

ARIZONA NEWSLETTER

DEPARTMENT OF LIBRARY AND ARCHIVES

Mulford Winsor, Director

No. 15

JANUARY, 1941

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**GUIDE TO LEGISLATIVE DRAFTING
IN ARIZONA**
Pages 17-47

STATE HOUSE

PHOENIX

1941

IN THE DIRECTOR'S DEN

The Famous Fifteenth

For the Fifteenth, confronted with an herculean task, we wish success so outstanding that it may go down in history known by some such laudatory cognomen as the Famous Fifteenth—famous for earnestness, application, wisdom, statesmanship.

* * *

Looking Backward By 10-Year Looks

Boasting no powers of prescience we leave to the Legislature the role of peering into the future and determining what is best for the state, while we look backward, by ten-year looks, and offer a few retrospections:

Seventy years ago: — A. P. K. Safford was Governor when the 6th Territorial Legislature (annual sessions in those days) convened in Tucson, January 11 . . . Eight members in the Council, sixteen in the House, represented Pima, Yavapai and Yuma counties. Mohave and Pah-Ute, in a joint legislative district, went unrepresented. Reason, in the case of the Council: the Councilman-elect was a resident of Nevada, to which state Congress had presented that portion of Pah-Ute county in which he resided . . . Daniel H. Stickney, of Santa Rita, elected President of the Council, served through February 14, died on the 17th, funeral services in Council chamber on the 19th. H. H. Cartter, Prescott lawyer, chosen to fill the vacancy . . . Marcus D. Dobbins, Arizona City (Yuma) lawyer, Speaker of the House.

Sixty years ago: — Governor, John C. Fremont (the Pathfinder). . . . 11th Legislature met in Prescott, January 3 . . . Apache, Maricopa, Pinal added to list of counties . . . Twelve Councilmen, twenty-four Representatives, which number prevailed until Statehood . . . Murat Masterson, Prescott attorney, chosen President of the Council . . . J. F. Knapp, Yuma lawyer, Speaker of the House . . . Council called to order by Neri Osborn—still hale and hearty—father of Gov. Sidney P. Osborn.

Fifty years ago: — Governor, John N. Irwin . . . 16th Legislature convened in Phoenix, January 19 . . . Cochise, Gila, Graham counties, and Northern and Southern Districts added to list of legislative districts . . . Fred G. Hughes, Tucson, chosen President of the Council . . . C. S. Clark, Tombstone, Speaker of the House.

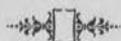
Forty years ago: — Governor, N. O. Murphy . . . 21st Legislature convened in new capitol at Phoenix, January 21; dedicated it February 24 . . . Coconino, Navajo, Santa Cruz counties added (the latter jointly with Pima as to Council representation), Northern and Southern districts eliminated . . . Eugene S. Ives, Yuma-Tucson lawyer, chosen President of Council . . . Captain P. P. Parker, Phoenix, Speaker of the House . . . Curt W. Miller, still at helm of the Tempe News, chief clerk of House; *this Director his assistant* (important!) . . . John J. Birdno, late publisher of the Graham Guardian, secretary of Senate; George E. Truman, father of Senator W. C. Truman of the 13th, himself a member of the 9th Senate, Birdno's assistant.

Thirty years ago: — Governor, Richard E. Sloan, last Territorial chief executive . . . No session of the Legislature, pending approval by the President and Congress of the 1910 Constitution.

Twenty years ago: — Governor, Thomas E. Campbell . . . 5th State Legislature convened January 10 . . . H. B. Wilkinson, Phoenix, elected President of the Senate (only Republican presiding officer of either House since Statehood) . . . Paul C. Keefe, Clarkdale (President of 13th and 14th Senate), Speaker of the House.

Ten years ago: — Governor, George W. P. Hunt . . . 10th Legislature convened January 12—the House with seventy-four members . . . Fred Sutter, Bisbee attorney, chosen President of the Senate . . . M. J. Hannon, Clifton mining man, Speaker of the House . . . Joe T. Haldiman and Wm. Coxon, of 15th Senate, members of 10th Senate and House respectively . . . W. G. Rosenbaum, John H. Rapp, Mrs. Nellie T. Bush, of 15th House, members of 10th House.

GUIDE TO
LEGISLATIVE DRAFTING
IN ARIZONA



WITH
PRELIMINARY OBSERVATIONS



STATE LEGISLATIVE BUREAU

DEPARTMENT OF LIBRARY
AND ARCHIVES

1941

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FOREWORD

When in January, 1937, this Department issued a treatise on "Legislative Drafting" (Arizona Newsletter, No. 5), it was not without misgivings as to the reception it would receive. But we knew that bills introduced in the Arizona Legislature, products of draftsmen from everywhere, were virtually innocent of system, method, or plan, and presented no semblance of uniformity of expression, form, or style. In many instances they seemed, like Topsy, to have "just growed." And we had a conviction that in the interest of better laws, at least their better form, and in defense of the Legislature's credit, something must be done.

Hence the decision to attempt a beginning of the job to create an Arizona bill drafting style—a body of suggestions for draftsmen which at least would set an example of orderliness and might promote a tendency to uniformity. In any event it would provide a guide for our own State Legislative Bureau, the Legislature's official bill drafting agency.

There is an old saying that "the proof of the pudding is in the eating." To our gratification, the treatise was received with approbation by Arizona legislators and persons interested in legislative matters, and elicited kindly comment and helpful suggestions from capable legislative draftsmen of other jurisdictions.

Most gratifying of all, use was made of the suggestions embodied in the treatise by a considerable number of occasional draftsmen, as evidenced by a measure of uniformity which soon appeared in the bills reaching Arizona legislators from various sources. On the whole, the technical quality of legislation was raised, however much room for improvement may remain.

Demand for the treatise soon exhausted the edition, and requests continue to be received. This, coupled with the feeling that we now may be able to amplify and somewhat improve upon our first effort, impels us to a second attempt.

We trust that it will mark another step forward in the mechanics of Arizona lawmaking. But, as we said on the former occasion, we say again that there is no disposition to represent the work as possessing high authority. It is merely a contribution—an approach to an important subject on which too little has been written—a modest effort to chart the principal shoals and rocks on the one hand and on the other the smooth clear waters of the sea of legislative draftsmanship, for the assistance of those who have occasion to venture on the perils of a bill-writing cruise. And then, as we said before, it is a tool for our own use.

To say that too little has been written on legislative drafting does not mean that it is a new subject. It is in fact an old one, which has received the attention of a few learned men over a period of more than a hundred years, but their writings are few and not widely known. There are, to be sure, a number of well-known textbooks on statutory interpretation, but as Sir Courtenay Ilbert, Clerk of the House of Commons, has said, "they are concerned rather with the pathology or nosology of statutory drafting than with its laws of health." They illustrate bad drafting, but only indirectly do they lay down rules for good drafting. Within the last forty years, little more than a half dozen serious attempts have been brought to a successful conclusion to set down, in anything like comprehensive fashion, the concrete principles and rules which should guide the legislative draftsman.

Of these noteworthy manuals one of the first to be published in this country was "A Legislative Handbook," by A. R. Willard, for many years clerk of the Massachusetts Legislature, which appeared in 1890. From 1914 to 1921 a great deal of material designed for inclusion in an exhaustive drafting code, prepared by a special committee of the American Bar Association, was published in that Association's Journal, but no manual was issued or approved. The National Conference of Commissioners on Uniform State Laws in 1917 and 1918 adopted a brief set of general rules or suggestions for the use of draftsmen of uniform laws. "Notes on Bill Drafting in Illinois," a quite comprehensive treatise, was prepared in 1920 by DeWitt Billman (a suggestive name), executive secretary of the Illinois Legislative Bureau. Sir Courtenay Ilbert, in "Legislative Methods and Forms" (1901), Lord Thring, in "Practical Legislation" (1902), and Sir Alison Russell, K. C., in "Legislative Drafting and Forms" (1938), present the English viewpoint. Frank E. Horack, Harvey Walker, Joseph P. Chamberlain, Robert Luce, and other American writers, in their several instructive textbooks on legislative organization and procedure and lawmaking in general, contribute valuable suggestions regarding bill drafting.

It is significant that with respect to the fundamentals of legislative drafting the conclusions reached by early as well as modern writers are in close agreement. This lessens our task, for what the best qualified authorities unanimously agree upon may safely be accepted. Their writings, all too sparse though they be, form a sound basis for the science of modern bill drafting. All these sources have been drawn upon in this little work. Indeed, its merit, if any it have, depends largely upon them, and it is with extreme diffidence that the confession is made that even in a small degree they have been supplemented out of a rather extensive experience as legislator, reference librarian, and bill draftsman.

INDICTMENT OF THE FORM OF LAWS

When complaint was first heard regarding the form of laws cannot be stated with certainty, but Robert Luce, in "Legislative Procedure," declares it to have been "from time immemorial." To the volume of accusations which have been hurled at the shape in which laws come from the hands of their makers there is practically no limit. To cite any considerable number is not feasible, but a few examples will afford an idea of their seriousness.

It may be news to learn that after all it was not the Stamp Act that led to America's war for independence, but "the repealing, explaining, and amending laws which fill and disgrace our (England's) numerous codes." At any rate, an author of "The Federalist," either Hamilton or Madison, affirmed "on the best grounds" that no small share of America's embarrassment was to be charged to such blunders, "and that these have proceeded from the heads rather than the hearts of most of the authors of them."

Nor have criticisms of the drafting of English laws been confined to this side of the Atlantic. Townsend, in his "History of the House of Commons," quotes the author of a pamphlet published about 1828 as saying of Parliament: "The products of its * * * legislative skill are turned out in a very unworkmanlike and defective manner. Acts are * * * unintelligible, so abounding in errors of grammar even, that the very printer puts *sic* in the margin. The highest legal authorities speak of them as acts ill-penned, inadequate to their purpose, so loosely worded that no proceedings could be instituted under them * * *. Any attempt of the unlearned public to understand the statutes is like an endeavor to interpret a Runic inscription."

Jeremy Bentham, described as "perhaps the greatest law reformer that ever lived," confirmed the estimate just quoted. In a treatise on "Nomography or the Art of Inditing Laws," published after his death in 1832, he dwelt scathingly upon the general depravity of the style of English statutes. Referring to their imperfections of language, he declared "peculiar absurdity the immediate effect, peculiar mischief the result." "These imperfections," he said, "exercise their baneful influence not only on the mind of the subject, but on the mind of the legislator himself, which they darken and confuse." A writer in the Michigan Law Review* says these remarks by Bentham are equally applicable to American statute law.

