



974.90
R424
1944/pt 1
c. 4.

**NEW JERSEY,
COMMISSION ON STATE
ADMINISTRATIVE REORGANIZATION.**

**REPORT
PART 1**

**SUBMITTED TO
GOVERNOR WALTER E. EDGE
FEBRUARY 1944**

**PROPERTY OF
RECEIVED**

SEP 19 1968

Division of State Library
Archives and History
Trenton, N. J.



MEMBERS OF THE COMMISSION

- CHARLES R. ERDMAN, JR., CHAIRMAN
- C. WESLEY ARMSTRONG, JR. SENATOR, MERCER Co.
- ALFRED E. DRISCOLL
- CHARLES A. EATON, JR.
- WALTER JONES, FREEMELYNAN, BERGEN Co.



NEW JERSEY
COMMISSION ON STATE
ADMINISTRATIVE REORGANIZATION

WALTER JONES
HOUSE OF ASSEMBLY
NORWOOD, N. J.

CHARLES R. ERDMAN, JR., CHAIRMAN
150 EAST STATE STREET, TRENTON 7, N. J.
February 21, 1944

SENATOR, C. WESLEY ARMSTRONG, JR.
BROAD STREET BANK BLDG.
TRENTON 8, N. J.

CHARLES A. EATON, JR.
STATE CHAMBER OF COMMERCE
605 BROAD STREET, NEWARK 2, N. J.

ALFRED E. DRISCOLL
COMMISSIONER OF ALCOHOLIC BEVERAGE CONTROL
1060 BROAD STREET, NEWARK 2, N. J.

Hon. Walter E. Edge
Governor
State House
Trenton, N. J.

Dear Governor Edge:

The Commission on State Administrative Reorganization created in accordance with AJR 1 herewith submits its initial report. Others will follow as our work progresses.

The task assigned to this Commission is to "determine in what respects the existing State administrative agencies and functions may be most effectively consolidated, co-ordinated, rearranged and simplified to promote efficiency and economy in the operation of the State government."

Every step in the path toward completion of this task has been and will be planned to conform with the ultimate objective of co-ordinating and consolidating all the administrative activities of the State so that there will be a maximum of not more than 20 divisions in the executive department of the government.

When this program has been completed the Governor will be the actual head of the great business of New Jersey and can rightfully be held responsible for the results.

During your previous administration the State departments were reduced to approximately 30 units but were in many instances independent of executive control. In 1925 the Joint Legislative Committee on Administrative Reorganization found that "the present organization of the executive branch of the State government includes 78 departments, boards and commissions ..." and observed that "neither logic nor consistency is apparent in the present scheme of things. The commission form of organization has been overdone; the Governor cannot possibly control so complex a structure nor exercise the authority expected of him; the blame for waste and inefficiency cannot be definitely placed."

The National Institute of Public Administration's survey four years later found an increase in the number of agencies "and [that] the Governor is without legal authority to co-ordinate their efforts and activities."

Today the New Jersey administrative structure has expanded from the 30 departments and commissions of the period of World War I to a bureaucratic maze of over 100 independent spending agencies and an additional 50 semi-independent boards and commissions. Should a governor today desire to consult with or confer at one time with those having independent responsibility for the expenditure of State funds, he would have to hold a meeting of 424 persons. When the reorganization of the State agencies contemplated by this Commission is finally completed, it will be possible for the Governor to call together a workable number of responsible individuals who collectively will have all the necessary information on the operations and expenditures of every State administrative agency.

This simplification of the business of State government will make possible the solution of new problems in government as they arise by using the facilities of existing State agencies. It should, for the most part, obviate the necessity for the creation of a new department or bureau every time a new need for some community service is developed.

The contribution to the improvement of certain functions of government made by the hundreds of private citizens who have served their State on various boards is well recognized and appreciated. One of the objectives of this Commission will be the retention of citizen interest while developing a more efficient and economic State administrative organization.

The Commission is studying the whole question of State reorganization. It is aware of the difficulties and complexities of the problem of consolidation. In all cases where the modernization of our State departments, commissions and agencies has been attempted in a single all-inclusive statute, the results have been negative. It is therefore our considered judgment that the present reorganization and integration of the State's manifold agencies should proceed step by step. Accordingly, the Commission will consider in turn and file reports covering the several functions of our State Government.

