

# Legislative Journal

TUESDAY, SEPTEMBER 19, 1978

Session of 1978

162nd of the General Assembly

Vol. 1, No. 46

## SENATE

TUESDAY, September 19, 1978.

The Senate met at 2:00 p.m., Eastern Daylight Saving Time.

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

## PRAYER

The Chaplain, The Reverend Father FRANCIS J. OPPTS, Pastor of St. Casimer Catholic Church, Shenandoah, offered the following prayer:

Let us pray:

O Lord, the whole world is full of Your glory. We commend our country to Your merciful care, that we may follow Your guidance and live in peace.

Give to the President of these United States, the Governor of this Commonwealth, the Members of this Senate and to all authority, wisdom and strength to know and do Your Holy Will. Fill them with a love of truth, honesty and righteousness. Make them always remember that they are Your servants called to lead Your people in the fear of Your just judgments. Amen.

## JOURNAL APPROVED

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

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

## HOUSE MESSAGES

### HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 1846**, which was referred to the Committee on Labor and Industry.

He also presented for concurrence **HB 2110**, which was referred to the Committee on Law and Justice.

He also presented for concurrence **HB 2492**, which was referred to the Committee on State Government.

### SENATE BILL RETURNED WITH AMENDMENTS

He also returned to the Senate **SB 1481**, with the information that the House has passed the same with amendments in which the concurrence of the Senate is requested.

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

## HOUSE CONCURS IN SENATE BILLS

He also returned to the Senate **SB 1053** and **1416**, with the information that the House has passed the same without amendments.

## BILLS SIGNED

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

**SB 1053** and **1416**.

## REPORTS FROM COMMITTEES

Senator MELLOW, from the Committee on Environmental Resources, reported, as committed, **SB 9, 1539, 1630, HB 133, 471, 1508, 1673** and **1859**; as amended, **HB 552, 1778** and **1880**.

Senator SMITH from the Committee on Appropriations, rereported, as committed, **SB 86, 87, 1350, HB 1785, 1834** and **2027**; as amended, **HB 80**; reported, as committed, **HB 2207** and **2542**.

## BILL REREFERRED

Senator MELLOW, from the Committee on Environmental Resources, returned to the Senate **HB 51**, which was rereferred to the Committee on Appropriations.

## RESOLUTIONS REPORTED FROM COMMITTEE

Senator MESSINGER, from the Committee on Rules and Executive Nominations, reported without amendment, the following Senate Resolutions, numbered and entitled:

**Serial No. 96**—Abolishing Senatorial Scholarships.

**Serial No. 117**—Urging the Department of General Services and Auditor General to investigate operations of the Commonwealth automotive fleet.

**Serial No. 118**—Urging the Governor to take appropriate action and investigate circumstances and trials of John Kehoe and other members of the "Mollie Maguires".

He also, from the Committee on Rules and Executive Nominations, reported without amendment, the following Senate Concurrent Resolutions, numbered and entitled:

**Serial No. 221**—Urging the United States Olympics Committee to investigate Soviet Union's emigration report

that no exit visas will be issued after January 1, 1979.

**Serial No. 222**—Directing the Joint State Government Commission to study requirements, operations and procedures of the private detective business in Pennsylvania.

He also, from the Committee on Rules and Executive Nominations, reported without amendment, the following House Concurrent Resolution, numbered and entitled:

**No. 196**—General Assembly urge Olympic Committee halt the exclusion of Israel from the 1980 Olympic games.

### BILLS INTRODUCED AND REFERRED

Senators REIBMAN, MESSINGER, SWEENEY and O'PAKE presented to the Chair **SB 1638**, entitled:

An Act creating a memorial to the late State Senator Wilmot E. Fleming by creating a postsecondary financial aid program for merit scholars to be known as the Wilmot E. Fleming Memorial Merit Scholarship Program, providing for competitive undergraduate Fleming scholars and nomination of Senate Graduate Merit Scholars and House of Representatives Graduate Merit Scholars, phasing out the practice of awarding State Senatorial Scholarships, and providing for administration of this act.

Which was committed to the Committee on Education.

Senators MURRAY and McKINNEY presented to the Chair **SB 1639**, entitled:

An Act authorizing the Department of General Services, with the approval of the Governor, to convey a tract of land in Hazleton, Luzerne County, Pennsylvania to the Hazleton-Nanticoke MH/MR Center, Inc.

Which was committed to the Committee on State Government.

Senators HAGER and HOWARD presented to the Chair **SB 1640**, entitled:

An Act creating the Pennsylvania Horse Racing Commission; defining the jurisdiction of the commission; imposing powers and duties thereon; providing for and regulating harness racing and thoroughbred horse racing; providing for the establishment and operation of harness plants and thoroughbred horse racing plants subject to local option; imposing taxes on the revenues of such plants; disposing of all moneys received by the commission and all moneys collected from taxes; providing for the disposition of funds; and authorizing the imposition of penalties for violations.

Which was committed to the Committee on State Government.

Senators GEKAS, McKINNEY, HOPPER and CORMAN presented to the Chair **SB 1641**, entitled:

An Act amending the act of November 26, 1975 (P. L. 438, No. 124), entitled "Child Protective Services Law," providing for the release of certain records to the police.

Which was committed to the Committee on Aging and Youth.

Senator DWYER presented to the Chair **SB 1642**, entitled:

An Act amending Title 22 (Detectives and Private Police) of the Pennsylvania Consolidated Statutes, further providing for the appointment of private police officers by nonprofit organizations.

Which was committed to the Committee on Law and Justice.

Senators COPPERSMITH and DOUGHERTY presented to the Chair **SB 1643**, entitled:

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), entitled "The Controlled Substance, Drug, Device and Cosmetic Act," further regulating the sale at retail or dispensing of controlled substances.

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

### PERMISSION TO ADDRESS SENATE

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

Senator EARLY. Mr. President, I am trying to keep intact an eight-year perfect attendance record. Unfortunately, I am not feeling well today. Am I correct in assuming that if I do not return after caucus, I will be considered present for today's Session?

The PRESIDENT. Certainly, Senator. As far as I am concerned, you will be present for today's Session. The fact that you will not be able to vote because of illness will be noted in the record later in the day.

### RECESS

Senator MESSINGER. Mr. President, at this time I request a recess of the Senate for the purpose of a Democratic caucus with the expectation that we will begin about 3:00 o'clock. The Members will be notified of the actual time of meeting over the public address system. We expect to return to the floor at approximately 4:00 o'clock p.m.

Senator STAUFFER. Mr. President, I would call a caucus of the Republican Party for 2:30 p.m. in the Minority caucus room. I would remind the Members to be prompt because we will be interviewing a nominee of the Governor for the Superior Court.

The PRESIDENT. Senator Stauffer has asked the Republican Members of the Senate to meet promptly at 2:30 p.m. for a caucus in their regular caucus room. Senator Messinger has asked the Democratic Members to stand by for a call for caucus which will probably be issued about 3:00 o'clock because the caucus room is currently in use.

This Senate stands in recess until 4:00 p.m. this afternoon.

### AFTER RECESS

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

### RECESS

Senator MESSINGER. Mr. President, I request a recess of the Senate until the call of the Chair.

The PRESIDENT. In order not to interrupt the very important meeting of the Committee on State Government, the Session of today will resume promptly at 10:00 a.m. tomorrow for the purpose of proceeding with the consideration of the

Calendar. This Session will stand in recess pending the call of the Chair. Please stand by for announcements by the respective Leaders.

