

No. 1980-164

A SUPPLEMENT

HB 962

To the act of April 9, 1929 (P.L.177, No.175), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," implementing the addition of section 4.1 to Article IV of the Constitution of Pennsylvania; establishing the Office of Attorney General elected by the citizens and setting forth powers and duties of the Attorney General; creating an Office of General Counsel and providing for legal services for Commonwealth agencies; transferring, reorganizing or reconstituting certain boards, commissions and agencies; placing certain duties upon the courts and district attorneys; repealing certain acts and parts of acts and making appropriations.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

**CHAPTER 1
GENERAL PROVISIONS**

Section 101. Short title.

This act shall be known and may be cited as the "Commonwealth Attorneys Act."

Section 102. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Action." Any action at law or in equity.

"Commonwealth agency." Any executive agency or independent agency.

"Executive agency." The Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth government, but the term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, or any independent agency.

"Independent agency." The Department of the Attorney General, the Pennsylvania Fish Commission, the Pennsylvania Game Commission, the Historical and Museum Commission, the State Civil Service Commission, the Pennsylvania Turnpike Commission, the Milk Marketing Board, the Pennsylvania Liquor Control Board, the Pennsylvania Human Relations Commission, the Pennsylvania Labor Relations Board, the Pennsylvania Securities Commission, the State Tax Equalization Board, Pennsylvania Higher Education Assistance Agency, the Pennsylvania Crime Commission, and the State Ethics

Commission. Except for the provisions of section 204(b) and (f), and for actions pursuant to 42 Pa.C.S. § 5110 (relating to limited waiver of sovereign immunity), for the purposes of this act the Department of the Auditor General, including the Board of Claims, State Treasury and the Public Utility Commission shall not be considered either executive agencies or independent agencies.

“Matter.” Action, proceeding or appeal.

Section 103. Standing to question legal representation.

No party to an action, other than a Commonwealth agency including the Departments of Auditor General and State Treasury and the Public Utility Commission, shall have standing to question the authority of the legal representation of the agency.

CHAPTER 2 OFFICE OF ATTORNEY GENERAL

Section 201. Established as an independent department.

(a) General provisions.—The Office of Attorney General shall be an independent department and shall be headed by the Attorney General. The Attorney General shall exercise such powers and perform such duties as are hereinafter set forth. As an independent administrative department the Office of Attorney General shall be subject to the same limitations contained in the act of April 9, 1929 (P.L.177, No.175), known as “The Administrative Code of 1929,” and all other acts as are applicable to the independent Department of Auditor General or State Treasury.

(b) Consumer Advocate.—The Attorney General shall appoint a Consumer Advocate which appointment shall be subject to the approval of a majority of the members elected to the Senate. The Consumer Advocate shall perform the duties and have the powers set forth in Article IX-A of “The Administrative Code of 1929.”

(c) Bureaus, divisions and personnel.—The Attorney General shall appoint and fix the compensation of a first deputy attorney general, a director of the Bureau of Consumer Protection and such other deputies, officers and employees who may, at any time, exercise such powers and perform such duties as may be prescribed by the Attorney General. The Attorney General may establish such bureaus or divisions as may be required for the proper conduct of the office, including a criminal investigation bureau.

Section 202. Vacancy in office.

In the event of a vacancy in the position of Attorney General, the Governor shall nominate, in accordance with the provisions of the Constitution of Pennsylvania and, by and with the advice and consent of two-thirds of the members elected to the Senate, appoint a person to fill the position for the balance of the unexpired term of the Attorney General. Whenever there shall be a vacancy in the position of Attorney General, the first deputy shall exercise the powers and perform the duties of the Attorney General until the vacancy is filled.

Section 203. Salary.

The Attorney General shall receive a salary which shall be \$55,000.

Section 204. Legal advice and civil matters.**(a) Legal advice.—**

(1) Upon the request of the Governor or the head of any Commonwealth agency, the Attorney General shall furnish legal advice concerning any matter or issue arising in connection with the exercise of the official powers or the performance of the official duties of the Governor or agency. The Governor may request the advice of the Attorney General concerning the constitutionality of legislation presented to him for approval in order to aid him in the exercise of his approval and veto powers and the advice, if given, shall not be binding upon the Governor. In all other cases the advice when received shall be followed and, when followed, the recipient shall not in any way be liable for doing so, upon his official bond or otherwise.

(2) If the Governor or the head of any Commonwealth agency disagrees with the legal advice rendered by the Attorney General, the Governor or the head of the Commonwealth agency may seek a declaratory judgment in the Commonwealth Court pursuant to 42 Pa.C.S. Ch.75 Subch. C (relating to declaratory judgments). The legal advice of the Attorney General shall be binding until the Commonwealth Court issues a final order on the petition requesting the declaratory judgment.

(3) It shall be the duty of the Attorney General to uphold and defend the constitutionality of all statutes so as to prevent their suspension or abrogation in the absence of a controlling decision by a court of competent jurisdiction.

(4) Before the Attorney General shall render any opinion interpreting any appropriation act, or any act authorizing the expenditure of money, he shall notify the Departments of the Auditor General, the State Treasury and the Secretary of Budget and Administration of the question upon which his opinion has been requested, and afford to these departments an opportunity to present any views which they may have upon such question.

