prison.

1839 (Revised Statutes)

Chap. 15. Of the settlement of paupers.

Chap. 16. Of the support and removal of paupers.

Chap. 27. Of the common law.

Chap. 28. Of process.

Chap. 42. Of the levying of executions.

Chap. 52. Of title to real estate by descent.

Chap. 65. Of guardians and wards.

Chap. 66. Of masters, apprentices, and servants.

Chap. 67. Of the maintenance of illegitimate children.

Chap. 100. Of offences against public health.

Chap. 103. Of county jails and the confinement and discharge of prisoners.

1842

No. 15. An act, in addition to an act entitled an act for the relief of the insane poor.

No. 16. An act, in addition to Chapter Nineteen of the Revised Statutes, relating to the instruction of the deaf and dumb and blind.

1843

No. 8. An act relating to the exemption from attachment.

No. 39. An act in favor of the Vermont Asylum for the Insane.

No. 42. (Resolution relative to the abolition of slavery in the United States).

No. 47. (Resolution relative to the "insane" who are deemed incurable).



1844

No. 14. An act for the relief of the insane poor.

1845

No. 13. An act for the relief of the insane prisoners in the State prison.

No. 14. An act in addition to an act for the relief of the insane poor, approved October 30, 1844.

No. 28. An act in addition to Chapter Twenty-eight of the Revised Statutes, entitled, "Of Process."

No. 38. An act relating to persons imprisoned in jail.

No. 39. An act to prohibit the bringing of paupers from any other state into this State.

1846

No. 27. An act to prevent imposition and accident in the sale of medicine.

1847

No. 35. An act to repeal an act, entitled an act to prevent the imposition and accident in the sale of medicine.

1848

No. 26. An act in addition to an act entitled an act for the relief of insane prisoners in the State prison passed October 30, 1845.

No. 40. An act in amendment of Section Fifteen of Chapter Twenty-eight of the Revised Statutes entitled "Of Process."

1849

No. 8. An act providing for damages as a compensa-

tion when death is caused by wrongful act, neglect or default.

No. 11. An act in addition to Section Thirteen, Chapter Forty-two, of the Revised Statutes, Relating to exemption from attachment and execution.

No. 20. An act to protect the homestead.

### 1850

No. 11. An act in addition to Chapter Forty-two of the Revised Statutes, relating to exemptions from attachment and execution.

No. 16. An act relating to the writ of habeas corpus to persons claimed as fugitive slaves, and the right of trial by jury.

### 1851

No. 10. An act relating to process, in amendment of Chapter Thirty-two of the Compiled Statutes.

No. 13. An act relating to the jail yard.

No. 37. An act to secure freedom to all persons within this State.

No. 81. (A resolution to have the federal government grant proceeds from public lands to mental hospitals).

### 1851 (Compiled Statutes)

Chap. 55. Of the appointment of guardians for minors and others, and of their powers and duties.

### 1853

No. 50. An act to provide for the adoption of persons and changes of name.

No. 146. An act for the support of Mary Ann Patch.



### 1854

No. 64. An act providing for the erection of a hospital for the State prison.

No. 65. An act to create and perpetuate the library at the State prison.

No. 117. An act for the support of Deborah Harris.

No. 118. An act for the support of Samuel Perley.

No. 119. An act for the support of a transient person.

### 1855

No. 39. An act to provide for the support of insane transient persons.

No. 44. An act providing for the separate confinement of juvenile offenders.

### 1856

No. 18. An act in amendment of the Fourth Paragraph of Section Fourteen, Chapter Forty-five of the Compiled Statutes, relating to articles of exemption from attachment and execution.

No. 19. An act to exempt professional libraries from attachment and execution.

No. 24. An act in relation to paupers.

No. 25. An act relating to the legal settlement of paupers.

### 1857

No. 74. (A resolution relating to juvenile offenders).

### 1858

No. 3. An act in addition to Chapter Twenty-one of

the Compiled Statutes, entitled, "instruction to the deaf and dumb and blind."

No. 26. An act relating to minors and married women.

No. 50. An act for the relief of married women.

### 1859

No. 41. An act regulating the sale of medicine usually considered poisons.

No. 45. An act in amendment of Chapter Ninety-one of the Compiled Statutes, in relation to the preservation of the public health.

### 1860

No. 58. An act relating to the Vermont Asylum for the Insane.

No. 131. An act to provide for the erection of a building to be used for a chapel and work shop for the Vermont State prison.

### 1861

No. 34. An act to amend Section One of Chapter Twenty of the Compiled Statutes, relating to the Instruction of the deaf, dumb and blind.

No. 35. An act in addition to Chapter Eighteen of the Compiled Statutes, in relation to the support and removal of paupers and the relief of the insane poor.

### 1862

No. 41. An act to provide for the payment to widows of deceased soldiers.

No. 42. An act relating to the pay due to deceased soldiers.

N. 43. An act explanatory of certain acts providing for the support of families of soldiers.



### 1862 (General Statutes)

Chap. 23. Of the instruction of the deaf and dumb and blind.

Chap. 47. Of levy of execution.

Chap. 56. Of title to real estate descent.

Chap. 68. Of marriage.

### 1864

No. 7. An act in relation to the bounty and back pay of deceased soldiers.

### 1865

No. 1. An act to establish the Vermont Reform School.

No. 44. An act in amendment of Section Two of Chapter Twenty-three of the General Statutes, entitled "Of instruction of the deaf, dumb, and blind."

No. 49. An act in relation to the support of paupers.

### 1866

No. 10. An act for the regulation and government of the Vermont Reform School.

No. 11. An act to provide funds for the State Reform School.

No. 28. An act relating to the rights and liabilities of husband and wife.

No. 39. An act to amend Section Thirteen, Chapter Forty-seven, of the General Statutes, entitled "Of levy of execution."

### 1867

No. 13. An act in relation to the discipline of the State prison.

No. 33. An act in addition to, an act for the regulation and government of the Vermont Reform School, approved November 19, 1866.

No. 34. An act to provide a workshop for the Vermont Reform School.

