

# Legislative Journal

WEDNESDAY, FEBRUARY 15, 1978

Session of 1978

162nd of the General Assembly

Vol. 1, No. 6

## SENATE

WEDNESDAY, February 15, 1978.

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

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

## PRAYER

The Chaplain, Rabbi CHARLES D. MINTZ, of Ohev Sholom Reform Temple, Harrisburg, offered the following prayer:

The young soldiers do not speak.

They are heard.

They are heard within this Chamber.

Who has not heard them?

They have a silence which speaks for them at night when the clock counts.

They say, "We are young, we have died.

"We have done all that we could do," and they say, "Our deaths are not ours, they are yours, they will mean what you make them mean."

That for which they died lives on. It is an eternal struggle to build within our Nation and within this Commonwealth a quality of life for each and every citizen worthy of the ideal and of the dream that is American and nowhere, nowhere is that struggle better symbolized than in this Chamber surrounded as we are by history, tradition of the very sinews of the Democratic process. That ideal can shine through every debate and every issue on the floor of this Chamber.

May it be Thy will, O Lord, our God, that the Senate and its every Member may speak not only for himself or for herself but also for those whose sacrifice has preserved us as a nation and may the work of this Body give ultimate meaning to their lives and to their deaths, to the building of a Commonwealth to be worthy of their sacrifice. Amen.

The PRESIDENT pro tempore. The Chair wishes to thank Rabbi Mintz.

## 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.

## COMMUNICATION FROM THE GOVERNOR

### NOMINATION BY THE GOVERNOR REFERRED TO COMMITTEE

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

#### MEMBER OF THE BOARD OF TRUSTEES OF EBENSBURG CENTER

February 14, 1978.

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 James J. Scotilla, 221 Lincoln Street, Ebensburg 15931, Cambria County, Thirty-fifth Senatorial District, for appointment as a member of the Board of Trustees of Ebensburg Center, to serve until the third Tuesday of January, 1983, and until his successor is appointed and qualified, vice Moe Siegle, Johnstown, deceased.

MILTON J. SHAPP.

## BILLS INTRODUCED AND REFERRED

Senators NOLAN, SMITH and ORLANDO presented to the Chair SB 1284, entitled:

An Act amending the act of July 20, 1974 (P. L. 564, No. 193), entitled "Peer Review Protection Act," extending the protection given by the act to review committees of associations of health care facility operators.

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

They also presented to the Chair SB 1285, entitled:

An Act amending the act of June 13, 1967 (P. L. 31, No. 21), entitled "Public Welfare Code," limiting the amount of reimbursement for certain court services.

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

They also presented to the Chair SB 1286, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for the certification of hazardous routes and requiring weather factors to be taken into consideration.

Which was committed to the Committee on Education.

Senators EARLY, NOLAN, SCHAEFER, DOUGHERTY and ORLANDO presented to the Chair SB 1287, entitled:

An Act relating to the use of the word "blind," imposing

powers and duties on the Department of State and prescribing penalties.

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

They also presented to the Chair **SB 1288**, entitled:

An Act amending the act of June 13, 1967 (P. L. 31, No. 21), entitled "Public Welfare Code," providing an additional State supplement for certain blind persons.

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

They also presented to the Chair **SB 1289**, entitled:

An Act creating the Pennsylvania Commission of the Blind and defining its powers and duties; defining blindness; and making transfers and repeals.

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

Senators ZEMPRELLI, KUSSE, SCHAEFER, ANDREWS, STAUFFER and ROMANELLI presented to the Chair **SB 1290**, entitled:

An Act amending the act of December 27, 1951 (P. L. 1742, No. 467), entitled, as amended, "The Realty Transfer Tax Act," redefining "document" so as to exclude certain transfers made pursuant to sheriff's sales.

Which was committed to the Committee on Local Government.

Senator MESSINGER presented to the Chair **SB 1291**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," creating a program for the awarding of environmental seals of approval, imposing powers and duties on the Departments of Environmental Resources and General Services granting preferences to holders of the seal, and making certain acts unlawful.

