

# Legislative Journal

TUESDAY, FEBRUARY 28, 1978

Session of 1978

162nd of the General Assembly

Vol. 1, No. 10

## SENATE

TUESDAY, February 28, 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, The Reverend Father JOSEPH MARTIN, Pastor of Holy Trinity Eastern Orthodox Catholic Church, McAdoo, offered the following prayer:

In the Name of the Father and of the Son and the Holy Spirit:  
Our Divine Father in Heaven, look upon us today with compassion, with mercy, with understanding—as a father looks upon his son.

Give us the light of wisdom, that we may see the pitfall and errors that lie in our paths. Give us, we pray, a portion of Thy higher knowledge, that we may be able to discriminate between that which is evil and that which is good.

O Father, give us the courage ever to do that which is right and to uphold that right: To fight always against wrong even if our stand meets with ridicule and contempt. Make us true champions of truth wherever we go and against any foe we meet that the world may be brought closer to Thy truth, and to Thy peace. In the Name of the Father and of the Son and the Holy Spirit. Amen.

## 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.

## SENATOR STAUFFER TO VOTE FOR SENATOR MANBECK

Senator STAUFFER. Mr. President, I ask for a legislative leave of absence for Senator Manbeck, who is testifying before a Congressional Committee in Washington today and we will be voting him.

The PRESIDENT pro tempore. The Chair hears no objection and the leave of absence will be granted.

## BILL SIGNED

The President pro tempore (Martin L. Murray) in the presence of the Senate signed the following bill:

SB 847.

## GENERAL COMMUNICATION

### LISTS OF LOBBYISTS AND ORGANIZATIONS

The PRESIDENT pro tempore laid before the Senate the following communication, which was read by the Clerk as follows:

February 28, 1978.

To the Honorable, the Senate of the Commonwealth of Pennsylvania

In compliance with Act No. 712 of the 1961 Session and Act No. 212 of the 1976 Session of the General Assembly titled the "Lobbying Registration and Regulation Act," we herewith jointly present a list containing the names and addresses of the persons who have registered during the month of February 1978 for the 162nd Session of the General Assembly. This list also contains the names and addresses of the organizations represented by these registrants.

Respectfully submitted:  
MARK GRUEL, JR.  
Secretary of the Senate

VINCENT F. SCARCELLI  
Chief Clerk  
House of Representatives

The PRESIDENT pro tempore. These lists will be printed in the Appendix of the Senate Journal.

## RESOLUTION REPORTED FROM COMMITTEE

Senator MESSINGER, from the Committee on Rules and Executive Nominations, reported without amendment, House Concurrent Resolution No. 154, entitled:

General Assembly create a Benjamin Franklin Symposium Committee.

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

## REPORT FROM COMMITTEE

Senator KURY, from the Committee on Consumer Affairs, reported, as amended, SB 1268.

**BILL INTRODUCED AND REFERRED**

Senators TILGHMAN, STAUFFER, JUBELIRER, KUSSE, HOWARD, GEKAS, FLEMING, HAGER, HOLL, MANBECK, HESS, SNYDER and CORMAN presented to the Chair **SB 1313**, entitled:

An Act relating to annual appropriations for the ordinary expenses of State government, the public schools and the public debt.

Which was committed to the Committee on Appropriations.

**SENATE RESOLUTION****AMENDING SENATE RULE FOR THE RELINQUISHMENT OF LEADERSHIP POSITIONS**

Senator SWEENEY offered the following resolution (**Serial No. 79**), which was read and referred to the Committee on Rules and Executive Nominations:

In the Senate, February 28, 1978.

**RESOLVED**, That the Rules of the Senate of Pennsylvania be amended by adding a rule to read:

**XXXVII RELINQUISHMENT OF LEADERSHIP POSITION**

1. Whenever any member of the majority or minority leadership of the Senate indicates, by a formal announcement stating that the member is a candidate for an elective office other than that of State Senator, such member shall immediately relinquish the occupied leadership position.

2. For purposes of this rule, the phrase "majority or minority leadership" shall mean and include the offices of President pro tempore, the Majority and Minority Floor Leaders, the Majority and Minority Whip, the Majority and Minority Caucus Chairmen, the Majority and Minority Caucus Secretary, the Majority and Minority Caucus Administrator and the Policy Committee Chairman.

**ANNOUNCEMENT RE PUBLIC HEARING OF THE COMMITTEE ON CONSUMER AFFAIRS**

Senator KURY. Mr. President, I take the liberty of announcing for the Committee on Consumer Affairs that we are going to hold a public hearing on the qualifications of W. Wilson Goode to serve on the Pennsylvania Public Utility Commission. That public hearing will be held next Wednesday, March 8th, in the Majority caucus room at 9:30. The meeting was originally scheduled for the 15th but there was a conflict of meetings so we are going to have this meeting next Wednesday, the 8th of March.

Mr. President, I am inviting any Senator who wishes to sit in with the committee to hear the qualifications of Mr. Goode to be present at that time.

The PRESIDENT pro tempore. Thank you, Senator Kury.

**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.

**RESOLUTION REPORTED FROM COMMITTEE**

Senator REIBMAN, by unanimous consent, from the Committee on Education, reported with amendment, Senate Resolution, **Serial No. 71**, entitled:

Urging the Department of Education to provide for continuation of instruction to public school students in emergency situations.

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

**CALENDAR****FINAL PASSAGE CALENDAR****BILLS REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER**

**SB 494, 498, 500 and 505** — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

**SB 743 CALLED UP OUT OF ORDER**

**SB 743 (Pr. No. 1619)** — Without objection, the bill was called up out of order, from page 3 of the Third Consideration Calendar, by Senator MESSINGER.

**BILL REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION, DEFEATED ON FINAL PASSAGE**

**SB 743 (Pr. No. 1619)** — 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 HAGER. Mr. President, I desire to interrogate the gentleman from Northumberland, Senator Kury.

The PRESIDENT pro tempore. Will the gentleman from Northumberland, Senator Kury, permit himself to be interrogated? Senator KURY. I will, Mr. President.

Senator HAGER. Mr. President, I wonder, for purposes of this discussion, if we may discuss both Senate Bill No. 743 and Senate Bill No. 744, because a question has come up concerning definitions in one bill but not in the other and I want to ask the gentleman about those?

Mr. President, in Senate Bill No. 743 it appears to me that the definition of "person" is far different from that in Senate Bill No. 744, in that in Senate Bill No. 743 there is no inclusion of the language which you find on page 4, lines 9 through 15 on

Senate Bill No. 744, which says that, "... the term 'person' shall include . . . the shareholders . . . of a corporation . . ." and I wonder why the difference in the definition in the two bills.

Senator KURY. Mr. President, Senate Bill No. 743 is meant to conform to the Federal Flood Insurance Regulations which is an established body under the Federal Flood Insurance Law. Senate Bill No. 744 is a storm water management bill, which is not directly related to that, although it is, of course, related because it affects water flow. Under the one bill we are trying to implement the Federal Flood Insurance Law and under the other bill we are not.

Senator HAGER. Mr. President, is there some justification then for extending the definition in Senate Bill No. 744 to make it more onerous than that of the Federal program as it is in Senate Bill No. 743?

For instance, the reason for my question is that it appears that, if someone is a stockholder of Pennsylvania Power and Light Company living in, say, Williamsport, Pennsylvania, and has one share and Pennsylvania Power and Light Company violates the statute in, let us say, Allentown, Pennsylvania, that shareholder and every other shareholder would be subject to criminal penalties, including imprisonment, under Senate Bill No. 744. I wonder if there is some reason for doing that?

Senator KURY. Mr. President, I would point out that, first of all, no penalties could be imposed except by a court, whether it is the county court or the Commonwealth Court; there is no agency that has authority to enforce the penalties.

Secondly, to bring action under the statute there would have to be an aggrieved person and we added the word "aggrieved" specifically at the request of some people so that the people seeking to enforce the law have standing.

One of the problems we are trying to address with Senate Bill No. 744 is that the law now on storm water runoff is very confused and we wanted to be sure that this is sufficiently broad.

Senator HAGER. Mr. President, on page 10, line 16, which is subsection (c)—

Senator KURY. Which bill, Mr. President?

Senator HAGER. Again, Mr. President, Senate Bill No. 744, which goes on to say that "Any . . . person failing to comply." There a "person" is defined as being a shareholder of any corporation. We wonder why the definition is broader in that bill than it is in the other bill because if what the gentleman is saying is the word "person" should apply to those persons who want to bring complaints but not to those who might violate the law, it seems to me that that should be changed in this bill. As it is, there are some of us who are very concerned about voting "yes" on a bill which has within it the possibility of jailing a shareholder of a corporation when the shareholder has had nothing to do with the problem.

Senator KURY. Mr. President, I would point out, as I said before, that under both of these bills penalties can be imposed only by a court of law, not by any State agency. I believe with the protection of the courts we will have the assurance that there will be no frivolous penalties or people held accountable unless they are directly responsible.

Senator HAGER. Mr. President, I desire to further interrogate the gentleman from Northumberland, Senator Kury.

The PRESIDENT pro tempore. Will the gentleman from Northumberland, Senator Kury, permit himself to be further interrogated?

Senator KURY. I will, Mr. President.