Coming down to a more recent date, Sir Frederick Pollock, in an essay published about 1883, points out, under the heading of "Desul-

*R. W. Aigler, "Legislation in Vague or General Terms."

tory Legislation," that parliamentary legislation is carried on under circumstances which prevent legislation "in a satisfactory manner upon any given subject." To the other obstacles he adds that "technical skill, again, is often below the mark, if not altogether wanting * * *. The result is that Acts * * * are passed to which it is all but impossible to attach a definite meaning, which produce unexpected and absurd consequences, or which, being intended to settle doubtful points, only raise up new doubts in addition to the old ones."

The legislative product of the Congress of the United States has by no means escaped castigation. F. J. Stimson, a thorough student of statute law, refers to a certain Act as a "most horrible example of slovenliness, bad form and contradiction." As a result, he declares "no one can honestly say he is sure he understands it." That statute consisted of twenty-seven closely printed pages, which he ventures to "assert boldly" a good parliamentary draftsman could put into four pages of lucidity. "How little," he exclaims, "the representatives of the people care for the litigation or trouble or expense that their own slovenliness causes the people!"

This condemnation, uttered some years ago, is just a sample of the many criticisms which have been heaped upon Congress for the form, apart from the substance, of its Acts. Quite likely influenced by such criticisms, the Committee on Ways and Means of the House of Representatives, having availed itself in 1919 of the assistance of drafting experts in the revision of the Revenue Act, was so impressed with the value of their work that it induced Congress to adopt a provision for the creation of a legislative drafting service, which from this small beginning has developed into an adequate organization.

That the Revenue Act, however, is still a problem from the standpoint of intelligibility, is indicated by the following uniquely satirical "clarifying amendment" proposed by a desperate draftsman at the midflight of the 1934 version of that perennial Act:

(SUBSTITUTE FOR TITLE I)

CLARIFYING AMENDMENT DECLARATORY OF EXISTING LAWS

Sec. 000. **Percentage depletion of taxpayers.** Whenever on a consolidated return of fiscal year partnerships in bankruptcy it appears to the satisfaction of the General Counsel of the Treasury that the foreign tax credit of a China Trade Act corporation (plus or minus, as the case may be, amounts properly allocable to amortization and obsolescence from sources within the United States) is less than an amount which bears the same ratio to the adjusted basis of a personal holding company which the capital gain of a nonresident alien bears to the earned income credit of a life insurance company (increased in the amount of gain and decreased in the amount of loss which would have been recognized to the transferor under prior income tax laws if his charitable contributions had been properly adjusted for depreciation), then all statutes of limitation shall be suspended until the amount withheld on tax-free covenant bonds of a revocable trust, a party to a reorganization (with interest at

the rate of 5 per centum per annum from the date of the enactment of this Act to a date not later than 30 days after the deficiency was put on the second schedule of overpayments) is equal to the substituted basis of a wash sale, including (whether or not allocable to liquidating dividends) surplus earned prior to March 1, 1913, but excluding annuities subject to liens not taken into account in computing recognized installment sales wholly exempt to some affiliated taxpayer (not considering capital assets as community property). This section shall be given retroactive effect at the option of any taxpayer who makes affidavit that he can understand any section of the Revenue Act since the adoption of the 16th Amendment.

* * *

But it is upon the product of state legislatures that the overwhelming burden of censure, reproof, and malediction has fallen, and which, with respect to many of the legislatures, is still falling. As proof of the wholesale failure of state statutes to express the legislative will accurately and adequately, a writer in the *American Political Science Review** cites a single volume of reports containing about 1,000 opinions of supreme and appellate courts of western states within a two months period, showing 416 cases in which the construction of statutes or constitutions is involved. It cannot be doubted that an investigation of the court reports of other states and of other periods of time would disclose that appellate courts are called upon in far too great a proportion of cases to make the "last guess" as to the meaning of laws.

Robert Luce says that "a curious collection could be made of the blind, misleading, inconsistent, or ridiculous provisions that have been put into the statutes even in our day, when intelligence and learning are supposed to be so much more common than ever before." By way of illustration he cites a law of one of the states, governing the inspection of hotels and lodging houses, containing this mandate: "All carpets and equipment used in offices and sleeping rooms, including walls and ceilings, must be well plastered." The implication that the author of the law must have been in the same condition is almost inescapable. Governor David B. Hill of New York, in 1885, in his message to the Legislature, contributed a declaration to the effect that the careless and imperfect manner in which bills were generally framed was one of the greatest evils incident to the bad methods of modern legislation.

A number of accusations, with particular reference to form, aimed at the laws which have found their various ways into the statute books of English-speaking countries have been mentioned by name. They are spoken of as disgraceful, unworkmanlike, defective, unintelligible, abounding in errors, ill-penned, inadequate, loosely worded, depraved in style, peculiar absurdities, mischievous, baneful

*Ernest Brundun, "Defective Methods of Legislation."

in influence—and besides, in their making “technical skill is often below the mark.” Otherwise, it might be presumed, they are all that could be asked of them—but no, in other writings we find that they are uncertain, confusing, obscure, ill-expressed, ambiguous, overbulky, redundant, entangled, unsteady, disorderly, complex, to say nothing of being “uncognoscible.”

Small wonder, then, even though “ignorance of the law is no excuse,” that the innocent citizen is nevertheless confused; that litigants multiply, and quarrel regarding their legal rights no less than with respect to the facts; that administrative officers are puzzled what course to pursue; that peace officers and prosecutors disagree, are disconcerted, bewildered, and often confounded, and that appellate courts continue to pile up tome upon tome of opinions, sometimes contradictory, interpreting and construing the statutes.

LEGISLATIVE DRAFTING AGENCIES

In recognition of the serious implications of the age-old indictment hanging over the form of American laws the American Bar Association appointed a special committee on legislative drafting, which made its initial report at the Association's annual meeting held at Montreal in 1913, "to consider whether some efficient agency cannot be devised to provide the several state legislatures with scientific and expert assistance in the framing of legislation." Concluding a comprehensive statement of its findings, this committee, composed of Wm. Draper Lewis, Ernst Freund, Samuel Untermyer, Louis D. Brandeis, Thomas I. Parkinson, Henry C. Hall, and F. W. Lehmann, recommended adoption of the following resolution:

"Resolved, That in the opinion of the Association, an official legislative drafting and reference service, when properly organized and directed, forms an efficient agency tending to prevent the enactment of unconstitutional, obscure and otherwise defective statutes and to secure the utmost brevity and simplicity consistent with accuracy in the language of statutes, and we hereby recommend the establishment and generous support of such service at Washington and in those states not now having such service."

This recommendation was not exactly a voice crying in the wilderness. There was by this time a realization of the need for more accurate and scientific preparation of laws, and some progress had already been made in the direction recommended by the committee. Nevertheless, it gave the approval of the highest authority in the land to the movement. The English Parliament had long since placed its bill drafting in the hands of experts, and the United States Congress did so occasionally but not systematically. Among the states, Wisconsin led the way in 1901, followed by Pennsylvania in 1909 and Ohio in 1910. A number of states had established legislative reference bureaus. In 1919, as has been seen, Congress made provision for a legislative drafting service, while at the present time, of forty-three states having agencies which render some form of legislative aid, nineteen have legislative drafting departments.*

Following the action taken by the American Bar Association in 1913, upon the recommendation of several of the nation's most eminent jurists, including a distinguished jurist who has but recently retired from the United States Supreme Court, scores of the world's most noted students of the law-making process have advocated the establishment of legislative drafting agencies by all the states. It is

*Arizona, California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Massachusetts, Michigan, Nebraska, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia, Wisconsin.

also worthy of note that no state, having established such an agency, has abandoned the service. There is, of course, a reason.

It stems from the requirement, in the public interest, of expert draftsmanship in the making of understandable, consistent, coherent laws.

The difficulties of law drafting are not of recent discovery. Long before the "Federalist" writers attributed growing discord between American colonists and the mother country to blunders in the formulation of English laws, long before Jeremy Bentham denounced the style of English statutes as one of "general depravity," the need for skill in the preparation of laws was recognized. When representative assemblies were first conceded by the King, "the dangers of law-drafting by the inexpert were self-evident," and inasmuch as most of the squires and burgesses, and even the nobles, knew they were unfitted for such work, there was acceptance of the practice, in response to petitions for redress of grievances, of the drafting of laws by the King's Judges.

Passing by a long line of historical examples we find in this country a steadily growing realization of a distinction between the function of the legislator on the one hand to determine the purposes of legislation and the ends sought to be achieved, and on the other hand the technical function of framing or preparing laws to effect such purposes and ends. Even before this distinction came to be as generally recognized as it now is, and before the idea was evolved of legislative drafting agencies responsible to the legislature, natural causes led to the feeding of the legislative hopper from sources outside the lawmaking body itself.

Frequently a member, confessing his own lack of qualifications as a draftsman, lacking the time during a brief and busy session, or preferring to devote his attention to the study of general aspects or principles and the decision of policies, sought the assistance of an attorney of his acquaintance, who for an appropriate fee or possibly as a gratuity would prepare his bill. Often he enlisted the services of the Attorney General or the counsel of some department of the government who, although engaged upon the performance of his own duties, would not see fit to deny the request of a legislator, who might conceivably be expected to return the favor. But more often than otherwise bills were both conceived and drafted outside of the legislative precincts. It was not an unusual practice for executive departments to prepare measures designed to effect changes in the laws relating to their own duties. Far more commonly, interests, groups, and individuals provided members of the Legislature with bills drafted by their own lawyers, put into words they believed would accomplish their purposes.

This reference to sources of material for the Legislature to deliberate upon has been stated in the past tense. It should not be understood, however, that because of the introduction of drafting agencies in many states these sources have been dried up, or the old methods of getting bills have been abandoned, although that is true to a considerable extent—in certain states more than in others. Neither is it intended to convey the idea that bills received from these various sources are necessarily bad in substance or inadequate in form, although this might easily be true.

The point is that through the operation of such a system the Legislature finds itself confronted with the wholly dissimilar product of many workmen—the product at best of draftsmen to whom the work is merely casual, and at worst of draftsmen to whom it is quite strange, who have no training for it, little if any experience in it, perhaps small aptitude for it, and almost certainly have not the aids of library and research facilities which are enjoyed by a well regulated agency staffed by trained draftsmen. Little imagination is required to understand the legislator's confusion or the effect upon the body of laws. It is not—and this is the gist of Bentham's protest, as of many another—that laws are drafted by unintelligent or uneducated men, or by men unversed in the law, but by men untrained as draftsmen, whereas legislative drafting is a science apart. And this incongruity exists in the face of the fact that the present is an era of the subdivision of labor, when the expert or specialist is generally considered to be coming into his own.

