

Table of Contents

	PAGE
BIENNIAL REPORT OF THE CHAIRMAN	3
ACTIVITIES OF THE COMMITTEES	6
Committee on Child Welfare Laws	6
Committee on Co-operatives	10
Committee on Decedents' Estates Laws	12
Committee on Finance Companies	14
Committee on Fish and Game Commissions	20
Committee on State-Local Highway Financing	22
Committee on House of Representatives Personnel	25
Committee on Legislative Printing	26
Committee on Municipal Authorities	27
Committee on Revision of the Penal Code	27
Committee on Senate Personnel	31
Committee on Strip Mining	31
Committee on Tax Study	31
Committee on Unemployment Compensation	32
PUBLICATIONS ISSUED BY THE JOINT STATE GOVERNMENT COMMISSION	36
MEMBERSHIP OF THE JOINT STATE GOVERNMENT COMMISSION AND ITS COMMITTEES	38
MEMBERSHIP OF ADVISORY COMMITTEES	41

In Memoriam

In 1946, the Commission suffered a severe loss by the untimely death of its counsel, A. Alfred Wasserman. As one of its founders in 1939, he rendered unselfish, loyal and continuous service, except for a period of two years, until the time of his death. His willingness to aid, his kindness, his unusual ability, his thorough knowledge of state government, his zealous, energetic labor for the Joint State Government Commission will long be remembered by all.

BIENNIAL REPORT

OF THE

JOINT STATE GOVERNMENT COMMISSION

1945-1947

To the Members of the General Assembly:

During these changing conditions of American life, facilities for distributing facts and ideas among Legislators and others are multiplying and enlarging. Governments, Federal, State and local, more and more realize the need for organized continuous research. For many years, we relied upon the knowledge of men in public office or upon hasty inquiries of legislative committees for information and facts.

Today we are confronted with new complex problems which can only be solved by thorough knowledge of facts, calm and thoughtful consideration, extensive investigation, and continuous research before undertaking the business of law-making with resultant salutary effects.

The Joint State Government Commission was established to provide means for investigating and studying problems of government. It is intended to serve the Legislature as a fact-finding body and as an authoritative source of information.

We were directed to make fifteen studies by the General Assembly and the Executive Committee. This was a tremendous task, but the best evidence of work well done will be found in the printed reports of the various committees, advisory groups, and this Summary Report.

Committees on Legislative Apportionment, Strip Mining, Tax Study, and Unemployment Compensation

At the organization meeting of the Joint State Government Commission on June 5, 1945, these committees, created in previous bienniums, were continued, to become active only when need for further study arose.

The Committees on Legislative Apportionment found no necessity for further study of the subject assigned to it and held no meetings.

The Committee on Tax Study held only one meeting and the report of that committee will indicate the reasons for its inactivity. It is the opinion of the Executive Committee that a Committee on Tax Study should be maintained by the Commission as a standing inactive committee, to become active when emergency fiscal problems arise or when need for a special study occurs.

Advisory Committees

One of the innovations of our committees during this biennium, of which we are very proud, was the appointment of advisory committees to assist when special technical studies were undertaken.

Committee on Decedents' Estates Laws

To assist the Committee on Decedents' Estates Laws, an advisory committee of thirty-two members was appointed, which consists of distinguished judges of the Orphans' Court and outstanding specialists in the legal profession. These brilliant men have brought to our Committee on Decedents' Estate Laws the advantages of their expert knowledge of the subject and have rendered invaluable assistance in the revision of these laws. They have served without compensation, except to be refunded their railroad fares and actual hotel room rent. The Commission has, thus, received thousands of dollars' worth of expert legal advice through the efforts of a group of men who unselfishly serve the Commonwealth and its ten million people.

Committee on Revision of the Penal Code

This committee received similar assistance through its advisory committee which is composed of twenty-one members of the bench and bar, all of whom are eminent judges, district attor-

neys, practitioners and deans of law schools in Pennsylvania. After Mr. Wasserman's decease, this committee's work could not have been completed without the assistance of a legally-trained person. Carl Helmetag, Esquire, of Philadelphia agreed to serve in the capacity of research consultant for this committee. He directed the final phase of its work and assisted in correlating the material and drafting the final draft of the Proposed Crimes Act. Mr. Helmetag rendered this service entirely on his own time, for which he received no compensation. This unselfish effort should receive the highest commendation and thanks of the Commission, for without his aid the committee would have been seriously handicapped in the completion of its work.

Committee on Child Welfare Laws

To assist this committee, an advisory committee composed of twenty-eight persons, actively engaged in the field of child welfare work, served. This advisory committee was headed by Charles Denby, Esquire, of Pittsburgh, and included Leon T. Stern, Judge Gustav L. Schram, of Allegheny County, and many others. They have performed a real service to the Commission and to the Commonwealth.

Committee on State-Local Highway Financing

An advisory committee, to assist this committee, was appointed, composed of persons and groups having a particular interest in this subject, and it is sincerely hoped that this close co-operation during the interim with groups most vitally affected will not only bring about a note of better harmony between such groups and the Legislature, but will eliminate considerable discussion and loss of time when the Legislature is actually in session.

Committee on Finance Companies

This committee, working in conjunction with the Department of Banking, Insurance Department, and Department of Justice, should be especially commended for its work during the interim. Many days were spent in hearings and

gatherings of statistics, and I am sure the report of this committee will reveal outstanding work accomplished in this neglected field.

Other Committees

A number of legislative improvements have already been effected through the work of our Committees on House and Senate Personnel and Legislative Printing, which the Legislature already passed upon and has observed in operation.

The Committees on Fish and Game Commissions and Co-operatives have worked diligently, and their reports are of interest to you.

The Committees on Unemployment Compensation and Strip Mining have continued the work which they undertook in the previous biennium.

Legislative Representation

We have had represented on all committees of the Commission during the past biennium, a total of seventy-six members of the House of Representatives and thirty-eight members of the Senate, all of whom have given generously of their time and efforts to strengthen the legislative program. The members are to be commended for the public-spirited performance of their duties beyond the active period of the session.

Staff of the Commission

The staff of the Commission maintains active contact with all legislative councils in other states, has endeavored to follow important legislation in other states, and maintains files on many subjects.

For the first time in its existence, the Commission has been able to secure qualified personnel to develop and maintain its library and a very substantial beginning has been made toward the maintenance of such a library, with a view of providing legislators and staff members with reference material. These materials are essential to the making of current reports requested by the Legislature.

We urge the members of the General Assembly to use the facilities of the Commission's research staff and library.

The legislative research idea is growing throughout the nation, and Pennsylvania is very proud to have been among the first states in the Union to develop this important branch of the Legislature. The New York State Joint Legislative Committee, in its recent report, included the creation of such a research agency in New York. The need for legislative research was emphasized when the Federal Congress recommended and provided for research staffs to serve its committees.

There has been widespread demand for research reports prepared and published by the Commission, and requests have been received from the Library of Congress, Bureau of the Budget, Social Security Board, Federal Department of Mines, and Department of Commerce. Requests have been received from many colleges and universities, including Harvard, Yale, Stanford, and Howard, and from research agencies,—The Tax Foundation, California Taxpayers Association, Utah Foundation, National Probation Association, American Geographical Society, American Municipal Association, Joint Reference Library of Chicago, National Municipal League, New York Public Library, Governmental Research Association of New York, and the Massachusetts Federation of Taxpayers' Associations. We have had requests from outside the United States, including the Commission on Pan-American Co-operation of Havana, Cuba, and the Saskatchewan Economic Advisory and Planning Board. The Commission has received requests and made available to other states, information on Pennsylvania laws, Pennsylvania procedures, and has answered innumerable requests of many types.

The Commission has received the active co-operation of the Governor's Office and all other departments of state government. The Legislative Reference Bureau has been most co-operative in

drafting bills. The Department of Justice assigned Mr. Harrington Adams to assist in the legal work of a number of our committees.

The research facilities of this Commission should be enlarged by the addition of a permanent research division, staffed with qualified research assistants especially trained in governmental research work,—trained to find facts, analyze information, and prepare impartial reports. Such a research staff would not only provide research facilities for the various committees making special studies but would be in a position to undertake research for individual members of the General Assembly.

Provision should be made for quarterly meetings of the Joint State Government Commission. Legislative councils of many other states meet at regular intervals.

The committees should make an effort to complete their work and prepare recommendations and reports sufficiently in advance of the session in order that such printed reports and recommendations might be laid upon the desks of the members of the General Assembly on the opening day of every session.

The Commission cheerfully invites suggestions from all members of the General Assembly.

Realizing the importance of the work of the Commission, it is with great satisfaction that I present this report, acknowledging with thanks the work of the Executive Committee, the committee chairmen and members of the various committees, the eminent men and women who served with the advisory groups, our staff of employes, and all others who rendered service.

IRA T. FISS, *Chairman,*
Joint State Government Commission.

ACTIVITIES OF THE COMMITTEES OF JOINT STATE GOVERNMENT COMMISSION

1945-1947

COMMITTEE ON CHILD WELFARE LAWS, JUVENILE DELINQUENCY, AND INSTITUTIONS

This committee was created by the Joint State Government Commission to carry out the studies outlined in House Resolution No. 63 (1945), and in Senate Resolution Serial No. 51 (1945) directing the Joint State Government Commission to study the conditions, practices and laws of this Commonwealth relating to child welfare and to children, especially to those which relate to the dependent, defective, delinquent, neglected, incorrigible, or illegitimate children or to their treatment, care, maintenance, custody, control, protection and reformation, and to make a thorough study of the whole question of crime prevention, incarceration, reform, probation, parole and pardon, as administered in this Commonwealth.

At its meeting on January 15 and 16, 1946, the committee directed its chairman to appoint an advisory committee composed of citizens and officials conversant with children's services and needs. Such a committee was appointed in February, 1946.

The advisory committee held its first meeting with the Commission's committee on February 28, 1946, in Harrisburg. The field of study was divided into five subjects: dependent and neglected children; delinquent children; handicapped children; adoptions, illegitimacy, non-support, custody and guardianship, and child marriages; and supervision of institutions, private schools and camps. Subcommittees of the advisory committee were appointed to deal with each of these problems, and members of the Commission's committee were assigned by the chairman of the committee to sit with these subcommittees in the course of their study.

On February 18, 1947, the Summary Report of the Advisory Committee was submitted to the Commission's committee for consideration and action.

It was apparent from the extensive report that the members of the Advisory Committee expended much time and effort in their desire to be of assistance to this committee. In receiving the material gathered together for its consideration, this committee wishes to express its appreciation to the members of the Advisory Committee.

The Commission's committee carefully studied and reviewed the recommendations submitted by the advisory committee and while it was of the opinion that all of the recommendations were worthy of consideration, as a practical matter, it would be impossible to carry out the entire program at this session. It, therefore, accepted those recommendations which it felt were possible of enactment at this session and authorized the printing of a separate report, containing all of the recommendations of the advisory committee, in order that the advantage of the extensive study made by the advisory committee might be of practical use to legislators and others studying this problem in the future.

The following statements will reveal the committee's action on the recommendations of the advisory committee:

A. General Recommendations

In its general recommendations, the advisory committee recommended the creation of a new Department of Mental Health, a new Department of Corrections, the transferring of certain functions from the Department of Welfare to the Department of Health, the merging of all functions of the Department of Public Assistance and cer-

tain functions of the Department of Welfare into a new Department of Assistance and Welfare.

The Commission's committee felt that this recommendation was beyond the scope of the study.

B. Recommendations Relating to Dependent and Neglected Children

The advisory committee recommended establishment of a state-county child welfare program, providing for the division of administrative and financial responsibility between the state and the counties.

In the consideration of these recommendations, by the Commission's committee, there was determination to retain what experience in each county has found good and to make progress in a practical way step by step. Drastic, wholesale changes in order to conform to a ready-made master plan are not likely to be well-adapted in the public interest of a great state like Pennsylvania with its widely-varied conditions and needs.

The committee felt that centralization of administration of foster care in Pennsylvania would cause particularly serious and complicated questions and difficulties.