Senator HAGER. Mr. President, may we be at ease for just a minute?

The PRESIDENT pro tempore. The Senate will be at ease.

(The Senate was at ease.)

Senator HAGER. Mr. President, referring to Senate Bill No. 743 and the definition of "obstruction," which will be found on page 6, lines 5 through 12, which describes an obstruction as: "Any structure or assembly of materials including fill above or below the surface of land or water, and an activity which might impede, retard or change flood flows." Later on it says that none of these can be done without first being flood proofed, and I am wondering whether that means if a farmer has a barn which someone determines is in the floodplain, he could not add a calf pen or a calf shelter to that without it being flood proofed?

Senator KURY. Mr. President, under the Federal Flood Insurance Law, if there is any building in the floodplain, which is the area immediately next to the water body, they cannot build substantial additions to that. If it is in the flood fringe, which is the area beyond that, they can build if it is flood proof. This applies to all kinds of buildings whether agricultural or residential or anything else.

What we did with this section was make absolutely clear that nothing under this bill is going to regulate grazing of animals, harvesting of crops or fencing or things of that nature. As far as building construction, that would be treated just like any other building. There is no special exception for farms on that one.

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

Senator TILGHMAN. Mr. President, relative to both of these bills, I am disturbed by the sections that allow fines to be levied against local officials.

For that reason and that reason alone, I am going to vote against these bills. I do not quite find the section I am talking about in here. Here it is, on page 10 of Senate Bill No. 744 and there is the same wording in Senate Bill No. 743. I grant that the court must levy the fine, but it can be up to \$500 a day for some of these officials for each continuing day of violation.

It goes on to say on page 10 of Senate Bill No. 44, line 28:

"Where the municipality or its officers have not as of the date of hearing before the court complied with the department's order . . ." that is to say the department tells the municipality to do something and they go to court, "... the court shall specifically order full compliance with the department's order by a date set by the court . . ."

Suppose a local municipality does not want to do what the department says and they say, "Let us go to court." Then it says in here, on page 10, line 28, of Senate Bill No. 744 that the court shall order the municipality to do what the department requested. What on earth is the sense of going to court if you know when you go to court the results are going to be exactly the same as the department ordered and, if you do not do it, you get a monstrous fine? I do not think we should be set-

ting up a system in Pennsylvania to fine local government officials who have a difference with some department in Harrisburg.

Senator KURY. Mr. President, I would point out again if these fines or enforcements were left in the hands of State agencies, I would share the apprehensions of the gentleman from Montgomery, Senator Tilghman. However, the penalties are in the discretion of the courts and, of course, the courts can shape the penalties as they think appropriate to the circumstances. The Commonwealth, in seeking to enforce this, would have to convince the courts that the penalty sought is deserved. The court would be the final arbiter.

Mr. President, I would point out to the gentleman that this legislation was reviewed by the Planning Commission of Montgomery County and they substantially support the bill because they think it will be of benefit to all the taxpayers and a savings of tax dollars.

I would urge a "yes" vote on the bill, Mr. President.

Senator TILGHMAN. Mr. President, I would like to point out first that the three Senators in this Body from Montgomery County have had vast differences in the past with that Planning Commission. Therefore, that does not sway me.

Mr. President, I desire to interrogate the gentleman from Northumberland, Senator Kury.

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

Senator KURY. I will, Mr. President.

Senator TILGHMAN. Mr. President, I am jumping ahead because I cannot find the language in Senate Bill No. 743, but Senate Bill No. 744 has the same wording. On page 10, line 28, so that I may be educated on this matter, is it not true, Mr. President, that if the municipality goes to court, the court shall specifically order full compliance?

In other words, the municipality goes to court and then the court says to the municipality, "You must do what the Department ordered." Is that correct?

Senator KURY. Yes, Mr. President, but I would point out that it says, "... by a date set by the court ..." Therefore, if the Department is being unreasonable, all the court must do is set the date which they think is appropriate. The enforcement date is left with the court which is independent of the agency.

Senator TILGHMAN. Mr. President, once again I would like to point out that the municipality can go to court; they are not going to win; they must do what the Department says because that is what the law says. The only thing they can get is a possible delay. That is the only thing. I have never heard of a situation before where a litigant goes into court and he knows that he is going to lose.

Senator KURY. Mr. President, I would only say that the purpose of enforcing these orders is for the people of Pennsylvania to win in order that they do not have to pay out more tax dollars for flood relief.

Senator SCHAEFER. Mr. President, I desire to interrogate the gentleman from Northumberland, Senator Kury.

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

Senator KURY. I will, Mr. President.

Senator SCHAEFER. Mr. President, what will be the effect of these bills insofar as the expansion of existing industrial facilities along our rivers?

Senator KURY. Mr. President, any expansion of existing industrial facilities would be covered by existing Federal law. We are not adding to that with this bill. Basically what we want to do with Senate Bill No. 743 is insure that it is enforced uniformly throughout the entire Commonwealth. Substantial expansion of existing plants would be limited under the Federal law which we enforce here.

I would point out to the gentleman from Allegheny, Senator Schaefer, that I have spoken with a number of people, including the president of a large power company, about the effect this would have on future power construction.

He said, "Look, we are not going to put a brand new power plant in a floodplain where our turbines and generators are going to be flooded. That would be silly. What we will do is what they did in Berwick where they built a brand new nuclear power plant. They put it up on a hill and they pump the water up." They are not going to do anything which is going to jeopardize a \$10 million or \$15 million investment.

My answer is that this legislation is not, in any way, going to jeopardize the industrial development of this great State.

Senator SCHAEFER. Mr. President, what concerns me is that in Allegheny County we have three rivers which have steel mills and major industrial sites along their banks. It is the kind of industrial situation that you cannot relocate. You want to make sure that there is not very significant harm or hardship placed on any possible expansion or updating of the facilities to insure that jobs remain in Allegheny County.

I would reiterate my question, or ask it in a different way: What effect will these bills have on that kind of situation?

Senator KURY. Mr. President, I do not believe they will have any different effect than they would have under existing Federal law. I point out to the gentleman that the United Steel Workers has endorsed this legislation, and I think they are the ones who are most directly affected. They lost the most jobs at Johnstown and, yet, they are supporting this legislation because they do not want to lose more jobs because plants are washed out by floods.

Senator SCHAEFER. Mr. President, the gentleman states that it would not add to the existing or current Federal law. This has me a little confused. Is the situation now that the current law or the existing law is not being enforced?

Senator KURY. Yes, Mr. President. If I might explain to my colleagues, we have, in this country, a Federal flood insurance law which was passed in the late 1960s because the Federal government was putting out so much money for disaster relief. The theory of the Federal law is that every state in the Union must comply. They passed a law stating if you are going to get flood insurance, then the communities must regulate what happens in the flood zone so that there is no more damage the next time there is a flood. There is a deadline of 1983 for compliance with this.

The Comptroller General of the United States did a report on how this is being implemented. It is called "Formidable Administrative Problems Challenge Achieving National Flood In-

insurance Program Objectives." Here is what the Federal Comptroller General said: "The Federal Insurance Administration needs an effective system in monitoring participating communities' compliance with program requirements. GAO's review of program implementation . . . showed that some had been permitted to remain in the program for several years even though they had not adopted acceptable floodplain management regulations and some communities were not enforcing compliance with approved regulations.

"As a result, the Federal government had no assurance that the communities' flood-prone lands were being developed wisely to prevent or minimize future flood losses."

That is exactly what we want to do, provide that assurance.

Senator SCHAEFER. Mr. President, will the gentleman correct me if I am wrong? In order to qualify for the Federal floodplain insurance they must come within the guidelines of the Federal mandates or rules or regulations, is that correct?

Senator KURY. Yes, Mr. President.

Senator SCHAEFER. Mr. President, they are the same rules and regulations that will be implemented through this floodplain legislation, is that correct?

Senator KURY. That is correct, Mr. President.

Senator SCHAEFER. Therefore, Mr. President, if these particular businesses do not wish to comply with the Federal guidelines, their only loss at this time would be coverage by reason of Federal floodplain insurance, is that correct?

Senator KURY. Mr. President, it is not exactly correct. The communities must adopt and enforce the Federal floodplain zoning plan. There is one in the City of Harrisburg. Nobody in Harrisburg, for example, can get flood insurance unless they have a floodplain zoning ordinance which they are enforcing.

Senator SCHAEFER. Mr. President, the only loss that a community would suffer insofar as the Federal government is concerned is the inability to secure floodplain insurance or flood insurance, is that correct?

Senator KURY. It is flood insurance, Mr. President. That is of substantial importance.

Senator SCHAEFER. Mr. President, can the gentleman tell me what the loss would be that a community would sustain under his bills?

Senator KURY. Mr. President, if they did not comply, they would not get Federal flood insurance?

Senator SCHAEFER. What else, Mr. President?

Senator KURY. Equally important, Mr. President, is the purpose of having the Commonwealth enforce compliance with Federal standards because if people do not comply, there is more damage built into the flood zone. For example, more people building mobile home parks right next to the river, for example, and seeing them washed downstream, are losing lives and property.

