

June 19, 1964

R.S. 52:35-1 et seq.

LEGISLATIVE NOTES ON R.S. 52:35-1 et seq
(Classification of bidders)

COPY NO. 1

L. 1931, Chapter 165 - S212

Introduced February 10 by Senator Powell.

Not amended during passage.

Statement:

The purposes of this act are expressed in its title.

In 1930, three reports were issued which recommended changes in the state purchasing system. They were:

974.90 National Institute of Public Administration.
A912 Report on a survey of the organization
1930c and administration of the state government
of New Jersey. See p. 62-81.

974.90 N.J. State Audit and Finance Commission.
A912 Report.
1930a

974.90 N.J. State Audit and Finance Commission.
A912 Report.
1930b

(copies enclosed)

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 10, 1931

By Mr. POWELL.

Referred to Committee on Judiciary

AN ACT to regulate bidding upon public work, providing for prequalification and classification of bidders, fixing penalties relating thereto, and repealing acts and parts of acts inconsistent herewith.

1 BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1 1. That officials of the State shall require of all persons proposing to submit
2 a bid or bids on public work, to be furnished for or on behalf of the State or any
3 officer, board, commission, committee, department or other branch of the State Gov-
4 ernment, a statement under oath in response to a questionnaire, standardized for
5 like classes of work, to be submitted to such persons by such State official. Such
6 statement shall develop fully the financial ability, adequacy of plant and equipment,
7 organization and prior experience of the prospective bidder, and also such other
8 pertinent and material facts as may seem desirable.

1 2. Such State officials shall classify all such prospective bidders as to the
2 character and amount of public work on which such persons shall be qualified to
3 submit bids, and bids shall be accepted only from persons qualified in accordance with
4 such classification. Such classification shall be made and an immediate notice
5 thereof shall be sent to the prospective bidder or bidders by registered mail within a
6 period of eight days after the date of receipt of the statement in response to the
7 questionnaire.

1 3. Any person after being notified of his classification by any State official and
2 being dissatisfied therewith or with the classification of other bidders, may request
3 in writing a hearing before such State official, and may present such further evidence

4 with respect to the financial responsibility, organization, plant and equipment, or
5 experience of himself or other bidders as might tend to justify a different classifica-
6 tion. Where request is made for the change of classification of another bidder, the
7 applicant shall notify such bidder by registered mail of the time and place of hear-
8 ing, and at the hearing shall present to the State official satisfactory evidence to the
9 effect that such notice was served as herein required, before any matters pertain-
10 ing to a change of classification of such bidder shall be taken up by such State official.
11 After hearing the additional evidence, the State official may, in his discretion, by
12 appropriate ruling, change or retain the classification of any bidder. No change in
13 classification to be effective for any public work, the letting of which has been duly
14 advertised, shall be made unless a written request as aforesaid shall have been re-
15 ceived at least twenty days preceding the final day for submission of bids. All such
16 requests for change in classification and notice of any action sent by registered mail
17 to the parties directly affected thereby, must be acted upon by the State official con-
18 cerned at least twelve days prior to the date fixed for the next opening of bids
19 on any contract or contracts for which such persons might be qualified to bid as a
20 result of such re-classification.

1 4. There is hereby established a board of review upon classification and re-
2 classification of bidders. This board shall consist of the State official concerned,
3 or one member of any board, commission, committee, department or other branch
4 of the State Government concerned, such member to be designated by the board,
5 commission, committee, department or other branch of the State Government con-
6 cerned, the Attorney General or one of his assistants or deputies designated by him,
7 and the Secretary of State or one of his assistants or deputies designated by him.
8 The Secretary of State shall be the secretary of the board of review and shall keep
9 a complete record of proceedings and decisions before such board. The members
10 of the board of review shall serve without additional compensation.

1 5. In the event any prospective bidder is dissatisfied with the further ruling of
2 any State official, or with his original classification, if notice of such classification
3 shall have been sent to him not less than twelve nor more than twenty days prior
4 to the letting of a contract or contracts for which such person might be qualified to
5 bid as re-classified, he may, upon receipt of notice of such ruling or classification,

6 request in writing a hearing of the matter before the board of review, such request
7 to be filed with the awarding official and the secretary of the board of review. The
8 board of review shall hold a hearing at which such prospective bidder shall be en-
9 titled to be heard and to submit any additional information to the board upon the
10 matters and subjects covered by the questionnaire. The board shall be required to
11 review the responsibility of all prospective bidders who have filed such statements,
12 considering both the statement and any additional information given at the hearing,
13 and shall certify to the State official concerned its decision, changing or retaining
14 the classification made by the awarding official. The decision of a majority of the
15 board shall be considered the decision of the board. Requests under this section
16 may only be made after hearing as provided in section four before the State official
17 concerned, except as hereinbefore expressly provided; and in order for any change
18 in classification by the board to be effective for public work already advertised, such
19 request must be filed not less than ten days prior to the final day for submission of
20 bids, and said board shall hold a hearing and act upon said request not less than
21 three days prior to the date fixed for the next opening of bids on any contract or
22 contracts for which such persons might be qualified to bid as a result of such re-
23 classification.

1 6. Nothing herein contained shall be construed as depriving any State official
2 of the right to reject any bidder at any time prior to the actual award of a con-
3 tract, where there have been developments subsequent to the qualification and
4 classification of any such bidder or bidders, which in the opinion of the awarding
5 official would affect the responsibility of such bidder or bidders. Before taking
6 final action on any such bid, the State official concerned shall notify the bidder and
7 give such person an opportunity to present any additional information which might
8 tend to substantiate the existing classification. No person shall be qualified to bid
9 on any contract, who shall not have submitted a statement as required by section
10 two hereof within a period of six months preceding the date of opening of bids for
11 such contract.

1 7. Any person who makes, or causes to be made, any false, deceptive or
2 fraudulent statement in the questionnaire required to be submitted, or in the course
3 of any hearing under this act, shall be guilty of a misdemeanor, and upon conviction

4 shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00),
5 nor more than one thousand dollars (\$1,000.00), and shall be permanently dis-
6 qualified from bidding on all public work of the State of New Jersey; or, in the
7 case of an individual or the officer or employee charged with the duty of making
8 such questionnaire for a person, firm, co-partnership, association or corporation, to
9 pay such fine or undergo imprisonment, not exceeding six months, or both.

1 8. Awarding officials shall cause the forfeiture as liquidated damages to the
2 State of any certified check or checks, or certificate or certificates of deposit deposited
3 by any person who makes or causes to be made any false, deceptive or fraudulent
4 statement in the questionnaire required to be submitted, or in the course of any hear-
5 ing under this act.

1 9. State officials are hereby authorized to establish such reasonable regulations
2 as to them may seem appropriate for controlling the qualifications of such prospec-
3 tive bidders, which said regulations may fix the qualification requirements for
4 bidders according to available capital and equipment, and with due regard to ex-
5 perience and records of past performance; *provided*, that in no case shall the
6 qualification rating of any bidder be influenced by his nationality or place of resi-
7 dence; *and provided, further*, that no regulations of any State official for control-
8 ling the qualifications of bidders shall become effective until at least thirty days after
9 the said regulations shall have been formally adopted and published in not less than
10 ten newspapers of this State.

1 10. No action for damages out of any court of competent jurisdiction shall lie
2 against any State official because of any action taken by virtue of the provisions of
3 this act.

1 11. The word "person" as used herein, shall mean and include any individual,
2 co-partnership, association, corporation or joint stock company, their lessees, trustees,
3 assignees or receivers appointed by any court whatsoever.

4 The words "official" and "officer" as used herein, shall mean and include any
5 official, officer, board, commission, committee, department or other branch of the
6 State Government.

1 12. In case for any reason any section or provision of this act shall be ques-
2 tioned in any court and shall be held to be unconstitutional or invalid, the same

3 shall not affect any other section or provision of this act, except as far as the section
4 or provision so declared unconstitutional or invalid shall be inseparable from the re-
5 mainder or any portion thereof.

1 13. All acts and parts of acts inconsistent herewith, are hereby repealed.

1 14. This act shall take effect sixty days after approval by the Governor.

STATEMENT

The purposes of this act are expressed in its title.

CHAPTER V

Purchasing

The State purchasing department is supervised by the State house commission, acting under authority of Chapter 68, Laws of 1916, and composed of the Governor, Comptroller, and Treasurer. Although the administration of the department is entrusted to the State purchasing agent, the responsibility for shaping the purchasing policies rests with the State house commission. The commission has final authority to review bids as the basis for awarding contracts. A study of some of the recent contracts leads to the conclusion that the State house commission is subject to political influence and is swayed by political considerations in the expenditure of State funds.

For example, bids were opened on June 10, 1929, on the contract for supplying butter for the quarterly period July to October, 1929. Alternate bids were received on 90- and 92-score butter. When bids were opened and recorded, it was found that Augenblick and Company of Jersey City were low bidders on 90-score butter, but had not bid on 92-score butter. When they learned that the State planned to buy 92-score butter, Augenblick and Company approached the Comptroller and demanded the privilege of competing on the higher grade. Thereupon the Comptroller, as secretary of the State house commission, asked the State purchasing agent to reject all bids and to readvertise. Whether the Comptroller took this action with the concurrence of his colleagues on the commission, or without their knowledge and consent, is not known.

New bids were opened on June 20. This time Augenblick and Company were low bidders on 92-score butter, and were awarded the contract. The first three cars of butter shipped by Augenblick and Company on this contract were rejected on the inspection report of the United States Department of Agriculture. The rejected butter was replaced by satisfactory shipments.

The contract for bituminous coal for the fiscal year 1930 is even more irregular. This contract is for furnishing coal to

fourteen State institutions, whose combined requirements are about 48,000 tons per year. Each bidder was required to submit a typical analysis of the coal to be furnished to show compliance with specifications. The specifications prescribed the maximum moisture and sulphur content and prescribed a minimum value of 14,300 British thermal units. Deliveries were to be tested by the United States Bureau of Mines. If deliveries fell below the minimum b. t. u. content, a penalty of twenty-five cents per ton for each 100 units deficiency could be imposed by the State. On the other hand, the State reserved the right to allow a bonus of twenty-five cents per ton for each 100 units in excess of 14,900.

Fourteen bids were submitted. Although the bids were opened on June 10, contract was not awarded by the State house commission until July 2. This was a violation of Chapter 170 of the Laws of 1915, which requires the contract to be let to lowest bidder within fourteen days after opening of bids. The State house commission, in its meeting of July 2, and by unanimous vote, awarded the contract to Ritchie and Page, whose bid was midway between the highest and lowest bidder. Six other bidders had submitted lower prices. The bid of Madeira, Hill and Company, the lowest, was rejected by the State house commission on the technical ground that the sulphur content of the typical analysis submitted with bid was slightly higher than allowed by the specifications. The analysis of the second low bidder (Debevoise-Anderson Company) was in conformity with specifications, but their bid was not considered by the State house commission.

The contract price, as awarded to Ritchie and Page, was \$2.20 per ton, forty-six cents per ton more than the quotation of Madeira, Hill and Company, the lowest bidder, or a total difference of \$22,080 on the contract. During the delay between the opening of bids and the award of contract, the State was compelled to purchase coal on the open market to meet institutional requirements. Several carloads of coal were purchased in this interval from Madeira, Hill and Company, the lowest bidder. Those institutions which used this coal reported to the State purchasing department that it was entirely satisfactory.

Since the contract was awarded on July 2, about 50 per cent. of the tests made by the United States Bureau of Mines, on

coal delivered by Ritchie and Page, have been reported as unsatisfactory. According to the computation of a member of the Comptroller's staff, the penalties accrued up to October 17 amounted to more than \$7,000. Certain deliveries were so much under specifications that the penalties ran as high as \$3.25 per ton. The institutions compelled to use the coal have vehemently protested and have insisted that the penalties be imposed by the State. On August 27, the Comptroller, as secretary of the State house commission, reported to the State purchasing agent the commission's decision that Ritchie and Page should *not* be penalized for coal deliveries because the difference between tests and specifications was slight. Up to October 17, however, no claim on this coal contract had been passed for payment.

These contracts have been discussed in detail to show that the State house commission is now allowing political influences to determine State buying policies. Since the State house commission is composed of three elected officials, it is difficult to fix responsibility. Each can "pass the buck" to the other two members.

Political influence in State contracts would be easier to exclude if the State purchasing office were supervised by one official. The present political buck passing should be eliminated by divorcing the State house commission from any supervision as a body over the work of the State purchasing office. The present trend in State purchasing organization favors the establishment of a purchasing bureau in a finance department. It is believed that the State purchasing office should be made the bureau of purchasing in the proposed department of finance.

THE STATE PURCHASING AGENT

According to the terms of Chapter 68 of the Laws of 1916, the State purchasing agent is appointed by the Governor, with the advice and consent of the Senate, for a term of five years, subject to removal by the Governor for cause. All other staff members of the purchasing department are in the classified service and subject to civil service regulations.

During the early years of the department's operation, the State purchasing agent was an "absentee" administrator and visited

the office only at rare intervals. The real head of the department was the assistant purchasing agent, who was a member of the classified service. This proved very satisfactory, for the assistant purchasing agent was not subject to political control. But the present State purchasing agent has been a full time worker ever since his appointment. He is, therefore, on the job to assume active charge of the department.

Under the present line-up, however, the State purchasing department has three executive heads. Both the assistant purchasing agent and the chief clerk have certain administrative responsibilities but these responsibilities are not clearly defined. The staff of the department seems to be divided into two groups which give allegiance, respectively, to the chief clerk and the assistant purchasing agent.

The State purchasing agent should be the head of the department in fact as well as in name, and should assume full responsibility for the administration of the office.

No more important change is possible than to transfer the office of State purchasing agent to the classified service. The office is now considered a political "plum," to be filled by persons with more political influence than expert qualifications. If the purchasing agent were a member of the classified service, he would have an indefinite tenure, greater security, and more incentive to independence in action. Civil service examination as the basis for selection of the State purchasing agent would insure an administrative head with technical qualifications. The position of chief clerk could then be abolished, and the administrative duties now devolving on that position could be carried on by the assistant purchasing agent.

PERSONNEL AND OPERATING COSTS

At the present time the State purchasing department's staff consists of twenty-nine persons, including those engaged in the storerooms and warehouse operated by the department. The total annual budget for salaries for the current fiscal year is \$64,110. Of this amount only \$44,495 appears in the annual budget. The salaries of the ten warehouse and storeroom em-

ployees, a buyer, a bookkeeper, and three clerks are paid from the State purchase fund which is discussed below. By this plan the apparent overhead cost of purchasing is kept down, but the issue cost for goods delivered from the warehouse is correspondingly increased. It would probably be more truthful and accurate to charge the salaries of all those engaged in purchasing, storing, and distributing supplies to the budget of the purchasing department.

For the next fiscal year the department is asking for an additional buyer. If the staff were properly organized, it is believed that the department could dispense with one of the present buyers instead of adding one more. The assistant purchasing agent could serve as a buyer also. It is further believed that the clerical staff could be reduced by establishing a central stenographic room instead of assigning particular stenographers to work with individual buyers. If the State purchasing department were made the central buying agency of the State, as explained below, it is believed that the present staff could handle the entire State's purchasing requirements. As the department is at present organized, some members of the staff are idle about one-half of the time.

THE SCOPE OF PURCHASING AUTHORITY

The law creating the State purchasing department (Chapter 68, Laws of 1916) gave it full and complete authority to purchase all supplies, materials and equipment needed by all branches of the State government. In actual practice, however, the department buys only about two-thirds of the State's total material requirements. The State highway department is permitted by law to purchase independently. But the State house commission has abdicated its authority over purchases aggregating almost \$750,000 per year by granting "direct purchase orders." Employees of the purchasing department are also too ready to issue confirming orders.

At the beginning of each fiscal year, the various institutions and departments of the State file with the State house commission an application, on a special form, for authorization to purchase certain classes of commodities directly and not through the purchasing department. The application form provides spaces for

few of the State using agencies supply such information. The usual request covers the purchase of "fresh fruits and vegetables," "fancy groceries," "lumber and repairs," or "supplies, materials and equipment." Authorization for direct purchase is given by the State house commission, and the application is signed by the State purchasing agent.

All purchases made on direct purchase authorization are to be reported in detail, on the reverse side of the application, after the close of the fiscal year. But some of the using agencies never file any report. Some file a fragmentary report months after the end of the fiscal year. In fact, it is impossible to compute accurately the total annual amount of such purchases.

For example, the business manager of the State Hospital at Trenton, filed on October 9, 1928, his report on direct purchase authorization No. 13 for the fiscal year ending June 30, 1928. The report does not give details as to the quantities purchased, the prices paid, or the vendors. It merely states that during the year a total of \$39,422.79 was expended for "figs and dates, fresh milk, fresh fish, oysters, clams, eggs, ice cream, fresh fruits and vegetables, and small miscellaneous groceries." In other reports covering three other authorizations, the same official reported direct purchase of "cigars," \$50; "equipment, repairs and lumber," \$17,933; and "rubber stamps and small supplies," \$340. These four reports on direct purchases for that one institution total \$58,645.79.

The Soldiers' Home at Vineland, on direct purchase authorization No. 8 for the fiscal year ending June 30, 1928, reports expenditures of \$22,389.44 for fresh fruits and vegetables, etc., with no data on the prices paid or the quantities purchased.

It is obvious that to check up on these reports would be as useless as locking the stable after the horse is stolen. The transactions have all been completed months before, and the bills have been paid. Competition may or may not have been secured. It is open to question whether "the purchases as made were in the best interests of the State," to quote from the printed statement on the report form.