The Commission's committee, therefore, arrived at the conclusion that for the present local administration of foster care should be continued, and that a study of this be continued.

C. Recommendations Relating to Delinquents and Young Offenders

Juvenile Court Jurisdiction

The committee recommended that the present jurisdiction of the juvenile court be retained, with the age limit at 18.

Detention of Children Awaiting Hearing

The committee recommended that further study be given to this subject and submitted a request for advice thereon to the Pennsylvania Council of Juvenile Court Judges.

Clinical and Study Facilities

The committee recommended the establishment of State clinics for the psychiatric and psycholog-

ical study of juvenile delinquents for the purpose of making recommendations to the court as to the disposition of such cases and with authority to designate institutions to which such cases should be committed, with a provision compelling State-owned and State-aided institutions to accept children recommended by the court for commitment.

Parole

The committee recommended that the Parole Act be amended to permit the Parole Board to supervise released youthful offenders committed to State industrial schools by juvenile court judges when the juvenile court requests it.

Facilities for Care Away From Home for Children and Young Offenders

The committee approved the following recommendations of the advisory committee with respect to the care of children and youthful offenders away from home:

1. That legislation¹ permitting justices of the peace, aldermen and mayors to commit minors to the Pennsylvania Training School at Morgantown, be repealed.

2. That legislative action, in the form of appropriations, and administrative action, be taken, designed to increase facilities for the care of delinquent children who cannot be treated on probation, as follows:

- a. Greater use of foster homes for the care of delinquent children, and the development by private and public agencies engaged in foster home finding activities of more adequate resources for foster family care of delinquent children.

- b. Increased institutional capacity for delinquent children and young offenders.

- (1) Provision for problem boys requiring special care and close oversight.

- (2) Increased capacity for juvenile delinquents to relieve over-crowding in state institutions, and to assure that adequate facilities will be available for all those to whom few private facilities are open.

- (a) Establishment of the Pennsylvania Training School for Delinquent Girls

¹ Act of April 22, 1850, P. L. 538, as amended April 16, 1857, P. L. 219.

proposed by the Governor's Commission to Study Penal Institutions.

(b) Establishment of a new institution for delinquent boys in the eastern part of the state.

c. Establishment of a new state industrial school in Centre County proposed by the Governor's Commission to Study Penal Institutions, to provide additional capacity for youths now in the Pennsylvania Industrial School at White Hill; and the establishment of a new institution to replace the present school at White Hill.

d. Proper equipment of the State Industrial Home for Women at Muncy with facilities to meet present needs.

3. That the Diagnostic and Classification Center for study of committed youths and young men be opened as soon as possible in order to facilitate the proper assignment of offenders to appropriate institutions for care and treatment.

4. That plans be developed by the Department of Welfare in co-operation with the institutions for juvenile delinquents and young offenders, for classification and transfer of juveniles and youths from one institution to another, such transfer to be based on the type of training needed by the individuals concerned.

Facilities for the Care of Defective Delinquents

The committee recommended that the Joint State Government Commission make a study to determine whether a new institution is necessary for the care of defective delinquent children, as suggested by some administrators or whether it may be possible to provide special facilities for defective delinquent children in state institutions for feeble-minded children, and submitted this recommendation to the Executive Committee of the Joint State Government Commission for future action.

The committee approved the following recommendations with respect to facilities for care of defective delinquents:

1. That legislation be enacted to enable a judge of the criminal court, when his court has no access to psychiatric facilities for diagnosing defective delinquents, to send a person of sixteen years, or over, awaiting sentence to

the classification center for study and diagnosis, if he is of the opinion that such person may be a defective delinquent; the report of the classification center, to be used by the judge to determine whether the individual is a defective delinquent and committable as such.

2. That legislation be enacted to require the Diagnostic and Classification Center to refer back to the courts any prisoner discovered during his stay at the Center to be a defective delinquent though not committed as such; and to send the court a report of the psychiatrist and a recommendation for an order of commitment, which may then be made if the court approves commitment.

3. That increased institutional facilities be provided for the care of defective delinquents, including prompt erection of the new building already authorized for male defectives in Centre County, and that appropriation be made of whatever funds may be necessary for this purpose, to provide for those defectives now inadequately housed at Huntingdon and for others who may be committed by the courts or transferred from other correctional institutions.

In-Service Training

The committee was of the opinion that in-service training in Pennsylvania has been most effective and valuable and recommended that funds be appropriated to continue such training program and that every effort be made to bring about continuance of Federal aid for such programs.

D. Recommendations Relating to Handicapped Children

Mentally Defective and Mentally Ill Children

The following recommendations with respect to mentally defective and mentally ill children were approved:

1. That administrative action be taken by the Department of Welfare to establish a registry of all known mentally defective children.

2. That adequate appropriations be made, and administrative action be taken, to increase and improve institutional capacity to

deal with mentally defective and mentally ill children, as follows:

a. Make building additions, repairs and replacements as well as staff enlargement at the institutions at Polk, Pennhurst and Laurelton.

b. Immediately equip all state institutions for mentally defective children with small units for low-grade feeble-minded children, mongolian idiots and monstrosities, under six years of age.

c. Cause the Bureau of Mental Health to make further inquiry into the needs of mentally defective blind children, to determine whether present facilities are adequate, whether the Royer-Greaves School at Paoli should be encouraged to expand, or whether a similar school should be established in another part of the state.

d. Increase institutional capacity to care for mentally ill children.

3. That the Department of Welfare promote state and local programs for the psychiatric study and treatment of emotionally disturbed children.

In approving these recommendations, the Commission's committee strenuously urges that immediate action be taken to bring about much-needed building additions, repairs and replacements as well as staff enlargements at the institutions at Polk, Pennhurst, and Laurelton.

Epileptic Children

The committee recommended that administrative action be taken to improve the educational and recreational facilities for children at the State Colony for Epileptics at Selinsgrove.

Other Aid to Handicapped Children

The advisory committee made a great many recommendations with respect to physically handicapped children.

The committee was in sympathy with all of these recommendations and strongly favors state aid for physically handicapped children and recommended that this particular phase of the problem be given further consideration and study.

E. Recommendations Relating to Problems of Adoption, Illegitimacy, Non-Support, Custody and Guardianship and Child Marriages

Adoption

The committee approved the following recommendations with respect to adoption:

1. That the Adoption Law¹ be amended as follows:

a. Merge the present two similar Sections 1² into one section.

b. Require that, as a rule, adoption be in the county where the adopting parents reside.

c. In addition to the information at present required, provide that petitions for adoption shall state the residence, color and religious affiliation of the person to be adopted, the color, age, occupation and religious affiliation of the adopting parent, and the color and age of the natural parents.

d. Allow for the consent of a minor parent over eighteen years of age without the consent of his or her parent or guardian.

e. Dispense with the requirement of consent of the reputed father of an illegitimate child.

f. Require a six-month period to elapse before a child is determined to be abandoned.

g. Require that the person to be adopted shall reside with the adopting parent for six months before the adoption decree is entered, unless such person is related by blood or marriage to the petitioner.

h. Require adoption hearings to be held in private, except in special cases.

i. Provide for a short decree of adoption and require that the records of the court in adoption cases be withheld from public inspection.

In rejecting the advisory committee's recommendation to permit termination of the rights of

¹ Act of April 4, 1925, P. L. 127, as amended.

² As amended by the Act of June 5, 1941, P. L. 93 and July 2, 1941, P. L. 229.

natural parents of a child through legal provision for guardianship of the child by an approved child agency, thereby dispensing with the consent of such natural parent to subsequent adoption, the committee felt that the rights of the natural parent should not be so relinquished.

Non-Support

The committee recommended that the Desertion and Non-Support Law be amended to provide that proceedings may be initiated either by filing a petition with the court or information proceedings before a justice of the peace or alderman.

F. Recommendations Relating to Inspection of Private Schools and Camps

The committee agreed with the advisory committee's statement that there is a need for further study with respect to the question of inspection of schools, camps and institutions. While there are some unscrupulous and irresponsible operators this field involves many long-established and highly respected organizations. Therefore, any comprehensive program for increasing the State's protective role in relation to children in schools, camps and institutions must necessarily grow out of a succession of exploratory conference among the representatives of all of these groups.

It was, therefore, recommended, that action on these recommendations be deferred until such time as a complete study has been made.

COMMITTEE ON CO-OPERATIVES

Senate Resolution No. 61, adopted May 4, 1945, directed the Joint State Government Commission to study and investigate the taxation of co-operatives, co-operative agricultural associations, and other similar associations, and to submit recommendations for proposed legislation to the next session of the General Assembly.

At its organization meeting on July 24, 1945, the committee directed the staff of the Commission to make available for its use all existing data on the subject of taxation and regulation of co-operatives.

The staff compiled and made available to the committee a digest of all Pennsylvania laws relat-

ing to co-operatives, a digest of principal federal laws affecting co-operatives, and a comparative analysis of the types of state taxes imposed on co-operatives in ten selected states.

The committee proceeded further with its study of co-operatives and mutuals by analyzing the statistics of specific types of co-operatives and mutuals which were available in the various departments of the Commonwealth of Pennsylvania and in certain Federal agencies. Reference was made to the business activities of specific farmers' marketing and purchasing co-operatives which were analyzed by the School of Agriculture of The Pennsylvania State College in 1945. Since there has been considerable controversy in recent years concerning the taxation and business activities of co-operatives, the committee held a conference with representatives of co-operatives and other business enterprises who presented their views. At another conference the committee conferred with the representatives of 42 consumer co-operatives doing business in the state. At this meeting the provisions of the Co-operative Act of 1887 were discussed. In addition, questionnaires were sent to state tax officials in ten selected states¹ in order to ascertain the types of state taxes which are imposed upon these enterprises in other states.

As a result of its studies, the committee found that co-operatives operating in the state are not incorporated under general laws, but are incorporated under special laws, depending upon the type of co-operative enterprise. Co-operatives including mutual insurance companies are incorporated under seven major state laws: the Acts of 1874, 1887, 1919, 1921, 1929, 1933, and 1937. The following tabulation indicates the number of co-operatives incorporated under each of these acts since the enactment of the laws, excluding mutual insurance companies and mutual savings banks:

Acts of	1874	1887	1919	1929	1933	Rural Electric Credit Unions Co-op- eratives 1937
Number of Co-operatives .	100	344	429	70	80	11

¹ California, Connecticut, Delaware, Massachusetts, Minnesota, New Jersey, New York, Ohio, West Virginia, Wisconsin.

The above tabulation was derived from lists of co-operatives obtained from the records of the Secretary of the Commonwealth by the Department of Agriculture. Of the co-operatives mentioned in the above tabulation, 109 are consumer co-operatives, which are classified as such by the U. S. Bureau of Labor Statistics because of the fact that they deal in "consumer goods," such as groceries and other household articles. Of these 109 consumer co-operatives, two were incorporated under the Act of 1874, 38 were incorporated under the Act of 1887, seven were incorporated under the Act of 1919, and 23 were incorporated under the Act of 1929. The reports of the U. S. Bureau of Labor Statistics indicate that 39 of these co-operatives have not registered with the office of the Secretary of the Commonwealth.

The most comprehensive, although incomplete, statistics of the number and gross income of co-operatives and mutuals operating in Pennsylvania in 1943 are those provided by the U. S. Bureau of Internal Revenue. The bureau reported that 5,890 co-operatives and mutuals in Pennsylvania filed returns of income in that year. Of this total, 1,348 co-operatives and mutuals were engaged in actual business or "commercial" functions; these enterprises reported a gross income of \$83,000,000 which was not subject to federal taxation. The remaining 4,542 co-operatives were engaged in "nonbusiness" functions and reported a gross income of \$118,098,000 in 1943 which was not subject to Federal taxation. The most important co-operatives and mutuals in the group engaged in business functions were the mutual savings banks and farmers' marketing and purchasing co-operatives. The most important co-operatives and mutuals in the group engaged in nonbusiness functions were the labor organizations, educational and charitable organizations, local associations of employees and welfare organizations, social clubs, and business leagues.