Senator SCHAEFER. My point is, Mr. President, in the situation of the Federal government, failure to comply will eliminate the opportunity for flood insurance coverage. As succinctly as possible, under the gentleman's bill, the failure to comply would result in what kind of situation, other than the possibility of catastrophic losses? I would like to know: Is there a coverage? Is there a criminal sanction for this kind of thing?

Senator KURY. Mr. President, if a community failed to comply, the Department of Community Affairs would issue an order and if they failed to comply, the State would issue one also or, they could go to court and have the penalties assessed by the court to enforce compliance.

Again I emphasize it is up to the court to decide what penalties are appropriate, not the agency.

Senator ROMANELLI. Mr. President, I desire to interrogate the gentleman from Northumberland, Senator Kury.

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

Senator KURY. I will, Mr. President.

Senator ROMANELLI. Mr. President, just recently the Department of Community Affairs issued to the City of Pittsburgh the initial payment for a riverside park which is to be built along the Monongahela River in the City of Pittsburgh. The initial payment was \$350,000 of a \$700,000 grant to be matched by the city and the Federal government.

What effect will this legislation have on that particular grant?

Senator KURY. Mr. President, I do not believe it will have any effect because one of the uses encouraged for floodplain land is recreational use. I do not believe there will be any impact whatsoever.

Senator ROMANELLI. Mr. President, a few short years ago we increased the amount of moneys issued by the State to the City of Pittsburgh or the Department of General Services for the purpose of adding a marina to the Pittsburgh Convention Center presently under construction. Also, there are two hotel corporations who have shown an interest in riverside properties in the City of Pittsburgh with future designs of marinas to connect the hotels with the convention center.

The City of Pittsburgh has three rivers, Mr. President, and they just recently, within the last few years, realized the importance of these rivers. For years they have been important as far as supplying the steel mills and factories along the river. Now we have started to realize the importance of these rivers as far as recreational facilities and transportation are concerned.

What effect will this type legislation have on those proposed hotels and, of course, on our convention center?

Senator KURY. Mr. President, the bills are not going to have any impact on buildings already existing and already in place.

Senator ROMANELLI. They are not existing, Mr. President.

Senator KURY. Mr. President, as far as future construction is concerned, they would have to comply with the Federal flood insurance regulations anyhow and we are not adding to that. What it means is that if a hotel is going to build right in the floodplain, it is prohibited under the Federal law, then all we are doing here is enforcing that. If they go into the flood fringe they can flood proof it and can build.

Senator ROMANELLI. Mr. President, they would have to comply with the Federal Floodplain Insurance Act if they applied for Federal floodplain insurance?

Senator KURY. No, Mr. President, that is not true. If the City of Pittsburgh wants anybody in Pittsburgh to have flood



insurance they must enforce the floodplain zoning plan.

Senator ROMANELLI. Mr. President, if the city does not enforce that, then those facilities, the hotels and convention center, cannot make application for the floodplain insurance. That is the only thing.

However, if this proposed legislation passes, it could be a detriment to that convention center's marina and those two proposed hotel marinas.

Senator KURY. I respectfully must disagree with my colleague from Allegheny, Senator Romanelli, Mr. President. If the City of Pittsburgh wants to have flood insurance for its people, it has to have a floodplain zoning plan. There is nothing on here which is going to add to what is the Federal law. They can flood proof it and I do not see any problem.

Senator ROMANELLI. Mr. President, I do not believe the gentleman answered my questions but I thank the gentleman.

Senator GEKAS. Mr. President, all of us are interested in some kind of flood control legislation. We are all interested in doing something about floodplain management. The record should reflect that those who do not support this particular piece of legislation are not against motherhood. We want to see something done about floodplain management without question.

However, since the recurrence now of the legislation on the Calendar in the past month, our desks have been flooded—which is the correct word to use—with several types of objections, cognizance of which we must take as we debate this legislation.

I think we are going too fast on this, Mr. President. I know that floodplain management has been a problem for years. However, when I say we are going too fast I say we are going too fast at this moment because there are rural people who object to this legislation for fear of their own farmlands being in some kind of jeopardy; contractors who want to build industrial complexes upon which water supply is based as part of its business enterprise; a hundred other problems. Maybe I am exaggerating but there is another thing which is vital here in my presentation, Mr. President. I am personally confused on a lot of these issues and it takes a great deal for me to admit that I am confused on anything.

Mr. President, I believe that the only way we can approach this is to look at it again.

#### MOTION TO RECOMMIT

Senator GEKAS. Mr. President, I make a motion to recommit Senate Bill No. 743 to the Committee on Environmental Resources and ask for a roll call vote.

On the question,

Will the Senate agree to the motion?

Senator MESSINGER. Mr. President, I would ask my colleagues to vote "no" on this motion. All we are going to do is keep putting off this very important topic time and time again. I believe we should face up to it and therefore I would urge that the bill not be recommitted.

And the question recurring,

Will the Senate agree to the motion?

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

#### YEAS—14

Bell,	Hager,	Jubelirer,	Moore,
Corman,	Hess,	Kusse,	Snyder,
Early,	Hopper,	Manbeck,	Tilghman,
Gekas,	Howard,		

#### NAYS—31

Andrews,	Kelley,	Nolan,	Schaefer,
Dougherty,	Kury,	Noszka,	Smith,
Duffield,	Lewis,	O'Pake,	Stapleton,
Dwyer,	Lynch,	Orlando,	Stauffer,
Fleming,	McKinney,	Reibman,	Stout,
Gurzenia,	Mellow,	Romanelli,	Sweeney,
Hankins,	Messinger,	Ross,	Zemprelli,
Holl,	Murray,	Scanlon,	

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

And the question recurring,  
Shall the bill pass finally?

Senator DUFFIELD. Mr. President, I desire to interrogate the gentleman from Northumberland, Senator Kury.

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

Senator KURY. I will, Mr. President.

Senator DUFFIELD. Mr. President, am I correct in the assumption that the local municipalities today have the right to implement the Federal legislation if they so desire without any action by the State at all?

Senator KURY. Mr. President, that is true.

Senator DUFFIELD. In other words, Mr. President, the only thing this bill would do would be to force local municipalities, commissioners or township supervisors to get on the ball and do what the Federal government wants them to do. If not, they would be subject to a penalty.

Senator KURY. That is substantially correct, Mr. President.

Senator DUFFIELD. I thank the gentleman.

Mr. President, I strongly feel that local municipalities and elected officials are responsible for the districts they represent. Further, this would not prevent floods. It would prevent, as the gentleman states, the payment of money for flood damages.

However, if a local businessman wanted to erect a plant along one of these prohibited areas, knowing that maybe once in every fifteen years he might be flooded out, he might be willing to run the risk of being flooded out because of the accessibility to water.

I personally feel that this is more or less a matter for the local municipalities. Some of them are along streams or rivers. They depend upon industry to build and to increase their real estate evaluation.

I believe local officials are much more cognizant of the problems they face and the advisability or lack of advisability of participating in the flood insurance program than some bureaucrat in Harrisburg who employs some young fellow out of college to go out and lay down mandatory laws, as is done by the Department of Environmental Resources. If they do not act

in cases where they should act, then if the local populace feels strongly against their refusal to act and their refusal to protect themselves by way of flood insurance, they would soon be kicked out of office.

Again I wish to emphasize that this would not prevent—and I believe the gentleman from Northumberland, Senator Kury, will admit this—another Agnes or another flooding. The only thing you can say for the bill, as I see it, is that, if these people who are in this area come in after a flood and put in a claim for damages, we would not have to pay them if their building was not there.

Mr. President, I am not at all satisfied with the bill. I think it is taking too much authority away from local municipalities and is another example of the State telling local people what they should or should not have. The fact is that all the benefits, whatever they might be from the flood program and the insurance program, are available now if the municipality only wants to make use of them. However, I do not see some State bureaucrat going in and telling them they have to do this or that when it does not affect, by and large, the general welfare of the State. It affects the buildings in their own municipality and if the City of Pittsburgh finds it more reasonable and more economically advantageous to build a hotel at the confluence of the Ohio and Allegheny Rivers and extending it out into the river, I would think, that is up to them. But, under this bill, they would be very, very restricted. There is quite a bit of land available along the Allegheny and Monongahela Rivers, with the flood control plans in the upper tributaries, which has had very little flooding of recent date. I believe that many businesses are cognizant of this before they move in and would take all these things into consideration.

Basically, my feeling on this in voting against the bill is that the flood insurance program is available to the municipalities today and the only thing that this bill does, as I understand it, is to force compliance all over the Commonwealth by those municipalities who see fit not to follow the Federal plan.

Senator KURY. Mr. President, I have a great deal of respect for my colleague from Fayette, Senator Duffield, and I appreciate the sincerity of his comments. I would urge him to hold his final decision for just a few more moments.

Mr. President, I would agree with my colleague, the gentleman from Fayette, Senator Duffield, if what each community did had no impact outside of its own borders. Unfortunately, Mr. President, that is not what happens.

I recall being on the floor of the House of Representatives in June of 1972 when we had a bill on the Calendar to send \$150 million of tax relief back to the people of Pennsylvania by lowering their tax rates. You know what happened that week, Mr. President? We had a visit from a lady named "Agnes." Rather than send \$150 million in tax refunds to people, we spent \$210 million for flood relief.