Senator MESSINGER. Mr. President, at this time I wish to call a caucus of the Democratic Members, the caucus to be held in the Minority caucus room to the rear of the Senate Chamber.

Senator HAGER. Mr. President, we have already caucused. Marked copies of the Calendar will be provided to those Members of the Republican caucus who are in the meeting of the Committee on State Government right now. The Democratic Members are certainly welcome to the use of the Republican caucus room.

I would like to remind our Members that, although there will be a Democratic caucus called at 9:30 tomorrow morning, we will be voting today's Session tomorrow probably at 10:30. All Members should be here on the floor for that.

The PRESIDENT. We are hoping by 10:00, Senator Hager.

Let me repeat what has already been said so that all the Members understand.

The important meeting of the Committee on State Government will continue without interruption. This meeting is now taking place in the Majority caucus room. In order not to interrupt that meeting and in order not to be uncertain about when we will return, this Session will recess pending the call of the Chair which will be expected at 10:00 a.m. tomorrow at which time we will proceed to the immediate consideration of today's Calendar.

Senator Messinger has asked the Democratic Members who are not tied up in the meeting of the Committee on State Government to come now to the Republican caucus room, just off the Senate floor, for the purpose of beginning to mark the Calendar so that we may move expeditiously into the voting at tomorrow's Session at 10:00 o'clock.

Senator Hager has advised the Members of his caucus that the Calendar has been marked and either he or some other member of the leadership will confer with those Members who are tied up in meeting of the Committee on State Government.

It is expected that we will work on today's Calendar promptly at 10:00 a.m. tomorrow. This Senate stands in recess pending the call of the Chair.

#### AFTER RECESS

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

#### ANNOUNCEMENT BY THE PRESIDENT

The PRESIDENT. For the information of the Members and anyone else present, this day had been planned as a Wednesday consent day and several of the Members have commitments elsewhere.

There is a relatively large delegation that is in Washington dealing with some highway problems and, I understand, some other legislative commitments. There has been an agreement that those Members could be voted by the respective leadership. For the purpose of telling us who is on those missions and

who will be voted on legislative leave, the Chair first recognizes Senator Scanlon.

#### SENATOR SCANLON TO VOTE FOR MEMBERS ON LEGISLATIVE LEAVE

Senator SCANLON. Mr. President, I request legislative leaves of absence for Senator Ross, Senator Stapleton, Senator McCormack, Senator Lynch, Senator Reibman, Senator Romanelli, Senator Messinger and Senator Smith.

The PRESIDENT. The Chair hears no objection and the request is granted.

#### SENATOR HAGER TO VOTE FOR MEMBERS ON LEGISLATIVE LEAVE

Senator HAGER. Mr. President, I would ask for legislative leaves of absence for Senator Holl and Senator Manbeck for the entire Session and for Senator Bell until he is able to come to us from a committee meeting in which he is presently at work.

I will be voting Senator Holl on all matters, Senator Manbeck only on one matter of scholarship should it come before the Body, and I will be voting Senator Bell until he returns to the Chamber.

The PRESIDENT. Thank you, Senator. The Chair hears no objection and the request is granted.

#### CALENDAR

##### REPORT OF COMMITTEE OF CONFERENCE

##### BILL OVER IN ORDER

**HB 1841** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

##### THIRD CONSIDERATION CALENDAR

##### BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 122 (Pr. No. 2497)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

Senator CORMAN. Mr. President, I rise to speak in opposition to House Bill No. 122 and the accompanying House Bill No. 123. These bills would place an additional expense on the taxpayers and on county government for appointed people—these are not elected people—the public defenders.

The expense does not seem that great. It says "For expenses not to exceed \$100," but when you consider the expense of attending the conventions that the public defenders will attend at county expense it does add up. The county commissioners are opposed to this legislation that continues to add appointed officials to the list of those people who can have statewide organizations at the county's expense.

Mr. President, I would encourage my fellow Senators to vote against these bills.

Senator KELLEY. Mr. President, I do not very often disagree

with my present colleague and former colleague on the position of county commissioners, but I would urge my colleagues to vote in the affirmative on this and the successive bill. Although there will be an initial cost it will be very minimal. We are dealing here with a constitutional office not just a statutory one, the constitutional office of the public defender. I believe to be fair and equitable at least in our responsibilities, we should equate the public defenders with the prosecutorial offices of the district attorneys who have these associations. Therefore, I believe, at the very least, common judgment and understanding of our government at the local levels would be to vote in the affirmative.

The PRESIDENT. The Chair would like to beg the indulgence of the Members. This is going to be a very difficult day. There is a great deal of legislation. We are voting people by agreement, which is perfectly proper in accordance with the Rules, but it gets terribly difficult calling the roll. The Members are not cooperating.

If anyone wishes to do anything, please do it now. Then, let us proceed and call the roll with some care.

Senator SNYDER. Mr. President, on the bills before us I believe I quarrel a little bit with the equating of the gentleman from Westmoreland, Senator Kelley, the district attorneys with the public defenders. I believe we must always remember that the district attorneys, being on the law enforcement side, carry a heavier burden at all times; they must prove a person guilty which, under our law, is a heavy burden and should be. I believe we owe them, in a sense, the right to organize and to have their county conventions but I do not believe we owe the same duty to the public defenders and I would agree with the gentleman from Centre, Senator Corman, on the issue.

And the question recurring,  
Shall the bill pass finally?

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

Senator MELLOW. Mr. President, I can tell the Chair that the gentleman from Northumberland, Senator Kury, the gentleman from Delaware, Senator Sweeney, and the gentleman from Delaware, Senator Bell, are downstairs in the public meeting of the Committee on Consumer Affairs and do not even realize there is a roll call being taken.

The PRESIDENT. We will be at ease for just a minute and make an attempt to communicate with them.

Senator Bell has already been voted by Senator Hager.  
(The Senate was at ease.)

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

YEAS—29

|              |            |            |            |
|--------------|------------|------------|------------|
| Arlene,      | Lewis,     | Nolan,     | Scanlon,   |
| Coppersmith, | Lynch,     | Noszka,    | Schaefer,  |
| Fumo,        | McCormack, | O'Pake,    | Smith,     |
| Gurzenda,    | McKinney,  | Orlando,   | Stapleton, |
| Hankins,     | Mellow,    | Reibman,   | Stout,     |
| Jubelirer,   | Messinger, | Romanelli, | Sweeney,   |
| Kelley,      | Murray,    | Ross,      | Zemprelli, |
| Kury,        |            |            |            |

NAYS—17

|            |        |         |           |
|------------|--------|---------|-----------|
| Andrews,   | Early, | Holl,   | Moore,    |
| Bell,      | Gekas, | Hopper, | Snyder,   |
| Corman,    | Hager, | Howard, | Stauffer, |
| Dougherty, | Hess,  | Kusse,  | Tilghman, |
| Dwyer,     |        |         |           |

