

1966



JOINT STATE GOVERNMENT  
COMMISSION ACTIVITIES

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*A Report by the Chairman*

*to the GENERAL ASSEMBLY of the  
COMMONWEALTH OF PENNSYLVANIA*

**JOINT STATE GOVERNMENT COMMISSION  
ACTIVITIES**

**1963 - 1965**

**A REPORT BY THE CHAIRMAN  
to the  
GENERAL ASSEMBLY  
of the  
COMMONWEALTH OF PENNSYLVANIA**

**JOINT STATE GOVERNMENT COMMISSION  
ROOM 450, CAPITOL BUILDING  
HARRISBURG, PENNSYLVANIA**

JOINT STATE GOVERNMENT COMMISSION  
OFFICERS AND EXECUTIVE COMMITTEE

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*Member Ex Officio:*

BAKER ROYER, *Chairman*

## LETTER OF TRANSMITTAL

To the Members of the General Assembly of the  
Commonwealth of Pennsylvania:

Presented herewith is the Chairman's report of the activities of the Joint State Government Commission for the period beginning with the close of the 1963 Session and ending with the close of the 1965 Session, January 4, 1966. The emphasis throughout my report is upon activities which have eventuated in recommendations submitted in bill form for the review and consideration of the General Assembly.

For the convenience of the members, the report is divided into three parts: over-all review of Commission activities, advisory committees, and task forces.

Personally, I wish to take this opportunity to assure my fellow members in the General Assembly that I deeply appreciate their confidence. On behalf of the Commission, I gratefully acknowledge the counsel of all the members of the citizens' advisory committees who generously shared their wisdom and talents with all of us.

BAKER ROYER  
*Chairman*

Joint State Government Commission  
Capitol Building  
Harrisburg, Pennsylvania  
February 1966

**I**

**OVER-ALL REVIEW**

The success or failure of a legislative instrumentality charged with the formulation of proposals for legislation is readily measured in terms of the extent to which its proposals are favorably acted upon. In terms of this yardstick, the activities of the Joint State Government Commission, which is charged by statute [1959, December 8, P. L. 1740, Section 2 (c)], “. . . to report to the General Assembly . . . such findings and recommendations accompanied with such drafts of legislation as it deems necessary for the information of and consideration by the General Assembly” have been eminently successful. The Special Session of 1964 and the Regular Session of 1965 have established an enviable record as regards enactment of Joint State Government Commission proposals.<sup>1</sup> Of a total of 45 specific proposals—submitted in bill form with bipartisan sponsorship—relating to such diverse subject matter areas as eminent domain, decedents’ estates, automobile graveyards, penal institutions, school buses, and the sale of toxic and injurious substances, the General Assembly enacted 33, or 73 percent, into law.

**LEGISLATIVE  
RECORD**

This record is the more remarkable in view of the fact that subsequent to 1956 increasing demands have been made upon the Commission to furnish the technical services authorized by Section 2 of the Joint State Government Commission Act, which reads in part, “The Commission shall have power and its duty shall be: . . . (d) To furnish such technical staff services as shall be requested by the standing committees of the Senate and House of Representatives during regular or special sessions of the General Assembly.” In compliance with this mandate, the Commission has furnished staff services to standing committees, special committees, and the caucuses of both houses and both parties. The staff services have ranged from occasional surveys to extensive continuous research operations lasting in some subject matter areas throughout the session. In some instances, the cooperative effort of House or Senate committees and Commission staff have eventuated into drafts of legislation which were subsequently adopted by the General Assembly. However, the standing and special committee proposals developed with the aid of the Commission staff which were subsequently adopted by the General Assembly and approved by the Governor have not been included in the proposals referred to above.

**SERVICES TO  
STANDING  
COMMITTEES**

During the two-year period, beginning with the close of the 1963 Session and ending with the close of the 1965 Session, the Commission has been active in six major areas: health and safety; welfare; education; tourism and recreation; criminal law and penal institutions; and property rights. In recognition of the number and diversity of assignments referred to the Commission, the General Assembly specifically authorized the Executive Committee to establish project priorities.

**AREAS OF  
ACTIVITY**

House Resolution No. 98, Session of 1963, adopted by the House of Representatives on August 1 and agreed to in the Senate on the same day, which included all individual resolutions before both houses during the 1963 Session to the Joint State Government Commission, provides in part:

“RESOLVED, (the Senate concurring) That the above enumerated resolution shall constitute the study and investigation directives

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<sup>1</sup> For details, see tabulation, page 38.

from the General Assembly to the Joint State Government Commission; and be it further

“RESOLVED, That the Executive Committee of the Joint State Government Commission shall, taking into consideration the time and funds available therefor, determine the priority and extent of such studies and investigations and report to the General Assembly the commission’s findings and recommendations, with such drafts of legislation (to be prepared by the Legislative Reference Bureau) necessary to carry the recommendations into effect.”