* * *

Interesting views of the difficulties and problems attendant upon legislative drafting and the importance attached to its performance by qualified draftsmen have been expressed by many writers of renown on governmental subjects. John Austin, the writer on jurisprudence, says: "I will venture to affirm that what is commonly called the *technical* part of legislation is incomparably more difficult than what may be called the *ethical*. In other words, it is far easier to conceive justly what would be useful law than so to construct that same law that it may accomplish the design of the lawgiver."

Frank E. Horack, Jr., in "Cases and Materials on Legislation," declares: "The proper preparation of legislative proposals requires a foresight of governmental problems, a skill in determining the limits of effective regulation, information concerning specific social and economic problems, and proficiency in the art of draftsmanship which from their very enumeration indicate the necessity of training of a high order."

According to Harvey Walker, Professor of Political Science at Ohio State University, in "Law Making in the United States": "No

legislator can be an expert upon all subjects, so even those who feel competent to prepare certain bills find it convenient to defer to others who are more familiar with the subject matter, or with the experience of other jurisdictions * * * . It is for the convenience of these legislators as well as for the improvement of the quality of the legislative product that legislative reference bureaus and bill drafting agencies have been developed in this country."

"In practice," says Joseph P. Chamberlain, Professor of Public Law at Columbia University, in "Legislative Processes," "few of the bills presented to the legislature are drawn by skillful draftsmen, for even good lawyers are frequently poor draftsmen. Consequently, most of them need revision, sometimes to make the language intelligible, or, even where it is intelligible, to adjust the bills to the case law and the statute law, which is too often overlooked by the inexperienced draftsman. Then, too, a lawyer who has not had large experience with the administration is not familiar enough with it to select the devices which will best carry out his purpose, and the bill which he submits commonly needs modification in its administrative sections."

The case for official drafting agencies, staffed by trained, qualified draftsmen, may well be closed by quoting W. F. Willoughby, director of the Institute for Government Research: "With the substantive provision of bills determined," he says in "Principles of Legislative Organization and Administration," "the problem is presented of incorporating them into correct bill form. This is a work which, if it is to be properly performed, requires technical skill of a high order. * * * Unless this is done with great care difficulties will arise in its execution. The drafting of bills is thus a special art to be acquired only by special study and long practice."

THE LEGISLATIVE DRAFTSMAN

Concerning the qualifications demanded of the legislative draftsman, engaged in a profession—sometimes called a special art—which authorities agree demands “training of a high order,” Robert Luce, after declaring that the framing of a statute is among the most difficult tasks that confront the intellect, says, “The task calls for mastery of language, lucidity of style, familiarity with technical significance, command of both constitutional and statutory law, logical capacity, unusual powers of foresight, and a knowledge of the field concerned that cannot be too extensive.” He adds that “even men as expert in certain particulars as the judges of the highest courts have through the lack of other capacities fallen far short of perfection in statute-drafting.”

Sir Courtenay Ilbert, sometime Clerk of the House of Commons, in summarizing the qualifications required for a legislator, says that “he should know the law, he should know the facts, he should know exactly what he means to do, he should know how to express his meaning clearly.” And, Sir Courtenay concludes, “If the legislator should know these things, so also should any legislative draftsman whom he may employ as an expert.”

Not for the purpose of discounting the great value of legal training as a qualification, but to present another angle of the draftsman's essential equipment, the answer given in *Didwich's “Elements of Politics”* to the question, “What is the place of the lawyer in legislative drafting?” is this: “The traditional lawyer has practiced law from law reports, usable in law courts, and preserved only in legal records. This background is but a meagre preparation for successful bill drafting. It has been urged that ‘Proposed law should be drawn up by lawyers and any change in the draft should be carefully revised by lawyers,’ but it should be remembered that ‘The deductive operation of applying complicated general rules accurately and faithfully in particular cases is very different from the consequences of proposed or possible measures. * * *’ However desirable it may be to give leading lawyers a large and responsible share in the work of constructing laws, they are commonly more qualified to be Builders than Architects in this work.”

Sir Courtenay Ilbert, quoted above, says: “If a parliamentary draftsman is to do his work well, he must be something more than a mere draftsman. He must have constructive imagination, the power to visualize things in the concrete, and to foresee whether and how a paper scheme will work out in practice.” To which Harvey Walker, in “*Law Making in the United States,*” adds: “He must be able to visualize clearly the faults which each new law is designed to rem-

edy, and must be able to provide a solution for the problem which is acceptable not only to the member who is to introduce the measure but also to the public, in case it is enacted into law. He is the guardian of the purity of the statute book as to phraseology, form, and constitutionality."

So we are given to understand that the legislative draftsman must know the law, both constitutional and statutory, and be familiar with statutory construction; must know the facts; must know exactly what he means to do; must have mastery of language and lucidity of style, and be able to express his meaning clearly; must have logical capacity, powers of foresight, constructive imagination, familiarity with technical significance, and a knowledge of the field concerned; must be an Architect—a maker of plans and specifications appropriate to any conception of law given him to put into concrete form; must be able to provide a solution for the problem. Finally, he is the guardian of the purity of the statute book. Training of a high order indeed.

Of course this summary of the legislative draftsman's necessary attributes and attainments adds up to an unrealizable ideal. No human being can possibly know everything. Suffice it to say that he must come as close to having these high qualifications as possible. He must indeed have intellectual and educational equipment of a high order. But he must have another thing. Whatever the degree of his knowledge and skill, he must be fortified with adequate work tools. He must have the benefit of a well stocked legislative reference library, containing the reports and findings of outstanding administrators, the views and testimony of experts in every legislative specialty, the sum of experience along every legislative trail. He must also have ready at hand a complete law library. On top of these aids he needs to be armed with a compendium of bill drafting principles, a systematic code, a set of rules and forms, a manual and ever-ready guide, to lie at his elbow and serve as a constant reminder and admonition.

It is to meet this last mentioned need, as it relates especially to the Arizona jurisdiction, that this "Guide" is hopefully submitted.

GUIDE TO LEGISLATIVE DRAFTING IN ARIZONA

PREPARATION

When the draftsman receives a request to draft a legislative bill, he should secure sufficient instruction to inform himself of the purpose and intent of its sponsor, and if possible of the principle upon which the proposal is to rest. Determination of this principle is most important if the bill is to eventuate in a consistent, logical, and harmonious law. For instance, if it provides for criminal penalties, there should be a clear understanding as to whether they are to be based upon the philosophy of punishment, retribution, or vengeance, or that of cure or reform? Confused philosophies and principles presage confused and inconsistent legislation.

However, the instruction which the draftsman will in most cases receive will be limited, and he must realize that he has a heavy responsibility—that of exercising a large discretion—and an obligation to discharge that responsibility impartially. Absolute detachment should mark his attitude.

Before he can intelligently proceed with the drafting of a bill the draftsman must:

1. Master the subject matter—that is, obtain a thorough knowledge of the statutes and court decisions on the subject. If the bill passes it will take its place in the body of law, made up of other statutes and of many court decisions, and there must be certainty that it will not create conflicts nor produce outlandish or unintended results.

2. Consider whether the changes proposed may be adequately dealt with in an amending Act, or are so broad and comprehensive as to call for a new Act. If a new Act is decided upon, then the question arises whether it should be limited to certain phases or should replace and “consolidate” all existing law on the subject. If an amending Act is the course chosen, the utmost care and skill will be required to avoid the creation of inconsistencies and conflicts with unamended portions of the law.

3. Studiously examine administrative precedents and methods of enforcement, as disclosed by the statutes of other jurisdictions, or as reported or discussed by successful administrators or recognized experts.

4. Consider whether the proposed bill is of limited or special application, concerning comparatively few persons or regulating an inconsiderable number of transactions, relating for example to estrays, or is of general application, such as a law affecting real property. If it touches statutes having deep roots, unexpected consequences must be guarded against with the greatest caution. Not only must the law to be amended be considered, but also whether any other principle of law will be affected.

5. Carefully consider formal constitutional requirements, such as whether the proposed Act embraces more than one subject (article 4, part 2, section 13, Constitution of Arizona), or the law to be amended has been approved by the people and may therefore be amended only by the people (article 4, part 1, section 1, subsection (6), Constitution of Arizona).

Of course no careful draftsman can overlook the significance of substantive constitutional requirements, either, but inquiry in this field is not the peculiar function of the official draftsman, although it is his duty, when the constitutional issue obtrudes itself, to bring it to the attention of the legislator for whom the bill is being drawn. The decision in such case is the legislator's rather than the draftsman's.

MAKING THE BILL

Some difference of view is said to exist among leading draftsmen as to which phase of the technique of bill drafting demands most particular attention—the substance of the measure or regard for matters of form. Since it is the substance, argues one, upon which dependence must be had for the achievement of a law's objectives, that must be the first consideration. If care is taken to see that each detail is in correct form, urges another, the substance is likely, and not otherwise, to be correct.

To us there appears to be no irreconcilable difference between the two viewpoints. Their requirements are interdependent. Both are inescapable. There can be no really good bill drafting which ignores or underemphasizes either essential. Substance may be said to be everything, but without intelligibility there is no substance. Without understanding intelligibility is absent, and form includes aids to the understanding. This circle might be described in a number of ways, but each would add up to the same thing: substance and form.

For the purposes of a guide to legislative drafting, the order in which the several factors involved should be presented is a matter for consideration. It is another question upon which there is lack of uniformity among writers on the subject. Form—that is, form in

the sense of style, division, and arrangement—makes the first impression, for it first appeals to the eye. Perhaps, therefore, this aspect of form should receive first attention. But inasmuch as neither style, division, nor arrangement can be followed, nor any part or segment of a bill, from title to final clause, can be created or become visible to the eye without the use of words and combinations of words, which constitute language, it would seem that language should logically take precedence in any comprehensive discussion of the technique of legislative drafting.

A conceit which we like to indulge is to think of an Act as a building—a great, towering structure or a modest edifice. Language is the raw material, the steel and stone, the cement and lime, the wood and paint and plaster, which go into the construction of beams and pillars and floors and walls. The parts into which the Act is physically separated—its division into articles, sections, and sectional subdivisions—are the rooms and halls, galleries and balconies, closets and vaults and alcoves. Its contents—its title and clauses, principles and provisions, rules and remedies and penalties—are the furnishings and equipment of the building by which its occupancy is made practicable and expedient, as well as the tools for the work to be done or the business to be carried on within its walls.

So in the discussion which follows of a plan for the construction of a legislative bill we start with the raw material.