Which was committed to the Committee on Environmental Resources.

**MEETING OF THE COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS**

Senator MESSINGER. Mr. President, upon recess, I would like to call a meeting of the Committee on Rules and Executive Nominations, which was recessed yesterday, to be held in the room at the rear of the Senate Chamber.

**RECESS**

Senator MESSINGER. Mr. President, I request a recess of the Senate until 3:00 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 3:00 p.m., Eastern Standard Time.

**AFTER RECESS**

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

**CALENDAR**

**FINAL PASSAGE CALENDAR**

**BILL OVER IN ORDER**

**SB 1202** — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

**THIRD CONSIDERATION CALENDAR**

**NONPREFERRED APPROPRIATION BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE**

**HB 1250 (Pr. No. 1473)** — 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—40**

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

**NAYS—5**

Andrews,	Hess,	Kelley,	Kusse,
Dwyer,			

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

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

**HB 1251 (Pr. No. 1474)** — 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—39**

Arlene,	Hager,	Mellow,	Scanlon,
Bell,	Hankins,	Messinger,	Schaefer,
Coppersmith,	Holl,	Murray,	Smith,
Corman,	Hopper,	Nolan,	Stapleton,
Dougherty,	Howard,	Noszka,	Stauffer,
Duffield,	Jubelirer,	O'Pake,	Stout,
Early,	Kury,	Orlando,	Sweeney,
Fleming,	Lewis,	Reibman,	Tilghman,
Gekas,	Manbeck,	Romanelli,	Zemprelli,

Gurzenda, McKinney, Ross,

NAYS—6

Andrews, Hess, Kusse, Snyder,  
Dwyer, Kelley,

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

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

**HB 1265 (Pr. No. 1488)** — 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—39

Arlene,	Hager,	Messinger,	Schaefer,
Bell,	Hankins,	Murray,	Smith,
Coppersmith,	Holl,	Nolan,	Snyder,
Corman,	Hopper,	Noszka,	Stapleton,
Dougherty,	Howard,	O'Pake,	Stauffer,
Duffield,	Kury,	Orlando,	Stout,
Early,	Lewis,	Reibman,	Sweeney,
Fleming,	Manbeck,	Romanelli,	Tilghman,
Gekas,	McKinney,	Ross,	Zemprelli,
Gurzenda,	Mellow,	Scanlon,	

NAYS—6

Andrews, Hess, Kelley, Kusse,  
Dwyer, Jubelirer,

A constitutional two-thirds 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.

**NONPREFERRED APPROPRIATION BILL ON THIRD CONSIDERATION, DEFEATED ON FINAL PASSAGE**

**HB 1266 (Pr. No. 1489)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

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

Senator SMITH. I will, Mr. President.

Senator KELLEY. Mr. President, in directing my question to the gentleman, the question embraces not only this bill but also all the present nonpreferred bills on the Calendar on pages 1 and 2 today.

Assuming, Mr. President, that these bills are passed, are not the sum totals of these appropriations going to exceed the present expected balance in the fiscal year?

Senator SMITH. Mr. President, they will not.

Senator KELLEY. Mr. President, is the answer the gentleman has given because he anticipates that the Governor, upon receiving these bills, will blueline the amounts by fifty per cent?

Senator SMITH. I did not hear the question, Mr. President.

Senator KELLEY. Mr. President, is the answer the gentleman gave dependent upon the anticipation of the Governor bluelining the amounts of these bills in the amount of fifty per cent of each of the bills?

Senator SMITH. Mr. President, it is my understanding that the gentleman's understanding is true and correct. The Governor intends to blueline these bills to the extent of approximately fifty per cent. There will be approximately \$12,000 left.

Senator KELLEY. Do I understand, Mr. President, then that the balance of \$12,000 will occur when the Governor has blue-lined the fifty per cent of the amounts in each of these bills?

Senator SMITH. Mr. President, the gentleman from Westmoreland, Senator Kelley, like always, is correct.

