Tapes #27 and 28
#27 - 434 to end of Side 2
#28 - Both sides

OREGON CRIMINAL LAW REVISION COMMISSION

Subcommittee No. 2

Second Meeting, December 12, 1968

Minutes

Members Present: Senator Thomas R. Mahoney, Chairman
Mr. Deane S. Bennett, Assistant Attorney General, representing Attorney General Robert Y. Thornton
Senator John D. Burns

Absent: Representative Carrol B. Howe
Representative James A. Redden

Also Present: Miss Jeannie Lavorato, Research Counsel
Mr. Donald L. Paillette, Project Director

The meeting was called to order at 10:15 a.m. by Chairman Thomas R. Mahoney in Room 309 Capitol Building, Salem, Since neither Representative Howe nor Representative Redden were able to be present at today's meeting, Senator Burns had agreed to attend in order to constitute a quorum and the Chairman thanked him for doing so.

Minutes of Meeting of October 25, 1968

Senator Burns moved that the minutes of the meeting of October 25, 1968, be approved as submitted and the motion carried unanimously.

Kidnaping and Related Offenses; Preliminary Draft No. 2 (Article 12)

Section 1. Kidnaping and related offenses; definitions. Miss Lavorato explained that the definition of "restrain" formed the basic definition for the entire kidnaping draft and defined the crime of unlawful imprisonment as set forth in sections 4 and 5.

The definition of "abduct," she said, incorporated all the elements in the definition of "restrain" and made abduction a more serious form of restraint by adding two elements, set out in subsections (2)(a) and (2)(b), to form the definition of "abduct" as employed in the crime of kidnaping in sections 2 and 3.

She pointed out that "relative" was defined in subsection (3) in order that reference to that term in the draft sections would refer to close relatives as well as parents.

Section 2. Kidnaping in the second degree. Miss Lavorato explained that section 2 described the lowest degree of kidnaping and subsection (2) was included to make certain that a parent or relative would not come within the kidnaping sections if all three of the elements set forth in subsection (2) were present. With respect to the last sentence in section 2 concerning the burden of injecting the issue, she advised that the state would only have to prove the fact of a kidnaping; at that point, if the defendant chose to inject the

issue, the burden would be on him to show that he was a relative and that his sole purpose was to assume control of the abducted person.

Section 3. Kidnaping in the first degree. Miss Lavorato noted that section 3 contained the more aggravated form of kidnaping. At the last subcommittee meeting, she said, there was considerable discussion concerning the definition of kidnaping in the first degree. General agreement was reached at that time on the three factors which would aggravate the offense from second to first degree but there was disagreement on how the sentence defining kidnaping in the first degree should be handled. She had, therefore, drafted three alternative sections for consideration of the subcommittee at today's meeting.

Miss Lavorato explained that Alternate 1 incorporated the definition of "abduct" as defined in section 1 which was the same as the definition used in kidnaping in the second degree. The three aggravating factors outlined in subsections (a), (b) and (c) remained unchanged in the three alternative draft sections.

Alternate 2, she said, also employed the term "abduct" but added the element of a substantial period of detention and the element of removal of the victim a substantial distance from the place where he was first restrained.

Alternate 3 deviated from the basic pattern of using the term "abduct" or "restrain" to define the crime and followed wording similar to present Oregon law.

Alternate 1. Chairman Mahoney suggested that "any person" in subsection (1)(a) would be preferable to the alternative phrases proposed in the draft and the committee expressed agreement.

Chairman Mahoney next proposed to insert "effect the conduct" in lieu of "engage in other particular conduct" in subsection (1)(a). Senator Burns noted that section 3 was intended to incorporate the ransom provisions presently in ORS 163.620. He agreed that the language Chairman Mahoney referred to was too broad and suggested that if subsection (1) were intended to relate to ransom, it should read:

> "A person commits the crime of kidnaping in the first degree if he abducts another person with any of the following purposes:
>
> "(a) To hold such person for ransom or reward; or
>
> "(b) To hold such person as a shield or hostage; or
>
> "(c) To inflict serious physical injury or to terrorize . . . "

Miss Lavorato explained that section 3 was intended not only to

incorporate ransom provisions but to cover all types of kidnaping situations including interference with government officials. As an example of this latter type of kidnaping, she cited a hypothetical situation where someone abducted the sheriff's son in order to compel the sheriff to release a particular prisoner from jail. Such an act would not include ransom as such, she said, but the abductor would be engaging in "particular conduct" as the phrase was employed in the draft.

