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STATUTE REVISION IN MISSOURI

EDWARD D. SUMMERS*

Section 34 of Article III of the Missouri Constitution provides in part as follows:

“Sec. 34. In the year 1949 and at least every ten years thereafter all general statute laws shall be revised, digested and promulgated as provided by law. . . .”

Since the time is approaching when all statute laws are to be again “revised, digested and promulgated” under this provision, it is appropriate that the procedure governing statute revision and its general objectives be reviewed and reassessed. In 1917, 1927 and 1937,¹ commissions were created for the purpose of preparing “for submission to and consideration of” each following general assembly, proposed legislation to effectuate the revision required under a similar 1875 constitutional provision. The Committee on Legislative Research was directed by concurrent resolution of the 1947 general assembly to make a similar study preparatory to the 1949 revision.² Each of these agencies reported,³ proposing series of bills designed to correct specific defects found in the statutes in the course of the studies. After such bills were then acted upon by the general assembly, acts providing for the arrangement, annotation, indexing and publication of the statutes were adopted. The acts for 1919, 1929 and 1939 were substantially identical⁴ and the act for 1949 contained many similar provisions.⁵

All of these acts provided for the compilation, arrangement and classification of the general statute laws,⁶ the omission of local, temporary, ap-

*Revisor of Statutes, State of Missouri.

1. Laws 1917, p. 326, Laws 1927, p. 466, Laws 1937, p. 521.
2. *Senate Journal*, 64th General Assembly, p. 1008 (1947).
3. See Appendices, House and Senate Journal: Vol. III, 1919; Vol. H, 1929; Vol. III, 1939 and Vol. III, 1949.
4. Laws 1919, p. 485, Laws 1929, p. 247 and Laws 1939, p. 477.
5. MO. REV. STAT. c. 3 (1949).
6. MO. REV. STAT. §§ 3.020, 3.050 (1949); MO. REV. STAT. § 685 (1939).

propriation and other acts or parts thereof,⁷ the correction of clerical errors and the transfer or division of sections⁸ when necessary to place related provisions together, and the omission of legislative titles, emergency clauses and severability clauses.⁹

The publications produced under these acts have been entitled "Revised Statutes of Missouri" but they necessarily are simple compilations of the statutes as corrected by so-called revision bills. That such is the general character of the publications is reflected in the cases adjudicated by the appellate courts of this state. It is thoroughly established that the omission of a statute from the Missouri Revised Statute publication does not affect its existence¹⁰ and that the inclusion of a section theretofore repealed or held invalid does not give it life.¹¹ Indeed it has become common practice to adjudicate controversies affecting the proper passage of original acts without any consideration being given to the fact that they are included in the Revised Statutes.¹²

It is clear, therefore, that the "Revised Statutes of Missouri" publication is and has heretofore been a mere compilation of the various legislative acts of a general nature of the state. To appreciate the nature of such compilation consider Chapter 21 of the 1949 Revised Statutes, which relates to the General Assembly. A large part of the chapter was revised and reenacted in 1879 (See Revised Statutes of 1879, Chapter 124, §§6232 to 6270) as a single act. Since that time three wholly independent acts, one section from another independent act and another section from a different part of the statute book have been inserted in the chapter. Similar situations obtain in most of the chapters of the Revised Statutes. These various

7. MO. REV. STAT. § 3.040 (1949); MO. REV. STAT. § 682 (1939).

8. MO. REV. STAT. § 3.060 (1949); MO. REV. STAT. § 685 (1939).

9. MO. REV. STAT. § 3.030 (1949); MO. REV. STAT. § 687 (1939).

10. *State ex rel. Jones v. Smiley*, 317 Mo. 1283, 300 S.W. 459 (1927); *Bird v. Sellers*, 122 Mo. 23, 26 S. W. 668 (1894).

11. *Meriwether v. Love*, 167 Mo. 514, 67 S.W. 250 (1902); *Brannock v. Mo. Pac. Ry.*, 200 Mo. 561, 98 S.W. 604 (1906); *Bowen v. Mo. Pac. Ry.*, 118 Mo. 541, 24 S.W. 436 (1893).