One of the smaller institutions located in Trenton asked the State purchasing department to buy all necessary fresh fruits and

vegetables, eggs, fish, etc., for the months of July and August, 1928. The superintendent has stated that the population of the institution during those months was substantially the same as during July and August of 1927. In 1927 the cost for these subsistence commodities during this period, when purchased directly by the institution, was \$1,940.68; when the purchasing department did the buying in 1928 during the same period, the expenditures fell to \$1,143.66, a difference of \$797.02. If this be at all a typical instance, the present system of direct purchase orders represents a source of very considerable waste.

The direct purchase orders should be eliminated altogether, or reduced to the minimum in number. They should be restricted to fresh fruits and vegetables and similar articles which can be bought more advantageously from local dealers than through the central office. Whenever a "using agency order" is issued on direct purchase order authorization, a copy should be sent to the purchasing office, accompanied by a record of the competitive bids received. The prices on such orders should be scrutinized in the purchasing office and the authorization should be revoked if waste is evidenced.

Confirming orders are, in theory, confined to real emergencies. When emergencies arise which brook no delay, the using agency purchases the necessary commodities, and then asks the purchasing department to confirm the transaction by sending the vendor a regular order. But in practice such "emergencies" are quite frequent. If an institution wishing to purchase in an emergency, real or imaginary, secures the consent of the department of institutions and agencies, the purchasing department in practically all instances will issue a confirming order without question.

These orders should be confined to real emergencies. The official who places the order should be required to explain the emergency in detail in a report to the purchasing department. The explanation then should be attached to, and become a part of the record of the transaction. It is believed that this procedure would act as a deterrent and would reduce the number of "emergencies."

The official minutes of the State house commission (acting as the State purchasing commission) are filled with records of permission granted to some State using agency, usually the department of institutions and agencies, to purchase the special equipment or supplies directly without advertisement and competition. Such procedure should be discontinued. The purchasing rules and regulations should be flexible enough to cover such contingencies. All such purchases should, wherever possible, go through the regular channels.

The scope of authority of the State purchasing office should coincide with its scope of authority as expressed in the law governing its operation; in other words, it should really be the central purchasing agency of the State. As stated above, the present staff of the purchasing department is large enough to buy all the State's material requirements.

STORAGE FACILITIES

A central stationery storeroom is maintained by the State purchasing department in the basement of the capitol. Here are stored stationery supplies to the average value of \$15,000. At the beginning of each fiscal year a printed list of the staple supplies kept in stock is issued and distributed to all using departments and institutions of the State government. This informs the using agencies what articles can be secured immediately from stock.

The storekeeper works in close co-operation with the buyer of stationery and printing in the purchasing office. A Kardex-Rand perpetual inventory system is maintained, and minimum and maximum quantities are established for each item stored. When the minimum quantity is reached, the purchasing department is asked to place an order to replenish stock.

The issue price of goods delivered from the storeroom to the using agencies includes, in addition to the purchase price, an overhead storage rate as fixed by the storekeeper and the buyer. The overhead cost of operating the storeroom is about \$3,300 per year for salaries and \$225 per year for supplies, or a total of \$3,575. On an annual turnover of approximately \$45,000 per year, the storage cost factor is almost 8 per cent. This overhead

is excessive and should be reduced through the elimination from the payroll of the assistant to the storekeeper. The storekeeper could operate the storeroom with a part time helper.

Despite the high operating cost, this central stationery storeroom is unquestionably a means for considerable economy to the State government.

The State owns a large storage warehouse on Perrine Avenue, Trenton. This warehouse is under the supervision of the State purchasing department. It contains a refrigerating plant as a part of the storage equipment. The present storage space is inadequate. If the institutional requirements for foodstuffs continue to increase, it will be necessary in a short time to increase the storage capacity at the Trenton warehouse or to erect another warehouse nearby. About 200 items are ordinarily kept in stock, and the inventory value varies from \$90,000 to \$165,000.

For the most part, the stock kept in this warehouse consists of foodstuffs for State institutions. Only a few bulky items such as paper, soap, brooms and brushes are stored for future use by State departments. Practically all the butter used by the State institutions is stored in the Trenton warehouse. Butter is bought quarterly in lots of about 100,000 pounds, for the total consumption for the year is approximately 400,000 pounds. Canned fruits and vegetables, flour and sugar are also stored in the Trenton warehouse, pending delivery to the institutions, although such commodities are sometimes shipped in carload lots directly to those larger institutions which have adequate storage facilities of their own. A delivery truck is maintained by the State purchasing department, but some of the institutions call for supplies with their own trucks.

Beginning July 1, 1929, Kardex-Rand system for perpetual inventory was installed at the Trenton warehouse. This record informs the storekeeper of the *amount* of each commodity on hand and enables the accountant for the State purchase fund in the purchasing department to compute the *value* of stock on hand. Receipts and issues are reported by the storekeeper to the accountant for the State purchase fund. Although this is a duplication of account keeping, it seems necessary for accurate control of the State purchase fund. A check of the stock at the warehouse

is made monthly by the accountant for the State purchase fund in the purchasing department. But in spite of this monthly inventory, shortages frequently occur and the State is then usually compelled to purchase small lots at retail price until another large lot delivery on the contract is received. Some satisfactory method should be devised for informing the purchasing department of stocks on hand at all times. A few years ago the storekeeper submitted a weekly report on amounts on hand in the Trenton warehouse, but this has been discontinued in recent years. Such weekly reports, placed in the hands of the buyers for comparison with the live order files of pending deliveries, and for comparison with detailed applications filed at the beginning of the period, would indicate whether or not the pending deliveries are adequate for State requirements.

There is a needless duplication of record keeping by the buyers in the purchasing department. Reports on receipts and issues at the warehouse are reported to the buyers who keep a stock record for each commodity which they buy. The stock records maintained by the buyers should be abolished. The buyers need only a record of purchases and should place orders upon notification from the storekeeper when the minimum quantity has been reached. The time now spent by the buyers in keeping stock records should be devoted to a study of market prices and trends, or investigation of the commodity requirements of the State using agencies.

Like the central office of the purchasing department, the Trenton warehouse has a surplus of executives. The storekeeper at the Rahway warehouse, which was abolished a few years ago, was transferred to Trenton. He now shares with another storekeeper the responsibility for administration of the Trenton warehouse. One or the other of these two storekeepers should be eliminated from the payroll of the purchasing department, thus reducing the overhead cost of maintaining the warehouse.

A small warehouse, which is virtually a branch of the Trenton warehouse, is maintained at Vineland. This warehouse serves some of the State institutions in the southern part of the State. The bulk of the stock kept at Vineland is delivered by truck from the Trenton warehouse. The storekeeper at Vineland re-

ceives \$50 per month for part time service to the State purchasing department.

THE STATE PURCHASE FUND

A State purchase fund, amounting to \$350,000, was established by Chapter 277, Laws of 1917. This fund is maintained under the supervision of the State purchasing department and is used for supplies purchased in advance of need and stored in the warehouse and storerooms of the department. The average turnover on this fund is about \$800,000 per year.

The cost of goods issued from storage includes the purchase price plus an overhead rate which is determined by the accountant of the State purchase fund and the assistant purchasing agent. This overhead rate, which averages 5 per cent., is intended to cover the cost of purchasing, storing, and distributing. As explained above, ten warehouse and storeroom employees, a buyer, a bookkeeper, and three clerks, whose combined salaries are almost \$20,000 per year, are paid from the State purchase fund. Some of these employees are engaged in accounting work which is not directly chargeable to the purchase fund.

It is quite apparent that the purchasing department uses the purchase fund as a means of financing any extraordinary expenditure and of purchasing office equipment. Since no property accounts are kept of the office equipment, it is impossible to determine the amount and the value of equipment which has been defrayed from the State purchase fund. A new Cadillac car for the purchasing department was purchased at the expense of the purchase fund. Although this car is used in part on matters pertaining to warehousing supplies, its total purchase price should not be charged to the State institutions and paid by them through increased cost of goods delivered.

A monthly report on the condition of the State purchase fund is submitted by the accountant to the assistant purchasing agent. No report is submitted to the Comptroller or State Treasurer until the end of each fiscal year. The only public statement on the condition of the fund is that contained in the annual report of the purchasing department.

Property accounts are kept for the equipment at the Trenton warehouse, but not for the capitol storeroom, or the storeroom

at Vineland. The law creating the State purchase fund does not require that the fund show total assets of \$350,000 at all times. It does provide that any amount in excess of \$350,000 shall be paid to the general fund of the State. The State purchasing department has evidently misinterpreted the law to mean that the fund must total \$350,000 at all times. Several years ago it was necessary to add an arbitrary sum to the assets in order to make the fund balance. For example, on the attached statement of condition of the fund as of September 30, 1928, the equipment at Vineland is valued at \$4.47, and the equipment in the storeroom at \$23. These figures obviously mean nothing. They were included several years ago merely as a device for balancing the fund, and have been carried ever since.

STATEMENT OF CONDITION OF STATE PURCHASE FUND AS OF SEPTEMBER 30, 1928

	<i>Assets</i>	
Cash on Hand	\$231,002.88	
Petty Cash Balance	267.00	
Perrine Avenue Warehouse Inventory ...	116,790.01	
Vineland Warehouse Inventory	8,230.03	
Storeroom Inventory	16,153.06	
Perrine Avenue Warehouse Equipment ..	3,474.39	
Vineland Warehouse Equipment	4.47	
Storeroom Equipment	23.00	
Cadillac Car	2,425.00	
Merchandise in Transit	1,175.55	
Accounts Receivable	21,275.77	
	<hr/>	\$400,823.16
Less Accounts Payable		51,505.39
		<hr/>
Net Worth of State Purchase Fund		\$349,317.77

As explained above, the accountant of the purchase fund visits the Trenton warehouse and the capitol storeroom each month and checks the inventory records with the storekeepers. The storekeeper at Vineland reports monthly on the quantities on hand. Such inventory reports are checked against the records in the accountant's office to verify the quantity and total value of stocks. The stock record system now installed and operated seems adequate and satisfactory.

STANDARDIZATION

The law creating the State purchasing department (Chapter 68, Laws of 1916), provides an advisory board to assist the State house commission in the establishment of standard specifications. This board consists of one representative of each institution, department, and other State using agencies. In past years the advisory board has met on a few occasions and has assisted in the establishment of a limited number of commodity specifications. No meeting of the board has been held during the past eighteen months. It is obvious that the board as now constituted is unsuitable for purposes of standardization.

Definite commodity specifications should be formulated and applied to the State's purchases. The use of definite written specifications would go a long way towards eliminating criticisms of the present State purchasing system. Under the present procedure the using agencies fail to make known to the purchasing department the exact quality of commodity which they require. The bidder is not furnished with sufficient data to permit his submitting an intelligent bid. The checking of deliveries is made nugatory through the lack of definite standards to determine the compliance of quality delivered with the quality purchased.

Steps should be taken immediately to adopt commodity specifications. The advisory board should be abolished and in its stead a standardization committee should be set up. This committee should consist of the State purchasing agent or his representative, the commissioner of the department of institutions and agencies or his representative, preferably the supervising steward, and a testing engineer from the department of health or the State highway department testing laboratory. This standardization committee should be a permanent body and should have authority to call in for consultation any engineers or other technicians in the State service. It should also confer with the heads of those institutions and departments which are large users of the commodities being standardized.

Specifications for commodities used only by one department or institution should be formulated by that agency. Specifications for commodities common to several using agencies should be

formulated by the standardization committee, after the various using agencies have been given an opportunity to submit recommended specifications.

PURCHASING PROCEDURE

At the present time the purchasing department is carrying on a considerable amount of accounting work which should be done by the bureau of accounting in the proposed department of finance. Several years ago the purchasing department was authorized by the Comptroller to establish a system for preauditing expenditures. The accountant in the purchasing department requisitions certain amounts from the total appropriation of the using agencies for supplies, materials and equipment. These amounts, secured on a "Comptroller's requisition," are set up as ledger accounts. The amount of each order when issued is entered as an encumbrance against the requisitioned amounts.

As explained above, payments for local purchases made on direct-purchase-order authorizations are not known to the purchasing department. The preauditing work of the purchasing department does not, therefore, at any time show the true state of the appropriation balance. Furthermore, the cost of such accounting work is defrayed from the State purchase fund, thereby increasing the issue cost for goods delivered to State institutions.

At the present time practically all the various State contracts for supplies, materials, and equipment are for quarterly periods beginning the first of July, October, January and April. This results in having four "peak" periods in the purchasing office when the staff are busily engaged and frequently working overtime. At four periods during each year the present staff is no larger than needed, but a smaller staff could do the same amount of work if the contracts were staggered and a certain proportion of them awarded each month. All contracts would have to end on June 30 at the close of each fiscal year; but the contract period could be varied so that some contracts would be for five months and others for three during the last contract period.

The present contract procedure in the purchasing office is highly inflexible. As stated above, most supplies are purchased

quarterly. No attention is paid to the condition of the market at the time of awarding the contract. The buyers in the purchasing department should devote some time to studying market conditions and should vary their contracts according to market trends and price prospects.

The law creating the department gives it authority to enter into "price agreements," or indefinite price and quantity contracts. At the present time the department signs an annual contract for the purchase of incandescent lamp bulbs direct from the producer. The contract is based on a certain stated discount from the *current* market price at time of delivery. This form of contract is obviously fair both to the producer and to the consumer. The purchasing department should carefully study the State's requirements and should, wherever possible, arrange indefinite price and indefinite quantity contracts in the form of price agreements.

At the present time excess shipments are made on about one-eighth of the total orders which pass through the purchasing department. In some cases excess shipments are unavoidable, to prevent broken packages or broken lots. In other cases the excess shipment is probably a deliberate device on the part of the vendor to sell more than the contract quantity. When an excess shipment is received at the using agency, the purchasing department is notified. The department then issues an excess order, which is rubber-stamped with the name of the purchasing agent and usually goes out without his knowledge.

It is not the province of this report to criticize in detail the procedure of the purchasing department, or to suggest minutely the various needed changes in organization and procedure. In this report only the outstanding phases of purchasing have been covered. On the whole it is believed that the purchasing department has well justified its existence and has been the means for great economy in the purchase of supplies, materials, and equipment for the State.

THE PURCHASE OF PRINTING AND STATIONERY

The responsibility for purchasing State printing is vested in the State printing board which has the same personnel as the State house commission. The State printing board does nothing

It has turned over its function to the State purchasing department, where the chief clerk is in charge of the purchase of printing and stationery.

There are, however, two supernumerary officers involved in the purchase of printing. The office of State printer is an unnecessary position which should be abolished. The sole and only function of the State printer is to check newspaper advertisements for bids on printing contracts for the highway department and department of institutions and agencies. For this work the State printer receives \$75 per month. His work is performed very perfunctorily and his examination of newspaper advertisements sometimes takes place a considerable length of time after the advertisements have appeared.

The department of public reports is another superfluous agency. The department's staff consists of the editor of public reports, who receives \$2,000 per year on a five-year appointment from the Governor, and an assistant clerk who receives \$600 per year for part time stenographic services. The \$2,000 salary of the editor of public reports is listed as "expert services" in the budget (account No. A10DD), upon annual recommendation of the State house commission. The editor of public reports renders considerable service to the purchasing department by estimating printing jobs, but it would doubtless be an economy to abolish his department and his position.

The chief clerk of the State purchasing department buys the bulk of printing supplies and stationery for the State government. According to the "State Use Law" all printing is to be done either at the print shop of the State penitentiary, or at that of the State reformatory, unless permission is given to place the order elsewhere. In any valid emergency, release is easily secured to purchase on the open market.

The State is compelled to pay for its printing whatever price is fixed by the prison print shop. In many cases the prices charged by the prison print shop are in excess of prices quoted by private concerns. The State, therefore, penalizes itself by using prison products.

During each fiscal year the State buys, on an average, about one-third of its printing, or an expenditure of \$100,000, from the

prison print shop. Many complaints are registered also against the delay in securing delivery from the prison, and against the poor quality of the product. It is believed that the prison print shop should be compelled to meet prices quoted by private concerns. If the prison cannot produce printing supplies with prison labor as cheaply as private printers can produce on the basis of union wages, then the methods of the State should be changed.

The power to purchase printing supplies for the Legislature is vested in the secretary of the house and the clerk of the senate, but these officials invite the State purchasing department to award contracts in their behalf. The contract for legislative printing is awarded each year to MacCrellish and Quigley of Trenton. Although this firm has practically a monopoly on the printing of statutes, it does not appear to be charging the State an exorbitant price. Since there must be great speed in printing new bills during legislative sessions, it is necessary to have this work done in Trenton. The present contractor is the only Trenton firm equipped to handle this work.

Legislative printing totals about \$125,000 per year, although the Legislature annually appropriates about \$75,000 for this purpose. The balance is included in supplementary appropriations made following the adoption of the budget. This is a legislative subterfuge to conceal from the public the true cost of legislative printing.

Letterheads and other stationery supplies for the Legislature are procured by a special committee of each house. There is no valid reason why the buyer of printing in the State purchasing department should not buy stationery for the Legislature on the same contracts as for other State printing requirements. This applies also to other supplies required by the Legislature, such as ink, blotters, erasers, and other stationery items.

CENTRAL MAILING ROOM, STATE CAPITOL

In 1924, a central mailing room was established in the State capitol under the State house commission. This office handles all packages and letters, both outgoing and incoming, for all State departments located in Trenton, except the highway department. It also buys postage stamps and stamped envelopes for

all departments located outside Trenton, but such agencies use the postage with no central supervision. The mailing room has no relationship with State institutions.

