The first code of laws of the Russian Socialistic Federal Soviet Republic.

Издание Народного Комиссариата Юстиции.

Edited by the Peoples Commissariat of Justice.

Цена 2 руб.

ПЕТРОГРАД.
2-я Государственная типография. Красная, 1.
1919.

THE FIRST CODE OF LAWS OF THE RUSSIAN SOCIALISTIC FEDERAL SOVIET REPUBLIC.

A year has not yet passed, the anniversary of the revolution of the proletariat, which took place last October, has not yet been celebrated. During this brief period the proletariat of the Russian republic has been called upon to exert all its energy in defending itself against incredibly ferocious attacks from within and without. But carrying on as it is this war of defence against all its enemies in the world, the proletariat of Russia has found in itself sufficient strength for creative and conscious work towards the realisation of the ideals of socialism. During this short period so much has been accomplished much more than it ever fell to the lot of any other class to achieve under incomparably better conditions and during the space of many years and decades. One has only to turn the pages of the »Collection of the Laws and the Acts of the Workmen's and Peasants' Government» to be convinced of this fact. So much has been done during these last few months that it is already possible to attempt to collect the material dispersed amongst a number of separate decrees, to fill up the deficiencies, to bring to bear upon them fundamental socialistic and revolutionary principles, to develop them further and to produce a more or less systematic and accomplished adjustment of corresponding relationships, in a word, to issue systematic books containing the Laws of the Russian Socialistic Federal Soviet Republic: laws may be not quite socialistic, for in a settled socialistic system these laws may appear to be superfluous, but certainly proletariat laws, shortening the road towards socialism.

One Code of such laws dealing with civil relationships, marriage, family and guardianship rights was already adopted by the All-Russian Central Executive Committee on the 16th of Sept. Others are prepared for acceptation. Amongst the very first it is proposed to submit to its attention a code of laws dealing with labour.

It is to be understood that in giving out its codes the Government of the proletariat engaged in implanting socialism in Russia does not aim at making these codes such as might hold on for a long time. It does not wish to give birth to «eternal» codes, or codes which would last for centuries; it does not desire to follow the example of the bourgeois, who has always sought to strengthen its position with the help of eternal codes such as have existed a century (e. g. the Russian Code from 1794 to 1900), or are continuing to exist for more than a century (e. g. the French Code of 1801 or the Austrian Code of 1811).

The power of the proletariat bases its codes as well as all its laws on the principle of dialectics. It constructs them so that each day of their existence should make less the necessity for their continuation as legislations of the State. It fixes for its laws one aim, namely, that of making them superfluous, even as the philosopher Fichte thought that a government should exist with one aim, namely that of making a government superfluous. For example, the Soviet Constitution based on the principle of the political supremacy and the political dictatorship of the proletariat is so constructed that each day of its existence, each day of its application shattering as it does opposition to it as well as the organisation of the classes of former oppressors and welding together the oppressed classes of but yesterday, should lessen the necessity of the existence of this constitution, should lessen the necessity of the forced unity of the political supremacy of the proletariat and the necessity of compulsory political supremacy on the whole.

Likewise the other laws and codes of the proletariat should also be so constructed that each day might make smaller the period of transition from the former form of government to the socialistic, so that in such a manner each day of their being might sap the roots of their continual existence.

Consequently the government of the proletariat cannot desire that its codes or collection of laws should carry the character of other collections of laws distinguished by their strong unchangeability, such as called forth the following characterisation by Shelley of one of his heroes in the play of «The Cenci» (leave a little space please).

The proletariat power simply acknowledges that its codes should not be lasting, that they come into being to answer the needs of that moment of transition the duration of which it is passionately seeking to shorten. But this transitory moment is unavoidable; by adopting certain measures we may cut short its duration, but it is impossible to take a clean jump across it. And almost always the desire, radical though at first sight it may seem to jump right into the future appears

in fact to be a step with one foot forward and the other planted in its place or even a jump backward.

It is however necessary to note that not the entire content of the proletariat codes will become superfluous after the ultimate introduction into the world of the socialistic form of government. In these codes besides the measures directed against the old form of government, there are contained certain entirely essential norms in the sphere of organisation meant not only to fulfill the purpose of forcing the wills of particular people, but of making a rational and resonable computation of the forces and the means at the disposal of society, of their organisation and their distribution. Such organisation norms ought to last and will last a long time even in a socialistic society till such time that they either change into habits, into instincts automatically and unconsciously fulfilling their ends, or that they become superfluous in view of that general abundance and richness in all the spheres of human life, which a socialistic society will bring into being. Organisation norms, which are contained in the codes of the proletariat are destined not to perish, but to be further developed driving their strength from that huge and new and many-formed experience, which the re-formation of society on the principles of socialism carries in its train.

Such norms for organisation are also contained in the first code of laws of the Russian Socialistic Republic. Departments engaged in the registration of civil acts, particularly of birth and death, and especially the Central Department engaged on the basis of informations received from local departments in registering all persons the current constant registration of the whole living population of the socialistic state, such organisations would seem to be indispensable even in the perfect socialistic society in which the constant computation of the whole living population, scientific explanation of the causes of death, of over-population or of want of growth of population and the destroying of these causes would appear to be much more essential than in the times gone by. Possibly very soon we might have to change the content of these registers (the code has granted to the Central Department, in which are to be concentrated the best statistical knowledge and experience to be had, the right to undertake measures of reform in this direction). Possibly in a very short time there would be wiped out for ever a whole lot of registers, e. g. for the registration of marriages, of absentees, of changes in surnames, if in place of the surname there would be introduced a more reasonable distinction between different people. Possibly very soon experience in the socialistic re-construction of society may bring to the fore a whole row of new acts requiring registration not

of personal, but of human relationships. But in spite of all this such organisations as have been pointed out before, changed probably in appearance, narrowed or broadened probably, can never disappear ultimately.

Or let us take another sphere that of the law of guardianship. Guardianship in the present code is concentrated in the Departments of Social Security. Guardianship in former times was amongst us an institution feudal, mediaeval, stratified. Each class, the noble, the middle classes, the priesthood, the peasantry, possessed their own separate institutions of guardianship and their guardians belonging to their own class. But even in Europe, where guardianship is on the whole not restricted to ones' own class, it is usually in the hands of near relatives, possible successors, who for the most part are appointed to rich wards. Such guardians are called upon to take care of their wards, to replace in each individual case the lost father or mother when they cannot have the paternal or the maternal feeling for the ward, when in many cases they, as successors, are directly interested not so much in the preservation of the life as in the death of the children, or of the weak-minded, etc., who are given over to their care.

If amongst us the socialistic state were already in being we should be bound to change the paternal care of children and replace it by the social care of them. But we are living in a period of transition. We have not yet socialism in its perfected form. We are thus called upon to fill up the interval with other measures, but of such a kind that they could serve as bases for the general socialistic guardianship and the care by society of those who have not yet achieved average capacity for labour or have lost it. And in as much as there yet exist individual families, children who are under the guardianship of their own parents are not handed over to the guardianship of society, if we do not count such measures as the compulsory education of children, etc. But, on the other hand, all children, who are deprived of the care of their parents, without any reference to the fact, have they any property or not, are they rich or poor, are handed over for guardianship and are taken under the care of state and social institutions, by Departments of Social Security, which fulfill all acts of guardianship, undertake all necessary measures for the care of the children preferably directly, and only in particular cases are allowed to trust their functions to particular persons, appointing guardians either of individual wards or of an entire group of them. Consequently guardianship is so organised that even on a broader base, that is, with the spread of its functions not only to a part but to the whole class of those, who stand in need of state guar-

dianship, it will have to be preserved even in the ultimately perfected form of the socialistic state. Besides this at this moment of transition it ought to play an instructive role as a model; it ought to prove to parents that the social care of children gives much better results than individual, unscientific and irrational care of them by »loving» but ingorant parents, who cannot have at their disposal those forces, resources and means, which society has, it ought in this manner to make parents unlearn the narrow and unreasonable love, which expresses itself in the desire to keep the children near their own selves, not to let them out of the limited circle of the family, to constrain their horizon of interests, to make of them not members of the mighty community whose name is humanity, but self-loving, as themselves, individualists, placing in the foreground their own personal interests to the detriment of the interests of society. Such an organisation of guardianship is revolutionary, for it sharply breaks away from the old forms, and socialistic, for it prepares and makes easy for acceptance measures, which it would be necessary to adopt in a socialistic state.

Some other basic principles of this first code, such as that of marriage may not at first sight appear to be socialistic in the above described sense. Sharp criticism was levelled against the measure for the registration of marriages under the Soviet regime: registration of marriages, officialisation of marriages, what kind of socialism was this, our critics told us. No registration was needed. It is true that in a socialistic state, using the words of Kautsky, (vide p. 255 German edition of his »Multiplication and development in nature and in society») »the legalised forging together of man and woman» is quite out of place. But this deals with the permanently established socialistic form of the state. And we are passing through a period of transition. And it is in fact here that the meaning of what we said above becomes plain, namely, that at first sight a radical desire to take a clean jump into the future may in fact be a standing at the same old place or even a step backward.

We should remember not only that ours is a period of transition. We should not forget that the proletariat of Russia had to enter the arena at a moment when the bourgeosie had in terror before it ceased to be revolutionary: at a time when the latter was ready to reconcile itself with all notions still lingering from feudal and mediaeval times. For this reason the proletariat was called upon to accomplish a whole series of revolutionary changes which the bourgeoisie ought to have accomplished; it had to wage relentless warfare not only with the bourgeosie but with those ideals which were rem-

nats (which in Russia were many) from prebourgeoisie days. In Russia it was the proletariat that was first called upon to deprive the church and religion of their state significance. And which socialist can deny that the freeing of the people from under the power of the priesthood, of religion of the church is a task not only revolutionary, but socialistic in the sense that it makes easy the acceptance by the people of the ideas of socialism, a system irreconcilable with the supernatural and the life on the other banks of death, a system which persecutes the supernatural, the divine, the life on the other side in the last corners where they lurk, in history, in philosophy, etc. And what was proposed to us in place of the registration of marriage. No state registration was needed, we were told, but religious rites and ceremonies might be permitted in such cases in which both parties desire them. In other words, instead of the fight with the church-marriage (the divine mystery of it) we were asked to let remain all as it used to be in former times, that is, to remain only one form of marriage with consent viz, the church-religious marriage. Thus in this manner a proposal, which appears redical in words, may in very fact appear to be the most reactionary imaginable.