An examination of the incorporation acts affecting co-operatives, together with an examination of the tax statutes themselves, indicates that co-operatives and mutuals operating in Pennsylvania are subject to the following state taxes:

<i>Type of Co-operatives</i>	<i>Subject to:</i>
Co-operatives, productive and distributive (1887)	Bonus Capital stock tax Corporate loans tax Stock transfer tax Corporate net income tax Unemployment compensation tax (agricultural labor exempt)
Agricultural Co-operatives, without stock (1919)	Unemployment compensation tax
Agricultural Co-operatives, with stock (1929)	Bonus Stock transfer tax Co-operative agricultural net income tax Unemployment compensation tax
Agricultural Credit Co-operatives (1933)	Bonus Stock transfer tax Co-operative agricultural net income tax Unemployment compensation tax
Credit Unions (1933)	No taxes
Rural Electric Co-operatives (1937)	Bonus (if stock) \$10 annual license fee per 100 members Stock transfer tax
Domestic mutual insurance companies (1921)	Unemployment compensation tax
Mutual savings institutions, non-stock (1889)	Net earnings tax of 1889 Unemployment compensation tax

All of the above enterprises are subject to local real property taxes and are exempt from county personal property taxes. It is impossible at the present time to ascertain the yield of taxes paid by co-operative and mutual enterprises in Pennsylvania because of the fact that the records of the various state departments concerned with the collection of state taxes have not been set up to record separately the taxes collected from these enterprises. However, Acts 357, 358 and 360, passed by the General Assembly in 1945, provide for more complete reporting of business activities on the part of farmer co-operatives.

This study is discussed in further detail in the Report on Co-operatives.

COMMITTEE ON DECEDENTS' ESTATES LAWS

The Committee on Decedents' Estates Laws was appointed on July 25, 1945 with the Honorable Thomas H. Lee serving as Chairman and the Honorable John M. Walker as Vice-Chairman. In view of the complexity of the undertaking and the technical character of the work, the committee recognized the necessity of appointing an advisory committee composed of outstanding members of the bar, both judges and practitioners, who were recognized experts in the field of Decedents' Estates Law. These men were selected with two thoughts in mind. First, that they be competent and qualified, and second, that they be willing and able to devote the time and effort essential to carry the study forward to a successful conclusion.

The advisory committee was organized at a meeting in Harrisburg on November 28, 1945. This committee consists of thirty-two members, exclusive of M. Paul Smith, Esq., Research Consultant and Philip A. Bregy, Esq., Associate Research Consultant. Of these thirty-two members, seven are orphans' court judges of counties having separate orphans' courts; two are judges from counties having no separate orphans' court; two are leading executives of trust companies and the remaining twenty-one are practicing lawyers who are experienced in the law of decedents' estates and trusts.

From its organization on November 28, 1945, down to December 20, 1946, the advisory committees held twelve meetings, several of which lasted two days. In this period the advisory committee was in session for a total of sixteen working days. The members of the Committee of the Joint State Government Commission on Decedents' Estates Laws were invited to attend all of the meetings held by the advisory committee.

Immediately upon its organization, the advisory committee and the Commission's committee set up a total of seventeen subcommittees to examine and report on particular phases of the work. A vast amount of work was done by the members of these subcommittees.

The procedure of the committee has been as follows: A draft statute would be prepared by the research consultant, based upon his work and that of the subcommittees, together with suggestions received from the bench, bar and members of the Legislature and extensive surveys previously prepared by the Pennsylvania Bar Association Section on the Law of Decedents' Estates and Trusts.

The draft statute, together with accompanying explanatory comments, would then be considered and revised in detail by a subcommittee, a necessary process which involved further intensive work. The draft, so revised, would be designated "Tentative Draft No. 1" and would be sent to all members of the advisory committee and to all members of the Committee on Decedents' Estates Laws of the Joint State Government Commission.

This Tentative Draft No. 1 would then be considered and revised in detail at a meeting of the full committee and the draft so revised would then be designated as Tentative Draft No. 2, circulated for further study, worked over by a subcommittee and considered at a subsequent meeting of the full committee. Only after such repeated revision was a proposed act approved and submitted to the Joint State Government Commission for publication.

The foregoing process resulted in the publication of the Proposed Intestate Act on March 15, 1946, the Proposed Wills Act on June 1, 1946, and the Proposed Estates Act on November 15, 1946. Printed copies of these proposed acts and accompanying comments were distributed by *The Legal Intelligencer* of Philadelphia to every subscriber to the Advance Sheets of the Pennsylvania State Reports, by the *Pittsburgh Legal Journal* to its subscribers, by the *Blair County Law Journal* to its subscribers and by the Pennsylvania Bankers Association to its members.

In drafting these new statutes the committee has attempted to simplify the statutory structure, but only where this could be done without impairing the authority of decisions under prior acts. In recommending changes in substantive law, only such changes as were deemed to be necessary,

workable in actual practice, and offering a prospect of reducing litigation have been recommended.

Such changes as have been recommended are fully explained in the published reports referred to above. Many are too technical for discussion here, but a brief statement will indicate the scope of the revision. It should be emphasized that there has been no attempt to change fundamentally the long established and familiar concepts of this branch of the law.

In the Intestate Act, the committee recommends increasing the surviving spouse's allowance to \$10,000, cutting off inheritance by those more remote than first cousins, and giving the surviving spouse all the estate if all the relatives are more remote than nephews, nieces, uncles and aunts. The act also contains restatements in simplified and modernized form of other familiar provisions of the present Intestate Act.

In the Wills Act, the committee recommends clarification and further safeguards as to execution by mark, a provision to save charitable gifts if the testator makes a new will and dies within thirty days, considerable simplification of the procedure as to the spouse's election and the abolition of the lien of a legacy on real estate where it is of \$100 or less. These are given simply as illustrations of a large number of relatively small changes which the committee recommends for improving and simplifying the law on this subject.

In the Estates Act are included a number of subjects dealing with future interests. This act has proven to be the most difficult because of the highly technical questions involved. Termination of trusts is provided for under close restrictions, so that the court may more readily relieve the actual necessities of beneficiaries or terminate a trust which is too small for practical use or has become useless for some other reason. The application of the common law rule against perpetuities is carefully stated and it is provided that actual rather than possible events shall govern. The confusing subject of accumulations is covered and it is believed that the law is clarified and

improved. The five conflicting statutes on cy pres are superseded by a brief and simple provision which calls for a cy pres application, whether or not the charitable intent is general. The right of a surviving spouse to take against the will is extended to property conveyed in trust with the retention of a power to appoint, revoke or consume. Legal life estates in personalty are converted into trusts,—a more familiar and workable relationship. In general, it is believed that the Estates Act embodies modern ideas on these difficult phases of the law without departing radically from the Pennsylvania background.

This field of the law is one which is not only complex but also very highly technical. A change cannot be made in one aspect of the law without the most careful consideration of the effect of such possible change in other and perhaps unexpected connections. It is most important that anything that is to be done shall be thoroughly explored in all of its ramifications. The committee at the outset of its work very properly decided that hasty or ill-considered action would be very likely to do more harm than good.

It is for this reason that it was impossible for the committee to accomplish in the time which has elapsed since the committee was organized, all of the work outlined in Senate Resolution Serial No. 46 of the Session of 1945, pursuant to which this project was undertaken.

However, the committee has so carried out its work that the acts which it has recommended may be enacted at the 1947 Session of the Legislature without causing any conflict with the statutes which remain to be revised.

This committee has been able to complete and have ready for submission to the Legislature a Wills Act, Intestate Act and an Estates Act, which acts complete the substantive law relating to decedents' estates. This will leave for further study and revision those acts relating to procedural law dealing with decedents' estates.

It is therefore urgently recommended that this work be continued for an additional period of two years, in the hope that the procedural recommen-

dations that are a material part of the entire study may be ready for presentation and enactment at the 1949 Session of the Legislature.

COMMITTEE ON FINANCE COMPANIES

House Resolution No. 38 adopted by the House of Representatives March 25, 1945, agreed to by the Senate April 9, 1945, and approved by the Governor April 24, 1945, directed the Joint State Government Commission, with the co-operation of the Secretary of Banking, the Insurance Commissioner and the Attorney General, "to investigate and explore all matters connected with the operation and management of the conditions prevailing in finance companies and others in this Commonwealth dealing in consumer credit or otherwise engaged in the business of financing motor vehicles and other articles of personal property which are sold or leased on what is commonly known as the installment plan, for the purpose of ascertaining and reporting as soon as reasonably possible to the General Assembly such nefarious, unscrupulous and improper practices as are deemed to be inimical to the public good and in the main to ascertain and report on any prevailing practices of such companies or individuals as the case may be, which may inure to the disadvantage or detriment of the public generally and returning veterans specifically, and to report thereon with recommendations for such legislation as it may deem advisable under the circumstances."

Pursuant to this resolution the Committee on Finance Companies was appointed. At the initial meeting of the Committee on Finance Companies, which was held August 8, 1945, the Chief of the Consumer Credit Division of the Department of Banking and Deputy Insurance Commissioner of the Insurance Department were assigned to the technical staff of the committee by the heads of these respective departments. The Attorney General appointed various deputies from time to time to assist the committee and draft recommended legislation.

The term "consumer credit" is generally recog-

nized as encompassing all credit extended to consumers whether in the form of a cash-loan or in connection with the sale of goods or services. An examination of existing laws of the Commonwealth disclosed numerous special statutes which have been adopted from time to time for the protection of the consumer seeking credit from a cash-lending agency. Among the laws of the Commonwealth protecting the cash-loan consumer were found the Act of Assembly No. 770 approved April 6, 1945 regulating personal loans of \$3,500 or less, made of banking institutions, the Act of Assembly No. 66 approved April 8, 1937 regulating the lending of money in sums of \$1,000 or less, the Act of Assembly No. 432 approved June 17, 1915, as amended, regulating the lending of money in sums of \$300 or less, the Act of Assembly No. 51 approved April 6, 1937 regulating the business of pawnbrokers, and the Act of Assembly No. 260 approved May 26, 1933, as amended, regulating the lending of money by credit unions. All of these statutes supplement the General Usury Statute approved May 28, 1858.

In contrast, the consumer obtaining credit from the seller in connection with the purchase of goods or services does not have the benefit of any laws to protect him against exorbitant and unreasonable charges for such credit. As a result of this strange anomaly in the laws, a consumer desiring to purchase, for example, an automobile is fully protected against exorbitant charges for credit if he obtains a loan directly from a bank or other cash-lending agency and uses the proceeds of such cash loan to pay the dealer; but, if that same consumer purchases the same automobile and credit is extended by the dealer for part or all of the purchase price, none of the existing laws of the Commonwealth regulating interest or usury protect him from exorbitant charges and there are no legal restrictions as to the amount of the so-called "finance charges" which the dealer may exact even though the obligation thereby created is subsequently sold by the dealer to the same bank.

Another factor which intensifies the oddity of

the situation is the relative volume of credit extended in selling to consumers on the installment plan and the volume of credit extended on cash-loans to consumers. Published estimates indicate that the volume of consumer sales credit is normally five times that of consumer cash-loans. Thus it is apparent only the smaller part of the total consumer credit volume is subject to regulation by the Commonwealth.

While encompassing consumer credit generally, House Resolution No. 38 was directed primarily at the business of financing installment sales of motor vehicles and other articles of personal property. For this reason, and because cash-lending agencies are already operating under strict regulation and supervision of the Commonwealth, the attention of the committee was concerned on that phase of consumer credit which is not controlled by any existing laws.

In most states retail installment sales are made under a conditional sale contract. Others use a chattel mortgage to secure payment of deferred balances on installment sales. Pennsylvania is unique in the use of the so-called "bailment lease" contract in the sale of goods on credit. The passage of the "Uniform Conditional Sales Act" on May 12, 1925 did not change the practice of using the bailment lease in Pennsylvania, already firmly established at that time, because the provisions of the Uniform Conditional Sales Act in force in other states, were changed in the Pennsylvania statute so as to exclude this type of contract.

