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LEGISLATIVE HISTORIES OF NEW JERSEY STATUTES

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The search for that elusive concept "legislative intent" leads many New Jersey lawyers down unfamiliar byways of research. The attorney who is familiar with federal materials, where floor debates are reported verbatim in the Congressional Record, printed reports are issued on most reported bills, and all materials are thoroughly listed and indexed, is usually appalled when he faces the paucity of New Jersey materials. Often by the time he needs to use its techniques, he has forgotten the single research problem on New Jersey statutory construction he had in law school.

The attorney seeking to read the mind of a state senator or assemblyman as he drafted a bill some years ago will first of all search for declarations by that legislator as to his intent. In New Jersey the most authoritative source for such declarations is the "statement on the bill." Here, sometimes in one sentence, sometimes in a page, the introducer may explain the evil he is trying to correct, he may name the department of state government or special interest association which drafted and/or advocated the bill, he may mention previous attempts to obtain such legislation, or make other helpful statements.

FINDING THE "STATEMENT ON THE BILL"

First, find the bill number. This can be done by the conversion tables (chapter number to bill number) in the Legislative Index, from 1915 to date. From 1880 to 1915 there is a conversion table prepared in the State Library and available only there. Before 1880 (and for later years when the Legislative Index is not accessible) the bill number must be searched in

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the subject index of the Assembly Minutes and Senate Journal. Statements are almost non-existent before 1916. Even now they are far from universal, appearing on only 1/3 of 1961 bills which became law.

(Those who have access to the Gann Revised Statutes Cumulative Supplement (1941-date) will find all statements reprinted directly under chapter number in the back of each volume.)

Next in importance to the formal statement on the bill would be more informal writings or utterances by the bill's sponsor. Perhaps the sponsor rose to explain or defend his bill in the House of which he is a member. Unfortunately, the floor debate is lost to the researcher. There is no Congressional Record for New Jersey. The Minutes and Journal record only votes, amendments and other actions, not debates. This is the great void. Where to find the informal "statement on the bill"? The answer, from our experience in the State Library, is: almost anywhere, or, very likely, nowhere. The search is limited only by the searcher's ingenuity and the exhaustion of his time and energy. (The most obvious sources, hearings and reports, are discussed below.) Perhaps the introducer published an article explaining his bill in a magazine such as New Jersey Municipalities. Sometimes the press quotes floor debates in news articles.

#### CHANGES IN BILLS AND STATUTES

Proposed amendments to a bill, whether adopted or rejected, sometimes shed light on the particular version the Legislature chose to pass. Bills of a similar nature introduced in prior years also may reveal what the Legislature was willing to vote upon, and when. These changes are most easily

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traced in the complete bound set of bills available in the State Library. In the past there have been few other sources of drafts of the legislation. If it can be ascertained that the bill had been modeled on a New York law, or a federal law, or a model law or uniform law, they, of course, could be consulted. Sometimes a committee or commission report included a draft of recommended legislation. In recent years more and more drafts of major legislation have been made and are available to researchers.

Legislative history of current laws can also be found by tracing back all previous forms of the statute. The changes in wording effected by amendments and by statutory revisers may be significant, even in the absence of any extrinsic aids, such as statements on the bill.<sup>1</sup> If it becomes necessary to search beyond the source footnotes given in the 1937 Revision, a guide to former revisions may be necessary.<sup>2</sup>

#### HEARINGS AND REPORTS ON LEGISLATION

Public hearings are sometimes held by committees and commissions created by the Legislature, and it is not unknown for the Governor to hold a public hearing on a bill before he decides whether or not to sign it. If the hearing has been transcribed, the transcript is usually to be found in the State Library and should be combed for information. Before the days of mechanical transcription hearings were seldom recorded, but may sometimes be quoted at length by newspapers.

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1. For such a history, see Clifton v. Zwier, 36 NJ 309, 177 A.2d 545

2. See "Outline History of the Compilations and Revisions of the Statutes of the Colony and State of New Jersey, 1717-1937", which appears in the Acts saved from Repeal volume of N.J.S.A. at p. IX-XIV.

Reports which are issued by legislative committees and commissions, study commissions appointed by the Governor or other executive agencies, and even studies by associations are often valuable sources of legislative history. In New Jersey, reports have no uniform size and no series numbering and are, therefore, almost as elusive as hearings.

The State Library, under authority given it by R.S. 52:14-25.1 and 52:14-25.2, acts as depository for all such materials. Every effort is made to obtain hearings and reports and to carefully catalogue them so that they may be readily located. A list<sup>3</sup>, which also includes departmental annual reports and has a subject index, has been published by the Library.