I cheerfully voted for that because my District, just as the District of the gentleman from Luzerne, Senator Murray, was badly hit. Let me tell you, Mr. President, every citizen of Pennsylvania, whether they lived in Philadelphia or the highest mountain in this State, helped pay that \$210 million. I call that to the gentleman's attention. Everybody in the State pays for it

whether you are in or out of a floodplain.

Mr. President, I wish each community would protect itself. I call my colleagues' attention to the photograph which I brought down from my Senate office. This is a photograph of the City of Sunbury during Hurricane Agnes. The City of Sunbury has done what it could do to protect itself; it built a wall. You see how close it came to losing it? Two inches.

The fact is, Mr. President, if the City Council of Sunbury puts a dike around the city, as they did, it is worthless if there is higher water coming from upstream. The people upstream do not want to do anything, if they decide not to pass floodplain legislation. That is the problem. What they do upstream can send higher water downstream and over the top of that dike and then it is all worthless. That is why no community is an island unto itself.

We must deal with each watershed as a whole or we are not going to be effective. I have pled with these communities. The gentleman from Luzerne, Senator Murray, and I had representatives of the Boroughs Association in his office. We asked the president of the Boroughs Association what legislation he wanted.

He replied, "I do not want to do anything." The gentleman and I could not believe a man would give that kind of response after what we had been through with Agnes, Eloise and other floods.

Mr. President, we have one of the most flood-prone states in the Union. We have floods in this State on every river going back to the colonial days. I could give you the history, but I will not bore you—1954, 1972, 1975—and I tell you, sure as we are sitting here, there will be more floods in the future, more floods like we had at Johnstown last year. They are going to happen again because it happened in the past.

We cannot stop the water. Of course, we cannot stop the flooding, but we can stop this senseless pattern of building and building in a floodplain where they will be washed away by the next flood that sweeps down from the skies and the mountaintops.

Mr. President, I wish I could agree with my friend, the gentleman from Fayette, Senator Duffield, that this was a matter for each community, but it is not. History has proved it is not; the facts prove it is not; and the money you and I appropriate for tax dollars for flood relief proves it is not. That is why I say to the gentleman, I respectfully urge him to reconsider.

Senator DUFFIELD. Mr. President, I have just one comment. The picture is very interesting, but suppose a municipality up the river from Sunbury, wherever it is, had adopted this plan, you would still have flooding. As I understand the bill, it is just to keep buildings from certain locations in the floodplain zone. It is not going to stop flooding and if you stop building up the river, toward the source, you will still have flooding. It is not going to affect communities, as I understand it, below the river. In fact, it might make them worse if you get to a technical point because there will not be anything to stop the water.

However, I cannot conceive how the failure of one community to comply with the Federal Flood Control Act is going to alleviate flooding on down the river. As the gentleman from Northumberland, Senator Kury, very well said, you will still

have floods. The only thing this legislation does, it might relieve the taxpayers of the State of claims that would come in from flood areas. However, if the people in that District do not want to insure themselves against floods—I have a house. Suppose I do not carry fire insurance on it. Should the State force me to carry fire insurance because a riot might start in Fayette County over my reelection or something? They might set fire to a bunch of houses and I put in a claim.

Mr. President, I am not convinced that the compliance upstream—as shown and illustrated by the gentleman from Northumberland, Senator Kury—of this flood control plan would affect the possible flooding on down the river. I do not think it is a matter of one municipality refusing or adopting the flood plan having any bearing on the problems of any other municipality.

Senator BELL. Mr. President, I recognize that picture of Sunbury because I happened to be in a helicopter right over top of it when the water was up there. What worries me, instead of having a head-on collision on this bill, why does the County Commissioners Association oppose it? Why does the Boroughs Association oppose it? I have been advised that the First Class Townships Association and the Second Class Townships Association oppose it. I see on the yellow sheet that the Pennsylvania AFL-CIO opposes it. The Building Trades Council opposes it. The steelworkers and environmentalists support it. But why, instead of bringing the charts here — and they are very capable and well made charts — can these differences not be thrashed out in committee and why can a bill not be presented to this Senate that has at least half the municipal organizations of Pennsylvania supporting it? This is what has me concerned.

I also come from a flood-prone area. We had the big flood of 1971 before the gentleman from Northumberland, Senator Kury, had the flood of 1972. A third of my hometown was under water. However, I do not think that giving a stranglehold to the Planning Commission of Delaware County, which is controlled by the County Council, is the best thing for parts of Delaware County who do not seem to see eye to eye with that County Council. Again, on the Planning Commission, I do not know too much about the Executive Director of our Planning Commission. He came from somewhere, I do not know where.

Senator MESSINGER. Mr. President, it is true that many of the local government lobbyists and organizations oppose this legislation, but they will oppose this for a hundred years, I assume, because they feel they are losing power. It is not true that what one community does upstream does not affect those downstream.

One of the great things that happened when we built bridges, for instance, and we have ice jams as we do now against bridges, if that bridge were not there we would not have the ice jam which occurs against that bridge. That was one community upstream building a bridge or the State building a bridge or whatever the case may be.

Local municipalities do not want to give up the power of zoning and that is what they think they are giving up. Yet, I believe in the long run the only way we are going to solve many problems in Pennsylvania and in other states is to have either

regional or statewide zoning. This is, in a sense, what this happens to be.

Senator KURY. Mr. President, I would like to respond briefly to the gentleman from Delaware, Senator Bell, and the gentleman from Fayette, Senator Duffield.

We have spent four or five years on this legislation, ever since Hurricane Agnes. The gentleman from Luzerne, Senator Murray, spent a great deal of time on it; the gentleman from Montgomery, Senator Holl; the gentleman from Lackawanna, Senator Mellow; and others on both sides of the aisle. We have spent hours discussing this with the local government groups.

I have already related to the Senate the meeting which the gentleman from Luzerne, Senator Murray, and I had with the leaders of the Boroughs Association and the First Class Township Association. We asked them for alternatives. They will not give us anything; they do not want to do anything. This was very drastically demonstrated in the Johnstown flood. Eighty-two municipalities were struck by the Johnstown flood and only three of eighty-two had taken any action to adopt a floodplain zoning plan, three of eighty-two.

What is the real reason they are not happy with this? I think they are concerned because it is going to make them spend money; it is going to cost them. I understand that there may be some cost to the local governments. However, Mr. President, this bill is drafted to give maximum responsibility to local governments. The communities will issue the permits, not the State, not the Department of Community Affairs, but the boroughs and cities will issue the permits. What we are doing with this bill is making them issue the permits in compliance with Federal standards. We are doing it because we do not want to spend more tax dollars for flood relief that could go for tax relief or some other purpose.

We are doing it because we do not want to see seventy-five more lives lost as were lost in Johnstown. We do not want to see more lives lost as were lost during Hurricane Agnes. That is why we are doing it. We are exercising the police power, the same kind of power we exercise when we say older people cannot live in nursing homes that do not have fireproofing.

Why do we make nursing homes have fireproofing and fire safety apparatus? Because they are in jeopardy if they do not. It is the same thing with flooding. People can be in great jeopardy of losing their lives through flooding unless we step in with the State's police power. We are doing this for the local governments. We are saying, "You do it, local government. We are coming in only as a last resort."

Mr. President, we have given them years to do something and they have done nothing. I do not think we can wait any longer. This is putting the responsibility on local government where it belongs in the first place.

Finally, Mr. President, I would like to say this in response to my good friend, the gentleman from Fayette, Senator Duffield, relative to his comment about the effect of upstream development on the water. If he will return his great historical mind to the Principle of Archimedes stepping into the bathtub and recognizing when you put a solid body in water, it makes the water rise. That is what we are talking about here. Whenever you build solid objects in the floodplain, you make the water



rise. What happens upstream is Archimedes Principle, the more bricks you put in the water, the more fill, the more solid construction, the higher the water will be. And who knows that next time it will not top that wall?

Senator DUFFIELD. Mr. President, if I put my body in the water it rises far more than it would if the gentleman put his body in the water.

#### PARLIAMENTARY INQUIRY

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

The PRESIDENT pro tempore. The gentleman from Dauphin, Senator Gekas, will state it.

Senator GEKAS. Mr. President, if there be unanimous consent, is it possible to offer amendments?

The PRESIDENT pro tempore. We can reconsider the vote by which the bill was agreed to for the third time.

#### MOTION TO RECONSIDER SB 743

Senator GEKAS. Mr. President, I move to reconsider the vote by which the bill passed on third consideration.

The motion was agreed to.

And the question recurring,

Will the Senate agree to the bill on third consideration?

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

Amend Sec. 501, page 20, line 12 by inserting a period after "contempt"

Amend Sec. 501, page 20, lines 12 through 15 by striking out "and" in line 12 and all of lines 13 through 15 and inserting: The court under its discretion shall impose a fine for failure to comply with the provisions of this act not to exceed \$500 and in addition shall impose a per diem fine not to exceed \$50 to be paid for each continuing day of violation.

On the question,

Will the Senate agree to the amendments?

Senator GEKAS. Mr. President, the language in the bill as it is before us now calls for penalty provisions if any municipality or person should fail to comply with any order issued by the court. It has, as its upward limitations, \$10,000 for violation plus \$500 for each continuing day of violation.