(b) Commonwealth agencies; rules and regulations.—The Attorney General shall review for form and legality, all proposed rules and regulations of Commonwealth agencies before they are deposited with the Legislative Reference Bureau as required by section 207 of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law." If the Attorney General determines that a rule or regulation is in improper form, not statutorily authorized or unconstitutional, he shall notify in writing within 30 days after submission the agency affected, the Office of General Counsel, and the General Assembly through the offices of the Secretary of the Senate and the Chief Clerk of the House of Representatives of the reasons for the determination. The Commonwealth agency may revise a rule or regu-

lation to meet the objections of the Attorney General and submit the revised version for his review. Should the agency disagree with the objection, it may promulgate the rule or regulation with or without revisions and shall publish with it a copy of the Attorney General's objections. The Attorney General may appeal the decision of the agency by filing a petition for review with the Commonwealth Court in such manner as is provided for appeals from final orders of government agencies pursuant to 42 Pa.C.S. § 763 (relating to direct appeals from government agencies) and may include in the petition a request for a stay or supersedeas of the implementation of the rule or regulation which upon a proper showing shall be granted. If a rule or regulation has been submitted to the Attorney General and he has not approved it or objected to it within 30 days after submission, the rule or regulation shall be deemed to have been approved.

(c) Civil litigation; collection of debts.—The Attorney General shall represent the Commonwealth and all Commonwealth agencies and upon request, the Departments of Auditor General and State Treasury and the Public Utility Commission in any action brought by or against the Commonwealth or its agencies, and may intervene in any other action, including those involving charitable bequests and trusts or the constitutionality of any statute. The Attorney General shall represent the Commonwealth and its citizens in any action brought for violation of the antitrust laws of the United States and the Commonwealth. The Attorney General shall collect, by suit or otherwise, all debts, taxes and accounts due the Commonwealth which shall be referred to and placed with the Attorney General for collection by any Commonwealth agency; the Attorney General shall keep a proper docket or dockets, duly indexed, of all such claims, showing whether they are in litigation and their nature and condition. The Attorney General may, upon determining that it is more efficient or otherwise is in the best interest of the Commonwealth, authorize the General Counsel or the counsel for an independent agency to initiate, conduct or defend any particular litigation or category of litigation in his stead. The Attorney General shall approve all settlements over such maximum amounts as he shall determine arising out of claims brought against the Commonwealth pursuant to 42 Pa.C.S. § 5110.

(d) Administration of consumer affairs programs.—The Attorney General shall administer the provisions relating to consumer protection set forth in sections 917 through 922 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," and appoint the advisory committee established under section 922.

(e) Limitations in civil litigations.—The Attorney General shall not agree to the entry of a consent decree in any action against the Commonwealth or any agency without the approval of the Governor and notice to the General Assembly through the offices of the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) Deeds, leases, contracts and fidelity bonds.—The Attorney General shall review for form and legality, all Commonwealth deeds, leases and contracts to be executed by Commonwealth agencies; if the Attorney General determines that a deed, lease, or contract is in improper form, not statutorily authorized or unconstitutional, he shall notify in writing within 30 days after its submission the agency affected, the Office of General Counsel, and the General Assembly through the offices of the Secretary of the Senate and the Chief Clerk of the House of Representatives. The agency may rewrite the deed, lease or contract to meet the objections of the Attorney General. If the agency disagrees with the objection of the Attorney General, it may appeal the decision of the Attorney General by filing a Petition for Review with the Commonwealth Court in such manner as is provided for appeals from final orders of government agencies pursuant to 42 Pa.C.S. § 763 (relating to direct appeals from government agencies). If an instrument has been submitted to the Attorney General and he has not approved it or submitted his objection within 30 days after submission, the instrument shall be deemed to have been approved; the Attorney General may prepare uniform instrument forms and preapprove all such documents which are prepared in accordance with such forms and applicable instructions. The Attorney General shall likewise continue to approve all fidelity, surety, performance and similar bonds as required by law to be submitted to the Attorney General or the former Department of Justice.

Section 205. Criminal prosecutions.

(a) Prosecutions.—The Attorney General shall have the power to prosecute in any county criminal court the following cases:

(1) Criminal charges against State officials or employees affecting the performance of their public duties or the maintenance of the public trust and criminal charges against persons attempting to influence such State officials or employees or benefit from such influence or attempt to influence.

(2) Criminal charges involving corrupt organizations as provided for in 18 Pa.C.S. § 911 (relating to corrupt organizations).

(3) Upon the request of a district attorney who lacks the resources to conduct an adequate investigation or the prosecution of the criminal case or matter or who represents that there is the potential for an actual or apparent conflict of interest on the part of the district attorney or his office.

(4) The Attorney General may petition the court having jurisdiction over any criminal proceeding to permit the Attorney General to supersede the district attorney in order to prosecute a criminal action or to institute criminal proceedings. Upon the filing of the petition, the president judge shall request the Supreme Court to assign a judge to hear the matter. The judge assigned shall hear the matter within 30 days after appointment and make a determination as to whether to allow supersession within 60 days after the hearing.

