

Legislative Journal

MONDAY, NOVEMBER 24, 1975

Session of 1975

159th of the General Assembly

Vol. 1, No. 64

SENATE

MONDAY, November 24, 1975.

The Senate met at 1:00 p.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Ernest P. Kline) in the Chair.

PRAYER

The Chaplain, The Reverend DANIEL J. BARTKOW, Pastor of the Davisville Baptist Church, Southampton, offered the following prayer:

Let us pray together.

We lift our eyes, Heavenly Father, unto the hills from whence cometh our strength. Our help cometh from the Lord, Maker of heaven and earth. Our Heavenly Father, we bow in humility as we consider the privilege that is ours this very moment to enter into the inner chamber, into the holiest of all holies, to talk with Thee this very moment. We lift our hearts in praise, first of all, to magnify, to glorify and extol Thy precious Holy Name and to thank Thee for Thine inexhaustible grace provided through our Blessed Saviour, the Lord.

Heavenly Father, with the psalmist of old we say, O, give thanks unto the Lord for He is good, for his mercy endureth forever. Let all them that reverence the Lord now say that His mercy endureth forever, for He is my strength and my song and He has become my salvation.

Teach us that because of this great glorious fact of Thy greatness and sufficiency we can face the many perplexing and pressing problems of life in the assurance that I can do all things through Christ, Who strengtheneth me. I am adequate for all things through His divine help.

Father, when the way seems so impossible and we face our many Red Sea experiences, and, when we would even wonder if there is someone in Heaven who cares for us, help us to always remember Calvary, for there is the evidence that God cares for the whole world, no one excluded, for there he provideth forgiveness and peace with God and the assurance through trusting in the Lord we have One we can walk with and talk to, One who supports us day by day, Who gives us wisdom, understanding, grace and strength to bear one another's burdens.

Lord, bless, we pray Thee, as we enter into this new Session today, each Senator and, embracing this marvelous truth of Your Grace, may they understand they are not alone when they face the many, many problems and tests before them. But, as the Book of Proverbs tells us, if we trust in the Lord with all our hearts and lean not to our own understanding, but in all our ways acknowledge Thee, Thou shalt direct our path.

May they ever be men of faith, of good report and filled with the Spirit of God, through Jesus Christ, our Lord, we pray. Amen.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator NOLAN, further reading was dispensed with, and the Journal was approved.

LEAVE OF ABSENCE

Senator NOLAN asked and obtained leave of absence for Senator REIBMAN, for today's Session.

COMMUNICATION FROM THE GOVERNOR

RECALL COMMUNICATION REFERRED TO COMMITTEE

The Secretary to the Governor being introduced, presented communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows, and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE PENNSYLVANIA HOUSING FINANCE AGENCY

November 19, 1975

To the Honorable, the Senate of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated August 18, 1975 for the reappointment of Robert L. Lavelle, 2909 Centre Avenue, Pittsburgh 15219, Allegheny County, Forty-third Senatorial District, as a member of the Pennsylvania Housing Finance Agency, to serve until July 20, 1980, and until his successor is appointed and qualified.

I respectfully request the return to me of the official message of nomination in the premises.

MILTON J. SHAPP

HOUSE MESSAGES

HOUSE BILL FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 1498**, which was referred to the Committee on Law and Justice.

HOUSE CONCURRENT RESOLUTION REFERRED TO COMMITTEE

He also presented for concurrence House Concurrent

Resolution No. 182, which was referred to the Committee on Rules and Executive Nominations.

SENATE BILL RETURNED WITH AMENDMENTS

He also returned to the Senate **SB 102**, with the information that the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT. The bill, as amended, will be placed on the Calendar.

HOUSE CONCURS IN SENATE BILL

He also returned to the Senate **SB 901**, with the information that the House has passed the same without amendments.

BILLS SIGNED

The President (Lieutenant Governor Ernest P. Kline) in the presence of the Senate signed the following bills:

SB 536 and **901**.

BILLS INTRODUCED AND REFERRED

Senators O'PAKE, SCANLON, ROSS, REIBMAN, FRAME, EWING and DUFFIELD presented to the Chair **SB 1195**, entitled:

An Act relating to the licensing of social workers.

Which was committed to the Committee on Public Health and Welfare.

Senator ZEMPRELLI presented to the Chair **SB 1196**, entitled:

An Act amending the act of June 18, 1974 (P. L. 359, No. 120), entitled "Municipal Police Education and Training Law," providing that part-time police officers shall not be covered by the provisions of this act.

Which was committed to the Committee on Local Government.

Senators MOORE, MURPHY, MELLOW, EWING, STAPLETON, HOLL, MYERS, ORLANDO, JUBELIRER, ROSS, AMMERMAN, KELLEY, ANDREWS, DWYER, HAGER, FRAME, TILGHMAN, HOBBS, HESS, O'PAKE, BELL, FLEMING, SNYDER, MANBECK, KURY, STAUFFER, WOOD, LENTZ, DOUGHERTY and HOWARD presented to the Chair **SB 1197**, entitled:

An Act providing for loans to volunteer fire companies, volunteer ambulance services and volunteer rescue squads for the purpose of establishing or modernizing of facilities and purchasing apparatus and equipment, providing for the administration of the act by the Department of Community Affairs, empowering of the Governor, State Treasurer and Auditor General to issue general obligation bonds for this purpose, and making an appropriation.

Which was committed to the Committee on State Government.

Senators MELLOW, ORLANDO and LYNCH presented to the Chair **SB 1198**, entitled:

An Act amending the act of June 2, 1915 (P. L. 736, No. 338), entitled, as amended, "The Pennsylvania Workmen's Compensation Act," further providing for payment of compensation to volunteers in connection with forest fire protection.

Which was committed to the Committee on Labor and Industry.

Senators MURPHY, ROSS, ORLANDO, STAUFFER and EWING presented to the Chair **SB 1199**, entitled:

An Act amending the act of July 7, 1947 (P. L. 1368, No. 542), entitled "Real Estate Tax Sale Law," further extending the act to certain third class cities and school districts within third class cities.

Which was committed to the Committee on Local Government.

Senators STAUFFER, ORLANDO, MURPHY, ROSS and EWING presented to the Chair **SB 1200**, entitled:

An Act amending the act of May 9, 1949 (P. L. 919, No. 257), entitled "An act designating certain clerks of courts agents of the Commonwealth in the collection and transmission of fines, forfeited recognizances and other forfeitures imposed, lost or forfeited into any court for the use of the Commonwealth; . . ." changing the days for rendering certain returns to the Department of Revenue, and providing for evidence of timely filing.

Which was committed to the Committee on Local Government.

Senators MURPHY, ROSS, ORLANDO, STAUFFER and EWING presented to the Chair **SB 1201**, entitled:

An Act reenacting and amending the act of December 10, 1974 (No. 264), entitled, "An act prohibiting the disbanding of a paid fire force in favor of having such services performed by volunteers," further providing for disbanding of paid fire forces and establishing a method of operation for the referendum.

Which was committed to the Committee on Local Government.

They also presented to the Chair **SB 1202**, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, increasing the amount of the family exemption to \$3,000.

Which was committed to the Committee on Local Government.

SENATE CONCURRENT RESOLUTION

URGING NEW KITTANNING RIVER BRIDGE BE NAMED "JUDGE J. FRANK GRAFF BRIDGE"

Senators STAPLETON, COPPERSMITH, AMMERMAN and KELLEY offered the following resolution (Serial No. 226), which was read and referred to the Committee on Transportation.

In the Senate, November 24, 1975.

The long and dedicated service of the Honorable J. Frank Graff to his community, the Commonwealth and the Nation, makes a memorial to him during his lifetime imperative to express the esteem of his fellow citizens in Armstrong County; therefore be it

RESOLVED (the House of Representatives concurring), That the General Assembly of the Commonwealth of Pennsylvania propose that the new Kittanning Bridge crossing the Allegheny River in Armstrong County containing the Allegheny Valley Expressway, Legislative Route 1037, extending from North Buffalo Township to Manor Township, be named for and dedicated to the Honorable J. Frank Graff; and be it further

RESOLVED, That the Secretary of Transportation be urged to name the new Kittanning Bridge over the Allegheny River the "Judge J. Frank Graff Bridge"; and be it further

RESOLVED, That the Secretary of Transportation be urged to place appropriate commemorative plaques on the bridge; and be it further

RESOLVED, That a copy of this resolution be forwarded to the Secretary of Transportation, Highway and Safety Building, Harrisburg, Pennsylvania.

RECESS

Senator NOLAN. Mr. President, I request a recess of the Senate until 4:30 p.m., for the purpose of holding a Democratic caucus and a Republican caucus.

The PRESIDENT. Are there any objections? The Chair hears no objection, and declares a recess of the Senate until 4:30 p.m., Eastern Standard Time.

AFTER RECESS

The PRESIDENT pro tempore (Martin L. Murray) in the Chair.

The PRESIDENT pro tempore. The time of recess having elapsed, the Senate will be in order.

SENATE CONCURRENT RESOLUTION

RETURNING SB 1 TO THE COMMITTEE OF CONFERENCE

Senator KURY offered the following concurrent resolution which was read as follows:

In the Senate, November 24, 1975.

RESOLVED, (the House of Representatives concurring), That Senate Bill No. 1, Printer's No. 1428 entitled "An Act providing for the regulation of land and water use for flood control purposes, imposing duties and conferring powers on the Department of Environmental Resources, the Environmental Quality Board, the Department of Community Affairs, municipalities and counties, providing for enforcement and penalties, and making appropriations," be recommitted to the Committee of Conference for the purpose of further amendment.

On the question,

Will the Senate adopt the resolution?

Senator KURY. Mr. President, I offer a brief explanation. When the Committee of Conference reported the bill out last week, there were eighteen amendments that were agreed to by the conferees. When the bill was printed, one of the amendments had been inadvertently omitted, and the purpose of recommitting the bill is just to restore that amendment which was previously agreed to but which was somehow left out of the printing.

And the question recurring,

Will the Senate adopt the resolution?

The resolution was adopted.

Ordered, That the Clerk present the same to the House of Representatives for concurrence.

CALENDAR

REPORTS OF COMMITTEES OF CONFERENCE

BILL OVER IN ORDER TEMPORARILY

SB 1—Without objection, the bill was passed over in its order temporarily at the request of Senator MESSINGER.

REPORT ADOPTED

HB 182 (Pr. No. 2245)—Senator MESSINGER. Mr.

President, I move that the Senate adopt the Report of Committee of Conference on House Bill No. 182, entitled:

Amending the act of July 19, 1974 (No. 175), entitled "An act requiring public agencies to hold certain meetings and hearings open to the public and providing penalties," providing for public notice in case of certain meetings of the General Assembly and excepting meetings of ethics committees created pursuant to rules of the House of Representatives or the Senate.

On the question.

Will the Senate agree to the motion?

The PRESIDING OFFICER (Henry J. Cianfrani) in the Chair.

(During the calling of the roll, the following occurred:) Senator DOUGHERTY. Mr. President, I desire to change my vote from "aye" to "no."

The PRESIDING OFFICER. The gentleman will be so recorded.

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—29

Ammerman,	Hill,	Mellow,	Ross,
Cianfrani,	Hobbs,	Murphy,	Scanlon,
Coppersmith,	Holl,	Murray,	Smith,
Duffield,	Kelley,	Nolan,	Stauffer,
Early,	Lewis,	Noszka,	Sweeney,
Fleming,	Lynch,	Oriando,	Wood,
Frame,	McKinney,	Romanelli,	Zemprell,
Hankins,			

NAYS—19

Andrews,	Hager,	Lentz,	O'Pake,
Bell,	Hess,	Manbeck,	Snyder,
Dougherty,	Howard,	Messinger,	Stapleton,
Dwyer,	Jubelirer,	Moore,	Tilghman,
Ewing,	Kury,	Myers,	

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk inform the House of Representatives accordingly.

BILLS WHICH HOUSE HAS NONCONCURRED IN SENATE AMENDMENTS

SENATE INSISTS UPON ITS AMENDMENTS NONCONCURRED IN BY THE HOUSE TO HB 749

HB 749 (Pr. No. 2050)—Senator MESSINGER. Mr. President, I move that the Senate do insist upon its amendments to House Bill No. 749, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

SENATE INSISTS UPON ITS AMENDMENTS NONCONCURRED IN BY THE HOUSE TO HB 796

HB 796 (Pr. No. 2340)—Senator MESSINGER. Mr. President, I move that the Senate do insist upon its amendments to House Bill No. 796, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

SENATE INSISTS UPON ITS AMENDMENTS NONCONCURRED IN BY THE HOUSE TO HB 826

HB 826 (Pr. No. 2051)—Senator MESSINGER. Mr.

