

Legislative Journal

MONDAY, NOVEMBER 21, 1977

Session of 1977

161st of the General Assembly

Vol. 1, No. 82

SENATE

MONDAY, November 21, 1977.

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

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

PRAYER

The Chaplain, The Reverend THOMAS JACKSON, Coordinator of Institutional Chaplains, Pennsylvania Department of Public Welfare, Harrisburg, offered the following prayer:

O Eternal God, You Who are Allah to the Muslims, Yahweh to the Jewish people, and God our Father to the Christians, we ask Your blessing on the opening of the Pennsylvania Senate this afternoon.

We approach this Session, O God, in a reverent spirit, the spirit of Thanksgiving. As this spirit will dominate our thinking during the entire week, may it also dominate this Session.

As we reflect on the pilgrims and their lives, we note that they did not always agree with one another, but worked hard for what they believed in. They were resourceful, determined, idealistic, and they took time out to be thankful as they built their society.

Following their example may we who are gathered together here, express our thanks for the blessings You have given to this Senate, to its staff and aides and their families, O Eternal Father.

May we be especially conscious of Your presence during this entire Thanksgiving week. As we proceed now with the work of legislating, we ask, O Supreme Lawmaker, for Your guidance, Your strength, Your wisdom and Your understanding. Amen.

The PRESIDENT pro tempore. The Chair wishes to thank Father Jackson who is the guest this week of Senator Martin L. Murray.

JOURNAL APPROVED

The PRESIDENT pro tempore. 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 MESSINGER, further reading was dispensed with, and the Journal was approved.

LEAVES OF ABSENCE

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

He also asked and obtained leave of absence for Senator ORLANDO, for the week, because of illness.

COMMUNICATIONS FROM THE GOVERNOR

RECALL COMMUNICATIONS REFERRED TO COMMITTEE

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

JUDGE, COURT OF COMMON PLEAS, PHILADELPHIA COUNTY

November 18, 1977.

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 October 24, 1977 for the appointment of Stanley William Bluestine, Esq., 110 Beth Drive, Philadelphia 19115, Philadelphia County, Sixth Senatorial District, as Judge of the Court of Common Pleas of the First Judicial District of Pennsylvania, composed of the County of Philadelphia, to serve until the first Monday of January, 1980, vice Honorable Alexander F. Barbieri, retired.

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

MILTON J. SHAPP.

MEMBER OF THE BOARD OF TRUSTEES OF SCRANTON STATE SCHOOL FOR THE DEAF

November 18, 1977.

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 September 20, 1977 for the appointment of Paul L. Dapp, 2359 Hillside Avenue, Williamsport 17701, Lycoming County, Twenty-third Senatorial District, as a member of the Board of Trustees of Scranton State School for the Deaf, to serve until the third Tuesday of January 1979, and until his successor is appointed and qualified, vice Edward Popil, Scranton, resigned.

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

MILTON J. SHAPP.

NOMINATIONS BY THE GOVERNOR REFERRED TO COMMITTEE

He also presented communications in writing from His Ex-

cellency, the Governor of the Commonwealth, which were read as follows, and referred to the Committee on Rules and Executive Nominations:

COMMISSIONER OF DEEDS

November 18, 1977.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Theresa A. Potenza, One-Lynwood Road, Edison, Middlesex County 08817, New Jersey, for appointment as Commissioner of Deeds for the Commonwealth of Pennsylvania, with residence in the State of New Jersey, for the term of five years, to compute from the date of confirmation.

MILTON J. SHAPP.

MEMBER OF THE BOARD OF TRUSTEES OF
LOCUST MOUNTAIN STATE GENERAL HOSPITAL

November 18, 1977.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Genero F. Tancredi, 643 West Coal Street, Shenandoah 17976, Schuylkill County, Twenty-ninth Senatorial District, for appointment as a member of the Board of Trustees of Locust Mountain State General Hospital, to serve until the third Tuesday of January 1983, and until his successor is appointed and qualified, vice Reverend J. Pascal Sabas, Girardville, resigned.

MILTON J. SHAPP.

MEMBER OF THE STATE LOTTERY COMMISSION

November 18, 1977.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Joseph F. Collis (Republican), 351 Reynolds Street, Wilkes-Barre 18704, Luzerne County, Fourteenth Senatorial District, for reappointment as a member of the State Lottery Commission, to serve until October 19, 1981 and shall not continue to hold office until a successor is appointed and qualified.

MILTON J. SHAPP.

MEMBER OF THE BOARD OF TRUSTEES OF
THE PENNSYLVANIA STATE UNIVERSITY

November 18, 1977.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate David J. Hickton, 446 Hoodridge Drive, Pittsburgh 15234, Allegheny County, Thirty-seventh Senatorial District, for appointment as a member of the Board of Trustees of The Pennsylvania State University, to serve until July 1, 1980, and until his successor shall have been appointed and qualified, vice Dion C. Stewart, State College, whose term expired.

MILTON J. SHAPP

MEMBER OF THE LACKAWANNA COUNTY
BOARD OF ASSISTANCE

November 18, 1977.

To the Honorable, the Senate of the Commonwealth of

Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Joseph Mawn (Democrat), 1222 Prospect Avenue, Scranton 18503, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the Lackawanna County Board of Assistance, to serve until December 31, 1979, and until his successor is duly appointed and qualified, vice Robert B. Hargreaves, Throop, resigned.

MILTON J. SHAPP.

MEMBER OF THE VENANGO COUNTY BOARD OF
ASSISTANCE

November 18, 1977.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Max Martin Serafin (Democrat) 14 Hone Avenue, Oil City 16301, Venango County, Twenty-fifth Senatorial District, for appointment as a member of the Venango County Board of Assistance, to serve until December 31, 1979, and until his successor is duly appointed and qualified, to increase Board membership.

MILTON J. SHAPP.

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 1106**, which was referred to the Committee on Aging and Youth.

He also presented for concurrence **HB 1655**, which was referred to the Committee on Education.

He also presented for concurrence **HB 238**, which was referred to the Committee on Finance.

He also presented for concurrence **HB 1350**, which was referred to the Committee on Local Government.

BILLS INTRODUCED AND REFERRED

Senators REIBMAN and O'PAKE presented to the Chair **SB 1208**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," establishing the office of Deputy Secretary for Aging in the Department of Public Welfare.

Which was committed to the Committee on Aging and Youth.

Senators ANDREWS, DWYER, DOUGHERTY, LEWIS and SCHAEFER presented to the Chair **SB 1209**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for required immunization against diseases.

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

Senator ORLANDO presented to the Chair **SB 1210**, entitled:

An Act amending the act of June 1, 1933 (P. L. 1172, No.

290), entitled "Borough State Highway Law," deleting a route in Erie County.

Which was committed to the Committee on Transportation.

Senator ROSS presented to the Chair SB 1211, entitled:

An Act making an appropriation to Beaver County for defraying the expenses of reprinting ballots for the November 1977 election.

Which was committed to the Committee on Appropriations.

Senator MESSINGER presented to the Chair SB 1212, entitled:

An Act amending the act of August 11, 1967 (P. L. 205, No. 69), entitled "An act to validate conveyances and other instruments which have been defectively acknowledged," making editorial changes and extending its effectiveness.

Which was committed to the Committee on Judiciary.

Senator TILGHMAN presented to the Chair SB 1213, entitled:

An Act amending the act of August 9, 1971 (P. L. 286, No. 74), entitled "Disposition of Abandoned and Unclaimed Property Act," providing for disposition of bicycles and imposing powers and duties on municipalities, counties and townships in connection therewith.

Which was committed to the Committee on Law and Justice.

Senators REIBMAN, STOUT, SCHAEFER, DOUGHERTY, HANKINS and DWYER presented to the Chair SB 1214, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," establishing and administering a program designed to alleviate the problems of school violence, secure the safety of students and teachers and provide an adequate education for disruptive students.

Which was committed to the Committee on Education.

Senator HOLL presented to the Chair SB 1215, entitled:

An Act amending the act of June 22, 1931 (P. L. 594, No. 203), entitled "Township State Highway Law," abandoning a portion of LR 46039, Salford Township, Montgomery County.

Which was committed to the Committee on Transportation.

SENATE CONCURRENT RESOLUTION

WEEKLY ADJOURNMENT

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

In the Senate, November 21, 1977.

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, November 28, 1977, and when the House of Representatives adjourns this week it reconvene on Monday, November 28, 1977.

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

RECESS

Senator MESSINGER. Mr. President, I request a recess of

the Senate until 4:00 p.m., for the purpose of holding a Democratic caucus and a Republican caucus.

The PRESIDENT pro tempore. Are there any objections? The Chair hears no objection, and declares a recess of the Senate until 4:00 p.m., Eastern Standard Time.

AFTER RECESS

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

CALENDAR

REPORTS OF COMMITTEES OF CONFERENCE

BILLS OVER IN ORDER

SB 354 and 355 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON CONCURRENCE IN HOUSE AMENDMENTS AS AMENDED BY THE SENATE

BILL OVER IN ORDER

SB 770 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILLS ON CONCURRENCE IN HOUSE AMENDMENTS

BILLS OVER IN ORDER

SB 116 and 657 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

THIRD CONSIDERATION CALENDAR

NONPREFERRED APPROPRIATION BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

HB 1274 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

PREFERRED APPROPRIATION BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 698 (Pr. No. 742) — 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—43

- | | | | |
|--------------|------------|------------|------------|
| Andrews, | Gurzenda, | Lewis, | Ross, |
| Arlene, | Hager, | Manbeck, | Scanlon, |
| Bell, | Hankins, | McKinney, | Schaefer, |
| Coppersmith, | Hess, | Mellow, | Smith, |
| Corman, | Hill, | Messinger, | Snyder, |
| Dougherty, | Holl, | Moore, | Stapleton, |
| Duffield, | Hopper, | Murray, | Stauffer, |
| Dwyer, | Howard, | Noszka, | Sweeney, |
| Early, | Jubelirer, | O'Pake, | Tilghman, |
| Fleming, | Kelley, | Reibman, | Zemprelli, |
| Gekas, | Kusse, | Romanelli, | |

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.