The district attorney shall be given notice of the hearing and may appear and oppose the granting of the petition. Supersession shall be ordered if the Attorney General establishes by a preponderance of the evidence that the district attorney has failed or refused to prosecute and such failure or refusal constitutes abuse of discretion. Either party may appeal to the Supreme Court which appeal shall be heard and determined within 45 days after filing.

(5) When the president judge in the district having jurisdiction of any criminal proceeding has reason to believe that the case is a proper one for the intervention of the Commonwealth, he shall request the Attorney General to represent the Commonwealth in the proceeding and to investigate charges and prosecute the defendant. If the Attorney General agrees that the case is a proper one for intervention, he shall file a petition with the court and proceed as provided in paragraph (4). If the Attorney General determines that the case is not a proper case for intervention, he shall notify the president judge accordingly.

(6) Criminal charges investigated by and referred to him by a Commonwealth agency arising out of enforcement provisions of the statute charging the agency with a duty to enforce its provision.

(7) Indictments returned by an investigating grand jury obtained by the Attorney General.

(8) Criminal charges arising out of activities of the State Medicaid Fraud Control Unit as authorized by Article XIV (relating to fraud and abuse control), act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," and the Federal law known as the "Medicare-Medicaid Antifraud and Abuse Amendments."

(b) Concurrent jurisdiction to prosecute.—The Attorney General shall have the concurrent prosecutorial jurisdiction with the district attorney for cases arising under subsection (a)(1), (2) and (6) and may refer to the district attorney with his consent any violation or alleged violation of the criminal laws of the Commonwealth which may come to his notice.

(c) Criminal appeals.—In any criminal action in which there is an appeal, the Attorney General may in his discretion, upon the request of the district attorney, prosecute the appeal; he may intervene in such other appeals as provided by law or rules of court.

(d) Powers when prosecuting.—Whenever the Attorney General prosecutes a criminal action, or appeal, he may employ such special deputies as are necessary for that purpose; such deputies shall take the oath of office and be clothed with all the powers, and subject to all the liabilities imposed by law upon district attorneys, including the power to sign informations or indictments. Whenever the Attorney General intervenes in a criminal action, the costs incurred as a result of the intervention shall be paid by the Commonwealth.

Section 206. Law enforcement and criminal investigations; investigating grand juries.

(a) Law enforcement; criminal investigations.—The Attorney General shall be the chief law enforcement officer of the Commonwealth; the district attorney shall be the chief law enforcement officer for the county in which he is elected. The Attorney General shall have the power to investigate any criminal offense which he has the power to prosecute under section 205; he shall continue the existing programs relating to drug law enforcement. The Pennsylvania State Police shall cooperate with the Attorney General and furnish such services as the Attorney General shall request.

(b) Investigating grand juries.—The Attorney General shall convene and conduct investigating grand juries as provided in the act of November 22, 1978 (P.L.1148, No.271), known as the "Investigating Grand Jury Act."

Section 207. Membership on agencies.

The Attorney General shall serve as a member of the Board of Pardons and he, or his designated deputy, shall serve as a member of the Joint Committee on Documents, the Hazardous Substances Transportation Board, the Board of Finance and Revenue, the Pennsylvania Commission on Crime and Delinquency, the Pennsylvania Emergency Management Agency, the Civil Disorder Commission and the Municipal Police Officers Education and Training Commission.

Section 208. Access to books and papers.

The Office of Attorney General shall have the right to access at all times to the books and papers of any Commonwealth agency necessary to carry out his duties under this act.

CHAPTER 3 OFFICE OF GENERAL COUNSEL

Section 301. General Counsel.

There is hereby established the Office of General Counsel which shall be headed by a General Counsel appointed by the Governor to serve at his pleasure who shall be the legal advisor to the Governor and who shall:

(1) Appoint deputy general counsel, and appoint for the operation of each executive agency such chief counsel and assistant counsel as are necessary for the operation of each executive agency.

(2) Supervise, coordinate and administer the legal services provided by the deputy general counsel, and the chief counsel and assistant counsel for each executive agency.

(3) Render such legal advice, and such representation prior to initiation of any action, as are required concerning every matter and issue arising in connection with the exercise of the official powers and duties, and performance thereof, in the operation of such executive agency and, upon request, each independent agency.

(4) Upon request, assist and cooperate fully with the Attorney General and the counsel of each independent agency in the furtherance of the performance of their duties.

(5) Until otherwise provided by law, serve as chief administrative officer of the following agencies which are hereby placed and made administrative agencies of the Office of General Counsel:

(i) The Bureau of Correction established under sections 911, 912, 913, 914, 914.1, 915 and 916 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

(ii) The Juvenile Court Judges' Commission established under sections 905.1 and 905.2 of "The Administrative Code of 1929," and the act of December 21, 1959 (P.L.1962, No.717), entitled "An act providing for the creation and operation of the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties; and making an appropriation."