The bailment lease contract has been recognized by the courts of this state as an approved and legal method by which a person desiring to purchase an automobile or other article of personal property, but unable to pay all of the purchase price, may secure possession of it immediately with the right to use and enjoy it as long as he pays the stipulated "rental," and with the further right to become the absolute owner, on completing the installment payments as stipulated in the lease, by payment of an additional sum, which may be nominal in amount. While this form of contract has been recognized as a valid instrument in the

sale of goods on credit in Pennsylvania, a careful analysis of the nature of the transaction will disclose that the status of the lessor and lessee is purely fictitious.

An automobile dealer, for example, is primarily in the business of selling motor vehicles. He does not hold himself out to the public as a renter of cars. The prospective buyer is contemplating the purchase of an automobile when he enters the dealer's showroom and examines a car bearing a "for sale" sign. He is not interested merely in renting the automobile for a limited time. If the buyer is in such financial circumstances that he can pay the stipulated purchase price in cash, a sale is consummated. However, if the buyer is not able to pay all of the purchase price in cash, he arranges to obtain credit for the amount which he lacks. He may approach his bank for this credit and obtain a cash-loan. With the proceeds of this cash-loan he will then be able to pay the dealer the full purchase price in cash and a sale is also consummated. He may, on the other hand, ask the dealer to extend credit for the amount which he lacks. The dealer agrees to extend the credit. At this point, if the bailment lease contract is to be accepted at face value, the buyer and the seller experience a complete metamorphosis and emerge as lessee and lessor and there is no sale, only a rental of the car.

If the total rental payments under this form of contract were equal to the bona fide cash sale price of the automobile its validity as an instrument for accomplishing an installment sale need not be questioned. The committee found, however, that a factor in arriving at the total rental payments is the item of a so-called "finance charge." Attempts have been made to justify this charge in many ways to avoid any possibility of an interpretation as interest or usury. Legal authority holds that "Where the sale is made on a cash basis and for a cash price and the vendor forbears to require the cash payment agreed on in consideration of the vendee's promising to pay at a future day a sum greater than such agreed cash value with lawful interest, in such case there is a forbearance to

collect an existing debt, and the excessive charge therefor is usurious."

The fictitious character of the bailment lease contract is evident by every other circumstance surrounding the transaction. The title to the motor vehicle sold is issued by the Bureau of Motor Vehicles to the purchaser as owner. The dealer generally issues a bill of sale or statement of account in which the transaction is set forth as a sale. The insurance policy covering the automobile obtained by the seller and paid for by the purchaser has in the past been issued to the purchaser as owner. The purchaser assumes liability as owner in driving the motor vehicle. The purchaser considers the differential, between the cash price and the total "rental" amount which he is required to pay, as an interest charge for the credit extended. The dealer does not anticipate the return of the automobile when the "rental" installments have been paid, rather he anticipates its return only when default occurs and it is repossessed.

For the laymen, and more particularly for a consumer who has signed a contract for the installment purchase of an automobile or other article of merchandise and finds himself obligated to pay excessive so-called "finance charges," it is difficult to understand the distinction which exists under present laws as to charges which he is required to pay for the credit extended. He cannot understand, whereas he is protected by the laws of the Commonwealth against exorbitant interest charges when credit is extended to him on a cash-loan and he uses the proceeds of such credit to purchase the automobile, why he is not similarly protected against exorbitant charges if the seller extends this credit to him for the purchase of the motor vehicle. The absurdity of the situation is further magnified by the fact that if the dealer were to proceed with the installment sale of the automobile and accept from the purchaser an obligation in the form of a simple promisory installment note for a principal amount equal to the unpaid cash price less down payment, any interest provided for in such obligation would unquestion-

ably be subject to the interest and usury laws. The use of the "bailment lease" form of contract should not be condoned by the Commonwealth as an instrument for circumventing its laws designed to protect its citizens from extortionate charges for credit extended whether by cash loans or forbearance.

The committee held numerous meetings in Harrisburg. Public hearings were held in Philadelphia and Pittsburgh. Automobile dealers and other merchants, representatives of finance companies and banking institutions, representatives of dealer and finance company trade associations and the Better Business Bureaus of Philadelphia and Pittsburgh were called before the committee to testify. At the public hearings held in Philadelphia and Pittsburgh consumers who had filed complaints with the committee and the general public were invited to attend.

The committee analyzed hundreds of complaints from consumers which were filed either directly with the committee or referred to the committee by the Governor's office, the Department of Banking, the Insurance Commissioner, the Attorney General and by the Better Business Bureaus of Pittsburgh and Philadelphia which co-operated with the committee. Complete details as to each case filed with the committee were obtained in order to enable the committee to make an analysis of these complaints. The vast majority of these complaints were received from persons who had purchased automobiles under an installment payment arrangement with the dealer. While there were some complaints filed by consumers relative to installment sales of other types of merchandise such complaints were relatively few.

The great number of complaints received with respect to the installment sale of automobiles demonstrated to the committee that the most serious abuses existed in this field of consumer installment selling. In order to obtain data as to all transactions in the Commonwealth involving installment sales of automobiles, the committee prepared a disclosure form which it requested the Bureau of Motor Vehicles, Department of Reve-

nue, to install as a necessary requisite to the filing of a lien on the title to an automobile. The Bureau of Motor Vehicles designated this form as RVT-4A and for a period of ten months required that this disclosure form be filed with every application for issuance or transfer of title to a motor vehicle upon which an encumbrance was recorded. These forms were then placed in the hands of the committee. The number of these forms turned over to the committee averaged in excess of five thousand per month.

It was found that cost of credit extended to consumers in conjunction with retail installment sales of automobiles in Pennsylvania is generally higher than the cost of similar credit when extended by cash-loans. For the purpose of making a comparison of costs it was necessary to reduce the "finance charges" on the installment sale to a simple interest rate by taking into consideration the three elements necessary to such a computation; namely, the amount of credit granted (including the cost of insurance), the period of time for which it is extended, and the charge paid for the use of the credit. The charge referred to represents the net "finance charge" exclusive of cost of insurance. Initial contract rates were found to average over 40% per year in the complaint cases analyzed and a substantial number of all cases analyzed from the RVT-4A forms showed charges in excess of this rate. In individual cases initial rates of fifty, sixty and seventy per cent were not uncommon. The exorbitant cost of such credit was intensified in cases in which the purchaser, having discovered that he had signed a contract obligating him to pay excessive charges for credit extended, decided to pay off the entire obligation shortly after the date of the contract. The dealer and/or finance company invariably refuse to refund a proportionate share of the "finance charge" when the obligation is prepaid. In such cases the cost of the credit to the consumer frequently reached an equivalent annual rate over one hundred per cent. The highlight of this situation was one case in which the rate exceeded two thousand per cent per year.

The committee attributed the excessive charges largely to the practice of incorporating in or adding to the rate charts, supplied to dealers by finance companies and banks, an amount in excess of the pure finance charges, variously referred to as dealer's reserve, pack, kick-back, which is retained by the dealer when the contract is rediscounted. Such dealer participation in the finance charge increased sharply in recent years resulting in a compensating increase in the total cost of credit to the consumer. This further increase in the cost of credit in recent years is attributed to the competition by banks and finance companies for the limited available dealer business due to decrease in automobile sales during the war and to the practice of dealers attempting to offset limited profit on sales imposed by the OPA price restrictions, through greater participation in higher finance charges. Even in normal times the dealer's participation in finance charges on installment sales represented for many dealers the determining factor between a net profit and a net loss from overall operations.

In addition to the excessive cost of credit in the financing of installment sales of automobiles, the committee found other practices equally detrimental to the consumer. The testimony taken by the committee discloses that the installment buyer is generally uninformed as to the contents of the obligation which he signs. Installment sale contracts are generally presented to the buyer for his signature in blank form. Should the buyer inquire as to the cost of the credit which is being extended to him, the answer which he receives is evasive and most often he is told that he will be charged the usual "bank rate" or he will be informed as to the amount of his monthly payments without disclosing to him the number of such payments. Many consumers stated to the committee that they had assumed the contract would provide for twelve payments and that they had signed the contract in blank on the basis of such assumption but were much surprised to learn, upon receiving a copy of the contract or a statement as to the obligation from the finance company some weeks later,

that they had obligated themselves to pay fifteen monthly installments of the stipulated amount. When confronted by the buyer with a claim as to verbal understanding differing from the contents of the written contract which he signed, the finance company, which had in the meantime purchased the obligation from the dealer, denied any knowledge of such verbal arrangements and insisted on collection of the obligation on the basis of the written contract. Likewise the dealer and salesman, when confronted by the buyer as to discrepancies between oral arrangements and the written contract, denied the accuracy of the buyer's claim.

The bailment lease form of contract used in Pennsylvania in selling automobiles on installment payment arrangements was found to be a very much one-sided contract in which the seller, or under the technical terms of the contract the lessor, has the advantage of all provisions in the agreement. The contract being one of leasing, title to the automobile remained in the seller for the term of the contract. Under its terms the buyer usually commits a breach of contract by driving the car out of the city or county. The agreement generally contains an acceleration clause giving the seller the right to retake the automobile when the seller feels insecure even though no default or other breach of contract exists. Provision whereby the lessee gives a power of attorney to the lessor to sign insurance checks and certificates of title and appointing the lessor as agent of the buyer in repossessing the automobile giving such lessor authority to enter into or upon premises of the buyer for the purpose of repossession are standard provisions in the bailment lease contract. Exorbitant charges in case of default are usually incorporated in the agreement. On the other hand many such contracts omit the provision giving the buyer the right to obtain ownership of the automobile upon completion of the terms of the lease agreement. None of the contracts examined by the committee contained specific provisions as to the amount of refund or unearned finance charges to which the buyer would be entitled in case of

prepayment of the stipulated installments. Likewise the contracts were generally silent concerning the buyer's rights as to the redemption of the automobile in case of repossession.

Practices in connection with the repossession of automobiles, while in accordance with the technical provisions of the contract, are frequently most unethical and detrimental to the buyer's interests. Repossessions are made sometimes by trickery or under duress and are frequently accompanied by a breach of the peace. The buyer, however, has no means or redress because he has made the representative of the dealer or finance company his agent by the terms of the contract. Repossessors are oftentimes irresponsible individuals who exact extra charges from the buyer in connection with the collection of default payments under threat of repossession. In many cases the buyer has no opportunity to protect his equity in the automobile after repossession. Exorbitant charges for repossession are frequently assessed when the buyer is given an opportunity to redeem the car after repossession.

Dealers, finance companies and others operating in the automobile finance field who conduct their business ethically and honestly readily admitted the pernicious conditions which prevail in this phase of the consumer credit industry. Various attempts have been made from time to time by responsible groups of dealers and/or finance companies to correct the unsatisfactory conditions by means of self-regulation. The committee recognizes that a minority of the dealers and finance companies are responsible for the nefarious practices in this field of consumer credit financing. Many finance companies, otherwise ethically operated, have been compelled to increase finance charges to the consumer so as to enable the payment of increased participation to the dealer in order to meet competition of other finance companies for the dealer's business. Those persons who appeared before the committee who were instrumental in inaugurating attempts at self-regulation readily conceded the inability and failure of

such a movement to correct the present unsatisfactory conditions.

Self-regulation having failed in its attempts to eliminate the evils incident to the business of extending credit in conjunction with installment sales, regulation by the State is the only alternative to eradication of the pernicious conditions which exist in this field of consumer credit in Pennsylvania. Examination of the statutes of other states which have enacted laws dealing with the problem discloses various methods of attempting to cope with the situation. As a result of a careful analysis of the laws of other states, the committee is convinced that effective legislation must embody licensing and supervision by the Commonwealth of all persons participating in such credit extension, regulation of contracts from inception and continuous control until termination, limitation of all charges for or incidental to such extension of credit and substantial penal provisions to discourage violations.