The marriage law of the Code is not only a weapon of fight with the church-religious influence on the people. It is both revolutionary and socialistic. It is sharply distinguished not only from the old pre-bourgeoisie forms of marriage relationships. It does away with oll the patriarchal-feudal hinderances to marriage, such as, the difference in the faith of the bridegroom and the bride, the religious prohibitions to enter into marriage, etc. It creates inasmuch as it is possible for marriage law to do it the absolute equality before the law of men and women. It frees woman inasmuch as it is posible to free her in the period of transition till the final socialistic state and in this way makes her more capable to accept the ideas of socialism which will ultimately free her. It does not fix the aim of marriage to be the birth of children. The basis of the family is not marriage as it was before but reality of descent. Not only is the right of guardianship but of marriage separated from the rights of the family. It grants full freedom of divorce, in this manner not making of marriage an institution for life. In a word, each day of the existence of such laws as of marriage shatters (as much as law can achieve this) the idea of the individual marriage, of «the legalised forging together of men and women».

In the sphere of family law our first code throws aside all

fictions and places on the foreground the real state of things. Reality of descent teaches people rightcousness, frees them from prejudices and not in words but in fact affords equal right to all children with out distinction of priority descent, making possible for them the realisation into life of this equality before the law.

Kautsky at the same place from which we have quoted above says: »Till such time that there continues amongst us the production of wares, the legalised binding of man to the family will always afford better economic conditions for the bringing up of children, than a formless sexualrelationship easily broken at the will of either party which places on the father either no duties, or in a minimum quantity. This aspect of things can change only when there will be social production and the place of the paternal care of children is taken by the care by society of them. Together with this, the legalised forging together of man and woman will become superfluous. True, the capitalist society has managed to make this forging together unbearable and in many cases infulfilable, but never superfluous .

We are living in a transition between the capitalistic and the socialistic society. And the Code of the period of transition gives rise inasmuch as despends from it to conditions under which the forged-together man and woman will become quite superfluous. From the one side it makes unusually easy the breaking of even the officialy at any registered love-tie moment at the will of either party. From the other it avoids the hypolhetical evil of this case and that of the »formless» ties by placing on the father equal and not at all minimal duties towards his children. Complete equality of all children without distinction of birth is also a preparatory social-psychological step towards the extension on all children of the guardianship of society. This measure preparing the socialistic form in another sphere deprives of its last stand the middle-class notion of marriage with its privileges, its norraw family interests, its patriarchal confinement and limitations.

It is necessary to add that there is to be found in this code all that which has been left of the law of successorship now annulled by the russian Socialistic Republic. Here too are to be found provisions which govern the right of the spouse or the needy relatives of the deceased to receive a part of the property left by the latter. Seventy years ago Marx and Engels pointed out in the »Communistic Manifest» that the proletariat class, once having acquired power, can in the foremost countries adopt a series of measures leading the way to socialism, amongst which was mentioned the annullment of the law of succes-

sorship. The annullment of the right of successorship was recommended in the same series as the expropriation of landed property, progressive income taxes, confiscation of the owned property of all emigrants and rebels, concentration of credit and means of communication in the hands of the State, compulsory conscription of labour, bringing-up of all children, free from all charge etc., etc. In a word regard was had not to the socialistic form of government, but to the period of transition from the bourgeoisie type to the socialistic, and to change the right of successorship was recommended to the proletariat for this period. In other words private ownership should be made to last the length of the life of the owner, preserving this aspect of it till the death of the latter and then making it pass into the hands of the proletariat state.

Thus nobody who adopts the point of view of The Communistic Manifest» can question the rightness of the action of the Soviet authorities in changing the law of successorship. And only traitors to socialism, people naming themselves in words socialists and indeed committing treason against socialism, changing their allegiance to it for the establishment of the power of the petty or the large bourgeoisie, only such false socialists can question the decree which has changed the rights of successorship.

Marx and Engels spoke about the annullment of the law of successorship in the foremost countries of Europe, but without doubt seventy years ago the foremost countries of Europe were less developed than modern Russia and in any case did not stand higher than her.

To this must be added the fact that even bourgeois thought and bourgeois legislasion has during this last seventy years progressed a great deal in this question of successorship, truly in the direction of its limitation and not of its complete annullment. The idea of limitation, developed to its logical end, will change into the idea of the complete annullment of the private right to succeed. But the limitations, which were recognised by bourgeois scholarship and bourgeois legislation were not the result of any definite idea, they were not the logical expression of definite demands but merely chaotic not possessing any justification from the scientific point of view.

Let us take, for example, the limitations to the free right of testament, which exist in foreign bourgeois legislations. At the present moment we often hear that the impossibility in the disposition of one's goods after one's death according to one's own desire kills in one every wish to gather property, to build houses, to heap up capital, etc. Putting aside the

question that our present form of government is not interested in the bourgeois methods of heaping—up capital, we ought to point out that the legislation of the bourgeoisie annulls almost completely (till ¾) the right of free disposal of one's property by testament in the case of those who possess a certain number of children. If a person has, for example, three children he can will away to outsiders not more than ¼ of his property. What then is the stimulus for the gathering together of property under such conditions? Surely not freedom of disposition of property after one's death. Surely this is limited in such a way as to bring in to naught. May be the desire to guarantee the prosperity of his children? But the bourgeois legislator proceeds from the idea that the testamentor does not wish to guarantee the prosperity of his children and he f o r c e s the testamentator not to give away his property to outsiders, but to offer it, d e s p i t e h i s w i l l, to those children of his who remain alive after his death.

Yes and this chief reason for the limitation of the right of testament, viz the desire to guarantee the well—being of one's children, how unfortunately it is used in practice. What lies at the basis of the idea of guaranteeing the well-being of the children? Their poverty or the extent of the property of the parents? The number of children; that is, a fact wholly accidental not having any relation to the position of the children in regard to property nor the extent of the property of the parentis out as the basis of the compulation of that part of the property of the parents, which ought to remain untouched for the needs of the children. Thus in the case of small properties the limitation of the free right of disposal of property by will does not secure for the children guarantee for their well-being, and in the case of large properties or if the children are themselves well-off the limitation does not attain its end of securing the well-being of children who are as it is well-secured, or gives them property much larger than is needful after the securing of their well-being. Thus, for example, if there remains one child after the death of the father a fourth of the property of the father is guaranted to him without having regard to the fact, is the property worth a thousand francs (when not only a fourth part but the whole amount cannot secure the wellbeing of the child) or a hundred million francs (when the putting at the disposal of any one person a fourth of this amount does not serve the means of securing his well-being but something quite different). And this, I repeat, takes place quite mechanically without any regard being paid to the material condition of the successor himself.

It is necessary to point out still another fallacy. During

their life—time well-off parents or husbands are bound to supply their children or their wives only with means nesecary for their existence. But the parent or the husband has only to die and the rights of his children or wife rise unexpectedly to massive proportions. They gain an unassailable right to a definite part of the property of the dead, when during his life—time they, as well-off people, had no right to receive from his property any allowance for themselves. It is this, which often gives birth to the stimulus to hasten the death of the parents or the spouse, it is this, which is responsible for secret murders, poisonings, etc. Neverthless, scholars of the bourgeoisie are ever ready to defend this form of successorship, rarely adding reasons, which would prove either its rightfulness or that it attains its aim.

Economists, financists and political philosophers of the bourgeoisie have not stopped only at the limitation of the private right of disposal by testament in favour of the individual rights of children and spouse. For a long time, espesially during the last twenty-five years they have revealed a disposition to limit the private right of successorship in favour of a collective, namely, in favour of the State. With this end in view attempts are being made to limit the circle of persons with legal right of successorship to close relatives, thah is to children, parents, brothers and sisters, in the absence of whom the property ought to pass to the State. With this end in view attempts are being made to limit the right of disposal by testament in favour of outsiders or far relatives by the establishment of the unassailable right of the State to a part of the property of the deceased, unassailable by any dispositions, which the deceased may make by will. With this end in view, in fine, attempts are being made to fix taxes on succeeded property in such a manner that the imposition of tax depended not only on the degree of nearness of the relationship of the successor to the deceased, but on the extent of the inherited property and on the degree of the well—off—ness of the successors. This last is particularly significant for it potentially holds in its tendency the idea of the passing of the property of the deceased into the hands of the State after means have been set aside to guarantee the well-being of the nearest relatives in need and the spouse of the deceased person.

Particularly important, were the projects accepted in 1908 and 1913 by the German Government in the Reichstag, which limited the right of successorship to children, parent, spouse, brothers and sisters. These projects brought forth a great deal of lively exchange of opinion amongst bourgeois jurists and many of them proceeded still further on the path of

limation of rights of successorship. Thus, for example, the President of the Senate at Berlin (senatspresident) Ring could assert last year unanimity on the question of preserving rights of successorship for descendunts, parents and spouse *). The same Ring bears witness to this in the following words: »The experience of the war has shown us that in all strata of society man is troubled much more by the thought of the fate of his wife »outside marriage», of the fate of the children descended from such a relationship, than that of his brothers or sisters or their descendants *). The bourgeois German jurist Bamberger who for the last twenty five years has been fighting for a radical reform of the law of inheritance writes in his recently published work: »The State ought to become the legal inheritor in the place of the collateral relatives (brothers and sisters) **).