(iii) The administrator and the office of Administrator for Arbitration Panels for Health Care established under section 301 of the act of October 15, 1975 (P.L.390, No.111), known as the "Health Care Services Malpractice Act."

(iv) The Crime Victim's Compensation Board established under sections 477.6, 477.7 and 477.12 of "The Administrative Code of 1929."

(v) The Board of Commissioners on Uniform State Laws established under section 404 of "The Administrative Code of 1929."

(vi) The State Health Facility Hearing Board established under sections 501, 502, 503, 504, 505, 506 and 507 of the act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."

(6) Initiate appropriate proceedings or defend the Commonwealth or any executive agency when an action or matter has been referred to the Attorney General and the Attorney General refuses or fails to initiate appropriate proceedings or defend the Commonwealth or executive agency.

(7) Represent the Governor or the executive agency if the Attorney General has initiated litigation against him or it.

(8) Upon the request of the Governor, appeal any decisions adverse to an executive agency rendered by the Attorney General under section 204(f).

(9) Issue such rules, guidelines, standards and regulations as are necessary to carry out the duties of the General Counsel provided for in this act.

(10) Review and approve for form and legality all proposed rules and regulations of executive agencies before they are deposited with the Legislative Reference Bureau as required by section 207 of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law."

(11) Review for form and legality, all Commonwealth deeds, leases and contracts to be executed by executive agencies, and he may prepare uniform instrument forms and preapprove all such documents which are prepared in accordance with such forms and applicable instructions.

(12) Not agree to the entry of a consent decree in any action against the Commonwealth or any executive agency without the approval of the Governor and the Attorney General and notice to the General Assembly through the offices of the Secretary of the Senate and Chief Clerk of the House of Representatives.

Section 302. Membership on agencies.

The General Counsel shall serve as a member of the Board of Commissioners on Uniform State Laws, the Pennsylvania Emergency Management Agency, the Joint Committee on Documents, the Board of Property, the Commission on Charitable Organizations, the Local Government Records Committee, the Medical Advisory Board, the Board of Finance and Revenue and the Civil Disorder Commission.

Section 303. Supersession and intervention.

(a) Representation of agency by General Counsel.—Whenever any action is brought by or against any executive branch agency, the Governor or other executive branch official, the Governor may request in writing, setting forth his reasons, the Attorney General to authorize the General Counsel to supersede the Attorney General and represent the agency, the Governor or other executive branch official.

(b) Intervention by General Counsel.—If the Attorney General does not grant the request, the Governor may authorize the General Counsel to intervene in the litigation. Such intervention shall be a matter of right and when exercised, confer upon the General Counsel the obligation to represent the Governor and his interests as Chief Executive Officer of the Commonwealth and its Executive Department. The Attorney General shall at all times continue to represent the Commonwealth.

CHAPTER 4 COUNSEL FOR INDEPENDENT AGENCIES

Section 401. Counsel; appointment.

Each independent agency may appoint and fix the compensation of a chief counsel and such assistant counsel as it deems necessary to provide it with legal assistance or request such legal services from the Office of General Counsel.

Section 402. Powers and duties of counsel.

The chief counsel:

(1) Shall furnish legal advice prior to the initiation of any action to the independent agency concerning any legal matter or issue arising in connection with the exercise of the official powers or performance of the official duties of the agency.

(2) May request the assistance of the General Counsel or the Attorney General, or both of them, in any matter or action involving the agency. If advice is requested from the Attorney General, such advice when received shall be followed by the agency, and, when followed, the agency shall not in any way be liable for doing so, upon an official bond or otherwise.

(3) Upon the instructions of the independent agency:

(i) initiate appropriate proceedings or defend the agency when an action or matter has been referred to the Attorney General and the Attorney General refuses or fails to initiate appropriate proceedings or defend the agency: Provided, however, That the chief counsel shall not agree to the entry of a consent decree in any action without the approval of the Governor and the Attorney General and notice to the General Assembly through the Secretary of the Senate and the Chief Clerk of the House of Representatives; and

(ii) represent the agency if the Attorney General has initiated litigation against it.

(4) Upon the instructions of the independent agency, appeal any decisions adverse to it rendered by the Attorney General under subsection (f) of section 204.

(5) Review and approve for form and legality all proposed rules and regulations of the agency before they are deposited with the Legislative Reference Bureau as required by section 207 of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law."

(6) Review for form and legality all Commonwealth deeds, leases and contracts to be executed by the agency. The chief counsel may prepare uniform instrument forms and preapprove all such documents which are prepared in accordance with such forms and applicable instructions.

Section 403. Supersession and intervention.

(a) Representation of agency by agency counsel.—Whenever any action is brought by or against any independent agency or independent agency official, the agency head may request in writing, setting forth his reasons, the Attorney General to authorize the agency counsel to supersede the Attorney General and represent the agency or its official.

(b) Intervention by agency counsel.—If the Attorney General does not grant the request, the agency head may authorize the agency counsel to intervene in the litigation. Such intervention shall be a matter of right and when exercised, confer upon the agency counsel the obligation to represent the agency. The Attorney General shall at all times continue to represent the Commonwealth.