The total postage on outgoing mail handled by the central mailing room is approximately \$80,000 per year. The accounting for stamp expenditures, the records of registered and special delivery matter, and the routine for collection and delivery of mail are all very satisfactory. The central mailing room seems to be capably administered. The staff consists of the supervisor, three clerks, and a truck driver. The total expenditures for salaries are \$8,040 per year.

The State of New Jersey pays, on an average, \$100 per month for postage due on incoming mail. Bill for postage due is submitted monthly by the postmaster of Trenton and payment is included in next check for stamps purchased. The inheritance tax division and the clerk of chancery receive the bulk of mail on which postage is due. It would be well to devise some curb upon this waste of State funds. If arrangements could be made with the post office to return to the sender all letters with insufficient postage, it would undoubtedly help to deter those who apply the minimum postage upon inheritance tax returns and legal documents with the assumption that the State will pay the balance due.

The central mailing room handles incoming and outgoing mail for the State Legislature, but does not buy or affix stamps. It would be well to give this room the authority to purchase and affix postage stamps for the State Legislature. The supervision of the central mailing room should be under the bureau of purchasing in the proposed department of finance.

STATE HIGHWAY DEPARTMENT PURCHASING

1. *Purchase clerk, chief clerk and secretary's office.* In the State highway department, supplies, materials, and equipment are purchased by several offices. By virtue of Chapter 15 of the Laws of 1917, the State highway department has authority to purchase independently of the State purchasing department. The State purchasing department, however, does buy certain articles upon request for the highway department.

Office supplies, engineering supplies and equipment, furniture, etc., for the highway department, are bought under the supervision of the purchase clerk in the office of the chief clerk and secretary. The purchases clearing through this office aggregate \$300,000 per year. About one-fourth of this total is bought through the State purchasing department. In addition to purchasing, the purchase clerk directs the staff of office boys for the highway department, is in charge of mimeographing and stencil cutting, and supervises the central mailing room and the departmental storeroom. Under his supervision are an assistant, a stenographer, a stock clerk, six office boys, a mail clerk, and a mimeographer.

Although the work of the purchase clerk seems to be efficiently carried out, his purchasing function should be abolished and should be turned over to the State purchasing department, which already buys for other agencies of the State nearly every commodity now handled by the purchase clerk.

2. *Contract clerk, maintenance division.* All supplies and materials for maintenance of the State highway system are purchased by the contract clerk under the supervision of the chief clerk and secretary. The total purchases of maintenance supplies for the last fiscal year were about \$265,000. An average of thirty-five to forty maintenance contracts are awarded annually.

Maintenance contracts are based upon careful and rigid specifications which are prepared by highway engineers in conjunction with the department's testing laboratory. They are changed from year to year and are brought up to date to keep pace with changing conditions and new developments in highway maintenance work. The inspection of deliveries and testing of samples are carried out in conjunction with the department's testing laboratory. The whole procedure of awarding and enforcing the contract seems to be satisfactory. The purchase of maintenance supplies is technical and specialized, and is closely associated with the engineering work of the department. It is therefore believed that the responsibility for such purchases should continue with the State highway department.

3. *Storeroom.* A small storeroom is maintained in connection with the mailing and mimeographing room under the supervision

of the purchase clerk of the chief clerk and secretary's office. An average of about 100 different stationery items is kept in stock, and the average inventory value is about \$2,500.

This storeroom is practically a branch of the stationery storeroom maintained by the State purchasing department in the basement of the capitol. All supplies stored are secured in bulk upon requisition from the capitol storeroom.

The administration of the storeroom is very slipshod and unsatisfactory. No records are kept of receipts or issues. No attempt is made to maintain a perpetual inventory, and no annual inventory is made to determine the value of the stock on hand. Almost any employee of the State highway department can secure items from stock without presenting a requisition slip or giving a receipt. Although there is probably little, if any, theft and probably very little waste, this method of storekeeping is certainly not to be commended.

Since the storeroom in the basement of the capitol is at all times accessible to the State house annex, it is believed that the storeroom of the State highway department should be entirely abolished.

4. *Mailing room.* The State highway department maintains its own mailing room. It is supervised by the purchase clerk of the office of the chief clerk and secretary. The mailing room is in charge of a mail clerk who is assisted by two junior clerks and several office boys. Although only a part of the time of this staff is devoted to the mailing room, the cost for personal services approximates \$3,000 per year. The postage on outgoing mail for the highway department is approximately \$12,000 per year.

The department claims that it would not be served satisfactorily by the mailing room in the State capitol, but this claim is believed to be without foundation. The service of the central mailing room seems equally as satisfactory as the service of the departmental mailing room.

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REPORT

to the

GOVERNOR

and the

LEGISLATURE OF NEW JERSEY

of the

STATE AUDIT AND FINANCE COMMISSION

Created under Joint Resolution No. 2

Laws of 1930

(Abelle Commission)

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INDEX

	Page
Accounts—Auditing	16
Centralized Control of Accounting	15
Necessity for Complete System	14
Present Accounts	14
Reorganization	17
Budget—Changes in Statute	12
Execution	11
Message by Incoming Governor	12
Personnel	8
Scope	9
Civil Service—Special Phases	57
Comptroller—Private Detectives	26
Supervision of Boxing	27
Governor—Notary Public Commissions	8
The Chief Executive	6
Highways—Accounts	43
Auditing	44
Budget	43
Construction	42
County and Township Aid	45
County Reimbursement	46
Emergency Fund	45
Other Statutory Changes	46
Purchasing	44
Reports	45
Rights of Way	48
State Highway Commission	41
State Highway System	40
Military Officers—Adjutant and Quartermaster	27
Motor Vehicle Department—Registration and Taxation	28
Municipal Accounts—Allocation of Department	51
Licensed Accountants	55
Powers of Department	54
Public Library Commission—Abolition	30
Public Reports—Abolition	22
Purchasing—Centralized Control	22
Direct Purchase Orders	24
Records	25
Revolving Fund	24
Technique	23
Railroad Passes—Abolition	48

	Page
Secretary of State—Abstracts of Corporate Documents.....	26
Corporate Reports	26
Firearms Licenses	25
State Audit Commission—Conclusions.....	58
Purposes	5
Scope of Report.....	5
State Boards—Professional Licenses.....	56
State Emergency Fund—Administration	18
State House Commission—Purpose and Personnel.....	19
State Printing Board.....	21
State Museum—Transfer	30
State Printer—Abolition	22
Taxes—Equalization	38
Functions of State Board.....	30
Miscellaneous Corporations	36
Public Utilities	33
Railroad Property	31
Reorganization of Department.....	39
Treasurer—Bank Deposits	49
Deputy	50
Notification of Banks.....	51

Report

To the Governor and the Legislature of the State of New Jersey:

The State Audit and Finance Commission was recreated by Joint Resolution No. 2, Laws of 1930. We organized by electing Frank D. Abell, Chairman, Emerson L. Richards, Vice-Chairman, and Dryden Kuser, Secretary. We have been attended since June 23rd last by D. Frederick Burnett, as Counsel.

COMMISSION—PURPOSES

This Commission was constituted “for the purpose of collaborating with the Governor in connection with the audit of the finances of the State, and for the purpose of recommending to the Governor and the Legislature as to what boards, commissions or departments of the State may be consolidated or otherwise reorganized to avoid over-lapping of effort and jurisdiction, to examine the work, pay and duties of the employees of such boards, commissions and departments with the view of reducing costs of administration and promoting efficiency, and of a comprehensive method of operation and system of accounts for the general treasury of the State and for the various boards, commissions and departments of the State receiving any funds for their support or maintenance from the State or its inhabitants.”

COMMISSION—SCOPE OF THIS REPORT

We have held public hearings averaging one each week throughout the year. Numerous witnesses have been heard and voluminous testimony taken.

In order to predicate our recommendations on personal knowledge of the actual facts and conditions, we conceived it to be our duty to make an intensive study of every board, commission and department in the State, as distinguished from a merely extensive and, therefore, necessarily cursory survey. Our thought has

been to design reorganization according to the facts as found and not endeavor to fit the facts into a preconceived plan.

Hence, as to each department examined, we have made a comprehensive study not only of its functions, operations and financial affairs but also its relation to and coordination with other departments. To this end we have utilized every available source of information, including the reports of the Joint Legislative Survey Committee, dated December 9, 1925, and of the National Institute of Public Administration, dated December 31, 1929, as well as our own field investigations. The time allotted, however, has not been sufficient to enable us to examine in this manner every department and every phase of the board assignment delegated to us.

Much work remains to be done. To the extent of the ground covered, we now report our findings and recommendations.

GOVERNOR—THE CHIEF EXECUTIVE

Our State Constitution provides: "The powers of the government shall be divided into three distinct departments—the Legislative, Executive, and Judicial;" further: "The Executive power shall be vested in a Governor;" finally: "He shall take care that the laws be faithfully executed."

The Constitution strikes the keynote. Reorganization of the government should be built around the Governor. In him is vested the executive power. On him is imposed the duty to execute the laws. The power and the duty go hand in hand. The Constitution itself contemplates centralization of power in the Governor. The power is given in order that he may discharge the duty.

Our objective, therefore, is to make the exercise of Executive power most effective. This requires that every administrative activity must be articulated, not only with each other but, primarily, to centralized executive control. The Governor should have the ways and means to carry into practical operation the entrusted reservoir of power.

The form is of small moment. Thus, whether or not formal cabinet meetings should be held and, if so, at what intervals, is best confided to his sound discretion. The substance is that he shall have the power to convene at any time any or all officials; to establish and operate his own information bureau; to effect and maintain contact with every governmental activity; to utilize not only his own staff but every agency of the State; all to the end that the laws be faithfully executed. That means power to summon and convene; adequate reports on demand as well as periodically; a comprehensive and balanced budget; continuous expenditure and revenue supervision; a sympathetic grasp but steady grip on the growing problem of the obligations of the guardian State to its municipalities as well as its sovereign rights over them; a centralized control not only of accounts and audits, but also of the entire financial machinery, designed and competent to meet the requirements of public business.

The notion that the Governor should make every appointment, presumably on the assumption that he is responsible only for his own appointees, is specious. His duty is to oversee the faithful execution of the laws by every executive officer, board and commission, constitutional as well as statutory, regardless of whether appointed by him or not. The manner of appointment is a matter of policy. Enforcement of the laws is a matter of duty.

Again, the constitutional provisions should not be narrowed or shallowed by segregating and allocating particular administrative functions of the Governor, and thus burdening him with the conduct of an operating department at the expense of his supervision over all the State's business. Similarly to the President of a business corporation, he is in ultimate charge of every administrative activity. Creation of an Executive Department and transfer thereto of an existing division, e. g., State Police, would divert his attention by saddling new responsibilities but would not amplify his present power. Nor would it be of advantage to the State Police. Rather than clog the Chief Executive with more detail, the objective should be to free him for service in larger fields.

He should devote the whole or as much of his time as may be necessary. It is not desirable to enact a statute fixing the precise

amount of time which the Governor shall give to matters involving such wide latitude of discretion. He is already the Governor the full twenty-four hours of each day. Form is not force. Government depends on the men who administer it.

GOVERNOR—NOTARY PUBLIC COMMISSIONS

The Governor should be relieved from all connection with the issuance of these commissions. The duty should be lodged with the Secretary of State. The occasional failure of an appointee to qualify by recording his commission in the county clerk's office can be controlled by withholding the commission until qualification. The competency of applicants should be thoroughly tested before any Notary Public commission is granted.

BUDGET—PERSONNEL

The Constitution requires that the Governor shall communicate by message to the Legislature, at the opening of each session, the condition of the State and recommend such measures as he may deem expedient.

The Budget Act, already in force, is a specification of this duty as regards formulation and enunciation of his fiscal policy—the great problem of a Chief Executive. He has the duty to initiate, although not the right to dictate, the financial policy of the State. The personal nature of this duty requires that the budget officer shall be directly and immediately responsible to him. It is here that he gets his raw material and first hand information. These considerations dispose summarily of the proposal to establish a Budget Bureau under a Director of Finance or any other intermediary.

The highly confidential relation of the Budget Commissioner to the Governor, as his official eyes and ears, requires appointment and service at his pleasure. The office staff, on the other hand, remains intact despite any change in administration, which fact assures continuity and hence frees a Governor to choose his own confidential fiscal adviser. There are now two bi-partisan Budgetary Assistants. Politics has no place in the business of the budget. Duplication of work is avoided, responsibility fixed.

\$7,000 per annum saved, and a business set-up gained by having but a single Budget Commissioner. We so recommend.

BUDGET—SCOPE

The State makes only a partial annual budget of its revenue and expenditures. Less than half of the annual expenditures are withdrawn from the Treasury by annual appropriation. This is because of dedication by preceding Legislatures of certain revenues to specific purposes. As an evidence of good faith, as an earnest of adherence to an agreed program which cannot be completed within a single fiscal period, or as a pledged fund to honor obligations, such dedication is exemplary and goes far to maintain the faith and credit of the State. The practice has led, however, to non-inclusion in the recurring annual budget of such pledged or dedicated revenues and the corresponding omission of proposed expenditures thereof. The result is that the annual Budget Message does not review the complete fiscal situation nor embrace the entire fiscal policy. Whence it follows that the Legislature annually reviews and passes upon only a part of the annual expenditures.

This does not mean that such expenditures are either unauthorized or not accounted for. Such inference or innuendo is unwarranted, untrue, and serves only to confuse the real issue confronting us. The fact is that every expenditure, whether or not included in the annual budget, must have been authorized at one time or another by express legislation. And every expenditure must be fully accounted for, regardless of the time or form of authorization.

What it does mean is that the annual budget as presented to and the annual appropriation bill enacted by the Legislature does not tell the whole story in a single document. The composite picture can be assembled by piecing together the pertinent legislative and accounting data if one has the time and inclination. But without such assembling, only a part of the picture is presented.

We believe the taxpayers are entitled to have a single and complete fiscal picture year by year in such succinct and convenient

form as may be readily understood and as will reflect the true significance of all the State finances.

That is not all. The dedication of certain revenues for designated objects must, by its very nature, be general in terms. The purpose is described with more or less precision, but of necessity there cannot be such specification of particulars as is possible and as is practiced by the annual budget and appropriation act. It amounts to a lump sum appropriation with authority in the spending agency to apportion, apply and administer as it sees fit in its uncontrolled judgment, providing only that expenditures do not exceed the amount appropriated and fairly come within the general purpose as described. The major question is whether or not there should be an annual review by the Legislature of every proposed expenditure although authorized in general terms by some preceding Legislature. If all such items were included in the budget, they would automatically become subject to annual review. Without such review, there can be no real expenditure control. With it, the Legislature can control expenditures proposed to be made in any fiscal year under previous legislation.

Of course, it would be deplorable if money collected for or devoted to a certain purpose should be used or diverted to accomplish alien purposes. Specific dedication of a special fund, however, does not require that its actual expenditure should go unbudgeted. All the checks and safeguards of budgeting and of meticulous line item appropriations can and should be applied to the proposed expenditures from that fund. Extravagances in projects which never would have received the sanction of the Governor or of the Legislature if the complete picture were annually presented, will be stopped at the threshold by such complete budgeting. It will assure correlation of annual expenditure to long time financial planning. It will restore the salutary power of the Legislature to control all annual expenditures by the annual appropriation bill. And this can be accomplished without violating in any manner the sanctity of dedicated funds.

We recommend, therefore, that the scope of the present annual budget be amplified to include all estimated revenues and proposed expenditures of every name and nature.

The budget is an estimate of revenue and a recommendation of expenditure made by the Governor. He proposes. The Legislature disposes. The budget, to the extent adopted by the Legislature via an appropriation act, becomes transformed into law. It is then no longer a budget. It has become the law itself. Expenditures are made not under the budget but under the appropriation. The Constitution provides that "No money shall be drawn from the treasury but for appropriations made by law." The appropriation constitutes the authority to spend.

The term "budgetary control" is hence a misnomer, and conducive to confusion of thought. The real question is one of expenditure control—who should decide how, when and to what extent the money appropriated should be spent. The right to spend a given sum is one thing. To spend it wisely is another. The preparation of the budget and its crystallization into an appropriation act are important steps toward economy but the final factor is the actual expenditure.

We believe that the primary incidence of expenditure control should fall on the spending agency. This serves to localize and definitely fix responsibility. It fastens the obligation and tightens the sense of stewardship. The Governor knows exactly whom to hold accountable.

The function of the Chief Executive, so far as expenditure control is concerned, is to see that the appropriation law is faithfully executed. If, perchance, he discovers waste, extravagance or mismanagement, although within the strict letter and limit of the appropriation, he should have a veto power to stop in whole or in part future expenditures and to prescribe the terms on which the same shall be made, if at all.

In order that the Governor may have practical means of information of expenditures, a copy of every Purchasing Agency and Using Agency requisition and of every Detailed Application and Direct Purchase Order shall be served upon the Commissioner of the Budget. This will not only furnish budgetary information but will serve to maintain a continuous contact with the spending agencies, and place their financial operations under review by the

fiscal adviser of the Chief Executive to the end that every administrative activity is subordinated to and articulated with centralized executive power. The Commissioner will absorb the detail. The Governor's attention will be called only to unusual or questionable items and otherwise as directed by him. The information is in the direct channel to the Governor.

BUDGET—MESSAGE BY INCOMING GOVERNOR

The incoming Governor, under present laws, has no part in the budget message relating to the State's fiscal year which begins July 1st, following his induction into office on the third Tuesday in January. The result is that the fiscal policy for the State,—the great problem of executive leadership—for practically a whole year and a half after he goes into office is formulated, not by the Chief Executive actually at the helm during that year and a half, but by his predecessor.