## ORGANIZATION OF TASK FORCES

Over the years the Commission, which under the amendment of 1956 consists of “the entire membership of the House of Representatives and the entire membership of the Senate,” has evolved procedures which have been effectively employed in conjunction with the investigation and solution of problems facing the General Assembly. In response to a directive from the General Assembly in the form of a statute, a resolution, or a concurrent resolution, task forces, consisting of from six to eighteen members nominated by the President Pro Tempore of the Senate, the Speaker of the House, and the Minority Leaders, are organized and charged with the examination and evaluation of problems of legislative concern. Legislative task forces may be aided by advisors when authorized by the Executive Committee. Membership on advisory committees is composed of outstanding authorities in the sciences, the arts, and the professions, and of other citizens representing divergent points of view with respect to what they regard as “desirable” or “preferred” courses of action. There have been occasions when the Executive Committee has exercised its prerogative to sit as a task force.

If I may be permitted a few personal observations, throughout the nearly fifteen years of my stewardship I have been deeply impressed with the unselfish devotion to the tasks at hand by legislative members and advisors, the multiplicity of fact-finding methods employed by the Commission, and the variety and diversity of the problems which it has expeditiously solved. I am also certain that some technically intricate, politically complex problems would be still with us if it were not for the wisdom of the General Assembly of 1937 which established the Joint State Government Commission as “a *continuing*<sup>2</sup> joint legislative commission.”

## FACT-FINDING METHODS

There are numerous ways of ascertaining and establishing the facts. There is expert testimony. There is examination, verification, and validation of records. There is so-called “field” or “original” research which involves gathering, aggregating, and analysis of many individual observations that may relate to such diverse subjects as the concentration of air pollutants in different regions within the Commonwealth or the effect of the activities, aims, and aspirations of Pennsylvanians who in a given year graduated from high school upon Commonwealth scholarship policies. Over the years, the Commission has used whatever methods seemed most appropriate to the problems at hand.

Once established, the facts are put to numerous uses. They are used by citizens’ advisory committees and legislative task forces in conjunction with the formulation of policy proposals. The facts are made available to the Commission’s Executive Committee when it reviews policy proposals submitted by legislative task forces. Quite often the facts are incorporated in

<sup>2</sup> Throughout this report where italics appear, emphasis has been supplied.

a formal report which, together with "drafts of legislation . . . necessary to carry the recommendations into effect", is presented to "the entire membership of the House of Representatives and the entire membership of the Senate."

The confidence which members of the General Assembly have in the fact-finding methods of the Commission are evidenced by a sequence of events which occurred in 1964 and 1965.

House Resolution No. 9, Session of 1964, reads in part:

CANNED HEAT

"Existing law restricts the sale of methyl or wood alcohol and also requires that canned heat must be marked 'poison' on the label. There are those however, who no matter what a label may say, cannot control their desire for alcohol in any form they may obtain it. Canned heat has, for years, been a common source of alcohol for skid row residents, who risk serious illness, blindness and even death to satisfy their alcoholic needs.

"It has been suggested that one means of helping unfortunates who are either not able or not willing to help themselves would be the enactment of legislation requiring manufacturers of canned heat to put an *emetic* in the product, thereby discouraging its use as a beverage. Perhaps such legislation could also cover methyl or wood alcohol which falls into the hands of such persons from other sources; therefore be it

"RESOLVED, That the Joint State Government Commission be directed to study and investigate the feasibility of the enactment of a law requiring manufacturers of canned heat and other products containing methyl or wood alcohol which might be used as a beverage to put an *emetic* in the product; . . ."

Perusal of House Resolution No. 9 establishes a presumption that its sponsor had at least tentatively concluded that the addition of an emetic to canned heat and similar products could reasonably be expected to reduce the incidence of "serious illness, blindness and even death" among those who use these products as beverages. However, on examination of the facts, it became evident that competent medical opinion was emphatic that the addition of an emetic rather than lessen the hazards to health of "skid row residents" and other addicts would compound the dangers to life and limb attending the illegitimate use of wood alcohol products. On the strength of competent medical testimony, the task force, which was chaired by the sponsor of the resolution, discarded a preconceived notion and recommended that the alcoholic content of the products sold for other than beverage purposes be limited to 4 percent. The recommendation of the task force was accepted and is now the law of the land. The General Assembly is to be congratulated upon having created an environment in the Joint State Government Commission such that when preconception and fact collide, preconception does not necessarily prevail.

Though it is common practice for the General Assembly to call for recommendations and drafts of legislation to be submitted upon completion of a task force assignment, House Resolution No. 89, Session of 1963, illustrates the exception to the rule.

House Resolution No. 89 provides *inter alia*:

UNEMPLOYMENT  
COMPENSATION

"RESOLVED (the Senate concurring) That the Joint State Government Commission be directed, upon adjournment sine die of the



General Assembly to hold public hearings of the present status and program of unemployment compensation in the Commonwealth of Pennsylvania for the improvement thereof; and be it further

“RESOLVED, That the Joint State Government Commission make a *report of the hearings* to the General Assembly.”