CHAPTER 5
MISCELLANEOUS PROVISIONS

Section 501. General transfer of personnel, appropriations, records, equipment, etc.

(a) Transfers to the Attorney General.—All personnel, allocations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Office of Attorney General are hereby transferred to the Office of Attorney General with the same force and effect as if the appropriations had been made to and said items had been the property of the Office of Attorney General in the first instance and as if said contracts, agreements and obligations had been incurred or entered into by said Office of Attorney General.

(b) Transfers to the Office of General Counsel.—All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Office of General Counsel are hereby transferred to the Office of General Counsel with the same force and effect as if the appropriations had been made to and said items had been the property of the Office of General Counsel in the first instance and as if said contracts, agreements and obligations had been incurred or entered into by said Office of General Counsel.

(c) Transfers of administrative functions of the Board of Pardons to the Lieutenant Governor.—The administrative functions of the Board of Pardons are hereby transferred to the Lieutenant Governor. All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions transferred by this act to the Lieutenant Governor are hereby transferred to the Lieutenant Governor with the same force and effect as if the appropriations had been made to and said items had been the property of the Lieutenant Governor in the first instance and as if said contracts, agreements and obligations had been incurred or entered into by said Lieutenant Governor.

(d) Division of general administrative personnel and materials.—The personnel, appropriations, equipment and other items and materials transferred by this section shall include an appropriate portion of the general administrative, overhead and supporting personnel, appropriations, equipment and other materials of the agency and shall also include, where applicable, Federal grants and funds and other benefits from any Federal program.

(e) Retention of civil service status.—All personnel transferred pursuant to this act shall retain any civil service employment status assigned to said personnel.

Section 502. Specific transfers of certain powers and duties to the Office of General Counsel.

The powers and duties of the Attorney General and/or the Department of Justice contained in the following acts or parts of acts are transferred to the Office of General Counsel:

Section 3 of the act of June 8, 1907 (P.L.496, No.322), entitled "An act to establish a Board of Commissioners of Navigation for the river Delaware and its navigable tributaries; regulating their jurisdiction over ships, vessels, and boats, and wharves, piers, bulkheads, docks, slips, and basins; and exempting cities of the first class from certain of its provisions; and making an appropriation therefor."

Section 9 of the act of July 9, 1919 (P.L.814, No.338), entitled "An act providing for the erection and construction by the Commonwealth of Pennsylvania and the State of New Jersey of a bridge over the Delaware River, connecting the city of Philadelphia and the city of Camden, and the approaches thereto; providing for a joint commission for that purpose, and defining its powers and duties; providing for an independent commission in this Commonwealth in relation thereto, and defining its powers and duties; providing for the payment of a part of the cost thereof by the city of Philadelphia; and providing for the acquiring, taking, and condemnation of the real estate for the site and approaches thereof; providing for the turning over of said bridge upon its completion; and making an appropriation for the purposes of this act."

Section 1 of the act of March 24, 1921 (P.L.48, No.23), entitled, as amended, "An act providing for the transfer of convicts from the State penitentiaries and their imprisonment in the penitentiary to which transferred; imposing costs for such transfers upon the Commonwealth; imposing the cost of the maintenance of convicts so transferred upon the counties in which they were convicted; directing that certain notice of such transfer of a convict be given; and making appropriations."

Section 2 of the act of May 27, 1921 (P.L.1191, No.443), entitled "An act creating a State Fair Commission for the Commonwealth of Pennsylvania; defining its duties; and making an appropriation therefor."

Sections 1 and 6 of the act of July 11, 1923 (P.L.1044, No.425), entitled, as amended, "An act to authorize and provide for the transfer and retransfer of person or persons confined in any penitentiary, prison, workhouse, house of correction, or any other institution for adult prisoners, under sentence of law, convicted but awaiting sentence, awaiting trial, or confined for any other purpose to some other prison, penitentiary, workhouse, house of correction, or other institution for adult prisoners."

Sections 404, 477 through 477.16, 905.1, 905.2, 911, 912, 913, 914, 914.1, 915 and 916 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

Sections 1 and 2 of the act of June 21, 1939 (P.L.660, No.307), entitled, as amended, "An act providing for the return of escaped prisoners and convicts after apprehension, to the penitentiary or state institution from which they escape, by the agents of the Department of Justice or the Pennsylvania State Police, and requiring the penitentiary or state institution to defray the expenses thereof."

Section 21.1 of the act of August 6, 1941 (P.L.861, No.323), referred to as the Pennsylvania Board of Probation and Parole Law.

Section 4 of the act of May 15, 1945 (P.L.547, No.217), known as the "Soil Conservation Law."

Section 774 of the act of June 1, 1945 (P.L.1242, No.428), known as the "State Highway Law."

Sections 1, 2 and 3 of the act of July 29, 1953 (P.L.1433, No.410), entitled "An act creating certain penal and correctional institutions and boards of trustees; abolishing certain penal institutions; imposing duties upon the Commissioner of Correction of the Department of Justice; and providing for the costs of transportation and maintenance of inmates."

