Outmoded Penal Law Provisions

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No special problems were encountered in identifying Penal Law provisions that have become outmoded by reason of changes in economic and social conditions, or that have been declared unconstitutional, or that duplicate ~~provisions~~ legislation in other laws.

The following Penal Law sections are offered as illustrations of the type of anachronistic provisions that are being recommended for repeal. Section 443 prohibits the transfer of tickets issued by the People's Institute entitling a person to a reduced fee for admission to any dramatic performance; this ~~corporation~~ institute ceased operating twenty-five years ago. Section 1194 relates to the premiums charged by a marine insurance corporation for insurance of property transported upon the canals of this state. Inquiry by the Commission reveals that the situation which this section was designed to correct no longer exists.

Sections 1960-1964 relating to the quarantine of "vessels arriving in the port of New York", have no utility today because the Federal Government has assumed and now exercises quarantine jurisdiction over vessels entering the port of New York. Additionally, under Section 556-40 of the

Administrative Code of the City of New York, the City Department of Health is vested with ~~sufficient~~ broad authority to inspect and quarantine vessels entering the port of New York. Section 2221 forbids the burial of a human body "within the blue line of any existing canal." State officials have advised the Commission that this law provision has no present-day applicability.

Penal Law section 1276, forbidding the use of unsafe scaffolding and hoists duplicates Labor Law sections 200. Penal Law Article 150, "Oysters": incorporated by Conservation Law sections 302, 306-308, 312.

Among the Penal Law sections that are duplicative of provisions in some other chapter of the Consolidated Laws are ~~sections~~ 435-a, 435-b and 435-c, relating to the sale and ~~identification~~ labeling of Kosher food products; ~~the language in~~ these three sections are similar to ~~to repeated relation to~~ Agriculture and Markets Law sections 201-a, 201-b and 201-c. Penal Law section 1743, relating to the sale of specified ~~certain~~ poisons, duplicates ~~is duplicative of~~ Education Law section 6813. Penal Law section 1980, proscribing certain conduct by railroad officials, is covered by ~~duplicatively~~ Public Service Law sections 15 and 46. Penal Law Article 216, sections 2410-2416, is entitled "Weights and Measures". Six of the eight sections in this Article are derived from the Penal Code of 1881, which in turn adopted language from the early Revised Statutes. The other two sections were added in 1899 and 1911, respectively. However, this entire subject is covered in a much more comprehensive

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manner in Agriculture and Markets Law Article 16, "Weights and Measures", sections 176-197, and Article 16-A, "Weighing and Selling of Coal, Coke and Charcoal," sections 197-a - 197-m. These provisions are more meaningful to present-day conditions than Penal Law Article 216.

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Among the Penal Law provisions held unconstitutional is section 436-d, prohibiting the sale of ~~magazines~~ periodicals from which the title page or cover or other identification marks have been removed or obliterated. This section was held unconstitutional in People v. Bunis, 9 N.Y.2d 1 (1961). Section 2039, relating to the application for a loan upon any real property, was held unconstitutional in Keller v. Jamaica Motor Service Corp., 125 Misc. 825 (1925). The two sections in Penal Law Article 208, "Trading Stamps" were declared unconstitutional

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