SB 699 (Pr. No. 743) — 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—43

Andrews,	Gurzenda,	Lewis,	Ross,
Arlene,	Hager,	Manbeck,	Scanlon,
Bell,	Hankins,	McKinney,	Schaefer,
Coppersmith,	Hess,	Mellow,	Smith,
Corman,	Hill,	Messinger,	Snyder,
Dougherty,	Holl,	Moore,	Stapleton,
Duffield,	Hopper,	Murray,	Stauffer,
Dwyer,	Howard,	Noszka,	Sweeney,
Early,	Jubelirer,	O'Pake,	Tilghman,
Fleming,	Kelley,	Reibman,	Zemprelli,
Gekas,	Kusse,	Romanelli,	

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.

SB 700 (Pr. No. 744) — 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—43

Andrews,	Gurzenda,	Lewis,	Ross,
Arlene,	Hager,	Manbeck,	Scanlon,
Bell,	Hankins,	McKinney,	Schaefer,
Coppersmith,	Hess,	Mellow,	Smith,
Corman,	Hill,	Messinger,	Snyder,
Dougherty,	Holl,	Moore,	Stapleton,
Duffield,	Hopper,	Murray,	Stauffer,
Dwyer,	Howard,	Noszka,	Sweeney,
Early,	Jubelirer,	O'Pake,	Tilghman,
Fleming,	Kelley,	Reibman,	Zemprelli,
Gekas,	Kusse,	Romanelli,	

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.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 386 (Pr. No. 1469) — Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Title, page 1, line 1, by inserting after "electorate": of each county

Amend Title, page 1, line 2, by removing the period after "trading" and inserting: in that county.

Amend Sec. 1, page 1, line 8, by inserting after "electors": of each county

Amend Sec. 1, page 1, line 9, by removing the period after "trading" and inserting: in that county.

Amend Sec. 1, page 1, line 12, by striking out "(NOW PROHIBITED BY BLUE LAWS)" and inserting: in this county,

Amend Sec. 1, page 1, line 15, by striking out "on Sunday" and inserting: (the Blue Laws)

Amend Sec. 2, page 2, line 15, by striking out "case" and inserting: cast

Amend Sec. 2, page 2, line 18, by inserting after "voting": in each county

Amend Sec. 2, page 2, line 19, by removing the comma after "trading" and inserting: in that county,

Amend Sec. 2, page 2, line 21, by inserting after "lawful": in that county

Amend Sec. 2, page 2, line 21, by striking out "such" and inserting: in

Amend Sec. 2, page 2, line 26, by inserting after "electors": in each county

Amend Sec. 2, page 2, line 27, by removing the comma after "trading" and inserting: in that county,

Amend Sec. 2, page 2, line 28, by removing the period after "Sunday" and inserting: in that county.

Amend Bill, page 2, by inserting between lines 28 and 29:

Section 3. Sections 7361, 7362, 7363 and 7364 of Title 18, act of November 25, 1970 (P. L. 707, No. 230), known as the Pennsylvania Consolidated Statutes are repealed to the extent necessary to permit Sunday trading in each county of the Commonwealth which votes in favor of permitting such Sunday sales.

Amend Sec. 3, page 2, line 29, by striking out "3" and inserting: 4

Amend Sec. 3, page 2, line 29, by removing the period after "immediately" and inserting: except that section 3 shall not take effect until the results of the Statewide referenda is certified to and received by the Secretary of the Commonwealth.

On the question,

Will the Senate agree to the amendments?

Senator MESSINGER. Mr. President, I oppose these amendments on a philosophical basis. I do not like to see county-local option for any matter, especially in these days of energy conservation.

Mr. President, what these amendments do if the people in the various counties of the State decide this, it would be on a county-by-county basis. If one county would allow Sunday sales, the county next to it might not allow Sunday sales and so on and so forth.

County option in most places dealing with other subjects, such as liquor sales and so on in other states, always creates a problem with people having to get into their automobiles, going to the next county to do their shopping, if that is what they want to do, and wasting a lot of gasoline. Some of the counties, where this is no longer in force and where you have Sunday sales might, in a referendum, because of religious issues which might be raised and so on, by vote decide not to allow it. Actual-

ly, I am in favor of statewide action in this particular matter, the way the bill now stands without the amendments.

Senator STAUFFER. Mr. President, I believe every Member of this Senate would agree that the present situation with regard to the Sunday Blue Laws is chaotic at best. We have been very strong advocates in this Chamber of the concept of Home Rule. The reason I presented these amendments is to extend the concept of Home Rule to the issue of Sunday sales.

Mr. President, I recognize that you have some counties wherein the people, through their philosophy—maybe their religious beliefs or whatever—do not desire to have Sunday retail sales. For the people in many of those counties with good law enforcement and a cooperative spirit on the part of the business community there is no problem.

We get into other counties, however, wherein we find that the law enforcement situation is such that there is strict enforcement of the Blue Laws in one county, while in another county there is no enforcement. Therefore, you have an unequal opportunity for business people to compete and also for consumers to purchase if they desire.

Then you run into another situation which I think is best illustrated in my own home County of Chester, which lies on the border of the State of Pennsylvania. We border the State of Delaware. The State of Delaware has no sales tax at all and it has no Sunday Blue Laws. In order to cater to Pennsylvania purchasers the largest shopping mall in the State of Delaware was built right on the county line, right between Chester County, Pennsylvania and the State of Delaware.

Mr. President, this provides an impossible situation for the business community in a great area along that border and reaching well into Pennsylvania, well into other counties as well as Chester County.

My amendments would provide if the people in those areas desire to have Sunday sales, they would have the opportunity to do so, while those who may be in central Pennsylvania or in a more remote or more rural area would not desire it, they would not have them. The point is, we can make a Home Rule choice on this and I think it is the best way to meet this chaotic problem that exists regarding Sunday Blue Laws. For that reason, I would hope and ask the Members to support these amendments.

Senator BELL. Mr. President, I certainly hope the gentleman from Lehigh, Senator Messinger, was speaking for his own District and not for the whole Democratic caucus, because if he speaks for all the Democrats it means he either wants the entire State open or the entire State closed. I believe there are others of the Majority Party who might differ with him in that respect.

I likewise come from a border county. I question the gentleman from Chester, Senator Stauffer, when he states the largest shopping mall in Delaware is adjacent to his county, because I believe it is adjacent to mine. When I go down there on Sunday—I know this is true of anybody who goes down there—and count the licenses on the cars, seven-eighths of them come from Pennsylvania. They are down there not shopping at a store where sales tax is imposed in Pennsylvania, they are shopping at clothing and food stores.

Mr. President, I certainly hope the Democratic Senators will vote their District and not follow their leader because I am sure there are other areas in Pennsylvania that would like to have Sunday sales but, at the same time, we do not want to impose Sunday sales on the Bible Belt.

Senator MESSINGER. Mr. President, when I began my remarks I said I had a philosophical position on this, I was not speaking for the Democratic caucus and if I am ever in a position to be able to do so, I will let the gentleman know.

Senator GEKAS. Mr. President, the Supreme Court of Pennsylvania right now is presumably wrestling with this very issue as to whether or not the imposition of the so-called Blue Laws is constitutional or not. It seems to me that this decision sooner or later—and we would trust it is now sooner, because they have had it so long—will determine this issue once and for all in Pennsylvania. If the Supreme Court should rule that it is unconstitutional to impose the Blue Laws then that ends the issue for all time. If, on the other hand, it should say that it is constitutional then the General Assembly would have to act.

Mr. President, I would like to have this Body, for the first time since I have been here, exhibit a little patience and wait until the Supreme Court decision comes down and informs us as to the exact status of the law.

We have nothing to lose and we have something to gain, Mr. President. I have determined from the Secretary of the Commonwealth that the process by which a referendum goes on the ballot invariably costs some money.

Senator EARLY. Mr. President, I desire to interrogate the gentleman from Dauphin, Senator Gekas.

The PRESIDENT pro tempore. Will the gentleman from Dauphin, Senator Gekas, permit himself to be interrogated?

Senator GEKAS. I will, Mr. President.

Senator EARLY. Mr. President, is the gentleman addressing himself to the amendments or to the bill?

Senator GEKAS. Mr. President, the amendments have to do with the nature of the wording of the advertisement and the nature of the wording of the printed ballot upon which the people will be asked to vote “yes” or “no.” “Shall the” et cetera—the gentleman knows what I am talking about.

Senator EARLY. Mr. President, as I understand it, the amendments will decide whether it will be county-by-county. I believe the gentleman has referred to the Supreme Court which will handle it for the entire State.

Senator GEKAS. Mr. President, will the gentleman from Allegheny, Senator Early, allow me to finish one sentence?

Mr. President, the Secretary of the Commonwealth has stated to me that it costs between \$10,000 and \$20,000—and I believe that is a low estimate—for just getting the question ready for any given referendum.