Mr. Paillette noted that the language having to do with particular conduct was not included in P.D. #1 but was inserted in this draft in response to a suggestion at the last meeting. He called attention to page 4 of the Minutes of Subcommittee No. 2 of October 25, 1968, which recited the question raised by Chairman Mahoney with respect to a person being detained past the filing deadline for the purpose of defeating the initiative petition he had intended to file. Mr. Paillette believed that type of situation should be covered in the draft, and he expressed a preference for the language used in Model Penal Code section 212.1: "to interfere with the performance of any governmental or political function."

Chairman Mahoney commented that kidnaping a child was a particularly heinous type of crime and should be a more serious offense than to seize a political figure. Senator Burns asked if any thought had been given to carrying forward the concept of degrees set forth in the Robbery and Burglary Articles and making kidnaping in the first degree the situation where a dangerous or a deadly weapon was used or where there was infliction or an attempt to inflict serious bodily injury on the person.

With respect to Senator Burns" suggestion that the draft proscribe holding a person "for ransom or reward," Miss Lavorato called attention to page 7 of the commentary to P.D. #1 which pointed out that the term "reward" had been interpreted by the courts to cover a wide variety of situations including sexual satisfaction or even the sadistic satisfaction of torturing the victim. In order to pinpoint the meaning of "ransom," she had used the term "pay or deliver" in the draft.

Senator Burns contended that kidnaping in the first degree should contain the statement that the crime rose to the dignity of first degree when force was employed and suggested that subsection (1) say " . . . if he forcibly abducts another person . . . . " Miss Lavorato suggested that it would be almost impossible to kidnap someone without using some type of force. Senator Burns contended that someone could be deceived into going with the kidnaper without his using force and Mr. Paillette pointed out that to commit the crime of kidnaping there had to be an abduction and within the definition of "abduct" one of the elements was a restraint of the victim.

Miss Lavorato called attention to subsection (2) of section 3 containing a mitigation factor for first degree kidnaping which would reduce the charge if the victim were returned alive prior to the trial.

Chairman Mahoney asked why the phrase "prior to trial" was included therein and Miss Lavorato explained that the phrase was included to designate the point at which the victim would have to be released. She explained that if the phrase were changed to "prior to arrest" and the defendant were in jail, it would be too late for him to obtain any mitigation benefit by releasing the victim at that time, whereas if he released the victim prior to trial, the mitigation factor would be available to him. She indicated that a majority of the states had adopted some provision similar to subsection (2) which would reduce the penalty for kidnaping if the victim were returned alive. The policy question for the committee to decide, she said, was whether they wanted to include a strong deterrent to kidnaping by means of a severe penalty provision or whether they wished to include a clemency provision placing the value of getting the victim back alive over the stricter penalty provision. Senator Burns asked Miss Lavorato which course she would prefer and she replied that she would favor adoption of subsection (2). If the kidnaper were caught and placed in jail and his accomplice were holding the victim, the defendant's best chance would probably be to have the victim killed so he could not testify against the defendant. With the adoption of subsection (2) if the victim were released alive, she explained that the charge against the defendant would be reduced from first degree kidnaping and would provide him with a substantial incentive to release the victim alive.

Senator Burns said he would not be in favor of adopting the mitigation factor. He was of the opinion that the important thing was to provide preventive measures and a strong deterrent in the form of a severe penalty would be more effective in prevention of kidnapings. If the mitigation provision were adopted, he said, it might induce miscreants to commit the crime of kidnaping because they would know that if they released the victim alive, the crime would carry a lesser penalty.

Miss Lavorato indicated that the rationale of states which had included a mitigation provision in their kidnaping statute was that most kidnapers were fairly professional and were aware that if the victim stayed alive, he would be the chief prosecution witness. They, therefore, supplied strong incentive to release the victim alive by providing for a lesser degree of the crime if the kidnaper did so. In some cases, she said, it was impossible to find the victim and for this reason New York had included a presumption of death in its statute to cover instances where the body of the victim was not found.

Mr. Bennett said he found difficulty in accepting the concept that the kidnaper would pick the crime according to the penalty provisions in the statute or that he would be more likely to kidnap someone if the mitigation factor were adopted. He was of the opinion that the kidnaper would commit the crime regardless of the penalty in the statute and the chief concern should then be getting the victim back alive.