Sections 2, 4, 5, 6 and 8 of the act of July 29, 1953 (P.L.1435, No.411), entitled "An act relating to the more effective treatment of persons convicted of crime or committed as defective delinquents; creating in the Department of Justice correctional diagnostic and classification centers; providing for the diagnosis and classification of persons sentenced or committed by the courts to a State institution; fixing the responsibility for costs of transportation and maintenance of such persons; prescribing duties of the courts and the powers and duties of the Department of Justice relative thereto; making civil and criminal laws applicable to penitentiaries and persons therein or responsible therefor applicable in the case of the said institutions."

Sections 1, 2, 3, 4, 5 and 6 of the act of July 29, 1953 (P.L.1440, No.414), entitled "An act providing for the construction and equipping of the Pennsylvania Institution for Defective Delinquents; providing for the acquisition of land; providing for the reception, confinement, treatment, care, maintenance and control of inmates; imposing duties and conferring powers on the Department of Justice, Department of Property and Supplies and the General State Authority."

Section 1 of the act of December 8, 1959 (P.L.1718, No.632), entitled, as amended, "An act providing for the payment of the salary, medical and hospital expenses of employes of State penal and correctional institutions, State mental hospitals, Youth Development Centers, County Boards of Assistance, and under certain conditions other employes of the Department of Public Welfare, who are injured in the performance of their duties; and providing benefit to their widows and dependents in certain cases."

Sections 1 and 6 of the act of December 21, 1959 (P.L.1962, No.717), entitled "An act providing for the creation and operation of

the Juvenile Court Judges' Commission in the Department of Justice; prescribing its powers and duties; and making an appropriation."

Section 23 of the act of August 23, 1961 (P.L.1068, No.484), entitled, as amended, "An act to provide for the creation and administration of a Coal and Clay Mine Subsidence Insurance Fund within the Department of Environmental Resources for the insurance of compensation for damages to subscribers thereto; declaring false oaths by the subscribers to be misdemeanors; providing penalties for the violation thereof; and making an appropriation."

Section 604-A of the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the "Eminent Domain Code."

Sections 2, 3 and 5 of the act of December 22, 1965 (P.L.1189, No.472), entitled "An act establishing a correctional facility for criminological diagnosis, classification, social and psychological treatment and research, medical treatment and staff training."

Sections 2 and 3 of the act of December 27, 1965 (P.L.1237, No.502), entitled "An act establishing regional correctional facilities administered by the Bureau of Correction as part of the State correctional system; establishing standards for county jails, and providing for inspection and classification of county jails and for commitment to State correctional facilities and county jails."

Sections 412 and 415 of the act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the "Mental Health and Mental Retardation Act of 1966."

Section 208 of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."

Sections 1 and 2 of the act of July 16, 1968 (P.L.351, No.173), entitled, as amended, "An act authorizing the establishment of prisoner pre-release centers and release plans under the jurisdiction of the Department of Justice and defining its powers and duties."

Sections 2, 3 and 7 of the act of October 16, 1972 (P.L.913, No.218), entitled "An act establishing regional community treatment centers for women administered by the Bureau of Correction of the Department of Justice as part of the State Correctional System, providing for the commitment of females to such centers and their temporary release therefrom for certain purposes, restricting confinement of females in county jails and conferring powers and duties upon the Department of Justice and the Bureau of Correction."

Section 104(10) of the act of February 1, 1974 (P.L.34, No.15), known as the "Pennsylvania Municipal Retirement Law."

42 Pa.C.S. §§ 9755 and 9756

24 Pa.C.S. §§ 8501(e), 8502(h) and 8503

42 Pa.C.S. §§ 5974, 5977 and 6352

71 Pa.C.S. §§ 5102, 5901(e) and 5902(h)

Section 503. Absolute repeals.

The following acts or parts of acts are repealed absolutely:

Section 6 of the act of March 22, 1817 (P.L.122, No.98), entitled "An act against horse racing upon the public roads within the limits of the city and county of Philadelphia."

The act of April 21, 1857 (P.L.266, No.308), entitled "An act relating to the Office and Duties of Attorney General."

Section 1 of the act of April 8, 1861 (P.L.258, No.260), entitled "An act relative to the Board of Property."

Section 1 of the act of April 8, 1869 (P.L.19, No.19), entitled "An act relating to the settlement of public accounts."

The act of April 12, 1875 (P.L.43, No.48), entitled "An act to provide for the election and appointment of trustees for the state normal schools, and to further regulate their management."

The act of June 3, 1885 (P.L.71, No.44), entitled "An act to provide that all moneys received from policies of insurance upon buildings of the State normal schools shall be held in trust for the repairing and rebuilding of said buildings, and for the payment of the proceeds of said insurance policies for that purpose."

The act of May 2, 1905 (P.L.351, No.225), entitled "An act authorizing the Attorney General to retain and employ attorneys to represent the Commonwealth, in criminal proceedings, in the various courts of oyer and terminer, general jail delivery, and quarter sessions, if requested to do so by the president judge of the district having jurisdiction thereof; providing for the compensation of such attorneys, and defining their duties and powers."

Sections 512, 704, 901 and 902, the first sentence of subsection (b) of section 902-A, sections 903, 904, 905, 906, 907 and 908 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

Section 204 of the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."