In my estimation and in the estimation of some others, that is highly punitive to our local officials. I do believe that if any floodplain management bill is to prevail and to work, the municipal public officials do have to be under the gun so that a court order would be in effect should they fail to comply with overall regulations that might be imposed. However, I do feel that the same thing can be accomplished if we had a reasonable array of penalties.

In that regard my amendments call for an upward limitation of \$500, rather than \$10,000, and a \$50 per day order of contempt for every day of violation following the reluctance of such an individual to comply with the order. This brings a little bit of reason into the fears of the people who would say, "We have elected public officials at the local level and we are practically putting them in the area of criminal contempt with fines

that high. We want a civil penalty, \$500 maximum, \$50 per day for any additional violation."

Mr. President, I ask for favorable consideration of these amendments.

Senator MESSINGER. Mr. President, according to the bill the court sets the penalty and I believe the court would take into consideration whatever the facts in the case happen to be.

Furthermore, if you make penalties too low in certain instances I am sure some of them would not comply simply because the penalty itself, the financial penalty, is not sufficient.

I believe the courts in deciding this would certainly take into consideration all of the factors in the case.

Senator HOWARD. Mr. President, I desire to interrogate the gentleman from Northumberland, Senator Kury.

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

Senator KURY. I will, Mr. President.

Senator HOWARD. Mr. President, I am one of those who is deeply divided on this issue and within the bill, one of the problems I am having is this very issue.

Is it my understanding that for noncompliance now we are, in effect, telling the court that it does have the power to levy punishment within the framework of the bill; in other words, within the limits set forth by the bill?

Senator KURY. Mr. President, that is correct. The court would decide, within these limits, the minimum and the maximum of what the appropriate penalty is and the court alone, not the State agency, would make that decision.

Senator HOWARD. Mr. President, so that those penalties would be on the basis of noncompliance and the court would determine whether that noncompliance was, for example, malicious or accidental.

For example, in the Senate we stand today at least several years delinquent on the adoption, of a School Code and I wonder if the Senators would be willing to permit the courts to decide whether we should be penalized, to the severe degree that this bill suggests, for our inability to get our act together on that. I wish someone would explain to me the distinction between that kind of a court jurisdiction and the kind of jurisdiction we are ready to impose upon local officials.

Senator KURY. Mr. President, I have great trepidation in discussing the question of the School Code because that is a great big subject and it really is not directly related to this problem here.

I would only point out to my good friend from Bucks, Senator Howard, that the limit of \$10,000 is an absolute maximum. The court can go anywhere from \$100 to that figure, depending on what the court thinks is appropriate.

Senator HOWARD. That is what scares me, Mr. President.

Senator KURY. Let me just say, Mr. President, I would anticipate that something of that magnitude would only be used as a last resort.

I would point out, Mr. President, that we are not just talking about dollars here we are talking about lives; over seventy-five people lost their lives at Johnstown because somebody let them put their mobile homes right in the path of the flood. I believe that people who are derelict in allowing that kind of thing to

happen would have to face this kind of penalty. I do not believe that is very frequent. Johnstown may be an unusual case but we are talking, with this legislation, about protecting the lives of people, the property of people, and all we are saying to the court here is: "Use your discretion."

Senator HOWARD. Mr. President, just one last comment. I believe that, unless the amendments of the gentleman from Dauphin, Senator Gekas, are accepted into this bill, I, for one, am going to have to vote against it. I would like very much to be able to vote for the bill. I suspect there are others in the Chamber who feel that way, but I just do not really feel that I can support a measure which imposes such a heavy burden of responsibility upon local officials when they are already confronted by problems mounting daily.

Senator KURY. One other point, Mr. President. The bill is drafted so no community has to draft the floodplain zoning laws until they have the maps from HUD so there is no question of arbitrary deadlines. They do not have to act until they have the maps and that is the biggest problem.

Senator GEKAS. Mr. President, with all the emotional phrases that the gentleman from Northumberland, Senator Kury, has used to describe what has happened in Johnstown and with Agnes, there is not one instance of anything happening in Johnstown or Agnes because of the intransigence of a borough official or township official after being told by the court to act and being found in contempt of court. That is the issue with my amendments. They have nothing to do with how much water is going to fall all over the place. What they have to do with is whether or not we want to put the borough and township officials, city officials where applicable, county officials where applicable, under the awesome penalty provisions of \$10,000 in fines.

Senator KURY. Mr. President, I would again point out to my colleague from Dauphin, Senator Gekas, that the figure of \$10,000 is the absolute maximum. It is not mandatory. The judge can go anywhere from \$100 to that figure, depending on what he thinks is appropriate and depending on the circumstances of each case.

I would point out again, Mr. President, we are talking about the lives of Pennsylvanians, the property of Pennsylvanians and the tax dollars which we have to appropriate for flood relief. Under those circumstances and because the penalties are assessed by courts, not by the State agency, while I respect the gentleman's point of view, I think his fears are without foundation here. I join the gentleman from Lehigh, Senator Messinger, in urging a "no" vote on the amendments.

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—19

Andrews,	Fleming,	Howard,	Schaefer,
Bell,	Gekas,	Jubelirer,	Snyder,
Corman,	Hager,	Kusse,	Stauffer,
Dwyer,	Hess,	Manbeck,	Tilghman,
Early,	Hopper,	Moore,	

## NAYS—27

Arlene,	Kury,	Nolan,	Scanlon,
Dougherty,	Lewis,	Noszka,	Smith,
Duffield,	Lynch,	O'Pake,	Stapleton,
Gurzenda,	McKinney,	Orlando,	Stout,
Hankins,	Mellow,	Reibman,	Sweeney,
Holl,	Messinger,	Romanelli,	Zemprelli,
Kelley,	Murray,	Ross,	

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?

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

Senator LYNCH. 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—19

Arlene,	Kury,	Messinger,	Scanlon,
Dougherty,	Lewis,	Murray,	Smith,
Fleming,	Lynch,	Noszka,	Stapleton,
Hankins,	McKinney,	O'Pake,	Sweeney,
Holl,	Mellow,	Reibman,	

## NAYS—26

Andrews,	Gurzenda,	Kusse,	Schaefer,
Bell,	Hager,	Manbeck,	Snyder,
Corman,	Hess,	Moore,	Stauffer,
Duffield,	Hopper,	Nolan,	Stout,
Dwyer,	Howard,	Romanelli,	Tilghman,
Early,	Jubelirer,	Ross,	Zemprelli,
Gekas,	Kelley,		

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

## RECONSIDERATION OF SB 743

## BILL OVER IN ORDER ON FINAL PASSAGE

SB 743 (Pr. No. 1619) — Senator MELLOW. Mr. President, I move that the Senate do now reconsider the vote by which Senate Bill No. 743, Printer's No. 1619, just failed of final passage.

The motion was agreed to.

And the question recurring,  
Shall the bill pass finally?

Senator MELLOW. Mr. President, I request that Senate Bill

No. 743 go over in its order and appear on tomorrow's Final Passage Calendar.

The PRESIDENT pro tempore. There being no objection, the bill will be placed on tomorrow's Final Passage Calendar.

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

### THIRD CONSIDERATION CALENDAR

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

**HB 1271 (Pr. No. 1494)** — 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—17

Arlene,	Gekas,	Hopper,	Moore,
Bell,	Hager,	Howard,	Snyder,
Corman,	Hankins,	Jubelirer,	Stauffer,
Dougherty,	Holl,	Manbeck,	Tilghman,
Fleming,			

#### NAYS—29

Andrews,	Kusse,	Nolan,	Scanlon,
Duffield,	Lewis,	Noszka,	Schaefer,
Dwyer,	Lynch,	O'Pake,	Smith,
Early,	McKinney,	Orlando,	Stapleton,
Gurzenda,	Mellow,	Reibman,	Stout,
Hess,	Messinger,	Romanelli,	Sweeney,
Kelley,	Murray,	Ross,	Zemprelli,
Kury,			

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

### RECONSIDERATION OF HB 1271

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

**HB 1271 (Pr. No. 1494)** — Senator HAGER. Mr. President, I move that the Senate do now reconsider the vote by which House Bill No. 1271, Printer's No. 1494, just failed of final passage.

The motion was agreed to.

And the question recurring,  
Shall the bill pass finally?

#### PARLIAMENTARY INQUIRY

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

The PRESIDING OFFICER. The gentleman from Lycoming, Senator Hager, may state it.

Senator HAGER. Mr. President, why is the bill being run now? We have asked to have it reconsidered. We ask that it go over in order.

The PRESIDING OFFICER. The motion to reconsider has been approved and the bill is then again before us.

#### MOTION FOR BILL OVER IN ORDER ON FINAL PASSAGE

Senator HAGER. Mr. President, I move that House Bill No. 1271 go over in its order.

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

Senator BELL. Mr. President, may I remind my colleagues in the Senate that they are sitting in the biggest fire trap in Pennsylvania. I was one of those who led the fight to get the money for the Harrisburg Fire Department and I am very fearful that if we bleed them to death with the problems they do have, God help us if we have a fire in this Capitol.

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

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

#### POINT OF INFORMATION

Senator ROMANELLI. Mr. President, I rise to a point of information.

The PRESIDING OFFICER. The gentleman from Allegheny, Senator Romanelli, will state it.