MOTION TO RECOMMIT

Senator GEKAS. Mr. President, on the basis that the Supreme Court is going to come through with a decision, I now make a motion to recommit Senate Bill No. 386 to the Committee on Constitutional Changes and Federal Relations.

On the question,

Will the Senate agree to the motion?

Senator ANDREWS. Mr. President, I was intending to speak on the amendments, but since the motion has been made that is not now necessary.

Senator STAUFFER. Mr. President, I would like to speak in opposition on the motion to recommit. This bill is on its tenth day. It is a bill that is before us and an issue which has been before us for a long time and one on which a decision should be reached.

In making his motion the gentleman from Dauphin, Senator Gekas, spoke about the pending—and I think he should capitalize each letter in “pending”—Supreme Court decision. To the best of my knowledge, the issue has been before the Court for somewhere between three and four years with no decision forthcoming. When the case has been heard and a decision has not come down in a period beyond three years, I do not think we can defer action on the belief that we are going to have a decision in the immediate future. Since that is the reason he moved to recommit the bill, I think it would be in our best interest to speak to the subject, to vote this bill and make a determination of what we wish to do.

And the question recurring,

Will the Senate agree to the motion?

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

YEAS—15

Coppersmith,	Curzenda,	Kelley,	Reibman,
Corman,	Hess,	Moore,	Romanelli,
Dougherty,	Hopper,	Murray,	Ross,
Gekas,	Jubeliner,	Noszka,	

NAYS—28

Andrews,	Hager,	Manbeck,	Smith,
Arlene,	Hankins,	McKinney,	Snyder,
Bell,	Hill,	Mellow,	Stapleton,
Duffield,	Holl,	Messinger,	Stauffer,
Dwyer,	Howard,	O'Pake,	Sweeney,
Early,	Kusse,	Scanlon,	Tilghman,
Fleming,	Lewis,	Schaefer,	Zemprelli,

So the question was determined in the negative, and the motion was defeated.

And the question recurring,

Will the Senate agree to the amendments?

Senator ANDREWS. Mr. President, I desire to interrogate the gentleman from Chester, Senator Stauffer.

The PRESIDENT pro tempore. Will the gentleman from Chester, Senator Stauffer, permit himself to be interrogated?

Senator STAUFFER. I will, Mr. President.

Senator ANDREWS. Mr. President, if I understand these amendments, they provide that a referendum would appear on the ballot to be voted by the people of Pennsylvania. If a particular county voted “no,” it means that those counties in which the referendum passed would be permitted to have stores remain open and those in which it failed would have to remain closed. Is that true?

Senator STAUFFER. That is correct, Mr. President.

Senator ANDREWS. Mr. President, I would ask the gentleman how I would vote as an individual going into the voting booth if I were in favor of retaining Blue Laws and did not want Sunday sales, but I was a businessman in Lawrence County and wanted my county stores, including my own, to be competitive with neighboring counties. I am in favor of the Blue Laws but I want my store to remain open if the referendum passes. How do I vote, “yes” or “no,” on the constitutional question?

Senator STAUFFER. Mr. President, I think that the gentleman would have to wrestle with the various philosophies in his mind and make a determination as to which position would best express his philosophies and then vote accordingly.

Senator ANDREWS. Mr. President, I would then ask what would happen if, for instance, Lawrence County turned down the referendum and all the neighboring counties passed it? Would it ever be possible for Lawrence County to have Sunday sales after that? Is there any mechanism by which a county can change its mind?

Senator STAUFFER. Mr. President, in the bill before us there would be none. However, I would see no reason why, at some future date, legislation could not be enacted which would provide those counties which had rejected the approval of Sunday sales to reconsider the question.

Senator ANDREWS. Mr. President, the answer then is that if these amendments go in and the bill would pass—although it obviously will not pass today—there is no way that the county can change its mind once it has voted on the issue.

Senator STAUFFER. Mr. President, that is correct, because the people would have spoken on the question and they would have made the decision. If you wanted to reopen the question in the future, obviously you would have to provide the mechanism to do that.

Senator ANDREWS. Mr. President, I understand the gentleman has a background in merchandising and would further ask him: If this question were to go on the ballot and he owned department stores or a chain of department stores or he was on the board of directors, would he start construction of a store between now and the time this vote were taken in any particular county because he does not know which side of the county line to construct a store?

Senator STAUFFER. Mr. President, I think the answer to that question would be “yes,” because, obviously, in the field of merchandising your determination regarding new outlets is based on more than the sales of a single day. I would think if the particular location in question was one that looked to be attractive, it would be attractive enough to go ahead on a six-day basis and possibly more attractive if an additional day were to come along.

Senator ANDREWS. Mr. President, I am going to vote against these amendments. I think it is going to be quite obvious that there will be no new stores built in Pennsylvania, there will be no construction until after this election would be decided. No one would risk putting up a multi-million dollar store if right across the county line someone would be able to compete on Sunday and he might not.

I also would wonder about the attitude of the businessmen if, in a particular county, it would provide that the prohibition of Sunday sales would be enforced and the stores just across the county line would be open. He would certainly be at a competitive disadvantage.

I wonder how the businessmen in Chester County would feel if Chester County would turn down this particular referendum and all the neighboring counties would vote in favor of it. The businessmen represented by the gentleman from Chester, Senator Stauffer, would certainly be hard put in that particular case.

I think these are amendments which will be more detrimental than beneficial and, therefore, I urge my colleagues to vote in opposition to their passage.

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

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

YEAS—9

Bell,	McKinney,	Snyder,	Stauffer,
Dwyer,	Moore,	Stapleton,	Sweeney,
Hager,			

NAYS—34

Andrews,	Gurzenda,	Kusse,	Reibman,
Arlene,	Hankins,	Lewis,	Romanelli,
Coppersmith,	Hess,	Manbeck,	Ross,
Corman,	Hill,	Mellow,	Scanlon,
Dougherty,	Holl,	Messinger,	Schaefer,
Duffield,	Hopper,	Murray,	Smith,
Early,	Howard,	Noszka,	Tilghman,
Fleming,	Jubelirer,	O'Pake,	Zemprelli,
Gekas,	Kelley,		

So the question was determined in the negative, and the amendments were defeated.

And the question recurring,
Will the Senate agree to the bill on third consideration.

It was agreed to.

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

On the question,
Shall the bill pass finally?

Senator EARLY. Mr. President, I rise in support of this particular piece of legislation. I do not think there is any secret to the fact that we are having problems in Pennsylvania with our retail sales on Sunday.

I am also very certain that there is not one individual in the Chamber at the present time who has not had his mind made up for some time concerning how he would vote if he had an opportunity to vote "yes" or "no" on Sunday sales.

I will not attempt to change anyone's mind and the bill does not really address itself to, "Are you personally for or against Sunday sales?"

Basically what the bill is doing is addressing itself to an issue which has been a complicated one and also quite frustrating. It is a bill with which industry, basically, is disagreeing.

The automobile industry in Pennsylvania is saying, "We do not want to sell automobiles on Sunday. We want to be closed." They are adamant about that.

We have other industry where individuals are saying, "Yes, we want to have retail sales. We want to sell our particular goods on Sunday."

And then we have some individuals and some industries that are saying, "I do not want to sell on Sunday, but if you do, I will." I think this is quite a problem.

We have employees in our Commonwealth who are saying, "I do not want to work on Sunday." Others are saying, "I do not mind working on Sunday." We have some district attorneys throughout our Commonwealth who are saying, "I will uphold the Sunday sales laws." Others are saying, "I will not uphold the Sunday sales laws."

Then we have a very, very important issue, one to which we will be addressing ourselves in a few short months, the energy crisis. I know last winter I had a difficult time explaining to my constituents why schools had to close because of the energy crisis, but taverns and retail outlets were permitted to be open. That was difficult to explain. I believe that the energy crisis will be with us again this winter and many winters to come.

Mr. President, I have decided to take the issue to the people. Therefore, I will not have to explain to my constituents why this particular company is open and why this one is not; why they are open in one particular county and not in another county. I will not have to explain to them why a tavern or why a particular retail outlet is permitted to be open on Sunday and why someone else is not. I have decided to address this to the people.

I think the district attorneys can at last say, "The Legislature has given us something to work with." Once and for all the issue will be decided.

What I am asking for in Senate Bill No. 386, Mr. President, is an opportunity for the people of Pennsylvania to say "Yes, we want the laws. We want them upheld," or I want them to say, "No, we do not want them upheld. Do away with them."

Mr. President, I ask for an affirmative vote.

And the question recurring,
Shall the bill pass finally?

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

Senator REIBMAN. Mr. President, I would like to change my vote from "no" to "aye."

The PRESIDENT pro tempore. The lady will be so recorded.