We are confident that with the continued cooperation of the department heads and the rank and file of State employees, vital and necessary re-adjustments can and will be made.

Respectfully submitted,

CHARLES R. ERDMAN, JR., Chairman

C. WESLEY ARMSTRONG, JR.

ALFRED E. DRISCOLL

CHARLES A. EATON, JR.

WALTER JONES

PART I

Memorandum on the Bill Establishing a New
and Reorganized State Department of Law

The reorganization and consolidation of over 100 State administrative agencies will raise a myriad of legal problems. The Commission is therefore presenting as its initial proposal a reorganization and integration of the legal services of the State government in a new Department of Law. The more efficient functioning of this vital arm of the executive department will be of invaluable assistance to the Governor and to the Legislature. It is a necessary step in any general reorganization of State administrative functions.

The desired objective in the establishment of a Department of Law is the centralization in one department of the facilities afforded by the State for the rendering of legal services to all State agencies. This will result in economy and greatly increased efficiency.

Practices have developed in the administration of the legal services of the State which detract from the efficient and proper functioning of the Attorney General's office and run counter to sound policies of personnel administration. These shortcomings are outlined below together with the remedial measures recommended in the attached bill.

1. Assistant Attorneys General, under the present system, have from time to time been transferred from the payroll of the Attorney General's office to that of other departments. Assistants have then been added and new legal divisions developed. Commissions and boards have been given the power to appoint their own legal counsel and fix their compensation. Thus, under the present system, the State has, in fact, a number of legal departments.

As a result of this practice the State expended \$156,370. in the fiscal year 1942-43 for the salaries of legal counsel paid from appropriations to departments other than the Attorney General's office. The salary item for those in his office totalled \$80,728. for the same period.

The transfer of these uncoordinated legal departments together with their appropriations to the new Department of Law as contemplated under the proposed reorganization will enable the Attorney General properly to control expenditures for legal services and to supervise efficiently the legal staff of the State. Under the bill proposed by the Commission all the legal business of the State will be conducted by the Department of Law which will have at its command the facilities enabling it to develop into an agency equipped to deal competently with every legal problem facing the State.

2. Members of the Attorney General's office, as part of their regular duties have frequently been assigned to prosecute criminal causes in the various counties, either in the absence of the county prosecutor or in conjunction with the same. For these services the assistant attorneys general have received compensation from the counties in addition to their regular salaries. This practice is unsound and under the new bill will be discontinued. These fees in the future will be collected by the Attorney General and paid into the treasury of the State of New Jersey as is the case where professional services are rendered to political subdivisions by other State departments.

3. In the past, members of the Attorney General's department have represented private clients before other State departments and agencies in opposition to the State's interest. This practice is contrary to sound public policy. It is prohibited under the terms of the bill creating the new Department of Law.

4. Heretofore, tenure of office has been extended indiscriminately to Assistant Attorneys General and Legal Assistants without their being required to devote full time to the business of the State. This has not tended to increase the efficiency of the legal department. The purpose of tenure is to grant protection in public office to those who have given up all other employment or opportunity for financial gain. Grants of tenure without the corollary requirement of full time employment are a travesty on the underlying principles of civil service.

Much of the routine work of the Department of Law, as of other departments, can and should be performed by a permanent staff serving on a full time basis protected by tenure under civil service. Provision for such career men in government has been made in the proposed Department of Law.

While the principle of establishing a permanent staff to perform routine work is sound, the head of the Department of Law must have the opportunity of calling to State service as his immediate assistants outstanding lawyers of his own choosing. The Attorney General will be held responsible if the department does not adequately represent the State and he should by the same token have the power to select those who will serve as his immediate assistants. Under the proposed bill deputy Attorney Generals will serve at the pleasure of the Attorney General.