Senator ROMANELLI. Mr. President, is this to reconsider or is this a vote on the bill?

The PRESIDING OFFICER. This is a vote on the motion that the bill go over in its order.

Those who vote "aye" vote in favor of the motion that the bill go over in its order. Those who vote "no" vote against that motion.

The Clerk will continue the roll call.

#### REQUEST TO STRIKE ROLL CALL

Senator GEKAS. I want to speak on the bill, Mr. President. I thought the Chair recognized that I wanted to do that.

Could we back up and strike the roll?

The PRESIDING OFFICER. The roll call has already commenced and it is not appropriate to interrupt it at this time.

#### MOTION TO STRIKE ROLL CALL

Senator GEKAS. Mr. President, I move to strike the roll call.

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

#### POINT OF ORDER

Senator KELLEY. Mr. President, I rise to a point of order.

The PRESIDING OFFICER. The gentleman from Westmoreland, Senator Kelley will state it.

Senator KELLEY. Mr. President, the Rules of the Senate do not provide for a motion to strike. The Rules of the Senate provide that once the roll call has commenced it shall be completed and nothing will interrupt it. Therefore, the only thing in order now is for the roll call to continue.

The PRESIDING OFFICER. Senator Kelley, the Senate, of

course, is in charge of its own Rules and can do anything it chooses. The motion before the Senate at this time is that made by Senator Gekas to strike the roll call which has been commenced.

#### ROLL CALL STRICKEN

The PRESIDING OFFICER. The Chair does recognize that there was some confusion at the time and that it may have been possible that the Members were not aware of the call of the Chair to commence the calling of the roll.

In any event, the question before the Senate is, shall we strike the roll call that has been commenced.

And the question recurring,

Will the Senate agree to the motion?

(A voice vote having been taken, the question was determined in the affirmative, and the motion was agreed to.)

The PRESIDING OFFICER. The roll call will be stricken.

And the question recurring,

Will the Senate agree to the motion that House Bill No. 1271 go over in its order?

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

#### YEAS—19

Andrews,	Fleming,	Hopper,	Moore,
Bell,	Gekas,	Howard,	Snyder,
Corman,	Hager,	Jubelirer,	Stauffer,
Dougherty,	Hess,	Kusse,	Tilghman,
Dwyer,	Holl,	Manbeck,	

#### NAYS—27

Arlene,	Lewis,	Noszka,	Schaefer,
Duffield,	Lynch,	O'Pake,	Smith,
Early,	McKinney,	Orlando,	Stapleton,
Gurzenda,	Mellow,	Reibman,	Stout,
Hankins,	Messinger,	Romanelli,	Sweeney,
Kelley,	Murray,	Ross,	Zemprelli,
Kury,	Nolan,	Scanlon,	

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

And the question recurring,

Shall the bill pass finally?

Senator GEKAS. Mr. President, I realize that every year this particular appropriation raises some objections. I listen to the reasons for it and I can understand the rationale as it is presented by my colleagues. But, in this particular year, just like every other nonpreferred appropriation, the recipient of this appropriation has banked on, has anticipated, that it would receive this appropriation from the Commonwealth of Pennsylvania. Just like every nonpreferred appropriation which we voted and on which I voted affirmatively, it was an obligation of the Commonwealth since the beginning of the appropriation year to pay that obligation, whether it be a museum, a school for the deaf or the City of Harrisburg, or Dickinson School of Law or whatever the appropriation was.

Mr. President, I ask my colleagues to vote on this, not on any

kind of punitive measure that may be taken against me because I offer amendments or some other kind of parliamentary debate into which I enter; that should have nothing to do with the merits of a bill.

Please consider that this bill is a part of a package of nonpreferred appropriations totaling an obligation, a stated, solemn obligation of the Commonwealth, as defined in the budget of 1977-1978 and 1978-1979. It rises no higher and no lower than any of the nonpreferred appropriations which we passed and which we approved thus far in this Session of the General Assembly.

Mr. President, I ask for a favorable vote. It is our obligation.

Senator KELLEY. Mr. President, I concur with the gentleman from Dauphin, Senator Gekas, in the sense of what he says pertaining to our obligations. However, I would like to suggest and invite everyone's attention, Mr. President, to the fact that this obligation does not exceed the obligation of voting to raise the revenues to appropriate the funds.

I would like to invite the gentleman who just spoke in this regard and everyone else in this Body who is so willing, able and wanting to appropriate these funds, to think in terms of the responsibility of raising the revenues to do it.

I happen to be one who voted for those revenues but did not see fit to vote for the nonpreferreds because I do not particularly believe in it. We are not performing all our duties first in governmental functions. However, I am a little bit tired, Mr. President, of talking about responsibilities and living in glass houses.

Senator DOUGHERTY. Mr. President, as one of those who voted for the taxes last year, I think I can respond to the gentleman from Westmoreland, Senator Kelley, with due deference to his title and rank and all that. I would simply ask that reason prevail in this Body. We had a difficult summer last year on the budget crisis. I realize there are personalities involved and there are conflicts involved. I believe it does no good for the Senate as a whole to take out frustrations on a particular nonpreferred appropriation.

I believe the point in fact is that the City of Harrisburg has been funded ever since I have been here. It was funded with a Democrat mayor and it should be funded with a Republican mayor. I do not believe that we should allow some disagreements, perhaps, to destroy our obligation—I speak as a tax vote, Mr. President, and I will speak about responsibility—to the people of Harrisburg and to the people who are employed in this Capitol. We have an obligation to the City and we have an obligation to our employees who work in this building. I think reason and good sense should prevail and I would hope that the gentlemen and the lady on the other side of the aisle would vote in favor of this appropriation.

Senator MELLOW. Mr. President, I may have been the only "no" vote on this particular appropriation when it cleared the Committee on Appropriations several weeks ago, so I really do not think it is a punitive measure taken against the gentleman from Dauphin, Senator Gekas, for actions which he may or may not have been responsible for on the floor today. I believe it is a very clear and sincere understanding some of us have for the budgetary problems within the Commonwealth.

I can remember in the 1972-1973 fiscal year when the City of Harrisburg was receiving \$3,000 for their fire protection of the Capitol Complex. I can remember having a visitor in my office and that visitor said to me that what we must do is purchase some equipment for the fire department in Harrisburg. That equipment to properly protect the Capitol Complex would cost approximately \$100,000.

At that particular time it was my understanding that the \$100,000 figure would have been only a one year appropriation and then it would return to the \$3,000 with some cost of living increase which would have been added to that \$3,000. Since the fiscal year of 1972-1973 the City of Harrisburg has been receiving that \$100,000. I believe as of this date they have received approximately \$400,000 total.

There is no question in my mind, taking that \$400,000 into consideration for whatever equipment was necessary to properly protect the Capitol and the people who work here and to give them the proper type of fire protection, the City of Harrisburg certainly would have had the opportunity to purchase that equipment and to pay for it with the amount of money appropriated by the State government.

We have a State office building in the City of Scranton and the City of Scranton Fire Department receives no money for the protection of the people in that particular office building. The City of Pittsburgh has a State office complex and the City of Pittsburgh receives no money for that particular complex. Philadelphia has a State building and the City of Philadelphia receives absolutely no money for the protection of the people who work in that complex.

Mr. President, I feel that the City of Harrisburg should receive some appropriation for the protection of the people of Harrisburg, but I believe, allowing us to pass a \$100,000 appropriation again for the City of Harrisburg under the guise of purchasing equipment, upon which these funds were based originally, certainly smacks right in the face of those of us who are interested in tightening the budget.

Mr. President, I would join the gentleman from Dauphin, Senator Gekas, if he would introduce a reasonable piece of legislation granting some type of increase in that \$3,000—but not anywhere near the \$100,000 figure—I am sure there would be many of us on this side of the aisle who would join him in that support, keeping in mind that there have been a number of nonpreferred appropriations which have been cut—some of them in half—this year. Taking that into consideration, I think that is one reason why there are a number of us on this side of the aisle who are not, right now, intending to vote for legislation that would provide the City of Harrisburg with \$100,000.

Mr. President, I say absolutely that it is not a punitive measure against the gentleman from Dauphin, Senator Gekas.

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—17

Andrews, Gekas, Howard, Moore,

Bell,  
Corman,  
Dougherty,  
Fleming,

Hager,  
Hess,  
Hopper,

Jubelirer,  
Kusse,  
Manbeck,

Snyder,  
Stauffer,  
Tilghman,

## NAYS—29

Arlene,  
Duffield,  
Dwyer,  
Early,  
Gurzenda,  
Hankins,  
Holl,  
Kelley,

Kury,  
Lewis,  
Lynch,  
McKinney,  
Mellow,  
Messinger,  
Murray,

Nolan,  
Noszka,  
O'Pake,  
Orlando,  
Reibman,  
Romanelli,  
Ross,

Scanlon,  
Schaefer,  
Smith,  
Stapleton,  
Stout,  
Sweeney,  
Zemprelli,

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

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

**HB 1277 (Pr. No. 1500)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

Senator SWEENEY. Mr. President, House Bill No. 1277 provides for \$99,000 to the Dickinson School of Law in Carlisle. Over the few years which I have been in this Body, I voted against that appropriation primarily because the Dickinson School has been isolated for a distinction that is not shared by the other law schools in the Commonwealth.