President, I move that the Senate do insist upon its amendments to House Bill No. 826, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

BILLS ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE NONCONCURS IN HOUSE AMENDMENTS

SB 572 (Pr. No. 1376)—Senator MESSINGER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 572, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

SB 573 (Pr. No. 1359)—Senator MESSINGER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 573, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

SENATE CONCURS IN HOUSE AMENDMENTS

SB 580 (Pr. No. 1377)—Senator MESSINGER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 580.

On the question,

Will the Senate agree to the motion?

(During the calling of the roll, the following occurred:)

Senator ARLENE. Mr. President, I desire to change my vote from "aye" to "no."

The PRESIDING OFFICER. The gentleman will be so recorded.

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—31

Andrews,	Frame,	Kelley,	Orlando,
Cianfrani,	Hager,	Lynch,	Romanelli,
Dougherty,	Hankins,	Mellow,	Ross,
Duffield,	Hess,	Moore,	Scanlon,
Dwyer,	Hill,	Murphy,	Smith,
Early,	Hobbs,	Murray,	Stapleton,
Ewing,	Holl,	Nolan,	Wood,
Fleming,	Jubelirer,	Noszka,	

NAYS—18

Ammerman,	Kury,	Messinger,	Stauffer,
Arlene,	Lentz,	Myers,	Sweeney,
Bell,	Lewis,	O'Pake,	Tilghman,
Coppersmith,	Manbeck,	Snyder,	Zemprell,
Howard,	McKinney,		

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk inform the House of Representatives accordingly.

HB 1731 CALLED UP OUT OF ORDER

HB 1731 (Pr. No. 2205)—Without objection, the bill was called up out of order, from page 8 of the Third Consideration Calendar, by Senator MESSINGER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1731 (Pr. No. 2205)—Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration? Senator EWING, by unanimous consent, offered the following amendment:

Amend Sec. 1, page 3, by inserting between lines 1 and 2:

(iv) All trains operating under automatic block signal system or centralized traffic control signal rules.

On the question,

Will the Senate agree to the amendment?

Senator EWING. Mr. President, as we all know, House Bill No. 1731 requires that flag protection be provided against following trains occupying the same track. This amendment would exclude from the flagging requirement those trains operating under automatic block signal systems or centralized traffic control signal rules.

Despite the fact that the railroads have spent millions for modern signal and traffic control systems, and, in addition, make extensive use of train radio, the promoters of this bill have embarked on an all-out effort to turn back the clock by requiring the railroads to reinstate the manual flagging practices which were rendered obsolete many years ago by technological improvements.

Mr. President, I would suggest that what this amounts to, if the bill is passed in the form in which we have it before us, is requiring a policeman on every corner, at every intersection, where we have already expended a great deal of money for traffic control systems.

I can tell you that in terms of scope of coverage that this amendment would not gut the bill, that the largest railroad in Pennsylvania being the Penn Central Railroad, has 2,897 road miles in the Commonwealth, and of this total of 2,897 miles 1,580 miles are involved with automatic block system signals or traffic control system territory.

Senator BELL. Mr. President, I rise to oppose the amendment of the gentleman from Allegheny, Senator Ewing. About three or four weeks ago on the main line of the Penn Central between Philadelphia and Wilmington, thoroughly covered by block signals, an Amtrak passenger train was stopped. It was rammed from the rear by a local passenger train and then, to make it a little more complicated, a third train hit the two. This was probably one of the first triple-train crashes in this part of the country.

This area has an operative block signal protection. I know this happened in the State of Delaware about three miles from my District. If there had been flagmen out, if they had had the torpedoes and the fusees, those three trains would not have collided. I am speaking for the safety of passengers as well as the protection of property and freight trains. This happened to be where three passenger trains collided, and many people were hurt.

Senator MURPHY. Mr. President, I, too, rise to oppose the amendment offered by the gentleman from Allegheny, Senator Ewing. If the gentleman could assure us that electronic and signaling devices were infallible, of course I would support the amendment and we would be attempting to place additional provisions concerning the placement of those signals. However, they are not infallible.

Lights burn out, wires break, computers can break down, and the thing we are asking for in this bill is not for an additional signalman, but merely for the placement of the existing personnel at a strategic location behind the stopped train of cars. Once we have that assurance in the law, we feel as though the trainmen, the other personnel and the cargoes which are on those carriers will be more adequately protected than they are now.

And the question recurring,
Will the Senate agree to the amendment?

A voice vote having been taken, the question was determined in the negative, and the amendment was defeated.

And the question recurring,
Will the Senate agree to the bill on third consideration?
It was agreed to.

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—35

Ammerman,	Early,	McKinney,	Romanelli,
Andrews,	Fleming,	Mellow,	Ross,
Arlene,	Hankins,	Messinger,	Scanlon,
Bell,	Hill,	Murphy,	Smith,
Cianfrani,	Hobbs,	Murray,	Stapleton,
Coppersmith,	Kelley,	Nolan,	Sweeney,
Dougherty,	Kury,	Noszka,	Wood,
Duffield,	Lewis,	O'Pake,	Zemprelli,
Dwyer,	Lynch,	Orlando,	

NAYS—14

Ewing,	Holl,	Manbeck,	Snyder,
Frame,	Howard,	Moore,	Stauffer,
Hager,	Jubelirer,	Myers,	Tilghman,
Hess,	Lentz,		

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

PERMISSION TO ADDRESS SENATE

Senator HANKINS asked and obtained unanimous consent to address the Senate.

Senator HANKINS. Mr. President, I was down in my office on a long distance call. If I had been on the floor, I would have voted "no" against Senate Bill No. 580.

The PRESIDING OFFICER. The gentleman will be so recorded.

CONSIDERATION OF CALENDAR RESUMED

BILLS ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE NONCONCURS IN HOUSE AMENDMENTS

SB 668 (Pr. No. 1241)—Senator MESSINGER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 668, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

SB 669 (Pr. No. 1242)—Senator MESSINGER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 669, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

SB 670 (Pr. No. 1243)—Senator MESSINGER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 670, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

SB 671 (Pr. No. 1244)—Senator MESSINGER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 671, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

SB 707 (Pr. No. 1245)—Senator MESSINGER. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Bill No. 707, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

Ordered, That the Clerk inform the House of Representatives accordingly.

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 61 (Pr. No. 2263)—Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Ammerman,	Hager,	Lynch,	Orlando,
Andrews,	Hankins,	Manbeck,	Romanelli,
Arlene,	Hess,	McKinney,	Ross,
Bell,	Hill,	Mellow,	Scanlon,
Cianfrani,	Hobbs,	Messinger,	Smith,
Coppersmith,	Holl,	Moore,	Snyder,
Dougherty,	Howard,	Murphy,	Stapleton,
Duffield,	Jubelirer,	Murray,	Stauffer,
Dwyer,	Kelley,	Myers,	Sweeney,
Early,	Kury,	Nolan,	Tilghman,
Ewing,	Lentz,	Noszka,	Wood,
Fleming,	Lewis,	O'Pake,	Zemprelli,
Frame,			

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has

passed the same with amendments in which concurrence of the House is requested.

BILL RECOMMENDED ON FINAL PASSAGE

SB 73 (Pr. No. 1332)—Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

Senator LEWIS. Mr. President, I rise in opposition to Senate Bill No. 73, because it seems to me that, while the purpose might be laudable—and I know it is one that has been spoken of a great deal recently under the circumstances of the numerous trips of our incumbent Governor—nevertheless it seems that the language itself is so vague and so general that I think we are doing nothing except asking for many difficult problems in the future in the event that this proposed amendment should become law.

Mr. President, the addition proposed by Senate Bill No. 73 to the present constitutional language states that the Lieutenant Governor shall act in the place of the Governor in the event of the absence of the Governor from the Commonwealth; and that is the extent of the new language.

Mr. President, the first question, I think, is what constitutes "absence" and an answer, I am afraid, is that simply a removal from the geographical boundaries of the Commonwealth for however short a period of time could be construed to satisfy the provisions of this bill. One does not need to do much by way of imagination to start thinking of circumstances in which a Governor properly embarked upon his duties in attending a conference or meeting, for example, in some place outside of the Commonwealth, would then be confronted with a situation in which the Lieutenant Governor will interject himself immediately into the role of Governor under the provisions of this proposed change and proceed to do, or not do, all of those things for which we elected a Governor in the first place.

What would there be to stop a Lieutenant Governor in that situation from proceeding immediately, during a five-minute or half hour absence from the Commonwealth of the Governor, to make critical appointments to major cabinet positions, in vetoing legislation that the Legislature might have worked on for months in order to enact? As I pondered these kinds of problems I thought to myself, cannot they be resolved by a simple amendment? Would it not help if we said, for example, that the absence had to be for a period of twenty-four hours or forty-eight hours; and I found that even that, probably, would not be satisfactory, because while we would then cover the situation of a Governor absenting himself for simply a conference, what we are doing is eliminating the possibility that a Governor might take, for example, a vacation. If he should choose to get away from the hustle and bustle for a week and go to Ocean City, he might find that the entire course of conduct of his legislative programs has been inescapably altered while he was away.

Mr. President, I think that the intent behind the legislation is commendable, but in its present form I see nothing but grave difficulties if it is enacted. For

that reason, I will not support this legislation and ask that my colleagues give it their serious consideration as well.

Senator ANDREWS. Mr. President, the gentleman from Bucks, Senator Lewis, has taken most of the comments that I wanted to make and has expressed them very lucidly and very effectively, I believe. I would certainly urge my colleagues to oppose this bill for the same reason.

Mr. President, I would like to add a few other things the gentleman did not mention. One is that, if the Governor of Pennsylvania, the present Governor, is still embarked upon his crusade come next year at budget time, we could have the Lieutenant Governor, perhaps, or the President pro tempore of the Senate, perhaps, blue-lining the budget which we pass here. I do not really think these things will materialize with the present Administration and make-up of State government, but I think we should look to the future when the Senate and Administration are of different political parties, or different political philosophies, or in a case where, perhaps, a Lieutenant Governor or President pro tempore is running for Governor and there is much political hay to be made. I think the addition of this clause in there concerning absence from the Commonwealth gives very great hazards to this particular concept. I think the concept is good, I think it is something with which we should be dealing, but I think if we are going to do it we should not do it in a haphazard way. We should not ignore some of these possibilities which may arise in the future. It is a very grave course upon which we are embarking if we pass this particular provision, it is a provision which, perhaps, the people of Pennsylvania would approve and the grave consequences are something with which we would have to live for many years.

Mr. President, I would urge my colleagues to oppose this bill and I would join the gentleman from Bucks, Senator Lewis, in hoping that this would be done in a nonpartisan way because I do not think this bill has the best interests of the people of Pennsylvania.

MOTION TO RECOMMIT

Senator TILGHMAN. Mr. President, I agree with the previous two speakers. Any Governor is going to be absent from Pennsylvania during some period of his governorship.

Mr. President, I move that this bill be recommitted to the Committee on State Government.

Senator FRAME. Mr. President, I second the motion.

PARLIAMENTARY INQUIRY

Senator HANKINS. Mr. President, I rise to a question of parliamentary inquiry.

The PRESIDING OFFICER. The gentleman from Philadelphia, Senator Hankins, will state it.

Senator HANKINS. Mr. President, I was going to speak on the bill. Was there a motion?

The PRESIDING OFFICER. The motion is not debatable.

MOTION WITHDRAWN

Senator TILGHMAN. Mr. President, you may dispense with the motion. I will withdraw it for a moment if I may offer the motion again after the gentleman from Philadelphia, Senator Hankins, has spoken.

Senator FRAME. Mr. President, I withdraw my second to the motion for a moment.

The PRESIDING OFFICER. We will dispense with the motion.

And the question recurring,
Shall the bill pass finally?

Senator HANKINS. Mr. President, Senate Bill No. 73, as presently drafted, amends the Act of December 30, 1974, which established a procedure for determining the disability of the Governor and Lieutenant Governor. Senate Bill No. 73 does nothing more than expand the determination of a disability which would render the Governor unable to discharge the powers and duties of his office.

Furthermore, the bill sets forth the requirements to be met before the Lieutenant Governor can act in the absence of the Governor.

The General Assembly also, by the Act of December 30, 1974, saw fit to establish the procedure for determining the disability of the Governor and provides for the Lieutenant Governor to act in his behalf. Senate Bill No. 73 does nothing more than amend this determination of disability.

You are hereby advised that there are no apparent conflicts with the Constitution which would inhibit the passage or effectiveness of Senate Bill No. 73 as presently drafted.

Under the present law, time and again we have seen Governors rush back from distant places because there is no one on the scene to handle certain technical requirements of law.

Another factor which is important that I should bring out is this: Some questions have arisen in discussion of Senate Bill No. 73 which provides that the Lieutenant Governor is to act as Governor when the Governor is out of State. As to what other states have similar provisions, our research indicates that thirty-one states presently have provisions that the Lieutenant Governor shall act as Governor while the Governor is absent from the State. They are: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Hawaii, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Rhode Island, South Carolina, Texas, Utah, Vermont, Wisconsin and Wyoming. In addition, Alabama and South Carolina have provisions which are quite similar.