LANGUAGE

“The simplest English,” testifies Sir Alison Russell, author of the leading modern English textbook on bill drafting, “is the best for legislation. * * * The draftsman should bear in mind that his Act is supposed to be read and understood.” Which is but another way of saying, as did Montesquieu in the eighteenth century, that “laws should not be subtle; they are made for people of modern intelligence.” Confirmation of this view is found in the words of James Bryce: “In point of form, the merit of law consists in brevity, simplicity, intelligibility, and certainty, so that its provisions may be easily found, easily comprehended, and promptly applied.” The testimony of these authorities is given added emphasis by DeWitt Billman, of the Illinois Legislative Reference Bureau. “Indeed,” he says, “the virtues of good English, brevity, simplicity, clarity, and preciseness are even more important in legislation than in other writing, since by legislation must be regulated and controlled all the various rights and duties of human relationship.”

These expressions constitute a fair cross section of the judgment of leading authorities and draftsman as to the kind of language best suited to legislative writing.

The kind of language that should be avoided is disclosed by Frank E. Horack, in “Cases and Materials on Legislation.” “It is

traditional," he says, "that statutes are unreadable, indefinite, confusing, and misleading." Other critics of the written forms of law record their complaints in such terms as obscurity, ambiguity, indirectness, prolixity, artificiality, and such phrases as "long, involved sentences" and "archaic and stilted language."

It is evident that legislative drafting affords a large field for literary superiority, but of a sort quite apart from "other writing," possessing more definite, more exacting qualities of language, and demanding greater skill in composition. It bears no affinity to the language of rolling, sonorous phrases nor of rhythmical rhetorical flourishes. It is the language of the exact word and clear sentence, driven home with swift, direct, accurate, inescapable, incisive strokes. Simple, certain English, common words, brevity—all this and more. Simple English, yes, but exact simple English; certain English, without a doubt, but powerful or delicate as occasion requires; common words, assuredly, but precise common words; brevity, by all means, but the brevity of completeness, definiteness, and clarity. It may not be expected that the language of legislative drafting can be as accurate, as sensitive, or as powerful as the testing apparatus of the Bureau of Standards in Washington, which registers the heat of a candle at 200 meters, weighs a wisp of cigarette smoke or the penciled dot of an "i", or at one stroke delivers a crushing blow of two million pounds and at another gently cracks an egg, but these qualities must reside in every declaration. Bill drafting must have the accuracy of engineering, for it is law engineering; it must have the detail and the consistency of architecture, for it is law architecture.

Skill in the use of language appropriate to legislative drafting is something for every person so inclined to strive for. As a literary art it is worthy to rank high. It is not, unfortunately, a thing that all may achieve. The faculty of combining words into simple, direct, accurate, forceful English is not every writer's possession. It is a style of language which inevitably runs afoul of complex conceptions, situations, and objectives which are difficult to express or to define in words in common use or to cope with in other than technical language. Nor is accuracy of expression always an easy matter for even the most adept. Words after all are but symbols—often indefinite, inexact, and inadequate symbols—and there can be no valid guarantee that a given combination of words will in each instance convey to every reader an identical meaning.

But clearness, simplicity, and accuracy must prevail. Hindrances offer no allowable excuse for a complicated statute. Precision is necessary even though the subject matter tax the ingenuity of the expert. The conscientious draftsman will spare no pains nor permit to pass any opportunity to improve the true expression of

laws, for by such means he will the more widely diffuse knowledge of the legislative will.

Difficulties of the choice of words aside, a qualification must be stated, and a warning sounded. Brevity, as has often been said, is a hallmark of good legislative draftsmanship. The statement is not withdrawn. But almost every question has two sides, and the principle of brevity in the writing of laws is no exception. Every proposition should be stated without unnecessary verbiage, each word made to justify its use. But brevity when it means incompleteness—in a bill as a whole, the statement of a principle, or the laying down of a rule—is not a virtue. Necessary length is not a fault. Conciseness is a most excellent quality, but inadequate treatment of a complex subject should never be committed in its name. A bill, as Sir Alison Russell says, “must be no shorter than the cultivated imagination of the draftsman informs him is necessary to deal with all the questions which may arise under the Act when enacted.”

Restated, then, the rule should be: brevity with completeness, clarity, exactness, directness, force. This is the language of legislative drafting.

DIVISIONS

There was a time when bills were drafted and became laws in solid blocks “of most repellant aspect.” They contained neither breaks nor stops. Had there been a sentence it would have resembled a hypothetical question touching upon the sanity of a wealthy defendant charged with a capital crime, but there were no sentences. This practice is no longer followed, though the change was gradual and slow.

In order that its meaning may be easier of ascertainment the modern bill is divided, according to Arizona practice, into parts, called articles, sections, subsections, paragraphs, items, and sub-items. Articles and sections have headings and captions, respectively, which may also be classed as parts. They possess no legal significance. The physical characteristics of these parts, their purposes and advantages, are here discussed:

Articles. A bill is divided into articles when the laws of a broad class of subjects are being codified (for instance, revenue laws, highway laws, or banking laws), or when the subjects of the articles are so distinct, though embraced within one general subject, that they might without impropriety be embodied in separate acts. This grouping brings together the sections which are more closely related to each other and less closely connected with the balance of the bill. When a bill is divided into articles each article is given a heading and is numbered with an Arabic numeral thus:

Article 1. Taxation of express companies.

Only in such exceptional cases as those referred to should a bill be divided into articles.

Sections. By far the most important division of a bill is the section. It serves several purposes. It is a visual aid, by making each proposition stand out separately and clearly, like the words in a dictionary, and by permitting the scope of an Act to be clearly perceived by a review of the section captions. It enables the sense of the statute to be more easily grasped, if it is made to proceed step by step. It aids the draftsman to segregate and lay out his ideas and finish up one thing at a time. It permits parts of the statute to be referred to in discussion or trial, and more easily indexed. It affords flexibility for compromise in enactment, for code revision, and for purposes of amendment, particularly in jurisdictions, as in Arizona, where the constitution requires that a section to be amended must be set forth at full length.

The section's chief virtue, when properly used, is as an aid to the understanding. Jeremy Bentham, more than a century ago, recognized this when he urged: "Minimize the length of sentences; the shorter the sentence, the clearer it is to the eyes of the legislator and the judge." Bentham lived in a day when Acts were framed in solid blocks of fearsome aspect, pages on pages, without stops, pauses, or other assistance to interpretation. He was arguing for intelligibility.

The length of sections will necessarily depend to an extent on the treatment of the subject. There is no rule governing length better than that of Bentham's—the shorter the better—plus the admonition to limit each section to a single separable proposition. A practical test of the latter limitation is to write a section caption, expressed in a single clause of not to exceed ten words, preferably eight, six, or even less, which expresses adequately the subject matter. If the caption cannot be made short without being vague, or descriptive without being long, it is a good sign that the matter should not be confined to one section.

Sections should be numbered consecutively from beginning to end of the Act. This applies as well to an Act which is divided into articles, for the reason that where each section is identified by its individual number without referring to the article there is no danger of confusing sections of different articles.

A section should contain only one paragraph, except designated subsections or paragraphs.

Section captions. Each section should bear a caption, or "side-heading," following the section number. This caption should be distinctive, general, short, usually in substantive form, in a single

clause or sentence. It should describe, but not summarize, the contents of the section. A proper form is "Power to grant divorce." Not: "Divorce may be granted." Nor: "Divorce may be granted to wife; no bar to divorce." The latter clause discloses that the section should be divided.

The object of the section caption is to enable a reader quickly to find the provision of law he is seeking, and to furnish the basis of an index. It is also of peculiar value to the busy legislator. It should be framed with care.

Subsections. It sometimes occurs that contingencies, conditions, requirements, or alternatives, best expressed by separate statements, are so closely connected with a general rule that it is desirable to place them in the same section. In such cases it will contribute to clearness of thought and expression to divide the section into subsections, distinguished by small letters in parentheses, as: (a). The subsection is useful also for exceptions, limitations, or provisos which are too complicated to be embraced in the rule without confusing its language. A subsection should contain only one proposition and should be complete in itself.

Paragraphs. Sections or subsections may include paragraphs. The paragraph is a visual aid, and its particular function is to break down, for emphasis, distinctiveness, and accuracy of interpretation, a series of somewhat lengthy items or specifications supplementing an antecedent or introductory clause and dependent upon it for completeness. Paragraphs, except in the definitions section (see page 27), should be distinguished by unsupported Arabic numerals, the paragraphs of each section constituting a separate series.

Items and sub-items. Items and sub-items (items within items) serve the same purpose as paragraphs, but are used only when the constituent specifications may each be expressed in a few words, say six or eight.

Items may be embodied in sections, subsections, or paragraphs. Items are designated by unsupported Arabic numerals, and sub-items by symbols formed by a combination of the item number and a small letter. The first word of an item or sub-item (following the numeral or symbol) does not thereby become subject to capitalization.

Summary of designations. A section containing subsections, paragraphs, items, and sub-items appears like this:

- 1 Sec. 12-401. **Assessment of mining claims.** (a) The state tax
- 2 commission shall assess all mining claims. In making such assess-
- 3 ment it shall:
- 4 1. Ascertain the condition of shafts, tunnels, drifts, and other
- 5 excavations made either for the extraction of ore or for develop-
- 6 ment and exploration.
- 7 2. Appraise all improvements, including mill, power plant,

- 8 and other equipment and structures used in or about the claim.
9 3. Determine, by such means as it deems feasible, the amount
10 and probable value of ore in place.
11 (b) The commission shall enter the assessments of mining
12 claims in a separate book, which shall show: 1. the names of the
13 owners; 2. the real property, described by: 2a. metes and bounds;
14 2b. common designation; or, 2c. number of acres; 3. all improve-
15 ments; and, 4. the full cash value.

CONTENT

As to particulars to be considered by the draftsman—such as designation, constitutional requirements, purpose, and form—the contents or matter entering into a bill will be discussed as nearly as may be in the order in which the several matters usually should appear in a bill.

The location of purely formal features such as the title and the enacting clause, which are common to all Acts, and the repeal and emergency clauses, which are found in many, presents no problem. Their positions, if not fixed by law, are determined by obvious logic and universal custom. On the question of the proper place for less universal quasi-formal provisions more or less commonly employed, including short title, definitions, saving, liberal interpretation, severability, and limited duration clauses, most draftsmen are in substantial agreement. But the placing of those provisions which constitute the real substance of an Act affords opportunity for thought. Varying in nature and scope, as bills do, and therefore presenting different functional and drafting problems, no uniform rule covering all cases can be laid down. There is, however, one rule universally applicable: the substance of all bills should be presented in a logical and orderly development, beginning with the main principle or rule, in that arrangement which is clearest and easiest to the understanding.