The bare recital of the facts engenders insistent urge that the incoming Governor have specific power and be under specific duty with reference to the budget beginning the first full fiscal year following his election.

The objective is gained and the practical difficulties, caused by the timing of the budget hearings, the budget message, and the appropriation bill, sufficiently surmounted by requiring that the budget message for said first fiscal year shall be presented by the incoming Governor not later than the fifteenth of February following the commencement of his term. We so recommend.

The allotted time is not too short. Election occurs in November. Budgetary hearings do not start until late in October. The budget files should be made available to the incoming Governor and his purposed nominee for Budget Commissioner immediately upon election—so also the privilege to attend budget hearings.

BUDGET—CHANGES IN THE STATUTE

The Budget Act requires other changes.

Instead of a trial balance, the spending agency should supply a balanced statement showing a complete summary of income and expenditure. The income statement should show both original

and supplemental appropriations, and all transfers of appropriations and all allotments from the Emergency Fund.

The budget should show the full estimated expenditures for which appropriations are sought without deduction for estimated income from the particular agency, to the end that the true amount and financial significance of the budget may be readily comprehended.

The proposal to haul the Governor before the Legislature to make him defend his budget proposals is unseemly, even if constitutional. The Budget Commissioner, however, and his files and records should be subject to examination both by the Legislature and by the Joint Appropriation Committee.

Applications for supplemental as well as annual appropriations should be made to the Budget Commissioner so that he can report the facts and his recommendations to the Governor who in turn may express his views to the Legislature.

Similarly a copy of every application for transfer of appropriations shall be served upon the Budget Commissioner who shall be required to forthwith state his recommendations, accompanied by his reasons, to the authorities having control of such transfers.

Capital expense of projected programs should be budgeted through to completion even though but part is recommended for the current year.

Budgetary hearings should be public.

It should be the duty of the Budget Commissioner to assist in devising new working programs for institutions, departments, commissions and other spending agencies whenever their budgeted amounts are reduced by the appropriations act.

The impracticable provision, now in the statute, that no supplemental, deficiency or incidental bill shall be considered, should be excinded. The supplemental bill is a reasonable necessity to take care of situations which have arisen and for which human foresight could not or did not provide. Supplemental bills, however, can be much cut down by perfecting the original budget.

ACCOUNTS—PRESENT ACCOUNTS OF COMPTROLLER

The office of Comptroller of the Treasury was created in 1865. The Act provided that it shall be his duty to examine, audit, adjust and settle all accounts due to or presented against the State, and certify the amount adjusted or allowed, to the Treasurer for receipt or payment.

The duty as thus defined extends to receipts as well as expenditures, to income as well as outgo.

The accounts now kept by the Comptroller are in aid of his duty to audit. They are designed only for that purpose. There they stop.

His accounts are kept only on a cash basis. They show, in single entry form, a complete record of all cash receipts and disbursements. The cash is balanced daily. Before vouchers are certified to the Treasurer for payment, they are checked with the appropriation to determine that the expenditure is made only for the purpose, in the manner, under the authority and in the amount prescribed by law.

Little or nothing has been or is being done to audit the income—to ascertain that the State actually receives everything that it is entitled to get. This point is reserved for later consideration herein.

The Comptroller's Office has concentrated and for all practical purposes confined its auditing work to the expenditure side. Its work on this branch has been well done.

The State has not made it the duty either of the Comptroller or of the Treasurer or of anybody else to keep complete accounts of the whole financial business of the State on a double entry basis, summarized in a general ledger controlling all accounts.

ACCOUNTS—NECESSITY FOR COMPLETE SYSTEM

The businesslike administration of State Government requires the immediate installation of a complete double entry system of general accounting for the whole State Government. It is not sufficient to know merely that the respective appropriations have

not been exceeded and that they have been spent as intended by the Legislature, and that the cash in the Treasury is intact and fully accounted for. The Governor, the Legislature and the citizens should have much more than this. They should have completely balanced statements showing the exact financial condition and all the fiscal operations of the State as a whole. The accounting system should be designed and operated to produce that result.

ACCOUNTS—CENTRALIZED CONTROL OF ACCOUNTING

We find that the Department of Institutions and Agencies and the State Highway Department, the two largest operating and spending agencies, already have installed, and have had in operation for a decade past, accounting systems which are models of their kind. Those systems produce the essential financial data and records necessary to formulate intelligently and carry out the business plans of those departments, and to render a true and complete account of their financial activities. The underlying principles are capable of being adapted to fit the needs of a unified system of accounting for the State as a whole.

This can best and most economically be accomplished by establishing a centralized control of accounting in the Comptroller's Office. His present elaborate appropriation accounts would have to be retained in any event as an essential, inseparably interwoven with the discharge of his auditing duties. It is only by maintaining such appropriation accounts that the auditing objective of detecting and preventing improper disbursements can be attained.

The essentials are (1) to provide that the accounts of the State shall be kept by double entry under the general direction of the Comptroller and show at all times not only the standing of all funds and appropriations but also of all other accounts and the precise financial condition of the State; (2) to install a general controlling ledger; (3) to require that every department report monthly to the Comptroller in such form as he shall prescribe all the financial data necessary to be included in the general ledger controlling accounts so as to produce unified statements of financial condition and operations; (4) to establish in each department

a uniform system of accounting to be prescribed by the Comptroller to the end that the accounts in each department articulate with the accounts in the Comptroller's central office and with each other.

The emphasis is to be placed, not on accounts but on the control of accounts. The contemplated work may be done expeditiously and inexpensively. It does not mean a duplication in the Comptroller's office of work already done in the accounting offices of the several departments. It requires no more than a few entries each month for each department to summarize for record in the general journal and posting to the general ledger the several totals the details of which are shown by the prescribed reports. This work can be done by a single bookkeeper qualified by Civil Service. It will not involve any upheaval or even interruption of the State business while installation is being made. It will not break down or divert any dedicated or trust fund. Each fund retains its separate identity and each is properly reflected in the summary consolidated statements. The principle of centralized control of accounting is broad enough to give effect to every accounting, legal and business consideration.

The ultimate objective of the accounting will be the production of a consolidated balanced statement of the true financial condition of the State. This statement should be furnished each month to the Governor and published in full.

ACCOUNTS—AUDITING

The duty to audit receipts as well as disbursements has already been adverted to.

The Act of 1865 makes it the express duty of the Comptroller to superintend the collection of the revenue and to take general charge and supervision of all the rights and interests of the State and to institute and direct prosecutions against delinquent officers of the revenue. The Act of 1908 makes it the duty of the auditor, transferred by the Act of 1913 to the Comptroller, to thoroughly examine and audit all accounts of every department and institution at least twice each year, and to make a complete audit and verification of the reports of all County and State officials charged

with the duty of collecting fees or other moneys for or in behalf of the State.

Little or nothing has been done to discharge effectively these duties. There has been a general breakdown of this function. The excuse is that the personnel has been insufficient. Obviously, the audit of the income is equally as important as the audit of expenditures. The State should be sure that it receives everything to which it is entitled. It does not suffice to go by what is on the books. The question is what ought to be on the books. The duty and the power are already in the law. The auditing division should be internally reorganized to discharge this duty in full. We have no doubt but that the Legislature will supply the necessary appropriation. The initiative of presenting and pressing the matter is on the Comptroller.

The monthly reports of the several departments, as contemplated under the previous caption, should, of course, be verified from time to time by field audits made by the Auditing Division.

The accounts of the Comptroller should themselves be made subject to annual audit by independent outside accountants and the report certified to the Chief Executive in like manner as the larger business corporations cause independent audits to be made and certified concerning their affairs.

ACCOUNTS—REORGANIZATION OF COMPTROLLER'S OFFICE

The Comptroller's Office should be reorganized with three divisions (1) Accounting, under a Chief Accountant; (2) Auditing, under a Chief Auditor; (3) Executive, under the Comptroller and his Deputy.

The Accounting Division will be concerned with maintaining all records leading to and including the general ledger.

The Auditing Division will conduct all pre-audit and post audit operations, including the field audits.

The Executive Division will not only supervise all operations but also will issue the consolidated financial statements and prescribe and enforce the uniform system of reports and of accounts for all State departments and discharge all other statutory duties.

As a fundamental principle involved in auditing, the Comptroller should be absolutely free and independent of any *ex officio* duties so that he need never pass on any acts or transactions with which he is officially concerned or in which he has participated.

STATE EMERGENCY FUND—ADMINISTRATION

The legislative practice has been to provide for a State Emergency Fund of \$250,000 in the annual appropriation bill for the Governor, the Treasurer and the Comptroller, *ex officio* as the State House Commission, to meet any condition of emergency until legislation appropriate therefor shall be enacted. It is stipulated that no disbursement may be made therefrom except upon the written consent of all of those officials.

The emergency fund, obviously, is a far-sighted and proper provision to take care of unforeseen contingencies which demand action before the Legislature can convene. Emergency, however, is a relative term. Conscious of the inherent difficulty of defining it with precision, we nevertheless submit that certain general principles should be settled for future guidance in determining whether a proposed disbursement fairly comes within the intent of the emergency appropriation.

We submit that this fund is not intended in any sense as a supplement in aid of purposes for which appropriations have been made, however worthy the object. We take it that the reasonably presumable intent of the Legislature in creating the fund was to confine its expenditure to matters which had not and could not be foreseen. Certainly, no one will contend that if the Legislature has once rejected or disapproved a project, such expenditure could subsequently be made and denominated an emergency. We believe it follows that when the Legislature awards only a part of the sum asked of it, the granting of that part impliedly negatives the payment of the ungranted balance or any part thereof out of the emergency fund. No payment from the emergency fund can be justified unless it is made not only in good faith but with a reasonable right and probable cause to believe that the Legislature would ratify it if they knew it and would have authorized it in the first instance if they had foreseen it.

The Budget Commissioner should have a voice although no vote upon each request for allotment. He should be required in each case to state all the facts within his knowledge and submit his written recommendation before any allotment is made.

The administrators of the emergency fund should carry their work further than merely making allotments. They should attend to the actual disbursements as distinguished from lump sum allotments. They should supervise as well as authorize the actual expenditure. The appropriation itself so contemplates.

STATE HOUSE COMMISSION—PURPOSE AND PERSONNEL

The Governor, Treasurer and Comptroller constitute the State House Commission.

At its inception, the functions of this standing Commission were merely custodial. It had charge of the care and management of the State Capitol and adjacent property. Later, the same Commission was constituted the State Printing Board, charged with the duty of preparing and supervising the printing of the Senate Journal, the minutes of the House of Assembly and of joint meetings and executive sessions, as well as the approval for printing of annual reports submitted either to the Governor or Legislature by an State Department or officer.

Still later, the entire functions of the State Purchasing Department were vested *ex officio* in this Commission. As such it is charged with the purchase of supplies, material and equipment for the various State institutions, departments, boards and commissions; it maintains warehouses and transportation facilities and supervises the distribution of merchandise.

In the course of time other financial functions have been cumulated upon it. The annual appropriation bills confer the power upon the Commission to authorize certain transfers of appropriation items and to authorize disbursements from the State Emergency Fund.

The several bond acts constitute the Commission as "The Issuing Officials." Bonds are issued upon their certification from time to time as the money is required, and they are generally authorized to carry out the provisions of the several bond acts.

So far as the bond acts previous to those of 1930 are concerned, their work as Issuing Officials has been completed. The remaining supervision is mainly ministerial.

The annual half mill tax act which raises money for the State Institution Construction Fund makes the State House Commission custodians of the Fund and they are authorized to carry out the provisions of those acts with respect to the apportionment therefrom of the sums when requested by the State Board of Control of Institutions and Agencies. From time to time other miscellaneous functions have been heaped upon the State House Commission, sometimes for special and limited purposes, such as the construction of the State House Annex, and at others of a continuing nature such as fixing the rate for indigent patients in County hospitals.

The law requiring advertisement for the furnishing of materials or labor, the cost of which exceeds \$1,000, empowers the State House Commission to waive the advertising requirement when in their judgment a public exigency exists.

The Commission has thus become the convenient administrative catch-all exercising quasi executive and quasi legislative powers. It is in substance an Executive Committee which sits and functions not only when the Legislature is in recess, but when it is in session. Such powers, once delegated, become independent of the source. No report to or supervision by the Legislature which delegated the powers is required.

In the discharge of these several functions the State House Commission acts by majority vote except in two cases: (1) distributions from the State Emergency Fund; (2) waivers of the \$1,000 advertising requirement. In these cases unanimous vote is required.

We shall hereinafter recommend that all the functions of the State House Commission with respect to the State Purchasing Department be vested in a State Purchasing Agent, and that the State Printing Board be abolished and its functions transferred to the State Purchasing Agent.

The Constitution inhibits change of the Bond Acts.

Eliminating the functions to be transferred and those which cannot be transferred from further consideration here, the residue which remains should be lodged, because of their partly legislative and partly administrative nature involving the exercise of the broadest discretion, in a Commission, rather than in a Commissioner or other single headed authority.

The Governor should remain on the Commission because he is the Chief Executive.

This Commission as an executive Committee will execute the legislative fiat and determine the times, conditions and circumstances which warrant the applications of legislative mandates or permissions. It follows that the Legislature should be well represented on this Commission.

We therefore recommend that, except as to the Bond Acts, the State House Commission be abolished and that a new Commission be created to be known as "State Executive Commission" to which shall be transferred all the present powers and functions of the State House Commission with the exceptions above noted; that the State Executive Commission shall consist of the Governor, the Treasurer, the President of the Senate, the Speaker of the House of Assembly, the Chairman of the Senate Appropriations Committee and the Chairman of the House of Assembly Appropriations Committee.

The State Executive Commission should be enabled to act in all instances by majority vote, but, in order to articulate administrative activity to centralized executive control, it should be provided that as to every act or transaction of the State Executive Commission, the Governor's vote must be included in that majority. This is an analogue to his veto power previously considered under the caption "Budget—Execution."

STATE HOUSE COMMISSION—STATE PRINTING BOARD

The functions of this Board have heretofore been discharged by the State House Commission coincidentally with those of the State Purchasing Department. Upon the transfer of the latter department to the State Purchasing Agent the entire functions

of the State Printing Board should likewise be transferred to the State Purchasing Agent.

PUBLIC REPORTS—ABOLITION OF DEPARTMENT

This department examines, edits and indexes, subject to the approval of the State Printing Board, reports of officials, institutions and departments, and determines what parts thereof, if any, shall be printed. The staff consists of the Commissioner or Editor who receives \$2,000. per annum for what amounts to an average work of one day a week, and an assistant clerk who receives \$600 a year for part time stenographic services. The department should be abolished. Its work can and should be handled without additional expense by the Secretary of State.

Before causing the printing of the whole or any part of such reports, the Secretary of State shall first submit his recommendations, not only as to the parts to be printed and those to be omitted but also as to the quantity of copies made, to the Governor and receive Executive approval.

STATE PRINTER—ABOLITION OF OFFICE

The State Printer is appointed by the State House Commission. He receives \$900 per annum. His only function is to audit bills for bids on printing contracts and newspaper advertisement. It is an auditing job more or less specialized, but nevertheless nothing but auditing, and should therefore be performed by the auditing division of the Comptroller's Office.

PURCHASING—CENTRALIZED CONTROL

The control of State purchasing and printing is now vested in the State House Commission. The State Purchasing Agent, although appointed by the Governor, is under the supervision and control of that Commission and acts as its agent. The function is purely administrative and should be exercised by a single Commissioner. We therefore recommend that all the functions of the State House Commission with respect to the State Purchasing Department be vested in the State Purchasing Agent and that the State Printing Board be abolished and its functions transferred to the State Purchasing Agent.

The term of the Purchasing Agent should be coextensive with that of the Governor to the end that control of the Chief Executive be strengthened.

This Department is designed and intended to render a highly specialized service, materially different in nature from any other operating department. This service involves administrative machinery peculiar to its needs. It is concerned with the varied, extensive list of articles required, and embraces quality, use, market conditions, inspection, tests and other related matters. The function is broad, varied and technical enough to require centralization in a special service department.

The overhead now required to support the Purchasing Department can, without increase, absorb and save the expense now incurred in purchasing independently by the State Highway Department. We therefore recommend that the authority to purchase independently, now vested in the State Highway Department, be repealed.

We have carefully considered the proposal to permit independent purchasing authority in the Department of Institutions and Agencies. We believe it in the best interest of the State to permit no deviations from the principle of centralized purchasing. We do believe, however, that using agencies should have a voice in prescribing specifications and should be empowered to veto proposed purchases and reject deliveries when the articles are unfit or unsuitable for its requirements.

To this end, we recommend that a Committee on Specifications, consisting of a representative of the Department of Institutions and Agencies and a representative of the Highway Department, acting with the State Purchasing Agent shall be empowered to formulate and/or reject all specifications, with veto powers reserved to the respective Using Agencies nevertheless.

PURCHASING—TECHNIQUE

All State requirements should be purchased according to standards and specifications, designed to produce the necessary quality and service for the particular need. Such specifications

should be formulated on the basis of past experience together with such specialized technical knowledge as may be marshalled to produce the desired result.

Goods delivered should comply with the prescribed specifications. Highly specialized machinery, chemicals, and composition products for which component percentages are specified can be verified only with facilities such as are afforded by testing and inspecting laboratories. There is no reason why any facilities now existing in any department of the State Government cannot be utilized to cooperate with the State Purchasing Agent.

