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Routinely cited in briefs, often the subject of legal arguments, and dutifully followed by Kentucky judges, the Kentucky Revised Statutes seem more a force of nature than something with a date of origin. Yet on October 1, 2017, the not-quite-a-baby-boomer known universally as the “KRS” will celebrate its 75th birthday. While not perhaps deserving of a diamond jubilee, the well-ordered and logically designed revision of statutory enactments deserves at least a birthday party and perhaps a law book-shaped cake.

The KRS was the end result of a long process that started in 1936 when the General Assembly created a committee to weed out repealed and obsolete laws, and to reduce the length (and heft) of the massive *Carroll's Kentucky Statutes* used in state courts. The need was obvious; that very year saw stories about how poorly drafted laws had inadvertently stripped the mayors of Lexington and Paducah of their power to appoint police court judges and hampered the Railroad Commission's ability to regulate common carriers. Meanwhile, lawyers grumbled about the cost of *Carroll's* and New Deal-era reformers were repulsed by the backwardness of a statute book bulging with hundreds of obsolete laws.

The Revision of the Kentucky Statutes

Kentucky's statutory law had been revised a number of times since it was first codified by C. A. Squire Turner and S.S. Nicholas and adopted in 1852. The legislators of 1936 knew that the world had changed quite a bit since it had adopted the revision that Judge John D. Carroll had prepared in 1894. They created a statutes revision committee of eight persons, “learned in the law,” to be chosen by the governor from a list provided by state bar association.

This committee was charged with thoroughly revising and reorganizing Kentucky's laws, without altering the “language or sense” of the legislative acts they were derived from. 1936 Ky. Acts, ch. 111, §§ 1, 7. The committee devised basic principles of the process, set up an office and hired an experienced director, Robert K. Cullen, to oversee the process. Cullen, a Wisconsin native, had served in that state's official reviser's office. He would oversee a new Statutes Revision Commission (SRC) staff to undertake the heavy labor of revision.

The committee presented its final revised statutes draft bill to the 1942 session of the General Assembly which adopted the new code as the *Kentucky Revised Statutes*. The act of adoption clearly repealed all prior statutes, except “such statutes as are continued in force by express provision.”

The Legislative History of the KRS

The work of the Statutes Revision Commission is not only fascinating as history but it also reveals details of interest to persons researching Kentucky's older statutes. It is important to note that every provision in the current KRS that has a “1942 Ky. Acts. c. 208, § 1” statement in its legislative history has roots in the revision. Moreover, the SRC produced a series of documents that can be critical to understanding those statutes.

Among the documentary record of the KRS is an eight-part series by revision committee member Harry B. Mackoy that ran from 1936-1939 in the *Kentucky State Bar Association Journal*. Mackoy also wrote a June 1942 “sequel” piece after the revision was adopted, which was followed up by a December 1942 piece by head reviser Robert K. Cullen. The Mackoy articles discuss the deliberations by the committee—many of which culminated in the final version of the KRS. Early discussions were over costs; the high price of *Carroll's Kentucky Statutes* was a major impetus for the revision. This was due in part to the significant space taken up with obsolete, partially repealed and overruled statutes.

This not only wasted the spare dollars of depression-era lawyers, it led to endless confusion as courts had to reconcile overlapping laws. Mackoy describes how the committee broke these down into three categories: those needing repeal, those needing amendment and those needing correction. In 1938, the committee sought and received authorization by the legislature to change the language of the laws to correct them (so long as the meaning remained the same).

The SRC decided that the revised statutes would be written in clear, plain language, with a minimum of duplicate terms (“deed, transfer, convey”) found in laws drafted in the prior century. 1938 Ky. Acts ch. 41, § 2. To deal with ancient, useless legal deadwood, in 1940 the legislature adopted a statute repealing over a thousand statutes that the SRC had deemed obsolete, clearing away brush for the final revision. 1940 Ky. Acts ch. 191, § 1.