5. In the past the State has continually resorted to the practice of employing special counsel without prior legislative authorization in cases which could often have been handled by a properly functioning Department of Law. During the past 10 years approximately \$1,000,000. of public moneys has been appropriated to pay for special legal services. This average annual expenditure of almost \$100,000. in addition to the regularly budgeted appropriations for the State's legal staff is a serious indictment of the present system of administering the legal business of the State. This frequent admission of the inability of the Attorney General's office to represent the State is not conducive to public confidence in the efficiency of that department.

Under the proposed reorganization no special counsel shall hereafter be employed without prior legislative approval except in cases to be tried outside the State or those in which the State joins with another State in the prosecution of a suit.

The recommended reorganization and consolidation of the legal facilities of the State will make it possible for the Attorney General adequately to represent New Jersey without having to rely on special counsel whenever an important case arises. Furthermore, in the opinion of this Commission average annual savings of \$150,000. can be achieved through this proposed reorganization.

The Commission recommends the passage of the bill accompanying this report.

An Act to establish a Department of Law in the Executive Department or Branch of the State Government and to prescribe the powers and duties of said Department; to centralize in such Department such facilities, afforded by the State for the rendering of legal services to the Governor and to the various officers, departments, boards, bodies, commissions and instrumentalities in the Executive Department or Branch of the State Government, as will promote economy and efficiency in the conduct of the State Government; to provide for the enforcement of the criminal law of the State by such Department when the ends of justice so require; to require the prosecutors of the pleas of the various counties to make report of the performance of their duties and the operation of their respective offices to the Attorney General as head of the Department of Law; to abolish certain offices and positions; and to repeal chapter seventeen of Title 52 of the Revised Statutes and "An Act concerning the State Highway Department," approved May twenty-fourth, one thousand nine hundred and thirty-nine (P.L. 1939, c.75); "An Act concerning the legal assistants to the Attorney-General," approved June twenty-seventh, one thousand nine hundred and thirty-nine (P.L. 1939, c. 101); "A Supplement to an act entitled 'An act to define the duties and fix the salary of the Attorney-General,' approved February twenty-fourth, one thousand eight hundred and fifty-four," approved March twenty-fifth, one thousand nine hundred and thirteen (P.L. 1913, c. 139); "An Act to amend an act entitled 'A supplement to an act entitled "An act to define the duties and fix the salary of the Attorney-General," approved February twenty-fourth, one thousand eight hundred and fifty-four,' which said supplement was approved March twenty-fifth, one thousand nine hundred and thirteen," approved March fourth, one thousand nine hundred and eighteen (P.L. 1918, c. 234).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The purpose of this act is to accomplish economy and efficiency by centralizing, in one department, the facilities afforded by the State for the rendering of legal services to the Governor and to all officers, departments, boards, bodies, commissions and instrumentalities in the Executive Department or Branch of the State Government and to provide for the enforcement of the criminal law of the State by such Department where the ends of justice so require.

2. There is hereby established a Department of Law in the Executive Department or Branch of the State Government.

3. The head of the Department of Law shall be the Attorney General who shall receive an annual salary of fifteen thousand dollars (\$15,000.00).

4. It shall be the duty of the Department of Law, by the Attorney General or by such of his deputies as he shall designate, to

- a. Be present at the seat of the government during the sessions of the Legislature;
- b. Give to the Governor, to the members of the Senate and the General Assembly, and to all other officers, departments, boards, bodies, commissions and instrumentalities in the Executive Department or Branch of the State Government, legal advice on such matters as they may from time to time request;
- c. Examine and decide all cases submitted for his opinion by the Governor or by any officer, department, board, body, commission or instrumentality in the Executive Department or Branch of the State Government and inspect the title papers upon all applications for loans of the school fund;
- d. Carry out and enforce the provisions of the New Jersey Securities Law;
- e. Act as the sole legal adviser, attorney or counsel, notwithstanding the provisions of any other law, for all officers, departments, boards, bodies, commissions and instrumentalities in the Executive Department or Branch of the State Government in all matters other than those requiring the performance of administrative functions entailing the enforcement, prosecution and hearing of issues as imposed by law upon them; and represent them in all suits, proceedings or actions of any kind which may be brought for or against them in any courts of this State;
- f. Represent the Department of the State Police and all other State law enforcement agencies in any criminal actions in which such Department or agency or any member thereof shall be complainant and have sole power and authority in such matters of a criminal nature to conduct and control such proceeding or proceedings and to represent the members of the Department of the State Police and of any other State law enforcement agency before the grand jury and on the trial of any such criminal matters and on all writs of error and in other appellate proceedings therein in the courts of this State;
- g. Render aid in the prosecution of the criminal business of any county at the written request of the prosecutor of the pleas of the county; prosecute the criminal business of the State in a county having no prosecutor of the pleas; attend for the trial of homicide cases and other high crimes, or for the prosecution of the criminal business of the State, in any county, on the written request of a Justice of the Supreme Court or of the board of chosen freeholders of the county; and attend for the prosecution of a specific investigation