In view of the possibility of depriving the state of its right in the property of the deceased by means of disposition by will there are many who have gone still further and demanded the establishment of an indefeasible part of the inheritance in favour of the State ***). The socialdemocrat revisionist Leo Arons in »The Vorwärts» of 31 December 1916 repeats his project already laid before the world by him in 1909 in the periodical »Socialistische Monatsschrift» and which aims at this, that instead of the existent tax on inheritance there ought to be a rule by which in all instances of inheritance the State ought to be counted as a successor of the first order with a definite indefeasible part in the inheritance.

Those who are the partisans of inherited monarchy and those who champion the unchangeableness of the bourgeois form of government passionately stand against the limitation of the circle of successors and against the institution of the indefeasible right of the State to a share in the inheritance. The first are frightened at the prospect that the limitation of the circle of successors may shake the throne and the order of inheritance to it †). The second fear the appetite of the unpropertied classes which may wish to broaden the right of the State in this department so much so as to make the State the sole successor. Thus, for example, in answer to the statement of Heim quoted above that the institution of an obligatory indefeasible right of successorship of the State may

*) V. Ring, Erbe sei Vaterland. "Recht und Wirtshchaft", March, 1917.

**) Bambergers: Erbrecht des Reiches und Erbchaftssteuer, 1917.

***) Cf. e. g. "Des Staatspflichtteil", 1909. Bein: Zur Reform des Erbrechts, "Deutsche Furistenzeitung"; 1916—S. 296. *Kyczynski u. Mansfeld.* Der Pflichtteil des Reiches, 1917.

†) Cf. e. g. *Hermes.* "Der Geesetzentwurf über das Erbrecht des Staates" 1913 quoting the fears of Count jork von Wartenberg.

have educative effect on the population, Hermann Schöler says: »An educative effect it may have in fact, but not such a one as Heim seems to think. Heim wishes to »educate» that handful of people who do not possess legal successors, but who have that which they might leave to be inherited. But in reality all those will receive education who have no inheritance either to leave or to receive, those who look upon capital inimically as on the representative of a historically unright and therefore unrighteous form of State and society and who in particular because of the burden of taxation which they feel and have to bear and because of the disputed distribution of its imposition will not understand why the State ought to be the successor to an obligatory part of the inheritance in narrowly limited exceptional cases and not the chief or the sole successor in all given cases» *).

Other bourgeois opponents of the appointment of the State as an obligatory successor to a definite share, led apparently by the same fears and dangers, propose to replace the obligatory right of the State to successorship by an especially enhanced tax on the inheritance, progressively being increased in proportion to the largeness of the successorship and the richness of the successors **).

For these bourgeois jurists apparently the most important thing is not to touch in any way the institution of private ownership which is handed down eternally from generation to generation and is not cut short even in a part of it by the death itself of the owner. They are willing to make collateral sacrifices but will not deal a straight blow at the idea of private ownership. They stand for taxation but not for the obligatory right of inheritance of the collective, the State. But they do not see that the taxation proposed by them opens a clear road to the annullment of the existing right of inheritance by private persons, and to the passing of the property of the deceased into the hands of society with real guarantees securing the well-being of those near relatives of the deceased who find themselves in a needy condition. In fact if at the basis of this enhancement of the taxation is to be laid the extent of the personal property of the successors as well as the largeness of the inheritance itself then we shall find that the idea of the annullment of the right of inheritance for those successors who are not needy.

If such ideas are appearing and even taking a leading part amongst bourgeois writers is it to be wondered at if on the attainment of political power the proletariat which was

*) Hermann Schöler: Erbschaftssteuerfragen, "Deutsche juristzeitung" 1917 no. 13—14.

**) Cp. the hassagis quited above from Bamberger Heim.

never afraid to cause the trembling of thrones or to shake of the foundations of the bourgeois form of government, should have carried to its logical conclusion the tendency to be noticed in the proposals mentioned above and has wholly changed the right of successorship both by law and by testament. It is this which was acheived by the decree of the All-Russian Central Executive Committee of 27th April, 1917, which annulled the law of successorship.

This decree dealt a death blow to the institution of private property. The latter ceases to be something eternal passing from generation to generation, from family to family on the principles of individual right. The maximum term for private owernship is laid down as possession for life; that is, property is hinged on to a particular person at the most for the period during which he lives. After the death of each individual possessor it becomes the property not of an individual but of a collective, namely, the government of the proletariat. Owing to the annullment of the law of private successorship there hangs over the institution of private ownership the Democlean sword of a brief existence and a transitory importance. The annullment of the right of successorship ought therefore to have an exceedingly important psychologically educative significance for socialism inasmuch as it will help to a large extent in uprooting individualistic instincts and instinct of owernship. For this reason the proletariat government which has not yet succeeded in proclaiming the nationalisation of all enterprises has proclaimed without any exceptions the annullment of the handing down of private property according to the law of successorship.

It is necessary to bear in mind that after the publication of the law annullment the right to inheritance we have left nothing of the institution of the private right of inheritance; we have preserved it under no forms and no part of it; all and each property of the deceased becomes the property of the Russian Socialistic Soviet Republic. And we have no exception to this general rule. There is no exception too for small properties (till ten thousand roubles). Only because of the inconvenience for the State to take under its control the arge mass of such small properties, the State frees itself from this burden and such properties pass to the direct control and disposal of some definite relatives of the deceased. The State is compelled to neglect such small properties: minima non curat praetor.

When the project of limiting the circle of inheritors was being discussed in the German bourgeois juridical litterature and when consequently it was clear that there would come a large quantity of inheritances, in to the hands of the State

though very much less than that quantity of inheritances which the State ought to acquire according to our decree annulling the right of successorship, then even the following was heard »It would be necessary to afford the State the right to refuse small properties in favour of the relatives« *).

Still, while we were annulling the private right to successorship, it was impossible not to take into account that there still exist individual families, that the bringing up of the children by society free from all charge is still not yet a fact, that the social insurance of all members of society who are needy and not capable of work has not yet been secured. For this reason till such time that the above mentioned measures of social security have not been carried out there has been preserved a something individual and accidental and practical which would secure the well-being of the deceased's near relatives, who happen to be in need and are not capable of work as well as of his or her spouse. Such a security is afforded to a much larger circle of persons and with much greater probability of the need for help than was foreseen in former laws relating to successorship. In the first place no difference is made between relationship by marriage or by a tie styled »outside marriage«. According to former laws a child born of the latter marriage had some right to be supported by the father during his life-time, but on the death of the latter instantly lost all such rights. By the decree annulling the right of successorship such a child is not deprived of his rights to receive support from the property of his deceased father. In the second place formerly creditors of the deceased received their debts at the first instancy and often successors received nothing at all. By the decree annulling successorship the right of the unpropertied and relatives of such of them as are incapable for labour to the receipt of support from his property for their life is quite justly held more sacred than the right of the creditors. The latter receive only in such cases if the claims of the relatives of the deceased who are in need and in capable for labour can be satisfied. And in satisfying the claims of the relatives of the deceased who happen to be in need, attention is paid not to the nearness of their relationship, but to the extent of their need.

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*) Cp. e. g. Rings work quited above.

Code of laws of the russian socialistic federal sovietist republic dealing with acts relating to civil conditions and relationships: to marriage, family and guardianship.

SECTION I.

Acts relating to a person's civil condition and relationships.

Chapter the first. Departments concerned with making entries of acts relating to civil conditions and relationships.

1. Acts relating to civil conditions and relationships are exclusively under the jurisdiction of the civil authorities of the departments concerned with making entries of acts relating to civil conditions and relationships.

Note I. Acts relating to civil conditions and relationships of Russian subjects living abroad are under the jurisdiction of the representatives of the Russian State abroad.

Note II. The duty of registering births, marriages and deaths, occuring on board a ship on the high seas or in the army during a campaign is laid upon the captain of the ship or upon the adjutant in charge of the affairs of a given corps of troops. The above named persons are bound to keep a copy and to transmit, at the first possible occasion, the registry script to the nearest department, which deals with the entries of acts relating to civil conditions and relationships, so that it may be layed before the competent department of the locality.

2. Departments for the entering of acts relating to civil conditions and relationships are the following:

1) The Central one, attached to the Department of the Commissionary (commisarial) of Home Affairs dealing with questions of local selfgovernment.

2) The Circuit ones, attached to the Councils of Soldiers and Workmen's Deputies of the chief towns of the government (county) and the province.

3) The local ones, attached to the Councils of Soldiers and

Workmen's Deputies of volosts and of towns, and in the case of large towns to the Councils of the municipal units of such towns.

3. Upon the local departments dealing with the entering of acts relating to civil conditions and relationships are laid:

a) the duty of registering allo events occuring within the limits of the jurisdiction of respective councils, which bear a reference to a person's civil position before the law, (art. 7);

b) the duty of preparing at the request of interested parties, attested extracts from the records.

4. Upon the Circuit departments dealing with the entering of acts relating to civil conditions and relationships are laid:

a) the duty of drawing up, on the basis of information received from local departments, records of persons, registered within the limits of the respective Government or Province;

b) the supplying of references and extracts from the records;

c) the supervising of the proper working of the local departments dealing with entries.

5. Upon the Central Department dealing with the entering of acts relating to civil conditions and relationships are laid:

a) the duty of drawing up and the conducting of the general register of persons, registered within the limits of the Russian Republic and of those Russian subject who have been registered abroad;

b) the supplying of references and attested extracts from the general register;

c) the general supervising over the proper working of the circuit departments dealing with the entries, and of affording them instructions for guidance.

6. The official position of the functionaries upon whom the registration of the acts relating to civil conditions is imposed, (registrators), their appointment, transfer and dismissal, as well as their responsibility for the non-fulfillment of duty are governed by the General Regulations, which deal with the position of functionaries and of those who help in the work of governmental institutions.

Chapter II. Form prescribed for the keeping of registers.

7. Local Departments dealing with the entering of acts relating to civil conditions and relationships keep the following registers:

1) The Registers of Births;
2) » » » Deaths;
3) » » » Absentees;
4) » » » Marriages;
5) » » » Divorces;

6) The Registers of Notices concerning the descent of already conceived children.