Senator Burns commented that there was every reason to believe

that professional criminals did pick their crimes by the penalties attached thereto. The armed robber was a perfect example of this, he said. Before the death penalty was removed in Oregon, the professional armed robber who had previous convictions would commit robberies with an unloaded gun because he knew if he were caught, he could show the gun was unloaded and it would remove the possibility of his being convicted of a capital crime. Armed robberies had increased since the repeal of the death penalty because the offenders were aware there were no more capital crimes. After further discussion, however, Senator Burns said he could see some salutary effects to the mitigation provision, but he contended that it should not be extended so far as "prior to trial."

Mr. Paillette commented that subsection (2) was obviously aimed at the situation where the suspect was in custody and the victim had not been located. Once the suspect had been captured, he asked if it were better to write a mitigation factor into the law or to leave the incentive to release the victim on an informal basis for the law enforcement officers handling that case. Without jeopardizing the prosecution's case at trial or doing anything that would interfere with the suspect's constitutional rights, he said it would be possible to negotiate with that suspect for the release of the victim rather then writing such a provision into the statute. Senator Burns agreed it would be preferable to delete subsection (2) and leave the matter to negotiation between the suspect and the law enforcement officers or the district attorney.

Senator Burns also indicated that the use of the term "voluntarily" in subsection (2) injected another issue into the case. The defense could contend that the hostage was voluntarily released and the state could contend that the hostage escaped. Mr. Paillette cited a hypothetical situation where a person who had committed a robbery grabbed a by-stander to use as a shield or hostage to effect his escape and then released the hostage unharmed because he didn't need him any more. Even though the hostage had been subjected to possible death and other dangers the actor could not be convicted of the highest degree of kidnaping because he had turned the victim loose.

After further discussion, Senator Burns moved that subsection (2) be deleted from section 3 and the motion carried.

Senator Burns then said that of the three alternatives presented to the subcommittee under section 3, he would prefer Alternate 1 because it talked in terms of a person kidnaping another by abducting him. The elements of substantial period of time and substantial distance in Alternate 2, he said, created unnecessary problems. He moved that subsection (1)(a) be amended to read:

"To compel any person to pay or deliver money or property as ransom; or"

The motion carried.

Senator Burns next moved that section 3 (alternate 1), as amended, be approved and the motion carried.

Section 2. Kidnaping in the second degree. Senator Burns asked if subsection (2) was a departure from the policy the Commission had been following of avoiding affirmative defenses in the criminal code. Under subsection (2) the defendant would have to raise the defense, and he asked if the district attorney would be at a disadvantage because he had not received notice of that defense. Miss Lavorato replied that the defendant would have to bring in his witnesses and would have to inject all three elements set forth in subsection (2), not just one or two of them. It would than be a factual question for the jury and she was of the opinion that the provision would not prejudice the prosecution. Mr. Paillette explained that the subsection was aimed at family situations where one parent took the child away from the other parent. He noted that the "burden of injecting the issue" approach was approved by the Commission in the theft draft where one of the defenses set forth was claim of right. He indicated this was the approach adopted in Michigan by stating the matter in terms of injecting the issue instead of in terms of an affirmative defense to be pleaded by the defendant. It was, he said, new language to Oregon law.

Senator Burns called attention to the Michigan draft set out on page 22 of P.D. #1 and was of the opinion the section would be more clear if that form were adopted and the three elements were delineated by labeling them (a), (b) and (c). He moved that subsection (2) of section 2 be adopted in the form and wording set forth in section 2211 of the Michigan Revised Criminal Code. The motion carried.

Senator Burns then moved that section 2 as amended be approved and this motion also carried.

At this point the committee recessed for lunch and resumed the meeting at 1:30 p.m. with the same persons in attendance as had been present at the morning session.

Section 4. Unlawful imprisonment in the second degree. Miss Lavorato explained that unlawful imprisonment in the second degree incorporated the definition of "restrain" as defined in section 1. The crime differed from kidnaping in the second degree, she said, in that if a parent unlawfully took a child under 16 years of age, he would not be guilty of unlawful imprisonment but would be guilty of that crime if the child were over 16 years. Custodial interference (section 6) would apply to children under 16 years so that there was no overlap between the two sections. The rationale of section 4, she said, was that after the age the committee decided was the proper cut-off point, the child would be treated as an adult and the parent would not have the benefit of the exception stated in subsection (2) available to him but would be treated as any other member of the population who committed the same crime. Under kidnaping in the second degree no distinction was made concerning age so that a parent

could not be guilty of that crime if he injected the three issues set forth in section 2 (2).