Proof of deliveries made to central or branch warehouses under the immediate control of the State Purchasing Agent presents no problem. The storekeeper in charge can make the necessary verification and inspection and certify delivery on accompanying invoices to be transmitted to the State Purchasing Agent. A different proposition arises, however, in connection with deliveries made directly to Using Agencies where the State Purchasing Agent has no personal representative. This difficulty can be overcome by having the head of the Using Agency designate and appoint a qualified employee to act as receiving clerk and definitely charge him with the responsibility of receiving, examining, counting and certifying to the State Purchasing Agent that the goods billed have actually been received as charged, in good condition. Samples of goods received shall be submitted by the Using Agency, to the State Purchasing Agent, for inspection and test, in accordance with rules and regulations prescribed by the State Purchasing Agent.

PURCHASING—REVOLVING FUND

This fund should be employed exclusively for making warehouse purchases and any other use of these monies should be strictly prohibited. At the present time certain operating expenses are paid out of this fund. Those expenses should be budgeted and paid in the regular way under appropriation account.

PURCHASING—DIRECT PURCHASE ORDERS

The existing practice of issuing Direct Purchase Orders authorizing the purchase by using agencies of perishable commodities

should be modified to provide that they shall be issued only for a fixed amount, not in excess of \$1,000, describing the articles to be purchased, and good for a period not exceeding one month from the date of issue. At the expiration of such time, the authority shall lapse and an additional Direct Purchase Order shall be required. Reports of expenditures made under such authority shall be made by the Using Agency to the Purchasing Agent within ten days after the expiration of such authority as to each Purchase Order issued. The Purchasing Agent should use these reports as a guide to the future; not merely make, as in the past, a perfunctory examination and file them without comment or constructive criticism.

The present unauthorized practice of issuing blanket orders for emergency purchases should be discontinued forthwith. The use of Direct Purchase Orders may properly be extended to cover emergency purchases of non-perishable goods in the discretion of the State Purchasing Agent, with the same limitation of amount, and under the same rules, regulations and restrictions as all other direct purchases are made.

PURCHASING—RECORDS

All purchasing invoices should be approved by the State Purchasing Agent for quality, quantity and price. No formal accounts, however, should be kept in this office. No work already done or provided to be done in the Comptroller's office shall be duplicated. Insofar as any accounting information is required to aid and assist the State Purchasing Agent, he should obtain the same from the accounting division of the Comptroller's office.

SECRETARY OF STATE—FIREARMS AND RAILWAY POLICEMEN LICENSES

The Secretary of State now grants permits to purchase firearms, issues certificates of registration to wholesalers and retailers of firearms, and appoints railway policemen.

The character and fitness of the applicants can be better determined by the Superintendent of the State Police. Transferring these functions will place the records in an office which makes the

greatest use of them and lodges supervision in an agency specifically devoted to law enforcement.

By the same token, the copies of permits issued by local officials to buy firearms and other lethal weapons, now required to be filed in the office of the Secretary of State, should be filed with the State Police.

COMPTROLLER—PRIVATE DETECTIVES

The act to license and regulate the business of private detectives and detective agencies places the licensing power in the Comptroller. This function properly belongs to the State Police for the reasons before mentioned and should be transferred to it.

SECRETARY OF STATE—ABSTRACTS OF CORPORATE DOCUMENTS

The original source of information of the Tax Department for the assessment of corporate franchise taxes comes from the records of the Secretary of State who, by voluntary arrangement, co-operates with the Tax Department by furnishing it with abstracts of each corporate document as filed.

This commendable working arrangement should be perpetuated by express statute.

SECRETARY OF STATE—CORPORATE REPORTS

The corporation law requires an annual report from every corporation and provides that if such report is not filed with the Secretary of State within the prescribed time, the corporation shall forfeit to the State two hundred dollars, to be recovered with costs in an action of debt, to be prosecuted by the Attorney General who shall prosecute such actions whenever it shall appear that this requirement has been violated. The statute does not articulate the duty of the Secretary to receive the report with the duty of the Attorney General to prosecute for failure of the corporation to file it.

The provision has been more honored in the breach than in the observance with consequent loss of filing fees, not to mention the penalties which might have collected if the initiative had been defined.

To fix responsibility for enforcement, we recommend that the Secretary of State be required to annually certify to the Attorney General a complete list of such delinquent corporations.

COMPTROLLER—SUPERVISION OF BOXING

The Comptroller, as State Athletic Commissioner, now administers the boxing law. This involves rules and regulations; licensing and supervision of managers, referees, promoters and boxers; a corps of paid inspectors and physicians for which the State makes annual appropriation; the collection of a tax on gate receipts; hearings on complaints such as fouls, and hearings on assignments of dates, and orders of suspension and revocation.

This function is obviously alien to a Comptroller. It is not advisable to lodge it with the State Police. Their function is to preserve law and order. While a tax is involved, the prime object of the boxing law is regulation, not revenue. Hence it would be misplaced in the Tax Department. The law is *sui generis*. It does not fit into any present department. Nominal supervision cannot cleanse the sport. If boxing is to continue, it needs rigid regulation and a full time Commissioner of Athletics in control of the situation. The additional expense, if any, will be nominal because of the elimination of certain personnel now officiating in semi-executive capacity under the present makeshifts.

We recommend that administration of the Boxing Law be transferred from the Comptroller and vested in a Commissioner of Athletics, who shall give his undivided attention to the necessary regulation of the sport. To definitely localize responsibility, the function should be vested in a single head rather than in a commission.

MILITARY OFFICERS—ADJUTANT GENERAL AND QUARTERMASTER GENERAL

Under the Constitution, the Governor is Commander-in-Chief of all the military and naval forces of the State. The Constitution also provides that the Governor shall appoint, with the advice and consent of the Senate, the Adjutant General and Quartermaster General but prescribes neither terms nor duties.

By statute, the Adjutant General is the chief of staff of the military forces and, under the direction of the Governor, is charged with the supervision of all matters pertaining to the recruiting, organizing, mobilization, command, discipline, training and administration of all departments, corps and troops.

By statute, the Quartermaster General is charged with the purchase, storage and issuance of supplies for the maintenance of the military forces; with the maintenance of camp grounds, rifle ranges, and all buildings and utilities connected with the military service; with the repair of uniforms, arms and equipment; with the acquisition and leasing of real estate; and with the transportation of the military forces.

Since the Governor is Commander-in-Chief, he can issue such orders as may be necessary and desirable to establish and maintain efficiency and economy in military affairs. No new statute is necessary. It is merely a matter of administration.

The present incumbents have held their respective offices for many years. Whether appointment without specified term signifies a life position, or one coextensive with the term of the Governor, or one merely at his will, has not been adjudicated. The terms of each should be defined by statute. As they work in close and confidential relationship to the Commander-in-Chief, we recommend that their terms be made coextensive with that of the Governor.

MOTOR VEHICLE DEPARTMENT—REGISTRATION, REGULATION AND TAXATION

The assumption that this department was created solely for the collection of taxes and for police duty on the roads and the consequent conclusion that the department should be dismantled and these functions distributed to the Tax Board and the State Police is not tenable. It loses sight of the fact that the principal purpose of the Motor Vehicle Department is to maintain safety in travel on the highways. The examination and licensing of drivers to make sure that they are qualified to drive, the regulation of motor vehicles and their operators, the determination of guilt of alleged violators, the suspension and revocation of licenses, the affirmative

measures to prevent accidents, and the promotion of facility of travel are neither tax nor police matters.

The so-called tax on motor vehicle registrations, while it has afforded a large revenue to the State, is not, in its nature, a tax but rather a license fee. The power of the Commissioner to enforce the Act depends largely on his authority over licenses. If required to certify qualification or disqualification to a tax gatherer, multiplication of records and not reduction of work is caused. His power of summary disposition and prompt enforcement is correspondingly weakened. While we believe that taxes in general should be administered by a single department, this principle should not be invoked blindly. It does not properly apply where the alleged tax is in effect a license and where the controlling feature is regulation rather than revenue.

The power to revoke or suspend motor vehicle licenses is not in its nature a police function. The function of the State Police is to detect and arrest violators of the law—not to discipline or punish. The power to adjudicate guilt and impose penalty is properly lodged with an independent tribunal.

There is harmonious and effective cooperation and no conflict of authority between the State Police and the Motor Vehicle Department in the execution of the motor vehicle laws. The principal work of the inspectors is the conduct of qualifying examinations. Patrol work is but one incident of their duties. Nothing is gained and considerable lost by the proposal to deprive inspectors of their police power to arrest for violations of the motor vehicle laws.

The tax on sale of motor vehicle fuels, now collected by the Motor Vehicle Department, stands on a different footing than the registration license. It is a sales tax, pure and simple, designed for revenue only. Its entire administration should be transferred bodily to the Tax Department.

Aside from this transfer, the Motor Vehicle Department should be maintained intact.

PUBLIC LIBRARY COMMISSION—ABOLITION

This Commission aids in establishing libraries; establishes new libraries; furnishes books to individuals and communities having no libraries; supervises school libraries and cooperates with State institutions by lending them books through a traveling library; conducts a system of small libraries in rural districts; promotes the establishing of libraries by outlining to municipal and county governments the value and cost of libraries; outlines and aids in campaigns to persuade the people to vote to tax themselves to support a library; and aids local organizations in devising means of establishing and supporting libraries until they can be placed in municipal or county budgets.

The appropriation for the current year is over \$90,000. Without disparagement of or reflection upon the work of this Commission, we regard the function as essentially educational in nature. We believe that kindred and cognate functions should be consolidated and located in one administrative body wherever practicable. We therefore recommend the abolition of this Commission and transfer of its functions to the Department of Education.

STATE MUSEUM—TRANSFER

The museum is now under the jurisdiction of the Department of Conservation and Development. It contains, among other collections, those of natural resources. That is the only tie-up with that Department. It circulates educational motion pictures, lantern slides and other traveling exhibits available to schools, community centers and other responsible organizations in New Jersey who pay the cost of transportation. Its function is primarily educational. The museum and its operating staff should be placed under the Department of Education.

TAXES—FUNCTIONS OF STATE BOARD

The State Board of Taxes and Assessment consists of five members appointed by the Governor with the advice and consent of the Senate. It was formed by the consolidation of the State Board of Assessors and the Board of Equalization of Taxes. It is both a Board of Assessment and a Board of Appeal.

In its capacity as a Board of Assessment it levies taxes on first and second class railroad property, the franchises of miscellaneous corporations and the franchise and gross receipts of public utility corporations.

In its appellate capacity it receives appeals of taxpayers and taxing districts from local assessments and reviews on appeal its own assessments on railroad property and miscellaneous corporations.

In addition it is charged with the duty of investigating assessments in all counties of the State once in every five years, equalizing annual assessments between counties and the inspection and approval of all maps used in the assessment of property by the local assessors. It also has general supervision over county boards of taxes and local assessors.

TAXES—RAILROAD PROPERTY

The schedule of valuations of railroad property is prepared by the Chief Engineer of the Engineering Division of the State Board of Taxes and Assessment. First class railroad property (main stem, tangible personalty and franchises) is assessed at the average rate of taxation of the State according to a statutory formula.

Second class railroad property, real estate (outside of main stem used for railroad purposes) is assessed at the rates prevailing in the districts in which the property is located.

The valuations of second class property are certified to the County Boards of Taxation and the local assessors, to be included in the ratables of the various taxing districts.

Following the completion of the assessment the Board certifies to the State Comptroller the separate valuation and tax in each taxing district together with separate valuation and tax of first and second class property for each railroad company. The assessment in detail is then certified to the railroads.

On appeal the Board reviews its own assessments on railroad property and makes adjustment.

In 1911 the valuation of railroad property was taken up by the State in a comprehensive way. The State made a revaluation of all railroad and canal property. Inventory and appraisal followed an actual survey. The valuation of the franchise has never been made a matter of statute. The State Board in valuing the franchise follows the old formula worked out by Hansel in 1911. From that time on the railways have filed annual detailed reports with the State Board showing the additions and deductions. The State Engineer verifies the facts of the additions and deductions and determines their valuations. In short, the State Board keeps a perpetual inventory of railroad property—a system so to speak of plus and minus with the objective of determining the present value of each class of railroad property.

The problem of trying to value a franchise is similar to the attempt to evaluate good will in a business. It is an attempt to measure the income producing faculty of a given railroad. Franchise values have been decreasing because the earnings have been decreasing. The bus lines have diminished the earnings of the railroad carriers on local business. Some railroad lines have been scrapped. Service on others has been reduced.

After the value of the real and personal property and the value of the franchise has been determined the valuations are transmitted by the Engineer to the central office of the State Board where the tax is computed. In form the State Board makes the assessment and the railroads appeal. In substance it is appeal from the valuation fixed by the Chief Engineer.

After the tax is computed the amount is certified to the Comptroller and to the railroad at the time that the State Board certifies to the Comptroller. The notice to the railroad company is not a formal bill but contains all the essentials of a bill. The Comptroller effects collection from the railroad company. There is nothing to prevent dispensing entirely with the action of the Comptroller in making collection and have the Commission collect direct. It would save all the work of the Comptroller.

TAXES—PUBLIC UTILITIES

There are two kinds of taxes on public utilities, franchise taxes and the so-called gross receipts taxes.

There are two different laws regarding franchise taxes: one covers gas and electric, water, telephone and telegraph, district telegraph, sewer, and oil and pipe line companies; the other covers street railway companies. The two are in substantially the same language and should be combined into one statute.

The local assessors value the property of the utility located in, upon or under any street or public place and the value of the property not so located. The tax on the franchise is based on the annual gross receipts. Each utility subject to tax, files a statement with the State Board showing its gross receipts. Any utility which has part of its wires, lines and mains in this State and part outside, or part on private property and part on public streets, reports the gross receipts from the whole lines, wires or mains and the length of the lines, wires or mains in this State along any street or other public place. The franchise tax of such utility for business done in this State is on such proportion of such receipts as the length of lines, wires or mains in this State along, in or under any street or other public place bears to the length of the whole line, wires and mains.

The annual franchise tax is five per cent of the gross receipts so computed, excepting that utilities whose gross receipts shall not exceed \$50,000 are assessed at two per cent. The State Board ascertains and apportions these franchise taxes to the various taxing districts in proportion to the value of the property located on the streets or other public places as shown by the statements so filed with the State Board. The State Board certifies the amount of the franchise tax thus apportioned to the respective taxing districts who effect their own collection. The State Board has the power to inquire into equalization and revise the valuations.

The entire franchise tax thus comes to the taxing districts in which the utilities are located. The State gets no part of it. It follows that the greater the valuation placed by the local assessor on the part which is in his district, the greater proportion of tax

will be paid to that district. The statute thus places a premium on over-valuation by the assessor in order to get a larger proportion of the tax. We believe it would be more fair and equitable between the taxing districts if the Engineer of the State Board made the valuations in all cases just as he makes valuations on railroad property. If the State is to make the valuations, the expense thereof should be taken out of the tax before division among the municipalities.

Inasmuch as the Legislature has created a separate Commission to study the tax question so far as relates to county and municipal taxation and since the municipalities are the sole beneficiaries of these taxes on public utilities, which Commission will undoubtedly shortly advise as to the substance and form of the franchise tax, we make no recommendation concerning the form or advisability of this tax except to point out that if such tax, either its present or modified form, is to be assessed and collected, provisions should be made to take appropriate care of the following situation, viz.:

- (1) If the assessors fail or refuse to file any return, while the statute gives the State Board the power to go out and make its own assessment, there is no money appropriated for that purpose with result that the Tax Board usually takes the previous year's valuation;
- (2) There is no law which allows the State Board to investigate or verify the gross receipts to see whether the statement rendered is true; yet it is on those gross receipts that the tax is based;
- (3) There is nothing in the statute which provides any machinery for affording the several taxing districts either notice of or a hearing on the apportionment to be made by the State Board; if an error is committed in making the apportionment, there is no way to correct it after the apportionment is made except by consent of the district whose share would be reduced and it is asking too much of human nature to get any such consent;
- (4) The provision of our statute basing the tax on utilities which are operating not only in New Jersey but in other States on the ratio that the length of the line in New Jersey bears to the whole line has recently been declared unconstitutional by the Federal Supreme Court on the ground that it is a direct tax on gross receipts derived from interstate commerce and as such is a burden on interstate commerce.

The gross receipts tax is a substitute for taxation on personal property and applies only to street railway companies, gas, electric light, heat and power companies. This tax is based on the average tax rate in the State as computed by the State Board in reference to railroads and canal companies. The tax is apportioned, paid and collected in the same manner and at the same time as the franchise tax and subject to the same procedure except that the apportionment is on an entirely different basis. The gross receipts tax is apportioned to the various taxing districts in proportion as the personal property and other items such as poles, pipes, tracks, machinery, etc., taxed is situated within the taxing district. The State gets no part of it. The greater the valuation, the greater the proportion of the tax to the district,—the same tendency to competition resulting in over-valuation. The State Board does not profess to do anything with the statement of valuations but contents itself with making the apportionment.

We commend to the attention of the aforesaid Tax Commission that: (1) There is no authority in the board to investigate or verify the gross receipts so as to see that the full amount of tax is collected; (2) This tax is in lieu of all other kinds of tax on the property which is the basis of the tax; (3) The fairness of making such substituted taxation. The figures show that it is advantageous to many of the companies to be taxed on their gross receipts in lieu of their property; (4) The amendatory legislation providing for correction of errors applies only as between the taxing districts to but three kinds of companies, street railway, gas and electric; it applies only to an error in the apportionment and not to an error in the tax itself; if the tax itself is erroneous, i. e., if the gross receipts are wrong the statute has no application; (5) There is no time limited for making such correction; (6) The average rate reflects all taxes, i. e., the road tax, institution tax, soldiers' bonus tax and State school tax; they are constituent elements which enter into the computation of the average tax rate; taxing districts therefore retain the State's share of those taxes.