Fortunately there are certain classes of bills, constituting perhaps a majority, which lend themselves to fairly definite arrangement of contents. For the purpose of illustrating a desirable arrangement while at the same time supplying an index for the discussion which follows, a familiar but comprehensive class of bill has been chosen—one which seeks to establish rules of law, procedural methods, standards for administration, and the creation of an administrative agency.

ARRANGEMENT

Title									
Preamble (virtually obsolete)									
Enacting clause									
Short title									
Definitions									
Policy section (rare)									
Substance of bill	<table> <tr><td>Main principle or purpose</td></tr> <tr><td>Subordinate principles</td></tr> <tr><td>Procedural provisions</td></tr> <tr><td>Temporary provisions</td></tr> <tr><td>Creation of agency</td></tr> <tr><td>Details (tenure, removal, salaries, expenses, bonds, etc.)</td></tr> <tr><td>Powers and duties (rules and regulations, re- ports, etc.)</td></tr> <tr><td>Penalties</td></tr> </table>	Main principle or purpose	Subordinate principles	Procedural provisions	Temporary provisions	Creation of agency	Details (tenure, removal, salaries, expenses, bonds, etc.)	Powers and duties (rules and regulations, re- ports, etc.)	Penalties
Main principle or purpose									
Subordinate principles									
Procedural provisions									
Temporary provisions									
Creation of agency									
Details (tenure, removal, salaries, expenses, bonds, etc.)									
Powers and duties (rules and regulations, re- ports, etc.)									
Penalties									
Saving clause									
Appropriation									
Liberal interpretation clause									
Severability clause									
Duration, if limited									
Repeal clause									
Emergency clause									

DISCUSSION OF PARTS

Title. The best title is a brief title, which announces in good English and concise expression, with "force and ease," the general purpose of the bill. The special committee on legislative drafting of the National Conference of Commissioners on Uniform State Laws takes the position that, barring meaningless titles, such as "An Act to promote the general welfare of the state," the briefer a title the better.

The Arizona Constitution (article IV, part 2, section 13) prescribes: "Every Act shall embrace but one subject and matters properly connected therewith, *which subject shall be expressed in the title * * **" In a long line of decisions the Supreme Court has declared that "the title need merely put the Legislature and others interested on notice as to what might reasonably be expected in the Act, and need not recite details or provisions reasonably adapted to make effectual the principal object as controlled by the title." This should dispose of the outdated practice, still adhered to by some draftsmen, of attempting to summarize the contents of a bill in the title—a practice at once cumbersome, unpopular with the courts and with the reader, and fraught with the peril that in saying too much it may say too little.

There are draftsmen who take the view that the emergency clause, when attached to a bill, should be referred to in the title. This also is erroneous. The high court has held that the emergency clause refers "only to the time the bill takes effect, and does not affect the substance of the Act." The time of taking effect being merely a detail, which may be ascertained as any other detail by reference to the Act, need not be referred to in the title. The same may be said of an appropriation clause embodied in a bill the principal purpose of which is to establish the law and create administrative machinery. The appropriation being incidental, and designed merely to carry out the purpose of the Act, need not be mentioned in the title.

Under Arizona practice the title should first state the general subject, as, for example: "Relating to public health." If the bill is broad and comprehensive this broad, general definition is sufficient. If it applies to a specific object within the general subject, that object should be stated in a second phrase, as: "providing for the recording of vital statistics." If in addition it amends or repeals any existing law or laws notice thereof should be given in a third phrase. Thus a complete title might read:

AN ACT

Relating to public health; providing for the recording of vital statistics; amending article 6, chapter 68, Arizona Code of 1939, by adding section 68-601, and repealing section 68-604.

Preamble. Another obsolescent feature is the preamble, which precedes the enacting clause. At one time it was thought to serve a useful purpose as a key to the meaning of the statute. There is now the presumption, which should be justified by good bill drafting, that an Act explains itself. The preamble was also considered of value as a vote catcher. This is overridden by the presumption that the legislature is influenced by the public interest when it passes a bill, and a preamble to that effect adds nothing. Still, there is no constitutional or statutory prohibition against it.

Enacting clause. "The enacting clause of every bill enacted by the legislature shall be as follows: 'Be it enacted by the legislature of the State of Arizona,' or when the Initiative is used: 'Be it enacted by the People of the State of Arizona.'" (Article 4, part 2, Section 24, Constitution of Arizona).

Short title. The short title is useful primarily in statutes of considerable length and of major significance, and particularly so when the official title is complex. By its identification of the principal objective of the law it affords an easy and popular reference. Use of the short title should be limited to the most important measures, and where used should be true to name—short—and true to the

fundamental bill drafting principle of simplicity. Example: "This Act may be cited as the revenue act of 1941."

Policy section. Placed in the body of an Act, a statement of the public policy motivating the enactment of legislation of major significance, dependent for its usefulness upon a proper appreciation of the legislative intent, compels greater judicial respect than a preamble preceding the enactment clause. It is rarely justified, however, for most legislation is adequately self-explanatory.

Definitions. Definitions are dull reading, but when carefully used are of great convenience to the draftsman in keeping his draft concise and clear. They are serviceable in a variety of ways: as a general term, to save the repetition of a recurring series of words; for translating technical words having no popular meaning into commonly understood language; as a guard against the danger of using different words to express the same thing; for including or excluding matter from the general meaning of a word, and to give it the exact shade of meaning desired; for simplification of expression, classification of thought, and to reduce prolixity.

Definitions should be framed with the utmost care, in the fewest number of words possible, and employed only when a real need exists. Do not disturb words the meaning of which is clear. Superfluous definitions are more likely to confuse than to clarify.

For the purpose of guiding a correct judgment concerning the interpretation of the Act the definitions section should precede the statement of the law.

If it is necessary to define an expression which is used in only one section, define it in that section, perhaps in a subsection.

Where the name of an administrative agency is, for the sake of brevity, reduced to an abbreviated formula, and placed in the definitions section, the name should be written in full the first time it occurs in the body of the bill. This is of assistance to the reader.

In a definitions section each definition should be in a separate paragraph. Each word or phrase should be enclosed in quotation marks, and, unless a proper noun, should begin with a small letter. If the definition is restrictive the conjunct should be "means"; if extensive, "includes"—never "means and includes." "Means" is explanatory, and means what the definition says it means; "includes" is extensive, and means what it would ordinarily mean, plus something which is declared to be included in it. Example:

Sec. 2. **Definitions.** In this Act, unless the context otherwise requires:

"....." means;
 "....." includes

Main principle and substance. As the heart is to the human organism, so to a bill is that part which holds its main objective or purpose, and discloses the legal principle upon which it depends. This most important part should come immediately after what may be termed the introductory sections.

There are two conceptions of what constitutes the main principle: one, statement of the law, followed by the authority by which it is to be administered and the means by which it is to be made effective; the other, to deal with the authority, and then state the law. The latter conception is based upon the chronological theory that the law cannot become effective without the means to administer it. The sounder view is that without the main purpose there would be no law, therefore nothing to administer. The law being the chief objective it is that which primarily interests the reader, and only incidentally the authority and means by which it is given force. Where procedural provisions relate to an administrative agency which does not exist, its existence may be presumed until that portion of the bill providing for its creation is reached. Furthermore, the chronological argument loses its validity when it is remembered that the entire Act, and each section thereof, is passed by the legislature and takes effect simultaneously.

The correct rule, then, with respect to the heart of the bill and the vital organs which attach to and complement it, is to state: 1. the main principle, concisely and clearly, in one or more sections, or, in the case of a complex bill, the several principles or leading motives; 2. procedural provisions; 3. temporary provisions, if any; 4. creation or assignment of the administrative agency, followed in separate sections by such necessary details as tenure, removal, salaries, expenses, vacancies, bonds, etc.; 5. powers and duties; 6. details of exercising powers; 7. review of administrative actions; and, 8. penalties or sanctions.

Subordinate principles. Subordinate procedural, temporary, and administrative provisions, including assignment of an agency to administer the law, or if none exists, the creation of an agency, should be arranged in logical order, the material being so sifted as to afford a clear conception of the subject matter and the relation of the several parts to one another. Precedence should be given, wherever possible, to the more important provisions—those of normal and general application first, and special, exceptional, and local provisions toward the end. No section depending on another section should precede the section on which it depends. Thus, issuance of a license should precede revocation. Never let it be forgotten that each severable proposition is entitled to a separate section, but procedural and administrative provisions particularly, because of the usual necessity for frequent amendment, should be reduced in length

and increased in number. The longer a section the greater the burden of amending it.

An exception to the rule placing provisions relating to the administrative agency last is when the specific and chief purpose of the bill is to create new machinery to administer an old law, not to change the law.

Creation of agency. This section should be limited to a description of the composition of the agency which is to administer the Act. For example: "The Department of Conservation shall consist of three members, who shall be appointed by the Governor, with the consent of the Senate." The hackneyed phrase, "There is hereby created," is unnecessary. Authority for creation of the agency is implicit in a statement of its composition, supported by the details of tenure, removal, bonds, organization, and powers and duties. These should follow in logical sequence, each distinct and divisible provision in a separate section.

Elements. An aspect of bill drafting which the draftsman should have clearly in mind is that of the elements which enter into the construction of each legal enactment, of which an Act may contain one or many, and the order in which these elements should appear. In the case of an enactment of universal application, the elements are but two: 1. the legal subject—that is, the person directed and empowered to do or abstain from doing a particular act, or, if in the passive form, the thing to be done or left undone, and, 2. the legal predicate, or legal action—that is, what the person is to do or leave undone, or if the passive form is used, what is enacted with respect to the thing to be done or left undone. Whenever possible the legal subject should be stated affirmatively and the verb negatively. It is not the intention that "no person shall peddle without a license," but that "a person who peddles without a license shall be subject to certain penalties." The legal subject should, if possible, appear at the beginning of the section or sentence, followed by the legal predicate. The legal subject may be personal or real, but if it is possible to do so the statute should be written in the personal form. It may be rather fine spun to argue that it is illogical to direct a command to a "thing" which cannot have legal responsibility, but it is sound to insist that "statutes should be directed toward the persons who must sustain rights and obligations as the result of the legislative direction." It is the duty of the draftsman to exercise care in defining accurately those to whom the statute is to apply, as failure to do so might result in its rejection on constitutional grounds, for being discriminatory.