Mr. President, I feel that the same could be used at this time in the Commonwealth of Pennsylvania. As you know, the Governor is now very active and being quite active in the election of 1976, and there have been many times when he has been away from the Commonwealth in 1975, and I am sure it will happen again in 1976.

MOTION TO RECOMMIT

Senator TILGHMAN. Mr. President, I now move that Senate Bill No. 73 be recommitted to the Committee on State Government from whence it came.

On the question,
Will the Senate agree to the motion?
It was agreed to.

The PRESIDING OFFICER. Senate Bill No. 73 will be recommitted to the Committee on State Government on final passage.

BILL OVER IN ORDER

SB 116—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL RECOMMITTED

SB 217 (Pr. No. 1408)—Upon motion of Senator SCANLON, and agreed to, the bill was recommitted to the Committee on Urban Affairs and Housing.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 263 (Pr. No. 263)—Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Ammerman,	Hager,	Lynch,	Orlando,
Andrews,	Hankins,	Manbeck,	Romanelli,
Arlene,	Hess,	McKinney,	Ross,
Bell,	Hill,	Mellow,	Scanlon,
Cianfrani,	Hobbs,	Messinger,	Smith,
Coppersmith,	Holl,	Moore,	Snyder,
Dougherty,	Howard,	Murphy,	Stapleton,
Duffield,	Jubelirer,	Murray,	Stauffer,
Dwyer,	Kelley,	Myers,	Sweeney,
Early,	Kury,	Nolan,	Tilghman,
Ewing,	Lentz,	Noszka,	Wood,
Fleming,	Lewis,	O'Pake,	Zemprell,
Frame,			

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk present said bill to the House of Representatives for concurrence.

BILLS OVER IN ORDER

HB 282 and **484**—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL OVER IN ORDER ON FINAL PASSAGE

SB 615 (Pr. No. 1346)—Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

Senator KELLEY. Mr. President, I desire to interrogate the gentleman from Philadelphia, Senator Smith.

The PRESIDING OFFICER. Will the gentleman from Philadelphia, Senator Smith, permit himself to be interrogated?

Senator SMITH. I will, Mr. President.

Senator KELLEY. Mr. President, would the gentleman explain the legislative intent of the meanings on page 2 in reference to each public and nonpublic high school. Is it the intent of this language to refer only to senior highs or both junior and senior highs?

Senator SMITH. Mr. President, I think that the thrust of the bill is for senior high schools.

Senator KELLEY. Mr. President, I was only trying to establish some legislative history.

Senator ANDREWS. Mr. President, before we proceed with the roll call, may I ask one question? I did not realize it until the gentleman from Westmoreland, Senator Kelley, mentioned it: Do we in the Legislature have the power to mandate that we have registration in nonpublic schools and to mandate nonpublic schools to provide facilities, or rooms, or whatever they may need, to conduct the particular registration? I just do not know that we have the power to tell some private institution that they will have to be open for voter registration.

Senator SMITH. Mr. President, I believe, in Philadelphia, we had requested the nonpublic schools to hold registration in the high schools, and they had accepted it. I think on that premise we have designed the bill.

Senator ANDREWS. Mr. President, I do not know that any nonpublic school would quarrel with this particular fact of making their facilities available for voter registration. However, we are not asking them in this bill, we are telling them that they are going to do it. I think that, perhaps, this should be considered by the Members before we go out on a limb and find ourselves in court because somebody wants to raise a constitutional issue, or some such thing.

Senator SMITH. Mr. President, I believe we are simply saying in the bill that they make available registration days in the high schools. I do not believe we are mandating to the extent that we say to them, make available registration procedures within the high schools, both public and nonpublic schools.

Senator ANDREWS. Mr. President, on line 27 of page 2 it says, "Such registration shall be held at least once, on a regularly scheduled . . ." basis ". . . in each public and non-public high school . . ." That, to me, does not mean that we are authorizing it, it means that we are mandating it, and they have no choice but to permit it.

Senator SMITH. Mr. President, I ask the gentleman on what basis does he say we do not have the right to ask the nonpublic high schools to hold registrations?

Senator ANDREWS. Mr. President, we have the rights of private property, we have the rights of privacy and a number of other rights that we, as citizens and organizations, have in this country. This would be the same thing as mandating we would have to have it in every manufacturing plant or any other private institution. I just do not see that the Legislature of Pennsylvania has the right to tell private owners of property, whether they be nonpublic schools or whether they be office buildings, that they have to make available to us facilities for conducting voters' registration. It may be that I could be wrong; I do not claim to be a great constitutional lawyer and maybe it would be wiser, Mr. President, if we would let this bill go over and have the legal staff study it.

Senator KELLEY. Mr. President, with regard to the inquiry of the gentleman from Lawrence, Senator Andrews, in line 1 on page 3 there is also an exclusion for this relative to the schools and that is excluding proprietary schools. Now I would agree with the gentleman it leaves the door open for some ambiguities, but I think that exclusion certainly would make it flexible for any of those who did not wish to allow the election boards to have the registration to do so and everybody would fall within the context and purview of the legislative language.

Mr. President, I think the point is well covered by that exclusion and I am satisfied.

REQUEST FOR BILL OVER IN ORDER

Senator ANDREWS. Mr. President, I do not know how the Supreme Court will ever define proprietary school, but to me that is one which is operated by private individuals for profit. I do not know that that would include a high school, a very fine high school, which I have in my District, a Catholic school, the Villa Maria High School for Girls, which is an excellent school, but it would be my opinion it is not a proprietary school—it is a nonpublic school, of course, but it is not proprietary. I think the same question manifests itself and I would again request that this bill go over in order so this could be studied by our legal staff, so we would be far more confident than the gentleman from Philadelphia, Senator Smith, or the gentleman from Westmoreland, Senator Kelley, or myself, in determining what the constitutional problems might be.

Senator SMITH. Mr. President, as chief sponsor, if the gentleman has that type of objection, I see no reason why he cannot offer an amendment to Senate Bill No. 615.

We will put it over and let the gentleman have the right to amend this bill.

The PRESIDING OFFICER. If there is no objection, the bill will go over in order on final passage.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 647 (Pr. No. 726)—Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Ammerman,	Hager,	Lynch,	Orlando,
Andrews,	Hankins,	Manbeck,	Romanelli,
Arlene,	Hess,	McKinney,	Ross,
Bell,	Hill,	Mellow,	Scanlon,
Cianfrani,	Hobbs,	Messinger,	Smith,
Coppersmith,	Holl,	Moore,	Snyder,
Dougherty,	Howard,	Murphy,	Stapleton,
Duffield,	Jubelirer,	Murray,	Stauffer,
Dwyer,	Kelley,	Myers,	Sweeney,
Early,	Kury,	Nolan,	Tilghman,
Ewing,	Lentz,	Noszka,	Wood,
Fleming,	Lewis,	O'Pake,	Zemprelli,
Frame,			

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

HB 648 (Pr. No. 727)—Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Ammerman,	Hager,	Lynch,	Orlando,
Andrews,	Hankins,	Manbeck,	Romanelli,
Arlene,	Hess,	McKinney,	Ross,
Bell,	Hill,	Mellow,	Scanlon,

Cianfrani, Coppersmith, Dougherty, Duffield, Dwyer, Early, Ewing, Fleming, Frame,	Hobbs, Holl, Howard, Jubelirer, Kelley, Kury, Lentz, Lewis,	Messinger, Moore, Murphy, Murray, Myers, Nolan, Noszka, O'Pake,	Smith, Snyder, Stapleton, Stauffer, Sweeney, Tilghman, Wood, Zemprelli,
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NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

BILLS OVER IN ORDER

HB 652 and 653—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 655 (Pr. No. 734)—Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Ammerman, Andrews, Arlene, Bell, Cianfrani, Coppersmith, Dougherty, Duffield, Dwyer, Early, Ewing, Fleming, Frame,	Hager, Hankins, Hess, Hill, Hobbs, Holl, Howard, Jubelirer, Kelley, Kury, Lentz, Lewis,	Lynch, Manbeck, McKinney, Mellow, Messinger, Moore, Murphy, Murray, Myers, Nolan, Noszka, O'Pake,	Orlando, Romanelli, Ross, Scanlon, Smith, Snyder, Stapleton, Stauffer, Sweeney, Tilghman, Wood, Zemprelli,
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NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

HB 656 (Pr. No. 2236)—Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Ammerman, Andrews, Arlene, Bell, Cianfrani, Coppersmith, Dougherty, Duffield, Dwyer, Early, Ewing, Fleming, Frame,	Hager, Hankins, Hess, Hill, Hobbs, Holl, Howard, Jubelirer, Kelley, Kury, Lentz, Lewis,	Lynch, Manbeck, McKinney, Mellow, Messinger, Moore, Murphy, Murray, Myers, Nolan, Noszka, O'Pake,	Orlando, Romanelli, Ross, Scanlon, Smith, Snyder, Stapleton, Stauffer, Sweeney, Tilghman, Wood, Zemprelli,
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NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

BILL OVER IN ORDER

SB 714—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILLS ON THIRD CONSIDERATION AMENDED

HB 957 (Pr. No. 2341)—Considered the third time,

On the question,
Will the Senate agree to the bill on third consideration?

Senator COPPERSMITH, by unanimous consent, offered the following amendments:

Amend Sec. 3 (Sec. 2), page 4, lines 23 and 24, by striking out "electric energy, THROUGH THE USE OF COAL-FIRED GENERATING FACILITIES"

Amend Sec. 3 (Sec. 2), page 5, lines 5 and 6, by striking out "ELECTRIC ENERGY" in line 5, all of line 6 and inserting: gas or

Amend Sec. 4 (Sec. 3), page 13, line 24, by removing the period after "operations" and inserting: , except the production of electrical energy by a utility activity.

Amend Sec. 4 (Sec. 3), page 17, line 13, by striking out "electric energy, gas," and inserting: gas

On the question,
Will the Senate agree to the amendments?
They were agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator COPPERSMITH.

HB 958 (Pr. No. 2265)—Considered the third time,

On the question,
Will the Senate agree to the bill on third consideration?

Senator COPPERSMITH, by unanimous consent, offered the following amendments:

Amend Title, page 1, lines 22 and 23 by striking out "INCREASING THE TERM OF EXISTENCE"

Amend Sec. 1, page 1, line 26 by inserting a comma after "3"

Amend Sec. 1, page 1, lines 26 and 27 by striking out "AND CLAUSE (I) OF SECTION 5,"

Amend Sec. 1, page 2, line 1 by striking out "ARE" and inserting: is

Amend Sec. 1 (Sec. 5), page 2, lines 13 to 23 by striking out all of said lines

On the question,
Will the Senate agree to the amendments?
They were agreed to.
Without objection, the bill, as amended, was passed over in its order at the request of Senator COPPERSMITH.

SB 967 (Pr. No. 1119)—Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?
 Senator ORLANDO, by unanimous consent, offered the following amendments:

- Amend Sec. 1 (Sec. 4402), page 2, line 3, by striking out the bracket before "One"
- Amend Sec. 1 (Sec. 4402), page 2, line 5, by inserting the brackets before and after "and one shall be a physician"
- Amend Sec. 1 (Sec. 4402), page 2, line 5, by striking out the bracket after "physician.]"

On the question,
 Will the Senate agree to the amendments?

Senator FRAME. Mr. President, I would ask for a roll call vote on the amendments.

Senator KELLEY. Mr. President, I desire to interrogate the gentleman from Erie, Senator Orlando.

The PRESIDING OFFICER. Will the gentleman from Erie, Senator Orlando, permit himself to be interrogated?

Senator ORLANDO. I will, Mr. President.

Senator KELLEY. Mr. President, before we have a roll call vote, would the sponsor please explain the amendments?

Senator ORLANDO. Mr. President, in the past the original bill included in its provisions for a doctor or a physician to be a member of the Commission as well as an educator. The bill eliminated both the physician and the educator. What I am doing with my amendments is reincluding the educator as a member of the Civil Service Board and any other two electors could be appointed as members of the Board.

And the question recurring,
 Will the Senate agree to the amendments?

The yeas and nays were required by Senator FRAME and were as follows, viz:

YEAS—27

Arlene, Cianfrani, Dougherty, Duffield, Dwyer, Early, Hager,	Hankins, Holl, Kelley, Lewis, Lynch, Manbeck, McKinney,	Mellow, Messinger, Murray, Myers, Nolan, Noszka, O'Pake,	Orlando, Romanelli, Ross, Scanlon, Smith, Zemprelli,
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NAYS—20

Ammerman, Andrews, Bell, Coppersmith, Ewing,	Fleming, Frame, Hess, Hobbs, Howard,	Jubelirer, Kury, Lentz, Moore, Snyder,	Stapleton, Stauffer, Sweeney, Tilghman, Wood,
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So the question was determined in the affirmative, and the amendments were agreed to.