Upon sine die adjournment a task force was appointed and charged with the holding of public hearings as directed by House Resolution No. 89, Session of 1963. Under date of November 19, 1963, the Joint State Government Commission issued a news release indicating that public hearings on unemployment compensation would be held beginning Wednesday, December 11, and invited interested parties to communicate with the Commission in order to facilitate the scheduling of witnesses. Subsequent to the news release, the task force held hearings on December 11, 12, 16, and 17, 1963. At the public hearings, 52 witnesses submitted oral or written testimony. The task force submitted a report to the Executive Committee under date of March 3, 1964, stating that meetings were held on November 19 and December 11, 1963 and on January 20 and March 3, 1964, that prior to the public hearings ground rules were established therefor, that public hearings were held on December 11, 12, 16, and 17, 1963. The task force report listed the witnesses who testified at the hearings and the persons who submitted statements and communications. The task force transmitted the transcript of the testimony submitted at the public hearings and indicated that it was deemed impractical to undertake a summarization of the testimony.

The record as transmitted by the task force to the Executive Committee consists of six volumes of testimony totaling 1,334 pages, one volume of statements, and one volume of communications.

## AUTOMOTIVE AIR POLLUTION

The critical importance of continuity in legislative deliberation is brought into bold relief by a cursory examination of the Commission's study of automotive air pollution.

The study of automotive air pollution was undertaken by the Executive Committee, enlarged for the purposes of the study by the appointment of eight legislative advisors, in response to Senate Resolution No. 2, Session of 1962, which directs:

“ . . . the Joint State Government Commission [to] make an investigation and study of the relationship of motor vehicle exhaust fumes to air pollution, smog, lung cancer and damage to health and property; to study the imminency of the danger of automobile exhaust fumes and to advise on the necessity of enacting legislation to require the mandatory use of a type of muffler device to remove poisonous gases escaping from motor vehicle exhausts; . . . ”

To facilitate a thorough and realistic evaluation of the chemical, engineering and health aspects of the problem, the Joint State Government Commission on May 8, 1962, appointed a panel of experts consisting of specialists in mechanical and sanitary engineering, chemistry, and public health.

The Panel of Technical Advisors engaged in an intensive study and comprehensive evaluation of the various aspects of the motor vehicle air pollution problem and, with members of the task force and legislative advisors, visited the General Motors Research Center in Detroit, the Taft Sanitary Engineering Center, the Toms River Biological Laboratory,

and the United States Public Health Service in Cincinnati, the United States Public Health Service in Washington and its Clinical Center in Bethesda, and the Sloan-Kettering Institute in New York. In the Los Angeles area, the Motor Vehicle Pollution Control Board, two air pollution control districts, the Scott Laboratories, Stanford Research Laboratories, and the Air Pollution Research Center at the University of California in Riverside were visited. In the San Francisco Bay area, visits were made to the State Department of Health, the Bay Area Air Pollution Control District, and the California Research Laboratory at Richmond.

The Executive Committee and the legislative advisors met periodically with the technical panel. The Executive Committee directed that the findings of fact, together with the panel's recommendations, be made available to the entire membership of the General Assembly. In accordance with this directive, the Commission in February 1963, submitted a report of the Panel of Technical Advisors on Automotive Air Pollution titled *Automotive Air Pollution* to the General Assembly.

The report of the Panel of Technical Advisors, taken in conjunction with their oral briefings of the Executive Committee, succinctly demonstrates the following facts: (1) there obtained marked differences in the rates of progress among manufacturers of motor vehicles relative to the redesign of internal combustion engines; (2) effective reduction in toxic air pollutants appeared to depend upon redesign of engines rather than changes in the chemistry of engine fuels; (3) the United States Public Health Service was getting increasingly involved in the solution to the problem; (4) some states, with California in the lead, were actively, but not altogether successfully, experimenting with regulations designed to reduce automotive air pollution.

In view of the rapid changes in automotive air pollution control technology, the Executive Committee continued the panel through 1963-1965. In November 1965, the Panel of Technical Advisors submitted a set of recommendations which is currently being reviewed by the Executive Committee with a view to publication of the full report for the information of all the members of the General Assembly.

Relative to the annual increase in the number of complex problems facing the General Assembly, the resources at the disposal of the Commission have become increasingly limited. The Executive Committee with the full cooperation of the task forces has courageously attacked this problem by initiating managerial economies without sacrifice in quality of technical staff services.

Examine, if you please, the managerial decision of the Executive Committee in the area of public education.

## MANAGERIAL ECONOMIES

In order to facilitate a broad and comprehensive reexamination of public education in Pennsylvania, three task forces were appointed and directed to study, respectively:

## EDUCATION

- (1) "Alternative methods of increasing the aggregate capacity of institutions of higher learning in the Commonwealth for whatever enrollment increases are deemed probable; and in particular, study the advantages and disadvantages, both financial and educational, associated with the establishment of colleges . . . within

commuting distance of prospective students in all areas in the Commonwealth”

- (2) “Feasibility and desirability of the establishment of a State Technical Institution for the eastern half of the Commonwealth of Pennsylvania”
- (3) “Uniform standards for education in all schools throughout the state, to insure equal opportunity for all children, regardless of place of residence”
- (4) “All phases of new school building construction, with a view to standardization . . .” and
- (5) “The laws of Pennsylvania relating to the operation and passing of school buses, with a view toward increased safety in the transportation of children to and from school and *to and from extra-curricular activities* in both daylight and darkness . . .”