Some 45,000 corporations are prima facie subject to this franchise tax which is based on capital stock issued and outstanding. The records of the State Board are based on the abstract furnished by the Secretary of State. Claims for statutory exemption relating to manufacturing and mining corporations and the like are investigated by an inspector to determine whether they are actually engaged in manufacturing and otherwise as claimed. There is no legal authority to insist on examination of the companies' books or inspect them. There should be in order to determine the statutory criterion of exemption—that at least 50 per cent of the capital stock issued and outstanding is invested in mining, manufacturing, agricultural or horticultural pursuits. Because of the incorporation, year after year, of new companies and the time consumed in making investigation of every company that claims exemption, there is but little time left to check back companies which have previously filed reports. There should be such a check back. Every company claiming exemption should be investigated at least every two years, and the personnel should be afforded to make that inspection. Corporations which at one time have manufactured, have abandoned such operations and still claim exemption.

The tax when computed by the State Board is certified to the Comptroller on elaborate schedules. The State Board is required to certify to the Comptroller on or before the first Monday in August of each year. The Comptroller then sends out the tax bill. If the tax remains unpaid on the first day of September it thenceforth bears interest at one per cent per month. As a matter of fact, all these schedules are not filed with the Comptroller by the first Monday in August. It would be physically impossible to prepare these schedules in the short time allotted between their filing in May and the first Monday in August. Many of the corporations require investigation and a volume of correspondence. There is no penalty now in the statutes for failure to file and report with the possible exception of the Laws of 1923 which provide that on appeal from assessment if the tax shall have been levied upon the full amount of the capital stock due to the failure to file its annual return, the State Board may impose a penalty

of not more than 50 per cent of the tax found to be due plus interest chargeable thereon from the date when the same did become due. The practice of the State Board when a corporation fails to file return is to tax it on the basis of its entire authorized capital stock as distinguished from stock issued and outstanding. The Board does not inflict the penalty as a matter of policy in order to encourage, rather than to discourage them from, incorporating in the State. The penalty is not mandatory; hence if a corporation files its report after it is due on the first Tuesday in May, it is received nevertheless and the tax assessed. The taxes are not fully certified to the Comptroller often until November. The result is the Comptroller has to send his bills out late. The date of the required report should be changed from the first Tuesday in May to the first Tuesday in February. This will double the time available to the Tax Department within which to do its necessary work.

Where taxes are certified late, e. g., sent out the latter part of October, the practice of the Comptroller is to allow 30 days in analogy to the statute giving a month's time. There is no statutory authority but it is fair and equitable. The practice should be expressly sanctioned by the Legislature.

Delinquent corporations are reported to the Governor for dissolution. In 1930, 3,178 corporations were so reported for not having paid their taxes for a term of two years. The Comptroller is also required to certify arrears to the Attorney General for collection. In 1930, 10,745 corporations were so certified as delinquent in their tax. If the tax is not collected by the Attorney General an injunction suit is brought to stop it from exercising its franchise. As a last resort they are certified to the Governor for dissolution. Consideration of the mechanics and cost of the assessment, collection, and enforcement of this franchise tax, coupled with the fact that we find many franchise taxes computed at present rates are as low as nine cents, impels us to recommend that the minimum tax be fixed at \$5.00 per annum per corporate franchise. We also commend to Legislative attention the fact that corporations of other states doing business in New Jersey, of the same class as New Jersey corporations

taxed under this statute, escape all franchise taxation so far as New Jersey is concerned.

TAXES—EQUALIZATION

The statutory system of equalization involves the preparation of County equalization tables and of State equalization tables, with appropriate tables showing in columns, the assessed valuation and the true valuation and the percentage by which the assessed value should be either increased or decreased to bring it up to or down to 100 per cent valuation. While all the counties file equalization tables, only five counties in 1929 and six in 1930 determined any such percentages. Therefore the tables as filed by the other counties amount to a certification that the assessed value is the same as the true value, yet it is common knowledge of which we must take judicial notice, that this is not the fact. Investigation via field inspections made by the Board show that property is assessed throughout the State at an average of only 50 per cent to 55 per cent. On the other hand, some properties are assessed for the full 100 per cent value and sometimes more. Some counties are assessed as low as 35 per cent.

For the reasons advanced in reference to Public Utility Taxation, we make no recommendations on equalization but commend to the attention of the Commission now investigating Municipal and County taxation the following: (1) The only power which the State Board has over the County Board is to report to the Governor any member of any County Board who shall willfully or intentionally fail, neglect or refuse to comply with the constitution and laws relating to the assessment and collection of taxes or to perform any duty prescribed by the Act. The Governor, after hearing, may dismiss them, declare the office vacant, and appoint successor; (2) The statute fails to fix any time for the transmission of the certified copy of the County table to the State Board; (3) The salaries of the County Tax Boards are paid by the State; the power of the State Board might well be strengthened by statute authorizing withholding of their salaries until the State law is complied with; (4) The whole system of flat percentages is wrong in principle and only serves to accentuate the inequality originally existing because it is not applied to a com-

mon base; (5) Chapter 98, Laws of 1923, is unworkable in that the Board is allowed only five days within which to make a reassessment but, within the same time, a ten day notice must be published; (6) The money appropriated for investigation under said Laws of 1923 is utilized by the State Board for making investigations to determine the State equalization table under the Equalization Act; (7) Where flat raises have been made, they are based only on the erroneous assessment of real property but the increased tax collected the following year due to the flat raise has to be borne by personal property as well as by real property; (8) Equalization is merely a gesture under the ruling of the Attorney General that it applies only to the State school tax and soldiers' bonus and not to the road tax or institutions and agencies tax owing to the peculiar wording of the statutes; (9) The problem of equalization at the source by correct initial valuations determined by assessors under the control and subject to the regulation of a central authority such as the County Board or the State Board as distinguished from valuations fixed by local elective assessors; (10) The compulsory use of tax maps and provision for a fund to finance the making and revision thereof.

TAXES—REORGANIZATION OF DEPARTMENT

The duty of assessing and collecting taxes is now divided among several boards, departments and officials. Hence there is much duplication of records. The certification by the State Board, after making its assessments, of the railroad taxes and the miscellaneous corporation franchise taxes to the Comptroller for collection, is an outstanding example.

The assessment and collection of taxes should be concentrated in one department, thereby fixing responsibility and effecting definite economies.

We therefore recommend that the Tax Department be headed by a single Commissioner of Taxes, and that all functions, except appellate, now vested in the State Board of Taxes and Assessment be transferred to and vested in the Commissioner of Taxes.

The present State Board should be retained as an appellate tribunal so that it may discharge all appellate duties as at present.

This removes the judicial anomaly of appealing to that Board from its own assessments and leaves it free to discharge its extensive and valued judicial duties as in the past.

The administrative work of the Tax Department will thus be conducted by a single executive. He will be charged not only with the assessment of taxes but with the collection thereof.

To the new Tax Department should be transferred the inheritance tax, from the Comptroller's Office; the taxes on insurance companies, writing workmen's compensation policies, from the Commissioner of Labor; the gas tax and the billboard tax, from the Motor Vehicle Department; the sales taxes on fertilizers and feed stuffs, from the Agricultural Experiment Station; and the several kinds of taxes on insurance companies from the Department of Banking and Insurance.

The assessment of the last mentioned taxes is, however, of such highly technical nature as to make it practically impossible to separate this function from the other duties of the Banking and Insurance Department. It is therefore recommended that such assessment be left with that department, but that the assessments so made be certified to the Commissioner of Taxes and that he be charged with the duty of effecting collection thereof.

Reorganization of this department, as thus proposed, places all administrative activities of the same major nature and purpose in one department under single headed responsibility. It leaves the present Board free to discharge their judicial duties, separated from and untrammelled by executive and administrative functions. It furnishes properly organized and coordinated machinery for the discharge of any duties which may be imposed on it by subsequent legislation.

HIGHWAYS—STATE HIGHWAY SYSTEM

The revision of 1927 established a State Highway System and provided for the improvement, betterment, reconstruction, resurfacing, maintenance, repair and regulation of the use thereof. The System consists of the routes designated in the revision. The routes are described by termini and the municipalities and the vicinity thereof through which they are to pass. Thus Route No. 1 is described as:

“Rockleigh to Bayonne. Beginning at a point in the State boundary line between New York and New Jersey in Rockleigh borough, Bergen County, and terminating at a point in the city of Bayonne, passing through the boroughs of Rockleigh, Alpine and Cresskill, the city of Englewood, the boroughs of Fort Lee, Palisades Park and Ridgefield, the township of North Bergen in Hudson County, the city of Jersey City, and the city of Bayonne.”

Section 100 of the revision prescribes:

“Said routes shall be as short and direct as practicable between the points specified, due regard being had for the other requirements of the act.

“Existing highways may be made use of wherever it is convenient so to do, but the commission may lay out, open and improve new roads over acquired rights-of-way, and may also lay out routes in continuation of, connecting with, or in addition to the routes above specified.”

HIGHWAYS—STATE HIGHWAY COMMISSION

The State Highway Commission consists of four salaried Commissioners, appointed by the Governor with the advice and consent of the Senate, for four year terms, two being appointed every two years. Their prime duty is to carry out, complete and maintain the State Highway System. To provide the means, a State road fund has been constituted consisting of the proceeds of the several bond issues for road purposes, and certain revenues and receipts of the State which have been dedicated to the construction of the Highway System. Those revenues include the tax on the sale of motor vehicle fuels, Federal aid, the net proceeds of the State mill tax for roads, and receipts derived from registration of motor vehicles and the licensing of the drivers thereof, and certain miscellaneous fines, penalties, and sales of condemned property. The expenditure of the fund is confided exclusively to the uncontrolled and, as the law now stands, uncontrollable judgment and discretion of the Commission. On it, in express terms, is conferred “full control and direction of all projects and work on State highways.”

We have made a thorough investigation of the many and varied phases of the organization and administration of the State Highway Department.

We find, in general, that it functions as a self-contained unit and enjoys an autonomy, unparalleled and unapproached by any other department, in the administration of the State government. For all practical purposes, it is now independent either of executive control or legislative supervision.

We believe the State Highway Commission should be brought back within bounds.

To that end we make the following specific recommendations:

HIGHWAYS—CONSTRUCTION BY A COMMISSION

The work of completing the State Highway System should, during the construction stage, be confided to a Commission. On completion of the program, the question of its maintenance by a single Commissioner will arise. Until then, the wide latitude of discretion, which it is reasonably necessary to confer in respect to such a construction program, is best exercised by a Commission. Thus, while the Legislature has defined substantially where Route No. 1 is to be constructed, its exact location must necessarily be left to discretion. So as to connecting routes under the general authority of Section 100, hereinbefore quoted, under which an expenditure of \$20,000,000 on a single project is now under way. So generally throughout the Act, powers, quasi-legislative and quasi-judicial, have been necessarily and reasonably conferred, such as decisions to take over county roads and thereupon hold hearings, elimination of grade crossings wherever practicable; prescription of restrictions, regulations and conditions as to franchises for railroad or street railway crossings, pipes, conduits and poles; the making of contracts with municipalities for municipal thoroughfares and with the freeholders for cooperation in any work and assuming "any" portion of the cost; the institution of condemnation proceedings of, and taking and entering upon, property in advance of making compensation; the plenary power of rejecting bids for any cause; the decision on the types of construction and the character and necessity therefor, which, accord-

ing to the refreshingly frank admission of the department engineers, has been the major cause of the tremendous increase of \$114,000,000 over the original estimated cost.

Such powers, because of their very nature, are best confided to a Commission rather than to a Commissioner.

HIGHWAYS—BUDGET

Everything hereinbefore said, with reference to the scope and execution of the budget, applies with special force to the Highway Department. The unbudgeted expenditures of this department exceed the total of all the appropriated expenditures for every other department in the State. Economical planning and efficient business practice are gained by submitting definite annual objectives and the financial proposals to accomplish them to the scrutiny of the budget and subjecting them to the control of the annual appropriation bill. The relative necessity, importance, cost and timing of all contemplated projects will thus come automatically under review by the Chief Executive and under control by the Legislature.

HIGHWAYS—ACCOUNTS

Again, without repetition, everything hereinbefore said as to the imperative necessity for centralized control of accounting is applicable to this department. The highly commendable work done by its Accounting Division should be tied in and co-ordinated with the accounting system of the State generally, in order to attain the objectives hereinbefore set forth. The fiscal year of the department should be changed to coincide with that of the State.

It is the clear intent of the law that all funds made available to the Highway Department by special act or annual appropriation should be kept in a separate fund devoted, as dedicated, to the objects of the Department. The moneys have been fully accounted for but this fund, unlike all other funds, has not been segregated and kept in separate bank accounts specifically earmarked. The State Highway System fund has been and is now mingled with the general State funds. The use of a special form

of check for the withdrawal of highway moneys is consistent with recognizing the clear distinction between Highway funds and other State funds but is insufficient to discharge the legal requirement of actual segregation of the fund just because it has been constituted a fund. The present practice, which should be abandoned forthwith, has resulted in depriving the Highway Department of hundreds of thousands of dollars of interest on bank deposits. The Commission has apparently been content to suffer this deprivation. Its patent trust duty is to insist upon such segregation and upon such interest. It has hitherto failed, despite the facts brought home to it by the hearing before our Commission. The duty is accentuated by the bond act of 1930 which became effective by referendum at the recent election.

HIGHWAYS—AUDITING

The present auditing by the Comptroller of Highway expenditures is purely nominal. So long as a given expenditure is related in any degree to the general purposes of the Highway Commission the expenditure must be passed by the Comptroller and the otherwise highly valuable audit degenerates into a mere verification of additions and extensions. When the annual expenditures of the Highway Department are subjected to budget and to the appropriation bill, as now proposed, the Comptroller will have definite standards by which to audit such expenditures.

HIGHWAYS—PURCHASING

We have hereinbefore recommended that centralized control of purchasing be extended to every department of the State specifically including the Highway Department. The present authority to purchase independently should be repealed.

The storeroom in the basement of the Capitol should be abolished. Supplies should be kept in and requisitioned from the storeroom maintained by the State Purchasing Agent.

The Central Mailing Room of the State Capitol should be utilized by the Highway Department as well as any other department. This avoids duplication of work and effort and fixes responsibility.

HIGHWAYS—REPORTS

The Chief Executive, as hereinbefore stated, shall have the right to reports from time to time or at any time as he shall determine. Reports should be complete and comprehensive and tell the story in understandable terms. When there is a duty to speak, that duty is not discharged by casual mention in unofficial way. The initiative to report to the Chief Executive, irrespective of his demand, should be definitely fastened by law.

HIGHWAYS—COUNTY AND TOWNSHIP AID

County aid for the construction and maintenance of a secondary system of roads is permissive and the purely legislative function of appropriating amounts therefor is exercised by the Highway Commission in its own discretion. For the year 1930, the Commission will have spent approximately \$4,000,000 for this purpose. It is not clear whether Chapter 178 of the Laws of 1930, which grants \$35,000 annually to each county, is designed to be a substitute for or in addition to the moneys now appropriated by the Commission. This, however, will become of small moment upon the restoration of the power of the Legislature, as is proposed, to control all annual expenditures by the annual appropriation bill. Henceforth, the Legislature will determine to what extent county aid shall be extended and fix the limits thereof.

Township aid is mandatory and the amounts have heretofore properly been determined by the Legislature itself and, under the new proposal, will of course continue to be.

The present discretionary powers, which under Chapter 250, Laws of 1930, may become vested in the Board of Freeholders under certain contingencies, should be abrogated and all State funds controlled exclusively by the State.

HIGHWAYS—EMERGENCY FUND

For the year 1930, the Commission allotted the sum of \$900,000 as an emergency fund, but by the 22nd of July last, had expended the whole amount and \$106,000 more. All this money has been expended for the same purposes as township and county aid. There is nothing left to take care of any real emergency. Under

the proposed procedure, the Legislature will determine the policy of creating a reserve available for real emergencies and the extent and use thereof.

HIGHWAYS—COUNTY REIMBURSEMENT

The principal purpose accomplished by the power conferred upon the Highway Commission to make agreements for county reimbursement is to enable State System highways to be constructed in the county in advance of the regular order of precedence. Under the provisions of the contract, the Commission agrees to reimburse the county by a given time for expenditures made in constructing such State highways, subject to the approval and acceptance by the Commission of the work done. The result is that on such acceptance, the Commission incurs an obligation which reduces the funds presently available for other construction work. The advantage to the particular county is gained at the expense of the State as a whole.

We recommend that the power be abrogated to the end that the funds available to the Commission be first devoted to completing the highway system as now laid out in the order of precedence determined to be most for the public good. If the funds of the State are to be obligated for a given project out of its regular order, the responsibility for and the power to make such departure from the construction time table should rest on and be vested in the Legislature, and the expenditure or rather the deferred obligation should be fully budgeted and its ultimate payment be specifically appropriated.

HIGHWAYS—OTHER STATUTORY CHANGES

There is now but limited authority to remove encroachments on the highways. Ejectment and indictment, while established legal remedies, are dilatory, cumbersome and not practicable for this purpose. The Department should be given summary power to enable it to remove encroachments without undue delay, after a reasonable notice and a hearing, if demanded.