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

YEAS—27

Andrews,	Hager,	McKinney,	Schaefer,
Arlene,	Hankins,	Mellow,	Smith,
Bell,	Hill,	Messinger,	Stapleton,
Duffield,	Holl,	Murray,	Stauffer,
Dwyer,	Howard,	O'Pake,	Sweeney,
Early,	Lewis,	Reibman,	Tilghman,
Fleming,	Manbeck,	Romanelli,	

NAYS—16

Coppersmith,	Gurzenda,	Kelley,	Ross,
Corman,	Hess,	Kusse,	Scanlon,

Dougherty, Hopper, Moore, Snyder,
Gekas, Jubelirer, Noszka, Zemprelli,

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

SB 511 and 679 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 748 (Pr. No. 839) — 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—43

Andrews,	Gurzenda,	Lewis,	Ross,
Arlene,	Hager,	Manbeck,	Scanlon,
Bell,	Hankins,	McKinney,	Schaefer,
Coppersmith,	Hess,	Mellow,	Smith,
Corman,	Hill,	Messinger,	Snyder,
Dougherty,	Holl,	Moore,	Stapleton,
Duffield,	Hopper,	Murray,	Stauffer,
Dwyer,	Howard,	Noszka,	Sweeney,
Early,	Jubelirer,	O'Pake,	Tilghman,
Fleming,	Kelley,	Reibman,	Zemprelli,
Gekas,	Kusse,	Romanelli,	

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

SB 781 and 782 — Without objection, the bills were passed over in their order at the request of Senator STAUFFER.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 964 (Pr. No. 1436) — 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—43

Andrews,	Gurzenda,	Lewis,	Ross,
Arlene,	Hager,	Manbeck,	Scanlon,
Bell,	Hankins,	McKinney,	Schaefer,
Coppersmith,	Hess,	Mellow,	Smith,

Corman,	Hill,	Messinger,	Snyder,
Dougherty,	Holl,	Moore,	Stapleton,
Duffield,	Hopper,	Murray,	Stauffer,
Dwyer,	Howard,	Noszka,	Sweeney,
Early,	Jubelirer,	O'Pake,	Tilghman,
Fleming,	Kelley,	Reibman,	Zemprelli,
Gekas,	Kusse,	Romanelli,	

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.

SB 1000 (Pr. No. 1451) — 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—43

Andrews,	Gurzenda,	Lewis,	Ross,
Arlene,	Hager,	Manbeck,	Scanlon,
Bell,	Hankins,	McKinney,	Schaefer,
Coppersmith,	Hess,	Mellow,	Smith,
Corman,	Hill,	Messinger,	Snyder,
Dougherty,	Holl,	Moore,	Stapleton,
Duffield,	Hopper,	Murray,	Stauffer,
Dwyer,	Howard,	Noszka,	Sweeney,
Early,	Jubelirer,	O'Pake,	Tilghman,
Fleming,	Kelley,	Reibman,	Zemprelli,
Gekas,	Kusse,	Romanelli,	

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.

BILL ON THIRD CONSIDERATION, DEFEATED ON FINAL PASSAGE

SB 1021 (Pr. No. 1470) — 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 STAUFFER. Mr. President, Senate Bill No. 1021 provides for an increase in the size of the Superior Court and I believe most Members of this Senate would agree that the Superior Court should be enlarged. However, in the process of drafting this bill, it also contains a provision which could eliminate the confirmation process for all newly appointed judges in the Commonwealth of Pennsylvania; that would mean not only judges of the Superior Court but also the judges of the Court of Common Pleas, for example, back in our home Districts.

It would mean, if enacted and the constitutional provision approved, that the General Assembly could draft legislation which would totally eliminate the voice of the Senate in approving judges appointed by the Governor of the Commonwealth. In my judgment, that is such a serious step away from what has been a traditional role on the part of the Senate—an important role on the part of the Senate—that I cannot support this bill in spite of the need of the Superior Court for additional judges.

Therefore, on the basis that the confirmation process may be eliminated, because of that provision and that provision alone, my vote shall be cast in the negative.

Senator HILL. Mr. President, as I read the bill it states on page 3, line 15 through 18: "The manner by which any additional judges are selected shall be as provided by ACT OF THE GENERAL ASSEMBLY."

Even if the gentleman from Chester, Senator Stauffer, is right—with which I do not agree—in any event, an act of the General Assembly would have to be the one which provides the manner as to how these judges are selected.

And the question recurring,
Shall the bill pass finally?

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

Senator EARLY. Mr. President, I would like to change my vote from "no" to "aye."

The PRESIDENT pro tempore. 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—18

Arlene,	Hankins,	Messinger,	Romanelli,
Coppersmith,	Hill,	Murray,	Scanlon,
Duffield,	Kelley,	Noszka,	Schaefer,
Early,	Lewis,	O'Pake,	Smith,
Gurzenda,	McKinney,		

NAYS—25

Andrews,	Hager,	Manbeck,	Stapleton,
Bell,	Hess,	Mellow,	Stauffer,
Corman,	Holl,	Moore,	Sweeney,
Dougherty,	Hopper,	Reibman,	Tilghman,
Dwyer,	Howard,	Ross,	Zemprelli,
Fleming,	Jubelirer,	Snyder,	
Gekas,	Kusse,		

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

The PRESIDING OFFICER (H. Craig Lewis) in the Chair.

PERMISSION TO ADDRESS SENATE

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

Senator DWYER. Mr. President, I would like to spread upon the record a letter and memorandum which we all received from Judge Robert E. Woodside in which he explains the fall-

acies of Senate Bill No. 1021, which many of us just voted against and offers a better method of meeting the crisis which confronts the Superior Court, which I believe the Senate should pursue.

The PRESIDING OFFICER. The gentleman's letter will be noted in the record.

(The following letter was made a part of the record at the request of the gentleman from Crawford, Senator DWYER:)

Robert E. Woodside
916 Executive House
101 South Second Street
Harrisburg, Pa. 17101

November 9, 1977.

Dear Senator:

I promise you that my sending memoranda on the issues before you will not become a habit, but because of my service on the Superior Court and in revising the Constitution, I would appreciate a few minutes of your valuable time to point out the advantages of solving the appellate court problems without a constitutional amendment.

Measured by the time between appeal and decision during the last three or four years, the Supreme Court is finding it more difficult to dispose of its cases expeditiously than the other two appellate courts. The legislature can do little to assist them except possibly to increase its members by two and apparently nobody is advocating that. The Supreme Court must and could solve its problems internally.

The Commonwealth Court has been doing a magnificent job in disposing of a tremendous number of difficult cases of both original and appellate jurisdiction. Recently it has become impossible for it to continue this superb record. It seriously needs the two additional judges now before the legislature.

The Superior Court has more appeals than any court can properly dispose of under the American judicial system. (English courts could do it expeditiously under their system.) The legislature is faced with deciding not only a way, but the best way of solving the problems that the Superior Court's backlog creates.

As you know, the Constitution authorized the General Assembly to add to the courts named there "such other courts" as it considers advisable. Instead of amending the Constitution, the legislature might well consider the many advantages of creating a separate court of seven judges with jurisdiction limited to appeals in criminal cases, thus removing from the Superior Court the majority of its cases. You could do this immediately by statute.

This solution would have the following advantages: it would not require a constitutional amendment which itself raises serious constitutional questions for the legislators; it would recognize the importance of having judges becoming experts in their field; it would release the Superior Court of approximately half of its burden; it would result in better administration of the criminal law; and it would make law more certain. I enclose a memorandum expanding on these points.

You will be quite properly receiving a lot of advice, some conflicting, from appellate judges "who are most familiar with the problem." But under the Constitution, the members of the General Assembly and not the judges have the responsibility of deciding what is best for the Commonwealth. Legislators who are endowed with the ability of viewing the whole picture objectively should not abdicate their responsibility to judges who are naturally influenced by their personal desires. I could cite chapter and verse demonstrating that over the years jurisdiction was in this court or that, based not on logic or reason, but solely upon which judges enjoyed dealing with which subject. And panels were advocated solely because certain judges could thereby sit more frequently in their home city.

Respectfully,
ROBERT E. WOODSIDE

MEMORANDUM ON THE ADVANTAGES OF
CREATING BY STATUTE AN INTERMEDIATE AP-
PELLATE COURT WITH JURISDICTION LIMITED
TO CRIMINAL MATTERS.

CONSTITUTIONAL QUESTIONS

Creating an appellate court by statute could be done in a matter of days. The statutory provisions of the formation of the Commonwealth Court proved to be both practical and successful and could be used as a guide.

The constitutional amendment to authorize the legislature to change the composition of the Superior Court has haunted the General Assembly during the last few years for a variety of reasons with which you are familiar. In order to circumvent normally-followed provisions of the Constitution, the General Assembly finds itself in the unenviable position of being asked to declare the need for a few judges the type of an "emergency" contemplated by the Constitution to avoid approval at two sessions.

The Supreme Court, through its administrator, has taken the unprecedented course of intimating to the legislators by letter that if they will submit the amendment as an emergency, the court will not declare it unconstitutional, presumably on the theory that the determination of an "emergency" is "exclusively a question for legislative discretion." Of course, having taken the identical oath to support, obey and defend the Constitution of Pennsylvania that judges take, legislators have the same responsibility to consider whether creating a few additional judges is a constitutional emergency, especially when there is an easier and better way of creating judgeships by statute. But even assuming the action to be a reasonable interpretation of the Constitution, would it be establishing a dangerous legislative precedent? If adding a few judges to one court is a constitutional emergency, what isn't?

Furthermore, assuming the people were properly educated to the need and adopted the amendment, it would not solve anything. It would only authorize the legislature to solve the problem. Next summer you would have a number of difficult options - not only the number of additional judges, but the manner of operating the court; for example, is it to be fragmented into area panels and what autonomy will such panels have. More problems; more arguments; more delays.

A STATUTORY COURT WILL BE
A MORE CAPABLE COURT

This is an age of ever-increasing specialization by physicians, lawyers and other professional people. Its value to the public is too evident to discuss. We use specializing in the common pleas court by creation of divisions. By the very nature of its purpose, the Supreme Court must deal with all cases, but the intermediate appellate courts should acquire expertise in the law over which they have jurisdiction. That was the purpose of the creation of the Commonwealth Court—to have a court specializing in the law relating to state and municipal government. Experience shows it was a wise decision by the delegates to the 1968 Constitutional Convention, and the legislators who implemented the provisions of the Constitution.

