

FROM: Temporary Commission on Revision of the Penal
Law and Criminal Code

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STATEMENT BY
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Senator Hughes and I are pleased to announce that on behalf of the Commission we have introduced today, through the Rules Committees of the Senate and Assembly, bills proposing a completely revised Penal Law for New York.

We are not seeking passage of these measures at this Session; time is obviously required for serious appraisal of the proposal and we expect to hold a number of public hearings during the year to elicit comment from the bench, bar and other interested groups.

There has not been a significant revision of the Penal Law in more than eighty years, which in itself, gives some indication of the task faced by the Commission. The proposal is a great deal more than a reshuffling of existing provisions of law and is in every sense, a thorough-going revision with a number of major substantive changes.

My own statement will be brief; for a more exhaustive comment, I refer you to the 1964 Interim Report of the Commission. Additionally, we will have ready for distribution in a few weeks a detailed commentary on the provisions of the Study Bill.

The organization is changed from what is presently an alphabetical or partially alphabetical one to that of a category system which we believe brings the Penal Law an overall pattern of logic and clarity in the grouping of crimes.

We propose that over one-quarter of the Penal Law's approximately twelve hundred sections be eliminated and that another thirty per cent be transferred to other bodies of the Consolidated Laws where they rightly belong. This does not necessarily mean that over twenty five per cent of what are presently crimes are eliminated, but rather, that a number of crimes are defined with greater precision and simplicity. This does away with the kind of approach where, for example, we have fifty four sections devoted to the gambling area, when six sections proposed in the new law adequately cover the matter.

Briefly, these are some of the major substantive changes proposed:

1.) The general provisions embracing criminal liability, theories of defense, classifications of offenses, sentencing structure and other matters of general application have been spelled out with considerable precision and depth. They go far beyond the existing penal law's limited and generally superficial efforts in these directions. It is to be hoped that many legal issues relating to problems of mens rea, defenses, etc., which now arise largely because of the lack of statutory definition, will be resolved by this expanded portion of the Code.

2.) Some of the most drastic and significant changes are to be found in our sentencing structure, based on an entirely new classification of offenses. Felonies and misdemeanors are divided into classifications or categories, five for felonies and three for misdemeanors. The minimum and maximum limits of sentences will be the same for each crime within a given category. For example, second degree burglary, second degree robbery and first degree forgery are all Class C felonies with a minimum sentence of not more than five years and a maximum sentence of not more than fifteen years. All non-criminal offenses are termed "violations".

No mandatory minimum sentences are prescribed except in the case of a sentence to life imprisonment. Control of the length of time a convicted individual must spend in prison is distributed among the court, the institutional authorities and the parole board.

3.) Significant changes are made in the law relating to homicide. Chief of these is the abolition of the concepts of premeditation and deliberation which currently distinguish the two degrees of murder. Murder is made a single, degreeless crime, with homicidal intent being the only culpable mental state required. A man's life no longer hangs upon the technical, nebulous issue of whether he premeditated or deliberated. Changes

are also made in the manslaughter provisions with a view to prescribing meaningful, lesser homicide offenses in contrast to the confused jumble of the manslaughter crimes presently defined.

4.) The crime of larceny has been expanded to cover thefts by promissory fraud. This, it is hoped, will bring about prosecution and conviction of many swindlers and confidence men who, under the present law, cannot be reached. The value of property stolen, which now distinguishes one degree of larceny from another, has been raised. Grand larceny in the present law involves the theft of property worth more than one hundred dollars, which in the revision proposal has been increased to two hundred fifty dollars.

5.) Several changes are proposed in the article devoted to sex offenses, one of the most significant being the elimination as a crime, of deviate sexual acts between two consenting adults.

6.) A complete revision of the whole gambling area has been undertaken with the fifty four complex and overly-detailed sections now in the law boiled down to six. It is hoped that this will simplify the prosecution of all gambling entrepreneurs, excluding the prosecution of the mere player or bettor.

These are but a few of the changes proposed by the Commission.

The fact that we are able to present such a thorough revision of the Penal Law is to the credit of the other Commission Members and Chief Counsel Denzer and his Staff. We have assembled an outstanding group of scholars in the criminal law field who have produced a proposed Penal Law for our State designed to meet the requirements of present-day society. I honestly believe that the job has been well done.

We are aware that some of our proposals will provoke controversy. This is inevitable, perhaps, in any major undertaking such as this, involving the re-writing of an area of the law as broad in its scope as is the Penal Law. The Commission will, after public hearings, re-examine its position on those portions of revision to which opposition is expressed and make appropriate recommendations to the Legislature.