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

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

**HB 123 (Pr. No. 2498)** — 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—29

|              |            |            |            |
|--------------|------------|------------|------------|
| Arlene,      | Lewis,     | Nolan,     | Scanlon,   |
| Coppersmith, | Lynch,     | Noszka,    | Schaefer,  |
| Fumo,        | McCormack, | O'Pake,    | Smith,     |
| Gurzenda,    | McKinney,  | Orlando,   | Stapleton, |
| Hankins,     | Mellow,    | Reibman,   | Stout,     |
| Jubelirer,   | Messinger, | Romanelli, | Sweeney,   |
| Kelley,      | Murray,    | Ross,      | Zemprelli, |
| Kury,        |            |            |            |

NAYS—17

|            |        |         |           |
|------------|--------|---------|-----------|
| Andrews,   | Early, | Holl,   | Moore,    |
| Bell,      | Gekas, | Hopper, | Snyder,   |
| Corman,    | Hager, | Howard, | Stauffer, |
| Dougherty, | Hess,  | Kusse,  | Tilghman, |
| Dwyer,     |        |         |           |

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

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

**HB 199 (Pr. No. 3688)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

YEAS—45

|              |            |            |            |
|--------------|------------|------------|------------|
| Andrews,     | Hankins,   | McKinney,  | Ross,      |
| Arlene,      | Hess,      | Mellow,    | Scanlon,   |
| Bell,        | Holl,      | Messinger, | Schaefer,  |
| Coppersmith, | Hopper,    | Moore,     | Smith,     |
| Corman,      | Howard,    | Murray,    | Snyder,    |
| Dougherty,   | Jubelirer, | Nolan,     | Stapleton, |
| Dwyer,       | Kury,      | Noszka,    | Stauffer,  |

|           |            |            |            |
|-----------|------------|------------|------------|
| Early,    | Kusse,     | O'Pake,    | Stout,     |
| Fumo,     | Lewis,     | Orlando,   | Sweeney,   |
| Gekas,    | Lynch,     | Reibman,   | Tilghman,  |
| Gurzenda, | McCormack, | Romanelli, | Zemprelli, |
| Hager,    |            |            |            |

## NAYS—1

Kelley,

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

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

**HB 504 (Pr. No. 3680)** — Considered the third time and agreed to,

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

On the question,

Shall the bill pass finally?

The yeas and nays were taken agreeable 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,  |
| Coppersmith, | Hopper,    | Moore,     | Smith,     |
| Corman,      | Howard,    | Murray,    | Snyder,    |
| Dougherty,   | Jubelirer, | Nolan,     | Stapleton, |
| Dwyer,       | Kelley,    | Noszka,    | Stauffer,  |
| Early,       | Kury,      | O'Pake,    | Stout,     |
| Fumo,        | Kusse,     | Orlando,   | Sweeney,   |
| Gekas,       | Lewis,     | Reibman,   | Tilghman,  |
| Gurzenda,    | Lynch,     | Romanelli, | Zemprelli, |
| Hager,       | McCormack, |            |            |

## NAYS—0

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

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

## BILLS OVER IN ORDER

**HB 668, 675 and 872** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

## BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 884 (Pr. No. 1557)** — 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—46

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

## NAYS—0

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

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

## BILL OVER IN ORDER TEMPORARILY

**HB 885** — Without objection, the bill was passed over in its order temporarily at the request of Senator SWEENEY.

## BILLS OVER IN ORDER

**SB 889, 890 and 891** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

## BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 977 (Pr. No. 2086)** — 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 JUBELIRER. Mr. President, I rise in opposition to Senate Bill No. 977 and ask that the Members carefully consider the implications of Senate Bill No. 977. This bill, Mr. President, will remove the requirement that the Commissioner of Mental Health be a psychiatrist or a medical doctor and permit someone not of that professional status to be the Commissioner of Mental Health, such as a sociologist, psychologist, social worker or one who, in my opinion, Mr. President, will become more in tune with the bureaucratic process rather than the professional status that I believe a Commissioner of Mental Health has.

There has been discussion for many years, Mr. President, as to who is best able to be a Commissioner of Mental Health, who is best able to deal with the problems and the policies made by the Commissioner of Mental Health; whether it should be a professional such as a psychiatrist, a medical doctor or whether it can be lessened to one who would become more in tune with the system.

I believe, Mr. President, that, with the requirements of the Commissioner of Mental Health, one who develops plans and programs, one who makes recommendations with respect to the

general policy of the Commonwealth's mental health program, one who deals in the language of the Public Welfare Code, is someone who must have an intimate understanding of the various facets of psychiatric treatment.

I suggest, Mr. President, that the Commissioner of Mental Health should be a professional of the capabilities and requirements that a psychiatrist possesses and not one who would become more in tune with the bureaucratic process and not one who does not have the expertise.

I believe this is an extremely important piece of legislation, Mr. President, and would ask my colleagues to carefully consider voting on this bill and oppose the change of the de-professionalization of the Commissioner of Mental Health, which this bill would allow if it were to pass. I would hope that the Members might consider voting "no" for such a policy.

Senator COPPERSMITH. Mr. President, in answer to the gentleman from Blair, Senator Jubelirer, I would like to point out that the requirement presently existing in the law is that the Commissioner of Mental Health shall be a psychiatrist with at least seven years of training and experience in the care of patients. In other words, any psychiatrist who has treated patients for seven years meets all the required qualifications.

I have been Chairman of the Committee on Public Health and Welfare for almost eight years and have learned that the job of Commissioner of Mental Health is one that requires great administrative ability. He is dealing with county administrators, with county programs and the skill in caring for patients is really not an essential element of that job. An essential element of that job is to know all the different modalities of treatment, not just psychiatric treatment, but community mental health programs, their requirements, their needs, the professionals that can be used to provide proper mental health programs.

Mr. President, I believe the amendment which says that the commissioner shall be a mental health professional with education at the doctorate level and broad administrative experience in the field of mental health is upgrading the requirements for this position.

I should also point out that, because of the salary, it is very difficult at times to get psychiatrists to work at approximately the \$40,000 or \$42,000 salary paid to the Commissioner of Mental Health. We limit ourselves tremendously when we limit it to psychiatrists because most psychiatrists are not willing to work at the salary the State can pay.

Mr. President, I believe this is a step forward in setting forth standards for the Commissioner of Mental Health and I urge support of this bill.

Senator BELL. Mr. President, in answer to my good friend from Cambria, Senator Coppersmith: In the Army, for many years, a medical doctor has always been the commanding officer of an Army Hospital. How does he handle the administrative side? His executive officer is usually a medical administrative specialist. Any psychiatrist can easily have access to administrative ability by having such a person as a key subordinate.

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—34

|              |            |            |            |
|--------------|------------|------------|------------|
| Andrews,     | Hankins,   | Messinger, | Scanlon,   |
| Arlene,      | Howard,    | Murray,    | Schaefer,  |
| Coppersmith, | Kelley,    | Nolan,     | Smith,     |
| Corman,      | Kury,      | Noszka,    | Snyder,    |
| Dougherty,   | Lewis,     | O'Pake,    | Stapleton, |
| Dwyer,       | Lynch,     | Orlando,   | Stout,     |
| Early,       | McCormack, | Romanelli, | Sweeney,   |
| Fumo,        | McKinney,  | Ross,      | Zemprelli, |
| Gurzenda,    | Mellow,    |            |            |

## NAYS—12

|        |         |            |           |
|--------|---------|------------|-----------|
| Bell,  | Hess,   | Jubelirer, | Reibman,  |
| Gekas, | Holl,   | Kusse,     | Stauffer, |
| Hager, | Hopper, | Moore,     | Tilghman, |

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

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

**SB 1030 (Pr. No. 2136)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

## YEAS—44

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

## NAYS—2

|       |         |
|-------|---------|
| Bell, | Kelley, |
|-------|---------|

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 1156 and HB 1171** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

## BILL OVER IN ORDER AND RECOMMITTED

**SB 1295** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

In accordance with Senate Rule 2, Order of Business, as amended by Senate Resolution, Serial No. 13, Session of 1969, the bill was recommitted to the Committee on Rules and Executive Nominations.

**BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE**

**SB 1536 (Pr. No. 1982)** — 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,     | Hankins,   | McKinney,  | Ross,      |
| Arlene,      | Holl,      | Mellow,    | Scanlon,   |
| Coppersmith, | Hopper,    | Messinger, | Schaefer,  |
| Corman,      | Howard,    | Moore,     | Smith,     |
| Dougherty,   | Jubelirer, | Murray,    | Stapleton, |
| Dwyer,       | Kelley,    | Nolan,     | Stauffer,  |
| Early,       | Kury,      | Noszka,    | Stout,     |
| Fumo,        | Kusse,     | O'Pake,    | Sweeney,   |
| Gekas,       | Lewis,     | Orlando,   | Tilghman,  |
| Guizenda,    | Lynch,     | Reibman,   | Zemprelli, |
| Hager,       | McCormack, | Romanelli, |            |

**NAYS—3**

Bell, Hess, Snyder,

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

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

**SB 1580 (Pr. No. 2087)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

Senator O'PAKE. Mr. President, my remarks on Senate Bill No. 1580 would also be relevant in the next proposals, Senate Bill No. 1581, Senate Bill No. 1582, Senate Bill No. 1583, Senate Bill No. 1584 and Senate Bill No. 1586.

These bills are the result of the special Senate committee investigating Pennsylvania's drug laws which filed its report in May of this year.

One of the problems we uncovered during that nine month investigation was the fact that there is a real problem in Pennsylvania with the diversion of legitimate drugs into the illicit market.

Another problem is the fraudulent prescription of drugs by practitioners being filled by pharmacists throughout Pennsylvania. As a matter of fact, after this committee filed its report in May, the Philadelphia Daily News did an expose in which a reporter posed as a Medical Assistance recipient, purchased a Medical Assistance card and then went to six different doctors

in Philadelphia and was able to have prescribed for him very dangerous drugs. Apparently, these drugs were prescribed by physicians who did not even care whether or not the person was the supposed Medical Assistance recipient. They were prescribed after a very brief and cursory physical examination. That means that the taxpayers of Pennsylvania, number one, subsidize the doctors who did the examination and prescription of the reporter in that case, the person posing as a welfare recipient. The State, then, through its Department of Public Welfare, also subsidized the pharmacist who filled the prescription and then this reporter was able to sell those drugs, on the street, for something like \$2 or \$3 a pill, and make a profit off a double subsidy of the State's Department of Public Welfare.

The problem has been, Mr. President and colleagues, that our professional licensing boards have been lax in taking away the licenses of those few unscrupulous professionals who make this kind of welfare drug racket possible.

These six measures, which refer to the veterinarians, the dental law, pharmacy act, medical practice act, nursing law and practical nursing law, will require those particular boards to revoke the license upon conviction of a drug related felony under Act 64.

During the hearings we were told and I have statistics which indicate that there were twelve referrals to the Board of Osteopathy, but only one license was revoked. In eleven cases no action was taken. These were as of February and maybe they have been corrected since then.

Medical doctors: seventeen referrals to the board, only two licenses revoked; thirteen, no action.

Veterinarians: one referral to the board, one, no action.

Registered nurses: seven referrals to the board after convictions of violating the drug act; one license voluntarily surrendered; six cases, no action.

Pharmacists: five convictions, five referrals to the board; one fifteen-day suspension, four cases where no action was taken.

The point is, Mr. President, if we are really serious about controlling the illicit drug racket in Pennsylvania, one of the places where we must start is with the professional and licensing boards who control the license to practice. It is our contention, and the committee was unanimous in this, that we must require these boards to take action and to revoke the license or prohibit the practice of any of the unscrupulous medical practitioners who have been found guilty of a drug related felony.

Mr. President, I urge unanimous support for these bills and hope that the House can act on them before the end of the Session.

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

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

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

Senator NOLAN. Mr. President, I notice in reading this package of bills that some spell out the automatic suspension and revocation of license while others do not.

I would ask the gentleman why some of them are automatically suspended and yet the others are not. In my opinion,

unless we have it automatic in all these bills, we are leaving it up to the board, which has it before them at the present time.

Senator O'PAKE. Mr. President the recommendation of the drug investigation committee was that in the areas where we are involved with convictions of drug related felonies, there should be an automatic revocation. We did not address the question of other crimes, some of which are covered under the "may" provisions of the Act. If the gentleman from Allegheny, Senator Nolan, would have legislation that would seek to propose the same mandatory revocation for other crimes, that should be considered. But the problem is so immediate and so pressing with the drug traffic in Pennsylvania that I believe we should, at least, face that question and mandate the automatic revocation where there is a drug related conviction under the Controlled Substance, Drug, Device and Cosmetic Act of 1972.

Senator NOLAN. Mr. President, it seems to me that there should be an automatic suspension in all of these bills when it pertains to the drugs and I do not find that there.

The PRESIDENT. The question raised by Senator Nolan is that, in his judgment, there is not an automatic suspension upon the conviction of a drug related crime and that is the point, I believe, on which he seeks to have some explanation.

Senator O'PAKE. Mr. President, I do not know to which bill he is referring.

Senator NOLAN. Mr. President, if I can go by the title of the bill, Senate Bill No. 1581 provides for the automatic suspension under the dental law.

The PRESIDENT. We will be at ease for just a minute until Senator O'Pake gets his material.

(The Senate was at ease.)

Senator NOLAN. Mr. President, I thought the gentleman asked me to which bill I referred.

Senator O'PAKE. Mr. President, if the gentleman from Allegheny, Senator Nolan, will look at the content of each of the bills, I believe he will find each of them is consistent and requires or mandates the suspension. He may be looking at the titles which may be misleading. I was not looking at the titles, I was looking at the bills themselves.

Senator NOLAN. Then, Mr. President, according to the sponsor, the gentleman from Berks, Senator O'Pake, every bill in this series calls for automatic suspension or revocation, am I correct?

Senator O'PAKE. That is my understanding, Mr. President, yes, for drug related felony convictions.

Senator NOLAN. Right, Mr. President.

The PRESIDENT. May we be at ease for just a moment?

(The Senate was at ease.)

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

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

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

Senator FUMO. Mr. President, I find one problem area in the bill which I would like to have clarified. I agree with the concept of the legislation, having served as Commissioner of Licensing, and having seen that the boards are usually hard put to suspend or revoke the licenses of their colleagues in

situations such as this. I feel this would go a long way in helping them act in areas they would like to but feel peer pressure.

One of my problems is in the definition of "conviction"—a plea of nolo contendere. I believe in Section 17 of the Drug Device and Cosmetic Act it states in certain first offense situations, if a persons goes under a Section 17 program, he pleads nolo contendere but that plea may be used for nothing else—rather than to make sure that he does not come under that program again.