#### SCHOOL BUS SAFETY

In view of the fact that the General Assembly appropriated \$500,000 (Act No. 42-A, 1964) to the Department of Public Instruction for the State Board of Education “. . . for the purpose of carrying out research projects . . .”, the task forces charged with the studies (1) through (4) concluded, with the concurrence of the Executive Committee, that rather than pursue independent studies, they should review and evaluate whatever reports and recommendations the State Board of Education might submit. However, the task force charged with the school bus safety activity surveyed school bus accident experience in Pennsylvania and in other states and recommended that existing legislation regarding school bus safety precautions applicable to buses transporting children from home to school should be made equally applicable to buses transporting children to and from extra-curricular activities. The recommendations of the task force were incorporated in Senate Bill No. 582, which was favorably acted upon by the General Assembly and approved by the Governor on July 29, 1965 (Act No. 155).

As regards the Commission's activities in the field of education, I would be amiss if I failed to remind you that a report titled *Pennsylvania High School Seniors, 1958: Their Mental Ability; Their Aspirations; Their Post-High School Activities* was submitted to you during the Session of 1964. This document has been widely acclaimed. An administrator in the Catholic school system advised the Commission under date of January 21, 1965, “The report, *Four Years After High School*, is very well done and you and your committee and staff deserve our grateful congratulations. I know it will help us substantially in guiding our own plans for curriculum development.” An open letter under date of February 16, 1965, to the members of the General Assembly from the Chamber of Commerce of Greater Philadelphia, advised, “Through your Joint State Government Commission you performed a signal service to the Commonwealth by calling attention in the Commission's report of July, 1964, to the distressing situation of education in Pennsylvania.”

#### FEDERAL INFLUENCE

The tasks of the General Assembly and in turn the operations of the Joint State Government Commission have become more involved because of the acceleration of Federal activities into an ever-increasing number of areas of public concern.

The impact of Federal decision-making upon the formulation of legislative policy on the State level is strikingly illuminated by the Commission activities in two areas: welfare and tourism-recreation.

## AUTOMOBILE GRAVEYARDS

Among the Commission's six surveys, in the area of tourism and recreation the study of automobile graveyards illustrates the incidence of Federal action upon State legislative activity. The automobile graveyard study was implemented by the Commission's Executive Committee pursuant to House Resolution No. 79, Session of 1963, which provides in part:

"WHEREAS, There is rising emphasis upon the image Pennsylvania presents esthetically to travelers upon our highways, . . .

"RESOLVED (the Senate concurring), That the Joint State Government Commission study and investigate the problem of the removal of automobile graveyards from beyond highway view, . . ."

The task force organized on June 3, 1964 and directed that a general survey of graveyard locations be made. At that time, the Federal Government appeared not to be actively interested in the problem under review and the task force proceeded with its deliberations and in its consultations with various State administrative agencies. Toward the end of 1964, the daily press reported that President Johnson had become concerned with highway beautification. On inquiry, the Commission, under date of January 13, 1965, was advised by the United States Department of the Interior:

"Conservation is assuming a totally different role in the United States today, . . . The Administration which is now ending has given more weight to the quality of our living space than any of those that preceded it, and we can assure you that there will be even greater emphasis on a clean and healthful environment for Americans in the opening days of President Johnson's full term of office. The Chief Executive has publicly expressed his concern over the problem of automobile graveyards and similar problem areas, and it is our belief that this concern will be translated into action during the forthcoming 89th Congress.

"President Johnson's conservation recommendations have not been released to the public and, therefore, it would not be appropriate for us to comment at this time. . . ."

On Monday, February 8, 1965, in his Message to Congress on Natural Beauty, President Johnson noted:

"In addition, we need urgently to work toward the elimination or screening of unsightly, beauty-destroying junkyards and auto graveyards along our highways. To this end, I will also recommend necessary legislation to achieve effective control, including Federal assistance . . ."

On July 14, 1965, the task force resolved:

- a. "That an additional fee of \$1.00 be imposed upon the transfer of all vehicle titles within the Commonwealth of Pennsylvania, to be earmarked for the purpose of disposing of automobile bodies and screening automobile graveyards"; and
- b. "That new automobile graveyards be prohibited from locating within 1,000 feet of a highway, that existing automobile graveyards be screened, and that automobile graveyards be licensed under the jurisdiction of the Department of Highways."

On October 22, 1965, the Federal Highway Beautification Act of 1965 became law. This act provides Federal subventions to states taking specified action with respect to the regulation and control of automobile graveyards.

During the 1965 Session of the Pennsylvania General Assembly, House Bill No. 1783 and Senate Bill No. 1158 embodying recommendations contemplating the regulation of automobile graveyards were introduced. Both of these bills were on the House calendar on January 4, 1966.

Under date of December 7, 1965, the Commission advised the Majority Leader and the Minority Leader of the House as follows:

"In response to your inquiry of this morning, please be advised as follows:

"It is our judgment that the language . . . which was inserted as an amendment on November 17, 1965, . . . jeopardizes the receipt of Federal highway aid funds since the Federal act providing for junkyard control encompasses scrap processing facilities in its definition of junkyards. House Bill 1783 could be amended to limit the exemption of such processors to the maximum extent permitted by the Federal law.