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The committee also decided that changes in numbering and classification were needed. The much-amended 1893 Kentucky Statutes had started with simply numbered sections, § 1, § 2, § 3, and so on, arranged into alphabetically arranged titles like Advertisements, Agriculture, Animals, etc. However, it had acquired complicated citations like KS §68b-36a and §4114i-12(3) as time passed. (This apparently had become somewhat of an obsession of Kentucky lawyers. Mackoy's December 1938 article discusses nothing but strange KS citations). And the titles were arbitrary: A probate lawyer might find his subject spread throughout the code from “actions” to “wills.”

The committee opted to use a classification system with broad subjects grouped together. For example, Title XI of the KRS collects all tax laws, further arranging them by subtopics (or “chapters”) like sales and use (chapter 139), inheritance (chapter 140), and income taxes (chapter 141). Numbering would be done with a decimal system like used in the Wisconsin statutes. In the KRS, the number before the decimal represents a subject like “coal taxes” (chapter 143) and the number after the decimal represents a single law, like “021” for the tax credit for thin seam coal. (Since this is a decimal system, a zero is added to 21 to make “021”). Put these together and you get a thoroughly recognizable citation, KRS 143.021.

Together, the *KSBA Journal* series is an excellent invitation into the revisers' thought process. All of these *Journal* issues are available in print at the UofL Law Library (and plans are underway for the library to digitize and publicize them before October 1).

Perhaps of less practical (and more historical) interest is the extensive coverage of the revision process by the Louisville *Courier-Journal*, the paper of record in this era. In dozens of articles (enlivened occasionally by humorous details of long

forgotten laws), the reformist *Courier-Journal* built public and legislative support for the revision. Some pieces might interest legal researchers probing the text of laws.

A March 24, 1940, item entitled “State Seeks to Stop Using ‘and/or’—And/or Cease Using ‘Thing’” and a December 27, 1941 article “Body Drafts Simplified State Laws—Man-on-the-Street Language Ready for Legislature” describe the plain language philosophy of the revisers in some detail. The highlight of the publicity campaign might have been a photograph of state Senator Curtis K. Stacy's 10-year-old daughter Francis Ann holding a ruler up to a slim KRS and the massive 1936 editions of *Carroll's Kentucky Statutes*. (Allan M. Trout, “The State's Biggest Bill To Go To Legislature,” *Courier-Journal*, Feb 1, 1942).

Any legislative history of the KRS must include the separately published “A Bill to Revise the Kentucky Statutes” (1942) which was adopted nearly in toto. But as (or more) important is the official *Kentucky Revised Statutes* of 1942 which contains a preface detailing all of the editorial decisions of the revisers and the *Report of the Statutes Revision Committee* presented to the 1942 legislature.

However, clearly the most valuable tool for researchers is the 1944 SRC's *Notes and Annotations to the Kentucky Revised Statutes* (N&A) which contains “the complete legislative history from the time of the last complete revision in 1873” and the “full Reviser's Notes explaining all changes of language and omissions made in the process of revising the statutes.” The notes are keyed KRS section numbers. There are three types of annotation in this resource: extensive legislative history notes, annotations to cases that the SRC felt were relevant to the interpretation of the revised statute and reviser's notes on the “reason for each omission, change of wording or other revision made.”

Many references in the N&A are to the *Carroll's Kentucky Statutes Annotated*, *Baldwin's 1936 Revision*. The 1942 KRS, the N&A, and all editions of *Carroll's Kentucky Statutes* are available at the UofL Law Library in print and electronically on HeinOnline. A special KRS golden anniversary UofL law library LibGuide (<http://library.louisville.edu/krs75>) is being prepared to bring all these resources together.

Happy Birthday!

While the KRS is not likely to get a parade for its 75th birthday, nor will its signing be re-enacted with lawyers dressed in the wide-legged trousers, colorful ties and fedoras of the 1940s bench and bar, the venerable compilation deserves a jigger of bourbon raised high in tribute on that first day of October.

It is true that it has shown its age in places; its pristine numbering system is now littered with As and Bs as the legislature has over the years rewritten whole titles to accommodate such events as the 1975 constitutional amendment of the judicial article, the creation of urban-county governments in Lexington and Louisville, and the adoption of various uniform and model code provisions. But, all in all, the old dog still hunts! Such dog being a subject of KRS 258.275, a statute classified under Chapter 258, “Animal Control and Protection” of Title XXI, “Agriculture and Animals.”

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