Increasing the size of the Superior Court was also considered at the 1968 Constitutional Convention and extensively debated in the subcommittee, which I co-chaired, and in the Judiciary Committee, and finally on the floor of the convention. The increase was not rejected because the delegates did not foresee the need for more appellate court judges during the next decade, but because they accepted and approved the suggestion that when the time came, the legislature could and should create by statute a third appellate court to deal exclusively with criminal appeals.

It was evident to the delegates and it is evident today, that to have a Commonwealth Court dealing with governmental law, a Superior Court dealing with respass, assumpsit and equity appeals, and an appellate court with criminal jurisdiction would result in better opinions written by judges who developed expertise in the subject matter within their court's jurisdiction.

ADVANTAGES OF A NEW STATUTORY COURT

An appellate court with jurisdiction in criminal cases would

not only have all the advantages of developing expertise in the subject and avoid the conflicts in the decision of a fragmented Superior Court, but it could serve to develop more uniformity in sentences.

The disparity of sentences has been a problem of increasing concern to the legislators, the media and the public. Demands that "something be done about it" are increasing. Within the last month or two, the Pennsylvania Supreme Court set aside a sentence and ruled that sentencing judges must hereafter give their reasons for the sentences imposed. The court also returned another case because it did not agree with the reasons given for sentence. Although the Court has not yet taken the next step of changing a sentence, these two decisions established appellate review of the sentence itself. This opens a new field of reviewing sentences. If sentences are to be reviewed as to disparity or reasonableness, it should be done by one court dealing with all cases, not a court divided into three or more panels contemplated by increasing the number of judges on the Superior Court. That would merely build into the system continued disparity of sentences.

On the other hand, if some review of sentencing to reduce disparity is desirable, either in the immediate future or at some later time, the ideal mechanism to do it is a statutory court established to deal with all criminal cases.

If the Superior Court is broken up into autonomous panels, which would ultimately happen under the proposed amendment, direct conflict of decisions between the panels would be inevitable. Much more frequently, however, would be unlimited shades of differences in their opinions and conclusions which would leave the law on such subjects uncertain until the differences were resolved by the Supreme Court, which would be a matter of years. These panel differences would be certain to increase, not decrease, the work of the Supreme Court.

It may be argued that adding judges to the Superior Court will be cheaper. The difference, if any, will be minimal, unless the alleged 1200% increase in case load is intended to be met with fifty percent increase in the number of judges. It could easily be demonstrated that in the end, it would likely cost more than creating a new court. The new court should certainly have seven judges, but if cost is the overriding consideration, a court could be created with only five judges.

There is much more to be said on this subject, but this memorandum has gotten too long already.

Respectfully,
ROBERT E. WOODSIDE

THIRD CONSIDERATION CALENDAR RESUMED

BILL ON THIRD CONSIDERATION AMENDED

SB 1059 (Pr. No. 1249) — Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Title, page 2, line 17, by removing the period after "convenience" and inserting: for the transportation of passengers or property as a common carrier or contract carrier.

Amend Sec. 1 (Sec. 205), page 2, line 27, by inserting after "Convenience": for the Transportation of Passengers or Property as a Common Carrier or Contract Carrier

Amend Sec. 1 (Sec. 205), page 2, line 28, by inserting after "cases": involving the transportation of passengers or property as a common carrier or contract carrier

Amend Sec. 1 (Sec. 205), page 2, line 29, by inserting after "for": temporary

Amend Sec. 1 (Sec. 205), page 2, line 31, by insert-

ing after "application": for a temporary certificate of public convenience

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 STAUFFER.

BILL OVER IN ORDER TEMPORARILY

SB 1085 — Without objection, the bill was passed over in its order temporarily at the request of Senator MESSINGER.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1093 (Pr. No. 1291) — 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—41

Andrews,	Gurzenda,	Lewis,	Romanelli,
Arlene,	Hager,	Manbeck,	Ross,
Bell,	Hankins,	McKinney,	Scanlon,
Coppersmith,	Hess,	Mellow,	Schaefer,
Corman,	Holl,	Messinger,	Smith,
Dougherty,	Hopper,	Moore,	Snyder,
Duffield,	Howard,	Murray,	Stapleton,
Dwyer,	Jubelirer,	Noszka,	Stauffer,
Early,	Kelley,	O'Pake,	Sweeney,
Fleming,	Kusse,	Reibman,	Tilghman,
Gekas,			

NAYS—2

Hill, Zemprelli,

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.

SB 1141 (Pr. No. 1459) — 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 O'PAKE. Mr. President, there is really one narrow issue presented in this bill. To clarify any misunderstanding that may have occurred as a result of some discussion on this floor or elsewhere, the question, simply put, is whether or not the voters of Pennsylvania should be given the opportunity, in a statewide referendum, to do something about the nursing home bed shortage in the Commonwealth.

The question before us today is not what kind of legislation we should enact to take care of that problem but merely whether or not the voters should give us permission to delve into the problem.

As you will recall, Mr. President, back in 1974—I think it was—the voters of Pennsylvania approved a \$100 million bond issue to take care of the problem that we all realized existed at the time and that is, the very serious shortage of nursing home beds in Pennsylvania.

Mr. President, we all say we want to do something to help senior citizens, at least when we are back in our home areas campaigning. This presents a very easy and painless way to do something about the one out of every ten people in Pennsylvania who happen to be over the age of sixty-five.

As a result of the referendum in 1974, \$40 million of that \$100 million authorized has been used to convert existing nursing home structures so that they comply with the Life Safety Code and did not have to be closed. We are told that, as a result of that \$40 million, the Commonwealth has saved 3,238 existing beds in the Commonwealth. However, that is not enough.

It is projected by the year 1980 there will be a shortage of at least 17,000 more nursing home beds. That means that 17,000-plus of our constituents, who are over the age of sixty-five and who have nowhere else to turn, will not be permitted to live the rest of their years in some sense of security and dignity.

What this bill proposes to do is to ask the voters of Pennsylvania whether they want to extend the permissive use of that \$100 million bond issue to include not only conversion of existing structures to meet Life Safety Code requirements, but also as a partial funding to attract private industry to build new nursing home facilities to provide these beds. That is the single issue. There are, I am sure, philosophical differences as to whether or not we should focus our attention on nursing home beds or some other means of taking care of the problem. That, I submit to the Chair, is not the question before us. The question is whether or not the voters of Pennsylvania should be permitted to have a say in whether or not the remaining \$60 million in the Nursing Home Loan Fund should be available as an incentive to private investment to build new nursing home facilities.

Mr. President, I feel very strongly that we should give that permission and we should put that on the ballot and I would urge support of this bill. If the voters say "yes" and only if the voters say "yes," then we have to wrestle with the problem of how to best enact that kind of legislation.

Senator DOUGHERTY. Mr. President, I rise briefly to support the comments of the gentleman from Berks, Senator O'Pake, on this bill. People may argue over whether or not we should make loans available to private enterprise to provide nursing home beds. I can only say that from my point of view, my experience in trying to help senior citizens find nursing homes, it is an impossible situation. There are not enough nursing home beds, at least in my area of the State.

Mr. President, I think this is positive legislation. I believe it will meet a tremendous need and would urge a "yes" vote on Senate Bill No. 1141.

Senator COPPERSMITH. Mr. President, I rise to speak in opposition to this bill. I would like to say why I am going to vote against this bill.

I believe one of the problems we have in this country is that we have, what I would call, an institutional bias. When

problems arise we are too quick to want to put a person in a facility for a long period of time instead of trying to take care of them in their communities and in their homes.

A very interesting study was made in Luzerne County concerning the elderly population in that area. An analysis was made of the old people in the nursing homes and the old people in the community. They found that the percentage of the severely disabled in the community was the same as those in the nursing homes. In other words, in the cross section between the nursing homes and the community there is very little difference with regard to the number being taken care of in the community and those in the nursing homes. There was only one basic difference. That difference was that those older people who were living in their homes or in the community or not in the nursing homes had family and friends who were interested in them and took care of them.

Mr. President, the reason I am going to vote against this bill is, I believe it follows the mistake we have made in this country in the past of having the institution as an answer to all our problems. I believe what we have to do is build up the supportive services to enable families to take care of their members in the community, to enable the community itself to give the nursing and other supportive services that are necessary. We have to get away from the idea that everything can be solved by creating nursing homes and putting people in those nursing homes. Instead, we must spend our money and use our efforts to develop the community programs where people could live more worthwhile lives and where much more could be done for them. For that reason I am going to vote against this bill.

Senator BELL. Mr. President, to submit this question to the people of Pennsylvania for their decision is going to pass on to them the making of the decision. Who are we to say that money should not be lent to build nursing homes when, through PIDA, we use State funds to build factories? Indirectly, through the General State Authority, we use State funds to build educational facilities.

I think the big problem is not now. All we are going to do is ask the people of Pennsylvania, "Do you want to do it?" However, if the people of Pennsylvania say, "We do want to do it," then comes the challenge of this Legislature to make sure that the money only goes to bona fide, high type, nursing home operators and we do not have the vultures creep in who make their money from the misery of the elderly.