"You may wish to note that House Bill 1783 was introduced prior to the enactment of the Federal act controlling junkyards. Comparison of the Federal act and House Bill 1783, Printer's No. 3007, clearly indicates a need to modify the provisions of the House bill so as to be in accord with the provisions of the Federal law."

PENNSYLVANIA  
NATIONAL GUARD  
INSURANCE

At times, legislation on the State level depends for final consummation upon the affirmative action of some Federal administrative agency or department. For example, the Commission, pursuant to House Resolution No. 87 and Senate Resolution No. 69, Session of 1963, in ascertaining and evaluating insurance—workmen's compensation—and State retirement—coverage of Pennsylvania National Guardsmen, observed, in *Pennsylvania National Guard Insurance* (1965), page 11, *inter alia*:

"Section 709(f) of Title 32, United States Code, authorizes United States Government contributions to retirement systems in an amount not to exceed 6½ percent of technician compensation. Federal regulations require that employer Social Security contributions be deducted from this 6½ percent. The remainder is insufficient to pay the employer cost of State Employees' Retirement System coverage; hence, Pennsylvania National Guard technicians are not covered and are losing potential federal contributions of approximately \$480,000.00 annually."

and recommended that:

". . . the State Employees' Retirement Code be amended to obtain for the technicians the advantage of the available federal contributions without cost to the Commonwealth, or, alternatively, that the code be amended to provide for full Class A coverage with the Commonwealth paying the balance of the employer contributions, with or without credit for prior technician service."

The recommendation of the task force was incorporated in Senate Bill No. 383, House Bill No. 877, and House Bill No. 1530. House Bill No. 1530 was favorably acted upon by the General Assembly and approved by the Governor on July 29, 1965 (Act No. 153). However, as per the Departments of the Army and the Air Force and National Guard regulations, State system retirement coverage cannot become operative unless and until the Commonwealth of Pennsylvania and the Secretary of Defense

execute a written agreement. As of the writing of this report, no such agreement has been executed.

So far I have discussed with you Commission activities concerned with the establishment of facts and the formulation of legislative proposals relating to these facts. In addition to these activities, the Commission has been engaged in the codification and revision of extensive bodies of the law. As a matter of fact, in the codification and revision areas the record of the Commission in terms of percentage of proposals adopted by the General Assembly is almost perfect.

Though I share your pride in this record, it behooves me to point out that credit for this accomplishment is in large measure attributable to the wise counsel and the competent guidance of the members of citizens' advisory committees who have given unselfishly and unstintingly of their time and their talents. To these men I pay the highest tribute! And again extend to each of them the grateful thanks of the Joint State Government Commission and of the Commonwealth!

Back in 1945 the General Assembly committed to the Joint State Government Commission the task of updating Pennsylvania's decedents' estates laws, which had last been codified in 1917.

To assist in this undertaking, the Commission enlisted the aid of one of its first advisory committees, which was comprised of leading decedents' estates scholars, practitioners and jurists.

The basic laws were enacted in the Sessions of 1947, 1949, and 1951. Their structures have been continuously reviewed and updated. In addition to the basic decedents' estates laws, the Commission and its advisory committee drafted a modern Inheritance and Estate Tax Act which was adopted by the General Assembly in 1961.

In order to keep all these statutes abreast of the times, the advisory committee<sup>3</sup> was reactivated in 1953, 1955, 1957, 1960, 1961, and 1963.

During the 1965 Session of the General Assembly recommendations in this area were embodied in sixteen bills which were enacted into law. The amendments enacted by the 1965 Session follow:

Act No. 477 amends the Wills Act to include an additional rule for interpretation of wills with respect to ademption where the testator is an adjudged incompetent.

Act No. 474 amends the Intestate Act so that children of first cousins will not share in an intestate estate if there is a living first cousin.

Act No. 362 amends the Fiduciaries Act to permit a foreign fiduciary to deal with bank accounts in Pennsylvania financial institutions in a manner similar to requirements for dealing with securities.

Act No. 473 repeals Section 411.1 of the Incompetents' Estates Act of 1955, which was added in 1963, and substitutes a new Section 645 which provides that the court may authorize the guardian to retain as a reserve for funeral expenses assets of an incompetent not exceeding six hundred dollars in value.

Act No. 478 and Act No. 479 amend the Fiduciaries Act and the Incompetents' Estates Act by adding sections dealing with failure to present

## CODIFICATIONS

### DECEDENTS' ESTATES LAWS

Wills Act

Intestate Act

Fiduciaries Act  
and  
Incompetents'  
Estates Act

<sup>3</sup> For present membership, see page 22.

claims at the audit of guardians' and trustees' accounts conforming the law to Section 616 of the Fiduciaries Act governing claims against decedents' estates.

Act No. 480 amends the Fiduciaries Act to provide when interest or income on a legacy payable at a future date shall begin to run, thus removing the uncertainty in such cases.

Act No. 481 amends the Fiduciaries Act to conform with the decisions of the Pennsylvania Supreme Court and to further clarify what is existing law with respect to title acquired from the personal representative.

Act No. 482 amends the Fiduciaries Act by providing that the right of an heir or devisee in possession of real estate shall be superior to that of the personal representative only when the heir or devisee was in possession thereof at death with the consent of the decedent.