I would like to know if, by our enacting this legislation, we are now changing that concept of Section 17 as it applies to professionals. In addition, is that really a wise thing to do when Section 17 is designed really for first offenders with minimum problems, not the serious offender, drug user or pusher-type professional we are trying to apprehend?

Senator O'PAKE. Mr. President, in answer to the gentleman's two questions:

First, yes, we are changing the law and we are saying that convictions shall include a finding or verdict of guilty by a judge or jury, a plea or admission of guilt or a plea of nolo contendere.

With regard to the second question as to whether it is wise, I guess we must balance interests here. I believe it is one of the things that professionals should take into account when he is trying to dispose of his criminal matter. Even if it is a first offense, I do not believe that is the kind of professional practitioner we want dispensing drugs that are so easily involved in the illicit drug traffic in Pennsylvania.

Senator FUMO. Mr. President, would this then mean that a practitioner who was caught with, say, marijuana for his own personal use, an individual that Section 17 was designed to take care of, even though he was probably the purest practitioner in the world when it came to drugs and its use in his practice—I do not know the exact degrees one is allowed to have anymore; I do not believe one is allowed to have any—but as far as the conviction is concerned, if a person were caught with marijuana and went into a Section 17 program, it being a first offense, we would not revoke his license to practice forever.

Senator O'PAKE. Mr. President, if the amount of marijuana possessed was of such a quantity as to be a criminal violation and the defendant decided to end the case by pleading guilty or pleading nolo contendere, yes, the intention of this legislation is that that would be grounds for proper action by the proper licensing board. It is one of the things he will have to take into account in deciding how to handle the defense of that case.

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

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

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

Senator BELL. Mr. President, I am going to vote for these bills, however, I was almost knocked out of my chair when the gentleman related an episode concerning a reporter. Did the gentleman say he was from the Philadelphia Inquirer?

Senator O'PAKE. Not this time, Mr. President. This one was



from the Philadelphia Daily News.

Senator BELL. Mr. President, they are owned by the same people.

Did the gentleman say that he obtained a fraudulent State Medicaid card?

Senator O'PAKE. According to the articles, Mr. President, he somehow was able to obtain a Medical Assistance card which obviously was not his own.

Senator BELL. And then, Mr. President, he proceeded and obtained drugs which would be paid for by the State with this card?

Senator O'PAKE. According to the article, Mr. President, he went to physicians and those physicians prescribed dangerous drugs under the law. He was able to have those prescriptions filled by pharmacists who were reimbursed by the Medical Assistance programs. He then sold the drugs, as I understand it, on the street.

Senator BELL. Mr. President, when he obtained those drugs to be paid for by the Commonwealth, is that a criminal offense?

Senator O'PAKE. Mr. President, that is a difficult question.

Senator BELL. Mr. President, it is not difficult for me but I want the gentleman to answer.

Senator O'PAKE. Mr. President, I think, depending upon his intent, if a criminal charge were filed, I assume there would be a defense raised that there was no criminal intent involved. However, I do not feel I should stand in judgment of an individual who may be charged with a criminal offense. I do not know the answer.

Senator BELL. Mr. President, I am asking a question of the Chairman of the Committee on Judiciary of the Senate of Pennsylvania.

The PRESIDENT. His answer is, at this time he does not know the answer, Senator.

Senator O'PAKE. Mr. President, I do not know all the real facts.

The PRESIDENT. Without all the facts, he does not know.

Senator BELL. Mr. President, my next question is: The gentleman said he then sold controlled substances. Is the gentleman qualified to answer whether that is a criminal act or not?

Senator O'PAKE. Mr. President, that would appear to be a criminal act.

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

I would now like to make a statement. We have just had a statement made in the Senate of Pennsylvania that a newspaper reporter fraudulently obtained drugs on more than one occasion to be paid for by the Commonwealth of Pennsylvania. He then sold these drugs. We have had a statement made of the commission of not one crime but, in my opinion, many crimes. Also, in my opinion, the end does not justify the criminal means.

If the gentleman from Berks, Senator O'Pake, will contact the Attorney General or, if he does not care to do so, send me the data and I will contact the Attorney General to request criminal proceedings be taken against a newspaper reporter who has so much disregard for the drug laws and the laws affecting the fraudulent use of Medicaid cards that he feels free

that he can commit crimes at will in order that he can write a story. I do not feel that is freedom of the press.

Senator FUMO. Mr. President, I would just like to point out to the Chair that the gentleman from Erie, Senator Orlando, has pointed out to me privately an interesting portion of this bill which might solve some of the problems that I have with Section 17. It says in here that the board shall immediately suspend or revoke. Hopefully, the boards will act in a reasonable manner if a person does plead nolo contendere under Section 17 for his first offense and perhaps receive a minor suspension.

I would also like to say that the Chamber should look at this legislation carefully over the period of time it is enacted if, in fact, it is and if changes are necessary we should be cognizant of the fact that that danger does exist for abuse.

Senator ORLANDO. Mr. President, I would be the last one to stand up here and defend the reporters or news media, but I believe in this particular case they would have the excuse that this would be investigative reporting and, therefore, they would be absolved of any wrongdoing or criminal activity as a result of it.

Senator BELL. Mr. President, I am astonished that the gentleman from Erie, Senator Orlando, would justify Water-gate.

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—46

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

#### NAYS—0

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

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

**SB 1581 (Pr. No. 2088)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

YEAS—46

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

NAYS—0

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

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

**SB 1582 (Pr. No. 2089)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

YEAS—46

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

NAYS—0

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

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

**SB 1583 (Pr. No. 2090)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

YEAS—46

|          |          |           |       |
|----------|----------|-----------|-------|
| Andrews, | Hankins, | McKinney, | Ross, |
|----------|----------|-----------|-------|

|              |            |            |            |
|--------------|------------|------------|------------|
| Arlene,      | Hess,      | Mellow,    | Scanlon,   |
| Bell,        | Holl,      | Messinger, | Schaefer,  |
| Coppersmith, | Hopper,    | Moore,     | Smith,     |
| Corman,      | Howard,    | Murray,    | Snyder,    |
| Dougherty,   | Jubelirer, | Nolan,     | Stapleton, |
| Dwyer,       | Kelley,    | Noszka,    | Stauffer,  |
| Early,       | Kury,      | O'Pake,    | Stout,     |
| Fumo,        | Kusse,     | Orlando,   | Sweeney,   |
| Gekas,       | Lewis,     | Reibman,   | Tilghman,  |
| Gurzenda,    | Lynch,     | Romanelli, | Zemprelli, |
| Hager,       | McCormack, |            |            |

NAYS—0

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

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

**SB 1584 (Pr. No. 2091)** — 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 bills pass finally?

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,  |
| Coppersmith, | Hopper,    | Moore,     | Smith,     |
| Corman,      | Howard,    | Murray,    | Snyder,    |
| Dougherty,   | Jubelirer, | Nolan,     | Stapleton, |
| Dwyer,       | Kelley,    | Noszka,    | Stauffer,  |
| Early,       | Kury,      | O'Pake,    | Stout,     |
| Fumo,        | Kusse,     | Orlando,   | Sweeney,   |
| Gekas,       | Lewis,     | Reibman,   | Tilghman,  |
| Gurzenda,    | Lynch,     | Romanelli, | Zemprelli, |
| Hager,       | McCormack, |            |            |