This is a nonpreferred appropriation. We have gone through some rather trying times in the financing of our State colleges and universities and it seems to me highly inappropriate that \$99,000, within the framework of the austere budget that we passed in the summertime, should be allocated to one law school in the Commonwealth to the exclusion of all others.

Mr. President, I urge my colleagues to vote against this appropriation based simply on the inequity that it represents.

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—20

Bell,  
Corman,  
Dougherty,  
Fleming,  
Gekas,

Hager,  
Hopper,  
Jubelirer,  
Kusse,  
Manbeck,

Moore,  
O'Pake,  
Reibman,  
Romanelli,  
Scanlon,

Snyder,  
Stapleton,  
Stauffer,  
Tilghman,  
Zemprelli,

## NAYS—25

Andrews,  
Arlene,  
Duffield,  
Early,  
Gurzenda,  
Hankins,  
Hess,

Holl,  
Howard,  
Kelley,  
Kury,  
Lewis,  
Lynch,

McKinney,  
Mellow,  
Messinger,  
Murray,  
Nolan,  
Noszka,

Orlando,  
Ross,  
Schaefer,  
Smith,  
Stout,  
Sweeney,

Less than a constitutional two-thirds majority of all the



Senators having voted "aye," the question was determined in the negative.

### RECONSIDERATION OF HB 1277

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

**HB 1277 (Pr. No. 1500)** — Senator HAGER. Mr. President, I move that the Senate do now reconsider the vote by which House Bill No. 1277, Printer's No. 1500, just failed of final passage.

The motion was agreed to.

And the question recurring,  
Shall the bill pass finally?

Senator HAGER. Mr. President, I request that House Bill No. 1277 go over in its order and appear on tomorrow's Final Passage Calendar.

Senator SWEENEY. Mr. President, I object to House Bill No. 1277 going over in its order and ask for immediate reconsideration of the bill.

#### MOTION FOR BILL OVER IN ORDER ON FINAL PASSAGE

Senator HAGER. Mr. President, I move that House Bill No. 1277 go over in its order on final passage.

On the question,  
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—22

Andrews,	Hager,	Manbeck,	Snyder,
Bell,	Hess,	Moore,	Stapleton,
Corman,	Hopper,	O'Pake,	Stauffer,
Dougherty,	Howard,	Reibman,	Tilghman,
Fleming,	Jubelirer,	Scanlon,	Zemprelli,
Gekas,	Kusse,		

#### NAYS—23

Arlene,	Kelley,	Messinger,	Ross,
Duffield,	Kury,	Murray,	Schaefer,
Early,	Lewis,	Nolan,	Smith,
Gurzenda,	Lynch,	Noszka,	Stout,
Hankins,	McKinney,	Orlando,	Sweeney,
Holl,	Mellow,	Romanelli,	

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

And the question recurring,  
Shall the bill pass finally?

Senator HOPPER. Mr. President, I would again like to remind my colleagues that this small independent law school had received no indication that this appropriation could not be included in their budget. They have included this amount in their budget.

Mr. President, I would urge a "yes" vote on the bill.

Senator HAGER. Mr. President, before the roll call begins, I would like to state that I just cannot believe that the game being played here is: If you will not play it my way, we will take our marbles and go home.

Senator ROMANELLI. Mr. President, I would like to comment on the appropriation for the Dickinson School of Law.

My colleague, the gentleman from Cumberland, Senator Hopper, stated that they had already included this appropriation in their budget. I feel very sorry for them. The University of Pittsburgh also included State funds in their budget and the Governor blue-lined that appropriation. The university did what they had to do; they raised their tuition. I was not very happy with that, either.

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—18

Bell,	Hager,	Moore,	Stapleton,
Corman,	Hopper,	O'Pake,	Stauffer,
Dougherty,	Jubelirer,	Reibman,	Tilghman,
Fleming,	Kusse,	Snyder,	Zemprelli,
Gekas,	Manbeck,		

#### NAYS—27

Andrews,	Holl,	Mellow,	Ross,
Arlene,	Howard,	Messinger,	Scanlon,
Duffield,	Kelley,	Murray,	Schaefer,
Early,	Kury,	Nolan,	Smith,
Gurzenda,	Lewis,	Noszka,	Stout,
Hankins,	Lynch,	Orlando,	Sweeney,
Hess,	McKinney,	Romanelli,	

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

#### BILLS REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

**HB 191, SB 508, 510, 744, 882 and 883** — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

#### BILL REREFERRED

**SB 74 (Pr. No. 74)** — Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

#### BILL OVER IN ORDER

**SB 456** — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

#### BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 645 (Pr. No. 686)** — 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,	Hager,	Manbeck,	Scanlon,
Arlene,	Hankins,	McKinney,	Schaefer,
Bell,	Hess,	Messinger,	Smith,
Corman,	Holl,	Moore,	Snyder,
Dougherty,	Hopper,	Murray,	Stapleton,
Duffield,	Howard,	Nolan,	Stauffer,
Dwyer,	Jubelirer,	Noszka,	Stout,
Early,	Kury,	O'Pake,	Sweeney,
Fleming,	Kusse,	Reibman,	Tilghman,
Gekas,	Lewis,	Romanelli,	Zemprelli,
Gurzenda,	Lynch,	Ross,	

## NAYS—3

Kelley,	Mellow,	Orlando,
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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 809 and HB 959** — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

## BILL ON THIRD CONSIDERATION AMENDED

**SB 1104 (Pr. No. 1616)** — Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Sec. 7502, page 29, line 10, by striking out "director shall be employed" and inserting: county employee shall be designated as director

Amend Sec. 4, page 44, line 19, by inserting a period after "immediately"

Amend Sec. 4, page 44, lines 19 and 20, by striking out "and shall be retroactive to July 1, 1977."

On the question,

Will the Senate agree to the amendments?

Senator MELLOW. Mr. President, I desire to interrogate the gentleman from Centre, Senator Corman.

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

Senator CORMAN. I will, Mr. President.

Senator MELLOW. Mr. President, the Democratic caucus has agreed, by discussion, to accept the gentleman's amendments to Senate Bill No. 1104. Could the gentleman tell us, upon the acceptance of these amendments, if they clarify the bill in his own mind so that he will vote in the affirmative for the bill?

Senator CORMAN. Yes, Mr. President, I will support this bill.

Senator MELLOW. Then, Mr. President, I urge the adoption of the amendments.

And the question recurring,

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 CORMAN.

## BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1222 (Pr. No. 1639)** — Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator CORMAN, by unanimous consent, offered the following amendment:

Amend Sec. 3, page 2, line 27, by striking out "7,500" and inserting: 4,000

On the question,

Will the Senate agree to the amendment?

Senator MELLOW. Mr. President, we have gone through this at some length in our debate yesterday. I would urge a "no" vote on the amendment.

Senator CORMAN. Mr. President, I would like to make certain that the Senate realizes what it is doing in voting for or against my amendment which would reduce the megawatts from 7,500, currently in the bill, to 4,000. There was some question yesterday when we talked about it as to what is the size of the various generating plants in Pennsylvania. It was suggested that I contact Mr. Don Steele at the Joint State Government Commission to verify the numbers which were used in a memo from Mr. Thomas Seaman to the gentleman from Northumberland, Senator Kury, in which it outlined the size of the various generating plants on line and those being considered in the State of Pennsylvania.

I submit to the Senate that my numbers were correct. The largest being considered at this time and under construction is the Bruce Mansfield where they have three units each having a capacity of 825 megawatts for a total of 2,475 megawatts. In my amendment which would give permission for these megawatts to be increased to 4,000 before we consider the things in the bill before us, it certainly gives ample room for growth before we would have to take a look at what is occurring in the siting of this much generating capacity at one spot.

Mr. President, I would encourage the Members to vote for my amendment.

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—18

Andrews,	Gekas,	Howard,	O'Pake,
Corman,	Hager,	Jubelirer,	Snyder,
Duffield,	Hess,	Manbeck,	Stauffer,
Dwyer,	Holl,	Moore,	Tilghman,
Fleming,	Hopper,		

## NAYS—28

Arlene,	Kury,	Murray,	Scanlon,
Bell,	Kusse,	Nolan,	Schaefer,

Dougherty,	Lewis,	Noszka,	Smith,
Early,	Lynch,	Orlando,	Stapleton,
Gurzenda,	McKinney,	Reibman,	Stout,
Hankins,	Mellow,	Romanelli,	Sweeney,
Kelley,	Messinger,	Ross,	Zemprelli,

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 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?

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

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

The PRESIDING OFFICER. The gentleman will be so recorded.

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

#### YEAS—44

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

#### NAYS—2

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

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

#### BILL OVER IN ORDER

**HB 1878** — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

### 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:

#### MEMBER OF THE BOARD OF TRUSTEES OF FARVIEW STATE HOSPITAL

January 24, 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 Miss Patricia K. Robinson, 4920 Locust Street, Philadelphia 19139, Philadelphia County, Eighth Senatorial District, for appointment as a member of the Board of Trustees of Farview State Hospital, to serve until the third Tuesday of January, 1981, and until her successor is appointed and qualified, vice Francis P. Monahan, Carbondale, deceased.

