ARTICLE 215: PERJURY AND RELATED OFFENSES

The new statute has no counterpart such as the present Section 813 which makes it a crime if a person incites or attempts to procure another to commit perjury even though no perjury is committed.

Under Section 2447 P.L. a witness is given immunity from all prosecution except perjury. This exception does not specifically appear in the new Section 70.15.

Section 215. Definitions.

Sub. 1 The oath includes an affirmation and every other mode authorized by law. The old section says that any affirmation is sufficient while the new section uses the phrase "authorized by law". These latter words seem words of limitation and are too vague.

Sub. 5 The words "which he does not believe to be true" makes the crime subjective. Cf Section 1626 of the Penal Law which states "an unqualified statement of that which one does not know to be true is equivilent to a statement of that which he knows to be false".

Section 215.05. Perjury in the Third Degree.

The entire section is as follows: " A person who swears falsely is guilty of perjury in the 3rd Degree". This section seems much too broad. It would seem that a person would be technically violating this section if he gave two opposite statements under oath concerning what he ate for breakfast.

Section 215.10. Perjury in the Second Degree, and
Section 215.15. Perjury in the First Degree.

There are no objections to these sections.

Section 215.20. Perjury, Pleading and Proof.

First paragraph. Why do both statements have to be made within the jurisdiction of this State? Wouldn't it be sufficient if one false statement was given within New York State?

Sub. 3 I would suggest changing the word "each" in lines 2 and 5 to the word "either". This subdivision is not very clear. The general meaning can be gleaned but I do not understand what situation would arise that would necessitate using it.

Section 215.35 Making an Apparently Sworn False Statement.

I question the use of the word "apparently". This should either be removed or clarified.

Section 215.40 Making an Apparently, etc.

Same criticism as previous section.