An enactment which is of less than universal application may contain one or both of two other elements—the "case" to which an action is confined, and the "condition" upon which it will operate. If both appear, the latter is in reality a condition upon a condition. If

the case is susceptible of statement in a few words, it should precede the legal subject, otherwise an intimation of it should be given in the statement of the subject and the exception or exemption permitted to follow the rule, in the subsection or a separate section. Wherever possible, abilities and disabilities, or the predicate, case, and condition, should be kept close to the subject—in the same sentence if possible, in order that there may be no room for doubt as to who is intended.

Penalties. Not infrequently laws are rendered impotent for lack of penalties for a violation of the right or for a breach of duty. "For it is but lost labours," as Blackstone observes, "to say, 'Do this,' or 'avoid that,' unless we also declare, 'This shall be the consequences of your non-compliance.'" The penalty section should follow the procedural provisions. It should provide that a violation of any provision of the Act is a felony or a misdemeanor, as the case may be, and punishable as prescribed by law for the class of offense in which the violation falls. If it is desirable to punish more severely certain violations, the extra penalties should be in addition to the general one, and stated in subsections or as separate sections.

Saving clause. A saving clause has as its objective the exclusion of a class from the operation of the Act. Its purpose is to save rights rather than create them. It should be expressed in a separate section.

Appropriation. If it is desired that a bill contain an appropriation to carry out the purposes of the Act, it should be placed in a separate section following the administrative provisions, or the saving clause if there be one, and immediately preceding such formal provisions as liberal interpretation and severability clauses. Care should be taken to observe the requirements of an appropriation as defined by the courts, which are that it must be limited in amount, be for a definite purpose, and made to a definite agency. The proper form is:

Sec. 19. **Appropriation.** The sum of.....dollars is appropriated to the use of the.....,dollars during the.....fiscal year anddollars during the.....fiscal year, for the purpose of carrying out the provisions of this Act.

Liberal interpretation. This general provision relating to construction is a statement to the effect that the Act shall receive a liberal interpretation to carry out the purpose expressed therein. Inasmuch as it is a familiar rule of construction, applicable along with others which may govern in particular cases, to effectuate the intention of the legislature and secure the most beneficial operation, the provision for liberal interpretation is of doubtful value. As in the case of the severability clause, it may be referred to by the court in support of a decision which would have been the same without such

a clause, but in a case where other principles of construction must control it is disregarded.

Severability. Despite its automatic character, and the fact that the rule of construction which it states is well recognized by the courts, the incorporation of a severability clause is common practice. Where it is deemed desirable this form is satisfactory:

Sec. 17. **Severability.** If any provision of this Act be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision, and to this end the provisions of the Act are declared to be severable.

Limited duration. Where an Act is to expire by limitation, care should be taken to provide that a right, obligation, or penalty accrued or incurred during the period of its operation shall not be affected, and that any investigation, legal proceeding, or remedy in respect thereof may be instituted, continued, or enforced, and such penalty imposed, as if the Act had not expired.

Repeal. The complaint was once directed at Parliament that it passed statutes by wagon loads and repealed them by cart loads. A modern version might be that the legislature passes them by ten-ton truck loads and repeals them by bicycle basket loads. It is obvious that the statutes are unduly expanded with obsolete laws, and no opportunity should be overlooked for their express repeal.

For the purpose of express repeal, the following clause is desirable:

Sec. 20. **Repeal.** Chapter 65, Revised Code of 1928, is repealed. This section does not negative an implied repeal of any statute which conflicts with this Act.

Implied repeal. A common practice in the past, now less frequently followed, was to provide at the close of a bill, "All Acts or parts of Acts in conflict with the provisions of this Act are hereby repealed." This is both unnecessary and confusing. As stated in C. J. 902-37, "It leaves open the question of what Acts are inconsistent and frequently leaves the question of repeal in doubt; in legal effect it adds nothing * * *, as without such provision all prior conflicting laws or parts of laws would be repealed by implication." Stated more tersely by Robert Luce: "Why waste ink by so much as declaring that 'all Acts and parts of Acts inconsistent herewith are hereby repealed?' Of course they are. It is elementary that the last word goes." But do not permit to escape any opportunity for an express repeal.

Emergency. Article IV, part 1, section 1, paragraph 3, of the Constitution provides: "* * * no Act passed by the Legislature shall be operative for ninety days after the close of the session of the Legislature enacting such measure, except such as require earlier operation to preserve the public peace, health, or safety, * * *";

Provided, that no such emergency measure shall be considered passed by the Legislature unless it shall state in a separate section why it is necessary that it shall become immediately operative, and shall be approved by the affirmative votes of two-thirds of the members elected to each House of the Legislature * * *." In *Orme vs. Salt River Valley Water Users' Association*, 25 Ariz. 324, and numerous other decisions, the Supreme Court has laid down the rule that "determination of an emergency is a question of fact, the Legislature being the sole judge." The statement of an emergency, therefore, being perfunctory, the "emergency clause" has become standardized in this form:

Sec. 21. Emergency. To preserve the public peace, health, and safety it is necessary that this Act shall become immediately operative. It is therefore declared to be an emergency measure, and shall take effect upon its passage in the manner provided by law.

Time of taking effect. As has been stated, the emergency clause relates merely to the time the Act takes effect, and thus being a detail and in no sense the subject, no reference to it need appear in the title.

HINTS FOR THE DRAFTSMAN

Emphasis has been placed throughout this Guide upon the principles of brevity, preciseness, clarity, simplicity, and orderliness as shining attributes of skillful bill drafting. Ambiguous, indirect, or verbose language is severely criticised. The absence of orderliness in arrangement of provisions is deplored. Unreadable, confusing, and misleading bills—the inevitable product of ill-favored components—are condemned as forerunners of bad laws, discreditable to legislators, plaguing to the courts, and injurious to the people.

Much of what has been said, both of vices and virtues in bill drafting, is general in character. It relates to principles rather than to particulars. The following more definite observations and specific examples of good and bad practices may prove helpful:

Sections and subsections. Each section or subsection should be complete in itself, and self-sufficient. It should not be written as a continuation of the preceding section or subsection, nor as a preface to the succeeding one.

Provisos. There are a number of ways in which to express provisos, but the worst of all is to attach them, by means of the word "provided," or provided, however," as awkward addenda at the end of the statement of law they are designed to limit. This form of proviso is a disfigurement, and is likely to lead to ambiguity. The condition precedent to the law's operation should precede the legal subject and legal predicate, but if its statement requires so many words as to render that course impracticable, it should be placed either in a subsection following the general rule, or in a separate

section. Where there is more than one limitation it is best to place them in a separate section, entitled "Exceptions."

Tense. A statute is applied as of the date of application, not as of the date it is written. It should be drafted, therefore, in the present tense: "It is unlawful." Not: "It *shall be* unlawful." Reserve "shall" for requirements or prohibitions.

Number. Wherever possible use the singular number. The law usually applies to individuals, and the singular includes the plural.

Technical terms. It becomes necessary at times, in drafting a statute, to determine whether to use a technical term, a trade or commercial term, or a common term. A term with more than one meaning, or a term not generally understood, should be avoided. Popular terms with well understood meanings are to be preferred. Where it is necessary to use an unfamiliar technical term or a doubtful term, it should be accurately defined in the definitions section.

Legislation by reference. Draftsmen should avoid legislation by reference as much as possible. A law which includes by reference the provisions of another law is difficult to understand. Besides, discrepancies may later occur through amendment of the law to which reference is made. When reference is necessarily made to other sections or laws containing amounts, dates, or details most subject to amendment, avoid quoting details.

It is permissible to exempt from the operation of a law restrictive provisions embodied in another, by reference to the latter.

Ejusdem generis. A well known rule of statutory construction is that when specific cases or a series of particular terms are used, the Act will be held to apply only to such cases or terms, not to the general class of which they form a part. It follows that only general terms, wherever possible, should be used. If enumeration is required, exercise the utmost caution to make it exhaustive.

Sequence. Arrange the items of series of provisions, such as requirements, acts, rights, powers, or duties, logically and consistently in the sequence most natural to their character. If acts naturally occur in a given sequence as to time they should be arranged chronologically. If rights or obligations attach simultaneously they should be arranged in the order of importance or value.

Indefinite words. Words and expressions referring to a state of mind: knowingly, maliciously, willfully; words referring to what must be a matter of opinion: reasonable, serious, ample, seasonable, due, due cause, due diligence, due notice, proper, dangerous, favorable, necessary, needful; and words of degree or condition which do not permit of easy objective measurement: forthwith, immediate, night-time, good standard, should generally be avoided, particularly in penal statutes.

Wasted words. A great many words common to legal expression are frequently unnecessary and add nothing by way of definiteness. Among them are: hereby, aforesaid, whatsoever, wheresoever, of any nature.

Two words where one will serve makes neither for economy nor clarity: "Authorize and empower," "order and direct," "shall or may," "will and testament," "each and every," "any and all," "parts and portions," "do and perform," "acts and things," "full and complete," "by and with," "full force and effect," are examples of dualities which should not be tolerated in careful legislation.

"Be and the same is hereby ratified" means only "is ratified."

The connecting word "That" at the beginning of sections has no value and should be omitted.

Reference to "this state" or "Arizona" is usually surplusage. Example: "A person who (does so and so) *in this state* is guilty of a misdemeanor." Arizona cannot legislate for another state. Why waste words admitting it?

When necessary to refer to another section of the same bill, another subsection of the same section, or another paragraph of the same section or subsection do not add "of this Act," or "of this section." The reference cannot be understood to mean another Act or section without saying so.

Avoid repetitions of provisions embodied in general laws. Do not multiply identical laws.

Do not waste words to clarify an obvious meaning or to make more definite an inevitable procedure. A department having been empowered to administer an Act, it is not necessary to say that "a person desiring a license shall make application *to the department of*" No other agency could act on the application.

Example of a redundant phrase: "Any person who (does so and so) *shall be deemed to have committed an offense against the provisions of this Act and shall be liable on conviction before a court of competent jurisdiction* to a fine not exceeding....." Strike the italic words; the same result is achieved and twenty-three words saved.

Correct titles. Carelessness in the use of titles of public offices, departments, and institutions discloses lack of attention to details, gives the bill a sloppy effect, is confusing to the reader, and could create complications in litigation. Be careful to use the exact title prescribed by law.

"Said" and "such." Overuse of these terms is an abuse. A committee of the American Bar Association once reported that the practice "reduces statutory expression to the level of commonplace products of legal drudgery." At any rate "the" or "that" is often better English, and the general use of "such" is liable to occasion confusion when it is desired to use the word in its correct meaning.

When use of either of the much abused words, "said" or "such", is regarded as unavoidable, "said" should be employed in referring to a particular person, object or thing previously named or identified; "such" in referring to one of a general class.