The duty and authority of the Commission to paint traffic lines on dangerous curves and at other expedient points should be definitely clarified.

The statute should be specific as to the authority and the requirements in reference to the granting of permits and licenses for openings to be made, poles to be erected and pipes laid in, along or under the State highways. As to permits, this operation involves certain regulatory and supervisory service. Provision should be made for charges to be collected by the Department to reimburse it for expense incurred in such regulatory and supervisory service.

The Commission has permitted public and quasi public corporations to use State highway property for the purpose of laying pipes subsurface, but the same privilege has not been extended to private owners to connect their properties lying on both sides of a road. The privilege should be extended, subject to cancellation, to private property owners as well as those corporations under similar terms and conditions. The permit in every instance should preclude the granting of any easement, or anything which might ripen into an easement, and, in all cases, be revocable on fair conditions.

Because of the limited funds available for road construction and in order to concentrate on the completion of the 1927 program at earliest moment, we recommend that no money shall be expended for beautification, as such, of roads, except to the extent that this class of work directly and immediately may substantially contribute to the maintenance of the highways, such as in the case of cuts and fills.

The status of the 31 miles of State highway constructed under the 1917 act which were not included in the 1927 revision, sometimes, therefore, called orphan roads, should be definitely settled by the Legislature so that the right and duty of the Highway Department to maintain those roads, as they do at present, is not a matter of doubt and is definitely decided by the Legislature and not by the Commission.

The statute should provide that all contracts, permits, licenses and other documents involving legal rights and obligations on the part of the State should be approved by the Attorney General as to form and execution.

HIGHWAYS—RIGHTS OF WAY AND CONDEMNATIONS

There have been an unusually large number of complaints and criticisms with respect to these subjects, directed particularly to the manner of negotiations for acquisition of rights of way, the low amounts offered, the large amounts awarded, the alleged favoritism and inside influence, and the delay in making final settlements in paying for property acquired. Some of these complaints have been admittedly justified. We afforded full publicity to each complaint brought before us, investigated the causes independently, and were unsparing in our then voiced criticism of what we found wrong. During our investigation and as a result thereof the Department made a voluntary reorganization of its several bureaus in the Right of Way Division. We have not had the time to check back and verify whether or not the Department has succeeded in setting its own house in order and eliminating the causes of the complaints. Under the circumstances, and because the Department has exhibited a willingness to cooperate and has actually set in motion its own powers in that behalf, we shall make no further criticism until at least sufficient time has elapsed to thoroughly test the new regime and set up.

Much difficulty appears to have been experienced with the 1900 Act governing condemnations which is required to be followed by the Highway Act. This is a matter of substantive law which we commend to the attention of the Legislature. Specific detail will be found in the voluminous testimony we have taken.

RAILROAD PASSES—ABOLITION

The issuance and use of railroad passes has proved to be subject to uncontrollable abuses. These passes are the result of contract obligations of the railroads,—stipulations for the necessary transportation of its proper officials on the faith of which burden the franchises were originally granted. Since the use of such passes apparently cannot be limited to the original objectives, we, therefore, commend to the Legislature the problem of revising those franchise obligations with the view of eliminating all railroad passes in exchange for such other compensation to the State by the railroad companies as will not relieve them

from their franchise obligations and as will be a fair substitute to the State for the expense now borne by the railroads.

TREASURER—BANK DEPOSITS

The power and responsibility of determining the depositary is properly placed in and on the Treasurer. It is the personal duty to safeguard and keep. The proper correlative is the right to choose such depositaries as merit his personal confidence and are such as in his discretion will best guard the State's interests. No mechanical plan of meeting a situation demanding such extraordinary discretion has been presented which meets our approval at all. We see no need to change a situation which has met the test of time just for the sake of a change. There is no allegation of unfair distribution of the State's deposits. The whole situation is best met by full publicity. We therefore recommend that the records of the Treasurer's Office as to bank deposits shall be made a public record, available for the inspection of any citizen interested, on application to the Treasurer at any time on reasonable notice.

The statute in plainest language provides that, once the money is deposited, the Treasurer is not authorized to draw any moneys so deposited by him or to his credit unless by check subscribed by him as Treasurer and counter-signed by the Comptroller. The practice of transferring moneys from one depositary to another when occasion requires, without the counter-signature of the Comptroller, and by draft instead of check, is contrary to the statutory prohibition against drawing any moneys unless by check duly counter-signed. So long as the law is on the books, it should be obeyed.

So far as concerns mere transfer from one depositary to another, as distinguished from actual expenditure of the funds, we are willing to change the law in order that the Treasurer may exercise a continuing control over State funds in State depositaries, and this, single handed, as in the case of initially choosing the depositary and there is no objection except the present prohibitive words of the statute. We recommend, therefore, that the statute be modified to permit such transfer, without the

counter-signature of the Comptroller, but with the proviso that no such transfer shall be made unless the check withdrawing the same bears a properly prescribed restrictive endorsement so as to distinctly put the payee depositary on notice that it is dealing with State funds.

The State as a depositor should be entitled to the same treatment as any private depositor and should receive the same rate of interest that such persons receive upon their deposits. The act limiting the interest on deposits to two per cent should be repealed. The Treasurer should be permitted to take the rates of interest on daily balances provided by the various clearing house associations throughout the State.

TREASURER—DEPUTY

If the Treasurer should die, the authority of the Deputy who serves at his pleasure would instantly cease. The present law only partially provides for that contingency. If the Treasurer dies while the Legislature is in session, the Governor would have no power of appointment. If the Treasurer dies during recess of the Legislature, the Governor may appoint somebody to exercise the duties of Treasurer until the Legislature convenes in joint session. But at the moment of such convention the power of such temporary appointee stops and the power of the Governor to appoint anybody else is gone because the exercise of the power exhausts it. If the Legislature failed to agree instantly upon a successor, there would be no one who could perform the duty of the Treasurer and the financial work of the State would be embarrassed.

In the event of death, the Deputy should continue to exercise his former powers until the successor to the Treasurer is actually elected.

The same continuation of power should also apply to the Comptroller's Deputy.
We so recommend.

TREASURER—NOTIFICATION TO BANKS OF ELECTION

The law now provides that the Secretary of State shall notify each bank in which State deposits are held of the election of the State Treasurer. There is no provision which requires the Secretary of State to certify the election of Comptroller. This should be amplified by requiring certification of the election of the Comptroller as well and also of the signatures necessary to each check and every other necessary requisite to validity.

As regards the Deputy Treasurer, the present form of certification by the Secretary of State is to the effect that the Deputy Treasurer is authorized and empowered to perform all his duties "until further notice". This is obviously bad practice and may create an embarrassing stoppel. The office of the Deputy comes to an end with the death of the Treasurer or at the end of his term, or he may be discharged at pleasure. If the office is continued, as we have above proposed, until the election of the Treasurer's successor, the certification should follow the fact and not depend on subsequent notice being actually given to the Bank.

MUNICIPAL ACCOUNTS—ALLOCATION OF DEPARTMENT

The Department of Municipal Accounts is now a division of the Treasurer's department. Its commissioner is appointed by the Treasurer. Its functions are to see that all municipal sinking funds are brought up to a statutory standard; to audit and supervise these funds; to make municipal audits or investigations where requested or where necessary; to establish a uniform system of municipal accounting for all municipalities and counties; to examine all municipal budgets and see that they are in proper form; to order any omitted mandatory items to be included in the tax levy; to receive and compile statements of financial condition; to act as a depository for certified copies of all bond proceedings; and to license accountants who make municipal audits.

The solution of the problem of excessive municipal expenditures cannot be reached on the theory that it begins and ends with the municipality. Municipal governments have but a limited voice in determining the amount of money that must be raised

through taxation. A great proportion of the expense of a municipality is made mandatory by statute. Its main resources are the property of its citizens which property is subject to taxation. The taxpayers are, in the last analysis, the real debtors of the municipal creditors. The wages of profligate and inefficient management are pain and suffering to the taxpayers. If it had not been for the legal limitation imposed upon municipalities to control the issuance of their bonds, several municipalities would now be called, commonly and aptly although not technically, bankrupt.

The relation of the State to the municipality is analogous to that of guardian and ward. The existence of the sovereign power of the State over its municipal subdivisions is indisputable. The real question is to what extent and how those powers should be exercised. The Legislature has given and the Legislature may take away. A wise exercise of the power will recognize a dual responsibility, obligations as well as rights, and endeavor to solve the problem of municipal expenditures by the co-ordinated efforts of both municipal and State governments.

The creation of the Department of Municipal Accounts has proved a long step in the right direction. The department is already serving as a clearing house for the problems common to all municipalities. Its functions transcend mere audit. It approaches supervision. It already has reached cordial co-operation and mutual understanding. The degree is a matter of State policy. The problem is one that we have to live with. It is growing day by day. It is not a question of the survival of the fittest. The State must continually look out for the least of its children.

Our question is where this growing department should be placed so as to render the greatest service at the present time and how be organized so as to take care of the discharge of present duties and such as future State policy may dictate.

Four plans have been suggested:

1—To leave the department where it is under the Treasury:—This is a mere makeshift. The department has no logical connection with the State Treasury. One of the duties of the Department of Municipal Accounts is to audit the sinking funds of

the several bond issues of which the Treasurer is custodian as well as a member of the Sinking Fund Commission. It is manifestly improper that the Commissioner of Municipal Accounts should audit the transactions of his own immediate superior by whom he is appointed.

2—To place the department with the Comptroller:—This proposal seems plausible enough when emphasis is placed upon auditing which is but one of the many functions of the Department. Even as to that, the testimony shows that the subject matter of the respective audits are entirely different. The work of the Comptroller's Office is governed by State law. The work of the Department of Municipal Accounts is covered by the vast bulk of municipal law. The forces could not be interchanged. It would be a union in name only. Besides, the other functions of the department would be entirely foreign to the Comptroller. On top of that is the consideration that the Comptroller is likewise a member of the Sinking Fund Commission under the bonding acts and it would be equally improper for the Commissioner to audit the transactions of his immediate chief.

3—To transfer the department to the State Board of Taxes and Assessment:—It is true that the Department of Municipal Accounts has more contact with this Board than with either the Treasurer or the Comptroller which latter contacts are practically negligible. It is true that the source of municipal revenue is taxes and in order to establish the tax duplicate and review the collection, remission and cancellation of taxes, the Commissioner of Municipal Accounts makes certain inquiries from and verifies certain facts by the State Tax Department, but, again, this is only one part of the functions of the Commissioner. Taxes are only the income side of the municipal accounts. The entire problem of the outgo side has nothing whatsoever to do with the State Tax Board. Nor has the intricate question of assessments for local improvements, either as to income or outgo, anything whatsoever to do with taxes.

4—To make the Department of Municipal Accounts a separate department, exactly as England has a separate Secretary for her Colonies:—We so recommend. This proposal makes for a closer and more sympathetic relation between New Jersey and her

municipalities. The department now functions independently. It is housed separately. It is only nominally under the Treasury. It will be freed from the domination of every other department, save only the Executive, and fitted to perform the functions now vested in it and which will be accumulated as time goes on. It will put the department in such relation with respect to the whole State structure that it can be later enlarged and, from time to time, given added powers and responsibilities without ensuing complications. It prepares the mechanics for the substantive recommendations of the forthcoming report of the Commission on Municipal Taxation.

We recommend that the power of appointment of the Commissioner of Municipal Accounts should be taken from the Treasurer and lodged either with the Governor, subject to advice and consent of the Senate, or with the Legislature itself as the ultimate guardian of the municipal subdivisions of the State. The term should be five years.

MUNICIPAL ACCOUNTS—POWERS OF DEPARTMENT

Our examination convinces us that speedy consideration should be given to enlarging the powers of the Department. The effective time to discuss municipal indebtedness is before it is incurred. To what extent regulation and prevention shall go are matters of substantive policy which have been under consideration by the Commission for the investigation of county and municipal taxation and expenditures, which Commission will shortly report. So as to the many matters involved with the statutory debt limit. So generally as to provisions for enforcement of the law.

We commend especially to the attention of that Commission, the following matters developed in our investigation:—(1) There is no power to compel restitution; (2) No penalty attached for failure to answer subpoena of the Commissioner in any investigation that he may institute; (3) No power to impound records or to make physical seizure thereof; (4) No power to take charge of the affairs of the municipality when conditions warrant and demand; (5) No power looking to a manager for a financially distressed municipality to step in and take out of the hands of

the local government powers which have been misused or atrophied and to do whatever is necessary to raise immediate funds to restore municipal credit and put its finances on a sound basis or to do whatever should be done whenever a danger sign appears.

We defer to that Commission the determination of the powers which should be vested in the Commissioner commensurate with the substantive policies by them to be evolved. We believe our duty is done so far as administration and organization of the State Government is concerned by providing a proper place for this important department in our coordinated plan of reorganization.

MUNICIPAL ACCOUNTS—LICENSED MUNICIPAL ACCOUNTANTS

The present practice of auditing the accounts of municipalities, by means of accountants licensed by this Department, after examination, has not proved to be entirely satisfactory. In actual practice, such accountants work independently, although nominally under the jurisdiction and control of the Department. This is more regulative and disciplinary than it is productive of the best results. It is not feasible under present arrangements and with existing facilities, for the Department in this manner to adequately supervise audits so made. Aside from the lack of close supervision, the principal elements which tend to reduce the effectiveness of such audits, is the financial privity and relationship of auditor and municipality, with the natural tendency to favor the client who pays for the service, and the practice of lump-sum bidding which emphasizes the cost rather than the service.

This condition may and should be remedied by eliminating the relationship of auditor and client, as between the Licensed Municipal Accountant and the municipality, by providing that all municipal audits should be conducted directly by the Department of Municipal Accounts, through Licensed Municipal Accountants chosen and retained by the department for each specific engagement. The cost of the audit should be paid to the department by the municipality and the accountant should be paid for his services, by the department. To provide the ways and means to make this plan operative the Department of Municipal Accounts should be allowed an appropriation commensurate with its needs,

sufficient to meet such payments to Licensed Municipal Accountants. This dispenses with the necessity for a large permanent staff in the department itself. After taking into consideration the offsetting income from service charges to be paid by the municipalities, the cost will be largely met by the income. It would be entirely met if the State chose to charge the full cost to the municipalities instead of the present meager statutory charges. Perhaps, paternalism has a proper sway here in keeping those enforced charges low, even lower than the actual cost of the service. However that may be, the service, as indicated, is worth the cost.

STATE BOARDS—PROFESSIONAL REGISTRATIONS AND LICENSES

There are now twelve examining and licensing boards for various professions, excluding the Bar Examiners which pertain exclusively to judicial division of government and the New Jersey Real Estate Commission which brings in a large revenue to the State. These twelve boards, although in receipt of substantial revenues derived from examination and registration fees, bring in but trifling revenue to the State. These State Boards are:

- Public Accountants;
- Architects;
- Registration and Examination in Dentistry;
- Embalmers and Funeral Directors;
- Medical Examiners;
- Examiners of Nurses;
- Optometry;
- Pharmacy;
- Professional Engineers and Land Surveyors;
- Pilotage Commission;
- Veterinary Medical Examining Board;
- Chiropodists.

The expenditures of these boards are not budgeted and are in nearly every instance approximately equal to the receipts from registration and license fees, fines and the like.

We recommend that a Bureau of Professional Registration be created in the Department of Education which will consolidate these twelve examining and licensing boards with their attendant staffs into one unit, with one secretary instead of the dozen now functioning and drawing pay. Great economies in rents would likewise be effected. The educational department now passes on the academic credentials of applicants. Centralization of the records would permit the establishment of uniform procedure. Fees and fines would be collected by the central bureau and deposited immediately with the State Treasurer. The expenditures of the staff and the various examining boards would be budgeted and allowed only to the extent permitted by the Legislature. All records and correspondence would be taken care of by the central bureau and when necessary referred to the particular examining board. The boards themselves would remain intact and all their necessary functions, such as preparing the examinations, the grading of papers and otherwise determining the fitness of the applicants for licenses, together with advisory supervision of the licensees, would remain. The regulatory work of these licensing boards would in no manner be interfered with. It would, however, be systematized and done on an economical basis.

We so recommend.

CIVIL SERVICE—SPECIAL PHASES

We have made considerable study of such phases of Civil Service as regards the certification and manner of payment of pay rolls, the varying hours of employment in different departments, the classification of employees, the administration of the Veterans Act, the power to discharge, the management and multiplication of personnel, the problems of seasonal, temporary and technical employment, and the questions whether employees are adequately compensated and whether they earn what they receive. These studies have been made in connection with our examination of specific departments. We have not had the time to study Civil Service as a whole, or cover all the ground incident to these phases, or, except in a few instances, to afford opportunity to the Civil Service Commission to be heard thereon.

We refrain, therefore, from making any comment or recommendations at this time.

CONCLUSIONS

The recommendations made herein cover substantially all matters heretofore investigated which are capable of being translated into law. It has not been possible within the time accorded to our Commission to examine into a number of the departments of the State Government which we feel should be included in a comprehensive plan of reorganization. Your Commission and its Counsel have devoted unstinted time to investigation, to the taking of testimony and the formulation of this report. From the standpoint of the convenience of our own members, it has no desire to prolong its activities. It does recognize, however, that having assumed the duty of preparing a complete plan of reorganization that it should request the Legislature to continue the Commission until it can conclude its work.

The Commission has confined its report strictly within the limits of the resolution looking to a consolidation and reorganization of the various boards, commissions and departments of the State Government. It believes that if these recommendations are carried out there will not only be greater efficiency in the operation of the State Government but a very material reduction in the cost of administration.