Senator SNYDER. Mr. President, there have been some very interesting things said on this, many of them very much in point. I suppose I would only have to differ with my colleague, the gentleman from Delaware, Senator Bell, in his last statement in that these decisions, unfortunately, are not made by the Legislature in the final analysis. They are made by bureaucracy. I think if we follow the pattern of so many things, it is that there is a problem. Then it is reasoned, well, it needs a solution. Who should provide the solution? The government should provide the solution. In light of that, we introduce bills. We, with great public effect, pass them. The Governor signs them and gives out pens and press releases.

Then the sad part of it begins. It gets into the bureaucracy

and then you have the sadness about which we all know so much. You have the long wait—over a year in the case of the original effort—then you have the proposed regulations, the objections to them, the hearings, the complaints. Finally something gets going and then you have the complaints from applicants who do not feel they are getting a fair shake. Then you have the appeals. They are spending their funds for lawyers fees. They are complaining that the thing is not being run right. Ultimately, you end up with one favorite group of entrepreneurs as against another.

We would not have this issue before us at all if it had not been that several years ago we authorized and had put on the ballot the \$100 million authorization for the help of nursing homes with respect to complying with the safety provisions. This sounded like a crisis thing at the moment. The public authorized it and then, lo and behold, it was more than a year before the first application even was approved. By that time, in my own experience, one or two homes in my own District had given up, became disgusted and borrowed directly from their banks without any fussing with the State funds.

I believe, as one of the other speakers said, we have, first of all, PIDA for enterprises of which this could be one. They could lend for nursing homes as well as any other enterprise as I understand the laws at the present time. There is the Small Business Administration which can do it.

However, I believe the people expect us to be more discriminating than you think in what we put on the ballot. It is very easy to say, "Well, let the people decide." However, I believe whenever you put something on the ballot, you can pretty much assume that a great number of our voters are going to say, "Well, I suppose the Legislature would not have assumed that this was a good thing or they would not have put it on the ballot." Consequently, our judgment becomes their judgment and then we have it whether or not it is a good thing.

I know it is quite properly asked whether we have enough beds. I, for one, do not accept the "projected" figures in this from most any source. There has been much change in this whole area and, also, on the point of view very well expressed by the gentleman from Cambria, Senator Coppersmith, I believe we are not necessarily helping the situation by getting government intrusion into this. If they did not need the whole \$100 million for the crisis which we had several years ago, then I would say let us not float any more bonds. Let that much capital go to private enterprise generally which, as I understand the market, very much needs capital for investment.

Senator ANDREWS. Mr. President, I desire to interrogate the gentleman from Berks, Senator O'Pake.

The PRESIDING OFFICER. Will the gentleman from Berks, Senator O'Pake, permit himself to be interrogated?

Senator O'PAKE. I will, Mr. President.

Senator ANDREWS. Mr. President, I would ask the gentleman if he has any information as to how many beds are now needed for nursing homes in Pennsylvania.

Senator O'PAKE. Mr. President, according to the Department of Health and Welfare, the Division Need of Review—and I will share the full table with the gentleman from Lawrence, Senator Andrews, if he desires—the projection is that by 1980

the exact number—it is broken down into nine regions—will be 17,756.

Senator ANDREWS. Mr. President, I would ask the gentleman if he has any information with respect to the cost per bed of constructing new nursing homes?

Senator O'PAKE. Mr. President, the figure used in the memo, which goes into the bill in depth, by an Assistant Attorney General, is a cost of \$15,000 per bed. This is how they figure it.

The gentleman from Lancaster, Senator Snyder, made a very good point when he said that government should not insert itself into the nursing home loan industry. This is aimed precisely at preventing that from happening.

The theory is that if the agency financed only twenty-five per cent of each project, the additional \$60 million would generate another \$180 million in private participation so that the resulting \$240 million fund would fund 16,000 additional beds if the average cost is \$15,000 per bed.

Senator ANDREWS. Mr. President, could the gentleman tell me whether there is anything in this particular bill or the referendum which will assure the people of Pennsylvania that the \$60 million will not be used in one fell swoop to provide 4,000 beds which, according to my arithmetic, is all that this \$60 million would offer. Is there anything which points out that it would be used to provide substantially more homes?

Senator O'PAKE. Mr. President, that will be our responsibility if, and only if, the voters of Pennsylvania give us permission to do that.

Senator ANDREWS. Mr. President, I would only point out that I hope we do not go back and tell our people by passing this referendum pursuant to this legislation, we are going to solve any nursing home crisis in Pennsylvania. We are going to be providing only enough money for 4,000 beds which is between twenty per cent and twenty-five per cent of those which are needed.

Mr. President, I am going to vote in favor of this legislation because we do have a great need for nursing homes. I would point out that I have talked to the people at the Southwest Pennsylvania Health Planning Center. Lawrence County, from which I come, is now classified as an over-bedded county. You could not build a nursing home there if you wanted to. Hopefully these funds will be used to provide sufficient incentive to provide beds for those in Pennsylvania who are needy. Let us not delude ourselves that we are solving any crisis or that every District is going to benefit by the enactment of this legislation or the passage of this referendum, because I presume that others here represent areas which are also over-bedded and the money would not be available for use in those counties under any circumstances.

Senator O'PAKE. Mr. President, I appreciate the support of the gentleman and I certainly do not want to say anything to make him change his mind. However, in my response to his question, I indicated that it is the hope of the agency and, hopefully, will be the intent and the reality of the Legislature to make sure that the application for the loan is not fully funded out of the State bond money.

I would like to respond to two of the legitimate questions that

were raised in opposition. One was raised by the gentleman from Cambria, Senator Coppersmith, who came down pretty hard on what he called an institutional bias in the Commonwealth. As the gentleman would recognize, I have shared that concern, especially in the area of troubled youth. However, I must point out that too often we brag about how many we put out of institutions in this Commonwealth and we do not take the trouble to follow up and care about what happens to them in society. It is fine to talk about the theory of providing more money for home health care and I would support that. The question is: What do you do as a measure of last resort for those people who have no families or who cannot, for some reason, get into a place where they will take care of an older parent? This is an answer of last resort.

In response to the gentleman from Lancaster, Senator Snyder, and his concern about the government getting into the building of nursing homes, I say to my colleagues, this is precisely the reason for this bill, to keep government out of building nursing homes, to stimulate private industry to do it because I think they can do it better.

As far as the problem he may have had in his county, I would like to point out that, under the present regulations, there must be two refusals by local private lending institutions before the Nursing Home Loan Agency can give its approval.

In light of the problem and in the light of the fact that this just asks the voters for permission to try to deal with the problem more effectively, I would urge an affirmative vote.

And the question recurring,
Shall the bill pass finally?

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

YEAS—30

Andrews,	Fleming,	Lewis,	Scanlon,
Arlene,	Gekas,	Messinger,	Schaefer,
Bell,	Gurzenda,	Murray,	Smith,
Corman,	Hankins,	Noszka,	Stapleton,
Dougherty,	Hess,	O'Pake,	Stout,
Duffield,	Hill,	Romanelli,	Sweeney,
Dwyer,	Jubelirer,	Ross,	Zemprelli,
Early,	Kelley,		

NAYS—14

Coppersmith,	Howard,	Mellow,	Snyder,
Hager,	Kusse,	Moore,	Stauffer,
Holl,	Manbeck,	Reibman,	Tilghman,
Hopper,	McKinney,		

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.

HB 1196 (Pr. No. 1911) — Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

Senator KELLEY. Mr. President, as I read the contents of

this bill, it seems to expand the present law from two years to four years, the period within which one can recoup his so-called illegal or unjust payments to a public utility.

I am somewhat concerned, Mr. President, as we seem to go off in two different directions simultaneously. That is pretty difficult to do, but we seem to be able to do it. We have recently established the Consumer Advocate's office in the Public Utility Commission. He is there to protect the rights of the consumer and to make sure that the rate regulations and applications are filed and processed completely and in conformance with the law. At the same time we want to expand this to a four year period.

As I see it, going into a four year period we will ultimately end up hurting the very people we are attempting to protect. That is, by having a larger period there will be a greater amount of recoupment. Therefore, when that recoupment is disbursed, there will be an additional need for additional rate increases.

Therefore, Mr. President, I am opposed to the bill.

And the question recurring,
Shall the bill pass finally?

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

YEAS—43

Andrews,	Gurzenda,	Manbeck,	Scanlon,
Arlene,	Hager,	McKinney,	Schaefer,
Bell,	Hankins,	Mellow,	Smith,
Coppersmith,	Hess,	Messinger,	Snyder,
Corman,	Hill,	Moore,	Stapleton,
Dougherty,	Holl,	Murray,	Stauffer,
Duffield,	Hopper,	Noszka,	Stout,
Dwyer,	Howard,	O'Pake,	Sweeney,
Early,	Jubelirer,	Reibman,	Tilghman,
Fleming,	Kusse,	Romanelli,	Zemprelli,
Gekas,	Lewis,	Ross,	

NAYS—1

Kelley,

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.

SECOND CONSIDERATION CALENDAR

PREFERRED APPROPRIATION
BILL ON SECOND CONSIDERATION AMENDED

SB 1187 (Pr. No. 1474) — The bill was considered.

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

AMENDMENT OFFERED

Senator MESSINGER. Mr. President, there are quite a number of amendments that are going to be proposed. Most of them, if you pay attention, are very easy to understand, not necessarily agree with. If the Members find they have difficulty understanding any of them, we will gladly call for a recess

for caucus.

At this time I offer an amendment to Senate Bill No. 1187 and I will explain what it will do in just a moment.