Miss Lavorato indicated that the first decision the committee should make was whether they wished to retain in the draft the crime of unlawful imprisonment. Justice Sloan, she said, at the previous meeting had expressed his belief that there was no need for making unlawful imprisonment a criminal offense; he thought the civil remedies were adequate to handle such situations. In New York, Michigan and in the Model Penal Code unlawful imprisonment was a criminal offense, the argument being that this was the type of behavior the criminal law should attempt to discourage. Most of the case law involving unlawful imprisonment, she said, involved police departments in the southern states where there was a problem with the police overstepping their powers and in these situations civil damages would not be adequate. She advised it was contemplated that section 4 would be a misdemeanor while section 5 would be a felony.

Senator Burns asked if Oregon law presently provided for the crime of unlawful imprisonment and Miss Lavorato replied that there was no such crime in existing law. Senator Burns next asked if there were any overriding need to create this new crime in Oregon and if district attorneys or police officers had requested it. Mr. Paillette answered that there had been no outcry for such legislation.

Senator Burns then posed a situation where someone was stopped by a police officer on a trumped up charge and he subsequently sued the chief of police for false imprisonment and won his case. He could then go to the district attorney, say his position was upheld in court and ask the district attorney to prosecute the chief of police. If section 4 were to become law in Oregon, he said, the district attorney would be hard pressed not to prosecute under such a circumstance. Miss Lavorato asked what a person would do under the present law in a situation where the civil remedy was not adequate. In an example where a university president was locked in his office, she commented that the person who perpetrated such a crime would probably not be in a position to pay civil damages in a meaningful amount and there would be no other remedy against him without such a law. Senator Burns expressed the view that the proper way to discipline such a perpetrator was to expel him or to take university action but he did not think prosecuting him on a criminal action was appropriate. Miss Lavorato pointed out that section 4 was designed to cover many other forms of restraint and was not confined to the example concerning imprisonment of a university president. It embodied the concept of substantially interfering with another person's liberty and Oregon law defined a number of crimes which were less of an interference with liberty than those intended to be covered by unlawful imprisonment.

Mr. Paillette said that the problem raised by Senator Burns where persons who were arrested might want a complaint issued against the arresting officer was one which he had not thought of in connection with this draft. It might, he said, open the door to many who thought they had a grievance against the police departments to see the district

attorney and ask him to issue a complaint for unlawful imprisonment.

Senator Burns outlined a hypothetical situation where the police went to Gresham to pick up a suspect and asked him to go to the courthouse with them for questioning. The suspect agreed to go but after the police had questioned him for a time, he asked to leave and the police said, "We aren't through questioning you," and detained him for an additional period of time. Under section 4 the suspect could conceivably sign a complaint for unlawful imprisonment because he was restrained against his will. He said there were situations where the police needed to question suspects and he did not want to enact a statute which would prevent them from doing so. Miss Lavorato noted that the section clearly pertained to situations where the police were exceeding their lawful authority.

Senator Burns said if the code were to contain a section on unlawful imprisonment, he would prefer one similar to Model Penal section 212.3 on false imprisonment shortly and concisely recited without varying degrees of the crime, but he was not certain that it was wise to include such a section at all. Mr.Paillette called attention to section 212.2 of the Model Penal Code, felonious restraint, which was comparable to section 5.

Mr. Bennett commented that the concept of a criminal sanction based on the inadequacy of a tort remedy bothered him and such a statute might get the district attorney into neighborhood quarrels which were not serious enough to carry a criminal sanction. Mr. Paillette said that even if the committee assumed that the civil remedy was inadequate and there should be some other civil recourse to a victim of unlawful imprisonment, the section should not be considered to be a substitute for a tort remedy.

After further discussion, Mr. Paillette commented that balancing the necessity for section 4 against the potential problems such a statute might create, he was nearly persuaded that section 4 should be deleted, and Chairman Mahoney expressed agreement that the committee should not take the initiative in placing it in the statute since there had been no demand for it.