7) The Register of Persons who wish to change their surnames or aliases or initials.

Note I. All registers mentioned in the present paragraph are kept in accordance with the forms worked out by the Central department dealing with the entering of acts relating to civil conditions and relationships.

Note II. Registers are prepared upon the models, set by the Central Departments and are sent to the local departments with the ribbon, seal and signature on each sheet, of the Secretary of the Central Department and with the signature of the manager of the Department or of his assistant.

Note III. Till Such time that the forms of the registers have not been worked out by the Central Department, registers ought to be kept in accordance with the forms given in the present article.

8. Every act relating to a person's civil condition and relationship is entered in a proper register under a number. The annual numeration of every register must be one and the same and uninter—rupted.

9. Summarising and cutting out of words or phrases are not to be allowed in the register for the entries of acts relating to civil conditions and relationships. Postscripts and corrections are allowed but only when a clause to that effect has been added at the end of the act, and the signature of the parties participating has been thereto appended. Corrections are to be made with a thin line drawn across mistaken or superfluous word in such a manner that it can still be aread.

10. Each act entered in the register of the local department, must be signed by the functionary, who has inserted the act in the register, by the person who has furnished the information relating to the event, and by the witnesses, if their presence be required for the drawing up of the given act.

11. Each act, which has been entered in the register, before it is signed by the persons mentioned in paragraph 10, must be read by the functionary, who has inserted the act in the register.

12. The form of the records, mentioned in note »a» of article 4 and the abstract of information contained therein are settled by the Central Department dealing with the entering of acts relating to civil conditions and relationships, which should publish instructions the very instant after its organisation has been quite completed.

13. All registers of local departments and records of persons, drawn up by the circuit departments are kept in two copies:

one copys is meant to be kept permanently by the department, the other at the end of the year, at the latest by the fifteenth of January of a new year must be sent to the circuit department dealing with acts relating to civil conditions and relationships and the records of persons are to be transmitted to the Central Department.

14. As to all alterations in the entries made after one of the copies register has already been sent to the circuit department, the local department ought to inform the circuit department of this without delay and ought to send a copy of that page of the register, in which the alteration has been made.

15. Entries made in the register can be contested by interested parties only in the accepted manner of contesting suits.

16. Entry made in the register may be corrected only by the order of a judge, but if an error be the result of inattention or mistake, it may be corrected by the order of the organs dealing with supervision.

17. Registers of acts and records of persons are available to all parties interested who have the right to obtain from them attested extracts on payment of a sum fixed by the Central Department.

Chapter III. Form of registration of separate acts relating to civil conditions and relationships.

18. In the register of births are entered the fact of the birth of a child, or that a child has been found as we las changes in the civil condition of persons accruing from the fact of their descent being established.

19. Notice of birth of a child or that a child has been found must be given within three days from the day of the occurence of the event.

Note. The circuit departments may extend, in the case of localities that are far, the period fixed in the present article for the giving of notices, but this period should not be more than a month.

20. Notice as to the place wherein the birth of the child has occurred is to be given to the department dealing with entries by both the parents or by either of them or by any other person in charge of whom because of the death or absence or illness of the parents the child happens to be.

21. Notice can be given in writing or declaration made by word of mouth.

22. The notice ought to contain the day, the hour and the place of birth, the sex of the child, the name received by him, names, surname, permanent dwelling-place and the age of the parents; as well as the place of the new born infant

amongst the children of the given parents according to the order of priority.

23. To the notice ought to be appended a note of hand of the parents to the effect that the child is in very fact descended from them.

24. The fact of the birth must be attested by two persons, counting in that number the notifiers of the birth.

25. In case of the birth of twins separate notices of the birth of each of them is to be given, and in the register of births ought to be made two separate entries.

26. Notice must also be given of the birth of a dead child and a note to that effect inserted in the register of births.

Note. Entry of the birth of a dead born child ought to be made at one and the same time in the registers of births and deaths.

27. Notice of the fact that a child has been found is to be given by the persons who have found the child.

28. To the notice of the fact that a child has been found must be appended an official report (protocol), drawn up and attested by the local administrative officials. In the official report are to be stated: time, place and circumstances under which the child was found, its sex, special marks on its body, if any, its apparent age, things and documents found on the infant and a word for word copy of the contens of the latter. In the official report there must also be pointed out the name of the establishment or the person to whom the child has been or will be entrusted.

29. Immediately on receipt of information from a competent local court to the effect that the fact of descent has been ascertained and proved an entry of this is the made in the column headed «special remarks» in the book of births, which would contain the fact of the birth of the person in question.

30. The entry relating to the fact that real descent has been ascertained and proved ought to contain: the title of the court, the order of the court and the date when this order was made by the court.

31. In the Register of Deaths besides cases of death and findings of dead bodies are to be inserted cases in which the court has declared persons to be dead.

32. Declaration of death and of the fact that a dead body has been found must be made within three days of the happening of the event.

33. Declaration of death must be made by relatives who were living with the deceased or by the inmates of his home and in default of such by the neighbours, or by the administrative functionaries of the institution (hospital, alms-

house, prison, etc.) where the death took place, or by the persons, who found the dead body.

34. Declaration of death contains: name, surname, year of birth and the last domicile of the deceased, the condition of his or her family, year, month and day of death, the cause of death: name, surname and residence of the person who have the information of death.

35. The declaration of death must be accompanied by a certificate of death, attested by a Soviet physician or by the local Soviet authorities.

36. To the declaration wherein is stated the finding of a dead body is to be appended, besides the physician's certificate, an official report drawn up and attested by the local administrative functionaries containing all the circumstances under which the dead body was found.

37. Persons, failing to give or not giving in time notices, mentioned in articles 19 and 32, are liable to a fine not less than 50 roubles.

38. The Court having come to a definite conclusion communicates the declaration of the Court respecting the fact that a person is dead to the department dealing with acts relating to civil relationships, in which (department) is to be found the information of the birth of the person now deemed to be dead.

Note. If the court is unaware of the fact of the locality wherein the person now deemed to be absent was registered or if this person happened to be registered in departments of localities, which do not at present belong to the Russian Republic, the court announces its decision to the department dealing with the entries of acts of civil relationships of the locality which formed the last place of residence of the person deemed to be dead.

39. Besides the entry of the fact that a given person is deemed to be dead there ought to be inserted too a clause stating that this entry has been made in accordance with the decision of a court of law which has recognised the fact of the death of the person, deemed to be dead, as well as the designation of such a court, the number of the decision and its date.

40. Entry concerning the fact that a person deemed to be dead is actually dead must be made in the register immediately on receipt of the information to that effect from the Court.

41. Rules laid down in articles 38—40 are to be applied too to entries in the Register of Absentees of persons the fact of whose absenteeship has ben established.

42. Local departments which deal with the entries concer-

ning acts of civil conditions are bound to furnish information of all cases of death, of declarations establishing the certainty of the fact that a person is dead or untraceably absent to the Councils of Workmen's Deputies of the volost or the town in which the last know place of residence of the given person happened to be not later than two days after the making of the entry.

43. Entries of marriages are to be made in the register kept for that purpose by the functionaries of the local departments dealing with the entries of acts of civil relationships who usually register marriages.

44. On receipt of the notice containing the intention of the parties to engage in marriage, and of the additional documents indicated in article 59, the functionary is bound to inquire of the parties as to what surname they would like to adopt and make the entry of marriage in the Register of Marriage.

45. In case of the former Register of Marriage being destroyed or lost in some way or if for some reason married parties cannot obtain a copy of their marriage, they are entitled to make a statement to the department dealing with entries of marriages of the place of residence of the husband and wife or of either of them, to the effect that they were married on such and such a date. A statement over the signature of the hushand and the wife that the register is really lost or that because of some weighty reason they are unable to receive a copy of the entry of their marriage, may serve as a reason for making a fresh entry of marriage and for the handing over to the parties a copy testifying the same.

46. Cases of divorce besides being inserted in the register of divorces are also to be inserted in the register of marriages in the column of »special notes» on that sheet of the register of marriages, wherein is made the entry of the conclusion by the parties of marriage now sought to be dissolved.

47. A devorce, which is the result of the decision of the Court ought to be entered in the register immediately on receipt of the decision as well as note is to be made of the designation of the Court, the number of the decision, and the date whereon it was arrived.

48. If the petition for the dissolution of marriage is handed in directly to the department dealing with acts of civil relationships in the form prescribed in art. 91, the functionary before entering the divorce in the Registers of Divorces ought to ascertain whether the petion for the dissolution of marriage actually issues from both the parties.

49. Paternity of children who are but conceived must be entered in the register kept for that purpose immediately on receipt of the notice, mentioned in—article 140.

50. Changes of names or surnames are entered in the register kept for that purpose on receipt of a statement to that effect and the formalities provided for by articles 2 and 3 of the decree concerning the right of citizens to change their names and surnames have been fulfilled (Collection of Legislations and Orders, 1918, N:o 37, art. 188).

51. Not only are changes in names and surnames to be entered in the register kept for that purpose but at the instance of interested parties a remark to the effect that a name or a surname has been changed ought to be inserted in all other registers, as well as in all extracts which contain in themselves informations concerning the person who is changing his name or surname.

SECTION II.

The law of marriage.

Chapter I. The Forms of concluding marriage.

52. Only civil (sovietist) marriages, registered in the Department dealing with entering of acts of civil relationships give rise to the rights and obligations of husband and wife, specified in the present section.

Marriage contracted in accordance with religions ceremonies and with the aid of the clergy does not give rise to any right or obligation on the part of the married parties unless such a marriage is registered in accordance with the prescribed form.

Note. Ecclesiastic and religious marriages contracted up to December 20th, 1917 with observance of conditions and forms prescribed in articles 3, 5, 12, 20 and 31 or 90 of the here to fore effective civil laws (the former Code v. X, part I, publ. 1914) have the validity of registered ones.

53. The marriages are contracted in the local departments dealing with entries of the civil state acts or in the notarial depts. substituting same attached to the local Sovdeps.