Senator KELLEY. Mr. President, I appreciate the directness in the response of the gentleman. However, what we are, in effect, doing by these bills, is essentially passing beyond our capacity of reserves in fiscal resources. I believe there is nothing that could be more fiscally irresponsible than to do just that, to depend upon the Administration to do—as I responded to the Minority Leader in the budget fight several months ago—that which was our duty and not the Governor's, as was anticipated by the Minority Party at that time. I feel right now we should be the ones exercising that fiscal responsibility. Therefore, I am voting "no" on all these bills, Mr. President.

Senator SMITH. Mr. President, the Committee on Appropriations was well aware of the statement made by the gentleman from Westmoreland, Senator Kelley. It was simply a matter of mechanics. We could have reduced the bills in the amount of fifty per cent but we would have incurred the cost of reprinting. It was simply a matter of mechanics; how we would handle the nonpreferred appropriations in the manner they now appear before you was the consensus of the Committee on Appropriations. That is the entire reason why we are now running the bills as they are.

Senator BELL. Mr. President, I congratulate the gentleman from Westmoreland, Senator Kelley, for bringing out into the open some fancy footwork which I did not know anything about and it was not discussed in my caucus. I am not a member of the Committee on Appropriations; fortunately, however, I am a Member of the Senate.

Mr. President, I am going to vote "no" on every bill from now on and I would have voted "no" on the others if that information had been given to us before we started to vote.

I will tell the Members what these mechanics will do. The Senate of Pennsylvania is being set up. It is being set up to be blown out to the Commonwealth of Pennsylvania as being spendthrifts, free spenders, and our glorious Governor will then say, "I am economy minded."

And the question recurring,  
Shall the bill pass finally?

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

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

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

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

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

Senator ROMANELLI. 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—33

Arlene,	Holl,	Murray,	Schaefer,
Coppersmith,	Howard,	Nolan,	Smith,
Dougherty,	Kury,	Noszka,	Stapleton,
Duffield,	Lewis,	O'Pake,	Stauffer,
Early,	Manbeck,	Orlando,	Stout,
Fleming,	McKinney,	Romanelli,	Sweeney,
Gekas,	Mellow,	Ross,	Tilghman,
Gurzenda,	Messinger,	Scanlon,	Zemprelli,
Hankins,			

#### NAYS—12

Andrews,	Dwyer,	Hopper,	Kusse,
Bell,	Hager,	Jubelirer,	Reibman,
Corman,	Hess,	Kelley,	Snyder,

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

#### RECONSIDERATION OF HB 1250, HB 1251 AND HB 1265

**HB 1250 (Pr. No. 1473), HB 1251 (Pr. No. 1474) and HB 1265 (Pr. No. 1488)** — Senator HAGER. Mr. President, since it appears that the Senate voted in misapprehension of the facts on the three preceding bills, I move that the Senate do now reconsider the vote by which House Bill No. 1250, Printer's No. 1473, House Bill No. 1251, Printer's No. 1474 and House Bill No. 1265, Printer's No. 1488 just passed finally.

The motion was agreed to.

#### RECONSIDERATION OF HB 1266

**HB 1266 (Pr. No. 1489)** — Senator HAGER. Mr. President, I move that the Senate do now reconsider the vote by which House Bill No. 1266, Printer's No. 1489 failed of final passage.

The motion was agreed to.

#### NONPREFERRED APPROPRIATION BILLS RECOMMENDED

**HB 1250 (Pr. No. 1473), HB 1251 (Pr. No. 1474), HB 1265 (Pr. No. 1488), HB 1266 (Pr. No. 1489), HB 1267 (Pr. No. 1490), HB 1268 (Pr. No. 1491), HB 1269 (Pr. No. 1492) and**

**HB 1278 (Pr. No. 1501)** — Upon motion of Senator SMITH, and agreed to the bills were recommitted to the Committee on Appropriations.

#### BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 470 (Pr. No. 2465)** — 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?