MILTON J. SHAPP.

#### MEMBER OF THE PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY

February 24, 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 Honorable J. Dean Polen, Apartment 802, George Washington Hotel, Washington 15301, Washington County, Forty-sixth Senatorial District, for reappointment as a member of The Pennsylvania Industrial Development Authority, to serve until December 1, 1984, and until his successor shall be duly appointed and qualified.

MILTON J. SHAPP.

#### MEMBERS OF THE STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

February 17, 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 the following for appointment as members of the State Board of Examiners of Nursing Home Administrators:

Dr. John E. Mannarelli, O.S. (Osteopathic Physician and Surgeon), 5630 King Road, Erie 16509, Erie County (Reappointment), Forty-ninth Senatorial District, to serve until November 19, 1980, and until his successor is appointed and qualified.

Cosmo P. Morabito (County Facility), 210 Woodbine Drive, Beaver 15009, Beaver County, Forty-seventh Senatorial District, to serve until November 19, 1980, and until his successor is appointed and qualified, vice Val E. Miglioretti, Carnegie, whose term expired.

MILTON J. SHAPP.

#### MEMBER OF THE PENNSYLVANIA BOARD OF PSYCHOLOGIST EXAMINERS

February 27, 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 the following for reappointment as a member of the Pennsylvania Board of Psychologist Examiners:

Dr. J. Marshall Brown (Research and Teaching), 401 Dogwood Terrace, Easton 18042, Northampton County, Eighteenth Senatorial District, to serve until December 24, 1980, and until his successor is appointed and qualified.

MILTON J. SHAPP.

#### MEMBER OF THE STATE CONSERVATION COMMISSION

February 9, 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 David B. Shepler (Farmer Member), R. D. No. 1, Champion 15622, Fayette County, Thirty-second Senatorial District, for appointment as a member of the State Conservation Commission, to serve until January 30, 1982, and until his successor is appointed and qualified, pursuant to Act 227, approved November 8, 1976.

MILTON J. SHAPP.

#### MEMBER OF THE STATE TRANSPORTATION COMMISSION

February 24, 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 Harold G. Reslink (Republican), 5242 Peach Street, Erie 16509, Erie County, Forty-ninth Senatorial District, for appointment as a member of the State Transportation Commission, to serve until February 7, 1980, and until his successor shall have been appointed and qualified, vice Henry F. Huth, Lancaster, resigned.

MILTON J. SHAPP.

#### DISTRICT JUSTICE OF THE PEACE

February 1, 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 John E. Mohler, 1042 Union Street, Lancaster 17603, Lancaster County, Thirteenth Senatorial District, for appointment as District Justice of the Peace in and for the County of Lancaster, Class 1, District 02, to serve until the first Monday of January, 1980, vice Peter S. Schweich, Lancaster, retired.

MILTON J. SHAPP.

#### DISTRICT JUSTICE OF THE PEACE

February 16, 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 Jane Reapsome Dyar, Box 37, Ellittsburg 17024, Perry County, Thirty-third Senatorial District, for appointment as District Justice of the Peace in and for the County of Perry, Class 3, District 05, to serve until the first Monday of January, 1980, vice Helen M. (Pannebaker) Goodling, Loysville, retired.

MILTON J. SHAPP.

### EXECUTIVE NOMINATIONS

#### EXECUTIVE SESSION

Motion was made by Senator ROSS,

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

Which was agreed to.

#### CONSIDERATION OF EXECUTIVE NOMINATIONS

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

### NOMINATIONS TAKEN FROM THE TABLE

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

On the question,

Will the Senate advise and consent to the nominations?

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

#### YEAS—46

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

#### NAYS—0

A constitutional 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

#### BILLS OVER IN ORDER

HB 235, SB 292, HB 642, SB 677, HB 804, 858, 885, SB 889, 891, 995, HB 1106, SB 1239 and HB 1633 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

### UNFINISHED BUSINESS

#### REPORTS FROM COMMITTEES

Senator REIBMAN, from the Committee on Education, reported, as committed, SB 1214.

Senator ARLENE, from the Committee on Labor and Industry, reported, as committed, SB 1312 and HB 209.

### ANNOUNCEMENTS BY THE SECRETARY

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

#### SENATE OF PENNSYLVANIA

#### COMMITTEE MEETINGS

WEDNESDAY, MARCH 1, 1978

10:00 A.M. BUSINESS AND COM- Senate Majority

MERCE (Public Hearing on Senate Bill No. 1147)	Caucus Room	LABOR AND INDUSTRY Committee meeting (to consider Senate Bills No. 1022, 1174 and House Bill No. 711)	Caucus Room
10:30 A.M. STATE GOVERNMENT (to consider House Bill No. 391)	Room 350		
THURSDAY, MARCH 2, 1978		THURSDAY, MARCH 9, 1978	
10:00 A.M. APPROPRIATIONS (Budget Hearing with the Department of Military Affairs)	Room 350	10:30 A.M. STATE GOVERNMENT (Public Hearing on Senate Bill No. 1262)	Senate Majority Caucus Room
11:00 A.M. APPROPRIATIONS (Budget Hearing with the State Council of Civil Defense)	Room 350	TUESDAY, MARCH 14, 1978	
1:00 P.M. APPROPRIATIONS (Budget Hearing with the Historical & Museum Commission)	Room 350	10:30 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on House Bill No. 1294)	Senate Majority Caucus Room
2:00 P.M. APPROPRIATIONS (Budget Hearing with the Pennsylvania Securities Commission)	Room 350	WEDNESDAY, MARCH 15, 1978	
FRIDAY, MARCH 3, 1978		9:30 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on the nomination of Aldo Colautti as Secretary of Public Welfare)	Senate Minority Caucus Room
10:00 A.M. APPROPRIATIONS (Budget Hearing with the Department of State)	Room 350	10:30 A.M. STATE GOVERNMENT (Public Hearing on Senate Bill No. 1196)	Senate Majority Caucus Room
11:30 A.M. APPROPRIATIONS (Budget Hearing with the Insurance Department)	Room 350	TUESDAY, MARCH 21, 1978	
1:30 P.M. APPROPRIATIONS (Budget Hearing with the State Tax Equalization Board)	Room 350	9:30 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on Senate Bill No. 979)	Senate Majority Caucus Room
TUESDAY, MARCH 7, 1978		MONDAY, MARCH 27, 1978	
10:30 A.M. JUDICIARY (to consider Senate Bills No. 1094, 1148, 1212 and 1246)	Senate Minority Caucus Room	1:30 P.M. APPROPRIATIONS (Budget Hearing with Department of Health)	Senate Majority Caucus Room
11:00 A.M. STATE GOVERNMENT (to consider Senate Bills No. 272, 379, 521, 694, 870, 1043, 1169; Senate Resolution No. 75; House Bills No. 993, 1239 and 1939)	Senate Majority Caucus Room	3:00 P.M. APPROPRIATIONS (Budget Hearing with the Drug Council)	Senate Majority Caucus Room
WEDNESDAY, MARCH 8, 1978		TUESDAY, MARCH 28, 1978	
9:30 A.M. CONSUMER AFFAIRS (Public Hearing on the qualifications of W. Wilson Goode as a member of the Public Utility Commission)	Senate Majority Caucus Room	9:30 A.M. APPROPRIATIONS (Budget Hearing with the Department of Public Welfare)	Senate Majority Caucus Room
11:00 A.M. Recessed meeting of the	Senate Minority	9:30 A.M. APPROPRIATIONS (Budget Hearing with the Department of Agriculture)	Senate Minority Caucus Room
		11:30 A.M. APPROPRIATIONS (Budget Hearing with the Milk Marketing Board)	Senate Minority Caucus Room
		1:00 P.M. APPROPRIATIONS (Budget Hearing with the Department of Revenue)	Senate Minority Caucus Room



3:00 P.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
Department of Transportation)

WEDNESDAY, MARCH 29, 1978

9:30 A.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
Department of Environmental Resources)

9:30 A.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
Auditor General)

11:00 A.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
State Treasurer)

1:00 P.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
Department of Community Affairs)

1:30 P.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
the State Police)

3:00 P.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
the Department of Commerce)

3:00 P.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
the State Employees Retirement Board)

THURSDAY, MARCH 30, 1978

9:30 A.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
the Department of Justice)

9:30 A.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
the School Employees' Retirement System)

11:00 A.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
Department of Labor and Industry)

1:00 P.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
Temple University)

1:30 P.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
Department of General Services)

2:00 P.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
Lincoln University)

3:00 P.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
Governor's Office)

3:00 P.M. APPROPRIATIONS Senate Minority  
(Budget Hearing with the Caucus Room  
Board of Parole)

FRIDAY, MARCH 31, 1978

9:30 A.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
Department of Education - including State-owned Colleges)

1:30 P.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
University of Pittsburgh)

2:30 P.M. APPROPRIATIONS Senate Majority  
(Budget Hearing with the Caucus Room  
Pennsylvania State University)

THURSDAY, APRIL 6, 1978

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

### ADJOURNMENT

Senator MESSINGER. Mr. President, I move that the Senate do now adjourn until Wednesday, March 1, 1978, at 11:00 a.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 6:25 p.m., Eastern Standard Time.