Note I. The conclusion of marriages abroad is put upon the representatives of Russia abroad, who are bound to inform the Central Dept. for entries of the civil state acts of the concluded marriages and submit them a copy of the matrimonial certificate.

Note II. The conclusion of marriages on board a ship during sailing or in the army during a campaign is put upon persons, mentioned in note II of art. 1.

54. Marriages are contracted publicly in a building specially designed for that purpose. Outside such building marriage may be contracted on board a ship only during sailing, in the army during a campaign, as well as in cases when a medical certificate is issued to the effect that the bridegroom or bride due to illness are deprived of the possibility to appear at the governmental office.

55. Marriages are contracted in the presence of the chairman of the department for entries of the civil state acts or

of his substitute, and the secretary, who makes the entry, or his assistant; and in the notarial departments—in the presence of the notary and his secretary.

56. The names of the functionaries, who perform the marriage, must be proclaimed by publication in the local organ of the press and put up on those buildings, where conclusion of marriages takes place.

57. The conclusion of marriages takes place on definite days and hours determined and announced by the functionary to whom the conclusion of marriages is entrusted.

58. The parties intending to enter marriage have to give notice of this in a verbal or written form to the local department of entries of the civil state acts according to their place of residence.

59. The notice containing the desire to enter marriage, must be accompanied by: certificates of personality of the parties to be married and signature, certifying that they are voluntarily entering marriage and there are no impediments to their marriage indicated in arts. 66—69.

Note. The personality of the parties to be married may be attested by certificates, documents, evidence and by all other means, which will be found sufficient by the functionary.

60. The functionary, having made the entry of marriage in the register of marriage reads same to the married parties and declares their marriage to be contracted in virtue of the law.

61. Immediately upon the conclusion of marriage the functionary issues to the married parties, upon their request, the certificate of marriage.

62. The marriage is considered as contracted from the moment the entry is made in the register of marriages.

63. If a notice, containing legal hindrances to the conclusion of marriage should be received before completion of the entry of marriage in the register, the functionary is obliged to suspend the entry of marriage until the affair is examined by the local court. Evidently groundless protest against marriage may be turned aside by the functionary without further examination of the affair.

Note. The local court acts upon the suits of protest against marriage out of turn and within three days; the decision of the local court upon such matters is not subject to appeal.

64. Parties guilty of deliberately making false statements with a view to prevent marriage, shall be held responsible for perjury and are liable to recover the damages incurred through their interference.

65. Complaints against refusal to perform a marriage are

to be brought before the local court (according to the place where the department for entries of the civil state acts is situated), without limitation of term.

Chapter II. Material conditions necessary for conclusion of marriage.

66. Persons, interding to enter marriage, must have attained matrimonial age.

The matrimonial age is determined for females — 16 years and for males — 18 years.

67. Party intending to enter marriage must be of a sound mind.

68. Marriage cannot be entered by all those who are already in a state of marriage registered or non-registered, the latter, however, having the validity of a registered one.

69. Marriage cannot be entered by relatives of ascending or descending lines, consanguineous and half-consanguineous brothers and sisters.

Note. Every relationship including the affinity of »outside marriage» is considered as an impediment to marriage between relatives mentioned in the preceding article.

70. Marriage shall not be contracted, unless the mutual consent of the parties to be married, is obtained.

71. Difference of religion of persons intending to enter marriage does not serve as an impediment.

72. Monkhood, priesthood or diaconical dignity form are no impediment to marriage.

73. Marriage is not prohibited to persons, who have taken a vow of celibacy, even if such persons are representatives of white (catholic) or black regular clergy.

Chapter III. Invalidity of marriage.

74. Marriage can be considered as void only in cases foreseen by the law.

75. The process respective the nullity of marriage may be commenced by husband or wife, or by persons, whose interests are affected through this marriage and by the representatives of the governmental authorities.

76. Suits relating to the annullment of marriage are acted upon by local courts pursuant to the regulations of the local jurisdiction.

77. Marriage is considered to be void, if contracted by parties or by one of them, before their matrimonial age be attained, with the exception of cases:

a) when the action, respecting the annullment of marriage,

is commenced after the attainment of matrimonial age, or

b) when, as a result of marriage, the birth of children or wife's gestation shall have taken place.

78. Marriages are void if contracted by insane persons, a persons being in such a state, as not to be able to act with discernement and to conceive the significance of their acts.

79. Marriage is void, if contracted at the moment, when one of the married parties was already in a state of marriage, the latter being still valid and not annulled by death of the former husband or wife, or by divorce.

80. In case the marriage has been found void on ground of reasons, stated in article 79, the marriage contracted previously remains in force.

81. Marriage is considered to be void, if contracted without consent of one of the married parties or when the consent was given in an unconscious state of mind or under compulsion.

82. Ecclesiastic and religious marriages concluded before the 20th of December, 1917 are considered to be void, if the conditions and forms have been infringed mentioned in arts. 3, 5, 12, 20, 28, 31 of the previously effective civil laws (Code of Laws, v. X, part 1, publ. 1914).

Note. Marriages, mentioned in the preceding article, contracted with the infringement of the previously effective article 23, vol. X, part 1, Code of Laws, publ. 1914, are considered as valid, unless the married parties are relatives of the direct ascending and descending lines or consanguineous or half-consanguineous brothers and sisters.

83. After the decree, respecting the annullment of marriage has come into force, the marriage is considered to be void from the moment of the conclusion of same.

84. Parties, whose marriage is annulled, may enter marriage once more on ground of general rules.

Chapter IV. Dissoluton of marriage.

85. Marriage is dissolved by the death of either of the parties and by declaration of the court of either of the parties to be dead.

86. Marriage during lifetime of both parties may be dissolved by divorce.

Note. All regulations of the present law, relating to divorce concern also valid, ecclesiastic and religious marriages contracted up to December 20th, 1917.

87. The mutual consent of husband and wife, as well as

the desire of one of them to obtain divorce, may be considered as ground for divorce.

88. The petition for the dissolution of marriage may be submitted in a verbal, as well as in a written form, with the official report being drawn thereupon.

89. The petition for the dissolution of marriage must be accompanied by the certificate of marriage or in case of absence of same, by the signature of the declarer to the effect that the parties are married and where the marriage took place; the party giving the information is responsible for the correctness of same.

90. The petition for the dissolution of marriage is presented to the local court, according to the place of residence of both of the married parties, or to the local court upon the choice of the parties to be divorced; but if the petition for divorce is issued by one of the married parties, it must be presented according to the place of residence of the husband whether plaintive or defendant.

Note. Provided the dwelling place of one of the parties, subject to summons, be unkown and if the petition for dissolution of marriage be presented by the plaintive, according to his place of residence, the summons of the defendant is to be made in the form prescribed for cases when the place of residence of the defendant is unknown.

91. Subject to mutual consent of the married parties, the petition for dissolution of marriage may be presented to the local court as well as to the department for entries of marriages, where the entry of the said marriage is preserved.

92. The manager of the department for entries of the civil-state acts, upon verification that the petition for divorce actually issues from both parties, has to make an entry respecting the divorce and to deliver to the ex-married parties, upon their request, the certificate of divorce.

93. Suits relating to divorces are acted upon by the local judge publically and by his own authority.

94. Every local judge has to fix certain hours, not less often than once a week for the consideration of suits, relating to the dissolution of marriages.

95. In case the married parties or their attorneys appear together before the local court, the judge may immediately act upon their suit, relating to dissolution of marriage, provided this will not overthrow the order of affairs appointed for consideration on that day.

96. Upon receipt of the petition for dissolution of marriage, with mutual consent of both parties, the judge fixes the day

for the examination of the petition, summoning both married parties and their attorneys.

97. Upon decision of dissolution of marriage the judge issues to the ex-married parties, in compliance with their wish, the certificate of divorce and transmits not later than within three days, a copy of his resolution to the local department of the entries of the civil state acts on to another establishment with which is kept the entry relating to the conclusion of this marriage.

98. The decision of the local court, relating to the dissolution of marriage, is subject to appeal in the general order to the court of cassation and is not considered to have taken legal force before expiration of the time for appeal to the court of cassation, if the parties have not changed their intention to appeal to the court of cassation.

99. No action directed on the dissolution of marriage can be commenced upon the death of one of the married parties or annullment of marriage, the action commenced before is considered as cancelled.

Chapter V. Rights and duties of husband and wife.

100. Married parties possess a common surname (matrimonial surname). During conclusion of marriage they may determine, whether they will adopt the husband's (bridegroom's) or wife's (bride's) or their joint surnames.

101. The married parties keep their matrimonial surname during the time of marriage and also after the dissolution of marriage on account of death or by the declaration of the court of one of the parties to be dead.

102. When dissolving a marriage by divorce, in the petition for separation is to be stated by what surname the married parties wish to be called henceforth. In default of agreement between them upon this question, the divorced husband and wife have to be called by the surname, by wich they were each known previous to their marriage.

103. If the parties entering marriage are of different citizenship (if one of the parties is a Russian citizen), the change of citizenship may be effected according to special desire of the bridegroom or bride upon general rules.

104. The change of abroad by one of the married parties shall not make it obligatory for the other to follow.

105. Marriage does not establish community of property

106. Married parties can enter into property contracts permitted by law. Contracts between husband and wife with a tendency to diminish the husband's or wife's rights over property are void and not obligatory to a third person, as

well as to the married parties, who may at any time refuse to keep such contracts.

107. A needful and unable to work party (i. e. not possessing the minimum living expenses) is entitled to the right of receipt of support from the other party, provided the latter is able to afford support

108. Should one of the married parties refuse to support the other a needful and unable to work, the latter reserves the right to apply to the department of Social Security attached to the Government Sovdep according to the place of residence of the husband or wife—defendant, with the request to compel the husband or wife to pay support.

109. Petitions for payment of support are free of duty and may be submitted personally or sent by post; petitions may be also submitted in a verbal form, provided an official report be written thereupon.