Act No. 483 amends Section 202 of the Fiduciaries Act to include vacation benefits and thus conform to a 1963 change to Section 201, and amends Sections 212-215 to conform these sections to a 1963 amendment to Section 211 which made the family exemption available to parents.

Orphans' Court Act

Act No. 475 amends the Orphans' Court Act to confirm the orphans' court's jurisdiction to reform or set aside an inter vivos trust consistent with the court's exclusive jurisdiction of such proceedings.

Act No. 476 amends the Orphans' Court Act to give the orphans' court exclusive jurisdiction of certain nonprofit corporations organized for charitable purposes.

Inheritance and  
Estate Tax Act

Act No. 485 amends the Inheritance and Estate Tax Act to extend the time for filing the tax return from one year to fifteen months, thus conforming to the fifteen-month period for filing the Federal estate tax return. The three-month discount period is not changed.

Estate Tax  
Apportionment  
Act

Act No. 484 amends the Estate Tax Apportionment Act to conform with Section 718(a) of the Inheritance and Estate Tax Act of 1961, to preserve as much of the marital and charitable deduction as possible where such interests are part of the residuary disposition and there is another residuary fund against which tax may be apportioned.

Business  
Corporation Law

Act No. 519 amends, *inter alia*, Section 507 of the Business Corporation Law to include provisions concerning voting by joint holders of shares.

The Vehicle Code

Act No. 324 amends The Vehicle Code to facilitate the transfer of certificate of title and registration of a decedent's vehicle to a surviving spouse or his designee without the necessity of letters, notwithstanding there may be minor children surviving the decedent.

EMINENT DOMAIN

Among the notable achievements of the General Assembly during the period covered by this report was the enactment in the Special Session of 1964 of the Eminent Domain Code. The history of this study and the preparation of the code, together with its text and pertinent Comments, are contained in the *1964 Report—Eminent Domain Code*.

The code improves the law and procedure in the exercise of the powers of eminent domain presently vested in condemnors by the Constitution and by statute. It does not enlarge or abridge the power of condemnation presently possessed by any condemnor, nor does it change the method by which a condemnor proceeds to condemn. The change in the law begins with the actual taking of property and the passage of title thereto. This enactment brings a higher degree of certainty and protection to all parties concerned.

The Governor has referred to the code as “. . . the fairest and broadest . . . there is in any state in the Union . . . it has been played up as a model for the whole United States. . . .”

When a new code becomes operative, the need for some revision arises. The Executive Committee, acting anticipatorily, reactivated the Advisory Committee on Eminent Domain Law<sup>4</sup> for the purpose of screening proposed amendments and recommending needed changes.

The product of this endeavor was embodied in House Bill No. 2275, which passed the House on December 16, 1965.

House Bill No. 2272, a proposed “act to consolidate, amend, and revise the penal laws of the Commonwealth,” which was introduced on December 8, 1965, embodies the recommendations of the Commission developed in response to Senate Resolution No. 15, Session of 1963.

The fact that a bill of some 190 pages dealing with a subject which is “the keystone of effective law enforcement” could be designed and drafted within the short span of but two years is attributable to a number of factors: some adventitious and some implicit in established Commission procedures.

In the first place, contemporary Pennsylvania penal law which is based upon the code of 1860 (Act of 1860, March 31, P. L. 382) somewhat modified and broadened by the consolidation of several crimes acts in the code of 1939 (Act of 1939, June 24, P. L. 872) was intensively reviewed by the Commission over the period 1945–1951. The Commission recommendations were embodied in bills which passed both houses of the General Assembly twice. And, since then the Commission has kept the proposed act up-to-date by the inclusion of all subsequent amendments to the Penal Code.

Second, the American Law Institute, after some ten years of deliberation commencing in 1952, published a *Model Penal Code* in 1962, and the Pennsylvania Bar Association created a committee for the specific purpose of evaluating the applicability of the provisions of the model code to Pennsylvania law.

Last, but not least, when proceeding to implement Senate Resolution No. 15 of the Session of 1963, the Commission succeeded in obtaining the wholehearted cooperation of the legislative members and advisors<sup>5</sup> who had participated in the preparation of the codes proposed in 1947, 1949, and 1951.

House Bill No. 2272, Printer's No. 3026, represents the culmination of the joint effort of the task force and advisors collaborating throughout 1963–1965 with the Pennsylvania Bar Association.

In addition to streamlining the criminal law, the bill treats the whole subject from a modern point of view, discarding the obsolete and introducing new approaches to meet present-day conditions. In House Bill No. 2272, crimes are defined and penalties are determined according to a consistent pattern. Among the more significant provisions are those setting forth general principles of liability, justification and responsibility, and the treatment of inchoate crimes. In addition, crimes are classified in broad categories which include murder, three degrees of felonies, three degrees

## PENAL LAWS

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<sup>4</sup> For membership, see pages 22 and 23.

<sup>5</sup> For membership, see page 21.



of misdemeanors and summary offenses, with penalties appropriate to the seriousness of each class of crime.