No. 35. An act concerning the education of children between eight and fourteen years of age.

No. 36. An act in relation to the hours of labor of children employed in manufacturing and mechanical establishments.

No. 37. An act in addition to Chapter Fifty-six of the General Statutes (1862), relating to the adoption of minors and the alteration of names.

No. 38. An act, amending Section Four of Chapter Fifty-six of the General Statutes (1862), relating to the descent of property.

No. 40. An act to prevent paupers from becoming chargeable to towns where they have no legal settlement.

## 1868

No. 40. An act to amend Section Three of Chapter Twenty-three of the General Statutes (1862), relating to the instruction of the deaf, dumb and blind.

## 1869

No. 12. An act to amend an act entitled, an act in amendment of Section Two of Chapter Twenty-three of the General Statutes, entitled, "Of the instruction of the deaf, dumb and blind," approved November 9, 1865.

No. 47. An act to amend Section Thirty-eight of Chapter Twenty of the General Statutes, relating to the relief of the insane poor.

No. 56. An act to provide for the expenses of the Vermont Reform School and for the enlargement of its buildings.



## 1870

No. 25. An act relating to married women.

No. 28. An act respecting the custody of minor children whose parents are living separate.

No. 32. An act to provide for the revocation of the appointment of guardians in certain cases.

No. 33. An act for the relief of the families of insane persons.

No. 101. An act relating to sentences to the Vermont Reform School.

No. 102. An act for a new building for the Vermont Reform School.

## 1872

No. 19. An act providing for the training and instruction of idiotic and feeble minded children.

No. 27. An act providing for assignment of counsel in behalf of respondent in criminal cases under certain circumstances.

No. 48. An act to exempt certain articles from attachment and execution.

No. 67. An act entitled an act to relieve disabled soldiers of the War of Rebellion.

No. 81. An act authorizing the construction of a chapel at the State prison and the repair of the old prison; also for additions to the prison library.

No. 83. An act to authorize the making of chairs at the Vermont Reform School.

No. 84. An act to provide for the completion of the Vermont Reform School.

No. 85. An act in addition to an act for a new building for the Vermont Reform School, approved November 22, 1870.

No. 104. Joint resolution relating to the Vermont Insane Asylum.

No. 105. Joint resolution instructing the special committee on the Vermont asylum for the insane to visit and inspect the asylum at Concord, New Hampshire.

### 1874

No. 66. An act in addition to Chapter Twenty of the General Statutes, entitled "Of the support and removal of paupers and the relief of the insane poor."

No. 67. An act regulating the discharge of patients from the insane asylum.

No. 68. An act in amendment of an act entitled, an act for the relief of the families of insane persons, adopted November 10, 1870.

No. 70. An act to aid and encourage discharged convicts.

No. 81. An act in amendment of Section One of an act entitled an act to amend Section Two of Chapter Twenty-three of the General Statutes entitled "Of instruction of the deaf, dumb and blind."

### 1875

No. 1. An act relating to the Vermont Reform School.

No. 2. An act relating to the Vermont Reform School.

No. 3. An act providing for the admission of girls to the Vermont Reform School.

No. 4. An act relating to convictions and sentences to the Vermont Reform School.

No. 8. An act providing for necessary improvements in the State prison.

### 1876

No. 3. An act for the establishment and construction of a workhouse.

No. 6. An act entitled an act to pay the expenses of the Vermont Reform School.



No. 7. An act conferring additional powers upon the trustees of the Vermont Reform School.

No. 10. An act in addition to Chapter 121 of the General Statutes entitled, "Of county jails and the confinement and discharge of prisoners."

No. 76. An act in relation to appointment of guardians of married women in certain cases.

No. 102. An act to regulate the practice of medicine and surgery in the State of Vermont.

### 1878

No. 4. An act relating to the House of Correction.

No. 6. An act appropriating money to furnish the House of Correction.

No. 10. An act relating to the Reform School.

No. 12. An act appropriating money to enlarge and improve the Reform School building.

No. 52. An act to provide for the better security of the wages of employes of manufacturing corporations.

No. 55. An act to amend an act to amend Section Thirteen, Chapter Forty-seven of the General Statutes entitled, "Of levy of execution," approved November 19, 1866.

No. 59. An act in relation to the admission of patients to any asylum for the insane in the State.

No. 60. An act in relation to the supervision of the insane and the discharge of patients from insane asylums.

No. 64. An act authorizing the governor to cause an examination to be made as to whether any frauds are being now practised upon the State in the use of the money appropriated for the benefit of the insane poor of the State.

No. 85. An act relating to the overseers of the poor.

No. 132. An act providing for the change of names and the adoption of minors as heir-at-law.

## 1880

No. 2. An act relating to the Vermont Reform School and children ordered to be confined.

No. 3. An act relating to commitments.

No. 137. An act relating to adoptions and changes of names.

## 1880 (Revised Laws)

Chap. 40. Of ejectment.

Chap. 41. Instruction of the deaf, dumb, blind, idiotic and feeble-minded.

Chap. 83. Levy of execution.

Chap. 93. Courts of insolvency.

## 1882

No. 47. An act relating to the care and restraint of the insane.

No. 48. An act relating to the insane.

No. 49. An act relating to persons acquitted or not indicted because of their insanity.

No. 58. An act . . . . . relating to children committed to the Reform School.

No. 62. An act in relation to the adoption of minor children.

No. 118. An act regulating the practice of dentistry.

## 1884

No. 39. An act in addition to chapter forty-one of the Revised Laws (1880), relating to the education of the blind.

No. 50. An act in addition to chapter eighty-seven of the Revised Laws. (Confinement of the insane).

No. 51. An act . . . . . relating to the insane.



No. 52. An act relating to the insane.

No. 53. An act . . . . . relating to the Vermont Reform School.

No. 54. An act . . . . . relating to guardians.

No. 56. An act for the better protection of children.

No. 58. An act to provide for the appointment of overseers of the poor in towns of more than ten thousand inhabitants.

No. 62. An act . . . . . relating to adoption.

No. 94. An act in addition to chapter 124, relating to bastardy proceedings.