In the opinion of the committee, the enactment of legislation to regulate credit extended in conjunction with installment sales of motor vehicles is a valid and proper exercise of the police power of the Commonwealth for the protection of the public welfare. The regulation of interest has been well established in constitutional law as a subject within the police power of the Commonwealth. The parallel which exists between credit extended to a consumer on a cash-loan and credit extended in conjunction with an installment sale of a motor vehicle or other goods and services justifies and demands similar legislative treatment of the charge exacted for such credit extended regardless of the form in which the transaction is cast. A number of other statutes of this Commonwealth designed for the protection of specific classes of consumers, whose economic status compels them to seek credit from time to time, have been upheld by the courts as a constitutional exercise of the police power of the State. All of the reasons for the enactment of such other laws to protect the people of the Commonwealth having need for consumer credit apply equally in the case of the

purchaser of a motor vehicle having need for credit to enable him to obtain the use of such motor vehicle. The exploitation of the purchaser by reason of his unequal bargaining position, the exorbitant charges, unfair contracts, oppressive collection practices, trickery and fraud which the courts found existent prior to the passage of such other acts and recognized as justifiable basis for enactment of remedial legislation are all found today in the business of financing installment sales of motor vehicles in Pennsylvania.

The committee, as a result of its investigation of conditions prevailing in this Commonwealth in the field of consumer credit generally and in the financing of the sale of motor vehicles specifically, presents the following recommendations for legislative action based on careful and serious deliberation and study of the situation:

1. Enactment of a new law, entitled "Motor Vehicle Sales Finance Act," placing all installment sellers of motor vehicles, all sales finance companies and banks purchasing or otherwise acquiring dealer's paper arising from installment sales of motor vehicles and all independent collector-repossessors under the supervision of the Commonwealth, requiring a license from the Commonwealth as a prerequisite to the lawful pursuit of business in each instance, providing for the filing of bonds by licensees under certain conditions and fixing license fees.
2. Prohibiting, restricting or regulating by such law the provisions in installment sale contracts which were found to be detrimental to the buyer's interest, requiring full disclosure of the credit extended and the cost of financing, prohibiting the signing of contracts "in blank" and providing for immediate delivery of a copy to the buyer.
3. Limiting by such law the maximum charges for financing installment sales, classifying motor vehicles as to year of manufacture for the purpose of rate limitations, giving buyers the option of prepaying contracts, requiring

equitable refunds of unearned finance charges in case of prepayment, limiting delinquent charges in case of default, authorizing re-financing of contracts under certain conditions, fixing maximum re-finance charges, regulating repossession of motor vehicles sold under installment sale contracts.

4. Controlling by such law matters pertaining to insurance written in conjunction with the installment sale of motor vehicles.
5. Embodying in such law penal provisions for violation thereof, making violations misdemeanors and prescribing penalties.

COMMITTEE ON FISH AND GAME COMMISSIONS

House Resolution No. 40, (1945), directed the "Joint State Government Commission to make a thorough investigation of the Game Commission and the Fish Commission of the Commonwealth and of their manner of administering the laws of the Commonwealth relating to game and fish, of the manner of restocking the game and fish life and of the establishing of closed seasons and to study and make a comparison of the conduct of similar commissions or departments in other states."

The Joint State Government Commission, at its meeting on June 5, 1945, directed that a committee be appointed to make such a study. The committee was appointed and held its organization meeting on July 18, 1945.

At subsequent meetings, the committee conferred with representatives of the Game Commission, representatives of the Board of Fish Commissioners, the President of the Pennsylvania Federation of Sportsmen's Clubs, and with representatives of the Southern, Southeastern, North Central, Southwestern, Northeastern, South Central, and Northwestern Divisions of the Pennsylvania Federation of Sportsmen's Clubs. It also conferred with representatives of the Tiadaghton District Sportsmen's Association, Pennsylvania State Fox Hunters' Association, Pennsylvania

Trappers' Association, and Pennsylvania Raw Fur Dealers' Association. Invitation for similar conference was extended to officials of the Izaak Walton League, but they did not attend the meeting. The Audubon Society of Western Pennsylvania was invited to appear before the committee but declined the invitation. Letters and communications received from rod and gun clubs and other interested organizations were given consideration by the committee. All interested groups were afforded an opportunity to be heard.

In order to obtain firsthand information concerning the methods of research and propagation of game and fish, the committee visited the Co-operative Wildlife Research Unit at State College on March 19 and 20, 1946. Problems of conservation in relation to wildlife and fish resources were discussed with members of the College Agricultural Extension Service. The committee viewed lands of the Extension Service to witness a multiple land use program and game land development and research projects, particularly planting and fertilization. The committee also examined the Central Field Office and Fisheries Laboratory of the Fish Commission, the trout and warm water fish hatcheries and rearing ponds, and "Fisherman's Paradise" near Bellefonte. The committee made a second field trip on June 4, 1946, to the Loyalsock Game Farm near Montoursville and observed at firsthand the hatching and rearing of ringneck pheasants on the pheasant farm and at the same time visited the State Wild Turkey Farm in the same area. These trips, together with the information obtained by individual members of the committee by observing conditions throughout the state, made available information which was very helpful to the committee in arriving at recommendations, particularly with respect to the propagation and feeding of game and fish.

The interest manifested and the business-like and orderly management of the plants and farms connected therewith by those in charge of the projects at the game and turkey farms and the birds produced and distributed from these projects

is convincing evidence of the value of these plants for propagation purposes. The limitations of the present hatching, breeding and rearing facilities of the four game farms of the Game Commission and the demand for a greater distribution of turkeys, pheasants and quail throughout the state, together with the many demands for restocking and greater propagation of game by the sportsmen made it evident to the committee that more funds are needed for these purposes.

The trip to the central field offices, fish laboratories, and fish hatcheries at Bellefonte brought to the attention of the committee the necessity of providing more facilities for the propagation and distribution of fish in the Commonwealth. Buildings and rearing ponds at the Bellefonte plant are greatly in need of repairs or replacement, while increased facilities at the plant and new automotive equipment are badly needed to meet the demands for more fish throughout the state.

The Fish Commission has adopted a program which, if completed, will do much toward increasing the fishing facilities in public waters in the state. This work will consist of a hatchery development and construction program. It is estimated that the Rehabilitation and Construction Program, as at present formulated, would require approximately \$759,334.

Plans and specifications are already available for the greater part of this work, which will cover construction of ponds, building of bulkheads, extension of electrical systems, hatching houses, garages, and the completion of work already started at the Pymatuning Sanctuary, which will be the largest fresh water fish hatchery in the country.

The necessity for this program was reflected by the expressions of practically every group that appeared before the committee. There was general agreement that in order to provide the needed facilities and services demanded by the fishermen, more funds will be required. Practically every group appearing before the committee recommended an increase in the resident fishing license to meet the expense of an expanded program.

Findings and Conclusions

1. The study has disclosed that the salary and wage level prevailing for employes of the Fish Commission is below that of the Game Commission for similar positions in administrative and field work.
2. Many of the persons appearing before the committee expressed dissatisfaction with the present method of declaring open antlerless deer seasons.
3. There was a preponderance of opinion for eliminating the ear-marking of the seventy-five cents of the hunter's license fee for the purchase of land.
4. The information gathered on field trips and in conferences clearly developed the fact that expanded facilities are needed for the propagation and distribution of fish. An expanded program will require additional funds which could be provided by the recommended increase in the fee of the resident fishing license.
5. It was the consensus of those appearing before the committee that the Fish Commission and the Game Commission should not be consolidated.
6. After considering the testimony presented in the conferences, the committee is of the opinion that the general land purchase program of the Game Commission should be curtailed until present land holdings are developed more nearly to their maximum extent.
7. The Game Commission should be commended for the excellent work done at the Game Farms. The committee finds that more facilities are needed to carry out a more comprehensive program for the feeding, propagation and purchase of game; and that the Game Commission should immediately develop to the limit of available funds, its long-range program to assure more food and cover for large and small game.
8. The Fish Commission has done an excellent job of providing fishing facilities in the State, in spite of limited personnel, facilities, and equipment, especially during the war years.

Recommendations:

1. That the provision in the Game Law, providing for field collection of fines for game violations, be abolished and that an amendment be written into the law providing that information for such violations shall be filed before a justice of the peace, alderman, or magistrate.
2. That the Game Law be amended to provide that a public hearing be held by the Game Commission in the county affected before an open antlerless deer season can be declared.
3. That the ear-marking of the seventy-five cents of the resident hunter's license fee for the purchase of land, under the provisions of the Game Law, Section 1401, paragraph (v), be eliminated and the seventy-five cents be put into the General Game Fund.
4. That the non-resident hunter's license fee in the State of Pennsylvania remain at \$15.00 for small game and be increased to \$25.00 for large game.
5. That a fur trappers' license be established in the State of Pennsylvania, fee to be two dollars, plus ten cents to be retained by the issuing agent; excluding from the provisions of such law any person under the age of 16 years who sets 15 traps or less; and further excluding from the provisions of such law persons enumerated in Section 317 of the Game Law.
6. That the part-time lecture program be better co-ordinated and that the personnel be better qualified so that greater benefits will result from the amount of money spent for this purpose.
7. That the resident fishing license fee be increased in the amount of fifty cents, the increase to be placed in the General Fund of the Fish Commission.
8. That the Game Commission and the Fish Commission furnish, without cost to the employes, all necessary equipment for the use of field men, such as guns, firearms, and rifles.

COMMITTEE ON STATE-LOCAL HIGHWAY FINANCING

Act No. 55-A, approved May 29, 1945, and Senate Concurrent Resolution, Serial No. 129, adopted by the Senate on April 25, 1945, and concurred in by the House on May 4, 1945, directed the Joint State Government Commission to develop a sound and scientific financial highway program. The Commission was further directed, in consultation with organizations of recognized national standing, to make a thorough study in order to determine the relative responsibilities and burdens which should, in equity, be placed on the Commonwealth and on the political subdivisions in respect to financing the cost of construction, reconstruction and maintenance of the highways of the Commonwealth.

The Committee on State-Local Highway Financing was created by the Joint State Government Commission and held its first meeting on August 8, 1945. At this meeting, in order to carry out the provisions of the act directing consultation with research organizations of recognized standing, The Brookings Institution, of Washington, D. C., was engaged to undertake the preparation of a report for submission to the committee, based upon certain basic data with respect to Pennsylvania, to be compiled by the staff of the Joint State Government Commission.

Throughout the entire study, the relationship of The Brookings Institution was as follows: The Institution did not take any responsibility for the collection and compilation of the data prescribed, the initial responsibility for such activity was assumed by the Joint State Government Commission; the final interpretation of the data was the responsibility of the Institution; upon the submission of a report to the committee by The Brookings Institution, the interest of the Institution ended.

In determining the scope of the study, it was agreed that three basic considerations must be made:

- (1) What are the major characteristics of the

existing system of highway management in the State of Pennsylvania;

(2) In what respects, if any, do the existing allocations of administrative and financial authority for the highway function depart from sound standards and principles;

(3) What are the specific steps, either legislative or administrative, that are required to remove or lessen any discrepancies found by the analysis.

The data readily available were not sufficient in scope to give a real foundation for a fiscal analysis of the problem. In order to obtain the basic data required by The Brookings Institution, a research project was initiated by the committee which covered a period of seven months from October, 1945 to April, 1946, and required the assistance of fifteen persons in the Harrisburg office of the Commission, in addition to the Commission staff, as well as the district engineers and one or more assistants in each of the eleven districts of the Department of Highways. Statistical information was furnished through the co-operation of the Bureau of Statistics and Bureau of Municipal Affairs of the Department of Internal Affairs. This information covered the budget reports of the municipalities filed in the Department of Internal Affairs. Other material compiled by the staff of the Commission included:

1. Changes in administrative classification of highway system, by years, 1923-1945 inclusive, showing for each year such information as total number of miles of road included in designated state system and total number of miles of roads under primary jurisdiction of each level of local government.
2. Sources of revenue used for local highway purposes, by years, 1935-1945 inclusive.
3. Township road system, showing data prepared for all second class township units from which a 10% sample based on area, mileage and population was taken by an approved formula, complete data on receipts and expenditures, and road mileage and allocation, et cetera.

