



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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McClellan & Quibley Co
Printers
Trenton, New Jersey

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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.

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.

TAXES—MISCELLANEOUS CORPORATIONS

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 depository 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 depositories 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 depository 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 depository 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 depositories, and this, single handed, as in the case of initially choosing the depository 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 estoppel. 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,
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Dated November 6, 1930.