12. *State on inf. Taylor v. Currency Services*, 358 Mo. 983, 218 S.W.2d 600 (1949); *Sherrill v. Brantley*, 334 Mo. 497, 66 S.W.2d 529 (1933); *State ex rel. Consumers Pub. Serv. Co. v. Public Service Commission*, 352 Mo. 905, 180 S.W.2d 40 (1940).

acts and sections are, of course, in *pari materia*, but they were enacted at different times, had different titles and pursued separate courses through the legislature, and so may be subject to a different construction than is given the various parts of a single act. Another infirmity of such a compilation becomes apparent upon consideration of the rule¹³ that the title of an act is regarded as a part of the act and is to be considered in determining its meaning. Titles of acts are generally omitted from statute compilations in order to conserve space and the Missouri publication statute requires their omission.¹⁴ It is plain, therefore, that the statute publication alone cannot be regarded as an authoritative repository of all of the law, even though the texts of all of the statutory enactments are included therein.

Prior to the 1909 revision such situations were dealt with, in part at least, in the decennial revisions by the enactment of comprehensive groups of the statutes in the form in which they were to appear as chapters or articles in the statute books in individual revision bills¹⁵ so that many of the chapters and articles were in fact single acts which included all of the statutes contained therein.¹⁶ Such enactments served the further purpose of repealing general statutes which were related to the revised chapters¹⁷ and of curing defects in the original enactments which were included in the revision acts arising from faulty titles¹⁸ and from other failures to follow constitutional procedure governing the passage of laws.

Under the revision publication act of 1949, provision was made for continuous revision of the statutes of Missouri¹⁹ and considerable purging or corrective work on the statutes has been done since 1949 through revision bills to correct specific defects. However, a continuous revision program

13. *Dart v. Bagley*, 110 Mo. 42, 19 S.W. 311 (1892); *Holder v. Elms Hotel Co.*, 338 Mo. 857, 92 S.W.2d 620, 104 A.L.R. 339 (1936).

14. MO REV. STAT. § 3.030 (1949).

15. See Historical notes, 3 MO. REV. STAT. pp. 205 and 2452 (1949), and 3 V.A.M.S. p. 197.

16. In addition to the enactment of such bills in 1865, the General Assembly by a simple one section act adopted the two hundred and twenty-four chapters of the General Statutes of 1865. See GEN. STAT. 1865, p. 56, and 3 V.A.M.S. pp. 197, 201.

17. *Kern v. Legion of Honor*, 167 Mo. 471, 67 S.W. 252 (1902); *State ex rel. Moody v. Wardell*, 153 Mo. 319, 54 S.W. 574 (1899).

18. *State v. Dinissee*, 109 Mo. 434, 19 S.W. 92 (1892); *State ex rel. Attorney General v. Mead*, 71 Mo. 266; *State ex rel. Wayland v. Herring*, 208 Mo. 708, 106 S.W. 985 (1907); *State v. Brassfield*, 81 Mo. 151 (1883).

19. MO. REV. STAT. § 3.120 (1949).

is generally regarded as including "topical revision,"²⁰ which entails the enactment of entire topics contained in the statute law in single clarified and harmonious acts, but this has not been undertaken so far in Missouri. In a few areas substantive recodifications, as in the case of the 1955 Probate Code, have been undertaken, but until 1957 no topical revision bills have been proposed as a part of the continuous revision program. It is possible that some topical revision will be accomplished before the 1959 publication is ordered, and, if it is continued, the state may ultimately look forward to a more authoritative publication of the statutes, which will contain a compilation of all of the revised topics of the statute law.

Continuous revision has been hailed as the ideal method of revision²¹ and its principal advantages lie in the facts that a topic can be carefully revised and checked within foreseeable time limits and that the act is not so bulky as to preclude appropriate legislative scrutiny, which is practically impossible in the case of bulk revision.²² However, topical revision has the disadvantage of leaving the various statutes in separate and distinct acts rather than incorporating them in a single act which includes all the statutes.

The adoption of a harmonious code, including all of the statutes, has been undertaken by most of the states at some time in their history. Florida regularly enacts as the statute law of the state, under the title "Florida Statutes", all acts of the preceding legislatures as arranged and classified by the attorney general every two years.²³ Delaware enacts all general laws as express amendments to its code. Other states undertake periodic revisions and then keep the statutes up to date by compiling subsequently enacted laws.