or of a particular criminal case in any county on the written request of the Governor.

- h. Attend generally to all legal matters in which the State or any officer, department, board, body, commission or instrumentality in the Executive Department or Branch of the State Government is a party or in which its rights or interests are involved;
- i. Succeed to all the powers and be charged with all of the duties conferred and imposed by law upon the Attorney General.

5. Whenever the attorney General, personally or by his deputies, shall attend in any county, at the request of the Governor or of a Justice of the Supreme Court or of the Board of chosen freeholders or of the prosecutor of the pleas of the county, for the prosecution of the criminal business of the State in said county or of such part thereof as shall be designated in, or as shall fall within the general purview of the matters designated in, the written request therefor, the Attorney General and his deputies shall have all the power and authority of the prosecutor of the pleas for prosecuting the criminal business of the State or such part thereof, including the investigation of alleged crimes and misdemeanors, the attendance before the criminal courts and grand juries of the county, the preparation and trial of indictments for crimes and misdemeanors and the representation of the State in all proceedings in criminal cases on error or otherwise in the courts of this State.

Whenever the criminal business or any part of the criminal business of any county is prosecuted by the Attorney General, personally or by his deputies, there shall be paid, by the treasurer of the county, such sum for that special service as the Justice of the Supreme Court of that judicial district or a judge of the court of common pleas of said county shall certify and fix, on the application of the Attorney General provided that the compensation allowed shall not exceed that provided by law for the payment of the prosecutor in said county for the same or similar services.

In prosecuting such criminal business, the Attorney General shall have power to employ such investigators, clerical and other assistants and to incur such expenses as he shall determine and the cost thereof, including the compensation allowed as aforesaid of any deputy attorneys general who shall be employed or designated by the Attorney General for that special purpose in addition to those regularly employed in the Department of Law, shall likewise be paid by the treasurer of the county when certified and fixed in the same manner.

6. The Attorney General may appoint as his legal assistants in the Department of Law deputy attorneys general and assistant deputy attorneys general who shall perform such duties as the Attorney General shall from time to time designate.

7. Deputy attorneys general in the Department of Law shall hold their offices at the pleasure of the Attorney General and shall receive such salaries as he shall from time to time designate.

8. Assistant deputy attorneys general of the Department of Law shall be appointed by the Attorney General at his pleasure and, after six years' service in their positions, they shall hold their positions during efficiency and good behavior and shall not be removed therefrom except for good cause, and not because of religious or political opinions or affiliations, after a public, fair and impartial hearing before the Civil Service Commission. They shall receive such salaries, not exceeding the sum of seventy-five hundred dollars (\$7500.00) per year, as the Attorney General shall from time to time designate and shall devote their entire time to the performance of their duties in the Department of Law and shall not engage in the private practice of law.

9. No member of the Department of Law shall act as attorney or counsel in any controversy in which the State has an adverse interest, except in his official capacity.

10. No member of the Department of Law shall receive any compensation, fees or costs in addition to his regular salary for or by reason of any service performed by him for the State or for any political subdivision thereof except by allowance or appropriation by the Legislature and any additional compensation, fees or costs so payable to or received by any member of the Department of Law, not so allowed or appropriated, shall be paid to the State Treasurer for the use of the State, but the provisions of this section shall not be construed to prevent the payment of compensation of any additional deputy attorney general, who may be employed or designated by the Attorney General to act in any county under section five of this act, by the county in which he is designated to act by the Attorney General.