4. Trends in debt structure, including indebtedness for roads and bridges.
5. Analysis of financing and administration of city street and bridge function, including expenditures for streets and bridges by years, 1935-1944 inclusive; expenditures for all governmental functions; street mileage maintained; population 1930 and 1940; assessed valuation; motor vehicle registrations; street mileage maintained by state as connecting links.

Data on debt structure of third class cities was furnished to this committee by the Pennsylvania Economy League.

In the compilation of the basic data, the Secretary of Highways and the Secretary of Internal Affairs rendered very valuable co-operation, making available not only the data on file in their respective departments, but also assigning personnel from their departments to assist in the extremely exacting and complicated task of collection and compilation of the data.

The above material was delivered to The Brookings Institution from time to time upon its completion, and final delivery was made on April 17, 1946.

On October 24, 1945, a conference was held between representatives of local government groups and a subcommittee of this committee. These representatives were informed of the progress of the study and the future plans of the committee. They were also advised that an advisory committee would be created, in accordance with the provisions of the act, on which they would be invited to serve; that they would be given an opportunity to examine the Brookings Report and submit their recommendations and comments thereon. They were informed that the committee desired to obtain not only their recommendations and comments on the Brookings Report but their advice and counsel in the development of a program for developing sound and equitable legislation on highway financing.

On February 7, 1946, the advisory committee

was appointed, consisting of administrative officials of the State and local governments and of representatives of organized groups having direct interest in and affected by the development of streets and highways. The advisory committee consisted of two representatives of each of the following associations: State associations of County Commissioners, First Class Townships, Third Class Cities, Boroughs, the Highway Departments of the Cities of Philadelphia, Pittsburgh and Scranton, Associated Petroleum Industries, Pennsylvania Automotive Association, Pennsylvania Motor Truck Association, Pennsylvania Motor Federation, Keystone Automobile Club, Association of Pennsylvania Constructors, and the Pennsylvania Departments of Highways and Revenue. Representatives of the Association of Second Class Townships were invited to serve on the advisory committee, but declined.

On April 24, 1946, a meeting of the advisory committee was held, which was attended by members of this committee. It was understood that in addition to any direct findings or recommendations which the advisory committee might have to offer, one of its main functions would be to deliberate independently upon the conclusions arrived at by The Brookings Institution, with a view of aiding this committee in arriving at conclusions and recommendations.

The findings, conclusions, and the recommendations of The Brookings Institution were transmitted to the Joint State Government Commission about the middle of September, 1946, in a report entitled, "The Highway Problem in Pennsylvania." This report was printed, in limited quantity, for the use of this committee and the advisory committee. The printed report was received from the printer during the early part of November, 1946, and was submitted to the Commission's committee at a meeting on November 20, 1946.

The committee, meanwhile, enlisted the services of an expert in the field of highway problems in the person of Mr. Charles M. Upham, consulting engineer, of Washington, D. C., to make an independent review of the findings and conclusions

in the Brookings Report. On November 14, 1946, Mr. Upham submitted his report. In the main, he concurred with the findings in the Brookings Report.

The report of the activities of this committee will include the Brookings Report and the Upham Report.

At its meeting on November 20, 1946, the committee directed that the report of The Brookings Institution and the Upham Report be transmitted to the members of the advisory committee for their consideration.

A meeting to receive the report of the advisory committee was held on December 19, 1946, at which time the advisory committee presented its report and recommendations in the form of a resolution which contained the following findings and recommendations:

"WHEREAS, The resolution of the General Assembly instructed the Joint State Government Commission through its committee on highways and in consultation with the Advisory Committee appointed thereunder to make 'a thorough investigation and impartial study in order to determine the relative responsibilities and burdens which should in equity be placed on the Commonwealth and on political subdivisions in respect to financing and construction, reconstruction, and maintenance of the highways of the Commonwealth, including all state and local highways' and 'generally to develop a sound and scientific financial highway program for the Commonwealth and its political subdivisions,' and

"WHEREAS, The basic objective of the investigation and study was to see that the revenues derived from the taxation of motorists and from local taxation be so expended as to produce the maximum of economy and efficiency in highway expenditures, to secure equity for the several groups of taxpayers and provide the greatest benefits to the people of the Commonwealth, and

"WHEREAS, Under authority of the legislative resolution the Brookings Institution has prepared an impartial and objective report following its investigation of conditions in the Commonwealth, and

"WHEREAS, The report of the Brookings Institution indicates that it is difficult if not impracti-

cable to devise formulae for the allocation of motor fund monies to the political subdivisions for highway purposes on a basis equitable to all interests until substantial modifications have been made in the physical, administrative and legal structure of our highway system, and

"WHEREAS, In view of the much larger scope of the study that now appears to be necessary, it seems inopportune at this time for the Advisory Committee to develop a complete program of legislation for consideration at the coming Session of the General Assembly;

"It is therefore recommended:

"1. That the report of the Brookings Institution be made public so as to obtain the widest possible consideration and discussion.

"2. That all laws relating to highway finance and legal responsibilities in respect to highways remain in a status quo for the coming biennium and that appropriations from the motor fund to the political subdivisions for the next biennium be made in the same approximate amounts as are now in effect.

"3. That the Highway Department be asked to submit its specific recommendations for the streets and roads that should constitute the primary and secondary state highways systems totaling from 25,000 to 30,000 miles in accordance with the general classification recommended in the Brookings Report.

"4. That active contact be established by the Joint State Government Commission through its agencies with the State Association of County Commissioners, the State Association of Boroughs, the State Association of Township Commissioners, and the State Association of Township Supervisors, in order to explore the practical features of the assumption by the counties of the responsibility for all highways other than those on the state highway system and in urban areas.

"5. That the Joint State Government Commission in consultation with such committees as it may desire to create be requested to formulate and submit to the General Assembly a legislative program which will consider the basic objectives of the Brookings Report with such modifications as may appear desirable."

In view of the complexities of the problems involved in this study, and in view of the far-

reaching effects upon the Commonwealth and its political subdivisions which would result from any final action by this committee, the committee was faced with two alternatives, on which it sought the guidance and direction of the Joint State Government Commission:

1. Whether this committee, with the information and data available and the limitation of time, should attempt to make recommendations designed to bring about the permanent solution of the problem? or

2. Whether this committee should accept the recommendation of the advisory committee that the study be continued in the next biennium to more thoroughly explore the practical problems and develop a more sound and scientific solution?

Of the \$50,000 appropriated for this study, approximately \$25,000 has been expended to date, leaving an unexpended balance of \$25,000.

At its meeting on January 29, 1947, the Joint State Government Commission directed that this study be continued. Senate Bill 114, carrying out this recommendation, has been introduced.

COMMITTEE ON PERSONNEL OF THE HOUSE OF REPRESENTATIVES

House Resolution (Serial No. 86), adopted by the House of Representatives on May 4, 1945, requested the Joint State Government Commission to make a thorough study of the needs of the House of Representatives and the most efficient and economical arrangement of positions, duties, and compensation of the permanent and temporary employes of the House of Representatives, and to report its findings and recommendations to the House of Representatives on February 1, 1947.

Pursuant to the foregoing resolution, the Joint State Government Commission, on July 10, 1945, appointed a committee to make this study. The committee held its organization meeting on August 21, 1945. It was found that legislative personnel was appointed under an outmoded act passed in 1919, with a few minor amendments in recent years, and the committee felt that a complete revision was urgently needed.

The committee agreed that it should not submit a detailed report to the Legislature, but should present as its report a bill carrying out its recommendations. Such a bill was introduced and passed by the Legislature (Act No. 1, approved January 21, 1947), in order that the improvements recommended by this committee could be effectuated for the benefit of this session.

COMMITTEE TO STUDY LEGISLATIVE PRINTING

This committee was appointed by the Joint State Government Commission to study and recommend improvements in legislative printing.

Meetings were held in the office of the Speaker of the House of Representatives on August 21, September 5 and September 26, 1945.

It was found that the size of the legislative bills heretofore in use was unnecessarily large and cumbersome, and not in keeping with the type of printed bill in use in the Congress of the United States and in the majority of other states.

The committee further found that the system of amending bills, that is, by indicating words and figures to be eliminated from the bill by the use of dark face brackets, placed at the beginning and end of the matter to be eliminated, was often confused with the light face brackets, prescribed by law to indicate language to be stricken from an existing law by way of amendment to that law. It was further confusing, in that dark face brackets were sometimes used to strike out other dark face brackets previously inserted in the bill, resulting in a confusion of brackets within brackets to such an extent that the language of the bill became unintelligible. It was believed that this confusion contributed materially to the great number of errors occurring in the printed bills, giving rise to the necessity for reprints and amendments which could be avoided by a more simple system in indicating language to be eliminated from the bill.

A careful study was made of the printed bills used in Congress and those used in a number of other states.

Therefore, the following recommendations for

specific changes in legislative printing were unanimously adopted:

1. That the size of all legislative bills and calendars be $7\frac{1}{2}$ " by 10".

2. That the size of type to be used in all bills be 11 point on 29, and the space between the lines be 18 point.

3. That strike-out type be used to indicate all matter to be eliminated from the bill, in place of the use of dark face brackets as heretofore.

4. That new matter to be inserted in a bill be indicated by the use of capital letters in place of italics as heretofore.

5. That in an amendatory bill, where a bracket is inserted by way of an amendment to the bill after its introduction, such inserted bracket be indicated by a dark face bracket.

6. That the present system of numbering, both as to printer's number and line numbering, be retained without change.

7. That a note, explaining the use of capital letters and strike-out type, be carried at the bottom of the first page of all amended bills.

8. That the use of underscoring and light face brackets in amendatory bills, be continued as heretofore, with only the change recommended above, that brackets inserted by way of amendment to a bill be printed in dark face instead of light face. This will not in any way affect the law governing the printing of acts in the pamphlet laws.

The committee further considered the matter of bill files heretofore maintained on the desks of Senators and Members. It was found that this system was unsatisfactory, in that it deprived Members of the General Assembly of working space on their desks, and made reference to bills on the daily calendars difficult and cumbersome.

The committee, therefore, unanimously recommended the following changes, which it believed would make copies of bills on the daily calendars more readily accessible to the members, and would eliminate considerable confusion and discomfort in connection with legislative proceedings:

1. That the maintaining of full files of all white bills on the desks of each Member of the General Assembly be discontinued.

2. That each Senator and each Member of the House of Representatives be furnished with a loose leaf ring binder of a size to accommodate legislative bills and calendars.

3. That each day each Member of the General Assembly be furnished with a copy of the Calendar for that day, together with one copy of each bill appearing on the calendar; except that if copies of a bill have already been furnished and the bill has not since been amended, no additional copies be furnished.

4. That complete files of all bills be conveniently placed in the Senate Chamber and in the Hall of the House of Representatives for the use of the Members of the respective Houses.

The following additional changes were unanimously recommended:

1. That the number of pink bills to be printed be reduced from 800 to a minimum of 500; that the number of white bills to be printed be reduced from 1,000 to a minimum of 800; and that the printing of bond copies for the Chief Clerk of the House of Representatives and the Secretary of the Senate be eliminated.

2. That the number of calendars, printed on both sides of the paper, be reduced from 1,050 to 1,000, and that the number of calendars printed on one side of the paper remain at 100 as at present.

3. That the present system of distribution of bills to various departments of the State government be discontinued, and that the matter of the distribution of copies of legislative documents be at the discretion of the Chief Clerks of the Senate and House of Representatives.

COMMITTEE ON MUNICIPAL AUTHORITIES

Municipal authorities are a somewhat unusual and unique creation of the law, which first came into existence in 1935, under an act of the Gen-

eral Assembly of Pennsylvania, amended in 1937, and again in 1939.

The committee, in 1945, codified the original Act of 1935 and its amendments, (see Municipal Authorities Act, approved May 2, 1945).