The effect of the revision and enactment of all of the statutes in bulk as a Code has been well stated in *Central of Georgia Ry. v. State*²⁴ as follows:

" . . . There is quite a difference between a Code of laws for a State and a compilation in revised form of its statutes. The Code is broad-

20. Cullen, *The Advantages of a System of Continuous Statutory Revision*, 10 MO. L. REV. 113, 119 (1945).

21. *Ibid*; Brossard, *The Wisconsin Plan of Permanent Statute Revision*, 9 MO. BAR. J. 37 (1938); Conway, *Statute Revision for North Dakota*, 30 N. D. L. REV. 36 (1954).

22. Mallonee, *Revised Statutes and Codes*, 48 AM. L. REV. 37 (1914).

23. See FLA. STAT., § 16.19 *et seq.* (1953).

24. 104 Ga. 831, 31 S. E. 531 (1898).

er in its scope and more comprehensive in its purpose. Its general object is to embody as nearly as practicable all the law of a State, from whatever source derived. When properly adopted by the law-making power of a State, it has the same effect as one general act of the legislature containing all the provisions embraced in the volume that is thus adopted. It is more than evidentiary of the law; it is the law itself. In 6 Am. & Eng. Enc. L. (2d ed.) 173, it is declared: 'The word (Code) is used frequently in the United States to signify a concise, comprehensive, systematic reenactment of the law, deduced from both its principal sources, the pre-existing statutes, and the adjudications of courts, as distinguished from compilations of statute law only.' We quote the following from Black on Interpretation of Laws, 363: 'Although a code or revision may be made up of many provisions drawn from various sources, though it may include the whole or parts of many previous laws and reject many others in whole or in part, though it may change or modify the existing law, or though it may add to the body of law previously in force many new provisions, yet it is to be considered as one homogeneous whole, established "uno flatu". All its various parts or sections are to be considered and interpreted as if they were parts of a single statute. And hence, according to a well-known rule, the various provisions, if apparently conflicting, must, if possible, be brought into harmony and agreement. In order to bring about this harmony and agreement, the court which is called upon to interpret the code will look through the entire work, and gather such assistance as may be afforded by a complete survey of it.'"²⁵

Two methods of enactment are used for bulk revision, namely, enactment by reference which is used in most of the states²⁶ and regular enactment

25. *Id.* at 841, 31 S. E. at 534. To the same effect see *Monacelli v. Grimes*, 99 Atl. 255 (Del. 1916); *Comm. v. N. Y. C. & H. R. R.*, 206 Mass. 417, 92 N. E. 766 (1910); *State ex rel. Glasgow v. Hedrick*, 88 Mont. 551, 224 Pac. 375 (1924); *Knight v. Barnes*, 7 N. D. 591, 75 N. W. 904 (1898); *Ex parte Bustillos* 26 N. M. 449, 194 Pac. 886 (1920); *Nexsen v. Ward*, 80 S. E. 598 (S. C. 1914); *American Indem. Co. v. City of Houston*, 212 Tex. 239, 246 S. W. 1019 (1922); *Washington Co. v. Gates*, 108 Vt. 117, 183 Atl. 506 (1936); *Ex parte Donnellan*, 49 Wash. 460, 95 Pac. 1085 (1908), and cases cited in marginal note 39, *infra*.

26. See Statutes of Alabama, Colorado, Florida, Georgia, Kansas, Mississippi, Montana, North Dakota, New Jersey, Oklahoma, South Carolina, Utah and Wyoming.

which consists of incorporating the entire body of statute law in a bill prepared in the form of other bills.²⁷ Where the reference method is used, a prepared copy of the revised statutes is ordinarily filed either in the legislature or in the office of the secretary of state and a bill is passed which adopts the filed copy as the statutes of the state. The principal advantage of adoption by reference appears to consist in the elimination of clerical work entailed in engrossing and enrolling the bill in the tremendously bulky form it must assume in a regular enactment.