11. No officer, department, board, body, commission or instrumentality in the Executive Department or Branch of the State Government shall employ any person to act as attorney, counsel, solicitor, legal assistant or other legal adviser to such officer, department, board, body, commission or instrumentality except under full time employment solely in the performance of administrative functions entailing the enforcement, prosecution and hearing of issues as imposed by law upon such officer, department, board, body, commission or instrumentality.

12. The Attorney General may assign a deputy attorney general or an assistant deputy attorney general to serve in any legal capacity in or for any officer, department, board, body, commission or instrumentality of the Executive Department or Branch of the State Government on a part time or full time basis whenever, in the judgment of the Attorney General, such assignment will contribute to the efficiency of the operation of such office, department, board, body, commission or instrumentality, but such member of the Department of Law shall remain under the supervision and control of the Attorney General while so serving and his compensation shall be payable solely from appropriations made to the Department of Law.

13. No special counsel shall be employed for the State or for or by any officer, department, board, body, commission or instrumentality in the Executive Department or Branch of the State Government except by authority of the Attorney General and then only in cases to be tried without the State or in which the State joins or is joined with another State but this provision shall not apply in any case in which the employment of special counsel is authorized by law enacted prior to the employment.

14. The Attorney General shall make an annual detailed report to the Governor of the performance of his duties and the operations of the Department of Law and shall make such other reports to the Governor as the Governor may require from time to time.

15. The prosecutors of the pleas of the various counties shall make annual detailed reports to the Attorney General of the performance of their duties and the operations of their offices and shall make such other reports to the Attorney General as the Attorney General may require from time to time.

16. The Department of the Attorney General heretofore existing and the offices and positions of assistant attorneys general, legal assistants to the Attorney General, special counsel or legal counsel to or by appointment of or under the Attorney General hereby are abolished and all other employees of the Department of the Attorney General hereby are transferred to the Department of Law and shall serve in appropriate similar positions in said Department and shall retain all of their rights and privileges under Title 11, Civil Service, of the Revised Statutes.

17. All offices and positions of attorneys, counsel, solicitors, or other legal advisers to any officer, department, board, body, commission or instrumentality in the Executive Department or Branch of the State Government hereby are abolished, except such offices or positions in which the incumbents are employed, under full time employment, solely in the performance of administrative functions entailing the enforcement, prosecution and hearing of issues as imposed by law upon such officer, department, board, body, commission or instrumentality.

18. The offices and quarters heretofore occupied by the Department of the Attorney General and all books, papers, documents and other property of the Department of the Attorney General hereby are transferred to the Department of Law as of the date upon which this act becomes effective.

19. All moneys appropriated at the time this act becomes effective to the Attorney General or to any officer, department, board, body, commission or instrumentality in the Executive Department or Branch of the State Government for the compensation and expenses of attorneys, counsel, solicitors or other legal advisers to such officer, department, board, body, commission or instrumentality, whose offices or positions are abolished by this act, shall be transferred and made available to the Department of Law as of said date or as and when such appropriation shall become available.

20. Chapter seventeen of Title 52 of the Revised Statutes and "An Act concerning the State Highway Department," approved May twenty-fourth, one thousand nine hundred and thirty-nine (P.L. 1939, c. 75); "An Act concerning the legal assistants to the Attorney-General," approved June twenty-seventh, one thousand nine hundred and thirty-nine (P.L. 1939, c. 101); "A Supplement to an act entitled 'An act to define the duties and fix the salary of the Attorney-General,' approved February twenty-fourth, one thousand eight hundred and fifty-four," approved March twenty-fifth, one thousand nine hundred and thirteen (P.L. 1913, c. 139); "An Act to amend an act entitled 'A supplement to an act entitled 'An act to define the duties and fix the salary of the Attorney-General,' approved February twenty-fourth, one thousand eight hundred and fifty-four,' which said supplement was approved March twenty-fifth, one thousand nine hundred and thirteen," approved March fourth, one thousand nine hundred and eighteen (P.L. 1918, c. 234) are repealed.

21. This act shall take effect immediately.

