

COMMONWEALTH OF PENNSYLVANIA
OPINIONS OF THE ATTORNEY GENERAL OF PENNSYLVANIA
1984-1988
LEROY S. ZIMMERMAN
ATTORNEY GENERAL

https://www.attorneygeneral.gov/wp-content/uploads/2018/01/1984_1988_Zimmerman_opinions1.pdf

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“Since Pennsylvania's attorney general at the time was an appointee without prosecutorial powers, Mr. Zimmerman, as the district attorney for the capital county, was responsible for prosecuting cases involving public corruption by state officials.

That, combined with his leadership among district attorneys and his insight as a member of the Criminal Procedural Rules Committee of Supreme Court (a position he held from 1971 through 1986), led naturally to his appointment in 1977 to the Advisory Committee to the Joint State Government Commission Task Force on the Office of Elected Attorney General.

His involvement in advising the task force on how the new, independent elective office should be structured stimulated Mr. Zimmerman's interest in seeking the job himself.

He left office as district attorney in 1980, upon completion of his third

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term, and launched his campaign for attorney general. Building upon his base of bipartisan support and popularity in the Midstate, and his by-then statewide network of friends and acquaintances from organizations as diverse as the Sons of Italy and the Pennsylvania District Attorneys Association, he captured the Republican nomination and in the fall won the general election. The office he won is housed on the 16th floor of a building in Downtown Harrisburg, three blocks from his childhood home.

He was re-elected in 1984 for his second term, expiring on Jan. 16, 1989. The state constitution limits the Attorney General to two consecutive terms.

Soon after assuming office as Pennsylvania's chief legal and law enforcement officer, Mr. Zimmerman was named a member of the Executive Working Group for Federal-State-Local Prosecutorial Relations, which he later chaired. He also chaired the Criminal Law and Law Enforcement Committee of the National Association of Attorneys General and, by appointment of President Reagan, was a member of the White House Conference for a Drug Free America.

He is a member of the Board of Trustees of the Dickinson School of Law and a member of the Villanova University Development Council. He is admitted to practice law before the Dauphin County Court of Common Pleas and the three statewide appellate courts and before the United States District Court for the Middle District of Pennsylvania, the United States Third Circuit Court of Appeals and the United States Supreme Court. Mr. Zimmerman has personally appeared before the United States Supreme Court on two occasions, representing the Commonwealth.

His legal professional associations and activities include active memberships in the American, Pennsylvania and Dauphin County Bar Associations, the American Judicature Society and Phi Alpha Delta International Law Fraternity.”

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“The "proprietary" Attorney General existed until 1776 when the Attorney General first became a constitutional officer of the democratic Commonwealth. The first Attorney General appointed under that Constitution was John Morris.

The new constitutional office continued to grow in importance into the nineteenth century until 1840 when it suffered a period of regression. Various Attorneys General and Governors during this period defined the duties of the Office in different and contradictory ways. By the year 1850, through misdrafted legislation, the Office was stripped of authority at the county level, and was rendered almost powerless in state government.

With the turn of the century and the industrialization of Pennsylvania, the General Assembly established new powers and duties in the Office. In 1915, the legislature approved the appointment of more deputies. Beginning in 1923, the Administrative Code, as enacted and modified by the legislature, made the Attorney General the administrator of the Department of Justice. It also reestablished the Attorney General's right to appoint deputies for any city or county and gave the Office power to supersede any District Attorney.

At the primary election in May of 1978, the voters of Pennsylvania approved a constitutional amendment providing for the election of an

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Attorney General, effective with the general election of 1980.

Article IV, Section 4.1, of the Constitution of the Commonwealth of Pennsylvania was amended to provide "An Attorney General shall be chosen by the qualified electors of the Commonwealth on the day the general election is held for the Auditor General and State Treasurer. He shall hold his office during four years from the third Tuesday of January next ensuing his election and shall not be eligible to serve continuously for more than two successive terms "

The Constitution further provided that "he shall be the chief law officer of the Commonwealth and shall exercise such powers and perform such duties as may be imposed by law." This established the Office of Attorney General as an independent office of state government headed by the Attorney General. The constitutional amendment was implemented by a statute called the Commonwealth Attorneys Act of 1980 (Act No. 1980-164), which defined the duties and powers of the Attorney General.

Attorney General

LeRoy S. Zimmerman was administered the oath of office on January 20, 1981 as the first elected Attorney General of the Commonwealth of Pennsylvania, following the general election held on November 4, 1980. He was reelected as Attorney General of the Commonwealth of Pennsylvania on November 6, 1984 and was administered the oath of office for his second term on January 15, 1985.

The Commonwealth Attorneys Act directs the Attorney General to appoint a First Deputy Attorney General; a Director of the Bureau of Consumer Protection; a Consumer Advocate, whose appointment is subject to approval by a Senate majority; and such other deputies, officers and employees as necessary to perform the duties prescribed by the Attorney General. The Attorney General may also establish such bureaus or divisions as may be required for the conduct of the Office, including a criminal investigation bureau.

The fundamental duties of the Attorney General's Office, as provided by the Commonwealth Attorneys Act, are: To furnish upon request legal advice concerning any matter or issue arising in connection with the exercise of the official powers or performance of the official duties of the Governor or the head of any Commonwealth agency. To represent the Commonwealth and all Commonwealth agencies” ...

(Note: Yellow Highlighting added for attention and emphasis)