

poses relating to bills of exchange. The Court there held that the term "legal holiday" as used in Section 2448 relates to the days designated in Section 3053 as "holidays."

The Act of 1893 states that the designated holidays "shall be considered as public holidays . . . for all purposes whatsoever as regards the transaction of business . . ." except for days appointed as bank holidays (44 P.S. § 14). Bank holidays are now designated by a separate statute. It is clear that when the Legislature enacted the provision which later became the 1951 Liquor Code limitation on sales, above quoted, it was referring to those days designated in the Act of 1893 and its amendments as "legal holidays," and the statute remains in effect to the extent it establishes the legal holidays named.

It is, therefore, my opinion, and you are hereby advised, that the fifteenth of January, known as Dr. Martin Luther King, Jr. Day is a legal holiday and, as such, is a day on which state liquor stores shall be closed.

You are further advised that in accordance with the provisions of Section 204(a)(1) of the Commonwealth Attorneys Act, Act No. 1980-164, 71 P.S. § 732-204(a), you will not in any way be liable for following the advice set forth in this opinion.

Very truly yours,

LEROY S. ZIMMERMAN
Attorney General

OFFICIAL OPINION NO. 84-1

Board of Pardons—Authority of Board to Recommend to Governor That Fines or Forfeitures Be Remitted—Exclusive Authority of Governor to Grant Forms of Clemency Enumerated in the Constitution of the Commonwealth.

1. Section 909 of the Administrative Code, Act of April 9, 1929, P.L. 177, Article IX, as amended (71 P.S. § 299) authorizes the Board of Pardons to hear applications for the remission of fines and forfeitures and to make recommendations thereon to the Governor. The aforesaid Act does not, however, require the Board to hear such applications.
2. The 1968 Constitution of Pennsylvania, as amended, vests exclusive authority in the Governor to grant the forms of clemency enumerated in Article IV, Section 9(a) thereof.

March 5, 1984

Honorable William W. Scranton, III
Chairman
Board of Pardons
200 Main Capitol Building
Harrisburg, PA 17120

Dear Lieutenant Governor Scranton:

As Chairman of the Board of Pardons, you have asked my opinion with regard to the authority of the Board to recommend the remission of fines and forfeitures. Your question is prompted by an individual who has applied to the Board for this form of clemency. It is my opinion that the Board may recommend to the Governor that fines and forfeitures be remitted.

Whether or not the Board has the authority to recommend this relief to the Governor is controlled by Article IV, Section 9(a) of the 1968 Constitution of Pennsylvania, *as amended*, and Section 909 of the Administrative Code, Act of April 9, 1929, P.L. 177, Article IX, *as amended* (71 P.S. § 299). In Official Opinion No. 1983-2 (13 Pa. B. 1104), I described the distinction between the remission of fines and forfeitures and the granting of reprieves on the one hand and the granting of pardons and commutations on the other. The power to *grant* all of these forms of clemency is vested exclusively in the Governor. *Commonwealth v. Sutley*, 474 Pa. 256, 378 A.2d 780 (1977). *Com. ex rel. Banks v. Cain*, 345 Pa. 581, 28 A.2d 897 (1942); *Frye v. Lawrence*, 75 Dauph. 168 (1960); *Commonwealth v. Shisler*, 2 Phila. 256, 14 L.I. 92 (1857). Article IV, Section 9(a) of the Pennsylvania Constitution provides:

In all criminal cases except impeachment, the Governor shall have power to remit fines and forfeitures, to grant reprieves, commutation of sentences and pardons; but no pardon shall be granted, nor sentence commuted, except on the recommendation in writing of a majority of the Board of Pardons, after full hearing in open session, upon due public notice. The recommendation, with the reasons therefor at length, shall be delivered to the Governor and a copy thereof shall be kept on file in the Office of the Lieutenant Governor in a docket kept for that purpose.

Any action by the Governor on a pardon or commutation must be preceded by a recommendation in writing of a majority of the Board of

Pardons. No such recommendation is required before the Governor exercises his power to remit fines and forfeitures or to grant reprieves.

Section 909 of the Administrative Code states, in relevant part, that the Board of Pardons "shall have the power to hear applications for the remission of fines and forfeitures . . . and to make recommendations in writing to the Governor thereon. . . ." This statutory expression of the Board's power is explicit and unambiguous. No construction other than the clear meaning of the words need be given. Statutory Construction Act of 1972, December 6, P.L. 1339, No. 290, 1 Pa. C.S. § 1921(b). The Board has the power to hear applications of this kind but is not required to do so by the statute. Therefore, even though the Governor may remit fines and forfeitures on his own initiative, there is no reason why the Board of Pardons may not hear applications and make recommendations, as long as the Board does not infringe upon the Governor's exclusive authority to grant or deny this form of clemency.

The Board's activity in the area of recommending the remission of fines and forfeitures of individuals, which is an act of clemency, should not be confused with the exoneration of county officials from the collection of fines and costs that have become uncollectible. To avoid any confusion, please be advised that whereas the Courts of Common Pleas once possessed the authority to forgive county officials, Act of December 30, 1974, P.L. 1118, No. 359 (16 P.S. § 1739); *repealed* 1978, April 28, P.L. 202, No. 53 § 2(a), the Department of Community Affairs has been given this function in the Act of July 9, 1976, P.L. 586, No. 142, *as amended*, April 28, 1978, P.L. 202, No. 53, § 10, 42 Pa. C.S. §§ 3502, 3503. The Board does not have a role to play in matters of this kind.

In conclusion, it is my opinion and you are so advised that the Board of Pardons may hear applications and make recommendations to the Governor regarding the remission of fines and forfeitures.

You are further advised that in accordance with the provisions of Section 204(a)(1) of the Commonwealth Attorneys Act, No. 1980-164, 71 P.S. § 732-204(a), you will not in any way be liable for following the advice set forth in this opinion.

Sincerely yours,

LEROY S. ZIMMERMAN
Attorney General