NAYS—0

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

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

**SB 1586 (Pr. No. 2092)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

YEAS—46

|              |          |            |           |
|--------------|----------|------------|-----------|
| Andrews,     | Hankins, | McKinney,  | Ross,     |
| Arlene,      | Hess,    | Mellow,    | Scanlon,  |
| Bell,        | Holl,    | Messinger, | Schaefer, |
| Coppersmith, | Hopper,  | Moore,     | Smith,    |

|            |            |            |            |
|------------|------------|------------|------------|
| Corman,    | Howard,    | Murray,    | Snyder,    |
| Dougherty, | Jubelirer, | Nolan,     | Stapleton, |
| Dwyer,     | Kelley,    | Noszka,    | Stauffer,  |
| Early,     | Kury,      | O'Pake,    | Stout,     |
| Fumo,      | Kusse,     | Orlando,   | Sweeney,   |
| Gekas,     | Lewis,     | Reibman,   | Tilghman,  |
| Gurzenda,  | Lynch,     | Romanelli, | Zemprelli, |
| Hager,     | McCormack, |            |            |

NAYS—0

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

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

BILL OVER IN ORDER

**SB 1596** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1601 (Pr. No. 2078)** — 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—44

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

NAYS—2

Corman, Stapleton,

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

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

**SB 1606 (Pr. No. 2083)** — 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—46

|          |          |            |           |
|----------|----------|------------|-----------|
| Andrews, | Hankins, | McKinney,  | Ross,     |
| Arlene,  | Hess,    | Mellow,    | Scanlon,  |
| Bell,    | Holl,    | Messinger, | Schaefer, |

|              |            |            |            |
|--------------|------------|------------|------------|
| Coppersmith, | Hopper,    | Moore,     | Smith,     |
| Corman,      | Howard,    | Murray,    | Snyder,    |
| Dougherty,   | Jubelirer, | Nolan,     | Stapleton, |
| Dwyer,       | Kelley,    | Noszka,    | Stauffer,  |
| Early,       | Kury,      | O'Pake,    | Stout,     |
| Fumo,        | Kusse,     | Orlando,   | Sweeney,   |
| Gekas,       | Lewis,     | Reibman,   | Tilghman,  |
| Gurzenda,    | Lynch,     | Romanelli, | Zemprelli, |
| Hager,       | McCormack, |            |            |

NAYS—0

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

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

BILLS OVER IN ORDER

**HB 1714 and 1762** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 1767 (Pr. No. 2146)** — 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—46

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

NAYS—0

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

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

BILL OVER IN ORDER

**HB 1824** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 1885 (Pr. No. 3765)** — Considered the third time and agreed to,

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

On the question,  
Shall the bill pass finally?

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

## YEAS—46

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

## NAYS—0

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

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

## BILL OVER IN ORDER

**HB 1949** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

## BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 2012 (Pr. No. 3371)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

## YEAS—45

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

## NAYS—1

Bell,

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

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

**HB 2013 (Pr. No. 3372)** — Considered the third time and agreed to,

On the question,  
Shall the bill pass finally?

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

## YEAS—45

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

## NAYS—1

Bell,

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

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

## BILL OVER IN ORDER

**HB 2369** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

## HB 885 CALLED UP

**HB 885 (Pr. No. 1965)** — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 3 of the Third Consideration Calendar by Senator SCANLON.

## BILL ON THIRD CONSIDERATION AMENDED

**HB 885 (Pr. No. 1965)** — Considered the third time,

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

Amend Sec. 1 (Sec. 704), page 2, lines 9 through 11, by striking out "The" in line 9 and both of lines 10 and 11 and inserting: Each council shall organize as soon as possible and shall annually elect a president, vice president and secretary.

Amend Sec. 1 (Sec. 704), page 2, lines 12 through 14, by striking out "Each council shall organize as soon as possible" in line 12, both of lines 13 and 14 and inserting: The members appointed by the Governor may be removed by the Governor for cause.

Amend Sec. 2, page 3, line 1, by striking out "is" and inserting: are

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

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

### SB 292, TOGETHER WITH GOVERNOR'S VETO MESSAGE, TAKEN FROM THE TABLE

**SB 292 (Pr. No. 1997)** — Without objection, Senator SCANLON called from the table **SB 292**, together with the Governor's veto message.

The Clerk read the Governor's message as follows:

July 1, 1978.

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

I return herewith, without my approval, Senate Bill No. 292, Printer's No. 1997, entitled "An Act amending the act of June 13, 1967 (P. L. 31, No. 21) entitled 'Public Welfare Code,' providing for a system for reimbursement for certain medical assistance items and services and **NEGATING A PROPOSED REGULATION RELATING TO MEDICAL ASSISTANCE.**"

This bill amends the Public Welfare Code to provide for a system of prior Departmental approvals before reimbursement can be sought for certain medical assistance items and services. Also, the bill purports to negate a proposed regulation which would have the effect of controlling rising hospital costs.

The ironies of this bill cannot be lost on the General Assembly or the public at large. The prior authority portions of this bill as originally written would serve to contain costs associated with several minor matters concerning medical assistance services and supplies, such as oxygen equipment in the home, dental services and orthopedic shoes. The savings to be achieved by these prior authorizations, while significant, are but nothing compared with the savings to be achieved by the proposed rules on hospital cost containment.

Over the past five years, the average hospital cost skyrocketed from \$70 per day to \$153 per day—an increase of 119%. This increase was more than two and one-half times the rate of inflation in the general economy. Hospital costs consume the lion's share of Medical Assistance expenditures in Pennsylvania. Next year hospital costs are projected to be \$418 million, or more than 60% of the 1978-79 Medical Assistance budget.

Rising hospital costs are a national problem, and federal legislation has been proposed to address this problem. When it became clear that federal legislation to contain hospital costs would not be enacted this year, I proposed a hospital cost containment plan for Pennsylvania.

Now the same General Assembly which has consistently underfunded the Medical Assistance Program has passed Senate Bill No. 292 to block our efforts to hold down the inflationary spiral of hospital costs.

This is fiscal irresponsibility of the highest magnitude which will work to the detriment of health care and services for all the people in Pennsylvania.

The Pennsylvania Cost Containment Plan is not a punitive program. In essence, the Pennsylvania Plan provides reimbursement to hospitals in line with general price increases throughout the economy. The Plan is flexible enough to recognize variations in cost from one institution to another and provides for special adjustments and exceptions where financial hardships can be established.

The Pennsylvania Plan will be implemented on July 1, 1978. The final version of the Plan incorporates modifications recommended by the Hospital Association of Pennsylvania, individual hospitals, Members of the General Assembly and other interested parties.

The Plan is designed to insure that hospitals are reimbursed in a fair and equitable manner while, at the same time, imposing realistic limits on rapidly increasing hospital costs.

The Pennsylvania Plan represents a modest first step toward

slowing down hospital cost increases and bringing them into line with the general economy.

Senate Bill No. 292 blocks that effort. I am compelled to veto this bill so that we can begin to set reasonable limits on hospital costs in Pennsylvania.

MILTON J. SHAPP.

### RECONSIDERATION OF SB 292 THE OBJECTIONS OF THE GOVERNOR TO THE CONTRARY NOTWITHSTANDING

Senator SCANLON. Mr. President, I move that the Senate proceed with the reconsideration of Senate Bill No. 292, Printer's No. 1997, and agree to pass the same, the objections of the Governor to the contrary notwithstanding.