"Shall" and "may." Never use "shall" to grant permission nor "may" to impose a duty. Where it is desired to authorize but not to command, and the provision is such that a court might consider that rights are involved which demand a mandatory enactment, the bill drafter should make his meaning clear by reinforcing "may." For example: "The applicant may, in his discretion."

"May," being a permissive word, is peculiarly applicable to the citizen, rather than to the administrative officer. In the case of the latter, where it is desirable to emphasize the optional feature of authority granted, use the phrase "shall have power to."

"And/or." Laxity in the use, in definitions and elsewhere, of the conjunctive "and" and the disjunctive "or", and lack of consistency in judicial solutions of the problems thus raised, have led some draftsmen to use the phrase "and/or." This remedy is worse than the disease. "And/or" adds to the confusion, leaves judicial determination unrestrained, and tends to conceal rather than disclose legislative intent. The American Bar Association Journal editorially condemns it as "a barbarism, which makes confusion worse confounded," and expresses the belief that it is "a device for the encouragement of mental laziness." Sir Alison Russell declares it "should under no circumstances be allowed to corrupt the statute book." John W. Davis, a leading member of the American bar and a past candidate for President of the United States, designates it as "a bastard sired by Indolence (he by Ignorance) out of Dubiety; against such let all honest men protest." And the courts do protest, as scores of opinions testify. Where, in the drafting of a statute, more than one requirement occurs, if it is the legislative intent that all requirements be fulfilled, the conjunctive "and" covers the situation; if the fulfillment of any one requirement is sufficient, the disjunctive "or" makes it clear. Where more than one standard is to be met, the itemization of standards is the best practice.

Same words for the same meaning. A fundamental of fundamentals is that the same thing should always be expressed by identical words, and the same words should never be used to convey

different meanings. If you mean and say "ship" in one place, do not say "vessel" in another. If you speak of "contributions" do not refer to them elsewhere as "payments." If you direct that notice be "served on" a party, do not in another section direct that it be "given" to him. Thus a word or a phrase, if it means but one thing, will definitely mean that one thing, and opportunities for misinterpretation or misconstruction, on the part of courts, administrators, or persons, are reduced to a minimum.

Preferred words and phrases. Words and phrases employed indiscriminately or carelessly lose much of their meaning, force, and effectiveness. It is an essential of good bill drafting to fit the exact word to the meaning intended. Accuracy and uniformity are bill drafting jewels.

Meetings other than regular are "special", not "extra".

Interest is "at the rate of six per cent", not "at six per cent".

In beginning a sentence to state a case or condition, "In the event" is to be preferred to "If".

Lists of schedules of qualifications, powers, rights, and duties are "enumerated"; persons, and offices or positions occupied by persons, are "named" or "specified".

"One thousand five hundred dollars" is better form than "fifteen hundred dollars".

Say "date", not "time", when referring to a specific date or a date which will become specific upon the occurrence of a specific act, as: "the date this Act takes effect".

Do not use "prescribed" and "provided" as if they were interchangeable. A tax is "prescribed", as also are requirements and conditions. Ways and means are "provided".

Referring in a general way to the body in control of a political subdivision, say: "governing authority".

Do not say "in charge" when "under the charge" is meant.

Moneys appropriated are to be "expended", not "applied" nor "utilized".

When fixing minimum amounts or numbers say "not less than" rather than "at least".

Formulas. Certainty of the law will be advanced by reducing frequently employed provisions of the law to formulas. An example of the numerous opportunities for such treatment is the provision for staggering the terms of members of newly created boards or commissions: "One member shall be employed for a term ending on the first Monday in January, 1942, and one each for terms ending respectively one, two, three, and four years thereafter. Upon the expiration of any of the terms a successor shall be appointed for a full term of five years."

REVISION

When the first draft of a bill is complete it should be subjected to careful revision. However skillfully the work may have been done, it is safe to assume that it is susceptible of improvement. Once the mind is relieved of the labor of original composition defects are easier to detect. An inconsistency is discovered—correct it. A more logical arrangement is suggested—make it. Awkwardness is found in an expression—smooth it. A phrase may be shortened without injury, an unnecessary word eliminated—perform the operation. Good draftsmanship calls for plodding research, careful study of details, thorough preparation, judicious arrangement. But it calls for something more. As John H. Wigmore said to the House of Delegates of the American Bar Association in 1938, "Patient toil is an absolute necessity in the framing of suitable legislation." The goal of the true draftsman is to achieve perfection as nearly as possible, and the price of that goal is indeed patient toil. But it cannot be said that the goal is not worth the price, for the bill which is the object of so great and earnest effort may become a law that will endure for ages, to the credit of the statesman conceiving it, the reputation of the legislature enacting it, the advantage and enjoyment of humankind, and the satisfaction of the draftsman. The careful draftsman will not leave a bill until he has revised it, and revised it again, and again, and again.

APPENDIX A

LEGISLATIVE MEASURES AND THEIR USES

According to Arizona law or usage, formal expression of the legislative will or opinion is effected through the medium of Bills, Joint Resolutions, Concurrent Resolutions, Resolutions of either House (commonly known as simple resolutions), Joint Memorials, Concurrent Memorials, and Memorials of either House.

There is no direct constitutional basis or authorization for resolutions of any kind, although indirect recognition is given to Joint Resolutions under the provisions of article IV, part 2, section 12, which prescribes that: " * * * the vote on the final passage of any bill or joint resolution shall be taken by ayes and nays. Every measure when finally passed shall be presented to the Governor for his approval or disapproval." The statutes recognize resolutions by providing that joint employees of the two Houses may be authorized by concurrent resolution, and that by resolution either House may commit for contempt.

This want of constitutional or statutory authorization and definition of resolutions and their various uses is not unusual. In fact, it is common to most states. They are universally employed, however, in some jurisdictions rather indiscriminately, and their validity is recognized so long as they do not infringe upon the powers and functions reserved for bills.

Until recent years differentiation between the several types of resolutions, and memorials as well, was very vague in Arizona legislative practice, but there has finally evolved an agreement upon the functional jurisdiction of each style of measure which is generally if not invariably observed.

Bill. A Bill is the highest form of legislative measure. It is a proposal for the enactment of a new law, the amendment of an existing one, or the appropriation of public money. There is no other vehicle for the enactment of a law.

Joint Resolution. A Joint Resolution is a high form of expression of the legislative will, the passage of which may be effected only by roll call, as in the case of a Bill, and approval by the Governor. A Joint Resolution is not, in itself, a law, but for a number of limited purposes it has the force of law. It is often employed to authorize the correction of clerical errors in laws passed by the same legislative body making the correction; for the transfer of moneys appropriated for the use of the Legislature from one fund to another, and for other purposes, short of law, in which it is expedient or necessary to express the joint will and action of the Legislature and the Governor. It may be and has been used for the ratification of amendments to the Federal Constitution, but it is considered that the proper vehicle for the exercise of this purely legislative function is the Concurrent Resolution. It is also frequently employed to express the state's attitude and recommendation with respect to matters of national or general concern.

Concurrent Resolution. A Concurrent Resolution is an expression of facts, principles, opinions, or the legislative will with respect to subjects or matters not requiring executive approval. It may be introduced in either House, but passage requires concurrence by the other. It is the proper

vehicle for the ratification of proposed amendments to the Federal Constitution; for submitting to the people proposed amendments to the State Constitution, for which purpose it must be approved by an aye and nay vote of a majority of members elected to each House, and for referring to the people measures enacted by the Legislature; for directing actions by state departments; for authorizing legislative investigations participated in by both Houses, where no appropriation of public funds is involved, and for any other procedure to which both Houses are parties. It is often employed to express sorrow over the death of a person who has served in both Houses of the Legislature.

Resolution. A Resolution (simple resolution) is an expression of the will, wish, view, or opinion of the House adopting it. Concurrent action is not required. It may be employed by the House which has acted last to request return of a measure from the other House or from the Governor, for correction, amendment, or reconsideration. It is the customary vehicle for expression with respect to the death of members of the body adopting it. For any purpose not requiring action by both Houses it may be used in the same manner as the Concurrent Resolution.

Memorial. A Memorial is a petition or prayer, usually addressed to the President, the Congress, or some official or department of the United States government, requesting an action which is within the jurisdiction of the official or body addressed. The procedure with respect to the passage of Joint, Concurrent, and simple Memorials is the same as for resolutions, except that, unlike the constitutional rule with respect to Joint Resolutions, a roll call is not required for the adoption of any memorial. A Joint Memorial calls for the Governor's signature, and therefore becomes an expression of the mutual or joint desire of the legislative and executive authorities.

APPENDIX B

SPECIFICATIONS OF MEASURES FOR INTRODUCTION*

Number of copies. For introduction in the House, eleven copies are required of each bill or other measure; for the Senate, nine copies.

Paper. Measures must be typed on 8½ x 13 bond paper, medium weight for originals, light weight for copies.

Margin. Left-hand margin, three-quarters of an inch; right-hand, one inch; top, one and one-half inches.

Heading. The heading of each House bill shall be in this form:

State of Arizona
House of Representatives
Fifteenth Legislature
Regular Session

H. B.

....., 1941. Introduced by Mr.; read first time; copies ordered printed.
....., 1941. Read second time; referred to Committee on and to Committee on

The heading of a Senate bill is in this form:

State of Arizona
Senate
Fifteenth Legislature
Regular Session

....., 1941. Introduced by Mr.; laid over one day.
....., 1941. Read first time; copies ordered printed; Referred to Committee on

Numbered lines. Number the lines of each sheet in separate series, beginning the numbering of the first sheet with the first line of the enacting or resolving clause, or in the absence of such clause immediately following the title, with the first line of the text.

Numbering sheets. Number each sheet at the bottom.

Spacing. Triple space both title and text.

Binding. Cover original and each copy with a good quality manuscript cover, and bind with wire staples. For the cover of House bills, use light blue for the original, brown for copies. For Senate bills, brown for the original, light blue for copies.

Title on cover. Fold bills twice, from bottom toward the top. On the back of the second fold, under the heading, HB..... or SB....., as the case may be, type the full title.

*See also "Legislative Forms."

APPENDIX C

TYPOGRAPHICAL STYLE

Uniformity in typographical style is pleasing to the eye, a visual aid to the understanding, and makes for accuracy. Carelessness in respect to typographical style is a sign of slovenly bill drafting. For examples of the styles indicated, see Appendix D, "Legislative Forms."

Capitalization. (a) Follow the "down" style. Capitalize proper names, but not the names of offices, departments or institutions. Capitalize "Act" when referring to an Act of the Legislature. Be sparing in the use of capitals, as their too frequent use produces a confusing effect.