Miss Lavorato said that if section 4 were deleted, a decision should then be made with respect to retention of section 5.

After further discussion, Senator Burns moved that section 4 be deleted in its entirety and the motion carried unanimously.

Section 5. Unlawful imprisonment in the first degree. Senator Burns moved that section 5 be deleted. He explained that section 5

was essentially the same as section 4 except that it was of a higher degree and would make a person guilty of unlawful imprisonment if he put another in a condition of involuntary servitude or restrained another person under such circumstances as would expose that person to risk of serious bodily injury. He said he could see no compelling necessity to make it a crime for keeping a person in involuntary servitude in this day and age. Secondly, in most of those instances where a person restrained would be placed in risk of great bodily injury, the offense would be covered under kidnaping. He asked for examples of the type of conduct that section 5 would proscribe.

Chairman Mahoney said it was not too uncommon to find situations such as a parent who believed a child over 16 to be mentally defective and chained him in an attic for a considerable period of time. Miss Lavorato said the Model Penal Code cited as an example of involuntary servitude a case where the defendant secured the release of girls from prison by paying their fine and then forced them into prostitution. Senator Burns asked if the prostitution sections would cover that type of behavior. Mr. Paillette replied that the new codes under sex offenses had greatly broadened the coverage to get at that type of situation and recommended that such a situation should be specifically covered at that place in the code and the child abuse situations should be covered under the child abuse statutes rather than under a broad category of involuntary servitude. A number of examples were given of the type of confinement which would be covered by unlawful imprisonment and Mr. Paillette commented that the more serious offenses where a person would be kept locked up or confined in a place in which he was not likely to be found would fall under the definitions of "restrain" and "abduct" and could therefore be prosecuted for kidnaping. He suggested the committee adopt a compromise solution by retaining the serious bodily injury aspect of section 5 and deleting the portion relating to involuntary servitude.

After further discussion, Senator Burns withdrew his motion to delete section 5 and moved that the section be amended to read:

> "Section 5. Unlawful imprisonment. A person is guilty of unlawful imprisonment if he restrains another person under circumstances which expose the person restrained to a risk of serious bodily injury."

The motion carried. Senator Burns then moved that section 5 as amended be adopted and this motion also carried without opposition.

Section 6. Custodial interference in the second degree. Miss Lavorato explained that section 6 was designed to replace the child stealing statute (ORS 163.640) in existing Oregon law. The general rule, she said, was that a parent was not guilty of kidnaping if he took possession of the child in the absence of a court order or decree awarding custody. The act would be kidnaping, however, if the parent took possession of the child from any person having lawful custody by virtue of a court decree.

Chairman Mahoney said that while he had no objection to it, he wondered why the age of 16 was chosen as the cut-off point in the draft. Miss Lavorato explained that the ages contained in codes of other states varied from 10 to 18 years of age. She said she had arbitrarily chosen 16 as a median age. She expressed the belief that 18 was too high, one reason being that children of that age were independent in their behavior and it was not the purpose of the draft to include neighbors or companions of the child in cases where he willingly went somewhere with his friends.

Senator Burns noted that the existing law stated "under the age of 16" and asked if that phrase was interpreted to be the same as "child who has not yet reached his sixteenth birthday." Miss Lavorato replied that the P.D. #1 had used the term "under the age of 16" but Justice Sloan had suggested that it would be more explicit to say "who has not yet reached his sixteenth birthday." [See Minutes, October 25, 1968, p.7.]

Senator Burns suggested that the definition of "committed person" contained in section 6 might more properly belong in the definition section. Miss Lavorato replied that the term was used only in section 6 and she had therefore included it in this section. Senator Burns indicated that if the definition were retained in section 6, it should be set out in a separate subsection.

Chairman Mahoney noted that the term "neglected" child was used in the ninth line of the section rather than "dependent" child and Miss Lavorato replied that the section was intended to refer to a neglected child at that point while a dependent child was intended to refer to one entrusted to another's custody. Chairman Mahoney indicated that under present statutes a neglected child was a dependent child and "dependent" was the term defined in the statutes. Senator Burns added that under existing laws, orphans and delinquent children were dependent children. Miss Lavorato said that her intent in drafting the section was to make certain that each of those classes was included and asked if this would be the case if only the term "dependent" were used. Mr. Paillette suggested that the committee might amend the section to say "dependent child as defined in ORS 419.476."