Constitutional questions involved in the adoption of a bulk or general revision include: (1) Does the bill contain but one subject which is clearly expressed in the title?²⁸ and (2) In the case of adoption by reference, does such an act constitute a revival or reenactment of acts without setting the same forth at length as if it were an original act?²⁹ Both of these questions were involved in *State ex rel. Griffiths v. Davis*,³⁰ where the 1923 revision of the Kansas statutes was attacked. In holding the revised statutes validly adopted, the Kansas Supreme Court said:

“What was the subject engaging the attention of the legislature throughout consideration and passage of the act of 1923? The subject was review of the body of statute law of the state, considered as an entity and in its entirety, for the purpose of bettering it in form and content. That subject was single, within the meaning of the constitution. In 1909, the code of civil procedure was revised. The subject was single, although it embraced many topics, and systematic treatment of the aggregation of laws having statutory authority was a single subject, although embracing many themes. So far as freedom from duplicity is concerned, that subject could be dealt with, subject to other constitutional requirement, in any way the legislature saw fit. The legislature was not limited to compilation. It could include, exclude, correct, consolidate, rearrange, and improve in all the ways improvement may be accomplished. In other words, it could revise, according to the legal and popular meanings of that term. (Black’s Law Dictionary and Webster’s New International Dictionary, title ‘revise’.)

27. See Statutes of Delaware, Idaho, Kentucky, Massachusetts, New Mexico, Tennessee, Texas, Vermont, West Virginia, Oregon.

28. Mo. CONST. ART. III, § 23.

29. *Id.* § 28.

30. 116 Kan, 211, 663, 225 Pac. 1064, 229 Pac. 757 (1924).

"In this instance the legislature undertook to revise. To give clear expression to the subject of the bill, the legislature chose to adopt a title indicating revision and, under numerous decisions of this court, collated in the annotation to section 16 of the constitution contained in the Revised Statutes of 1923, the subject of the act of 1923 was clearly expressed by the title, 'An act relating to the Revised Statutes of 1923.' . . .

"For present purposes it may be conceded the bill contained distinct and unrelated subjects. Assuming repeal of diverse statutes may be accomplished by one repealing act, it may be conceded the title gave insufficient expression to the subject of the bill. Nevertheless, general revision of the whole body of the state's statutory law, for collective exhibition in systematic form, is a distinct and single subject of legislative consideration and action, which is no more multifarious because it involves treatment of particulars germane to revision, than revision of a civil code, criminal code, or code relating to cities or taxation, is multifarious because of treatment of particulars germane to those subjects. While the constitution governs revisory legislation, the constitution is not blind to method and, for any revision to be scientific, the method necessarily includes elimination, condensation, redrafting and, so far as may be deemed proper to completeness of the scheme, supplements additions and revivals.

Senate Bill No. 424 was considered and passed according to the mandates of the constitution. The Assembled Sections were not read on any day, in either house. How did they become statutory law? The answer is, by the bill's reference to the identified matter.

"Legislation by reference is not a new device. It has been practiced by the congress of the United States throughout the period of its existence. The act organizing the territory of Kansas contained legislation by reference. The first territorial legislature adopted the common law of England and all acts of parliament made prior to the first year of James I, general in nature, and not repugnant to the constitution of the United States or the Kansas-Nebraska act, as the rule of action and decision. When the state constitution was framed, it did not, as did the constitutions of some other states with which the framers were familiar, forbid

such legislation. The legislature has repeatedly resorted to the expedient, and this court has recognized such legislation as valid in the following cases: *Wichita v. Telephone Co.*, 70 Kan. 441, 78 Pac. 886; *Griffin v. Gesner*, 78 Kan. 669, 97 Pac. 794; *The State v. Shawnee County*, 83 Kan. 199, 110 Pac. 92; *The State v. Pauley*, 83 Kan. 456, 112 Pac. 141; *The State ex rel. v. Howat*, 107 Kan. 423, 191 Pac. 585.

“The *Howat* case dealt specifically with application of the provisions of the constitution relating to revival and amendment to legislation by reference.”³¹

The first of these questions (as to multifariousness and sufficiency of title) has been generally answered affirmatively by the courts of other states where like constitutional provisions obtain.³² *Fidelity & Columbia Trust Co v. Meek*³³ involved the validity of the *Kentucky Revised Statutes* adopted in bulk by a regular bill in 1942. In sustaining the revision against an attack on the ground that the act contained more than one subject and that it was not expressed in the title, the Kentucky Court of Appeals said:

“. . . The authorities seem to be quite uniform to the effect that the commendable policy of incorporating the entire body of the law in a revision by a single act, under a comprehensive title instead of dividing it into separate acts, does not violate a constitutional prohibition against any act embracing a plurality of subjects, although it may in itself contain a great many diverse, individual subjects. All that is required is that such an act shall not include legislation so incongruous that it can not be fairly said to be relevant or germane to the one general subject of revision. The conclusion is rested upon different reasons. Principally they are that such procedure is not adverse or obnoxious to the spirit and intent of the provision, for the mischief and evil intended to be avoided are not present since there is a unity of purpose; that no one is misled; that it is not new legislation; that the different chapters and sections are germane and relate to the one object of

31. *Id.* at 664, 229 Pac. at 757.