No. 96. An act . . . . . relating to bastardy proceedings.

No. 140. An act in relation to the property rights of married women.

No. 155. An act in relation to the expense of warming jails.

## 1886

No. 42. An act to repeal chapter 135 of the R. L., and to amend various other sections.

No. 57. An act in amendment and in addition to section 2114 of R. L. (1880), relating to allowance to the widow and family of the deceased.

No. 63. An act in amendment of section 4110 of the R. L.

No. 64. An act in addition to chapter 93 of the R. L., relating to courts of insolvency.

No. 93. An act to prevent the spreading of contagious diseases and to establish a State board of health.

No. 121. Joint resolution relating to the convict and criminal insane.

## 1888

No. 80. An act making a married woman eligible as guardian of her husband under the provisions of chapter 125 of the R. L.

No. 84. An act in amendment of an act entitled an act in relation to the property rights of married women. Approved Nov. 26, 1884.

No. 86. An act providing for the appointment of supervisors of the insane.

No. 89. An act for the relief of the families of insane persons.

No. 90. An act for the better protection of the insane and feeble minded.

No. 92. An act to license asylums for the private care and treatment of the insane.

No. 94. An act providing for the care, custody and treatment of the insane poor and insane criminals of the State.

No. 95. An act to the support of the insane poor.

## 1890

No. 20. An act relating to the support of insane persons.

No. 33. An act to amend section 2389 of the R. L., and to protect the rights of married women and minor children.

No. 35. An act to compel certain persons to maintain their families.

No. 43. An act in amendment of an act to provide for the appointment of overseers of the poor.

No. 53. An act to prevent deception in the sale of dairy products and to preserve the public health.



## 1892

No. 22. An act in amendement of number 9 of the Acts of 1888, relating to truancy.

No. 27. An act in amendment of section 683 of the revised laws relating to the instruction of the deaf, dumb, blind, idiotic and feeble minded.

No. 55. An act relating to the support of paupers.

No. 82. An act defining the duties and power of State and local boards of health, health officers and others.

## 1894 (Vermont Statutes)

Chap. 90. Levy of execution.

## 1894

No. 26. An act in amendment to sections 3, 4, 8 and 10 of no. 22 of the laws of 1892. (V. S. Sections 680, 681, 685 and 687), entitled an act in amendment of no. 9 of the Acts of 1888, relating to truancy.

No. 62. An act fixing the residence of inmates of certain charitable institutions.

No. 63. An act authorizing a married woman to be appointed executrix, administratix, guardian or trustee.

No. 65. An act relating to proceedings in cases of insanity and to repeal number 55 of the Acts of 1888.

No. 66. An act to amend number 89 of the Acts of 1888. V. S. Sections 3196, 3197 and 3198, as proposed.)

## 1896

No. 44. An act relating to dower, curtesy and homestead, and in amendment of certain sections of the Vermont statutes.

No. 54. An act to prevent cruelty to, and abandonment and exposure of children.

No. 66. An act to amend section 3179 Vermont statutes relating to the support of paupers.

No. 67. An act relating to the government of State institutions.

No. 110. An act to amend sections 5068 and 5069 of the Vermont statutes relating to obscene books and pictures.

## 1898

No. 29. An act in amendment of and in addition to section 857 of chapter 46 of the Vermont statutes relating to the "instruction of the deaf, dumb, blind, idiotic and feeble-minded."

No. 30. An act in amendment of section 856 of the Vermont statutes, relating to State beneficiaries.

No. 62. An act to amend sections 3174 and 3176 of the Vermont statutes relating to support of paupers.

No. 63. An act in amendment of and in addition to chapters 146, 147 and 148 of the Vermont statutes.

No. 86. An act providing for the payment of expenses of sick soldiers.

No. 112. An act to amend section 4633 of Chapter 190 of the Vermont statutes, relating to the practice of medicine and surgery.

No. 118. An act in amendment of sections 4908 and 4909, Vermont statutes, raising the age of consent from fourteen to sixteen years.

No. 126. An act establishing a board of prison commissioners.

No. 128. An act relating to the parole of prisoners.



## 1900

No. 27. An act to suppress truancy.

No. 73. An act to pay expenses of sickness of soldiers in the war with Spain.

No. 91. An act amending sections 4669, 4672, 4680, 4684, and 4686 of the Vermont statutes, relating to the public health.

No. 92. An act giving physicians a right to quarantine infectious diseases.

No. 130. An act to provide needed accommodations for the inmates of the Vermont industrial school.

## 1902

No. 45. An act relating to exemption of the rents, issues and products of the real estate of a married woman from attachment or execution for debt of her husband.

No. 57. An act to amend section 3268 of the Vermont statutes relating to insane persons.

No. 113. An act for the preservation of the public health.

No. 115. An act to prevent the pollution of the sources of water supply.

No. 116. An act creating a tuberculosis commission.

No. 117. An act requiring physicians to notify the State board of health of the existence of all cases of human tuberculosis.

No. 123. An act to amend section 5157 of the Vermont statutes relating to persons neglecting to provide for wife and minor children.

## 1904

No. 40. An act in amendment of section 717 of the Vermont statutes, relating to school attendance.

No. 51. An act . . . . . relating to deaf, dumb, blind, idiotic, and feeble-minded children.

No. 133. An act creating a board of medical registration.

No. 137. An act in amendment of no. 113 of the Acts of 1902, entitled "an act for the preservation of the public health."

No. 142. An act creating a tuberculosis commission.

No. 155. An act relating to the employment of child labor.

## 1906

No. 52. An act to amend sections 712, 715, 716, 718 of the Vermont statutes, and section 1 of No. 155, acts of 1904, relating to truancy and child labor.

No. 55. An act to amend section 854 of the Vermont statutes, section 856 of the Vermont statutes, as amended by section 1 of no. 30 of the Acts of 1898, and section 1 of no. 51 of the Acts of 1904, section 858 of the Vermont statutes, section 860 of the Vermont statutes, and section 861 of the Vermont statutes, relating to the instruction of the deaf, dumb, blind, idiotic, feeble-minded or epileptic children of indigent parents.