The PRESIDING OFFICER. The bill will go over in its order, as amended.

BILL DEFEATED ON FINAL PASSAGE

SB 998 (Pr. No. 1175)—Considered the third time and agreed to,

On the question,
 Shall the bill pass finally?

Senator ANDREWS. Mr. President, I desire to interrogate the gentleman from Bucks, Senator Lewis.

The PRESIDING OFFICER. Will the gentleman from Bucks, Senator Lewis, permit himself to be interrogated?

Senator LEWIS. I will, Mr. President.

Senator ANDREWS. Mr. President, I would ask the gentleman whether the passage of this bill would provide that if a man should work in one district which had a wage tax and live in another district which had a wage tax, the effect of this would be that he would end up paying two wage taxes instead of the one which he pays now.

Senator LEWIS. Mr. President, the answer to the gentleman's question is "no." This amendment speaks specifically to an exclusion presently contained in the earned income tax section of Act 11 which relates to Philadelphia alone and to no other part of the Commonwealth.

When the Act was passed, it mandated, with the use of the word "shall," the exclusion from taxation under the earned income tax any nonresident who worked in Philadelphia and paid the wage tax there. The result of the situation is that the surrounding school districts, some of which have become bedroom communities for the city itself, specifically because of the desire of the people now living there to send their children to the suburban schools, have lost the opportunity to generate the revenues they need in order to pay for those educational facilities, and especially when considered in light of the fact that the principal source of the revenue for these schools has been the real property tax. Many of the persons now residing in those communities who send their children to those schools live in apartments, so that this would be applicable only to those communities, as the exclusion in the first instance spoke specifically and only to the Philadelphia wage tax. It would not affect any other area in the Commonwealth.

Senator ANDREWS. Mr. President, I would then ask the gentleman if this would mean that if somebody who lived in, say, Montgomery County or Bucks County and worked in Philadelphia would end up paying the wage tax both in his home county to his local municipality and, also, to the City of Philadelphia, so that that individual would be taxed twice?

Senator LEWIS. That could occur, Mr. President. Again, this is permissive language giving the authority to the school board to raise the taxes in the way that they think most appropriate, and that event could occur in those areas.

Senator ANDREWS. Mr. President, I would then ask the gentleman: This act in the title refers to Second Class cities and boroughs, and towns, and townships and the whole works, and then it refers to The Local Tax Enabling Act, and so forth. I do not understand why this should only apply to the situation with respect to First Class cities.

Senator LEWIS. Mr. President, for the reason that the portion of the Act which is being amended made the exclusion in specific language by reference to a precedent Act of the Legislature which happened to be the Tax Enabling Act for the wage tax for Philadelphia alone, and the grandfathering legislation in the 511 Act spoke only of that legislation and there has been none other since that time which has or can qualify.

Senator BELL. Mr. President, I am going to ask the Members to vote against this bill, although what the gentleman from Bucks, Senator Lewis, says may be correct. What this is going to do in my District is to open the door for the people who pay the hated Philadelphia wage tax to again be taxed by the local district. They will

end up paying two wage taxes. Right now the people in my District are taxed enough.

Senator TILGHMAN. Mr. President, I do not mean to prolong this, but I would respectfully differ with the gentleman from Bucks, Senator Lewis. I do not read the bill the way he does and it is perfectly possible by this bill to be paying two wage taxes. It says that one wage tax may be credited. I do not even know who gives that credit, it does not mention that, it does not say the treasurer, the commissioners, or the Governor, or anybody. For that reason I would ask for a negative vote.

And the question recurring,
Shall the bill pass finally?

(During the calling of the roll, the following occurred:)

Senator AMMERMAN. Mr. President, I desire to change my vote from "aye" to "no."

The PRESIDING OFFICER. The gentleman will be so recorded.

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—1

Lewis,

NAYS—45

Ammerman,	Hager,	Manbeck,	Romanelli,
Andrews,	Hankins,	McKinney,	Ross,
Arlene,	Hess,	Mellow,	Scanlon,
Bell,	Hobbs,	Messinger,	Smith,
Cianfrani,	Holl,	Moore,	Snyder,
Coppersmith,	Howard,	Murray,	Stapleton,
Dougherty,	Jubelirer,	Myers,	Stauffer,
Dwyer,	Kelley,	Nolan,	Sweeney,
Early,	Kury,	Noszka,	Tilghman,
Ewing,	Lentz,	O'Pake,	Wood,
Fleming,	Lynch,	Orlando,	Zemprelli,
Frame,			

Less than a majority of all the Senators having voted "aye," the question was determined in the negative.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1011 (Pr. No. 1191)—Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—45

Ammerman,	Hess,	McKinney,	Romanelli,
Andrews,	Hill,	Mellow,	Ross,
Arlene,	Hobbs,	Messinger,	Scanlon,
Cianfrani,	Holl,	Moore,	Smith,
Dougherty,	Howard,	Murphy,	Snyder,
Duffield,	Jubelirer,	Murray,	Stapleton,
Early,	Kelley,	Myers,	Stauffer,
Ewing,	Kury,	Nolan,	Sweeney,
Fleming,	Lentz,	Noszka,	Tilghman,
Frame,	Lynch,	O'Pake,	Wood,
Hager,	Manbeck,	Orlando,	Zemprelli,
Hankins,			

NAYS—4

Bell, Coppersmith, Dwyer, Lewis,

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Clerk present said bill to the House of Representatives for concurrence.

BILL OVER IN ORDER

HB 1254 (Pr. No. 2082)—Considered the third time,

On the question,
Will the Senate agree to the bill on third consideration?

AMENDMENT OFFERED

Senator MESSINGER, on behalf of Senator CIANFRANI, by unanimous consent, offered the following amendment:

Amend Sec. 3, page 7, lines 20 through 25 by striking out all of said lines and inserting:

Section 3. This act shall take effect July 1, 1976 and shall apply to the school year 1976-1977 and each year thereafter.

On the question,
Will the Senate agree to the amendment?

Senator DOUGHERTY. Mr. President, with all due respect to the distinguished gentleman from Philadelphia, Senator Cianfrani, I would rise to oppose the amendment. I believe the bill addresses itself to a very critical problem in the Commonwealth in that we have handicapped children who are currently attending private institutions because public schools cannot provide this degree of education. It has been my experience in my District that the tuition reimbursement paid by the State is totally inadequate. I can appreciate the financial circumstances, Mr. President, but I think the need of the people in this particular instance warrants that the bill become effective immediately upon being passed by the Legislature and signed by the Governor.

Mr. President, I, therefore, ask for a roll call vote on the amendment.

Senator TILGHMAN. Mr. President, I also rise to oppose this amendment. As the bill is on our desk and before the introduction of this amendment, I would like to read you Section 3, which states:

"This act shall take effect immediately, and shall apply to the school year 1975-1976 . . . except that the provisions relating to socially and emotionally disturbed residential students shall take effect July 1, 1976 and shall apply to the school year 1976-1977 and each year thereafter."

Mr. President, there is already in the effective date a postponement to July 1, 1976, for some of the people mentioned in this bill. This amendment would delay the implementation of this funding for all of those individuals mentioned in this bill until 1976.

Mr. President, I have had a great many calls at home relative to the passage of this bill. I would draw your attention to the fact that it includes the blind, the deaf, cerebral palsy and/or brain damaged, muscular dystrophied and/or socially and emotionally disturbed. The socially and emotionally disturbed are in the bill, their funding does not become effective until the next year, anyway. We are just including a delay of this money for the people this year.

I would urge my colleagues to oppose the delay included in this amendment.

Senator MESSINGER. Mr. President, while it is true that this is a most worthy cause, as many, many bills are that come before us, the truth of the matter is that the finances are not available at this particular time, and

there are many other bills that are being considered which will also have to be considered in this light. Unless the General Assembly is willing to pass new taxes, which they do not seem to be considering at the present time, we simply would not have the money to finance these programs.

Senator TILGHMAN. Mr. President, I know the gentleman did not have a chance to attend the recent Committee of Conference on House Bill No. 1333, but I guarantee you that when that comes over here, if this bill should pass for the \$6 million, I will lop \$6 million out of the other bill.

Senator DOUGHERTY. Mr. President, I offer to the Members of the Senate the fact that if we look at the PARC decision which placed the requirement on the school districts of Pennsylvania to provide education for handicapped children, and we combine this with the State Constitution which requires that a free public education be available to every student in the Commonwealth, I would submit to you the parents of handicapped children could, in fact, require in a court case that the Commonwealth pay the full cost of tuition for these children in private facilities, if the public school cannot provide that service, and that is what is, in fact, the case today. When the public schools cannot provide this kind of service, these children are placed in special schools; those schools are private. The reimbursement rate by the State is inadequate to meet the tuition cost to the parents. Mr. President, if we do not implement this bill and provide it immediately, I would be of the opinion, and I could stand corrected, that the parents could go into court and force the State to pay the total amount and not just the part that it would be paying under this bill.

AMENDMENT WITHDRAWN

Senator NOLAN. Mr. President, I request that the amendment be withdrawn at this time.

The PRESIDING OFFICER. The Chair hears no objection, and the amendment will be withdrawn at this time.

The bill will go over in its order.

HOUSE MESSAGE

HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION

The Clerk of the House of Representatives being introduced, informed the Senate that the House has concurred in Senate Concurrent Resolution, recommitting **SB 1** to the Committee of Conference for further amendment.

CONSIDERATION OF CALENDAR RESUMED

SB 1 CALLED UP

SB 1 (Pr. No. 1428)—Without objection, the bill, which previously went over in its order temporarily, was called up, from page 1 of the Calendar, under Report of Committee of Conference, by Senator MESSINGER.

REPORT OF COMMITTEE OF CONFERENCE

BILL RECOMMITTED TO COMMITTEE OF CONFERENCE

SB 1 (Pr. No. 1428)—Upon motion of Senator MESSINGER, and agreed to, the bill was recommitted to the Committee of Conference, in accordance with concurrent resolution adopted.

SECOND CONSIDERATION CALENDAR

PREFERRED APPROPRIATION BILL RECOMMITTED

HB 1082 (Pr. No. 1615)—The bill was considered.

On the question,
Will the Senate agree to the bill on second consideration?

Senator MESSINGER. Mr. President, I move that House Bill No. 1082 be recommitted to the Committee on Appropriations.

On the question,
Will the Senate agree to the motion?

Senator JUBELIRER. Mr. President, I object to the motion of the Majority Whip and request a roll call vote on the motion.

And the question recurring,
Will the Senate agree to the motion?

The yeas and nays were required by Senator JUBELIRER and were as follows, viz:

YEAS—27

Ammerman,	Kelley,	Murray,	Ross,
Arlene,	Kury,	Myers,	Scanlon,
Cianfrani,	Lynch,	Nolan,	Smith,
Coppersmith,	McKinney,	Noszka,	Stapleton,
Duffield,	Mellow,	O'Pake,	Sweeney,
Early,	Messinger,	Orlando,	Zemprelli,
Hankins,	Murphy,	Romanelli,	

NAYS—21

Andrews,	Frame,	Howard,	Moore,
Bell,	Hager,	Jubelirer,	Snyder,
Dougherty,	Hess,	Lentz,	Stauffer,
Dwyer,	Hobbs,	Lewis,	Tilghman,
Ewing,	Holl,	Manbeck,	Wood,
Fleming,			

So the question was determined in the affirmative, and the motion was agreed to.

The PRESIDING OFFICER. House Bill No. 1082 will be recommitted to the Committee on Appropriations.

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 402—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

HB 1418 (Pr. No. 2458)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 15, 112, HB 116, 117, 237 and 367—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 504 (Pr. No. 2447)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 578, 579, 608 and 609—Without objection, the bills

were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

SB 847 (Pr. No. 923)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL OVER IN ORDER

SB 872—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION AMENDED

HB 893 (Pr. No. 2356)—The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator FLEMING offered the following amendment and, if agreed to, asked that the bill be considered for the second time:

Amend Sec. 7, page 4, lines 16 through 21 by striking out "(a) This act shall not be construed" in line 16, all of lines 17 through 20 and "(b)" in line 21

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate agree to the bill on second consideration, as amended?

It was agreed to.

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 898, 949, 950 and 952—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL REREFERRED

SB 958 (Pr. No. 1109)—Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

HB 974, SB 980, 982 and 1041—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

SB 1050 (Pr. No. 1247)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL OVER IN ORDER

SB 1051—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

SB 1052 (Pr. No. 1249)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 1101, 1102, 1106 and 1137—Without objection, the

bills were passed over in their order at the request of Senator MESSINGER.