32. *Revised Statutes—Constitutionality of a Single Enactment and Effect on Prior Statutes*, 17 N. Y. U. L. Q. 479 (1940).

33. 294 Ky. 122, 171 S.W. 2d 41 (1943).

gathering together a unified system of law in a clarified and concise form for convenient use; and that division among separate acts would not only be contrary to the spirit of the Constitution but also embarrassing to honest legislation. 25 R. C. L. 867; 59 C. J. 889; note, 55 L. R. A. 833; Central of Ga. R. Co. v. State, supra; Johnson v. Harrison, 47 Minn. 575, 50 N. W. 923; 28 Am. St. Rep. 382; State v. Habig, 106 Ohio St. 151, 140 N. E. 195, Marston v. Hume, 3 Wash. 267, 28 Pac. 520; State v. Vestal, 81 Fla. 625, 88 So. 477; Evans v. Superior Court, 215 Cal. 58, 8 Pac. (2d) 467; State v. Czarnicki, 127 N. J. Equity 43, 10 Atl. 461; Chumbly v. Peoples Bank & Trust Co., 166 Tenn. 35, 60 S.W. (2d) 164.”³⁴

The second question likewise has been generally regarded as requiring an answer in favor of the enactment. Section 28, Article III, of the Missouri Constitution provides:

“Sec. 28. No act shall be revived or reenacted unless it shall be set forth at length as if it were an original act. No act shall be amended by providing that words be stricken out or inserted, but the words to be stricken out, or the words to be inserted, or the words to be stricken out and those inserted in lieu thereof, together with the act or section amended, shall be set forth in full as amended.”

This provision is substantially the same as Sections 33 and 34, Article IV of the 1875 Constitution³⁵ and it is similar to constitutional provisions in a large majority of the states. *Hunt v. Wright*³⁶ was a mandamus action brought to compel the issuance of a liquor license under a statute which had authorized it but which had been omitted from the code as adopted by a reference act. In sustaining the repeal resulting from such omission the Supreme Court of Mississippi said:

“Nearly all of the code, excluding new subjects, was law before in the very form in which it reproduces it, and would have continued in full force if the code of 1892 had not been adopted; and wherein former laws are amended by it, it was competent

34. *Id.* at 131, 171 S.W.2d at 46.

35. See 1945 Const. Debates p. 3894 and Const. Convention Report No. 1 of Committee on Phraseology, Arrangement and Engrossment on File 17, § 28.

36. 70 Miss. 298, 11 So. 608 (1892).

to adopt it by an act referring to it as an existing thing. This was not reviving or amending laws by reference to title only in the meaning of section 61, which has no application to adopting a code, or parts of one, but to the ordinary case of reviving or amending a law in the strict sense of these terms."³⁷

In Sutherland, *Statutory Construction*, it is said:

"In about half of the twenty-nine states that prohibit the amendment of an act by mere reference to its title, no similar limitation is placed upon the revision of statutes. In these states it has accordingly been held that a codification of all the statutes or of all those concerning a general field of the law does not violate the constitutional provision. In all these cases the statute purported to codify or revise and therefore are an indication that the constitutional test is based on the form of the act.

"In fifteen states prohibiting the amendment of an act by mere reference to its title, it is also provided that no act shall be revised by mere reference to its title, and that so much thereof as is revised, or that the act as revised, shall be reenacted and published at length. In these states the courts have distinguished in their holdings, if not in their opinions, between codification and the revision of one or a few acts. The constitutional limitation does not apply to a codification or general revision. But where a single act is claimed to have been revised by mere reference to its title, the constitutional provision is applicable.