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

Senator CORMAN. 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—44

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

#### 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 with amendments in which concurrence of the House is requested.

#### PERMISSION TO ADDRESS SENATE

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

Senator KELLEY. Mr. President, I understood the Chair to say that we were voting on Senate Bill No. 743.

The PRESIDENT pro tempore. No, Senator. We have just voted on House Bill No. 470.

Senator KELLEY. Mr. President, I would then like the record to reflect that I would have voted in the affirmative.

The PRESIDENT pro tempore. The remarks of the gentleman will be noted in the record.

#### BILLS OVER IN ORDER

**SB 743 and 744** — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

## BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 958 (Pr. No. 1064)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

## YEAS—45

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

## 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 OVER IN ORDER

**SB 1104** — Without objection, the bill was passed over in its order at the request of Senator HAGER.

## BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 1147 (Pr. No. 1353)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

## YEAS—45

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

## NAYS—0

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

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

## BILL RECOMMENDED

**SB 1151 (Pr. No. 1517)** — Upon motion of Senator MESSINGER, and agreed to, the bill was recommitted to the Committee on Law and Justice.

## BILL OVER IN ORDER

**SB 1222** — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

## BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1236 (Pr. No. 1519)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

Senator HAGER. Mr. President, I desire to interrogate the gentleman from Washington, Senator Stout.

The PRESIDENT pro tempore. Will the gentleman from Washington, Senator Stout, permit himself to be interrogated? Senator STOUT. I will, Mr. President.

Senator HAGER. Mr. President, a question has come up in the Republican caucus concerning the language on page 3, lines 12 through 17, of the bill which would seem to revert to prior history and confirm, as legal, transactions which may not have been. I would like to know if the gentleman could explain that to us in order that we are not going ahead and confirming something which, perhaps, should not be confirmed.

Senator STOUT. Mr. President, when the question arose yesterday, I contacted Mr. David Gilmore, a Washington County Commissioner and Washington County's representative on the Wheeling Creek Watershed Commission. This legislation was introduced at the request of the Wheeling Creek Watershed Commission which is composed of Washington and Greene Counties in Pennsylvania and Ohio County in West Virginia.

Commissioner Gilmore informs me that they felt it was necessary to have this inserted in the legislation because over the years when there was a property obtained by the Commission for the construction of flood control dams in the Wheeling Creek area, some of these dams had been redesigned over the years and properties which were originally obtained were no longer needed because of changes in design. Also, the fact that funds have held up construction over the years where there were properties involved. To his knowledge, there have been only two or three instances where they have leased homes that were on these properties. They did not want to destroy them so they decided to rent or lease them to people. All the funds received from these leases go to the Commission for their use.

The only other question was that there was one property which was going to be sold in West Virginia. The legal counsel for both the Commission in Pennsylvania and West Virginia felt that, under the original legislation which created the Wheeling Creek Water Authority, they had the authorization to rent, lease or sell properties. The legal counsel for the purchaser of one of these properties felt that it was not exactly spelled out in the act and this is why they wanted this inserted,

so that it would definitely spell out the power of the Wheeling Creek Water Commission to rent, lease or sell properties. To his knowledge there have been only two or three instances where properties have been rented or leased and only one instance where a property is in the process of being sold.

Senator HAGER. Mr. President, is the gentleman saying that a property which has been condemned is now being leased to private persons?

Senator STOUT. Mr. President, excessive property which was obtained for original dam construction which may no longer be needed due to redesign of dams. They have obtained, say, so many thousands of acres of land and there are parcels which they no longer need. Therefore, they want the authorization to be able to sell, lease or transfer property in order that they can get additional property which they want for the construction of these flood control dams in the Upper Ohio River Valley.

Senator HAGER. Mr. President, can the gentleman tell us whether the property which is being conveyed, about which counsel for purchaser is raising an issue, is all or any part of that property in Pennsylvania?

Senator STOUT. Mr. President, to my knowledge all that property is in Ohio County, West Virginia. There is a similar piece of legislation moving through the Legislature of West Virginia. In fact, it is being considered this week in the West Virginia Senate and is identical to our Senate Bill No. 1236.

