
Volume 53
Issue 3 *Dickinson Law Review* - Volume 53,
1948-1949

3-1-1949

The Proposed Crimes Act

Joseph H. Jones Jr.

Follow this and additional works at: <https://ideas.dickinsonlaw.psu.edu/dlra>

Recommended Citation

Joseph H. Jones Jr., *The Proposed Crimes Act*, 53 DICK. L. REV. 196 (1949).
Available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol53/iss3/5>

This Article is brought to you for free and open access by the Law Reviews at Dickinson Law IDEAS. It has been accepted for inclusion in Dickinson Law Review by an authorized editor of Dickinson Law IDEAS. For more information, please contact lja10@psu.edu.

NOTES

THE PROPOSED CRIMES ACT*

Since the year 1860 there has been but one revision and redrafting of the criminal laws of Pennsylvania. The Act of June 24, 1939, P. L. 872, known as "The Penal Code", was an attempt to overhaul and to bring the criminal laws of the State of Pennsylvania more into harmony with the fast changing political, social, economic, and religious advances of the past eighty years. It is obvious that the task was one of Herculean proportions and it was natural to expect that the Act of 1939 would in many ways, when put to actual practice, prove to be inadequate and inconsistent. In 1945 the shortcomings of the Act of 1939, resulting from the lack of uniformity and the inconsistencies embodied therein, were brought to the attention of the General Assembly who, in continuance of the policy established by the General Assembly of 1939 of modernizing the Pennsylvania law, passed a resolution directing the Joint State Government Commission, composed of both House and Senate members, to revise and restate again the penal laws of this state, and report its findings to a subsequent session of the General Assembly. The Commission has submitted the results of four years of study and investigation to the General Assembly of 1949, in the form of Senate Bill No. 243. It appears to the writer that the new "Crimes Bill" is vastly superior to the Act of 1939 and that the changes and improvements manifest themselves in five different categories: (1) the language, construction, and the relation of the provisions; (2) the uniform method employed in fixing penalties and making uniform the distinction between felonies and misdemeanors; (3) the changes in the nature of penalties in certain instances; (4) the addition of new sections providing for crimes hereinbefore inadequately covered; (5) the introduction of the "double finding" in first degree murder cases. It is the purpose of this note to point out briefly the improvements under each of the five above-named categories.

(1) Language, Construction, and Relation

The proposed act not only eliminates the archaic and obsolete language which has perplexed the profession for years, but also reduces to a minimum the technical and surplus verbiage which has attached itself to the definition of crimes in Pennsylvania. Provisions of the Act of 1939 which have heretofore been inconsistent and conflicting are restated and doubts which had arisen as to their construction are wiped away by intelligible wording. The provisions which bear a relation to each other are grouped together in order that they may be more readily found and understood.

*The material in this article has been obtained and is condensed from the report of the Joint State Government Commission to the General Assembly of 1949.

(2) *Uniformity in Fixing Penalties; Felonies and Misdemeanors*

Nothing could be more simple than the plan advanced for the fixing of penalties *i. e.*, the amount of the fines and the length of the imprisonment. It is provided that there should be a fine of \$1000 for each year of imprisonment which may be imposed. For example, if the maximum imprisonment is 1 year, then the maximum fine is \$1000; if the maximum imprisonment is 3 years, then the maximum fine is \$3000, and so on. It is interesting to note that the proposed act does not provide any penalties that require fine *and* imprisonment. All penalties provide for fine *or* imprisonment *or* both. Further, all penalties provided for are maximum penalties, there being no minimum penalties appearing in the recommendations of the Commission.

As to the distinction between felonies and misdemeanors, long a source of confusion in criminal law, the test is simple. If the imprisonment is for a term of more than three years, then the offense is classified as being a felony; if the offense is punishable by imprisonment of less than three years, it is a misdemeanor. If the offense is, however, merely a summary one, it is so stated in the text of the proposed bill.

(3) *Changes in the Nature of Penalties*

There were many sections in the Penal Code of 1939 which provided that punishment should be at separate or solitary confinement at hard labor. Under the proposed Crimes Bill such punishment is abolished and only "imprisonment" is provided. With respect to a crime involving stolen or converted property, the additional penalty, or perhaps "remedy" would be a better term, of restitution is imposed. This provision fills a serious gap in the effectiveness of the Code of 1939.

(4) *Addition of New Sections*

There are five new sections included in the Crimes Bill. Two of those sections define crimes consisting of offenses involving children and contributing to the delinquency of a minor. These sections, 516 and 517, fill the void in Pennsylvania Penal Code providing for the protection of children. The other three new sections cover miscellaneous offenses. Section 409 makes the mere furnishing of false and libelous statements punishable, whether or not the statements are published or broadcast. Section 415 covers "peeping-tom" offenders. Of utmost importance in recent years have been the repeated cases of attempted bribery in athletic contests. The proposed bill includes a section covering this offense for the first time in Pennsylvania. Section 608 of the Act provides for a maximum punishment of imprisonment for two years or \$2000 fine, or both, for any person involved in an attempted "fix".

(5) "*Double Finding*" in *First Degree Murder*

The Pennsylvania law with respect to the punishment in first degree murder cases, has been that if the defendant pleaded guilty, death or life imprisonment should be imposed at the discretion of the court. If the defendant pleaded not guilty, then the decision as to death or life imprisonment lay in the discretion of the jury. The Crimes Act proposes to change a segment of this law. It has been the case that evidence has been admitted in a first degree murder trial which was relevant to the issue of punishment but not relevant to the issue of the guilt or innocence of the accused. It has been in the past, and is now, impossible for the jury to completely divorce such evidence from their minds in the primary consideration of the guilt or innocence of the accused. The proposed Crimes Act changes this procedure by the inclusion of Section 701. Under the proposed bill the jury would be required to make *two* findings. In its first finding the jury will determine the guilt or innocence of the accused. Then the jury will return, and, if a first degree verdict has been found, will hear additional evidence proffered relevant to the issue of whether the punishment should be death or life imprisonment. The jury would again retire and return with a finding as to the degree of punishment to be imposed. This change in the procedure of the first degree murder trial is strongly urged, for it will provide the accused with the opportunity of having the jury decide his fate strictly on the evidence relevant to the issue of his guilt or innocence.

In conclusion it must be observed that the proposed act does not abolish any offenses now in existence through the common law or through statute. Nor does the proposed bill provide for imprisonment in any cases where imprisonment is not provided for by laws now in force. It is clear that the bill provides badly needed reforms in the criminal laws of this state. It is to be hoped that the General Assembly will not postpone the adoption of these changes into the law of Pennsylvania.

JOSEPH H. JONES, JR.