#### GOVERNORS' VETOES AND MESSAGES

A Governor's inaugural message or annual message to the Legislature deals in general terms with state problems of particular interest to his administration. He will sometimes say "I am having legislation prepared to accomplish. . ." some general goal. If he submits a special message on one topic, it will, of course, be more detailed and his recommendations more specific. These messages are nowhere indexed and finding a cogent statement in them often involves astute guessing, but is usually worth the trouble. The major messages are published in pamphlet form and shelved in libraries chronologically. They are also printed in the Assembly Minutes and Senate Journal.

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3. Bibliography of New Jersey Official Reports, 1905-1945. . . Supplement, 1945-1960. Both available in the State Library and in other law and research libraries.

If the Legislature has passed a bill over the Governor's veto, the veto message is an important research source on that law. Even the veto message on a bill similar to the one enacted, or an identical bill in a previous year may be illuminating. Since 1947, veto messages have been published in pamphlet form (with indexes). Veto messages are also printed in the journal of the house where the bill originated. Letters written to the Governor and his answers are another source of possible information on proposed bills. In New York this correspondence is filed with other materials on the bill in what is known as the "Governor's Bill Jacket." No such convenient filing system exists here. Each governor is free to use his own filing system, whether it be by subject, name of correspondent, or bill number. The filing system used by each governor is retained after his records are transferred to the Archives Division of the State Library. The Archives Division has available for consultation most governors' papers for the period 1900 through 1953. These papers are a matter of public record and may be photocopied at the reader's expense.

#### STATUTORY REVISIONS

The Commission on Revision and Consolidation of Public Statutes of the State of New Jersey, which compiled the Revised Statutes of New Jersey, 1937, published three drafts: first draft, 1934; second draft, 1936; and final draft, 1937. Changes in wording can be traced from the earlier session laws through the various drafts and to the Revised Statutes as enacted. Revisers' notes are limited to citing the session laws from which the section derives.

Since the enactment of the 1937 Revised Statutes, the Legislature has also enacted several new titles: 2A (Administration of Civil and Criminal Justice) and 3A (Estates) in 1951; 12A (Uniform Commercial Code) in 1961, and the first five chapters of 40A (Municipalities and Counties) in 1960. Work on succeeding chapters of Title 40A and on Title 18A continues. At least one draft of each of these titles is available for textual comparisons; some contain revisers' notes. On some proposed sections of the new Title 40A (for example, Chapter 7, Municipal Planning and Zoning Law) there are also available hearings and reports similar in nature to those published in connection with individual bills.

#### JUDICIAL CONFERENCES AND OTHER ANNUAL REPORTS

R.R. 1:23-1 provides for an annual Judicial Conference; R.R. 1:23-2 requires an annual Judicial Conference of Magistrates. The Proceedings of these conferences are published along with the yearly reports of various committees appointed by the Supreme Court. These Proceedings may be combed for discussions of pending legislation (especially Title 2A) and always should be consulted in the search for the history of a court rule. The Proceedings, like most of the materials mentioned above, are not indexed.

Most state agencies issue annual reports. In New Jersey these reports vary in format and content. Some, such as the Commissioner of Banking and Insurance Annual Report Relative to Savings and Loan and Building and Loan Associations, consist mainly of statistics. Others contain historical information from which legislative history can be deduced. Some even have a chapter headed "Legislation" in which they describe pertinent legislation of the previous year and/or make recommendations for future enactments.

Some annual reports we have mined successfully for legislative history are Civil Service, Motor Vehicles and Workmen's Compensation.

### UNOFFICIAL SOURCES

The search for non-governmental materials is worthwhile when nothing official can be located. Newspapers are the most obvious and fruitful category. Most daily newspapers in the State regularly report the activities of the Legislature and of the pressures which are put upon it. As a matter of fact, newspapers themselves sometimes originate legislation through exposure of, or reporting of, conditions later corrected by legislative action. The State Library currently clips a score of New Jersey newspapers for legislative material; the clippings are filed by subjects.

Magazines, newsletters, convention proceedings, annual reports are the next most fertile source. For good or for ill, the current "information explosion" brings a rain of such mimeographed publications in every mail. Does the New Jersey Society for the Preservation of the Whooping Crane desire curtailment of insecticide spraying? Undoubtedly there is a newsletter to that effect in the morning mail.

Pamphlets and book-length studies on New Jersey subjects are proliferating. Rutgers University Press publishes studies which are helpful in compiling legislative histories<sup>4</sup> as do other university presses. Since doctoral dissertations need no longer be published, their existence must be traced through special lists of dissertations. However, the State Library attempts to have on file every dissertation having a bearing on New Jersey law.

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For example:

4. Monroe Berkowitz, Workmen's Compensation; the New Jersey experience.  
Rutgers University Press, 1960