Senator HAGER. I thank the gentleman, Mr. President.

Senator BELL. Mr. President, I desire to interrogate the gentleman from Washington, Senator Stout.

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

Senator STOUT. I will, Mr. President.

Senator BELL. Mr. President, does the gentleman know whether there is any litigation involving the so-called two pieces of property that are under leasehold?

Senator STOUT. Not to my knowledge, Mr. President. I spoke with Washington County's representative on the Commission and he knows of no cases of litigation at this time.

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—44

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

#### NAYS—1

Nolan,

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 1624 (Pr. No. 1953)** — Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

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

#### YEAS—45

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

#### 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.

### REPORT FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

Senator ROSS, by unanimous consent, from the Committee on Rules and Executive Nominations, reported the following nominations, made by His Excellency, the Governor, which were read by the Clerk as follows:

#### JUDGE, COURT OF COMMON PLEAS, LUZERNE COUNTY

February 2, 1978.

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 Patrick J. Toole, Jr., 66 Mallery Place, Wilkes-Barre 18702, Luzerne County, Fourteenth Senatorial District, for appointment as Judge of the Court of Common Pleas of the Eleventh Judicial District of Pennsylvania, Orphans' Court Division, composed of the County of Luzerne, to serve until the first Monday of January, 1980, vice Hon. Edward W. Lopatto, resigned.

MILTON J. SHAPP.

### EXECUTIVE NOMINATION EXECUTIVE SESSION

Motion was made by Senator ROSS,

That the Senate do now resolve itself into Executive Session for the purpose of considering certain nomination made by the Governor.

Which was agreed to.

#### CONSIDERATION OF EXECUTIVE NOMINATION

Senator ROSS asked and obtained unanimous consent for immediate consideration of the nomination made by His Excellency, the Governor, and reported from committee at today's Session.

#### NOMINATION TAKEN FROM THE TABLE

Senator ROSS. Mr. President, I call from the table for consideration the nomination reported from committee today and previously read by the Clerk.

On the question,

Will the Senate advise and consent to the nomination?

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

#### YEAS—45

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

#### NAYS—0

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

Ordered, That the Governor be informed accordingly.

#### EXECUTIVE SESSION RISES

Senator ROSS. Mr. President, I move that the Executive Session do now rise.

The motion was agreed to.

#### CONSIDERATION OF CALENDAR RESUMED

##### SECOND CONSIDERATION CALENDAR

##### PREFERRED APPROPRIATION BILL OVER IN ORDER

**SB 1279** — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

##### BILL ON SECOND CONSIDERATION

**SB 282 (Pr. No. 1581)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

##### BILLS OVER IN ORDER

**SB 467, 645, 859 and HB 959** — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

##### BILL ON SECOND CONSIDERATION

**SB 978 (Pr. No. 1099)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

##### BILL RECOMMITTED

**SB 979 (Pr. No. 1561)** — Upon motion of Senator MESSINGER, and agreed to, the bill was recommitted to the Committee on Public Health and Welfare.

##### BILL REREFERRED

**SB 1146 (Pr. No. 1562)** — Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

##### BILL OVER IN ORDER

**SB 1174** — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

##### BILL ON SECOND CONSIDERATION

**SB 1233 (Pr. No. 1578)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

##### BILLS OVER IN ORDER

**SB 1239 and 1254** — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

##### BILLS ON SECOND CONSIDERATION

**HB 1326 (Pr. No. 2468) and HB 1600 (Pr. No. 2555)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

##### LEAVE OF ABSENCE

Senator HAGER asked and obtained leave of absence for Senator MOORE, for today's Session, for personal reasons, a death in the family.

##### UNFINISHED BUSINESS

##### REPORTS FROM COMMITTEES

Senator EARLY, from the Committee on Constitutional Changes and Federal Relations, reported, as amended, **SB 892** and **HB 71**.