BILLS ON SECOND CONSIDERATION

SB 1153 (Pr. No. 1379) and HB 1153 (Pr. No. 2342)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

SB 1154 (Pr. No. 1380)—The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator KURY offered the following amendments:

Amend Title, page 1, lines 1 and 2, by striking out all of said lines and inserting:

Promoting the welfare of the people of the Commonwealth by providing for the establishment of a Statewide system of railroad transportation; creating the Commonwealth Railroad Authority as a body corporate and politic with power to acquire, construct, improve, equip, operate and lease transportation projects, and to fix the rentals, fees and charges for the use thereof; authorizing and regulating the issuance of bonds by the authority and providing for the payment of such bonds, and the rights of the holders thereof; authorizing the authority to enter into agreements, including agreements for the joint ownership of transportation assistance projects, with the government of the United States, any Federal or State agency, any political subdivision of the Commonwealth, any other authority organized by any thereof, any transportation company, or with any combination of the foregoing; granting to the authority the right of eminent domain; authorizing State agencies to lease transportation projects from the authority and to cooperate with local bodies; authorizing gifts to the authority by political subdivisions and corporations; empowering the authority to sell and convey transportation projects and providing that no debt of the Commonwealth shall be incurred in the exercise of any of the powers granted by this act, and making an appropriation.

Amend Bill, page 1, lines 5 through 18; pages 2 through 14; lines 1 through 30, and page 15, lines 1 through 20, by striking out all of said lines and inserting:

Section 1. Short Title.—This act shall be known and may be cited as the "Rail Rescue Act."

Section 2. Findings of Fact; Declaration of Legislative Policy.—Rail services which serve to provide the fundamental commerce necessary for the success of agricultural and industrial progress are in severe financial distress in Pennsylvania.

The present plight of Pennsylvania rail services forecast the loss of jobs and threaten the economic security of employees of commercial and agricultural entities directly and indirectly dependent upon rail services as well as railway employees themselves. Delivery of essential energy sources, such as coal and other energy supplies and improved energy efficiency demanded by the energy crisis, require quick and effective action by government to preserve rail services. Commuter passenger service is likewise seriously jeopardized by rising costs and the reorganization of the railroad system of the Commonwealth as mandated by Congress.

The Congress of the United States has enacted legislation to assist local efforts in rescuing rail services provided that the states contribute. Local organizations have been formed throughout Pennsylvania to salvage rail services in their regions.

Therefore, it is the policy of the Commonwealth of Pennsylvania to commit its resources to the common goal of assisting local efforts to preserve rail services, and it is the further purpose of this act to provide the machinery necessary to obtain necessary Federal assistance for local actions.

Section 3. Definitions.—The following terms, whenever referred to or used in this act, shall have the following meanings unless the context clearly indicates otherwise:

"Authority" shall mean the Commonwealth Railroad Authority created by section 4.

"Board" shall mean the governing body of the authority.

"Bonds" shall mean and include any negotiable or non-negotiable notes, bonds, bond anticipation notes, equipment trust certificates and other evidences of indebtedness or obligations of the authority.

"Construction" shall mean and include acquisition and construction, and the term "to construct" shall mean and include to acquire and to construct, all in such manner as may be deemed desirable.

"Equipment" and "furnishings" shall mean and include any equipment and furnishings whatsoever as may be deemed desirable and required by the authority or by the lessee or a sublessee of a project and approved by the board for the use and occupancy of such project, and the terms "to equip" or "to furnish" shall mean and include the installation of such equipment and furnishings.

"Federal agency" shall mean and include the United States of America, the President of the United States of America, and any department of, or corporation, agency, or instrumentality heretofore or hereafter created, designated, or established by the United States of America.

"Improvement" shall mean and include extension, enlargement, equipping, furnishing and improvement, and the term "to improve" shall mean and include to extend, to enlarge, to equip, to furnish and to improve, all in such manner as may be deemed desirable.

"Local transportation organization" shall mean any political subdivision or combination thereof or any nonprofit local economic development organization established for the purpose of preserving rail services now or hereafter organized under the laws of Pennsylvania or pursuant to an interstate compact or otherwise empowered to render transportation service or assist in the rendering of transportation service in a limited area in the Commonwealth of Pennsylvania, even though it may also render transportation service in adjacent states.

"Person" shall mean and include natural persons, firms, associations, corporations, business trusts, partnerships and public bodies, including local transportation organizations.

"Project" shall mean and include any system of railroad transportation, including locomotives of all types, including self-propelled cars, railroad passenger & freight cars of all types, and wires, poles and equipment for the electrification of any of the foregoing, rails, tracks, roadbeds, buildings, stations, terminals, docks, shelters, airports and parking areas for use in connection with railroad transportation systems, interconnecting lines and tunnels to provide service connections between transportation systems, transportation routes, corridors, and rights-of-way for any thereof, (but not for roads for public highways), signal and communication systems necessary or desirable for the construction, operation or improvement of the railroad transportation system involved, or any improvement of or equipment or furnishings for any of the foregoing or any part, or fractional and undivided co-ownership interest in any one or combination of any of the foregoing, that may by resolution of the board be designated as a project.

"Property" shall mean all property, real, personal or mixed, tangible or intangible, or any interest therein including fractional and undivided co-ownership interests.

"Transportation company" shall mean and in-

clude any person, firm, or corporation rendering railroad transportation service in this State pursuant to common carrier authorization from the Pennsylvania Public Utility Commission or the Interstate Commerce Commission.

Section 4. Commonwealth Railroad Authority.—(a) There is hereby created a body corporate and politic, constituting a public corporation and government instrumentality by the name of the "Commonwealth Railroad Authority," the board of members of which shall be composed of the following: the Governor, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Community Affairs, the Secretary of Property and Supplies, the Secretary of Labor and Industry, the Speaker of the House of Representatives, the President pro tempore of the Senate, the Minority Leader of the House of Representatives, the Minority Leader of the Senate and the Chairman of the Public Utility Commission and their respective successors in office and seven additional members who shall be appointed by the Governor with the advice and consent of the Senate on the following basis:

(1) One to be selected from a list of three qualified individuals recommended by the Associated Railroads of Pennsylvania or its successor;

(2) Two to be selected from a list of six qualified individuals recommended by the American Federation of Labor and Congress of Industrial Organizations or its successor one of whom shall be representative of railroad labor and one of whom shall be representative of employees of industry or commerce dependent on rail transportation.

(3) Two to be selected from a list of six qualified individuals recommended by the Pennsylvania Association of Mayors, Boroughs Association and Townships Association and the Association of County Commissioners of Pennsylvania.

(4) Two to be selected from a list of three qualified individuals recommended by freight shippers.

(b) The members of the authority initially appointed by the Governor shall continue in office for terms of one to seven years, respectively, from the date of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the Governor at the time of his appointment; but their successors shall each be appointed for a term of seven years, except that any person appointed to fill a vacancy shall serve only for the unexpired term, and any appointed member of the authority shall be eligible for re-appointment.

(c) The members of the authority shall be entitled to no compensation for their services as members, but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

Section 5. Purposes of Authority.—(a) The authority is created for the purpose of preserving railroad service in Pennsylvania by developing a Statewide system in cooperation with local community efforts to insure necessary passenger and freight services, with particular emphasis on making provision for:

(1) Adequate transportation in rural, suburban and other areas where there exist no adequate alternative transportation systems meeting the needs of the Community.

(2) The preservation of the existing potential for rail service and of existing railroad trackage in areas in which fossil fuel natural resources are located.

(b) Such provisions are to be implemented by:

(1) Developing a Statewide plan for rail transportation and local rail services which provides for the equitable distribution of the burden of subsidies based on all relevant factors including the conservation of scarce energy resources, and

which meets the requirements of any Federal subsidy provided by Federal law.

(2) Constructing, improving, equipping, maintaining, operating and leasing, as lessee or lessor, at any stage of construction or after completion, any project or projects.

(3) Acquiring by purchase or assignment or otherwise, all or part, of any construction or acquisition contracts, from any State agency, transportation company, or any local transportation organization relating to any project or projects at any stage of construction, or after completion.

(4) To undertake capital projects and make capital project grants to transportation organization and/or transportation companies if the primary purpose thereof, as determined by the authority which determination shall be conclusive, is to facilitate and improve rural and intercity rail transportation, in accordance with the programs of the authority. In view of the particular sensitivity of special instrumentalities and agencies of the Commonwealth created to serve or coordinate the local transportation needs of substantial metropolitan areas, no passenger service project for use exclusively or principally in the local service area of any such agency or instrumentality in which a city or county of the first or second class has membership, shall receive a project grant except in accordance with a system of priorities agreed upon by the authority and such agency or instrumentality. In the case of a project grant for a passenger service project to be operated exclusively or principally within the local service areas of such agency or instrumentality no project grant shall be made except in accordance with agreements by the department and such agency or instrumentality with respect to such use. In the case of a project not falling within the scope of the preceding sentence but covering use both within and without the local service area of such agency or instrumentality, the project grant shall require that the routes, schedules, and fares applicable only within such service areas shall be determined only after consultation with such agency or instrumentality.

(5) Conducting research and compiling records to achieve the more efficient, useful statewide rail transportation system with the best possible expenditure of energy and money.

Section 6. Powers of Authority.—(a) The authority is hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including but not limited to the following rights and powers:

(1) To have perpetual existence as a corporation.

(2) To sue and be sued, implead and be impleaded, complain and defend in the courts of a county in which a project involved in such suit, or any part thereof, is located, but otherwise only in the Commonwealth Court, to petition the Interstate Commerce Commission, Pennsylvania Public Utility Commission, or other State or Federal regulatory body or Federal agency; or join in any proceeding before any such bodies or courts in any matter affecting the financing or operating of any project of the authority, but nothing in this section shall be construed as subjecting the authority to any substantive liability or to the jurisdiction of any other court, Federal or State, to which it would not otherwise be subject.

(3) To adopt, use, and alter at will a corporate seal.

(4) To establish a principal office and such other office or offices as may be necessary for the carrying on of its duties.

(5) To make bylaws for the management and regulation of its affairs.

(6) To appoint an executive director and other officers, agents, employees and servants; to prescribe their duties and to fix their compensation.

(7) To acquire by purchase or lease, construct and improve, hold and use any property necessary or desirable for carrying out the purposes of the authority; to sell, lease as lessor, transfer and dispose of any such property; and to do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other acts.

(8) To make contracts of every name and nature, and to execute all instruments necessary or convenient for the carrying on of its business.

(9) Except where the act of July 20, 1968 (P. L. 550, No. 217), known as the "Capital Facilities Debt Enabling Act," is applicable, to borrow money, make and issue bonds and refunding bonds of the authority, and to secure the payment of such bonds, or any series thereof, by pledge or deed of trust of all or any of its revenues, rentals and receipts, and to make such agreements with the purchasers or holders of such bonds, or with others, in connection with any such bonds, whether issued or to be issued, as the authority shall deem advisable, and in general to provide for the security for said bonds and the rights of the holders thereof.

(10) Without limiting clause (9) of this subsection, to borrow money from and accept grants from, and to enter into contracts, leases or other transactions with any local transportation organization or with any Federal or State agency either alone or in cooperation with one or more local transportation organizations, and to receive appropriations from the General Assembly and moneys from State agencies except where prohibited by law.

(11) To fix, alter, charge, and collect rates, rentals and other charges for the use of the projects of the authority at reasonable rates, to be determined by it, for the purpose of providing for the payment of the expense of the authority, the construction, improvement, repair, furnishing, operation and maintenance of its projects, the payment of the principal of and interest on its bonds, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such bonds.

(12) To have the power of eminent domain in accordance with the act of June 22, 1964 (P. L. 84, No. 6), known as the "Eminent Domain Code," or as hereinafter authorized when acting together with any local transportation organization; Provided, however That no condemnation offer exceed the present fair market value of the land.

(13) To pledge, hypothecate, or otherwise encumber all or any of the revenues or receipts of the authority as security for all or any of the bonds of the authority.

(14) To do all things necessary to maximize Federal assistance to the State under Title IV of Public Law 93-236, 87 Stat. 985 also known as the "Regional Rail Reorganization Act of 1973."

(15) To develop, coordinate and administer a comprehensive Statewide plan for rail transportation and local rail service and provide for an equitable distribution of the burden of subsidy in compliance with section 7 hereof. The development of such plan and the plan itself must meet the requirements for eligibility for Federal subsidy for the continuation of local rail services as promulgated from time to time by Federal authority.

(b) Except as provided otherwise in the "Capital Facilities Debt Enabling Act" for notes and bonds issued pursuant to that act, the authority shall have no power at any time or in any manner to pledge the credit or taxing power of the Commonwealth or any of its political subdivisions, nor shall any of its bonds, obligations or debts be deemed to be obligations of the Commonwealth or any of its political subdivisions, nor shall the Commonwealth nor any of its political subdivisions be liable for the payment of

principal of, or interest on, such bonds, obligations or debts.