No. 56. An act to amend sections 863, and 864 of the Vermont statutes, relating to the instruction of the deaf, dumb and blind.

No. 57. An act to provide for further instruction of the deaf, dumb, blind, idiotic and feeble-minded.

No. 102. An act to fix the residence of married women.

No. 103. An act to authorize an overseer of the poor to remove town paupers to the town which is chargeable with their support.

No. 104. An act to repeal section 3211 of the Vermont statutes, relating to town paupers.

No. 164. An act to amend section 7 of no. 133 of the Acts of 1904, entitled "an act creating a board of Medical registration.



No. 167. An act to continue the tuberculosis commission.

No. 169. An act to amend section 17 of no. 113 of the Acts of 1902, relating to the quarantine of infectious or contagious diseases.

No. 191. An act to abolish the board of directors of the State prison and house of correction and the board of trustees of the Vermont industrial school and to create a board of penal institutions.

## 1908

No. 44. An act to amend sections 1044 and 1045 of the public statutes, relating to the employment of children under sixteen years of age.

No. 49. An act in addition to chapter 60 of the public statutes, relating to the instruction of deaf, dumb and other defective classes.

No. 90. An act to liability of the estates of deceased paupers.

No. 91. An act to amend section 3676 of the public statutes, relating to paupers.

No. 118. An act to provide for the inspection of milk.

No. 119. An act to prevent the spread of Bovine tuberculosis by creameries.

No. 153. An act to amend sections 5411, 5416, 5433 and 6166 of the public statutes relating to public health.

## 1910

No. 69. An act in amendment of the laws relating to school attendance and child employment.

No. 70. An act in addition to chapter 50 of the public statutes relating to employment of child labor.

No. 74. An act providing for the care and education of defective children.

No. 97. An act relating to the employment of labor.

No. 119. An act to amend sections 3716 and 3718 of the public statutes relating to insane State paupers.

No. 220. An act for the prevention of blindness.

No. 234. An act relative to commitments to the Vermont industrial school.

## 1912

No. 75. An act to amend certain sections of the public statutes, relating to school attendance.

No. 81. An act to provide for the care, training and education of feeble-minded children.

No. 82. An act to amend section 1168 of the public statutes, relating to deaf, dumb, blind, idiotic, feeble-minded and epileptic children of indigent parents.

No. 85. An act relative to the hours of employment of women and children in manufacturing and mechanical establishments.

No. 108. An act to amend section 3044 of the public statutes, relating to the property rights of married women.

No. 113. An act to define and regulate the treatment and control of dependent and delinquent children; to provide for their disposition, care, education, protection, support, maintenance, punishment, guardianship and adoption; to prescribe the powers and duties of courts, police officers and probation officers with respect thereto; to fix the jurisdiction over juvenile offenders in the probate court and prescribe its powers and procedure in such cases; and to restrict the imprisonment of children.

No. 122. An act to authorize cities and incorporated villages to appropriate money for public playgrounds and for lands for public recreation purposes.

No. 188. An act to provide for the appointment of a State factory inspector and defining his duties.

No. 219. An act relating to the care of indigent tuberculous persons.



No. 282. An act to amend sections 1, 2 and 3 of No. 263 of the Acts of 1910, entitled "an act to provide State aid for indigent veterans."

No. 462. Joint resolution providing for the continuance of a commission to investigate the needs of the State for a State institution for persons suffering in the advanced stages of tuberculosis.

## 1915

No. 77. An act relating to the education of deaf and blind children.

No. 78. An act to amend sections 13 and 17 of no. 81 of the Acts of 1912, providing for the care, training and education of feeble-minded children.

No. 89. An act . . . . . relating to exemptions.

No. 92. An act to amend no. 113 of the Acts of 1912, relating to juvenile courts.

No. 101. An act relating to desertion and non-support of wife or child and providing punishment therefor, and to promote uniformity between the States in reference thereto.

No. 107. An act in amendment of section 3266 of the public statutes relating to adoption of children.

No. 108. An act to enable charitable and religious corporations to receive minors for the purpose of obtaining legal adoptions for them.

No. 122. An act to amend sections 3670 and 3672 of the public statutes, relating to the support and burial of transient persons.

No. 164. An act relating to compensation to employes for personal injuries.

No. 198. An act for the prevention of venereal diseases.

No. 209. An act relating to the providing of chairs for female employes.

## 1917

No. 34. An act to establish State detention farms.

No. 58. An act making appropriations for the support of government and providing for certain special appropriations.

No. 110. An act to amend section 3667 of the public statutes, relating to the support of paupers.

No. 171. An act to create the office of commissioner of industries and to amend and repeal certain sections, relating to the industrial accident board and factory inspector.

No. 172. An act to authorize the commissioner of industries to suspend the operation of certain labor laws while the U. S. is at war.

No. 177. An act in amendment of and in addition to and to repeal certain sections of the public statutes and of the session laws of 1908, 1910 and 1912, relating to the hours of employment of women and children.

No. 244. An act to establish a board of charities and probation, to amend certain sections, relating to probation, and to amend certain sections of the juvenile court act and to abolish the probation commission.

## 1919

No. 53. An act making appropriation for the support of the government and providing for special appropriations.

No. 60. An act relating to commitments to the school for feeble-minded.

No. 91. An act relating to the disposition and care of children in nonsupport or desertion cases.

No. 107. An act to amend section 4246 of the general laws, providing for the removal of a poor and indigent person to the town from which he last came.

No. 200. An act relating to the consolidation of the house of correction with the State prison, to authorize the board of control to determine and adjust the respective interests of the State and the county of Rutland in the house of correction, and to amend and repeal certain sections of the general laws, relating to the house of correction and the State prison and for other purposes.



No. 206. An act relating to the care of dependent and neglected children committed to the State board of charities and probation.

No. 207. An act prohibiting the commitment of dependent children to the Vermont industrial school.

No. 208. An act to regulate the importation of dependent children into the State, and in amendment of and in addition to chapter 319 of the general laws, relating to dependent, neglected and delinquent children.