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

The PRESIDENT. It has been moved by the gentleman from Allegheny, Senator Scanlon, seconded by the gentleman from Allegheny, Senator Noszka, that the Senate proceed to reconsider Senate Bill No. 292, Printer's No. 1997, and agree to pass the same, the objections of the Governor to the contrary notwithstanding.

The vote required for this motion is two-thirds of the Senators elected or thirty-four votes.

On the question,

Will the Senate agree to the motion?

Senator SNYDER. Mr. President, I rise in support of this motion to override the Governor's veto. As the Members probably know, the bill originally consisted solely of steps to tighten the welfare system, particularly with respect to authorizing prostheses, medical appliances, orthopedic shoes, dental services, et cetera. On its way through the Legislature it was amended with respect to the Governor's right to impose hospital rates. This matter has become moot in the sense that the Federal Court decision in the Middle District handled the matter.

Therefore, the matter before us really, I believe, is purely the issue of whether to tighten the welfare restrictions. I am told that the best estimate the Department of Public Welfare can give us is that this would save upwards of \$1 million.

It is very rare that we have an opportunity to see, graphically, the misdoings or the mishandling of the system, but, thanks to the Auditor General's investigators, I have here—and will be glad to show to any Member of the Senate—some of the shoes which have been passed off as orthopedic. They are, I am told, shoes which would normally retail for \$8 or \$9. These have been sold for \$39, or at least that is what the State is paying for these shoes, and I have the documentary facts. I have the memoranda of the Auditor General's investigation in this, first in Spanish from the people who got the shoes and also the translation.

The typical situation is reflected by this case in which the citizen said, "My friend told me that they were giving free shoes at the clinic located at Spring Garden, Philadelphia, and I took my three sons to the clinic for a feet examination. The doctor sent them to the foot man in the same building and he squeezed our feet and turned them from side to side and made a

cast for me. No arch supports were given to us. The doctor gave me the address of the shoe store at North Marshall Street. The shoe store informed us that these were orthopedic shoes. No arch supports were given." The memoranda from Blue Cross is also here showing \$39 for these specific shoes. These are just two of many cases in which this happened.

Mr. President, I believe there is one thing we should remember and that is: We frequently criticize the recipients of Medicaid and public assistance but these should not be blamed on them. These should be blamed, frankly, on the vendors; in other words, the doctors who must know what happens in these situations and the shoe stores who sell them at an excessive price.

Further blame should be assigned to the Department of Public Welfare which has known of this for months without really acting upon it.

I believe some credit should be given in this to the people in Auditor General Al Benedict's Department and specifically, John Kerr, the Executive Deputy and Frank DeGarcia, Assistant Director of the Bureau of Investigation. They have been most resourceful in pursuing fraud in the public assistance system and it is only regrettable that the Department has not moved more promptly in this regard.

Mr. President, I strongly urge that my colleagues vote for this resolution to override the Governor's veto.

Senator COPPERSMITH. Mr. President, I also intend to vote to override the Governor's veto because the provision relating to cost control on Medicaid patients in hospitals is now moot because it cannot take effect due to actions before the court and, in Washington, before the Department of Health, Education and Welfare.

The rest of the bill, I agree with the gentleman from Lancaster, Senator Snyder, does mandate some proper controls in regard to prior authorization in obtaining certain medical assistance items.

And the question recurring,

Will the Senate agree to the motion?

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

#### YEAS— 46

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

#### NAYS—0

A constitutional two-thirds majority of all the Senators hav-

ing voted "aye," the question was determined in the affirmative, the objections of the Governor to the contrary notwithstanding.

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

### SB 1204, TOGETHER WITH GOVERNOR'S VETO MESSAGE, TAKEN FROM THE TABLE

**SB 1204 (Pr. No. 1962)** — Without objection, Senator DOUGHERTY called from the table **SB 1204**, together with the Governor's veto message.

The Clerk read the Governor's message as follows:

July 1, 1978.

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

I return herewith, without my approval, Senate Bill No. 1204, Printer's No. 1962, entitled "An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled 'Public School Code of 1949,' providing for diagnostic and evaluative psychological services for the benefit of children attending nonpublic schools in the Commonwealth."

The purpose of this bill is to characterize diagnostic and evaluative psychological services for children as health services and allow them to be furnished free to nonpublic school students upon the premises of the nonpublic schools which they regularly attend. This is a valid purpose which my administration wholeheartedly supports. Unfortunately, the bill contains a number of technical flaws which could impede rather than speed the delivery of psychological services to the school children of Pennsylvania.

First, the bill transfers the existing duty to provide psychological services to nonpublic school students from the intermediate units to the Secretary of Education directly or through the intermediate units. Although there is an existing allocation to the intermediate units to provide these services, there is no similar allocation to the Secretary of Education. Thus, a responsibility is placed on the Secretary which the Secretary has no capacity to fulfill.

Second, this bill requires that diagnostic and evaluative psychological services be provided free to nonpublic school students upon the premises of the nonpublic schools which they regularly attend. However, the bill neither amends nor repeals Section 922.1-A of the Public School Code of 1949 which specifically states, "Such services shall not be provided in a church or in any facility under the control of a sectarian school." Thus, if enacted, the bill would be in direct conflict with existing provisions of State law.

Third, there is very broad and unsubstantiated language in the legislative finding and declaration of policy to the effect that, "Diagnostic and evaluative psychological services to children . . . can best be rendered upon the premises of the school which the child regularly attends, and forcing children to go to other premises in order to have such needed services is found by the General Assembly to be both inadequate and harmful." This legislative finding overlooks the fact that in many circumstances both public and nonpublic school children receive such services through the existing county mental health and mental retardation base service units funded by the Department of Public Welfare. It is conceivable that this finding and declaration of purpose could be construed as prohibiting the delivery of these types of psychological services by the existing mental health system to school children and requiring the Secretary of Education to establish a duplicative system. Assuredly, such result was not intended by the General Assembly.

The proper response to the perceived problem of the statutory prohibition on psychological services being provided by the public school system on the premises of nonpublic schools is

to amend that specific section of the statute which contains that prohibition. Such an amendment can be made without producing the various problems contained in Senate Bill No. 1204, which problems would actually curtail the delivery of psychological services to school children. I am hereby directing the Justice Department to work with the General Assembly in drafting the appropriate amendment to effect the end which the General Assembly wishes to achieve.

For these reasons, the bill is not approved.

MILTON J. SHAPP.

**RECONSIDERATION OF SB 1204  
THE OBJECTIONS OF THE GOVERNOR TO THE  
CONTRARY NOTWITHSTANDING**

Senator DOUGHERTY. Mr. President, I move that the Senate proceed with the reconsideration of Senate Bill No. 1204, Printer's No. 1962, and agree to pass the same, the objections of the Governor to the contrary notwithstanding.

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

The PRESIDENT. It has been moved by the gentleman from Philadelphia, Senator Dougherty, seconded by the gentleman from Lycoming, Senator Hager, that the Senate proceed to reconsider Senate Bill No. 1204, Printer's No. 1962, and agree to pass the same, the objections of the Governor to the contrary notwithstanding.

The vote required for this motion is two-thirds of the Senators elected or thirty-four votes.

On the question,

Will the Senate agree to the motion?