110. The Department of Social Security upon receipt of the petition summons the plaintive and the defendant or if more convenient communicates with them by post.

111. The Department of Social Security may decree the support to be paid and the amount and form thereof after having made expedient enquiry and ascertained the justice of the presented claim.

112. The decision of the Dept. of Social Security relating to the payment of maintenance has to be pronounced during a public session not later than one month from the day of receipt of the notice.

113. When determining the dimension and form of maintenance to be paid the Dept. of Social Security takes into consideration the degree of exigency and working capacity of the declarer, as well as the minimum living expenses determined in the collective contracts between workmen and employers for a given locality.

Note. Persons under age, men who have attained 55 years, and women—50 years, are considered, without special evidence, as unable to work.

114. The Dept. of Social Security cannot take the decision to substitute the periodical payments by an immediate payment of a sum forming the total of the periodical payments.

115. The decisions of the Dept. of Social Security respective payment of maintenance, as well as form and amount thereof are obligatory to all persons and establishment, have the force of a court decision and are to be carried into effect in accordance with general rules.

116. Complaints against the decisions of the Dept. of Social Security may be brought by the parties to the local court without limitation of term.

117. The local court takes into consideration the principles set forth in articles 109, 111, 114 and the general regulations of law-proceedings established for the local peoples' court, when deciding upon the question relative to payment of maintenance and determining the amount and form thereof.

118. The decision of the local court on those disputable questions may be appealed against in accordance with general rules.

119. In case the marriage is annulled by death or a court declaration of one of the married parties to be dead, the wife or husband, in case of exigence and inability to work, obtains a maintenance out of the property left by the deceased.

120. The right of maintenance is granted also to a husband or wife considered to be exigent and unable to work of such parties that are deemed by the court to be untraceably absent.

121. In case of death or a court declaration of death or absence of a person, who was owner of a trading or industrial enterprise, the remaining party is provided for by means drawn from the income of the enterprise, which has to pass over under the management of the local Sovdep.

122. Petitions relative to payment of maintenance in cases specified in arts. 119—121 are submitted to the Dept. of Social Security, attached to the government Sovdep, according to the last place of residence of the person deceased or declared to be dead or absent.

123. In cases suffering no delay the payment of maintenance to husband or wife may be paid temporarily by order of the establishment making the inventory and setting the valuation of the property left.

Note. The order issued by the establishment, mentioned in the preceding article, is immediately communicated to a corresponding Dept. of Social Security. In case no harmony is attained on the question of maintenence between the former and the latter establishment the matter is passed for consideration to a local court. Payments must be made without impediment until reversion of the decision through the court.

124. The Dept. of Social Security is guided by arts. 110, 111 and 114, when deciding the question of payment of maintenance and determining the dimension and form thereof.

125. The decision of the Dept. of Social Security may be disputed by the interested parties in a general form of suits brought to the local court without limitation of term.

126. In case the disagreement between the plaintive and the Dept. of Social Security exists only in respect of the dimension and form of maintenance whilst the right of maintenance is not disputed, the maintenance is paid in the amount

and form determined by the Dept. of Social Security until final suttlement of the disputable question by the court.

127. The establishment, which is in charge of the property left, can dispute within one month the understanding arrived at and appeal to the Peoples' Commissariat of Social Security. The dispute is passed to the local court in case of reversion of the understanding by the Peoples Commissariat of Social Security. The appeal against the agreement cannot serve as interruption for payment of maintenance until final settlement of the question by the Peoples' Commissariat of Social Security or the local court.

128. The spouse of the deceased receives maintenance out of the property left on equal terms with the relatives of the deceased, but in preference before the creditors of the deceased.

129. In case the property of the deceased does not exceed 10.000 roubles and consists of a house, furniture and working tools for town and village, it is left at the disposal of the remaining party; the latter disposes of the property on equal rights with the relatives, entitled to participate in the property left.

Note. In case a dispute should arise on the question of management of the property left mentioned in the preceding article between the relatives and the spouse of the deceased, the matter is decided upon by the local court.

130. The right of a needful and unable to work spouse to be maintained by the other is kept even on dissolution of marriage by divorce until a change of conditions entitling to maintenance has taken place (art. 107).

131. In case between the parties to be divorced full harmony is obtained on the question of maintenance, the judge determines the dimension and form of maintenance to be paid by one spouse to another simultaneously with the decision of dissolution of marriage.

132. In case of disagreement between the parties, the question of maintenance, its dimension and form is decided upon in the general order of suits in the local court dispite of the amount of suit; however, before final settlement of the dispute by the court maintenance to the needful and unable to work spouse must be paid temporarily in the dimension and form determined by the judge, who has taken the resolution to dissolve the marriage.

SECTION III.

Family right.

Chapter I. Descent.

133. Reality of descent is considered to be the basis of the family. No difference is to be made between the relationship established through legal church-religious marriage or illegal »outside marriage».

Note I. Children descending from parents related by nonregistered marriage have equal rights with those descending from parents, whose marriage was registered.

Note II. The provision of the present article extends also over illegal children born before the proclamation of the civil marriage (December 20th, 1917).

134. The persons registered as parents in the register of births are considered respectively as father and mother of a child.

135. In case of absence of an entry of the parents of a child or its incorrection or incompleteness, the interested parties reserve the right to prove their paternity and maternity respectively in a legal way.

Note. Causes relative to descent are under the jurisdiction of the local peoples' court.

136. The right to prove the true descent of a child is put upon the interested parties, including the mother, even in case, when the parties registered as the parents of a child at the moment of its conception or birth have been married by registered contract or by a contract having the validity of a registered one.

137. Should it be established by examination of the court that the entry is false and based upon false testimony of parties pretending to be parents, the parties guilty of false testimony are held responsible as for criminal offense and the entry is declared to be void.

138. The court is to notify of the declaration of the entry being void and of the determined true descent of a child not later than within 3 days from the day of the resolution taking legal force, that dept. for entries of civil state acts, where the respective entry of birth is kept, to be accordingly changed.

139. Evidence of paternity, in case of the father disowning the child, is to be established according to the form prescribed in articles 140—144.

140. An unmarried woman, who becomes pregnant, shall give notice not later than three months before the birth of the child, to the local department for entries of civil state

acts, according to her place of residence, stating the time of conception, the name and the residence of the father.

Note. A similar notice may be given by a married woman in case the conceived child does not descend from her legal husband.

141. Of the receipt of such a notice the department for entries of civil state acts informs the person mentioned as father in the notice to article 140 and such person has the right within two weeks from the day of receipt of information to appeal to the court against the statement of the mother on ground of its incorrectness. If the appeal is not made within the term specified, the respective person is considered as the father of the child.

142. Suits relating to the evidence of paternity are acted upon in the ordinary course; but the parties are bound to give true testimony, otherwise they will be held responsible for perjury.

143. Should it be established that the person, designated in art. 141, has had such intercourse with the child's mother as to become according to the natural course of events, the father of the child, the court must decide to recognize him as father and at the same time compel him to partake in the expenses connected with the gestation, delivery, and maintenance of the child.

144. If by court examination it will be defined that the person mentioned in article 141 was, at the moment of conception, in connection with the child's mother, who at the same time had intercourse with other persons, the court is to summon the latter as defendants and to impose upon all of them the obligation to take a share in the expenses, stated in art. 143.

Chapter II. Personal rights and obligations of children and parents.

145. Children descending from parents related by registered marriage adopt the matrimonial surname of their parents. Children of parents related by non-registered marriage can be called by the father or mother's or by their joint surname. The surname of such children is determined by agreement between the parents, failing such by decision of the court.

146. In case of dissolution of marriage by divorce or its proclamation to be void, it depends upon the agreement between the parents to determine, which of the three surnames mentioned in art. 145, the children shall adopt. In case of disagreement between the parents, the surname of the children is to be decided by the judge's personal authority and in case of dispute between parties, by the local court.

147. If the parents are citizens of different countries if

one of the parties is of Russian citizenship) the citizenship of children is determined by previous agreement between the parents, stated by them at the conclucion of marriage in the department for entries of civil state acts.

Note. If no harmony on this question is attained between the parents, the children are considered as Russian citizens, but upon attainment of full age they are reserved the right to declare their wish to follow the citizenship of the other parent.

148. It is left to the parents to decide what religion will confess their children under 14 years of age. In default of an agreement between the parents the children will be considered to belong to no religion until they attain 14 years of age.

Note. The agreement between the parents, mentioned in the present article, relative to their children's religion must be concluded in a written form.

149. Parents may exercise their paternal rights over a male child till he attains 18 years of age and over a female child till 16 years of age.

150. Paternal rights are exercised by the parents conjointly.

151. All measures concerning the children, are taken by the parents in accordance with mutual agreement.

152. In case of disagreement between the parents, the disputable question is decided by the local court with the participation of the parents.

153. Parental rights are exercised exclusively for the benefit of the children and in case of misuse the court is entitled to deprive the parents of their rights.

Note. Suits relative to the deprivation of parents of their paternal rights are under the jurisdiction of the local court and can be commenced by representatives of the government authority, as well as by private persons.

154. Parents are bound to take care of the development of their children under age, of their education and their preparation for a useful activity.

155. The protection of the personal interests of the children, as well as of their property, is put upon the parents, who are the representatives of the children in and beyond the court (without appointment as guardians or trustees).

156. Parents are bound to keep their children with them and have a right to claim their restoration from every person, who retains the children without provision of the law or the court.

157. The parents are given the right to settle the manner of the up-bringing and instruction of the children, but the parents have not the right to enter any contract, concerning the employment of their children from 16 to 18 years of age without their children's consent.

158. Should the parents live separately it depends upon their agreement with whom of them their children under age shall live. In default of an agreement between the parents, the question is determined in the general course of suits by the local court.

159. In cases of deprivation of the parents of their paternal rights by court, the latter is obliged to allow the parents interviews with their children, unless it should be recognized that such interviews have an evil and prejudicial influence upon the children.