Senator COPPERSMITH, from the Committee on Public Health and Welfare, reported, as amended, **SB 292** and **1145**.

Senator SWEENEY, from the Committee on Military Affairs and Aeronautics, reported, as committed, **HB 885** and **1878**; as amended, **HB 117**.

Senator MCKINNEY, from the Committee on State Government, rereported, as amended, **HB 72**; reported, as committed, **HB 642**.

Senator KURY, from the Committee on Consumer Affairs, reported, as amended, **SB 995**.

**RESOLUTION REPORTED FROM COMMITTEE**

Senator EARLY, from the Committee on Constitutional Changes and Federal Relations, reported without amendment, House Concurrent Resolution, No. 118, entitled:

Memorializing Congress to oppose the inland waterways user fee currently in Senate Bill 790.

The PRESIDENT pro tempore. The resolution will be placed on the Calendar.

**PERMISSION TO ADDRESS SENATE**

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

Senator JUBELIRER. Mr. President, on behalf of several of my colleagues and myself, I read in place and present to the Chair a bill. The purpose of this bill, Mr. President, for the benefit of all the Members, is to change the name of the Hollidaysburg Veterans' Home to the James E. Van Zandt Veterans' Home. It would indeed be appropriate to name this institution on behalf of a great American, Jimmy Van Zandt.

I am proud to have Jimmy Van Zandt as my constituent. He represented my county and several other counties in the Congress of the United States for over two decades. He was a highly decorated veteran of both the First and Second World Wars and has served as commander-in-chief of the Veterans of Foreign Wars of the United States. I believe it would be a fitting tribute to Jimmy Van Zandt that we name this very new veterans' facility, the first veterans' facility Pennsylvania has had since the Soldiers' and Sailors' Home in Erie. Since it is so close to his birthplace and his lifelong home, it should be named in his honor.

During his long and distinguished career Jimmy Van Zandt gave great service to his county, to his State and to his Nation, as a soldier, statesman and leader. Among his greatest contributions were his efforts for veterans in Pennsylvania and across the country. Certainly as this Body continues to work on behalf of the Nation's veterans, the James E. Van Zandt Veterans' Home will be a shining reminder of his dedication and his contributions.

Mr. President, I do hope that if there are any other Members of the Senate who want to join me in cosponsoring this bill, they will feel free to do so. In the meantime, I would hope that the bill will be given consideration and the Hollidaysburg Veterans' Home will soon become the James E. Van Zandt Veterans' Home.

Senator DUFFIELD. Mr. President, in line with the statement of the gentleman from Blair, Senator Jubelirer, I would be very happy to cosponsor that bill for this great American and great veteran.

**SENATE RESOLUTION****SENATE COMMITTEE TO INVESTIGATE THOROUGHBRED HORSE RACING IN PENNSYLVANIA**

Senators McKINNEY, NOLAN, SMITH, ROSS, ARLENE, HANKINS, SWEENEY and STOUT offered the following resolution (Serial No. 75), which was read and referred to the

Committee on State Government:

In the Senate, February 15, 1978.

RESOLVED, That the President pro tempore of the Senate appoint a five-member Senate committee, three from the majority and two from the minority, for the purpose of investigating Pennsylvania thoroughbred horse racing, particularly the policies and procedures relating to providing officials for certain race meetings, admissions and ejections of persons therefrom, and refusals or revocations of licenses; and be it further

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

RESOLVED, That the officials and staff of the State Horse Racing Commission provide such cooperation as will be necessary; and be it further

RESOLVED, That the committee make a report to the full Senate within a reasonable time which would include the findings of the committee and make recommendations for changes in law or administrative practice which are appropriate and consistent with the findings of this review.

**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 Mr. and Mrs. Lewis A. Kauffman, Mr. and Mrs. Lavere Baker, Mr. and Mrs. Frederick R. Snyder, Mr. and Mrs. Paul Stauffer, Sr., Mr. and Mrs. E. Richard Moul and to Mr. and Mrs. Henry Werner by Senator Hess.