The act of April 18, 1978 (P.L.54, No.25), entitled "An act implementing the provision of section 4.1 and related sections of Article IV of the Constitution of Pennsylvania as added or amended to provide for the election of the Attorney General; providing for the continuation of the powers and duties of the Attorney General through interim gubernatorial appointments to ensure an orderly and efficient transition in the office of Attorney General and the Department of Justice."

As much as reads as follows, "and shall represent the commission upon appeals and other hearings in the courts of common pleas and in the Commonwealth and Supreme Courts, or other courts of this Commonwealth, or in any Federal court or agency and in actions instituted to recover penalties and to enforce regulations and orders of the commission" of section 306 and the third sentence of section 308 of Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes.

Section 504. Inconsistent repeals.

The following acts or parts of acts are repealed insofar as they are inconsistent with the provisions of this act:

Section 2 of the act of March 30, 1897 (P.L.11, No.10), entitled "An act authorizing the purchase by the Commonwealth of unseated lands for the non-payment of taxes for the purpose of creating a State Forest Reservation."

Section 29 of the act of May 25, 1921 (P.L.1144, No.425), entitled "An act creating a Department of Public Welfare; defining its powers and duties; abolishing the Board of Public Charities, the Committee on Lunacy, and the Prison Labor Commission, and all offices thereunder, and vesting all the powers of said board, committee, and commission in the Department of Public Welfare; requiring all reports, notices, statements, or matters, heretofore required to be made, given, or submitted to the Board of Public Charities or the Committee on Lunacy, to be made, given, or submitted to the Department of Public Welfare; and providing penalties."

Section 201, to the extent that it creates a Department of Justice, sections 404 and 406, to the extent that they designate the Attorney General as a member of the Board of Commissioners on Uniform State Laws and the Board of Property, and section 922, to the extent that it provides for the appointment of an advisory committee by the Governor, of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929."

Sections 203, 204A, 702 and 1006 of the act of May 15, 1933 (P.L.565, No.111), known as the "Department of Banking Code."

Section 510.1 of the act of December 5, 1936 (1937 2nd Sp.Sess., P.L.2897, No.1), known as the "Unemployment Compensation Law."

Section 1102 of the act of April 28, 1937 (P.L.417, No.105), known as the "Milk Marketing Law."

Section 1401 of the act of June 3, 1937 (P.L.1225, No.316), known as "The Game Law."

Section 3(c)(5) of the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."

Section 1(b) of the act of June 30, 1947 (P.L.1183, No.492), entitled "An act relating to strikes by public employes; prohibiting such strikes; providing that such employes by striking terminate their employment; providing for reinstatement under certain conditions; providing for a grievance procedure; and providing for hearings before civil service and tenure authorities, and in certain cases before the Pennsylvania Labor Relations Board."

Section 1 of the act of April 18, 1949 (P.L.492, No.106), entitled "An act enabling and authorizing the Department of Public Instruction or any of its departmental administrative boards, commissions, or officers to proceed by injunction or any other process in the court of common pleas in any county where the alleged unauthorized practice was committed, to prohibit and restrain any unlicensed person, associ-

ation, copartnership, or corporation from engaging in an activity for which a license is required to be issued by the Department of Public Instruction, and to set out the method and procedure therefor."

Section 12(c) of the act of January 14, 1952 (1951 P.L.1898, No.522), known as the "Funeral Director Law."

Section 7 of the act of October 27, 1955 (P.L.744, No.222), known as the "Pennsylvania Human Relations Act."

Section 13 of the act of June 1, 1956 (1955 P.L.1959, No.657), entitled, as amended, "An act fixing the salaries and compensation of the Chief Justice and judges of the Supreme Court, the President Judge and judges of the Superior Court, the judges of the courts of common pleas, the judges of the orphans' courts, the judges of the County Court of Philadelphia and the judges of the County Court and Juvenile Court of Allegheny County, certain associate judges not learned in the law, certain state officers, and the salary and expenses of the members of the General Assembly, and repealing certain inconsistent acts."

Section 290 of the act of December 15, 1959 (P.L.1779, No.673), known as "The Fish Law of 1959."

Section 1 of the act of September 26, 1961 (P.L.1661, No.692), entitled "An act providing for group life insurance for State employes; establishing a schedule; providing for payment; providing for reduction of insurance upon retirement; authorizing the Secretary of Property and Supplies to act as exclusive agent for the purpose of contracting for insurance; and providing for administration and advisory services by the Department of Property and Supplies."

Section 6(h)(7) of the act of September 27, 1961 (P.L.1700, No.699), known as the "Pharmacy Act."

Sections 2 and 3 of the act of August 8, 1963 (P.L.595, No.314), entitled "An act relating to private institutions licensed by the Department of Public Welfare or Department of Health; providing remedies against persons operating without a license or violating the laws or rules or regulations made thereunder; and prescribing procedures to be followed."