Senator Burns said he had no objection basically to section 6 or 7 and the Chairman indicated he too approved of the philosophy of the sections. Senator Burns moved that section 6 be divided into two subsections with subsection (1) comprising the first sentence of the section and subsection (2) containing the definition of "committed person." The motion carried.

Senator Burns, in order to give the subsection more clarity, moved that "takes or entices" be inserted in subsection (1) of section 6 after "lawful custodian, or". No vote was taken on this motion.

Chairman Mahoney called attention to the phrase "knowing that he has no legal right to do so" and asked if the person would have a defense if he honestly believed that he had a legal right to take the child. Miss Lavorato replied that it would be a question of fact and would be up to the jury to decide. Senator Burns suggested it might be preferable to say "if, having no legal right to do so,". As the draft was now drawn, he said, the state had the burden to prove that the defendant knew he had no legal right to take the child and this would be very difficult to prove. Miss Lavorato said her intention was that if he knew at the time he took custody of the child that a decree had been rendered, he would be guilty, but he would not be guilty if he did not know that fact. Senator Burns was of the opinion that if the draft were not amended it would place an unreasonable burden on the prosecution; on the other hand, if the knowledge element were deleted, it would place a greater burden on the defendant. He said a comparable situation was a suspended driver's license case where the state had to prove not only that the license was suspended but that the defendant knew it was suspended. Chairman Mahoney indicated that the draft was inviting a defense that was available to the defendant without pointing it out in the statute.

Mr. Paillette noted that ORS 163.640, the comparable statute, contained no knowledge element except criminal intent. He suggested the knowledge element in section 6 be deleted and added to the "intent to detain" aspect as in the present law. The state would then have to show there was an unlawful intent which would be more fair. Senator Burns asked if he would propose to say "unlawfully takes or entices" and Mr. Paillette responded that "unlawfully" was the type of language the Commission should avoid because it could have so many meanings.

Senator Burns moved that "knowing that he has no legal right to do so," be deleted from subsection (1) of section 6 and the motion carried. Senator Burns explained that as the subsection was amended, the defendant could argue that although he took the child, he did not know a decree had been issued and there was therefore no criminal intent in his act.

A brief recess was taken at this point and upon reconvening, Miss Lavorato asked if the committee wished to leave section 6 as it had been amended without a mens rea element or if they wished to insert some type of culpability element. Mr. Paillette expressed the view that section 6 would be unconstitutional without a culpability element and suggested that the draft be copied after the Theft by Receiving statute by saying "if knowing or having reason to know that he had no legal right to do so." Senator Burns inquired if it would then be incumbent upon the prosecutor to show that the defendant actually knew he had no legal right and Mr. Paillette replied that it would be incumbent upon the state to produce at least circumstantial evidence tending to show knowledge, and this would entitle the prosecution to an instruction to the jury that they could infer actual knowledge.

Senator Burns then moved that section 6, subsection (1) as amended, be further amended by inserting the following after "in the second degree if": "knowing or having reason to know that he has no legal right to do so,". The motion carried.

Senator Burns next moved that section 6 as amended be adopted and this motion also carried.

Section 7. Custodial interference in the first degree. Senator Burns moved that section 7 be adopted and the motion carried.

Miss Lavorato called attention to alternate section 7 which had been prepared following distribution of the draft and which read:

"Section 7. Custodial interference in the first degree. A person is guilty of custodial interference in the first degree when he commits the crime of custodial interference in the second degree and:

"(1) He causes the person taken or enticed from lawful custody to be removed from the confines of the state; or

"(2) He exposes the person taken or enticed from lawful custody to a risk that the person's safety will be endangered or that his health will be materially impaired."

Mr. Paillette explained that if the existing child stealing statute, which was an extraditable offense, were replaced with section 6, which it was contemplated would be a misdemeanor offense, the code would not then contain a statute under which the state could proceed against a parent who took the child to another state because extradition was not available in misdemeanor offenses. Miss Lavorato had accordingly prepared alternate section 7 to permit extradition in these situations.

Senator Burns moved that the committee withdraw the previous motion by which section 7 was adopted and in its place adopt alternate section 7 as set forth above. The motion carried.

The meeting was adjourned at 3:45 p.m.

Respectfully submitted,

Mildred E. Carpenter, Clerk
Criminal Law Revision Commission