Section 7. Cooperative Agreements and Federal Aid.—(a) The authority is hereby authorized to enter into agreements providing for mutual cooperation between it and any Federal or State agency to the extent authorized by law, between it and any Federal or State agency and any local transportation organization, or transportation company, or one or more of them, in any or all projects, including joint applications for Federal grants. Without limitation of the foregoing, the authority and any State agency, with the approval of the Governor, are authorized to enter into commitments with any Federal agency, alone, or jointly with any local transportation organization, or transportation company or both of them, to provide, out of the net proceeds of a sale of the authority's bonds, the cash to be supplied by the Commonwealth, as its portion of the cost of any capital items in any Federally aided transportation program.

(b) Under no circumstances shall the authority expend moneys in construction or improvement of any local transportation project unless and until it has negotiated a firm contractual arrangement with a local transportation organization or person or combination thereof providing that such transportation organization or person or combination thereof provide a minimum of at least 20% of the total non-federal moneys to be expended which 20% may be paid in cash or property; provided however that no local participation will be required when a majority of the board find that the project is essentially of Statewide benefit.

(c) It is the purpose and intent of this act to authorize the authority and the authority is hereby given the power and authority, in addition to any powers conferred upon the authority by any other provision of this act, to do any and all other things necessary or desirable to secure the financial aid or cooperation of any Federal agency in any of the authority's projects, and to do and perform all things which may be required by any statute of the United States of America or by the lawful requirements of any Federal agency authorized to administer any program of Federal aid to transportation.

Section 8. Bonds.—(a) The bonds of the authority shall be authorized by resolution of the board or by and pursuant to an indenture of trust and shall be of such series, bear such date or dates, be stated to mature at such time or times, not exceeding 30 years from their respective dates, be issued as serial or term bonds, or as part serial and part term bonds, or any combination thereof, or as a single bond payable in installments, bear interest payable annually, semi-annually or quarterly, be in such denominations, be in such form, either as negotiable commercial paper, or as investment securities in bearer or registered form, carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption at such prices not exceeding 106% of the principal amount thereof, and be entitled to such priorities in the revenues, rentals or receipts of the authority as such resolution or indenture may provide. The bonds shall be signed manually or by facsimile by such officers as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, all as may be prescribed in such resolution or indenture. No bond shall be issued or delivered without at least 1 manual signature, which may be that of an officer of the fiscal agent or of the trustee under the relevant resolution or indenture. Any such bonds may be issued and delivered notwithstanding that one or more of the officers signing such bonds, or the treasurer whose facsimile signature shall be upon the coupons or

any thereof, shall have ceased to be such officer or officers at the time when such bonds shall actually be delivered.

(b) Said bonds shall be sold to the highest responsible bidder or bidders proposing the lowest net interest cost to the authority, determined by computing the interest on the bonds to their stated maturity dates and adding thereto the discount or subtracting therefrom the premium specified in such bid after public notice, by two advertisements in not less than five newspapers of large general circulation in different parts of the Commonwealth, the first advertisement to be published not less than 30 days and the second not less than five days before the day fixed for the opening of bids. No bonds shall be sold if the net interest cost computed to stated maturity dates of the bonds of the money received for any issue of such bonds shall exceed 6% a year. The notice shall contain a general description of the bonds, the manner, place and time of the sale, or the time limit for the receipt of proposals, the name of the officer to whom, or to whose designee, bids or proposals shall be delivered and a statement of the terms and conditions of sale: Provided, however, That any of said bonds may be sold to the State Employees' Retirement Board, School Employees' Retirement Board, or to any other custodial board or fund, or to the State Employees' Retirement Fund, or by private placement with a group of not more than 25 ultimate investors who purchase for investment and not with a view to distribution, without advertisement or competitive bidding. Pending the preparation of the definitive bonds, interim receipts or temporary bonds may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(c) Any resolution or indenture authorizing any bonds may contain provisions which shall be part of the contract with the holders thereof as to:

(1) pledging the full faith and credit of the authority (but not of the Commonwealth or any political subdivision thereof) for such bonds or restricting the same to all or any of the revenues, rentals or receipts of the authority from all or any projects or properties;

(2) the construction, improvement, maintenance and repair of any project or projects and the duties of the authority with reference thereto;

(3) the terms and provisions of the bonds;

(4) limitations on the purposes to which the proceeds of the bonds then or thereafter to be issued, or of any loan or grant by any Federal agency may be applied;

(5) the rate of the rentals and other charges for use of the facilities of, or for the services rendered by the authority, including limitations upon the power of the authority to modify any leases or other agreements pursuant to which any rentals, or other charges are payable;

(6) the setting aside of reserves or sinking funds and the regulations and disposition thereof;

(7) limitations on the issuance of additional bonds;

(8) any terms and provisions for the security of the bonds or under which the same may be issued; and

(9) any other or additional agreements with the holders of the bonds.

(d) The authority is authorized to combine any one or more projects for financing and leasing purposes and to issue one or more series of bonds to finance such combined projects: Provided, That the aggregate of the rentals to be received under the leases of such projects, shall be at least sufficient to pay the current expenses of the authority allocable to the projects and to provide for the payment of the principal of and interest upon such bonds as the same may be stated to mature.

(e) The authority may enter into any indentures of trust, or other agreements with any bank or trust company or other person or persons in

the United States having power to enter into the same, including any Federal agency, or may designate any such as fiscal agent under a bond resolution, in order to provide for the security for such bonds, and may assign and pledge all or any of the revenues, rentals or receipts of the authority thereunder. Such indenture, resolution, or other agreement may contain such provisions as may be customary in such instruments or as the authority may authorize, including (but without limitation) provisions as to:

- (1) the construction, improvement, maintenance and repair of any project or projects and the duties of the authority with reference thereto;
- (2) the application of funds and the safeguarding of funds on hand, invested, or on deposit;
- (3) the rights and remedies of said trustees or fiscal agent and the holders of the bonds (which may include restrictions upon the individual right of action of such bondholders); and
- (4) the terms and provisions of the bonds or the resolutions or indentures authorizing the issuance of the same.

Section 9. Remedies of Bondholders.—(a) The rights and the remedies herein conferred upon or granted to the bondholders shall be in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or indenture providing for the issuance of bonds. If the authority shall default in the payment of the interest on any of the bonds after the same shall become due, and such default shall continue for a period of 30 days, or if the authority shall default in the payment of principal after the same shall become due whether at maturity or upon any unrevoked call for redemption, or if the authority shall fail or refuse to comply with the provisions of this act or shall default in any agreement made with the holders of the bonds, the holders of 25% in aggregate principal amount of bonds then outstanding under the indenture or bond resolution involved, by instrument or instruments filed in the office of the recorder of deeds of the County of Dauphin and proved or acknowledged in the same manner as a deed to be recorded, may (except as such right may be limited under the provisions of any indenture or other agreement as aforesaid) appoint a trustee to represent the bondholders for the purposes herein provided. Such trustee or any trustee under any indenture or the fiscal agent under any resolution or other agreement may, and upon written request of the holders of 25% (or such other percentage as may be specified in any resolution, indenture or other agreement aforesaid) in principal amount of the bonds then outstanding under such indenture or resolution shall, in his or its own name:

(1) By mandamus or other suit, action or proceeding at law or in equity, in the Commonwealth Court enforce all rights of the bondholders, including the right to require the authority to collect rates, rentals and other charges, adequate to carry out any agreement as to, or pledge of, the revenues or receipts of the authority and to require the authority to carry out any other agreements with, or for the benefit of, the bondholders, and to perform its and their duties under this act.

(2) Bring suit upon the bonds in the Commonwealth Court.

(3) By action or suit in equity, in the Commonwealth Court require the authority to account as if it were the trustee of an express trust for the bondholders.

(4) By action or suit in equity, in the Commonwealth Court enjoin any acts or things which may be unlawful, or in violation of the rights of the bondholders.

(5) By notice in writing to the authority, declare all bonds due and payable and, if all defaults shall be made good, then with the consent of the holders of 25% (or such other percentage as may be specified in any indenture, resolution or other

agreement aforesaid) of the principal amount of the bonds then outstanding, to annul such declaration and its consequences.

(b) Any trustee, whether appointed as aforesaid or acting under an indenture or other agreement, or any fiscal agent acting under a bond resolution, and whether or not all bonds issued under such indenture or resolution have been declared due and payable, shall be entitled as of right to the appointment of a receiver, who may (to the same extent that the authority itself could so do) enter and take possession of the facilities of the authority, or of the authority's fractional and undivided interest in any project, or any parts thereof, the revenues, rentals or receipts from which are or may be applicable to the payment of the bonds so in default, and operate and maintain the same, or contract with any co-owners for the operation and maintenance of the same, and collect and receive all rentals and other revenues thereafter arising therefrom in the same manner as the authority might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee, or fiscal agent, the fees, counsel fees and expenses of the trustee or of the fiscal agent and of the receiver, if any, and all costs and disbursements allowed by the court, shall be a first charge on any revenues and receipts derived from the project or projects of the authority, the revenues or receipts from which are or may be applicable to the payment of the bonds so in default. Such trustee or fiscal agent shall, in addition to the aforesaid, have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

(c) In addition to all other rights and other remedies, any holder of bonds of the authority shall have the right, subject to any limitations contained in the relevant indenture or resolution, by mandamus or other suit, action or proceeding at law or in equity in the Commonwealth Court to enforce his rights against the authority, including the right to require the authority to collect fees, rentals and other charges adequate to carry out any agreement with such bondholder as to, or pledge of, such fees, rentals or other charges, or income, revenues, and receipts, and to require the authority to carry out any of its covenants and agreements with the bondholders and to perform its and their duties under this act: Provided, That nothing in this section or any other section of this act shall authorize any receiver appointed pursuant to this act for the purpose of operating and maintaining any project or projects of the authority, to sell, assign, mortgage, or otherwise dispose of any of the assets of whatever kind and character belonging to the authority. It is the intention of this act to limit the powers of such receiver to the operation and maintenance of the projects of the authority, as a successor of the authority as the court shall direct, and no holder of bonds of the authority, nor any trustee, shall ever have the right in any suit, action or proceeding at law or in equity, to compel a receiver, nor shall any receiver ever be authorized, or any court be empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of, any assets of whatever kind or character belonging to the authority.

Section 10. Governing Body.—(a) The powers of the authority shall be exercised by a governing body consisting of the members of the authority acting as a board. Within 90 days after this act shall become effective, the board shall meet and organize. At the time the board shall elect a chairman, vice-chairman, secretary and treasurer from their number who shall serve until the first meeting in each year thereafter when a new election will be held at the first meeting in each year

thereafter, they shall elect from their number a secretary and treasurer.

(b) Ten members shall constitute a quorum of the board for the purpose of organizing the authority and conducting the business thereof at meetings and for all other purposes and all action at meetings shall only be taken by vote of a majority of the members of the authority, unless in any case the bylaws shall require a larger number.

(c) The board may take any action by the written consent of at least 12 members of the board after notice to all and the failure of any member to request that the action be taken only at a meeting: Provided, That public announcement is made of the proposed action, and of the request for consents, before such written consents are signed.

(d) The board shall have full authority to manage the properties, projects and business of the authority and to prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the authority may be conducted and the powers granted to it may be exercised and embodied. The board may employ an executive director and shall fix and determine the number of other officers, agents and employees of the authority and their respective compensation and duties and may delegate to one or more of their number as a committee or otherwise or to one or more of said officers, agents or employees, such powers and duties as it may deem proper. Employees of the board shall be subject to the provisions of civil service pursuant to the act of August 5, 1941 (P. L. 752, No. 286), known as the "Civil Service Act."

Section 11. Moneys of the Authority.—(a) All moneys of the authority, from whatever source derived, shall be paid to the treasurer of the authority. Said moneys shall be deposited in the first instance in one or more banks or banks and trust companies in one or more special demand or time accounts or pursuant to one or more certificates of deposit and each of such special accounts or certificates of deposit shall, to the extent not covered by Federal deposit insurance, be continuously secured by a pledge of direct obligations of the United States of America, of the Commonwealth, of a state of the United States, of The General State Authority, of the State Highway and Bridge Authority, or of a county of the Commonwealth, having an aggregate market value, exclusive of accrued interest, at all times, at least equal to the balance on deposit in such account or held pursuant to such certificate. Such securities shall either be deposited with the treasurer of the authority or be held by a trustee or agent satisfactory to the authority. All banks and banks and trust companies are hereby authorized to give such security for such deposits. The moneys in said accounts shall be paid out on the check, warrant or other order of the treasurer of the authority or such other person or persons as the authority may authorize to execute such checks, warrants or orders.

(b) Moneys of the authority may be invested, pending the expenditure thereof, in any medium of investment in which the State Treasurer is, at the time of such investment, authorized to invest moneys of the Commonwealth.

(c) The Auditor General of the Commonwealth or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its finances, operation and affairs.