## 1921

No. 60. An act to provide payment of tuition at Lyndon Institute.

No. 61. An act to amend section 1413 and to repeal section 1414 of the general laws relating to the duties of listers.

No. 80. An act to amend section 3536 of the general laws, relating to the support of families.

No. 85. An act to amend section 3760 of the general laws, relating to the vacation of adoption of minors.

No. 112. An act to amend section 4219 of the general laws, relating to support of paupers.

No. 113. An act to amend section 4226 of the general laws, relating to the payment of the burial expenses of veterans of the World War.

No. 114. An act to provide that the State reimburse towns in certain cases for expenses incurred in the burial of poor persons.

No. 115. An act to repeal section 4244 of the general laws, relating to the removal of paupers.

No. 117. An act to amend section 4366 of the general laws, relating to the canvassing of the vote on the question of establishing a tuberculosis hospital.

No. 118. An act to amend sections 4370, 4375 and 4380 of the general laws and section 4372 of the general laws, as amended, relating to county tuberculosis hospitals and the care of indigent tuberculosis hospitals.

No. 120. An act to provide for the establishment of a board of trustees of the Vermont sanatorium and prescribing their duties.

No. 167. An act to amend section 5785 of the general laws, relating to compensation to employees for personal injuries.

No. 217. An act to provide medical and surgical treatment for crippled and physically defective children.

No. 218. An act to amend section 7312 of the general laws relating to widowed or deserted mothers.

No. 219. An act to provide a shelter home for certain children committed to the board of charities and probation.

No. 220. An act to amend section 7314 of the general laws as amended by section 1 of no. 205 of the Acts of 1919, relating to the duties of overseers of the poor respecting dependent children.

No. 221. An act to amend section 7315 of the general laws relating to keeping dependent children in poorhouses.

No. 223. An act relating to the examination of children in the custody of a juvenile court.

### 1923

No. 7. An act to reorganize the civil administration of the State government and to repeal and amend certain sections of the general laws relating thereto.

No. 8. An act to amend an act of the general assembly of 1923 entitled "an act to reorganize the civil administration of the State government and to repeal and amend certain sections of the general laws relating thereto" approved February 19, 1923, relating to the Department of Agriculture and creating a Department of Public Service and Industries.

No. 28. An act making appropriations for the support of the government.



No. 53. An act to amend sections 3264, 3492 and 3706, and subdivision III of section 3234, subdivision III of section 3473 and subdivision III of section 3665 of the general laws, as amended by number 88 of the acts of 1919, relating to the settlement of accounts of executors, administrators, trustees and guardians and to amend section 3717 of the general laws relating to the removal of guardians.

No. 59. An act to amend sections 3755 and 3757 of the general laws relating to adoption.

No. 60. An act relating to adoption and to amend sections 3758 and 3759 of the general laws relating thereto.

No. 73. An act to amend sections 4382 and 4386 of the general laws relating to indigent tuberculous persons.

No. 74. An act to amend section 4383 of the general laws relating to indigent tuberculous persons.

No. 75. An act to amend section 4385 of the general laws relating to indigent tuberculosis persons.

No. 105. An act to amend certain sections of chapter 241 of the general laws relating to employer's liability and workmen's compensations.

No. 118. An act to amend sections 6193 and 6194 of the general laws, as amended by no. 173 of the Acts of 1919, relating to the appointments of the State board of health.

No. 142. An act to amend section 7188 of the general laws relating to commitments to the Vermont industrial school.

### 1925

No. 52. An act to amend section 3536 of the general laws, relating to penalty for non-support of family.

No. 62. An act authorizing municipal corporations to establish, maintain and conduct systems of public recreation including play-grounds.

No. 100. An act to amend section 5785 of the general laws, as amended by no. 167 of the Acts of 1921, relating to compensation to employes for personal injuries.

No. 134. An act to amend sections 7178 and 7180 of the General Laws, relating to commitments.

No. 223. Joint resolution relating to an act of congress to promote the welfare and hygiene of maternity and infancy.

No. 225. Joint resolution relating to the rejection by the State of Vermont of the child labor amendment.

### 1927

No. 37. An act to provide for the blind persons of the State.

No. 47. An act to amend section 2710 of the General Laws, as amended by section 6 of no. 74 of the Acts of 1921, relating to homestead.

No. 49. An act to amend section 3638 of the General Laws relating to proceedings for the appointment of a guardian for a minor.

No. 52. An act to amend section 5 of no. 60 of the Acts of 1923 relating to adoption.

No. 60. An act to amend sections 4207, 4209, 4210 and 4214 of the General Laws relating to county agricultural associations, to provide for boys' and girls' club work and home demonstration work.

No. 62. An act to amend section 4227 and 4228 of the General Laws relating to indigent veterans.

No. 108. An act to amend section 5788 of the General Laws, as amended by sections 1 and 2 of no. 159 of the Acts of 1919 and by section 1 of no. 168 of the Acts of 1921, relating to certain benefits under the compensation act.

No. 153. An act to change the name of the Vermont State school for feeble-minded children to the Brandon State school.

### 1931

No. 29. An act to provide for the education of War orphans and to appropriate a certain sum therefor.



No. 59. An act to amend sections 4277 and 4278 of the General Laws relating to the payment of certain expenses of insane State paupers.

No. 115. An act to amend section 5833 of the General Laws relating to the employment of children under sixteen years of age.

No. 116. An act . . . . . relating to the employment of children under sixteen years of age.

No. 174. An act for human betterment by voluntary sterilization.

### 1933

No. 29. An act making appropriations for the support of the government.

No. 93. An act relating to an appropriation for the after-care of persons suffering from infantile paralysis.

### 1933 (Public Laws)

Chap. 97. Levy of execution.

Chap. 98. Relief of worthy debtors.

Chap. 110. Estates of homestead.

Chap. 160. Support of the poor.

Chap. 162. Poorhouses.

Chap. 167. Registration of births, marriages, divorces, and deaths.

Chap. 225. Voluntary sterilization.

Chap. 352. County jails.