The Commission is in the process of preparing, for the use of the General Assembly, informative notes relating to the organization of the material contained in the proposed code, source material, and Pennsylvania annotations.

PENAL INSTITUTIONS,  
PROBATION AND PAROLE

Another Commission accomplishment, in the area of criminal law and correctional institutions, is the preparation, introduction, and adoption of 12 bills contemplating a total modernization of correctional practice.

This study was originally instituted in response to Senate Concurrent Resolution No. 108, adopted on August 15, 1961, after the abortive prison break at the Eastern State Correctional Institution in Philadelphia in January 1961, and was continued in 1963 by Senate Concurrent Resolution No. 110.

The task force, appointed in 1961 and reappointed in 1963, was aided by an advisory committee,<sup>6</sup> the membership of which included experts in penology and the law and, for the first time in the history of the Commission, the media of communications. In addition, the Commission was fortunate to have placed at its disposal the resources of The American Foundation, of Philadelphia, a private research organization, which made a detailed study of and developed a comprehensive operational philosophy, policy, and program.

Preliminary findings and recommendations are contained in the Report of the Advisory Committee, *Penal Institutions, Probation and Parole* submitted to the General Assembly in 1963.

Legislatively, this four-year enterprise was climaxed by the following statutory enactments:

State Prisons

Act No. 472 provides for the construction in the Philadelphia area of a correctional facility for criminological diagnosis, classification, social and psychological treatment and research, medical treatment and staff training—the first such institution in Pennsylvania history.

This facility will provide for:

(1) A reception and guidance center with diagnostic, classification, and program planning facilities for a capacity of approximately three hundred inmates;

(2) A medical center for the medical and psychiatric diagnostic and treatment of male patients, with a capacity of approximately seventy beds in the medical surgical section and approximately one hundred fifty beds in the psychiatric section;

(3) A correctional treatment center, with two units—(i) a correctional treatment unit for a capacity of approximately three hundred fifty and (ii) a maintenance unit of minimum custodial type construction for a capacity of approximately one hundred fifty;

(4) A correctional personnel training institute;

(5) A correctional research institute; and

(6) Other facilities necessary to carry out an effective correctional program and to effectively separate functional and physical relationships of the several programs.

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<sup>6</sup> For membership, see page 20.

Act No. 137-A appropriates \$500,000 for the establishment of several State agricultural and forestry adult penal facilities and specialized training facilities for youthful offenders. These will accommodate good risk inmates now occupying maximum security facilities.

Agricultural and Forestry  
Prison Camps

Act No. 502 provides for creation of regional prisons to relieve the burden on county jails for long-term prisoners serving five years or more. This would establish responsibility on the part of the State for long-term prisoners and of the counties for short-term prisoners and detentioners.

Regional Prisons

Act No. 491 establishes facilities for prisoners on sites of nonpenal institutions where good risk inmates can be employed in productive work at other State institutions.

Satellite Prisons

Act No. 138-A appropriates \$18,000 for a prisoner prerelease center to prepare inmates for reentering community life prior to expiration of sentence or parole.

Prerelease Centers

Act No. 501 creates a new Pennsylvania Board of Probation and Parole to succeed the present Pennsylvania Board of Parole, increasing the number of its members and extending its duties and powers to implement the over-all correctional policy of the Commonwealth.

Probation and Parole

Act No. 439 extends the initial examination period from sixty to ninety days and the psychiatric examination period after confinement from six months to twelve months for prisoners committed under the Barr-Walker Act, which permits a sentence for a minimum of one day and a maximum of his natural life.

Act No. 503 requires the Commissioner of Mental Health to organize and institute intensive and specialized training of mental health personnel and to provide the services of such professionals to the Pennsylvania Board of Probation and Parole for dealing with specialized problems presented by the criminal population.

Act No. 471 requires that presentence investigations be made whenever the statutory maximum sentence is two years or more and establishes standards for such investigations. This will provide the court with a full background of the defendant to make possible more intelligent sentencing and more rapid processing through diagnostic and classification centers in Philadelphia and Pittsburgh.

Presentence Investigation and  
Transfer of Prisoners

Act No. 470 and Act No. 561 further facilitate the transfer of prisoners from one institution to another when circumstances or emergencies require.

Act No. 438 requires all correctional facilities henceforth to submit to the Department of Justice the reports required by law.

Reporting

These proposals have been hailed by the press in Pennsylvania as much-needed reforms to "Pennsylvania's archaic prison system." In the words of the President of the Philadelphia Crime Commission, "Crime and the criminal can be brought under more effective control . . . with the legislative approval of [these] reforms."

As regards all Commission codifications and revisions, permit me to point out that it has been the practice to furnish comments of the drafters to the General Assembly. This practice has been followed in all of the major codifications submitted by the Joint State Government Commission and it is worthy of note that the Supreme Court has stated that these Comments may be considered in determining legislative intent and the courts have interpreted the statutes by reference to such Comments.

LEGISLATIVE INTENT

## II

# ADVISORY COMMITTEES

Over the 29 years of its existence, the Joint State Government Commission has painstakingly built a solid reputation for technically proficient, objective research. It is by virtue of that reputation that the Commission has been eminently successful when soliciting the aid, counsel, advice, and guidance of scientists of distinction, established authorities in the professions and recognized men of affairs associated with labor, management, and civic endeavor. All these men and women have given generously of their time without compensation. Their reward resides in their knowledge that theirs has been a unique contribution to the commonweal.

