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Review of Pennsylvania Legislation 1939 - Corporations

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protecting the purchasing public from the marketing of securities involving a deliberate purpose to deceive.

HERMAN A. BECKER*

II. CORPORATIONS

One important change and several minor alterations have been made in the Business Corporation Law.¹ A new Section (320) has been added to Article III.² The purpose of this Section is to facilitate carrying out corporate reorganization plans by making it possible to amend the charter and take certain other corporate action without the need of a shareholders' meeting. It provides that where a business corporation has a plan of reorganization or arrangement confirmed by order of court pursuant to the Federal Bankruptcy Act, it shall then have full power to effect the plan and orders of court and so any act provided thereby without further action by its directors or shareholders. Such power may be exercised as directed by the court by the trustee, receiver, master, or other representative. The Act enumerates various proceedings that may be taken in this manner, such as altering the by-laws, reconstituting the board of directors, amending the articles, dissolving, etc. It is, however, expressly provided that such corporation cannot increase its indebtedness or its authorized capital stock except after the approval of its shareholders at a meeting held in accordance with the provisions of the Business Corporation Law.

Sections 202 and 1002 were amended by adding that the corporate name of a domestic or foreign corporation may be the same as another domestic or foreign corporation authorized to do business in the state if such other corporation has failed for three successive years to file with the Department of State or Revenue a report or return required by law.

A slight change has been made in the wording of Section 901 to make it clear that two or more foreign business corporations may enter into a merger or consolidation, and that domestic corporations may do so with foreign corporations.

Section 1011.1 has been added to Article X and provides that any court having criminal jurisdiction in Pennsylvania may issue its subpoena with clause of *duces tecum* upon any foreign corporation registered to do business within the Commonwealth, which may be served in the manner provided by the act for the service of process upon foreign corporations. It is further provided as an amendment to Section 1013 that the certificate of authority of a foreign corporation may be re-

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¹Act of May 5, 1933, P. L. 364, 15 PURD. STATS. (Pa.) 2852-2.

²Act of June 24, 1939, P. L. 698, 15 PURD. STATS. (Pa.) 2852-320.

voked for the failure of such corporation to comply with any subpoena issued pursuant to the prior Section.

Section 1105 originally required that the articles of dissolution contain a statement that there were no suits pending against the corporation. This was amended to provide that either this statement may be made, or, if a suit is pending, a statement that adequate provision has been made for the satisfaction of any judgment which may be obtained therein.

F. E. READER*

III. CRIMINAL LAW AND PROCEDURE

a. *The Penal Code*

An Act of June 24, 1939,¹ is entitled "An act to consolidate, amend, and revise the penal laws of the Commonwealth." The title is misleading. The statute affects the "criminal laws" rather than the "penal laws." It is limited in its operation, with some minor exceptions, to the "substantive" as distinguished from the "adjective" or "procedural" criminal law. It contains very little concerning the general principles of the substantive criminal law which relate to all crimes, but is almost exclusively composed of sections defining criminal acts and stipulating their punishment. It does not *define* all of the crimes for which it stipulates a punishment, for, in many cases, it simply names a common law crime and provides that it shall be punished in a certain way.

It does not define, nor even name, all of the acts which are crimes in Pennsylvania. Section 1101 expressly provides:

"Every offense now punishable either by the statute or common law of this Commonwealth and not specifically provided for in this act shall continue to be an offense punishable as heretofore." The doctrine of "common law misdemeanors" is thus expressly retained as a part of the law of Pennsylvania, and it is expressly recognized that there are many statutes, not a part of this Act, which make various acts criminal.

The statute does "consolidate" the criminal laws of the Commonwealth by collecting in one statute the various sections of the Penal Code of 1860 and its amendments which were in force at the time of the statute's enactment and many other statutes of various degrees of importance, which never were a part of the Code of 1860.

The statute "revises" the criminal laws by changing their phraseology. The phraseology is somewhat archaic, for which, however, there is Blackstonian justification. As an aid, presumptively, to an understanding of the diction of the

¹P. L. 872, 18 PURD. STATS. (Pa.) § 4101.

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