"The test of whether an act is a revision of a single act within the constitutional limitation is, as in the case of amendment, based on form—whether the act purports to revise. But in those states whose constitutions provide that the 'act as revised or the section as amended' must be reenacted and published at length, a difference in substance between the revision and the amendment of an act of several sections is recognized. If one or all the sections of the prior act are only altered, the act is an amendment and only those sections altered need be reenacted; but if one or more sections,

37. *Id.* at 306, 11 So. at 610. To the same effect, see *Mathis v. State*, 31 Fla. 291, 12 So. 681 (1893). But see Davis, *What is the Effect of a General Statute Revision*, 81 Ky. L. J. 274 (1943), where cases turning upon the language of the adopting act to the contrary are discussed.

not necessarily all, are altered *and are renumbered or rearranged*, the act is a revision and the whole prior act as revised must be reenacted.³⁸

Cases sustaining statute revisions accomplished by reference acts against attacks on grounds other than that they violate the enactment by reference inhibition from states where constitutional provisions forbid amendment or revival by reference are cited in the margin.³⁹ The leading case on adoption of a code by a reference act is *Central of Georgia Ry. v. State, supra*, which was an action by the state to recover a statutory penalty from a railroad for its failure to erect railroad depot building in accordance with an order of railroad commissioners. It was contended that the statute imposing the penalty as originally adopted in 1879 and a curative act adopted in 1891 were invalid because the titles to such acts were defective. The state, on the other hand, contended that since the statute was included in the code adopted in 1895 such defective enactment was cured. The railroad's answer contained the following contentions: (1) That, in adopting the code, the legislature never intended to make anything in the code law which was not already the law; and (2) if such was its intention the code was not properly enacted (a) because the entire code was not read on three different days as required by the Georgia Constitution, and (b) because such bill contained more than one subject which was not expressed in the title. The court denied all of these contentions and ruled that the statute as included in the code was in full force by virtue of its adoption as part of the code.

Missouri's courts have sustained comprehensive revision acts against attacks on the ground they contained more than one subject which was not expressed in the title,⁴⁰ and they have also recognized as valid the adoption

38. Vol. I, p. 402, § 1927.

39. *Ex parte* Thomas, 113 Ala. 1, 21 So. 369 (1897); *Central of Georgia Ry. v. State*, 104 Ga. 831, 31 S.E. 531 (1898); *Anderson v. Gt. Northern Ry.*, 25 Ida. 442, 138 Pac. 127 (1914); *Cashin v. Northern Pac. Ry.*, 96 Mont. 92, 28 P. 2d 862 (1934); *Saslow v. Previti*, 17 N. J. Misc., 3 A.2d 811 (1939); *State v. Nagel*, 75 N. D. 495, 28 N. W.2d 665 (1947); *Green v. State*, 33 Okla. Cr. 268, 243 Pac. 533 (1926); *Ex parte Haley*, 202 Okla. 101, 210 Pac. 653, 12 A.L.R.2d 416 (1949); *State ex rel. Porter v. Ritchie*, 32 Utah 381, 91 Pac. 24 (1907); *State v. Pitot*, 243 P. 2d 177 (Wyo. 1952); *In re Interrogatories from House of Representatives*, 127 Colo. 160, 254 Pac.2d 853 (1953).

40. See *State v. Brasfield*, 81 Mo. 151 (1883), as to act embracing entire subjects of crimes and criminal procedure and *State ex rel. Wayland v. Herring*, 208 Mo. 708, 106 S.W. 984 (1907), where section as to filling of vacancies in public office was included in act "to amend and revise chapter 2, etc., concerning popular elections."

or enactment of laws by reference⁴¹ although in only two cases has the constitutional provision as to revival, reenactment or amendment by reference been raised. In *State ex rel. Bair v. Producers Gravel Co.*,⁴² the court held that where a new method of enforcing tax liens was established, a proviso authorizing procedure under a repealed statute, in cases where suit thereunder had been commenced before the repeal, was not a revival or reenactment of the prior law by reference or reenactment in violation of the constitutional provision. In *Brown v. State*,⁴³ an action was brought to test the validity of a provision of the state inheritance tax law which imposed an additional tax equal to the difference between the state inheritance tax then imposed and eighty per cent of the federal estate tax. In denying a contention that the state act sought to amend the inheritance tax law by reference to the federal law, in violation of the constitution, the court, after quoting the constitutional provision, said:⁴⁴

“As we read the above section it has nothing to do with the enactment of one existing statute or part thereof into another except as such is sought to be done by the striking out or insertion of designated words, in which case, of course, the provisions of this section must be followed. No such thing is undertaken by the act in question. In fact, there seems to have been no intention to enact the act of Congress into the Missouri law. In stating the amount of the minimum tax to be imposed reference is made to the act of Congress by way of identifying the law under which the total federal estate tax is imposed. There is no suggestion that this part of the federal law be made a part of our state law, and in a given case the total amount of the federal estate tax, 80 per cent of which is to be imposed as state taxes, can only be ascertained from an examination of the proper federal return made or to be made. The above constitutional provision seems to be without application to the objection made.”