Section 12. Authority Employment Policy.—(a) The authority or any entity acting on behalf thereof or any entity financed in whole or in part directly or indirectly by the authority, any of which are hereinafter referred to in this section

as the operator, effective as of the date of a conveyance or lease to it of any project or part thereof, shall offer employment to the employees of the grantor or lessor as of the effective date of the conveyance or lease; or, in the case of a partial conveyance or lease, to such number of the employees of the grantor or lessor as may be agreed upon as the result of negotiations with the representatives of the various classes or crafts involved, which agreement shall specify the manner in which such employees will be identified and assigned to positions on the project or portion of the project involved. If no agreement with respect to the matters referred to in this subsection is reached by the end of 30 days after the commencement of negotiations, the parties shall within an additional ten days select a neutral referee and, in the event they are unable to agree upon the selection of such referee, then the State Mediation Board shall immediately appoint a referee. After a referee has been designated, a hearing on the dispute shall commence as soon as practicable. Not less than ten days prior to the effective date of any conveyance or lease pursuant to the provisions of this act, the referee shall resolve and decide all matters in dispute with respect to the negotiation of said implementing agreement or agreements and shall render a decision which shall be final and binding and shall constitute the implementing agreement or agreements between the parties with respect to the transaction involved. The salary and expenses of the referee shall be paid by the operator. Such agreement shall be made or decision rendered prior to the effective date of the conveyance or lease.

(b) The employees so employed shall be given seniority credit and sick leave, vacation, insurance and pension credits in accordance with the records and labor agreements from the acquired transportation system. Members and beneficiaries of any pension or retirement system or other benefits established by the grantor or lessor shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The operator shall assume the obligations of any transportation system acquired by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for employees. The operator shall assume the provisions of all the collective bargaining agreements under which the newly acquired employees formerly worked as though an original party thereto. Such employees shall be entitled to maintain the collective bargaining units existing at the time of the conveyance or lease. The operator and the employees through their representatives for collective bargaining purposes shall take whatever action may be necessary to have pension trust funds under the joint control of the acquired transportation system and the participating employees through their representatives transferred to the trust fund to be established, maintained and administered jointly by them.

(c) No employee of any acquired transportation system who is transferred to a position with the authority, or any entity acting on its behalf or financed directly or indirectly by it shall by reason of such transfer be placed in any worse position with respect to workmen's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefits then he enjoyed as an employee of such acquired transportation system.

(d) In the event that the operator shall operate as a common carrier by rail it shall be subject to the provisions of the "Interstate Commerce Act," the "Railway Labor Act," the "Railroad Retirement Act," the "Railroad Retirement Tax Act," the "Railroad Unemployment Insurance Act," the public utility laws of the Commonwealth of Pennsylvania and to all other Federal and State laws

and regulations applicable to common carriers by railroad.

(e) In the event that an employee who has been tendered and who has accepted employment with the operator is entitled to protection under the terms of the "Regional Rail Reorganization Act of 1973," he shall be afforded such protection by the operator, which will for this purpose be an "acquiring railroad" as set forth in section 508 of that act.

Section 13. Acquisition of Abandoned Property.—In the event that any transportation company ceases to use any interest in real estate acquired for use as a right-of-way for the purpose for which it was acquired it shall be offered to the authority for purchase at a price to be negotiated for a period of 180 days after authority to abandon the operation became final. If agreement cannot be reached the authority may condemn such property within a 90 day period after the passage of the 180 day period. In such proceeding the condemnee shall be entitled to the present fair market value of its property based on the highest and best use of the land owned by it in fee for non-railroad purposes and the net salvage value of the rail facilities involved. After such 270-day period, if no agreement has been reached or condemnation begun such real estate may be disposed of as the transportation company sees fit. During such 270-day period the transportation company shall take no action which will result in the real estate being less suitable for transportation purposes, including but not limited to the removal of property from the premises.

Section 14. Contracts, Procurement and Sale of Property; Competition in Award of Contracts.—

(a) The authority shall have power and authority to enter into contracts and to make joint contracts of purchase with any local transportation organization in any manner complying with the law applicable to such local transportation organization. The authority shall also have power and authority to make contracts for the improvement of any rights-of-way, roadbeds or rolling stock, or electrification systems, or other transportation systems, or parts thereof, constituting a project without advertisement for competitive bids, where such work is to be done at cost by the personnel and with the facilities of the local transportation organization or of the transportation company on whose system such property is to be used.

(b) Except in the purchase of projects from a local transportation organization, or in the purchase of unique articles, or articles which, for any other reason, cannot be obtained in the open market, and except as herein specifically provided, competitive bids shall be secured before any purchase or sale, by contract or otherwise, is made or before any contract is awarded for construction, alterations, supplies, equipment, repairs or maintenance or for rendering any services to the authority other than professional services; and the purchase shall be made from or the contract shall be awarded to the lowest responsible bidder; or a sale to the highest responsible bidder. No purchase of any unique article or other articles which cannot be obtained in the open market shall be made without express approval of the board where the amount involved is in excess of \$1,500.

(c) Except as herein specifically provided otherwise, all purchases and sales in excess of \$1,500 shall be awarded after advertising in a newspaper of general circulation in the area where the property is to be used not less than three weeks prior to the bid opening. Bids shall be publicly opened and read aloud at a date, time and place designated in the invitation to bid. In all cases of purchases or sales in excess of \$1,500 authorized hereunder to be made without competitive bidding except purchases from or sales to a local transportation organization or contracts with a transportation company pursuant to subsection (a)

of this section, invitations to bid shall be sent not less than two weeks prior to the bid opening to at least three potential bidders who are qualified technically and financially to submit bids, or in lieu thereof a memorandum shall be kept on file showing that less than three potential bidders so qualified exist in the market area within which it is practicable to obtain bids.

(d) Purchases or sales under \$1,500 may be negotiated with or without competitive bidding under sound procurement procedures as promulgated and established by the board.

(e) Competitive bidding requirements may be waived if it is determined in such other manner as the board may, by regulation, provide, that an emergency directly and immediately affecting customer service, or public health, safety or welfare requires immediately delivery of supplies, materials, or equipment: Provided, however, That a record of circumstances explaining the emergency shall be submitted to the board at its next regular meeting and thereafter kept on file.

(f) Contracts for the sale or lease of property owned by the authority shall be awarded after competitive bidding as shown in subsection (c) of this section, except where a contract is entered into with the Commonwealth or any political subdivision or agency or instrumentality thereof, local transportation organization or Federal agency.

(g) Requirements shall not be split into parts for the purpose of avoiding the provisions of this section.

(h) The authority shall have the right to reject any or all bids or parts of any or all bids, whenever, in the opinion of the board, such rejection is necessary for the protection of the interest of the authority. In every such case, a record shall be made, setting forth the reason for such rejection which record shall thereafter be kept on file.

(i) The board shall adopt rules and regulations to effectuate the provisions of this section.

(j) The authority shall have the power to accept the assignment from any local transportation organization of all or any interest in any lawfully made contract for the procurement and purchase of any asset deemed necessary or desirable by the authority in connection with any project.

Section 15. Power to Acquire Property.—The authority shall have the power to acquire by purchase, lease, eminent domain proceedings, gift or otherwise all or any property necessary for the promoting of its corporate purposes, including any abandoned railroad track or property and any property of a public utility, pursuant to section 13. All political subdivisions and corporations are hereby authorized to donate property to the authority.

Section 16. Use of Projects.—The use of the projects of the authority by its lessees shall be subject to the rules and regulations from time to time adopted by the authority, which shall include the observance of the relevant safety standards of any regulatory body having jurisdiction to promulgate such standards, and all leases shall so provide; but the authority shall not be authorized hereby to do anything or suffer or permit any action which will impair the security of the holders of the obligations of the authority or violate any agreements with them or for their benefit or any agreement with a local transportation organization or any Federal agency, or impair, suspend, contract, enlarge or extend, or affect in any manner the powers of the Pennsylvania Public Utility Commission or of the Interstate Commerce Commission, which by law are applicable to the transportation organization company involved.

Section 17. Pledge Against Limitation of Powers of Authority.—The Commonwealth does hereby pledge to and agree with any person or Federal agency subscribing to or acquiring the bonds to be issued by the authority for the construction

of any project or part thereof, that the Commonwealth will not limit or alter adversely the rights hereby vested in the authority until all bonds at any time issued, together with the interest thereon, are fully met and discharged. The Commonwealth does further pledge to and agree with any Federal agency that if such Federal agency shall construct or contribute any funds for the construction of any project or any portion thereof, the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the continued maintenance and operation of the project or the improvement thereof, or which would be inconsistent with the due performance of any agreements between the authority and such Federal agency, and the authority shall continue to have and may exercise all powers herein granted, so long as the same shall be necessary or desirable for the carrying out of the purposes of this act and the purposes of the United States in the construction of any project or such portion thereof.

Section 18. Exemption from Taxation.—The effectuation of the authorized purposes of the authority created under this act shall and will be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and, since the authority will be performing essential governmental functions in effectuating such purposes, the authority shall not be required to pay any taxes upon any property acquired or used by it for such purposes and the bonds issued by the authority, their transfer and the income therefrom (including any profits made on the sale thereof), shall at all times be free from taxation, other than inheritance and estate taxation, within the Commonwealth of Pennsylvania.

Section 19. Capital Facilities Debt Enabling Act.—In the event any provision of this act is inconsistent with or supplied by the act of July 20, 1968 (P. L. 550, No. 217), known as the "Capital Facilities Debt Enabling Act," or in the event that the provisions of that act are applicable, the provisions of this act shall be inapplicable to the extent and for the period of time necessary to remove any conflict between the provisions of both acts.

Section 20. Appropriation.—The sum of \$1,000,000, is hereby specifically appropriated to the Commonwealth Railroad Freight Authority to defray administrative and planning costs incurred by the authority in carrying out the provisions of this act.

Section 21. Effective Date.—This act shall take effect immediately.

On the question,

Will the Senate agree to the amendments?

Senator KURY. Mr. President, this legislation, the bill before us, the proposed amendments, this general legislative area of saving our railroads is of vital concern to the people of my Senatorial District. Railroad service, particular freight service, is especially important to the agricultural and industrial business in my District.

The loss of railroad service, which is threatened by the financial problems of the Penn Central and the Reading Company, poses a great threat to our economic future. I think it is imperative that this Senate, this Legislative Body, act quickly to take advantage of the law passed by Congress whereby the Congress will provide up to seventy per cent of matching funds for thirty per cent raised by the states for the purpose of saving these spur lines.

Under the ConRail Plan which has been adopted by Congress, ConRail will take over control and ownership of the rail lines which are in the final system plan,

leaving to the states and to the act the question of what to do with spur lines which are not part of ConRail. That is the issue we are addressing with this particular bill and the amendments which I am offering.

What the bill does is provide a means of saving these spur lines by providing the State's thirty per cent share out of the general revenue budget; further, by putting it as a section in the Department of Transportation. The people in my District are concerned with railroads. I have heard a number of discussions about this concept, and it is my belief, and our belief, that it would be done much better if the input into this rail system were broader rather than presently constituted under the Department of Transportation.

My amendments would establish a State rail authority for the purpose of raising and providing the thirty per cent funds by bond issues through a State authority which would have the responsibility for establishing a State rail plan for saving these spur lines here in Pennsylvania. Therefore, it would have that advantage.

The input would be from cabinet officers, from citizens appointed, from rail people representing rail management and rail unions, and others, so that the authority which is created here would have broad input to develop policy on rail lines here in Pennsylvania which is not present in Senate Bill No. 1154.

In addition, my amendments would eliminate the necessity for going to the General Fund Budget to provide the necessary money for the State's thirty per cent matching funds.

That is basically what my amendments do. Rather than make it part of the Department of Transportation we create a rail authority with broad representation, and rather than look to the General Fund, we would look to the bond issues which could be raised by this authority to save our spur lines.

Mr. President, I respectfully ask support from both sides of the aisle for these amendments.

Senator MESSINGER. Mr. President, I urge my colleagues to oppose these amendments because they would essentially strip this bill of the possibility of getting Federal funds. Since it would establish an authority such as is set up under the proposed amendments, we would lose the seventy per cent Federal funds, and I understand there is presently a bill in Congress that may even increase this Federal assistance to one hundred per cent.

In addition, I certainly think that most of the Members are aware of what is happening to the bond market. The approach in these amendments to go to the bond market to acquire moneys in order to carry out this is, I think, coming at exactly the wrong time.

For those two major reasons, Mr. President, I would urge a "no" vote on these amendments.

Senator BELL. Mr. President, I back the gentleman from Lehigh, Senator Messinger. I have in my hand the amendments of the gentleman from Northumberland, Senator Kury, and in my other hand today's Calendar. This does not only essentially amend the act before us, it completely guts it, including the title.

I would suggest that this is not the proper way to handle legislation. A bill like this should be a separate bill. It should be subject to the committee process in the Committee on Transportation, chaired by the gentleman from Philadelphia, Senator Lynch. If it is proper, then let the Committee on Transportation recommend to the

Senate what should be done, but not gut a complete bill including the title.