### 1934 (Special Session)

No. 5. An act to provide cooperation between the State of Vermont and the federal government in the construction of public works.

## 1935

No. 76. An act to amend section 3919 of the public laws relating to residence of paupers.

No. 80. An act to amend section 3950 of the public laws relating to charging town with pauper.

No. 81. An act to amend section 3982 of the public laws relating to courts of inquiry as to insane State paupers.

No. 82. An act to provide assistance to aged citizens in need of aid and to make an appropriation therefor.

No. 131. An act to amend section 5421 of the public laws relating to mother's aid.

No. 164. An act to accept the provisions of the act of Congress approved June 6, 1933, entitled "An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," and to appropriate for the purposes thereof the sum therein named.

## 1935
### Special Session

No. 8. An act to amend sections 9, 10, 22 and 23 of no. 82 of the Acts of 1935 relating to old age assistance, and to provide for immediate payment of old age assistance.

No. 10. An act to provide for maternal and child health services and services for crippled children.

No. 11. An act to amend sections 5431 and 5421 of the public laws relating to trust funds of the department of public welfare and to assistance in supporting needy children, to permit the department of public welfare to cooperate with federal agencies, to amend subsection (E) of section 24 of no. 41 of the Acts of 1935 relating to appropriations and to appropriate sums received from the federal government for welfare work.

No. 12. An act to provide assistance to the blind.



## 1936
### Special Session

No. 1. An act to promote economic security, to alleviate the hazards of unemployment, to provide unemployment compensation, to create a fund for payment thereof, to appropriate moneys received thereunder, and to amend no. 164 of the Acts of 1935 relating to the Vermont employment service.

## 1937

No. 65. An act . . . . . relating to old age assistance.

No. 67. An act to amend section 4070 of the public laws relating to transmission of vital records on nonresidents and section 4081 thereof relating to correction of birth certificate and records and to provide for making of new birth records in certain cases.

No. 76. An act to provide for the Vocational Rehabilitation and placement of the physically disabled persons.

No. 136. An act to amend section 5447 of the public laws relating to proceedings under petition as to dependent, neglected and delinquent children.

No. 137. An act to change the name of the Vermont Industrial School to the Weeks School.

No. 176. An act to amend certain sections of chapter 265 of the public laws relating to employment of minors.

No. 177. An act to amend section 6587 of the public laws relating to hours of labor for women and children and requiring records of hours worked.

## 1939

No. 57. An act to amend section 3211 of the public laws relating to a minor's choice of a guardian.

No. 71. An act to amend section 3950 of the public laws, as amended by section 1 of no. 80 of the Acts of 1935, relating to charging a town with pauper.

No. 72. An act . . . . . relating to old age assistance.

No. 75. An act to authorize extramural work by institutions dealing with mental health and disease.

No. 85. An act to provide for the education of physically handicapped children and to cooperate with the United States in such work.

No. 130. An act to amend section 5421 of the public laws as amended by no. 131 of the Acts of 1935 and by section 2 of no. 11 of the Acts of the special session of 1936, relating to payments for benefit of children.

No. 140. An act to amend section 5563 of the public laws relating to duties of the commissioner of public welfare in the instruction of blind, deaf and dumb children.

No. 141. An act to establish clinics for the study of mental diseases, otherwise called psychiatric clinics, within the department of public welfare and to make an appropriation therefor.

## 1941

No. 46. An act to amend certain sections of chapter 144 of the public laws relating to adoption and change of name and to repeal certain sections of said chapter.

No. 56. An act appropriating $35,000 . . . . . to old age assistance.

No. 57. An act . . . . . relating to old age assistance.

No. 63. An act to provide for the issuance and filing of the birth certificates in certain circumstances and to repeal sections 2 and 6 of no. 67 of the Acts of 1937, as amended by sections 1 and 4 of no. 73 of the Acts of 1939, relating to the correction of birth certificates.

No. 106. An act to amend section 5421 of the public laws, as last amended by section 1 of no. 130 of the Acts of 1939, relating to payments for benefit of children.

No. 109. An act to amend section 1 of no. 134 of the Acts of 1939 relating to aid for crippled and disabled persons and making an appropriation therefor.



No. 114. An act to amend section 5574 of the public laws relating to care of persons discharged from State institutions.

No. 115. An act to amend section 3 of no. 141 of the Acts of 1939 relating to psychiatric clinics.

No. 117. An act to amend section 5581 of the public laws relating to the commitment of indigent persons to the Brandon State school.

No. 158. An act to preserve the unemployment compensation benefit rights of persons entering the military service of the U. S.

No. 159. An act to amend subdivision (c) of section 6513 of the public laws, as amended by no. 172 of the Acts of 1937, and to amend section 6516 of the public laws relating to death benefits for dependent children and minimum average weekly wage in fatal accidents under the workmen's compensation act.

No. 189. An act to repeal sections 8380 and 8381 of the public laws relating to the prosecution of the mother of an illegitimate child found dead.

## 1943

No. 34. An act . . . . . relating to adoption.

No. 47. An act to amend certain sections of chapter 160 of the public laws, as amended, and section 3 of no. 77 of the Acts of 1935, as amended by section 2 of no. 61 of the Acts of 1941, relating to the care of transients, and the reimbursements by the State to towns for the care of transients.

No. 48. An act . . . . . relating to old age assistance.

No. 49. An act to amend section 3930 of the public laws, as last amended by section 1 of no. 63 of the Acts of 1937, relating to payment of burial expenses of soldiers and sailors; and to amend section 4288 of the public laws relating to the education of children of veterans.

No. 89. An act to amend certain sections of the public laws relating to child welfare.

No. 90. An act to amend section 3 of no. 12 of the Acts of the special session of 1935, as amended by section 2 of no. 107 of the Acts of 1941, and to amend section 15 of no. 12 of the Acts of the special session of 1935, relating to assistance to the blind.

No. 91. An act to amend sections 6 and 7 of no. 12 of the Acts of the special session of 1935 relating to assistance to the blind.