These cases are, of course, in harmony with the general rule as to reference statutes which is given by *Corpus Juris* as follows:⁴⁵

41. *State ex rel. Cairo Bridge Comm. v. Mitchell*, 352 Mo. 1136, 181 S.W.2d 496 (1944); *State v. Lloyd*, 320 Mo. 236, 7 S.W.2d 344 (1928); *State v. Peyton*, 234 Mo. 517, 137 S.W. 979 (1911); *State ex rel. School Dist. of K. C. v. Lee*, 334 Mo. 311, 66 S.W.2d 521 (1933).

42. 341 Mo. 1106, 111 S.W.2d 521 (1937).

43. 323 Mo. 138, 19 S.W.2d 12 (1929).

44. 19 S.W.2d 1 at 16.

45. 59 C. J. § 460, p. 876.

“Since the constitutional provisions under consideration apply only to acts which are strictly amendatory or revisory to express amendments only, and not to such as are independent and complete within themselves, and since reference acts are not strictly amendatory in character, reference acts are not within the letter or spirit of the constitutional provisions or the mischief intended to be remedied. Any other construction of the constitutional provisions would make it necessary that every act contain within itself every detail for its complete execution, and would impose more serious evils that were sought to be cured or avoided, by leading to innumerable repetitions of laws in the statute books and rendering them not only bulky and cumbersome, but confused and unintelligible. The framers of the constitutional provisions, it was said, could never have intended to introduce into the statute law such elements of confusion and uncertainty. Accordingly, reference acts original in form and in themselves complete and intelligible, do not, by reason of the fact that they refer to and adopt the provisions of other statutes in whole or in part without setting out such provisions, violate constitutional provisions which prohibit revising, amending, extending, or conferring other statutes by reference to title only, and require the amended statute to be reenacted and set out in full, or providing that no act shall be passed which shall provide that any existing law or any part thereof shall be made or deemed a part of such act, or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting it in such act, or which contain both provisions; . . .”

It may be observed, however, that the Missouri constitutional provision differs somewhat from those provisions which state that no law shall be “revived or amended”, or “revised or amended”, in that our provision says nothing about “revising” the laws but says that no law shall be “revived or reenacted” and then forbids specific types of amendatory legislation. The effect of this difference is difficult to assess. The adoption of a code probably is not, in the light of decisions from other states, a “revival” of laws nor an “amendment” within the constitutional inhibition, and is not an express reenactment. It is, expressly at least, an adoption of certain express rules as the laws of the state, and while such distinction may appear somewhat tenuous, it is one which appears to be inherently recognized in the cases on the subject in the other states. Moreover, what is now Section

1.010, Missouri Revised Statutes, which adopts the common law and certain statutes of England has been in effect since the beginning of statehood, and it apparently has never been suggested that such statute conflicts with this provision. Furthermore, it seems highly improbable that the constitution-makers of 1865, 1875 and 1945 intended to strike down such common law and statutes because they were not set forth in full, although they are undoubtedly adopted by Section 1.010.

As heretofore suggested, a very important advantage to be derived from the enactment of the statutes in bulk consists in the elimination of all constitutional questions arising out of the procedure followed in enacting individual statutes, such as whether the various acts had sufficient titles, whether they were signed by presiding officers, whether their purposes were changed during their course through the legislature, etc. Also such an enactment makes possible a statute publication which is a complete repository of all general statute law so that the user may rely upon it with confidence and with the knowledge that if it isn't in the book it doesn't exist and that if it is in the book it is to be read in the context in which it is found and as a part of the single act which includes all other general statutes.

But, regardless of whether the continuous revision method is stepped up or a bulk revision and adoption is undertaken for 1959, it appears highly desirable that efforts be made to embody all of our statute laws in an authoritative publication. The people of the state have a right, under our constitutional provision, *supra*, to have the statute laws published in such form that they can ascertain and understand what conduct is expected of them by the society in which they live.