Respectfully submitted,

STATE AUDIT AND FINANCE COMMISSION.

By FRANK D. ABELL, *Chairman*,
EMERSON L. RICHARDS, *Vice-Chairman*,
DRYDEN KUSER, *Secretary*,
A. CROZER REEVES,
GEORGE W. GRIMM, JR.,
CHARLES A. OTTO, JR.,
WILLIAM B. KNIGHT,
THOMAS M. GOPSILL.

D. FREDERICK BURNETT, *Counsel*.

Dated November 6, 1930.

REPORT

to the

Legislature of New Jersey

of the

Commission Created Under
Joint Resolution Number Two

Session of 1929

*Joint Resolution for the Creation of a Commission on
State Audit and Accounting System for the State
and the Several Departments, Boards and
Commissions Receiving State Moneys or
Public Funds of Any Kind*

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REPORT

To the Legislature of the State of New Jersey:

Your committee, as authorized under Joint Resolution No. 2, Session Laws of 1929, respectfully reports as follows:

That it organized with the election of Frank D. Abell as chairman, Guy George Gabrielson as vice-chairman, and Dryden Kuser as secretary.

The first business before the committee was to assist the Governor in finding a competent organization to conduct an audit and survey of the organization and administration of the State government, authorized under Joint Resolution No. 3. The committee recommended and the Governor contracted with the National Institute of Public Administration to conduct the survey and audit. Work began upon the audit almost immediately and partial reports were ready for discussion by the committee and the Governor in September. Whereupon, the committee began a public investigation as authorized and directed in Joint Resolution No. 2.

It is not in the public interest at this time to publicly make known all of the findings and conclusions of the committee as a result of this investigation, particularly in view of the fact that certain public officials have not yet appeared before the committee. It suffices, however, to report that in almost every transaction investigated by your committee relating to the expenditure of public money irregularities of some description have been found. In many cases either violations or clear evasions of the laws already enacted to protect the expenditure of public funds have come to light.

In many other cases, where actual violations of the statutes have not occurred, public officials have been shown to have so conducted themselves as to leave little doubt in the minds of your

committee that their conduct was at least unethical, swayed by personal considerations and not in the interest of an economical administration of the affairs of the State.

In cases where the irregularities investigated were the acts of subordinate officials, the committee has found that their conduct was largely directed or impelled by their superiors or by persons politically powerful in the State government. Practices which are condemned by statute in the cases of municipal authorities are not restrained in the case of State officials.

The National Institute of Public Administration has but recently placed in the hands of the Governor and your committee its recommendations upon the reorganization of the State government. This document, consisting of four hundred and forty-nine typewritten pages, contemplates a thorough revision of the whole administrative structure of the State government and its organization into fourteen administrative departments. Since some of the changes recommended cannot be effectuated without amendment to the Constitution, and since a complete administrative code cannot be compiled and submitted to the Legislature in the short time to be allotted to the present session, it is the recommendation of the committee that only certain departments of major importance be reorganized at this session, the remainder of the program to await the next meeting of the Legislature.

We find that there has been an almost complete breakdown in the economical administration of the State government. This condition has existed under the past three administrations. We recommend that such parts of the proposed reorganization be immediately accomplished as will serve to correct the waste and illegal expenditure of the State's funds and to provide for such concentration of authority as will make it impossible in the future for those in charge of the administration to evade their responsibilities.

We recommend that there be created a department to be known as the Executive Department, with the Governor as its head, containing four bureaus:

1. Administration
2. State Police
3. Military Affairs
4. State Records.

The Bureau of Administration should operate as a central clearing house for the Governor. It should be his eyes and ears and in constant touch with the operation of all of the administrative departments.

The State Police force should be directly under the control of the Governor, and it is recommended that this activity become a bureau in the Executive Department. The issuance of permits to purchase firearms, the granting of certificates of registration as wholesale and retail dealers in firearms, the issuance of detective licenses, and kindred subjects, should be transferred to the Bureau of State Police. The supervision of boxing should likewise be transferred to the Executive Department, either as a separate bureau or under the control of the Police Bureau.

Military Affairs are constitutionally directly under the Governor, and while, by reason of the fact that certain officials such as the Adjutant-General and the Quartermaster-General are constitutional officers and therefore a complete reorganization of the military affairs cannot be effectuated at this moment, nevertheless, so far as may be constitutionally done, the military affairs should be concentrated in this department.

The Bureau of State Records comprises much of the work now done in the office of the Secretary of State, a constitutional officer. It should be noted, however, that while the method of appointment of the Secretary of State is prescribed by the Constitution, his duties are prescribed by the Legislature and therefore there is no reason why such activities as the recording and filing of specific public documents; the recording and filing of private documents which are matters of concern to the State as a whole; the administration of the general corporation act and the collection of the fees imposed thereunder; the administration of all State funds under the election laws; the acceptance of service

of summons and complaint in civil proceedings against non-resident motor vehicle owners, and the issuance of state railway passes, together with the issuance of commissions of notaries public, by the Governor, should not be grouped in the proposed Bureau under the immediate direction of the Secretary of State.

The second and, in the opinion of the committee, the most important recommendation to the Legislature is the immediate creation of a Department of Finance. This department should be divided into a Bureau of Budgeting, a Bureau of Accounting, a Bureau of Purchasing and a Bureau of Personnel. It is recommended that the State House Commission be abolished and all of its functions and powers be transferred to the Department of Finance.

The Comptroller has two functions under the law: First, to act as a controlling official, seeing that expenditures are legally made, and second, among other things, to act as an auditing official. The latter function, through custom, has become almost obsolete.

Much of the irregularities brought to light by your committee unquestionably resulted from the fact that the Comptrollers, through the activities of the State House Commission, have become executive officers charged thereafter with a review of their own acts as controlling officials. The present Comptroller has been but recently elected and has merely followed the routine marked out by his predecessors. In order, however, that the Comptroller should become a true check upon the other administrative officers, it is recommended that all of the Comptroller's ex officio duties be eliminated and that he be relieved of all administrative functions such as tax supervision and boxing regulation, membership on the State House Commission and various other boards and committees, and that he be restricted solely to the duty of preauditing and post auditing State accounts and the supervision of municipal accounts. For this reason we recommend that the Department of Municipal Accounts be transferred from the Treasurer's Department to the Comptroller's Department.

For the same reasons as stated in the case of the Comptroller, it is recommended that the State Treasurer be relieved of his ex officio administrative duties, similar to those of the Comptroller, and that he be restricted solely to the collection, custody and disbursement of State money.

It should not be entirely unknown to the gentlemen of the Legislature, but the report of the auditors emphasizes the fact that the State has no true budget and that only a small proportion of the annual expenditures of the State government are withdrawn from the treasury by specific appropriation as contemplated by the Constitution. Approximately twenty-two million dollars was appropriated by the last appropriation bill and, while even the auditors are unable to determine the exact amount expended, it is in the neighborhood of seventy-five million dollars. So confused and scrambled are the State's finances that after months of work the auditors have been unable to obtain a complete balance of the State's finances. A thorough and drastic reorganization is imperative, notwithstanding that many activities of the State government will unquestionably object thereto. And the committee, basing its observation on previous experience, warns the gentlemen of the Legislature that important and influential activities of the State government will undoubtedly seek to be eliminated from any comprehensive scheme of financial reorganization. Unless the Legislature is prepared to courageously meet this problem of a complete budget, the time and money expended upon the audit will have been wasted and nothing substantial can come of the recommendation of the Governor contained in his inaugural message looking to a financial reorganization that will be effective. Nor can this continued waste or misappropriation of public funds be prevented.

Such a reorganization necessarily implies that the total income and outgo of the State government be budgeted each year. This means that every dollar collected from any source whatsoever must be paid into the State treasury and become a part of the appropriation bill as outlined in the budget. This means that al

special expendable State funds must be abolished. This does not include sinking funds, trust funds or pension funds. The abolition of such special funds as the gasoline tax, the fish and game licenses, the bridge and tunnel, and other like funds, does not imply that the moneys collected for such specific purposes should be expended for other State activities. The committee makes no such recommendation. Every dollar collected for such specific purposes should be apportioned in the budget to accomplish the purpose for which the special funds were collected and to which they are morally dedicated, but such funds must pass through the State treasury and be expended by means of appropriations under the eye of the Legislature. Otherwise there cannot be a budget presenting a true picture of the financial condition of the State. Moreover, your committee has discovered numerous instances where extravagances have occurred in the expenditure of these unbudgeted special funds. Public moneys have been squandered upon projects that never could have received legislative sanction.

The committee also recommends a complete revision of the budget making procedure and the adding of provisions for the execution of the budget and requiring that the budget document be made up so as to exhibit the proposed expenditures and the anticipated income of the government in balanced relationship.

The problem of making the incoming Governor responsible for the budget in the first year of his term is not without difficulty. The best solution that your committee can devise is to provide that the incoming Governor shall immediately upon his election in November become a member of the Budget Commission, authorized to sit with the commission, the outgoing Governor, and the Budget Bureau, and thereby familiarizing himself with the proposed budget and giving him an opportunity, if he disagrees therewith, to present to the incoming Legislature his views upon the subject.

The committee, while not unmindful that it may be accused of bias in this respect, does not agree with the auditors' report concerning the recommended method of depositing State moneys and

requiring competitive bids for interest thereon. Those members of the committee with banking experience believe that inasmuch as the Treasurer is constitutionally responsible for the State's moneys, he should in fairness have something to say as to what institutions he considers suitable to act as depositories.

In the matter of interest, the committee feels that the State as a depositor should be entitled to exactly the same treatment as a private corporation or individual and that it should receive the same rate of interest that such persons receive upon their deposits. This may be easily regulated by repealing the act limiting the interest on deposits to two per cent. and permitting the State Treasurer to take the rates of interest provided by the various clearing house associations throughout the State.

The proposed Bureau of Purchases will result in important economies. The obvious intent of the State purchasing act has been largely evaded or nullified. A real, independent, central buying agency must be created with a responsible officer at its head. It is suggested that an advisory committee, consisting of the heads of the principal using agencies, be created to assist the purchasing officer in creating standards, adopting specifications, and guiding the purchasing officer in technical matters connected with their particular department.

We recommend that the State Printing Board, the office of State Printer, and the Department of Public Reports be abolished and their powers vested in the State purchasing office. We also recommend that all contracts for legislative printing and purchase of supplies for the Legislature be made through the purchasing bureau.

Bureau of Accounts. Create a Bureau of Accounts and install a complete general accounting system covering all departments of the State government. At the present time every department has its own accounting system, resulting in many duplications of work. A central bureau will result both in uniformity and in great savings by reducing the number of employees required to now conduct the accounting system.

We recommend the repeal of the requisition act when the new central accounting system provides for a definite checkup on the unexpended balances in the budget.

We do not agree with the auditors in their criticism of the recent sale of bonds before the money was actually needed. In our opinion the State Treasurer acted with sound business judgment and undoubtedly saved the State hundreds of thousands of dollars by his timely action.

The Bureau of Personnel would take over the work now largely done by the Civil Service Commission, and the bills already prepared along this line can be readily accommodated to effectuate this purpose.

We also recommend changes in the legislative rules to:

1. Establish a joint committee on budget as a substitution for the present Committees on Appropriations and Finances.
2. Require that the budget bills be reported out of the joint committee at least two weeks before adjournment.
3. Provide that the budget bills shall have no more than one reading on any one day, and that one such reading shall be at length in order to provide for adequate discussion upon the floor of the Legislature. This rule should not be suspended unless by vote of at least three-fourths of the members of either chamber.
4. Require that all proposals for appropriations be referred to the committee on budget, and that no general bills or resolutions contain direct appropriations. In order to end the abuse of passing bills authorizing various public projects and providing appropriations "when included in an annual appropriation bill" from being carried over from year to year, an act should be passed making all such bills inoperative when appropriations have not been granted in the budget in the same year that the bill was passed.

Your committee does not agree with the proposal that the appropriation bill carry lump sum appropriations. We believe that the detail method of appropriation will give a greater control by the Legislature over the budget expenditures. Nor do we

believe it possible to entirely discontinue the supplemental appropriation bill.

The recommendations concerning the creation of a department of taxation require further study upon the part of the committee, and a supplementary recommendation on this subject will be presented at a later date.

Your committee approves of the recommendations of the accountants for the creation of a bureau of professional registration in the Department of Education, thereby consolidating eleven present examining and licensing boards with their attendant staffs into one unit. We also recommend the abolition of the Public Library Commission and the transfer of its functions to a Bureau of Libraries in the Department of Education. We also recommend the transfer of the State Museum from the Department of Conservation and Development to the Department of Education.

When copies of the full report become available, we trust that the Legislature will give serious consideration to Chapter 21 containing the findings and criticisms of the auditors upon the Legislature itself. We believe that the rules should be revised and that all bills should be introduced early in the session. The committee recommends that after the time for the introduction of bills has passed, the Legislature take a recess of two calendar weeks in order to permit of committee hearings and the final consideration of the budget and that all bills that are to be reported upon be submitted by the committees upon the reconvening of the Legislature. In order that the members may be apprised of committee actions during the recess, it is recommended that the committees advise the Clerk of the House or Secretary of the Senate of their decision respecting the reporting of bills during the recess so that the members may be informed immediately of what bills will be the subject of action at the conclusion of the recess.

A rule is urgently needed requiring that all bills, when reported, shall be placed immediately upon the calendar for third reading by the presiding officer of either house, and that they be taken up in

the order of their reporting unless the house itself, by vote, decree a different order. The object of this rule is to prevent a presiding officer from arbitrarily preventing a vote upon legislation.

It has already been suggested that the practice of purchasing printing and supplies for the members of the Legislature through committees be abandoned, since it is obvious that petty abuses are creeping into the present system, and that such purchases be made through the purchasing bureau.

Your committee has held numerous hearings and taken much testimony which substantiates the recommendations hereinabove made. The work has been economically done, and less than \$8,000 of the \$15,000 appropriation to your committee has been expended up to date. There, however, remains much still to be done in order to complete your committee's investigations. It is, therefore, requested that an additional \$25,000 be placed to the credit of the committee so that it may continue its work during the coming year and providing for a further report either later in this present session or at the next ensuing session.

Your committee transmits herewith a draft of a proposed bill for the creation of a Finance Department and will at an early date present to the Legislature bills covering the other recommendations made herein.

Respectfully submitted,

Senator FRANK D. ABELL, *Chairman*,
Assemblyman GUY GEO. GABRIELSON, *Vice-Chairman*,
Assemblyman DRYDEN KUSER, *Secretary*,
Senator EMERSON L. RICHARDS,
Senator A. CROZER REEVES,
Assemblyman WM. B. KNIGHT.

STANDARDIZATION

The law creating the State purchasing department (Chapter 68, Laws of 1916), provides an advisory board to assist the State house commission in the establishment of standard specifications. This board consists of one representative of each institution, department, and other State using agencies. In past years the advisory board has met on a few occasions and has assisted in the establishment of a limited number of commodity specifications. No meeting of the board has been held during the past eighteen months. It is obvious that the board as now constituted is unsuitable for purposes of standardization.

Definite commodity specifications should be formulated and applied to the State's purchases. The use of definite written specifications would go a long way towards eliminating criticisms of the present State purchasing system. Under the present procedure the using agencies fail to make known to the purchasing department the exact quality of commodity which they require. The bidder is not furnished with sufficient data to permit his submitting an intelligent bid. The checking of deliveries is made nugatory through the lack of definite standards to determine the compliance of quality delivered with the quality purchased.

Steps should be taken immediately to adopt commodity specifications. The advisory board should be abolished and in its stead a standardization committee should be set up. This committee should consist of the State purchasing agent or his representative, the commissioner of the department of institutions and agencies or his representative, preferably the supervising steward, and a testing engineer from the department of health or the State highway department testing laboratory. This standardization committee should be a permanent body and should have authority to call in for consultation any engineers or other technicians in the State service. It should also confer with the heads of those institutions and departments which are large users of the commodities being standardized.

Specifications for commodities used only by one department or institution should be formulated by that agency. Specifications for commodities common to several using agencies should be

formulated by the standardization committee, after the various using agencies have been given an opportunity to submit recommended specifications.

PURCHASING PROCEDURE

At the present time the purchasing department is carrying on a considerable amount of accounting work which should be done by the bureau of accounting in the proposed department of finance. Several years ago the purchasing department was authorized by the Comptroller to establish a system for preauditing expenditures. The accountant in the purchasing department requisitions certain amounts from the total appropriation of the using agencies for supplies, materials and equipment. These amounts, secured on a "Comptroller's requisition," are set up as ledger accounts. The amount of each order when issued is entered as an encumbrance against the requisitioned amounts.

As explained above, payments for local purchases made on direct-purchase-order authorizations are not known to the purchasing department. The preauditing work of the purchasing department does not, therefore, at any time show the true state of the appropriation balance. Furthermore, the cost of such accounting work is defrayed from the State purchase fund, thereby increasing the issue cost for goods delivered to State institutions.

At the present time practically all the various State contracts for supplies, materials, and equipment are for quarterly periods beginning the first of July, October, January and April. This results in having four "peak" periods in the purchasing office when the staff are busily engaged and frequently working overtime. At four periods during each year the present staff is no larger than needed, but a smaller staff could do the same amount of work if the contracts were staggered and a certain proportion of them awarded each month. All contracts would have to end on June 30 at the close of each fiscal year; but the contract period could be varied so that some contracts would be for five months and others for three during the last contract period.

The present contract procedure in the purchasing office is highly inflexible. As stated above, most supplies are purchased