MESSINGER AMENDMENT

Senator MESSINGER offered the following amendment:

Amend Sec. 1 (Sec. 2), page 6, by inserting between lines 18 and 19:

* * *
For the Pennsylvania Higher Education Assistance Agency
* * *

For the purpose of allotting institutional assistance grants for the academic year beginning on or about September 1, 1977, pursuant to the criterion contained in the act of July 18, 1974 (P. L. 483, No. 174), known as "The Institutional Assistance Grants Act"

14,000,000

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

Senator MESSINGER. Mr. President, in former Sessions, during many parliamentary maneuvers, we finally got the Institutional Assistance Grants into positions where we cannot resurrect them and that is the reason I have chosen this bill to add the \$14 million which we had agreed to as the sum for the Institutional Assistance Grants.

Senator STAUFFER. Mr. President, in keeping with the statement made by the gentleman from Lehigh, Senator Messinger, regarding the fact that there are a number of amendments to be offered to this bill, I would suggest that there be an explanation of each one as it is offered so that the Members of our caucus will have a clear understanding as to what we are voting upon. None of these amendments arrived at our caucus prior to its end, therefore, we are being called upon to vote on a number of issues which we have not had the opportunity to discuss.

And the question recurring,
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?

O'PAKE AMENDMENTS

Senator O'PAKE offered the following amendments:

Amend Sec. 1 (Sec. 2), page 2, lines 24 and 26 by inserting a bracket before "Provided," in line 24 and after "Project" in line 26

Amend Sec. 1 (Sec. 2), page 2, line 26 by striking out the brackets before and after "224,000"

Amend Sec. 1 (Sec. 2), page 2, line 27 by striking out all of said line

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

Senator O'PAKE. Mr. President, these are very simple amendments. On page 2 of Senate Bill No. 1187, lines 24 to 27, it provides for a cut of \$56,000 from the Governor's Office for Human Resources which originally had been suggested for the funding of the nursing home ombudsman project.

The purpose of these amendments is to not cut that \$56,000 and to, in fact, restore the nursing home ombudsman project.

Now the next question is: What is the nursing home ombudsman project? That is a very good question. The nursing home ombudsman project has been, at a budget of about \$100,000 to \$120,000 a year, very instrumental in pointing out cases of abuse of elderly people who are living in nursing homes in the Commonwealth. They have been particularly effective in Philadelphia. As a matter of fact, they may have been so effective that they were gutted from the budget.

What the nursing home ombudsman project does is point out and help in the prosecution of cases in which people, who are in the business of nursing homes, sometimes mistreat, abuse and even criminally abuse, patients, or senior citizens who live in these nursing homes.

I do not believe that the Commonwealth of Pennsylvania wants to go on record as stifling this very effective program. The nursing home industry itself is supportive of the work of the ombudsman for the reason that if someone responsible can point out the problems in the area, the entire industry will not receive the black eye that is the result of the actions of only a few.

Mr. President, I ask for support of the amendments.

Senator TILGHMAN. Mr. President, I am opposed to these amendments and ask my colleagues to vote in the negative. It is really not much money which the gentleman from Berks, Senator O'Pake, is adding back into the bill; it is about \$60,000. However, this legislation was to cut some of the budget. The House has not even voted on the tax package and I believe it is the wrong time to start adding money back into the budget.

Senator STAUFFER. Mr. President, I desire to interrogate the gentleman from Lehigh, Senator Messinger.

The PRESIDING OFFICER. Will the gentleman from Lehigh, Senator Messinger, permit himself to be interrogated.

Senator MESSINGER. I will, Mr. President.

Senator STAUFFER. Mr. President, I understand a number of the amendments which are to be proposed will increase the budget. They are adding back items which have previously been eliminated from the budget.

My question is: Is there sufficient revenue available to fund this and the other amendments which will be coming before us?

Senator MESSINGER. Mr. President, I would doubt seriously if all the amendments which are being considered would go in. I do not know what the total package is, but it would certainly amount to quite a few million dollars.

Senator STAUFFER. I thank the gentleman, Mr. President. I would just like to comment apropos of the remarks made by the gentleman from Montgomery, Senator Tilghman, that on this side of the aisle we find ourselves in a very difficult position in that we are being asked to consider some amendments without an opportunity of knowing whether there is sufficient funding available to cover them. Regardless of the merit of the individ-

ual programs, we still have to fund them and within the structure of the funds available and the fact that the proposed tax package is not yet been enacted into law, there is a serious question as to the advisability of considering them at this time.

Senator SMITH. Mr. President, I rise to oppose the amendments exactly for the reasons the gentleman from Chester, Senator Stauffer, enumerated.

We have cut the budget to the barest and any increase would throw it out of balance. Therefore, I would ask a "no" vote on these amendments.

Senator DOUGHERTY. Mr. President, I rise to take exception to the comments of my good friend from Philadelphia, Senator Smith. We are talking about \$56,000 in a \$5 billion budget.

The point is that my experience with this project has been that it is very effective. In my own District there is a woman who was a part of this project who would walk in on nursing homes unannounced, check to see what was being done to the patients, how they were being treated. She organized senior citizens to come into the nursing homes, take the people on trips and provide volunteer services. It is probably one of the most worthwhile State projects I have ever been associated with and for \$56,000 I believe an "aye" vote would be appropriate.

Senator O'PAKE. Mr. President, It is almost laughable to stand on this floor and suggest that when last we raised a hundred and fifty-some million dollars that somehow, somewhere, somebody in that vast bureaucracy cannot find \$56,000.

If you vote against this you will be voting to kill one of the most effective programs on behalf of people who are helpless, who are being abused, who are being taken advantage of in the Commonwealth of Pennsylvania. If you want to do it, do it.

However, when you consider that \$56,000 is what we are talking about, not \$56 million, or even \$560,000, how are we going to hang our hat on that and say we are going to be economical? When you do it, just make sure you realize the only prosecutions which have stood up so far in Philadelphia of the abuse of senior citizens in nursing homes are the ones instituted by the Philadelphia District Attorney with the cooperation of the nursing home ombudsman.

Senator COPPERSMITH. Mr. President, echoing what the gentleman from Philadelphia, Senator Dougherty, and the gentleman from Berks, Senator O'Pake, have said, I believe that this expenditure of \$56,000 is one of the most effective expenditures we can make. We are not adding money to the budget. This money is already in the budget. It is being eliminated. I want to make that crystal clear.

Mr. President, what happened was that a provision was put into House Bill No. 1349 when it passed that said, provided that no allocation may be made from this appropriation for the nursing home ombudsman project.

You do not have to be a great genius to figure out why surprising language like that was put into the budget bill that passed. It was designed to kill this very effective project and all we are saying is, do not let this project be killed. Let us let the amount of funding provided in House Bill No. 1349 stand and let us take out this prohibition against funding the ombudsman project, which has done so much good for so many people.

Senator BELL. Mr. President, this is amusing. We just voted to have \$60 million of State money lent to nursing home operators and yet we are hesitating to fund \$56,000 for the "vulture catchers." I will repeat "vulture catchers."

Senator SMITH. Mr. President, if you will look at House Bill No. 1349 you will note there is a million dollar expenditure for the inspection of public and private nursing facilities. Let that stand on its own.

And the question recurring,

Will the Senate agree to the amendments?

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

YEAS—21

Andrews,	Fleming,	Hill,	Reibman,
Arlene,	Gurzenda,	Howard,	Romanelli,
Bell,	Hager,	Jubelirer,	Ross,
Coppersmith,	Hankins,	Lewis,	Sweeney,
Corman,	Hess,	O'Pake,	Zemprelli,
Dougherty,			

NAYS—23

Duffield,	Kelley,	Moore,	Snyder,
Dwyer,	Kusse,	Murray,	Stapleton,
Early,	Manbeck,	Noszka,	Stauffer,
Gekas,	McKinney,	Scanlon,	Stout,
Holl,	Mellow,	Schaefer,	Tilghman,
Hopper,	Messinger,	Smith,	

So 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, as amended?

TILGHMAN AMENDMENT

Senator TILGHMAN offered the following amendment:

Amend Sec. 1 (Sec. 2), page 7, by inserting between lines 24 and 25:

To the Pennsylvania Historical and Museum Commission

On the question,

Will the Senate agree to the amendment?

It was agreed to.

And the question recurring,

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

ROMANELLI AMENDMENT

Senator ROMANELLI offered the following amendment:

Amend Sec. 1 (Sec. 2), page 9, lines 2 through 8, by striking out all of said lines

On the question,

Will the Senate agree to the amendment?

Senator ROMANELLI. Mr. President, this is a very simple amendment as some of the others which have been offered. It strikes out lines 2 through 9, which is the \$150,000 being

further struck from the Department of Probation and Parole. When House Bill No. 1349 passed, we had originally cut that agency by \$2 million. They are in a crisis situation. If you take another \$150,000 from this agency, there will probably be two district offices closed, Mr. President, one in Pittsburgh and one in Philadelphia.

Just last week the Pittsburgh Police Department, in trying to apprehend a parole violator, confiscated a stolen vehicle. In that stolen vehicle they found a new type weapon to this area, something manufactured, probably, in a foreign country. It is illegal in this country. It is a small "billy-club" type weapon that carries one shotgun shell. Two weeks prior to that, there was a grocer, of long standing in the community, shot in the face with a shotgun, murdered. These are the types of things going on. The gentleman who has been arrested for the violation was a parole violator; in fact, he was out on bond waiting to be reincarcerated.

Mr. President, if these two field offices are closed, there will be a further situation of unsupervised parolees and I believe it is just a dangerous precedent to set at this time.