Section 1 of the act of August 8, 1963 (P.L.622, No.330), entitled "An act enabling and authorizing the Commissioner of Professional and Occupational Affairs or any of the administrative boards, commissions or officers within the Department of State or otherwise under his supervision to proceed by injunction or any other process in the court of common pleas in any county where the alleged unauthorized practice was committed to prohibit and restrain any unlicensed person, association, copartnership or corporation from engaging in an activity for which a license is required to be issued by the Commissioner of Professional and Occupational Affairs, and to set out the method and procedure therefor."

Section 5(a) of the act of August 9, 1963 (P.L.628, No.337), known as the "Solicitation of Charitable Funds Act," to the extent that the

Attorney General is made a member of the Commission on Charitable Organizations.

Sections 208, 1052 and 1053 of the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."

Section 5 of the act of January 18, 1968 (1967 P.L.961, No.428), known as the "Municipal Records Act," to the extent that the Attorney General is made a member of the Local Government Records Committee.

Section 205 of the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law."

Sections 1001 and 1003 of the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act."

Section 28 of the act of December 3, 1970 (P.L.834, No.275), entitled "An act amending the act of April 9, 1929 (P.L.177, No.175), entitled 'An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined,' creating the Department of Environmental Resources and defining its functions, powers and duties, transferring certain boards and commissions to such department, abolishing the Sanitary Water Board, the Air Pollution Commission and certain other boards and commissions; placing the Navigation Commission for the Delaware River and its navigable tributaries in the Department of Transportation; transferring the functions of the Geographic Board to the Pennsylvania Historical and Museum Commission placing the Valley Forge Park Commission and the Washington Crossing Park Commission in the Pennsylvania Historical and Museum Commission and repealing inconsistent acts."

Section 509 of the act of December 5, 1972 (P.L.1280, No.284), known as the "Pennsylvania Securities Act of 1972."

Section 3 of the act of December 30, 1974 (P.L.1075, No.348), known as the "Interstate Corrections Compact."

Section 5, act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act."

Sections 402 and 502, act of October 4, 1978 (P.L.851, No.166), known as the "Flood Plain Management Act."

Sections 10 and 15, act of October 4, 1978 (P.L.864, No.167), known as the "Storm Water Management Act."

Section 14, act of November 22, 1978 (P.L.1160, No.273), known as the "Historic Preservation Act."

Section 903, act of November 26, 1978 (P.L.1274, No.305), known as the "Criminal History Record Information Act," to the extent it authorizes the institution of an action by a Commonwealth agency but the duties imposed upon the Attorney General by the act shall not be effected.

Section 14, act of April 6, 1979 (P.L.17, No.5), entitled "An act establishing the Pennsylvania Savings Association Insurance Corporation and providing for its powers and duties."

Sections 603(b) and (f), 814, 815, 816 and 817, act of July 19, 1979 (P.L.130, No.48), known as the "Health Care Facilities Act."

Section 14, act of May 13, 1980 (No.48), known as the "Bluff Recession and Setback Act."

Sections 603 and 604, act of July 7, 1980 (No.97), known as the "Solid Waste Management Act."

Section 505. Limited repeals.

So much of sections 202 and 206 as relates to the Department of Justice and so much of sections 206, 207.1(d)(1) and 208(a) as relates to the Attorney General of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," are repealed.

Section 1517(a) of Title 75 (Vehicles), act of November 25, 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated Statutes, is repealed to the extent that the Attorney General is made a member of the Medical Advisory Board.

Section 506. Transition.

In order that there may be an orderly, efficient and economical transition of government following the election of a new Attorney General, the Auditor General, in the fiscal year during which a new Attorney General is elected shall employ such consultants, accountants and experts as shall have been selected in writing by the new Attorney General who is hereby authorized to fix the compensation to be paid such personnel. Such notice to the Auditor General shall be given at any time after the Secretary of the Commonwealth and the Auditor General have determined the person receiving the highest number of votes for the office of Attorney General and have informed the new Attorney General-elect of such determination. Since this personnel is to be engaged for a limited period of time, they shall not be eligible for membership in any of the retirement systems of the Commonwealth, nor shall they be bound by or subject to the provisions of "The Administrative Code of 1929," pertaining to State employees. Such personnel shall be paid from an appropriation not to exceed \$75,000 made to the Auditor General during the fiscal year when the

new Attorney General is elected. Within 30 days after his inauguration the new Attorney General shall dispense with the services of the temporary personnel or place such members thereof as he sees fit on the payroll of the Commonwealth in the manner provided by "The Administrative Code of 1929."

Section 507. Appropriations.

(1) The sum of \$75,000, or as much thereof as may be necessary, is specifically appropriated to the Auditor General for the fiscal year July 1, 1980 to June 30, 1981 for purposes of funding the transition to an elected Attorney General.

(2) The sum of \$25,000, or as much thereof as may be necessary, is specifically appropriated to the Governor for the fiscal year July 1, 1980 to June 30, 1981 to fund the establishment of the Office of General Counsel.

Section 508. Effective date.

Sections 203, 506 and 507 of this act shall take effect immediately and shall be applicable as soon as permitted under the Constitution of Pennsylvania; all other provisions shall take effect January 20, 1981.

APPROVED—The 15th day of October, A. D. 1980.

DICK THORNBURGH