Congratulations of the Senate were extended to Edward Fischer by Senator Sweeney.

Congratulations of the Senate were extended to Ralph Regina by Senator Messinger.

**BILLS ON FIRST CONSIDERATION**

Senator MESSINGER. Mr. President, I move that the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

SB 292, 892, 995, 1145, HB 71, 117, 642, 885 and 1878.

And said bills having been considered for the first time, Ordered, To be laid aside for second consideration.

**PETITIONS AND REMONSTRANCES**

Senator SMITH. Mr. President, I desire to interrogate the gentleman from Westmoreland, Senator Kelley.



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

Senator KELLEY. I will, Mr. President.

Senator SMITH. Mr. President, I understand the gentleman is a candidate for the Congress of the United States?

Senator KELLEY. Mr. President, I made a public announcement of my candidacy for the Democratic nomination of the Twenty-first Congressional District of the Commonwealth of Pennsylvania. I have not yet filed any nominating petitions, as required by law, to be an official candidate, but I have made a public announcement of my intentions, nor have I filed with the Federal Election Commission, which I intend to do as soon as possible, Mr. President. Those are the facts, and you will have to draw your own conclusions as to whether or not I am a candidate.

Senator SMITH. Mr. President, I wonder if the gentleman would accept twenty-six volunteers from the Democratic side to help him move out of the Senate of Pennsylvania?

Senator KELLEY. Mr. President, I indicated in my press conference when I was asked the question about seeking support from various and sundry people, and I reiterate it here, that I will accept support, of course, from anybody, anywhere, any time. I may not represent those people to their liking but I feel that is the democratic process and it is my duty to go forth and offer my candidacy to everyone.

Senator SMITH. So, Mr. President, I ask the gentleman again if it were possible for another inducement that he would leave the Senate we would also get together possibly \$10 or \$15 of free contributions?

Senator KELLEY. I commend the gentleman, Mr. President, but his colleague from Philadelphia, Senator Lynch, about four or five months ago first gave me the idea of running for Congress. On one of my votes he leaned over to me—you know he sits next to me here in the Chamber—and he indicated he would be willing to serve as my finance chairman here in the Senate to raise funds to get me out of here.

Senator SMITH. On my own part, Mr. President, I would like to get the gentleman from Westmoreland, Senator Kelley, out of the Senate without any money.

**ANNOUNCEMENTS BY THE SECRETARY**

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

SENATE OF PENNSYLVANIA  
COMMITTEE MEETINGS

THURSDAY, FEBRUARY 16, 1978

11:30 A.M. STATE GOVERNMENT (to Room 183

consider House Bill No. 391)

WEDNESDAY, FEBRUARY 22, 1978

- 9:00 A.M. FINANCE (to consider Senate Bills No. 494, 498, 500, 505, 508, 510, 882, 883, 889, 891 and House Bill No. 1633) Senate Majority Caucus Room
- 10:00 A.M. Sub-Committee on LOCAL GOVERNMENT (to consider House Bill No. 198) Room 168
- 11:30 A.M. LOCAL GOVERNMENT (to consider Senate Bills No. 677, 1064; House Bills No. 235, 804 and 858) Senate Majority Caucus Room

THURSDAY, FEBRUARY 23, 1978

- 9:00 A.M. AGRICULTURE AND RURAL AFFAIRS (Public Hearing on the proposal to establish a Milk Producers Security Fund) Senate Majority Caucus Room

TUESDAY, MARCH 14, 1978

- 10:30 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on House Bill No. 1294) Senate Majority Caucus Room

TUESDAY, MARCH 21, 1978

- 9:30 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on Senate Bill No. 979) Senate Majority Caucus Room

THURSDAY, APRIL 6, 1978

- 9:30 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on Senate Bills No. 1229 and 1230) Senate Majority Caucus Room

**ADJOURNMENT**

Senator MESSINGER. Mr. President, I move that the Senate do now adjourn until Tuesday, February 21, 1978, at 1:00 p.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 4:28 p.m., Eastern Standard Time.