fuge to evade the statute. It is a well recognized principle of law that one cannot do by subterfuge or indirectly what he cannot do directly.

"An intention to accomplish certain results will be presumed where such results are the natural consequences that may reasonably be expected * * * Parties will be presumed to have acted with intent to produce the result which the nature of the act necessarily or reasonably does produce or tends to produce, and this is true in civil as well as criminal instances."

Knight v. Jillson Co. v. Miller, 172 Ind. 27, 34, 35.

It follows from the above that section 28-519 of Burns' Indiana Statutes Annotated 1933, above quoted, requires that a certificate be issued for those minors between fourteen and eighteen years of age.

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AUDITOR OF STATE: Foreign Investment Companies, Whether Auditor may accept substitution of bonds deposited by Fidelity Investment Association of Wheeling, West Virginia.

December 16, 1938.

Hon. Frank G. Thompson,
Auditor of State,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion with respect to your right as Auditor of State to accept a substitution of $25,000 in bonds deposited by the Fidelity Investment Association of Wheeling, West Virginia, pursuant to chapter 215 of the Acts of 1901.

The above Act, approved March 11, 1901, is an Act entitled:

"An Act regulating foreign corporations issuing stocks, bonds, contracts and agreements upon which payments are to be made in installments or receiving deposits of money for any purpose, prescribing conditions upon which they can do business in this state,
prescribing the duties of the Auditor of State with reference to such corporations, providing penalties for the violation of the provisions of this act, and declaring an emergency.”

Sections 3 and 4 of said Act provide as follows:

“Sec. 3. Every such corporation, association or society before the auditor of state shall issue his authority to do business shall deposit with said auditor of state, stocks or bonds, approved by said auditor in a sum, not less than $25,000.00, which amount shall remain in possession of said auditor for and during the first year that said corporation, association or society shall do business. At end of said first year said corporation, association or society shall deposit with said auditor of state stocks or bonds approved by said auditor equal to the amount of its liabilities to citizens of this state and shall keep such deposit at all times equal to such liabilities.

“Sec. 4. Any time such corporation, association or society, shall fail to make such deposit, as required by sec. 3, or shall become insolvent or fail to carry out its contracts or agreements with citizens of this state, then said auditor of state, shall revoke its authority to do business in said state and shall ask the proper court of this state to appoint a receiver to take charge of such deposit for the benefit of its creditors in said state.”

It is apparent from the foregoing that the above Act is modeled somewhat after the plan of the provision of the Act of 1899 for the organization of domestic life insurance companies and requiring a deposit with the insurance commissioner of the legal reserve liability on said policies. The fund required to be deposited is a fund expressly required and stated to be for the benefit of the creditors of the corporation in this state, the amount required being an amount equal to the amount of its liabilities to the citizens of this state.

The Act contains no provisions authorizing the Auditor of State to accept substitutions of bonds once filed or deposited. This chapter, however, was repealed by chapter 179 of the
Acts of 1935, but in repealing said Act the Legislature expressly provided that:

"No right, power, privilege, or immunity, vested or accrued by or under any law or laws or parts of laws hereby repealed shall be impaired or abrogated by reason of such repeal, nor shall such repeal affect any suits pending, rights of action conferred, or duties, restrictions, liabilities or penalties imposed or required by or under any such law or laws or parts of laws upon or of any corporation or person subject to such law or laws or parts of laws before this Act shall become effective, but every such corporation or person shall, as to all actions hereafter performed, be subject to the provisions of this Act."


It is not entirely clear as to just how far this savings clause goes, but I think the intention was to make the new Act, that is the State Securities Act, applicable to the new transactions of such corporations. As to liabilities which had accrued or would accrue to Indiana citizens on account of transactions which had taken place or had been begun prior to the effective date of Chapter 179 of the Acts of 1935, the old Act would apply. To state it a little differently, the repealing Act took effect as of April 1, 1935. At that date, doubtless, the investment company had incurred liabilities to Indiana citizens on account of transactions prior to that date. On account of the nature of the business there would be additional liabilities accruing by virtue of these transactions which would not have had the benefit of the regulatory and safeguarding processes set up in Chapter 179 of the Acts of 1935. As to all of these matters, including liability accrued and to accrue, Chapter 215 of the Acts of 1901 would still apply and the auditor of state would be required to keep the deposits for the protection of such Indiana citizens. There is no doubt in my mind that under the situation as it now exists the auditor of state is required to keep on deposit the securities required by Chapter 215 of the Acts of 1901 until all of the liabilities on account of which such securities were deposited have been liquidated.

The further question arises, which after all is the question
which you have submitted, as to whether you may accept a substitution of new securities for securities already on file. Ordinarily, a public officer is limited strictly to the authority granted to him by the statutes. I do not find any statutes which authorize the auditor of state to make such substitution, and until such authority has been granted by the Legislature, I do not think such authority exists.

ACCOUNTS, STATE BOARD OF: Justice of the Peace, whether the salary provision of Burns’ (1933) Sec. 5-1705 applies in Warren Township, Marion County.

December 19, 1938.

Hon. William P. Cosgrove,
State Examiner,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter calling attention to section 5-1705 of Burns’ Indiana Statutes Annotated (1933) which provides as follows:

“Each justice of the peace in and for any township in this state wherein there is located a city or any part of a city having a population of three hundred thousand (300,000) or more, as shown by the last preceding United States census, and wherein are permanently located and sitting three or more municipal courts, shall receive a salary of two thousand dollars ($2,000) per annum, payable quarterly, on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September and the thirty-first day of December, out of the township treasury of such township.”

The only city of the state having the required population is the City of Indianapolis, a part of which is located in Center Township of Marion County. There are also permanently located and sitting in Center Township of Marion County three municipal courts. Another part of the City of Indianapolis is located in Warren Township of Marion County, but there are no municipal courts in said Warren Township.