Mr. President, I urge support of this amendment.

Senator TILGHMAN. Mr. President, not to belabor the point, but for the same reasons I mentioned before, I oppose increasing State spending this evening.

Senator ROMANELLI. Mr. President, we are not increasing State spending. The original agreement in House Bill No. 1349 was the amount of money that appears here and the \$150,000 being struck is an additional \$150,000.

Senator SMITH. Mr. President, I rise to oppose the amendment of the gentleman from Allegheny, Senator Romanelli. It is simply that, if we are going to keep the revenue against the expenditures in balance, we can no longer afford to put back in any amounts of money which would throw it out of balance.

Mr. President, I oppose the amendment of the gentleman from Allegheny, Senator Romanelli.

Senator ROMANELLI. Mr. President, it is an additional cut. The money has already been approved in House Bill No. 1349. The \$150,000 is a further cut from that to which we agreed in the first place.

And the question recurring,

Will the Senate agree to the amendment?

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

YEAS—3

Lewis,	Romanelli,	Zemprelli,
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NAYS—41

Andrews,	Gurzenda,	Kusse,	Ross,
Arlene,	Hager,	Manbeck,	Scanlon,
Bell,	Hankins,	McKinney,	Schaefer,
Coppersmith,	Hess,	Mellow,	Smith,
Corman,	Hill,	Messinger,	Snyder,
Dougherty,	Holl,	Moore,	Stapleton,
Duffield,	Hopper,	Murray,	Stauffer,
Dwyer,	Howard,	Noszka,	Stout,
Early,	Jubelirer,	O'Pake,	Sweeney,
Fleming,	Kelley,	Reibman,	Tilghman,
Gekas,			

So the question was determined in the negative, and the

amendment was defeated.

And the question recurring,

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

Senator ROMANELLI. Mr. President, I had a further amendment to this most inhumane piece of legislation and it would have stricken the \$5 million cut to the child welfare program for the various counties in the Commonwealth.

However, since the Senate is not of a mind to properly fund this budget, there is no sense in offering the amendment. However, I feel it is just another area where we are being penny wise and pound foolish.

And the question recurring,

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

LEWIS AMENDMENT

Senator ROMANELLI, on behalf of Senator LEWIS, offered the following amendment:

Amend Sec. 1 (Sec. 2), page 4, by inserting between lines 17 and 18:

For the payment of grants to local governments or regional councils of government to assist in developing and implementing cooperative agreements to supply municipal services 75,000

On the question,

Will the Senate agree to the amendment?

Senator ROMANELLI. Mr. President, this is a very simple amendment. It reinstates the \$75,000 struck from the Department of Community Affairs for the local governments for the COGS.

Senator TILGHMAN. Mr. President, not to increase the budget, I would urge my colleagues to vote against this amendment.

Senator MESSINGER. Mr. President, this was never in the budget in the first place and, as far as I can gather, this cost could be spread over the sixty-seven counties if they want to operate this particular organization.

Senator SMITH. Mr. President, I rise to oppose the amendment of the Presiding Officer and if he were not in the Chair I would interrogate him. Just let me say I oppose the amendment under all the things I enumerated before.

And the question recurring,

Will the Senate agree to the amendment?

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

YEAS—6

Coppersmith, Dwyer, Lewis, Romanelli, Corman, Gekas,

NAYS—38

Andrews, Hess, Mellow, Schaefer,

Arlene, Hill, Messinger, Smith, Bell, Holl, Moore, Snyder, Dougherty, Hopper, Murray, Stapleton, Duffield, Howard, Noszka, Stauffer, Early, Jubelirer, O'Pake, Stout, Fleming, Kelley, Reibman, Sweeney, Gurzenda, Kusse, Ross, Tilghman, Hager, Manbeck, Scanlon, Zemprelli, Hankins, McKinney,

So the question was determined in the negative, and the amendment was defeated.

And the question recurring,

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

Senator MESSINGER. Mr. President, at this time I request that we consider the bill for the second time, as amended.

And the question recurring,

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

It was agreed to.

Ordered, To be transcribed for a third consideration.

PREFERRED APPROPRIATION BILL OVER IN ORDER

HB 1650 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 1106 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION AMENDED

HB 274 (Pr. No. 2168) — The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

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

Amend Sec. 1, page 1, line 10, by inserting after "advised": , unless her medical condition indicates otherwise,

Amend Sec. 1, page 1, line 14, by inserting a period after "Health"

Amend Sec. 1, page 1, lines 14 through 18; page 2, lines 1 through 4, by striking out "UNLESS ONE OR MORE OF THE FOLLOWING" in line 14, all of lines 15 through 18 on page 1, and all of lines 1 through 4 on page 2 and inserting:

In addition, she shall be advised that:

(1) She may refuse the procedure.

(2) A physician may direct that the test not be given because her medical condition contraindicates the procedure.

(3) The test is not recommended if a screening of uterine cytology has been obtained in the previous 12 months which has been found to be normal.

On the question,

Will the Senate agree to the amendments?

They were 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 585, 648 and 662 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 677 (Pr. No. 1016) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL REREFERRED

SB 703 (Pr. No. 747) — Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILL OVER IN ORDER

SB 728 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

SB 839 (Pr. No. 898) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 947 — Without objection, the bill was passed over in its order at the request of Senator STAUFFER.

SB 1105, HB 1107 and SB 1111 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

SB 1137 (Pr. No. 1342) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 1144, 1172, 1177 and 1180 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 1765 (Pr. No. 2144) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

SENATE RESOLUTION, SERIAL NO. 57, CALLED UP

Senator MESSINGER, without objection, called up from page 10 of the Calendar, Senate Resolution, Serial No. 57, entitled:

Senate Committee to review administration of prerelease programs.

On the question,

Will the Senate adopt the resolution?

SENATE RESOLUTION, SERIAL NO. 57, ADOPTED

Senator MESSINGER. Mr. President, I move that the Senate do adopt Senate Resolution, Serial No. 57.

The motion was agreed to and the resolution was adopted.

HOUSE CONCURRENT RESOLUTION RECOMMITTED

House Concurrent Resolution No. 119 — In accordance with Senate Rule 2, Order of Business, as amended by Senate Resolution, Serial No. 13, Session of 1969, the resolution was recommitted to the Committee on Constitutional Changes and Federal Relations.

SB 1085 CALLED UP

SB 1085 (Pr. No. 1283) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 5 of the Third Consideration Calendar by Senator MESSINGER.

BILL OVER IN ORDER

SB 1085 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

UNFINISHED BUSINESS

CONGRATULATORY RESOLUTIONS

The PRESIDENT pro tempore laid before the Senate the following resolutions, which were read, considered and adopted:

Congratulations of the Senate were extended to Mt. Hope United Methodist Church by Senator Bell.

Congratulations of the Senate were extended to the Turkey-foot Rams by Senator Duffield.

Congratulations of the Senate were extended to William M. Wyman II by Senator Romanelli.

Congratulations of the Senate were extended to Mr. and Mrs. Thomas Neill by Senator Stout.

Congratulations of the Senate were extended to Mr. and Mrs. Bill O'Malley by Senator Mellow.

Congratulations of the Senate were extended to Mr. and Mrs. Leslie Smiley and to Mr. and Mrs. Alex Swistock by Senator Corman.

Congratulations of the Senate were extended to Mr. and Mrs. Delmont Sebring and to Mr. D. D. Watkins by Senator Jubelirer.

Congratulations of the Senate were extended to Steven Fineberg, Steven Sirkin, Mark Bricker, William J. Mellon and Peter Rothberg by Senator Dougherty.

PETITIONS AND REMONSTRANCES

Senator BELL. Mr. President, the last evening we were here, which was Thursday night, but Senate time Wednesday night, I made a statement on the floor of the Senate that the fifty Senators using the dining room were unaware that tax money in the

amount of \$1,100 during the month of August had been put in there to supplement the money we are billed for and pay. I received a note from the gentleman from York, Senator Hess, who advised me that he does not use the Senate dining room and, therefore, fifty Senators are not responsible for those bills.

I made a subsequent inquiry and found there are two or three Senators who do not use the dining room and if I have insulted any of them, I apologize publicly.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, NOVEMBER 22, 1977

9:30 A.M. LAW AND JUSTICE (to consider Senate Bills No. 1151, 1167 and 1202)	Senate Majority Caucus Room
10:00 A.M. Senate Committee to investigate Drug Law Enforcement (to consider Senate Resolution No. 44)	Room 168
10:00 A.M. APPROPRIATIONS (for discussions with the Deans of the Medical Schools regarding affiliations and quotas with col-	Room 350

leges and universities in Pennsylvania regarding admission to the medical schools)

10:00 A.M. LOCAL GOVERNMENT (to consider Senate Bills No. 261, 467, 844, 1092; House Bills No. 198, 331, 332, 333, 559, 804, 1447 and 1624)	Senate Majority Caucus Room
11:00 A.M. BUSINESS AND COMMERCE (continuation of recessed meeting)	Room 169
12:00 Noon RULES AND EXECUTIVE NOMINATIONS (to consider certain Executive Nominations)	Rules Committee Conference Room
TUESDAY, NOVEMBER 29, 1977	
10:00 A.M. INSURANCE (to consider Senate Bills No. 736, 932, 1150 and 1200)	Room 170

ADJOURNMENT

Senator MESSINGER. Mr. President, I move that the Senate do now adjourn until Tuesday, November 22, 1977, at 11:00 a.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 6:36 p.m., Eastern Standard Time.