Chapter III. Rights of property and obligations of children and parents.

160. The children have no rights to the property of their parents, nor the parents to that of their children.

161. Parents are obliged to provide board and maintenance for their minor, needful and unable to work children.

Note. The stated parental obligations are suspended, inasmuch as the children are substained by public or government care.

162. The duty of maintaining the children is put equally upon both parents, whilst the dimension of the maintenance paid by them is defined in accordance with their means; however, the sum expended by each parent must not be less than half of the living minimum determined for a child of a given locality. The parent, who is unable to pay the whole of his share, pays only a part of it.

163. Children are obliged to provide miantenance for their parents, who are in a needy condition and unable to work, unless the latter receive maintenance from the governmnt in accordance with the law of insurance against illness and old age; or with measures of Social Security.

164. Should the parents refuse to provide maintenance for their children, or should the children be unwilling to maintain ther parents in cases stated in articles 162—164, the persons, entitled to maintenance reserve the right to claim same in accordance with forms prescribed in articles 108—118.

165. The right of children to obtain maintenance from their parents and the right of parents to obtain maintenance from their children in cases stated in articles 161—168 is reserved even in case of dissolution of marriage of the parents either by death of one of them or by divorce, as well as by acknowledgment of the marriage to be void.

166. On the dissolution of marriage by divorce and subject to mutual agreement between the parents on the question as to who of them and in what amound will bear the expenses connected with the maintenance and up-bringing of the children, the judge simultaneously with the decree of divorce

takes a decision on the above question. In case the agreement relative to maintenance and education of the children, entered into by the parents should not be for the benefit of the children, the latter reserve the right to claim from each of the parents the maintenance determined by law.

167. In default of an agreement between the parents on the subject of maintenance of their children, the decision on the question is put upon the local court; however, the judge, who decreed the divorce, temporarily decides which of the parents and in what proportion is to bear the expenses, until final settlement of the dispute by the court.

168. Whilst settling the affair relative to the maintenance of the children, the local court must take into consideration the means and working capacity of both of the parents, as well as the impossibility of the mother, able to work, to produce any work on account of the necessity to take care of the children or gestation.

169. The deprivation of the parents of their parental rights does relieve them of the expenses necessary for the maintenance of the children.

170. After the death of the parents or of either of them, as well as after the death of the children, the maintenance for the parents or the children, who are indigent and unable to work, is paid out of the property of the deceased in accordance with the form and rules determined by articles 122—128.

Note. The present article concerns also the cases, when persons are declared to be dead or untraceably absent.

171. In the case foreseen by article 129, the children and parents acquire the right to administer and dispose of the property left on equal footing with other parties, entitled to the same rights.

Chapter IV. Rights and obligations of persons related to one another.

172. Indigent persons (i. e. not possessing the minimum living expenses) and relatives who are unable to work, of the direct descending or ascending lines, consanguineous and half-consanguineous brothers and sisters, are entitled to obtain maintenance from their wealthy relatives.

Note. No difference is to be made between the relationship established by legal or illegal marriage.

173. Relatives of the direct ascending and descending lines, as well as brothers and sisters in the order of the established progression are obliged to provide maintenance only in cases, when the indigent persons are not in position to obtain maintenance from spouse, children or parents respectively on account of their abcence or insolvency.

174. Should relatives refuse to maintain their indigent and unable to work relations, the latter are reserved the right to claim the maintenance due them in accordance with the forms and rules stated in articles 108—118.

175. Persons conjointly bound to provide maintenance, are responsible for it in equal proportions, unless the court on account of the difference with regard to the means of the persons in question, of the absence of one of them or of some other worthy consideration has found it necessary to determine another dimension of their participation in the fulfillment of the above obligation.

176. The court is entitled, in case of imposibility immediatelly to obtain the maintenance from the persons obliged to provide such, to impose this duty upon the further party under obligation, reserving the latter the right to recover their expenses from the party who is immediately obliged to provide maintenance.

177. Payments for maintenance can be assured by the court by the property of the person, obliged to provide maintenance.

Measures of security can be taken before the conclusion of the suit relative to the provision of maintenance.

178. Agreements containing the refusal of the right of maintenance are void.

179. After the death of a relative, the court declaration of such person being absent or dead, the parties, mentioned in art. 173, obtain their maintenance out of the property left by the deceased in accordance with the forms and rules mentioned in arts. 122—128.

180. In case the property left is not sufficient to grant payment of maintenance to all persons antitled thereto, preference is given to those who are most indigent.

181. In the case mentioned in article 129, the relatives can immediately administer and dispose of the property left on an equal footing with the husband or wife, the children and the parents of the person, who has left the property.

Chapter V. Adoption.

182. Affiliated, adopted and step-children, as well as their poste rity in relation to their adopters, and the latter in relation to the affiliated, adopted and step-children and their posterity, have equal rights with relatives by descent.

183. The adoption of children of one's relatives or olien children is forbidden from the moment of the present law coming into force. Every such adoption executed after the moment mentioned in the present article does not give any rise to obligations or rights to both the adopters and the adopted.

SECTION IV.

Guardianship.

Chapter I. Organs of guardianship.

184. Tutelar establishments, realising the task of guardianship either directly or through the intermidiary of guardians or curators, are considered to be bodies of guardianship.

185. The Department of Social Security attached to the government, and in Petrograd and Moscow to the Municipal Soviet of Deputies, as well as the Peoples' Commissariat of Social Security are considered to be tutelar establishments.

Note. The finctions of tutelar establishments relative to the Russian citizens abiding abroad, are executed by the representatives of Russia abroad.

186. The duty of the Departments of Social Security consists of the organisation of general means of guardianship over minors and defective individuals, as well as establishment, realisation and withdrawal of guardianship, appointment, discharge and general supervision of the activity of guardians and curators.

187. Under the juristdiction of the Peoples' Commissariat of Social Security is the guidance over the organisation of the general measures of guardianship over minor and defective individuals, as well as supervision over the activity of the Depts. of Social Security.

188. The guardians protect all the personal and property interests of their wards being their legal representatives.

189. Curators are appointed for execution of separate deals or for the management of the property in general.

Note. Provisions made for the guardians are also applied to the curators, inasmuch as no special rules have been determined.

Chapter II. Instutition and withdrawal of guardian and curator-ship.

190. Guardianship is established over minors and persons suffering of mental dicease and is realised either by the Dept. of Social Security, or by a guardian specially appointed for this purpose.

191. Persons of the male sex not having attained 18 years

of age and those of the female under 16 years of age are considered to be under age.

Note. Persons who have not attained full age, can be considered, subject to their consent, as of full age by a special decision of the corresponding Dept. of Social Security.

192. Every minor person, not being in the care of its parents, is considered to be subject to guardianship.

193. Persons suffering from a mental dicease are subject to guardianship if determined as suffering from that dicease.

Note. Instruction relative to the examination of mentally ill persons is attached herewith.

194. Guardianship is established in accordance with the decision of the Dept. of Social Security relative to the place of residence of the person over whom guardianship is to be established.

195. The Dept. of Social Security is informed of the necessity of establishment of guardianship in case foreseen by art. 192 by functionairies and establishments, which will be informed of such a necessity, as well as by the near relatives of the persons, subject to guardianship, and these persons themselves.

196. The Dept. of Social Security is informed of the necessity of establishment of guardianship in the case foreseen by art. 193 by the Medical Dept. attached to the government Sovdep of Deputies in accordance with the residence of the person, found mentally ill.

197. The Dept. of Social Security institutes a guardianship on his owu accord, should it be informed of the necessity of establishment of such by other means as stated in articles 195 and 196.

198. Guardianship over an adult is instituted in accordance with his petition of such, should it be established, that the said person, due to old age or any other infirmity or inexperience, in not in a position to manage his affairs in an expedient manner or protect his interests in any definite case.

199. Of the appointment of guardianship a publication will be made in the local periodical press, inserting publications of such kind.

Note. A list of persons suffering from mental dicease over which guardianship is instituted, is publicated for general knowledge by the Peoples' Commissariat of Justice.

200. The interested parties are reserved the right to dispute within 2 weeks, from the moment of appearance of the publication stated in art. 199, the decision of appointment of guardianship with the local, according to place of residence, Dept. of Social Security.

201. Guardianship is withdrawn, when the cause of its institution falls away.

202. Guardianship over a minor is annulled from the moment of his becoming of age.

203. When declaring a person to be of age in the order, determined by the note to art. 191, the Dept. of Social Security defines simultaneously the moment of entering full age and issues a publication containing the declaration of the person to be of full age in the local periodical press, inserting publications of such kind.

204. The guardianship over mentally ill persons is withdrawn by decision of a corresponding Dept. of Social Security upon receipt of information from the Medical Dept. relative to the recovery of the said person.

205. Curatorship is withdrawn by decision of a corresponding Dept. of Social Security, in case the cause for same has disappeared.

Chapter III. Appointment and revocation of guardians.

206. The appointment of a guardian in the cases, when the Dept. of Social Security does not undertake a direct realisation of guardianship, must take place within a week from the moment the corresponding Dept. of Social Security learns of the necessity of institution of such an appointment.

Note. One guardian may be appointed over one person, as well as over a group of persons.

207. As guardians are appointed persons of age capable of fulfilling this office.

208. The following persons cannot be appointed as guardians:

a) persons being themselves under guardianship;

b) persons, deprived by court of civil rights good (reputation, public confidence, family and property rights);

c) persons, whose interests are opposed to the interests of the ward and in particulars those, who are in hostile relations with the latter.

209. When appointing a guardian, preference is given to the person selected by the ward (if the latter is not mentally ill and has attained his 14 year), his mother or father, and in default of such person — to the near relative or spouse of the future ward.

210. When appointing a guardian out of the number of persons mentioned in art. 209, the Dept. of Social Security must take into consideration the personal relations of the person appointed guardian to the ward, as well as the proximity of their residences.

211. The person appointed as guardian is immediately informed of his appointment in a written form. A publication relative to the appointment of the guardian is simultaneously issued in the local periodical press, inserting publications of such kind.