No. 100. An act to provide for the commitment and care of sexual perverts and delinquent defectives in quarters separate from other classes of State wards.

No. 102. An act to amend section 5588 of the public laws relating to admission to Brandon State school.

No. 121. An act to amend certain sections of the Unemployment Compensation Law, to amend the definition of "Employer" therein, and to clarify miscellaneous provisions thereof.

No. 122. An act to amend No. 158 of the acts of 1941 relating to the payment of Unemployment Compensation to individuals unemployed after service with the armed forces.

No. 123. An act to amend certain sections and to repeal certain other sections of No. 1 of the acts of the Special Session of 1936, relating to the Unemployment Compensation Law with respect to employer accounts in the Unemployment Compensation Fund, and matters related thereto.

No. 124. An act to amend certain sections of the Unemployment Compensation Law and to standardize and clarify the benefit provisions thereof.

No. 130. An act . . . . . relating to hours of labor for women and children.

No. 153. An act to amend section 8639 of the public laws relating to venereal diseases.

## 1945

No. 29. An act to amend certain sections of the public laws to provide for the speedier entry, trial and disposition of causes.



No. 41. An act relating to adoption and the procedure therefor and to repeal certain sections of chapter 44 of the public laws, as amended, relating to adoption.

No. 52. An act to amend section 3926 of the public laws, as last amended by section 1 of no. 47 of the Acts of 1943, and section 3927 of the public laws as also amended by section 2 of no. 47 of the Acts of 1943 relating to the care of transients.

No. 53. An act to amend section 5 of no. 47 of the Acts of 1943 relating to the reimbursement by the State to towns for the care of indigent persons.

No. 55. An act . . . . . relating to the benefits of old age assistance.

No. 116. An act to amend section 4 of no. 100 of the Acts of 1943 relating to certain duties of the commissioner of public welfare with respect to certain persons who constitute a threat to public welfare.

No. 118. An act to amend section 3 of no. 141 of the Acts of 1939, as amended by no. 115 of the Acts of 1941, and sections 4 and 6 of no. 141 of the Acts of 1939, relating to the employment of psychiatric physicians and providing psychiatric clinics.

No. 119. An act to amend sections 4015, 4021, 4024, 4028, 5421, 5443, 5454, 5455, 5457, 5461, 5486, 5487, 5512, 5528, 5542, 5543, 5548, 5554, 5585 and 8809 of the public laws, as amended, and to repeal sections 4016, 4017, 5456, 5491, 5492, 5496, 5547, and 5562 of the public laws, as amended, relating to the department of public welfare.

No. 140. An act to amend subdivision (b) and subdivision (d) of section 3 of the Unemployment Compensation Law relating to benefits payable thereunder.

No. 141. An act to amend subdivision (e) of section 2 and subdivision (a) of section 7 of the Unemployment Compensation Law relating to termination of coverage under certain circumstances.

No. 142. An act to amend subdivision (a) of section 10 of No. 1 of the Acts of the Special Session of 1936, relating to the time of the annual report of the Unemployment Compensation Commission.

No. 143. An act amending No. 158 of the acts of 1941, as amended, relating to Unemployment Compensation.

No. 144. An act to amend subdivision (d) of section 4 of No. 1 of the acts of the Special Session of 1936, as amended by section 5 of No. 171 of the acts of 1937, by section 10 of No. 181 of the acts of 1939, and by section 1 of No. 152 of the acts of 1941 relating to eligibility for benefits.

No. 183. An act to amend section 8789 of the public laws relating to payment of board for parolees from the Weeks School.

## 1946
## Special Session

No. 7. An act to amend section 10 of No. 82 of the acts of 1935, as amended by section 2 of No. 8 of the acts of the special session of 1935, and by section 4 of No. 54 of the acts of 1945, relating to old age assistance.

No. 8. An act to amend subdivision A of section 22 of No. 82 of the acts of 1935, as amended by section 3 of No. 8 of the acts of the special session of 1935, and by section 7 of No. 65 of the acts of 1937, and to amend subdivision B of section 22 of No. 82 of the acts of 1935, as amended by section 3 of No. 8 of the acts of the special session of 1935, and by section 5 of No. 54 of the acts of 1945, and by section 5 of No. 54 of the acts of 1945, relating to old age asistance.

No. 9. An act to appropriate a certain sum of money in addition to sums heretofore appropriated for the payment of benefits of old age assistance.

No. 12. An act to amend section 5421 of the public laws, as amended by section 1 of No. 131 of the acts of 1935, by section 2 of No. 11 of the acts of the special session of 1935, by section 1 of No. 130 of the acts of 1939, by section 1 of No. 106 of the acts of 1941, by section 2 of No. 89 of the acts of 1943, and by section 8 of No. 119 of the acts of 1945, relating to the department of public welfare.

No. 14. An act to amend section 2 of No. 12 of the acts of the special session of 1935, as amended by section 1 of No. 107 of the acts of 1941, by section 1 of No. 114 of the acts of 1945, and to amend section 3 of No. 12 of the acts of the special session of 1935 as amended by section 2 of No. 107 of the acts of 1941, and by section 1 of No. 90 of the acts of 1943, and to amend section 10 of No. 12 of the acts of the special session of 1935, and to amend section 15 of No. 12 of the acts of the special session of 1935, as amended by section 2 of No. 90 of the acts of 1943, relating to assistance for the blind.



## 1947

No. 138. An act to amend section 5 of No. 47 of the acts of 1943, as amended by section 1 of No. 53 of the acts of 1945 (Section 7163 and section 7168 of the Vermont Statutes, 1947, as proposed) relating to State aid to towns furnishing relief to transient poor persons.

No. 139. An act to amend Section 4 of No. 41 of the acts of 1945 (Section 7218 of the Vermont Statutes, 1947, as proposed) by adding thereto a new subdivision to be lettered (i) relating to adoption.