During the past two years, the committee has been observing with interest the operation of the Act of 1945 and believes the act is good. There have been very few questions raised involving the construction of the act or omissions in the act itself.

The committee has a few amendments to propose to the Act of 1945, important, but not changing the structure of the act, and the introduction of such bills will represent the report of this committee for the last two years.

COMMITTEE ON REVISION OF PENAL CODE

Introduction

Pursuant to House Concurrent Resolution No. 11, the Joint State Government Commission appointed a committee with the Hon. Paul M. Crider as Chairman to revise the present Penal Code of the Commonwealth. This committee consisted of six members, three from the Senate and three from the House. It was deemed necessary to have an advisory committee made up of members of the judiciary, representatives of the several law schools, district attorneys and members of the bar. An advisory committee was therefore selected and Dean W. H. Hitchler of the Dickinson Law School was designated Chairman. The committee owes much to the advisory committee in completing this work and much more does the Commonwealth of Pennsylvania owe the same men for their labors in preparing the Proposed Crimes Act. Working over a period of more than a year, the committee has produced a "Crimes Act" which represents a substantial improvement in the existing law. The task of revising the present code has been an imposing one and for this reason, plus the fact that most of the members have been burdened with other important work, no attempt has been made to revise the criminal procedure legislation. While

the work of the committee will have a salutary effect, if a complete and finished job is to be done, more time will be required. To produce a Penal Code, together with a code of criminal procedure, meeting the highest academic and practical standards, will require at least two more years. This committee recommended that a committee be appointed to carry on this work, so that the task can be finished by drawing a code of criminal procedure.

I. General Statement

In 1860 the criminal laws of Pennsylvania were codified to some extent.¹ This code was supplemented by various separate acts which designated certain conduct as criminal. Later, in 1937 a committee headed by Dean William Mikell of the University of Pennsylvania Law School, prepared a criminal code but difficulties in the Legislature prevented its adoption. In 1939 the earlier code of 1860 was modified and broadened in scope so as to include much of the legislation supplementing the earlier code of 1860. However, the code of 1939² has created many problems, some of rather serious consequence. To remedy these defects the present code is submitted.

At the outset, it should be stated that the term "code," as applied to the 1939 effort, is somewhat of a misnomer because actually the 1939 code is merely a consolidation of several individual criminal acts. In this consolidation no serious effort was made to remedy substantive deficiencies nor to bring about consistency and uniformity. For the main part, the effort was directed towards a uniformity of language and an elimination of duplications. The committee, in this revision, has gone further than its predecessors and has attempted in several instances to bring about major changes in the substance of several of the older sections. Particular care has been taken to insure that in making these rather sweeping changes, that conduct which is properly criminal and therefore should be proscribed, has not been overlooked. In

addition to the substantive changes which have been brought about, the old sections have been redrafted in a streamlined version which, it is believed, will make the understanding of the context easier and will avoid many ambiguities, and additions and subtractions to the proposed code can be made without changing the structure.

II. Procedure Used

Because of the vast amount of research required and the necessity for intricate redrafting, it was thought advisable to divide the work among several subcommittees each having a chairman and two or three members all of whom were members of the general advisory committee. Each of these committees considered one or more of the articles of the 1939 code. Having studied and analyzed the article assigned to it, the subcommittees made preliminary drafts. These drafts were circulated among the other subcommittees. Periodically the entire advisory committee convened at either Harrisburg or Philadelphia to consider and approve the work done by the subcommittees. In all, seventeen meetings were held at which the general committee convened. At most of these the attendance included more than 60 percent of all the committee members. At these meetings stenographic notes were taken and these, together with specific recommendations by the general committee, formed the basis for further revisions by the subcommittees. These latter revisions were consolidated in a proposed final draft which was submitted to the general committee for approval. This submission led to further revisions and changes. The Proposed Crimes Act includes these changes and therefore represents the final thinking of the committee at this time.

III. General Nature of the Proposed Code

The code, as revised, is changed both in substance and in form. Considering *first* substance, the principal changes which have been made are as follows:

A. Use of General Sections

Throughout the older codes and in the various individual acts there was an effort made

¹ Act of 1860, March 31, P. L. 382, Sec. 1, *et seq.*

² Act of 1939, June 24, P. L. 872, Sec. 101 *et seq.*

to include not only the principal crimes but also those growing out of an incipient crime or a completed crime. For example, an attempt to commit a crime, a conspiracy to commit a crime, solicitation to commit a crime and the objectionable post-criminal acts such as accessory after the fact, were covered in the same section as the principal crime. In addition to this, there were general sections in the codes classifying these offenses as separate crimes. This double treatment created possibilities of reduced penalties by the device of interpreting the intention of the Legislature as set forth in conflicting sections. This has been corrected in the new code. The various sections merely define the principal crime. Things inducing the commission of a crime or abortive efforts to commit the crime, as well as things aiding the completed crime, are made criminal by general sections and apply with equal force in all crimes regardless of what they may be. Thus, an attempt to commit arson is covered by the same section as an attempt to commit robbery, although the penalties for each may differ. This brings about much desired uniformity and eliminates wordy sections which created confusion in designating the acts covered by the principal crime. New Section 709 entitled "Assault with Intent to Commit a Crime" and new Section 1105 entitled "Principles in the Second Degree" and Section 1108 entitled "Attempts to Commit Crimes" are typical examples of this.

B. Elimination of Sections by Consolidation

By the process of consolidation and re-drafting it has been found possible in many instances to have one crime cover the substance of several old sections. This is not done by merely redrafting the language of the old sections into one somewhat longer new section, but rather by analyzing the substance of several sections and deciding what the Legislature has sought to proscribe. Having discovered the Legislative intent, the next step was to examine the statutes of other jurisdictions and the decided cases. Considering the Legislative intent in the light of these statutes and cases, a new section was drawn covering the entire field of objectionable conduct. For typical examples of this, new Section 801 dealing with blackmail and new

Section 802 dealing with larceny should be examined. These two short sections cover more adequately, it is believed, all of the material contained in eleven old sections.

C. Changes in Substantive Law

In some instances the old law has been changed because the general committee thought that the old sections made criminal things which were never intended to be or, if so intended, were the result of unstudied thinking. In the latter instances the statutes represent an attempt to cure a condition of momentary importance which has long since been relegated to past history. In other instances the old sections were so limited by the language used that they did not reach conduct coming closely within the scope of the designated crime. New Sections 901 and 902 dealing with burglary and new Sections 904 and 905 dealing with arson are good examples of this type of revision.

D. Complete Elimination

In some, although rare instances, entire sections have been eliminated. The reason for doing this has been that the substance is better covered by other sections or the conduct designated as criminal can no longer be thought so in view of the changes that have taken place in our civilization. For example, mayhem has been eliminated because it is included in the section dealing with aggravated assault. Some of the sections dealing with dueling have been left out entirely being no longer necessary.

Secondly, considering adjective or form changes, the following will be the major innovations:

A. Use of Standard Penalty Provisions

In the old code and in many separate statutes the penalty provisions were in every conceivable form. Complete uniformity in this respect has been brought about in the proposed code.

B. Use of the "Lettered Paragraph"

Older statutes, not only those of Pennsylvania but elsewhere, were unduly complicated and difficult to understand because of the propensity of draftsmen to list many forms of conduct in one sentence, separated by semicolons and followed by one or more clauses

describing the conditions under which such foregoing list of acts would be criminal. Thus, sentences of paragraph length were the rule rather than the exception. In sections dealing with business and commercial transactions, the use of this form resulted in sections of almost unintelligible context. Wherever possible, the committee has sought to use the "lettered paragraph method." This method uses a general paragraph to describe the general condition in which an individual is placed and then in two or more lettered paragraphs provides that where such an individual engages in the conduct set forth, he will be guilty of a crime and liable for punishment according to the provisions of the section. Variations of this make possible the setting forth of innumerable circumstances in one section and at the same time permit the reader to focus his attention on relatively few clauses. For a good example of this, see new Section 837 dealing with the unlawful use of containers and 854 entitled "Removing or Concealing Property to Defraud Creditors."

C. Elimination of Technical and Surplus Verbiage

Whenever possible, the committee has made an effort to eliminate technical and archaic language and to substitute simple and precise words. Every effort has been made to streamline the code without impairing the coverage of the sections. For a good example of this see new Section 1,001 entitled "Counterfeiting Coins" and Section 406 entitled "Disorderly Conduct."

IV. Scope of the Code

As indicated before, the proposed code is a revision of the code of 1939 and includes most of the legislation contained in the earlier version, but does not include all of the criminal legislation presently in force in the Commonwealth. There are many regulatory acts having criminal provisions which are not a part of the code. Typical of such regulatory legislation is the Motor Vehicle Code. Other codes not covered are the Liquor Control Acts, the Milk Control Acts, the Fish and Game Protection Acts and many other acts of a similar nature. At a future time these regulatory

codes might be examined and included as supplements to the Penal Code. By so doing, the bulk of the criminal legislation could be encompassed in a single volume. Time would not permit this committee to do this work.

V. Conclusions

The committee feels that while it has produced a penal code which is superior to previous efforts, much remains to be done before the criminal law of the Commonwealth will be properly set forth. The Proposed Crimes Act, (Senate Bill No. 306), is the result of its deliberations. The discussions and the reasons for the changes in this act are available in the minutes of proceedings of the committee.

The committee has not in any way considered criminal procedure, nor have we made any study of criminal procedure, although it has been necessary to leave in the proposed act such procedure as appeared in the old code of 1939. When criminal procedure is studied and considered, these sections can be removed or amended without changing the structure of the code proposed.

Recommendations

1. That the Proposed Crimes Act (Senate Bill No. 306) be enacted by the Legislature.
2. That the minutes and discussions before this committee be kept on file for future reference.
3. That a resolution be introduced authorizing the Joint State Government Commission to appoint a committee to carry on the work of this committee, particularly with the idea of studying the problem of criminal procedure, so that this subject may be brought up to date and in line with the Proposed Crimes Act, and further with the idea of adding to this Crimes Act such laws as have a penalty provision as now covered by the various codes of the various departments of this Commonwealth.

COMMITTEE ON PERSONNEL OF THE SENATE

In view of the House Resolution directing the Joint State Government Commission to make a thorough study of the personnel needs of the House of Representatives, the Commission, on its own motion, appointed a committee to make a similar study in the Senate.

Such a committee was appointed on July 10, 1945 and held its organization meeting on October 10, 1945, and conducted its study in close cooperation with the Committee on Personnel of the House. A number of meetings were held and the recommendations resulting therefrom have been incorporated in a bill which has been passed by the Legislature and is Act No. 1, approved January 21, 1947.

It is expected that the new act will vastly improve the efficiency of operations in the Senate of Pennsylvania.

COMMITTEE ON STRIP MINING

The Committee on Strip Mining, originally appointed by the Joint State Government Commission in 1943, was continued by Commission action in the 1945-47 biennium for the purpose of making a further study of strip mining regulations and to observe the administration and effectiveness of the Bituminous Coal Open Pit Mining Conservation Act of 1945, providing for the licensing and bonding of bituminous coal strip mining operators by the Department of Mines.

At its reorganization meeting on September 14, 1945, the committee discussed the operation of the Strip Mining Act of 1945 and conferred with Honorable Richard M. Maize, Secretary of Mines, concerning the administration of the act.

The constitutionality of the Act of 1945 relating to strip mining was challenged in the case of *Dufour v. Commonwealth*, 1721 Equity Docket, 1945, and in *Elba Coal Company v. Commonwealth*, and *Yorkshire Coal Company v. Commonwealth*. On September 9, 1946, the Dauphin County Court held that the act is constitutional.

The plaintiffs filed a petition to reopen the case and the court set February 13, 1947, as the date for reopening, to take testimony on the single subject of whether or not the leveling of spoil banks prevents the growth of trees and foliage.

In view of the pending litigation, the committee agreed that no general overall study of the strip mining problem should be attempted until after final disposition of the pending cases by the courts.