212. All interested parties are entitled to appeal within two weeks from the moment of appearance of publication to the local court according to the situation of the Dept. of Social Security against the decision of appointment as guardian of a given person.

213. Every citizen of the Russian Republique, appointed as guardian by the Dept. of Social Security, is obliged to accept the office.

214. The following persons can refuse the appointment of guardianship:

a) those who are 60 years old;

b) those, who due to a physical defect, could but with difficulty execute the office of a guardian;

c) those, who realise their paternal rights over more than 4 children;

d) those who possess already the appointment of an individual or a collective guardianship.

215. If one of the causes for refusal of guardianship, foreseen by art. 214, should exist, the person appointed as guardian can use his right of refusal within a week from the moment of receipt of information of his appointment. The person, who has not informed of his refusal is considered to have accepted the appointment.

216. In case the refusal to accept the appointment as guardian will be found well-grounded, the Dept. of Social Security shall select another person as guardian, however, before the newly appointed guardian has entered office, the former, who has advised of his refusal, must execute the obligations of guardian.

217. The tutelar obligations are considered to be accepted from the moment of the receipt by the respective person, appointed by the Dept. of Social Security, of an information respective the appointment.

218. The obligations of guardian are suspended from the moment of withdrawal of guardianship, as well as under conditions stated in art. 208.

219. A guardian may be revoked by decision of the Dept. of Social Security, in case he will be found guilty of neglect in execution of his office or forfite of powers entrusted, as well as when he should execute his tutelar obligations unsatisfactorily to such an extent, that this should threaten the interests of the ward.

220. The ward himself, as well as any other third person may request the revocation of a guardian on ground of reasons mentioned in art. 219.

221. Before the resolution of the revocation of the guardian is decreed, the Dept. of Social Security is obliged to institute an inquiry into the circumstances of the case and an examination of the guardian.

222. If during the fulfillment of tutelar obligations cause may arise owing to reasons mentioned in §§ a, b and c of art. 214 for declination of tutelar obligations, the guardian may apply to be discharged in the order, prescribed by art. 215.

Chapter IV. Protection of wards, administration of their property and responsibility of the bodies of guardianship.

223. The protection of personal and property interests of wards is put upon the Dept. of guardianship or guardian, who are the representatives of the ward in and beyond the court.

224. The guardian over a minor takes care of the personality of the ward, of his education and preparation for a useful activity.

225. The guardian is obliged to keep the ward with him and has the right to request his restoration from any person, who attempts to keep the minor ward against the decision of the law or the court.

226. The guardian must obtain the consent of the respective Dept. of Social Security, should he wish to give the ward into the hands of some other person or establishment to be brought up and instructed or to enter, with the consent of the ward, who has attained 16 years of age, into a contract relative to the employ of the ward.

227. The guardian over an insane person must protect and support him in all his personal affairs and take care of his health.

228. In case of necessity to place an insane person under medical treatment, the guardian has to inform of this the Dept. of Social Security, which suggests to the Medical Dept. to appoint a medical commission. This latter commission determines the question of placing the insane person under medical treatment.

229. The guardian discharges the duties imposed upon him relative to the protection of the ward, gratis, but he has the right of compensation of all the expenses, inasmuch as same do not exceed the income of the ward, incurred in connection with the up-bringing, education and treatment of the ward.

230. The guardian administers the property of the ward as a careful working master.

231. Should the ward succeed to the immediate management and disposition of the property, mentioned in article 129, the body of guardianship administers this property on an equal basis with other persons, who have the right to participate in the administration and disposition of the property.

232. The body of guardianship, being the representative of the ward, is entitled to perform all such transactions, as could perform. the ward himself, should he possess full acting capacity.

233. The guardian may not represent the ward, should the latter be closing a transaction or be engaged in a lawsuit with the spouse of the guardian or his relatives in the direct ascending and descending lines.

234. The guardian cannot be a contracting party in a transaction respecting the property of the ward, as well as acquire claims in the name of the ward.

235. The permission of a corresponding Dept. of Social Security is required for the payment of debts to the guardian on transactions concluded by him before his appointment as guardian.

236. The guardian cannot grant donations as a representative of the ward.

237. The guardian is obliged to submit yearly, not later than the 15th of January of a new year, to the Dept. of Social Security a written account of the administration of the property of the ward inasmuch as the income of this property does not exceed the minimum living expenses of a given locality.

238. For the administration of the property of the ward, the Dept. of Social Security may appoint an allowance for the guardian, taking the following into consideration: a) the profit of the property of the ward; b) the means of the guardian, as well as c) the amount of work, executed by the guardian for administration of the property of the ward.

239. The ward is reserved the right after cessation of guardianship to request of the guardian compensation of all damages and expenses, caused by non-conscientious and negligent administration.

240. The guardian submits a special account after cessation of guardianship.

241. All actions of the guardian relative to the tutelage of the ward may be appealed against to the Dept. of Social Security by the ward himself, as well as by any other third person.

242. The actions of the guardian relative to the administration of the property of the ward may be appealed against

to the respective Dept. of Social Security by the ward himself, as well as by interested third party.

243. The dicision of the Dept. of Social Security relative to the appeal against the actions of the guardian, can be disputed by the interested parties, who can appeal to the Peoples' Commissariat of Social Security.

244. Complaints against the actions and decisions of the Depts. of Social Security can be brought to the Peoples' Commissariat of Social Security, which is bound to examine the complaint not later than within 3 months from the day of the receipt of the complaint.

245. Should the Peoples' Commissariat of Social Security enforce the disputed decision of the Dept. of Social Security, the interested parties are reserved the right to contest the said decision in accordance with the general rules of lawsuits.

246. The regulations, contained in the present section, are applied respectively also in cases, when the Dept. of Social Security considers it necessary to institute a guardianship for other reasons, particularly on account of prodigality or of the discovery of such properties, as may render it dangerous or impossible to leave such person without social tutelage.

Appendix to art. 193.

Instructions relative to the examination of mentally ill persons.

1. Petitions relative to the examination of persons, suffering from a mental dicease, for the purpose of institution of guardianship, are submitted to the Medical Dept. or to an establishment substituting same, attached to the government Sovdep, in accordance with the residence of the person in question.

2. Petitions may be submitted by the relatives, guardians curators of persons suffering from mental alienation, as well as by establishments, employing the ill person, by unions, party or organisation, of which the said person is a member, and by his inmates.

3. The Medical Dept. upon receipt of the petition relative to the examination, appoints a medical commission to perform the examination.

4. The Medical Commission is summoned under the chairmanship of the manager of the Medical Dept. or of his assistant and consists of not less than three physician-specialists out of the staff employed by the Medical Dept. attached to the local psychiatric clinic, or of free practicioners.

Note I. In case the sick person is under treatment

in a special private, public or government establishment, the medical commission must include the physician of the respective establishment with the right of a deciding voice.

Note II. The medical commission must include with the right of a deciding voice, besides the persons, mentioned in the present article, the physicians invited by the sick person himself or by persons, who have petitioned for examination.

5. The Medical Dept. informs of the day, hour and place of session of the medical commission the following persons, required to be present:

I) the representative of the Municipal Dept. of the Government Sovdep;

II) the local public judge, according to the selection of the local Council (assembly of judges);

III) persons. who petitioned for examination of the sick person.

6. The examination is performed in the building of the Medical Dept., where the sick person is to be brought by the party, who has petitioned for examination. Should it be found imposible to bring the sick person to the Medical Dept., by this the unwillingness of the said person to be brought to the Dept. is considered to be an impossibility, the examination is to be performed by the medical commission at the place of residence of the ill person in the presence of all persons mentioned in § 5.

Note. At the examination taking place in a circuit, the regular representative of the Council of the public Judges is substituted by the local public judge.

7. The medical commission is entitled to use all means, accepted by the medicine for the determination of insanity, while determining the normality of the person under examination. The medical commission is reserved the right in special cases, when it is impossible to draw a definite conclusion after the first examination, to appoint within a certain space of time a second examination or to place the person under examination for test in a special medical establishment for a time considered to be necessary by the medical commission.

8. Detailed minutes are kept of the session of the commission and the results of the examination are entered into an act provided with signatures of all members of the medical commission.

9. Over the property and personality of the person found insane by the medical commission guardianship is instituted, of which the Medical Dept. informs the Dept. of Guardianship.

Note. The Dept. of Guardianship makes an announcement of the institution of guardianship in the local press inserting publications of this kind.

10. The petition for re-examination of an insane person for the purpose of recognising him to have become sane may be submitted besides the persons mentioned in § 2 of the present instruction, also by the medical establishments, where the ill person has been placed for treatment as well as by the ill person himself.

11. A new examination of the insane person, for the purpose of recognising him recovered, is performed according to forms foreseen by articles 1—8 of the present instruction.

12. The Medical Dept. informs the Dept. of Guardianship of the recovery of the person for withdrawal of guardianship.

13. Costs incurred in connection with the examination and the institution of guardianship are imposed upon the persons, who underwent examination and in case the latter possess no means—upon the State in accordance with the estimate of the Medical Dept.

Note. Costs incurred in connection with examination of a person, who upon examination has been found sane by the medical commission, are imposed upon the persons, who petitioned for examination.

14. Persons guilty of deliberate false testimony with a view of obtaining the recognition of a person to be insane, are held responsible for perjury.

15. The decision of the medical commission relative to the recognition of a person to be insane, may be appealed against within one month from the moment the decision has been made, to the local peoples' court, according to the place of residence of the person recognised to be insane. It is left to the discretion of the court to leave the appeal without results or issue orders through the Medical Dept. to institute a re-examination of the person in question by a new medical commission in the presence of the peoples' court.

16. The decisions of the local peoples' court relative to appeals against the actions of the medical commission are not liable to any further appeals.

Signed by:

President of the All-Russian Central
Executive Committee of Soviets Sverdloff.

Secretary of the Central Committee
of the Soviets Avanesoff.