Senator KURY. Mr. President, I would say the gentleman from Delaware, Senator Bell, is right. This bill does substitute, in a sense, Senate Bill No. 52, which I introduced previously for the bill that is on the Calendar. There is no question that is what it does. I do not want anybody under any false impression.

This bill substitutes Senate Bill No. 52, as revised, in place of this bill. I say to my friend from Lehigh, Senator Messinger, that I must disagree that this would not qualify for Federal funds. I agree with him that it strips the bill, but in my opinion, having studied this and talked it over with other people involved, this would not cost us State funds, and I think it is a much more effective way to proceed.

And the question recurring,
Will the Senate agree to the amendments?

A voice vote having been taken, the question was determined in the negative, and the amendments were defeated.

And the question recurring,
Will the Senate agree to the bill on second consideration?

It was agreed to.

Ordered, To be transcribed for a third consideration.

HB 1384 (Pr. No. 1945)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

HB 1521, 1522, 1527 and 1528—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILLS ON SECOND CONSIDERATION

HB 1568 (Pr. No. 1899) and HB 1569 (Pr. No. 1900)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration

BILL OVER IN ORDER

HB 1668—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

REORGANIZATION PLAN No. 4, RESOLUTION B, CALLED UP

Senator MESSINGER, without objection, called up from page 17 of the Calendar, Reorganization Plan No. 4, Resolution B, entitled:

In the Senate, September 22, 1975.

Resolved That Reorganization Plan No. 4 of 1975 transmitted to the General Assembly under date of September 22, 1975 which is incorporated herein by reference be disapproved.

REORGANIZATION PLAN No. 4, RESOLUTION B, ADOPTED

Senator MESSINGER. Mr. President, I move that the Senate do adopt Reorganization Plan No. 4, Resolution B.

On the question,
Will the Senate adopt the resolution?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEAS—49

Ammerman,	Hager,	Lynch,	Orlando,
Andrews,	Hankins,	Manbeck,	Romanelli,
Arlene,	Hess,	McKinney,	Ross,
Bell,	Hill,	Mellow,	Scanlon,
Cianfrani,	Hobbs,	Messinger,	Smith,
Coppersmith,	Holl,	Moore,	Snyder,
Dougherty,	Howard,	Murphy,	Stapleton,
Duffield,	Jubelirer,	Murray,	Stauffer,
Dwyer,	Kelley,	Myers,	Sweeney,
Early,	Kury,	Nolan,	Tighman,
Ewing,	Lentz,	Noszka,	Wood,
Fleming,	Lewis,	O'Pake,	Zemprelli,
Frame,			

NAYS—0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

UNFINISHED BUSINESS

REPORT OF COMMITTEE OF CONFERENCE SUBMITTED

Senator KURY submitted the Report of Committee of Conference on **SB 1**, which was placed on the Calendar.

REPORT OF COMMITTEE OF CONFERENCE SUBMITTED AND LAID ON TABLE

Senator NOLAN submitted the Report of Committee of Conference on **HB 1333**, which was laid on the table.

SENATE CONCURRENT RESOLUTION

RECESS ADJOURNMENT

Senator MESSINGER offered the following resolution, which was read, considered and adopted:

In the Senate, November 24, 1975.

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, December 8, 1975 unless sooner recalled by the President Pro Tempore, and when the House of Representatives adjourns this week it reconvene on Monday, December 8, 1975, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the Clerk present the same to the House of Representatives for concurrence.

SENATE RESOLUTION

SENATE CONSUMER AFFAIRS COMMITTEE TO INVESTIGATE SHORTAGE OF JAR LIDS FOR HOME CANNING

Senator BELL offered the following resolution (**Serial No. 65**), which was read and referred to the Committee on Consumer Affairs:

In the Senate, November 24, 1975.

WHEREAS, In these times of high prices and economic difficulties, home gardens and home canning have become popular, and the demand for canning equipment has grown; and

WHEREAS, There is a critical shortage of replacement jar lids for home canning. Jar lids for home canning are available on new jars, however, it is difficult to obtain new lids for used jars; and

WHEREAS, The citizens of Pennsylvania should be encouraged in this enterprise and should not be forced to buy new jars in order to obtain lids. It is more economically and ecologically practical to reuse old jars, but to do this new replacement lids must be available; and

WHEREAS, This shortage should be investigated in order to determine the reasons behind the low supply of replacement canning lids and what steps can be taken to insure that an adequate supply of replacement lids is made available; therefore be it

RESOLVED, That the Committee on Consumer Affairs investigate the cause of and find a solution to the shortage of replacement jar lids for home canning; and be it further

RESOLVED, That the committee may hold hearings, take testimony, and make its investigations at such places as it deems necessary. It may issue subpoenas under the hand and seal of its chairman commanding any person to appear before it and to answer questions touching matters properly being inquired into by the committee and to produce such books, papers, records and documents as the committee deems necessary. Such subpoenas may be served upon any person and shall have the force and effect of subpoenas issued out of the courts of this Commonwealth. Any person who wilfully neglects or refuses to testify before the committee or to produce any books, papers, records or documents, shall be subject to the penalties provided by the laws of the Commonwealth in such case. Each member of the committee shall have power to administer oaths and affirmations to witnesses appearing before the committee; and be it further

RESOLVED, That the committee report its findings and proposed legislation, if such be necessary, to the Senate as soon as possible.

CONGRATULATORY RESOLUTIONS

The PRESIDING OFFICER laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to Michael Wanner by Senator Stauffer.

Congratulations of the Senate were extended to Mr. and Mrs. George M. Dudenhoefter, Mr. and Mrs. Harold Oliver, Mr. and Mrs. Joseph Kuntz, Mr. and Mrs. Henry A. Biebel and to Pat Budny by Senator Orlando.

Congratulations of the Senate were extended to Joseph A. Leiendecker by Senator O'Pake.

Congratulations of the Senate were extended to Mr. and Mrs. Mark D. King, Mr. and Mrs. Edward Smyser; Mr. and Mrs. C. Harry Ross, Mr. and Mrs. Ray A. Dick, Mr. and Mrs. Edwin T. Werner, Mr. and Mrs. J. Duncan Myers and to Mr. and Mrs. James F. Druck, Sr., by Senator Myers.

CONDOLENCE RESOLUTION

The PRESIDING OFFICER laid before the Senate the following resolution, which was read, considered and adopted:

Condolences of the Senate were extended to the family of Mrs. Mary T. Denman by Senator O'Pake.

HOUSE MESSAGE

HOUSE INSISTS UPON ITS NONCONCURRENCE IN AMENDMENTS TO HB 704, AND APPOINTS COMMITTEE OF CONFERENCE

The Clerk of the House of Representatives being introduced, informed the Senate that the House insists upon

its nonconcurrence in Senate amendments to **HB 704**, and has appointed Messrs. MANDERINO, MYERS and RYAN as a Committee of Conference to confer with a similar Committee of the Senate (already appointed) to consider the differences existing between the two houses in relation to said bill.

PETITIONS AND REMONSTRANCES

Senator O'PAKE. Mr. President, I would like to invite my colleagues to join in cosponsoring a bill which I have filed with the Clerk of the Senate. The bill is the product of seven days of public hearings which were conducted by the Senate Committee on Aging and Youth this fall. The bill essentially establishes a Department of Aging.

I know that when anybody talks about creating new departments, immediately the cry goes up, "Why a new department?" I think if there is any area of State government which requires a clear legislative mandate, rather than the executive discretion, which is now the basis for all senior citizens programs in Pennsylvania other than the property tax and rent rebate programs, it is in the area of the elderly.

This bill would mandate certain services legislatively, and it would, once and for all, coordinate and pinpoint responsibility for many services which are now spread over many departments and agencies in this Commonwealth.

The bill has been filed, and I want to call that to the attention of my colleagues in the event they wish to join as sponsors.

Senator JUBELIRER. Mr. President, a short while ago House Bill No. 1082 was recommended to the Committee on Appropriations. I would like to comment about the merits of House Bill No. 1082 for the record.

I never met James Henry Kent until several weeks ago when he and a friend came to my office, introduced themselves as being from the area next to my District in the community of Ebensburg and proceeded to tell me a tale, verified with documented proof, of a man who was a prisoner in the Western Penitentiary, convicted for murder in 1944. He was subsequently released in 1970 when new evidence was uncovered which indicated that evidence used to convict him was based on coerced and perjured testimony of one Stella Hershberger, who was the main witness. A new trial was granted in 1970 and the case was subsequently dismissed.

While at the State correctional institution in Pittsburgh, he was put to work on an antiquated machine which had been twice condemned and declared unsuitable for use. It was still left in operation. He subsequently lost four fingers in an accident related directly to the use of that machine. He has attempted to secure compensation for his injury through the Federal courts, but his claim was denied because the Commonwealth of Pennsylvania provides for no statutory mechanism to compensate prisoners who are injured while working in the Pennsylvania prison system.

The Court of Appeals of the Third Circuit said in its decision that the matter of the injury was one which should properly be brought before the Legislature. This was done by Representative Gleason and Representative Englehart in the House of Representatives. The bill passed the House of Representatives by a vote of 173 to 17 on July 24, 1974.

During his incarceration, while unjustly incarcerated, James Henry Kent partook in the active cancer research experiments of Dr. Jonas Salk. For three and one-half years this man was subjected to and lived with live cancer virus. Valuable information was obtained from those experiments; and for three and one-half years he was part of a cholesterol experiment under Dr. Moses.

During twenty-six years of prison his record was excellent. Subsequently, justice in the form of who was guilty and who was innocent was done. Documentation has been received by every Member of the Senate. Besides the statement of Mr. Kent, a statement of the State Police officer who admitted that he had Stella Hersberger, the main witness for the prosecution, in his custody and advised and told her that if she did not testify as she was instructed to testify she, too, would be charged with murder.

Because of the coercion and because of the circumstances surrounding it, Kent was convicted. However, as I stated before, justice was done and he was released.

The bill would have appropriated \$40,000 to the Department of Justice in payment of a moral claim against the Commonwealth. \$24,000 of this amount was to pay for the moral claim and \$16,000 for the personal injury. Less than \$1,000 a year, Mr. President, would have been appropriated to this human being for his incarceration which was done unjustly.

I do hope that the Committee on Appropriations will not take this bill back lightly and kill the bill. In this day when the Committee on Judiciary has considered the issue of victims' compensation, I do think that the Senate of Pennsylvania should have acted and provided this victim with compensation. I think this Body had the authority and has the wisdom to act as a board to determine what is just and right.

Surely, Mr. President, the claim which this man has made, the manner in which he has addressed each and every one of us in our offices, merited more than the consideration which was given today. Again, Mr. President, I urgently request the Chairman of that Committee on Appropriations to give this additional consideration in his committee.

ANNOUNCEMENTS BY THE SECRETARY

The following announcements were read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA
COMMITTEE MEETINGS

Eastern Standard Time	DATE AND COMMITTEE	Room
	TUESDAY, NOVEMBER 25, 1975	
10:00 A.M.	APPROPRIATIONS to consider Senate Bill No. 153	350

10:30 A.M.	JUDICIARY to consider Senate Bills No. 914, 971, 995, 1144, 1145, 1146, 1147 and House Bills No. 256, 306, 847 and 1387—also discussion on the nomination of Berel Caesar for the position of Judge, Court of Common Pleas, Philadelphia	172
10:45 A.M.	INSURANCE to consider House Bills No. 646 and 650	170
11:00 A.M.	RULES AND EXECUTIVE NOMINATIONS	Rules Com. Conf. Room
11:00 A.M.	LABOR AND INDUSTRY to consider Senate Bills No. 208, 824 and 826	Majority Caucus room
11:30 A.M.	TRANSPORTATION to consider Senate Bills No. 353, 354, 417, 799, 889, 1009 1092, 1093, 1099, 1100 and House Bill No. 735	Majority Caucus room
12:00 Noon	STATE GOVERNMENT to consider Senate Bills No. 981 and 1091	183

WEDNESDAY, NOVEMBER 26, 1975

11:00 A.M.	JUDICIARY Hearing on I. Martin Wexselman (for the position of Judge, Court of Common Pleas, Allegheny County)	Room 409, County Court House, Corner of 5th and Grant Sts., Pittsburgh, PA.
1:30 P.M.	JUDICIARY Hearing on S. Louis Farino (for the position of Judge, Court of Common Pleas, Allegheny County)	Room 409, County Court House, Corner of 5th and Grant Sts., Pittsburgh, PA.

MONDAY, DECEMBER 1, 1975

11:00 A.M.	JUDICIARY Hearing on Senate Bill No. 935	Majority Caucus room
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The SECRETARY. The meeting of the Committee on Agriculture scheduled for November 25, 1975 has been cancelled.

ADJOURNMENT

Senator MESSINGER. Mr. President, I move that the Senate do now adjourn until Tuesday, November 25, 1975, at 1:00 p.m., Eastern Standard Time. The motion was agreed to. The Senate adjourned at 7:55 p.m., Eastern Standard Time.