I have the honor to present the members of the advisory committees who participated in Commission activities between 1963 and 1965.

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\* Deceased, July 1965.

\*\* Transferred to London office.

\*\*\* On leave for one year as exchange professor at Israel Institute of Technol-  
ogy, Haifa, Israel.

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Judge of the Superior Court

\* Term expired.

\*\* Now at University of California Law School, Berkeley, California.

\*\*\* Retired.

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\*\*\* Resigned as Dean, Dickinson School of Law.

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\* Term expired.

\*\* Resigned as Dean, Dickinson School of Law.



# III

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CRIMINAL LAW,  
PENAL INSTITUTIONS  
AND  
THE JUDICIAL PROCESS

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## PENAL LAWS

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Thomas J. Kalman	Martin Silvert*

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Joseph H. Goldstein, <i>Vice Chairman</i>	George W. Heffner
Charles A. Auker	Thomas F. Lamb
Robert J. Butera	Jeanette F. Reibman
J. Woodrow Cooley	Louis Sherman
John R. Gailey, Jr.	Warren H. Spencer
Freeman Hankins	William A. Steckel

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\* Deceased.

## ESCHEAT LAWS

### *Senate Members*

Preston B. Davis, <i>Chairman</i>	Benjamin R. Donolow
Clarence D. Bell	Paul W. Mahady
John H. Devlin	Walter E. Morris

### *House Members*

Evan S. Williams, <i>Vice Chairman</i>	Harry A. Kramer
Amin A. Alley	John B. McCue
John E. Backenstoe	Austin J. Murphy
Eugene Gelfand	James F. Prendergast
H. Joseph Hepford	Matthew J. Ryan
H. Beryl Klein	Edward P. Zempelli

## APPENDIX

BILLS (1964 AND 1965 SESSIONS) EMBODYING  
JOINT STATE GOVERNMENT COMMISSION RECOMMENDATIONS

Subject	Bill No.	Approved by Governor	Act No.
(1)	(2)	(3)	(4)
<b>EDUCATION</b>			
School Bus Safety	Senate Bill 582	July 29, 1965	155
<b>HEALTH AND SAFETY</b>			
Emergency Truck Braking Systems	House Bill 1346	January 24, 1966	526
Canned Heat	House Bill 1425	February 2, 1966	588
<b>WELFARE</b>			
Pennsylvania National Guard Insurance	Senate Bill 170	July 23, 1965	141
	Senate Bill 178		
	Senate Bill 179		
	Senate Bill 383*	[Provisions incorporated in House Bill	
	House Bill 877*	No. 1530 (Act No. 153)]	
<b>TOURISM</b>			
Automobile Graveyards	House Bill 1782*		
	Senate Bill 1157*		
	House Bill 1783*		
	Senate Bill 1158*		
<b>CRIMINAL LAW AND PENAL INSTITUTIONS</b>			
Crimes Code	House Bill 2272		
Penal Institutions	Senate Bill 675	December 22, 1965	470
	Senate Bill 676	December 22, 1965	491
	Senate Bill 677	December 27, 1965	501
	Senate Bill 678	December 27, 1965	502
	Senate Bill 679		
	Senate Bill 680	January 26, 1966	561
	Senate Bill 681	December 22, 1965	438
	Senate Bill 682**		
	Senate Bill 683	December 22, 1965	471
	Senate Bill 684	December 22, 1965	439
	Senate Bill 685	December 22, 1965	472
	Senate Bill 686	December 27, 1965	503
	Senate Bill 687	January 21, 1966	137-A
	Senate Bill 688	January 21, 1966	138-A

\* Identical bills.

\*\* Alternative bill.

Subject	Bill No.	Approved by Governor	Act No.
(1)	(2)	(3)	(4)
<b>PROPERTY RIGHTS</b>			
Eminent Domain	House Bill 1 (Special Session)	June 22, 1964	6
	House Bill 2275		
Decedents' Estates Laws	Senate Bill 867	December 22, 1965	473
	Senate Bill 868	December 22, 1965	474
	Senate Bill 869	December 22, 1965	475
	Senate Bill 870	December 22, 1965	476
	Senate Bill 871***		
	Senate Bill 872	December 22, 1965	477
	Senate Bill 873	December 1, 1965	362
	Senate Bill 874	December 22, 1965	478
	Senate Bill 875	December 22, 1965	479
	Senate Bill 876	December 22, 1965	480
	Senate Bill 877	December 22, 1965	481
	Senate Bill 878	December 22, 1965	482
	Senate Bill 879	December 22, 1965	483
	Senate Bill 880	December 22, 1965	484
	Senate Bill 881***		
	Senate Bill 882		
	Senate Bill 883	December 22, 1965	485
	Senate Bill 884		
	Senate Bill 885		
	Senate Bill 886	November 9, 1965	324
	Senate Bill 887	[Provisions incorporated in Senate Bill No. 734 (Act No. 519)]	

\*\*\* Companion bills.