(b) Do not capitalize words defined in a definitions section, unless the word is to be capitalized in the Act.

Punctuation. Observe grammatical rules in punctuation. Punctuate where it will clearly aid the understanding, but avoid overpunctuation.

Spelling. Adopt uniform spelling and stick to it. If a word has two spellings, decide which to use and do not depart from it. Traveled, willful, installment, skillful, are examples of the preferred forms of words having two spellings. Consult a dictionary when in doubt.

Numbers. Use numerals only for reference to things which by common usage are identified by numbers, such as divisions of the law or of books, dates, public highways, etc. State sums of money in full. When indicating dates, place the numerals after the month, thus: May 1, 1942.

Citations. Cite statute laws thus: 1939 Code, as "Arizona Code of 1939"; Revised Code, as "Revised Code of 1928"; session laws as "Session Laws of (year), regular session", or "Session Laws (year), first (or other) special session". Cite the Constitution as: "Constitution of Arizona", preceded by article and section.

Amending bills. To conform to a rule of the House of Representatives, a House bill by which it is proposed to amend an existing law by direct reference must indicate by the use of asterisks where words are deleted, and words to be inserted must be typed in capitals. Example:

Sec. 14. Violation of lease. A lessee violating any condition of the lease shall
* * * BE REQUIRED TO SHOW CAUSE, etc.

Section caption. Type section captions in lower case, and underscore (see caption of this paragraph).

Section designations. Designation of the first section should be thus: "Section 1." Subsequent sections thus: "Sec. 2." with the word abbreviated. This shortens the word while maintaining a distinction, in amending bills, between sections of the bill itself and the sections being amended, which are designated by the proper number only, without the word "Section" or "Sec."; thus: "2-107." In the body of the text spell "section" in full, except in beginning a paragraph, when it should be capitalized and abbreviated.

APPENDIX D

LEGISLATIVE FORMS

(Bill for new law)*

State of Arizona
House of Representatives
Fifteenth Legislature
Regular Session

H. B.

AN ACT

Relating to....., and regulating the
sale of....., and repealing.....

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. **Short title.** This Act may be cited as the.....
3 law of 1941.

4 Sec. 2. **Definitions.** In this Act, unless the context otherwise
5 requires:

6 "....." means.....;

7 "....." includes.....

8 Sec. 3. **Main principle.** (State main principle of law, in one or
9 more sections.)

10 Sec. 4. **Subordinate and procedural provisions.**

11 Sec. 5. **Creation of agency.**

12 Sec. 6. **Details** (tenure, removal, salaries, expenses, bonds, etc.,
13 in separate sections.)

14 Sec. 7. **Powers and duties.**

15 Sec. 8. **Penalties.**

16 Sec. 9. **Appropriation.**

17 Sec. 10. **Repeal**

18 Sec. 11. **Emergency.**

*For discussion of parts of bill see pp. 24-32.

(Bill for amendment by direct reference)

State of Arizona
Senate
Fifteenth Legislature
Regular Session

S. B.

AN ACT

Relating to; providing for
and amending section 54-101, Arizona Code of 1939 (add, if previously
amended), as amended.

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 1. Sec. 54-101, Arizona Code of 1939 (section 998, Re-
- 3 vised Code of 1928), as amended, is amended to read:
- 4 54-101. **Meetings of Board.** The state board of
- 5 shall meet once each month, on such days as it directs.

(Bill for amendment by adding)

AN ACT

Relating to; imposing limitations upon
....., and amending article 2, chapter 12,
Arizona Code of 1939, by adding section 12-204a.

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 1. Article 2, chapter 12, Arizona Code of 1939 (article 2,
- 3 chapter 3, Revised Code of 1928), is amended by adding section 12-204a:
- 4 12-204a. **Salaries of deputies.** Every deputy or assistant.....
- 5 etc.*

(Bill for authorization, with incidental appropriation)

AN ACT

Authorizing the eradication of citrus scale, and providing for a survey of
orchards and fields.

- 1 Be it enacted by the Legislature of the State of Arizona:
- 2 Section 1. **Duties of commission.** The Arizona commission of
- 3 agriculture and horticulture is directed:
- 4 1.** To conduct a survey of the agricultural and horticultural
- 5 area, etc.
- 6 2. To take the necessary steps to eradicate, etc.
- 7 Sec. 2. **Appropriation.** (See appropriation clause, p. 29.)***
- 8 Sec. 3. **Emergency.**

*If a House bill for amendment by adding, the entire new section must be in capitals.

**The paragraphs 1 and 2 are not subsections, but paragraphs. See "Subsections" and "Paragraphs," p. 23.

***Reference in title to appropriation is not necessary. The appropriation is not the subject, but merely incidental thereto.

(Bill for emergency appropriation for going project)

AN ACT

Making an appropriation for the continuation of work on the improvement of the.....

- 1 Be it enacted by the Legislature of the State of Arizona:
 2 Section 1. **Appropriation.** The sum of.....
 3 dollars is appropriated to (agency).....
 4 Sec. 2. **Purpose.** The purpose of this appropriation is to enable
 5 the..... to continue work on (identify
 6 improvement.)
 7 Sec. 3. **Emergency.** (See emergency clause, p. 31.)

(Relief Bill)

AN ACT

For the relief of.....

- 1 Be it enacted by the Legislature of the State of Arizona:
 2 Section 1. **Appropriation.** The sum of.....
 3 dollars is appropriated for the relief of.....
 4 Sec. 2. **Basis of claim.** Payment of the sum appropriated shall be
 5 in full satisfaction of the claim of.....for (service or
 6 occurrence for which compensation is claimed).....
 7 (period covered by service or date of occurrence).....
 8 (place of service or occurrence).....

(Joint Resolution on the death of a national character)

A JOINT RESOLUTION

On the death of.....

- 1 Whereas,.....passed away suddenly and
 2 unexpectedly, on....., at his home in.....;
 3 and
 4 Whereas, with the news of the passing of this eminent American
 5; therefore
 6 Be it resolved by the Legislature of the State of Arizona:
 7 1. The death of.....is viewed with the
 8 deepest and most poignant regret, and the sympathy and condolence
 9 of this body is extended to the well-beloved and likewise distinguished
 10 widow,

(Concurrent Resolution ratifying a proposed amendment to the
Constitution of the United States)

A CONCURRENT RESOLUTION

Ratifying the proposed amendment to the Constitution of the United States relating to (or providing for) (subject of amendment).

1 Whereas, the.....Congress of the United States
2 of America, in both houses, by a constitutional majority of two-thirds
3 thereof, has made the following proposition to amend the Constitution
4 of the United States:

"JOINT RESOLUTION

6 "Proposing an amendment to the Constitution of the
7 United States providing for:

8 (Insert proposed amendment)

9 Therefore

10 Be it resolved by the Legislature of the State of Arizona:

11 1. The proposed amendment to the Constitution of the United
12 States of America is ratified.

13 2. Certified copies of this resolution shall be forwarded by
14 the Secretary of State to the Secretary of State of the United States,
15 to the presiding officer of the Senate of the United States, and to the
16 Speaker of the House of Representatives of the United States.

(Concurrent Resolution submitting a proposed amendment to the Constitution
of Arizona)

A CONCURRENT RESOLUTION

Proposing an amendment to the Constitution of Arizona relating to (or providing for)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. The following amendment to section....., article.....
4 (or, if the amendment is not to a particular section, "The following
5 amendment to the") Constitution of Arizona, is proposed, to become
6 valid as a part of the Constitution when approved by a majority
7 of the qualified electors voting thereon and upon proclamation of the
8 governor.

9 Section..... (Insert proposed amendment.)

10 (Note: If the amendment is not to a particular section, omit section
11 designation.)

12 2. The proposed amendment (approved by a majority of the
13 members elected to each house of the legislature, and entered upon
14 the respective journals thereof, together with the ayes and nays
15 thereon) shall be by the Secretary of State submitted to the qualified
16 electors at the next regular general election (or at a special election
17 called for that purpose), as provided by article XXI, Constitution of
18 Arizona.

(Concurrent Resolution referring a measure to the people)

A CONCURRENT RESOLUTION

Enacting and ordering the submission to the people of a measure relating to.....

- 1 Be it resolved by the Senate of the State of Arizona, the House of Rep-
 2 resentatives concurring:
 3 1. Under the power of the Referendum, as vested in the Legisla-
 4 ture, the following measure, relating to.....
 5 and amending section....., Revised Code of 1928, is enacted, to
 6 become valid as a law when approved by a majority of the qualified elec-
 7 tors voting thereon and upon proclamation of the Governor:
 8 AN ACT
 9 Relating to....., and amending
 10 section....., Arizona Code of 1939.
 11 Be it enacted by the Legislature of the State of Arizona:
 12 Section 1. Sec....., Arizona Code of 1939, is
 13 amended to read:
 14 (Insert measure)
 15 2. The secretary of state is directed to submit said measure to
 16 the people at the polls, and to cause to be printed on the official ballot
 17 at the next regular general election the title and number thereof, as pro-
 18 vided by section 1, part 1, article IV, Constitution of Arizona.

(Concurrent Resolution authorizing an investigation)

A CONCURRENT RESOLUTION

Authorizing a legislative investigation of (office, department, or matter).

- 1 Be it resolved by the Senate of the State of Arizona, the House of Rep-
 2 resentatives concurring:
 3 1. A legislative investigation of (office, department, or matter)
 4 is directed.
 5 2. The president of the senate shall designate.....
 6 members of the senate, and the speaker of the house of representatives
 7 shall designate..... members of the house, to serve on a
 8 special committee to be known as the Joint Committee on.....
 9 3. The committee shall organize by the selection of a chairman,
 10 vice-chairman, and secretary.
 11 4. It shall be the duty of the committee to make a thorough
 12 investigation of (office, department, or matter), and for such purpose
 13 it is vested with the powers conferred by sections 2-302 and 2-303, Ari-
 14 zona Code of 1939.
 15 5. The committee shall submit a report of its findings, in writing,
 16 not later than....., to the.....
 17 legislature (or to the governor).
 18 6. The committee is authorized to employ, subject to approval
 19 of the president of the senate and the speaker of the house of representa-
 20 tives, such technical and clerical assistants as may be required for the
 21 proper performance of its duties, but in no event shall the expenses of
 22 such employment, when added to the other expenses of the committee,
 23 exceed the amount of expenditure authorized by this resolution.
 24 7. All expenses of the committee shall be paid out of the con-
 25 tingent funds of the two houses,* share and share alike, for which pur-
 26 pose the expenditure of the total sum of.....
 27 dollars is authorized.

*If a special appropriation is required, the vehicle of authorization should be a bill.