No. 187. An act to create a department of social welfare and to create a department of institutions and corrections and to repeal Sections 1, 2 and 3 of No. 119 of the acts of 1945 (Sections 10,089-10,094 of the Vermont Statutes, 1947, as proposed) and to repeal section 6 of No. 82 of the Acts of 1935, as amended by Section 2 of No. 65 of the acts of 1937, and by Section 2 of No. 48 of the acts of 1943, (Section 10,244 of the Vermont Statutes, 1947, as proposed) and to repeal Section 7 of No. 82 of the acts of 1935, as amended by Section 3 of No. 65 of the acts of 1937, by Section 2 of No. 72 of the Acts of 1939, and by Section 2 of No. 59 of the Acts of 1941 (Section 10,245 of the Vermont Statutes, 1947, as proposed).

No. 189. An act to amend Section 5451 of the public laws, as amended by Section 3 of No. 89 of the acts of 1943 and by Section 10 of No. 119 of the acts of 1945 (Section 10,138 of the Vermont Statutes, 1947, as proposed) relating to a detention home for children pending court investigation.

No. 191. An act to provide for the inspection of sanatoriums, rest homes, nursing homes, homes for the reception of children, and related institutions.

No. 192. An act to amend Section 13 of No. 12 of the acts of the Special Session of 1935-1936 (Section 10,240 of the Vermont Statutes, 1947, as proposed) and Section 15 of No. 12 of the acts of the Special Session of 1935-1936, as amended by Section 2 of No. 90 of the acts of 1943 (Section 10,242 of the Vermont Statutes, 1947, as proposed) relating to assistance for the blind.

No. 193. An act to repeal subdivision (a) and to redesignate the remaining subdivisions of section 2 of No. 82 of the acts of 1935, as amended by No. 64 of the acts of 1937, and by No. 54 of the acts of 1945, (Section 10,243 of the Vermont Statutes, 1947, as proposed), and to amend section 4 of No. 82 of the acts of 1935, as amended by No. 72 of the acts of 1939, by No. 57 of the acts of 1941, by No. 55 of the acts of 1945 and by No. 9 of the acts of the Special Session of 1946, (Section 10,253 of the Vermont Statutes, 1947, as proposed), relating to Old Age Assistance.

No. 194. An act to amend subdivision (f) of section 2 of No. 1 of the acts of the Special Session of 1936, as amended by section 2 of No. 171 of the acts of 1937, by section 2 of No. 181 of the acts of 1939, by section 2 of No. 148 of the acts of 1941, and by section 3 of No. 148 of the acts of 1941, (Subdivision VI of section 10,286 of the Vermont Statutes, 1947, as proposed) relating to the definition of employment.

No. 195. An act to amend Section 9 of No. 1 of the acts of the Special Session of 1936, as amended by Section 2 of No. 184 of the acts of 1945, (Sections 10,287, 10,288, 10,289 and 10,290 of the Vermont Statutes, 1947, as proposed) by adding a new subdivision creating an advisory council, and to amend subdivision (b) of Section 6 of No. 1 of the acts of the Special Session of 1936, as amended by Section 14 of No. 181 of the acts of 1939, and by Section 2 of No. 153 of the acts of 1941, (Section 10,323 of the Vermont Statutes, 1947, as proposed) relating to period of reconstruction in benefit claims.

No. 196. An act to amend subdivision (A) of section 7 of No. 1 of the acts of the Special Session of 1936, as amended by section 1 of No. 170 of the acts of 1937, by section 4 of No. 180 of the acts of 1939, by section 4 of No. 148 of the acts of 1941, by section 3 of No. 123 of the acts of 1943, and by section 2 of No. 141 of the acts of 1945, (Sections 10,305, 10,306 and 10,307 of the Vermont Statutes, 1947, as proposed) relating to Employers' Contributions.



No. 197. An act to amend No. 158 of the acts of 1941, as amended by section 1 of No. 122 of the acts of 1943, and by section 1 of No. 143 of the acts of 1945, (Section 10,318 of the Vermont Statutes, 1947, as proposed) by adding thereto a new section to be numbered section 2 relating to the payment of Unemployment Compensation to individuals unemployed after service with the armed forces.

No. 198. An act to amend section 4 of No. 1 of the acts of the Special Session of 1936, as amended by section 5 of No. 171 of the acts of 1937, by sections 10 and 11 of No. 181 of the acts of 1939, by section 1 of No. 152 of the acts of 1941, by section 3 of No. 150 of the acts of 1941, by section 9 of No. 124 of the acts of 1943, and by section 1 of No. 144 of the acts of 1945, (Section 10,319 of the Vermont Statutes, 1947, as proposed), relating to Benefit eligibility conditions under the Unemployment Compensation Law.

No. 199. An act to amend subdivision (a) of section 8 of No. 1 of the acts of the Special Session of 1936, as amended by section 7 of No. 123 of the acts of 1943, (Section 10,333 of the Vermont Statutes, 1947, as proposed) and to amend subdivision (c) of section 12 of No. 1 of the acts of the Special Session of 1936, as amended by section 18 of No. 181 of the acts of 1939, as amended by section 2 of No. 156 of the acts of 1941 (Section 10,339 of the Vermont Statutes, 1947, as proposed) and to add a new subdivision to section 12 of No. 1 of the acts of the Special Session of 1936, as amended by section 18 of No. 181 of the acts of 1939, as amended by section 2 of No. 156 of the acts of 1941 (Section 10,339 of the Vermont Statutes, 1947, as proposed); and to amend section 13 of No. 1 of the acts of the Special Session of 1936, as amended by section 9 of No. 171 of the acts of 1937 and section 1 of No. 157 of the acts of 1941 (Section 10,312 of the Vermont Statutes, 1947, as proposed) and to add a new subdivision to section 13 of No. 1 of the acts of the Special Session of 1936, as amended by section 9 of No. 171 of the acts of 1937 and by section 1 of No. 157 of the acts of 1941 (Section 10,312 of the Vermont Statutes, 1947, as proposed); and to repeal section 2 of No. 157 of the acts of 1941 (Section 10,312 of the Vermont Statutes, 1947, as proposed) relating to the Unemployment Compensation Fund, Unemployment Compensation Administration Fund and to the collection of unpaid contributions and providing for a creation of a lien for unpaid contributions.

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