REPORT OF COMMITTEE ON TAX STUDY

The Committee on Tax Study was continued by the Joint State Government Commission at its meeting on June 5, 1945, to become active when need for further study should arise. The committee met on November 19, 1946, in order to review the following materials prepared by the research staff concerning state tax and financial problems:

1. An Analysis of Report No. 11, Proposals for Revision of the Tax Structure of the Commonwealth of Pennsylvania, submitted by the Tax Advisory Committee, January 15, 1945.
2. An Abstract of the Tax and Fiscal Recommendations of Legislative Tax Committees in 17 States.

Although the committee did not undertake any comprehensive studies concerning tax revision, it reviewed and discussed recommendations of legislative tax committees in other states, as well as future Federal-State fiscal relationships.

The research staff contacted legislative tax committees which were active in other states during the past two years, and compiled a collection of reports of these special tax committees in twenty states. A list of the more important of these reports follows.

Because of the far-reaching importance of the tax problem, there was general agreement that the Tax Study Committee of the Commission should be continued in order to take up on short notice at any time any general or specific problems which might arise.

REPORTS OF STATE LEGISLATIVE TAX COMMITTEES

- FLORIDA—Report of the Special Joint Economy and Efficiency Committee—1945.
- GEORGIA—Financing Government in Georgia, 1850-1944—1946.
- ILLINOIS—Report of the Joint Legislative Committee to Investigate Tax Problems—1945; Property Tax Rates of Local Governments, 1940-1943—1944.
- IOWA—Taxation of Moneys and Credits and Intangible Personal Property in Iowa—1946.
- KENTUCKY—Final Report of the Tax Revision Commission—1946.
- LOUISIANA—Preliminary Report, Revenue Code Commission—1946.
- MAINE—Report of the Bureau of Taxation, Occupational Incomes and Taxes, Property and Inequality of Assessments—1944.
- MASSACHUSETTS—Report of the Special Commission on Real Estate Taxation and Related Matters—1945.
- MICHIGAN—Preliminary Report of the Tax Study Advisory Committee—1945.
- NEW JERSEY—Report of the Commission on Taxation of Intangible Personal Property—1945; First Report of the Commission on State Tax Policy—1946.
- NEW YORK—Report of the Commission on Municipal Revenues and Reductions of Real Estate Taxes—1946.
- NORTH CAROLINA—A Brief Comparison of Tax Provisions and Rates of Industrial Growth in the Southeastern States—1945; Tax Bill of a Selected Manufacturing Corporation in Six Southeastern States—1946.
- OHIO—A Study of the Tax Burdens in Ohio in Comparison With Other States—1946; A Study of the Cost and Financing of a Veterans' Bonus in Ohio—1946.
- OKLAHOMA—Comparison of Oklahoma's Tax System with that of Surrounding States—1944.
- OREGON—Implications and Effects of the Constitutional Six Per Cent Limitation—1946.
- UTAH—Report (tentative) of the Tax Study Committee—1946.
- VIRGINIA—Report of the Commission to Study the Sales and Use Tax—1945.

NEBRASKA—Report of Nebraska Legislative Council, Sub-Committee on Taxation—1946.

MARYLAND—Report of the Commission on Distribution of Tax Revenues—1946.

JOINT STATE GOVERNMENT COMMISSION COMMITTEE ON UNEMPLOYMENT COMPENSATION

The committee created by the Joint State Government Commission for the purpose of conducting a general study of unemployment compensation has examined the New York State Unemployment Compensation Law and the Unemployment Insurance Act of Canada. So much has been said favoring certain features of these two systems by their proponents that the committee felt it imperative to examine them thoroughly. The study made is here summarized.

The only state using payroll variations as a basis for measuring an employer's employment experience is the State of New York, and for this reason it appeared imperative that the committee study the New York Wage Base Plan. The New York law also has another unique feature in that no reduction in rates is allowed but any "surplus" in the Unemployment Compensation Trust Fund is distributed to eligible employers on the basis of their relative employment experience in the form of "credit memoranda."

Section 301 of the Pennsylvania Unemployment Compensation Law, as originally enacted, required the payment of contributions by employers in amounts equal to 2.7 percent of their taxable payrolls. By Act of May 26, 1943 (P. L. 639), this section was amended to provide that the rates for employers meeting certain qualifications should be reduced to an extent dependent upon their relative employment stability.

Under the provisions of the United States Internal Revenue Code, in order for an employer to obtain full credit for contributions paid under a state unemployment compensation law against the excise tax levied on employers under Section 1600 of the Code, a reduction in an employer's contribution rate below the standard rate of 2.7 per-

cent must be based upon the employer's experience in stabilizing his employment during a period of at least three years.

There are three generally recognized bases for measuring an employer's employment experience:

1. The amount of benefits paid to the employer's former workers.

It is to be emphasized at this point that there are two systems which use the amount of benefits paid as a basis for measuring an employer's employment experience. One is known as the Reserve Ratio System under which the employer's "reserve ratio" is determined by dividing the balance in his account (contributions paid less benefits charged) by his average annual taxable payroll for the last three years or more. This "reserve ratio" is then applied to a schedule of rates established by law. The other system is known as the Benefit Ratio System under which an employer's "benefit ratio" is determined by dividing benefit charges over a prescribed period by the employer's taxable payroll for the same period. The "benefit ratio" is likewise applied to schedules established by law in order to determine the employer's rate.

The use of benefit payments as the factor to be used in the measurement of an employer's experience is predicated on the following thesis. Since unemployment compensation legislation requires the payment of contributions for the purpose of insuring workers against the risk or hazards of unemployment, any plan for adjusting contributions on the basis of the relative experience of different employers with the hazard of unemployment should reflect the extent to which the workers of those employers suffer from unemployment. The frequency with which they suffer the impact of unemployment is reflected, within limits, by the filing of claims for unemployment compensation or the first payment of benefits, but the frequency of this impact is not the only or even the major risk with which the worker is confronted. So far as the hazard against which contributions are paid is concerned, the length of the period during which he suffered such unemployment is of major importance. Within the limitations of the maxi-

mum duration of benefits provided, benefit payments, available to the agency as a by-product of the benefit payment process, constitute data that reflects the hazard facing workers because of the severity of unemployment.

2. The amount of wages paid to the employer's former workers who have been paid compensation (benefit wages).

Under this system a "benefit wage ratio" is determined for each employer by dividing his benefit wages over a prescribed period by his taxable payroll for the same period. A "state experience factor" which may be determined in several different methods, is a means of measuring the combined experience of all employers in the state. The employers "benefit wage ratio" and the "state experience factor" are applied to a schedule of rates provided by law and the rate applicable to each employer is thus determined. The Pennsylvania Unemployment Compensation Law embodies the principles of the "Benefit Wage Ratio" system.

3. Variations in the total amount of the employer's payroll.

The only state using payroll variations as a basis for measuring an employer's employment experience, as was pointed out before, is the State of New York. The principal characteristics of the New York Plan are:

- (a) Contributions are collected in full at the standard rate of 2.7 percent and adjustments are made later when the fund exceeds a required reserve.
- (b) The surplus of the funds over the required reserve is liquidated by means of dollar value credit certificates good for the payment of contributions due in the ensuing year.
- (c) The distribution of the surplus is in proportion to each individual employer's experience measured in terms of quarterly and annual declines in wages paid by him and the length of time that he has been in business.

Each year an employment experience factor is computed for each employer. This employment experience factor is determined on the basis of (1) the sum of the employer's quarterly payroll declines during the last three years, (2) the sum of the employer's annual payroll declines during the last three years, and (3) the number of years that the employer has been in business.

It is claimed by proponents of the plan that the employer's value to the community in his capacity as an employer of labor depends on the amount of wages which he disburses to his employees. A decline in payments, it is contended, is a loss of income to the community and leads to unemployment either directly (if it is associated with a reduction in the employer's working force), or indirectly through a curtailment in demand of the goods and services produced by other employers. Consequently, under the wage base plan any decline in total wages paid from one quarter to the next and from one year to the next is reflected adversely in the employer's experience factor. It is claimed by those favoring the plan that none of the conventional plans of experience rating, which either directly or indirectly are measurements of the amount of benefits paid, indicate accurately an employer's experience, as they are largely influenced by the general state of the labor market—factors over which a single employer has no control. For that reason the plan takes into account only the employer's own experience as reflected by his wage payments.

Qualified employers are grouped into classes according to their experience factors. A certain percentage of any surplus may be allocated to the respective classes according to a schedule provided in the law, the class with the greatest stability in payroll receiving the largest proportion of dividends. The dividend for each employer in any class is determined by the ratio of his payroll to the sum of the payrolls of all employers in the class.

It is also claimed of the plan that it is designed in order to allow the fund to accumulate resources when business is good and to disburse them when

business is on the decline. This effect is achieved through gearing the required reserve to wages. As wage payments expand, more money must be accumulated before the fund can show a surplus. As wages contract, the required reserve contracts also and the fund is made to contain a surplus in spite of current disbursements in the form of unemployment benefits.

Although the New York System provides for measuring employment experience on the basis of payroll variations, as well as for all rates to be established at 2.7 percent with a dividend to be given to employers in the form of a credit memorandum at the end of each year if there is a surplus balance in the fund, these two fundamental principles of the plan are not necessarily directly related. In other words, the payroll variation plan could be adopted with or without the use of the credit memorandum. If the payroll variation plan were adopted and no distribution of surplus provided, rates would be assigned for the next year on the basis of the extent of payroll variation according to a schedule which would be provided by the law.

Conclusion:

The committee is of the opinion that while there are relative advantages and disadvantages inherent in the New York plan and in the system under which Pennsylvania is now operating, it is not prepared at this time to recommend any amendments to the law in this respect.

The Canadian Unemployment Insurance Act

The Unemployment Insurance Act of Canada provides certain features which are supposed to permit the rapid payment of benefits and the expeditious collection of contributions. In an effort to determine whether or not this system could offer advantages worth incorporating into the Pennsylvania system, the committee made a detailed study of the Canadian plan.

The Canadian Act of 1940 closely follows the British and United States social legislation, but unlike the United States Social Security Act, which collected in one bill many phases of welfare legis-

lation of which unemployment compensation was merely a part, the only practical purpose of the Canadian Act was insurance in time of unemployment.

Whereas contributions in Pennsylvania are paid only by employers, according to a payroll tax system contributions in Canada are tri-partite; that is, employer and employe paying jointly, but not equally, and the Dominion Government paying one-fifth the sum contributed by the other two.

The administration of unemployment insurance in the Dominion is based upon the system which is described as the stamp plan. Every employer, with certain exceptions, who has in his employ a worker in insurable employment must apply for a registration number and a license to purchase stamps. These stamps are sold primarily at post offices, on application of the employer, on the special form provided by the Unemployment Insurance Commission. The employer makes application to the local office for an insurance book for every person employed by him in insurable employment or a Certificate of Excepted Employment for every person not in insurable employment.

An employer has three ways in which he can pay his contribution. First, he may affix, in the employe's insurance book, stamps representing the combined amount of the employer's and employe's contributions as required by the employe's wage class; second, he may use a metering device that

impresses, in the space of the book, stamps of the required denomination; or, third, he may apply the bulk payment method.

Advocates of the stamp system claim that under it there is less delinquency and fraud than under a payroll tax system. Statistics are not available regarding this claim.

The myriad rules for computing contributions and benefits, the yearly renewal of insurance books, and the constant surveillance needed to keep the insurance books currently stamped make the work of the Canadian employers and the local employment offices far more complicated, laborious, and exacting than the work of Pennsylvania employers and local office personnel.

Such responsibility as keeping safe the insurance stamps and insurance books and, unless they have been delivered to their owners, of being held accountable for them when they are lost or stolen, is unknown in Pennsylvania.

Conclusion:

Nothing in the Canadian system could be used at this time in Pennsylvania. Although this plan does permit prompt payment of benefits, our experience in Pennsylvania has been satisfactory. Pennsylvania has the advantage of a small area, as compared to the great area of the Dominion, and this gives us an advantage in the prompt payment of benefits.

List of Publications

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