Senator DOUGHERTY. Mr. President, so there is no confusion on the other bill I will try to override next week, this bill deals with diagnostic services for nonpublic schoolchildren. The bill passed the Senate, I believe, 47 to 0, passed overwhelmingly in the House and I do not know why it was vetoed by the Governor.

Senator SCANLON. Mr. President, I would like to urge my colleagues on the Democratic side to vote in favor of overriding the Governor's veto.

And the question recurring,

Will the Senate agree to the motion?

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

**YEAS—46**

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

**NAYS—0**

A constitutional two-thirds majority of all the Senators hav-

ing voted "aye," the question was determined in the affirmative, the objections of the Governor to the contrary notwithstanding.

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

**COMMUNICATIONS FROM THE GOVERNOR  
REPORTED FROM COMMITTEE ON RULES  
AND EXECUTIVE NOMINATIONS**

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

**MEMBER OF THE STATE BOARD OF  
CHIROPRACTIC EXAMINERS**

September 12, 1978.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 18, 1978 for appointment of Dr. Homer Lee Bowers, 1722 Goucher Street, Johnstown 15905, Cambria County, Thirty-fifth Senatorial District, for appointment as a member of the State Board of Chiropractic Examiners, to serve until July 15, 1981, and until his successor is appointed and qualified, vice Dr. John C. Pammer, Jr., North Catasauqua, whose term expired.

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

MILTON J. SHAPP.

**MEMBERS OF THE STATE BOARD OF MOTOR VEHICLE  
MANUFACTURERS, DEALERS AND SALESMEN**

September 14, 1978.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated August 22, 1978 for the appointment of the following as members of the State Board of Motor Vehicle Manufacturers, Dealers and Salesmen:

Ronald W. Wobb (Used Car Dealer), 2783 McCully Road, Allison Park 15101, Allegheny County, Fortieth Senatorial District, to serve until March 7, 1981, and until his successor is appointed and qualified, vice Gene Lispi, Wilkes-Barre, whose term expired.

Robert Joseph Habeeb (Motor Vehicle Salesman), 817 Griffin Pond Road, Clarks Summit 18411, Lackawanna County, Twenty-second Senatorial District, to serve until March 7, 1981, and until his successor is appointed and qualified, vice Anthony J. Erme, Sharpshville, whose term expired.

MILTON J. SHAPP.

**NOMINATIONS RETURNED TO THE GOVERNOR**

Senator SCANLON. Mr. President, I move that the nominations just read by the Clerk be returned to His Excellency, the Governor.

The motion was agreed to.

The PRESIDENT. The nominations will be returned to the Governor.

**REPORT FROM COMMITTEE ON  
RULES AND EXECUTIVE NOMINATIONS**

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

**JUDGE OF THE SUPERIOR COURT**

September 11, 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 Donald E. Wieand, 50 Park Boulevard, Allentown 18104, Lehigh County, Sixteenth Senatorial District, for appointment as Judge of the Superior Court of Pennsylvania, to serve until the first Monday of January, 1980, vice Honorable J. Sydney Hoffman, retired.

MILTON J. SHAPP.

**MEMBER OF THE COMMONWEALTH OF PENNSYLVANIA  
COUNCIL ON THE ARTS**

September 7, 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 a member of the Commonwealth of Pennsylvania Council on the Arts:

Brother Daniel Burke, F. S. C., Ph. D., LaSalle College, Twentieth and Olney Avenue, Philadelphia 19141, Philadelphia County, Third Senatorial District, to serve until July 1, 1981, and until his successor has been appointed and qualified, vice Mrs. Frances S. Balter, Pittsburgh, whose term expired.

MILTON J. SHAPP.

**COMMONWEALTH TRUSTEE OF LINCOLN UNIVERSITY—  
OF THE COMMONWEALTH SYSTEM OF HIGHER  
EDUCATION**

September 7, 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 Honorable James D. Barber, 802 North 40th Street, Philadelphia 19104, Philadelphia County, Seventh Senatorial District, for reappointment as a Commonwealth Trustee of Lincoln University—of the Commonwealth System of Higher Education, to serve until August 31, 1982, and until his successor is appointed and qualified.

MILTON J. SHAPP.

**COMMONWEALTH TRUSTEE OF LINCOLN UNIVERSITY—  
OF THE COMMONWEALTH SYSTEM OF HIGHER  
EDUCATION**

August 22, 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 Honorable John C. Pittenger, Pittwillow Farm, R. D. #2, Nottingham 19362, Chester County, Thirteenth Senatorial District, for appointment as a Commonwealth Trustee of Lincoln University—of the Commonwealth System of Higher Education, to serve until August 31, 1980, and until his successor is appointed and quali-

fied, vice Dr. LeRoy Patrick, Pittsburgh, whose term expired.

MILTON J. SHAPP.

**MEMBER OF THE BOARD OF TRUSTEES OF  
SLIPPERY ROCK STATE COLLEGE**

September 12, 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 Joseph W. Mulroy, 133 Windy Ghoul Drive, Beaver 15009, Beaver County, Forty-seventh Senatorial District, for appointment as a member of the Board of Trustees of Slippery Rock State College, to serve until the third Tuesday of January 1981, and until his successor is appointed and qualified, vice Leonard A. Redlich, Esquire, Greensburg, resigned.

MILTON J. SHAPP.

**SECRETARY OF TRANSPORTATION**

July 26, 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 George S. Pulakos, 1024 Grace Street, Erie 16505, Erie County, Forty-ninth Senatorial District, for appointment as Secretary of Transportation, to serve until the third Tuesday of January, 1979, and until his successor shall have been appointed and qualified, vice Honorable James B. Wilson, Camp Hill, resigned.

MILTON J. SHAPP.

**MEMBER OF THE BRADFORD COUNTY  
BOARD OF ASSISTANCE**

August 25, 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 Mrs. Marjorie J. Douglas (Republican), 14 Williams Street, Towanda 18848, Bradford County, Twenty-third Senatorial District, for appointment as a member of the Bradford County Board of Assistance, to serve until December 31, 1979, and until her successor is duly appointed and qualified, vice Klas Gerald Anderson, Troy, resigned.

MILTON J. SHAPP.

**MEMBER OF THE MCKEAN COUNTY  
BOARD OF ASSISTANCE**

September 12, 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 Virginia Hinaman (Republican), 92 Tuna Crossroads, Bradford 16701, McKean County, Twenty-fifth Senatorial District, for appointment as a member of the McKean County Board of Assistance, to serve until December 31, 1979, and until her successor is duly appointed and qualified, vice L. B. Silverstine, M. D., Bradford, resigned.

MILTON J. SHAPP.

**EXECUTIVE NOMINATIONS**

**EXECUTIVE SESSION**

Motion was made by Senator SCANLON,



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 SCANLON 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.

**NOMINATION TAKEN FROM THE TABLE**

Senator SCANLON. Mr. President, I call from the table for consideration the nomination reported from committee today and previously read by the Clerk for the Honorable Donald E. Wieand, as Judge of the Superior Court, which requires a two-thirds majority vote.

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,  |
| Coppersmith, | Hopper,    | Moore,     | Smith,     |
| Corman,      | Howard,    | Murray,    | Snyder,    |
| Dougherty,   | Jubelirer, | Nolan,     | Stapleton, |
| Dwyer,       | Kelley,    | Noszka,    | Stauffer,  |
| Early,       | Kury,      | O'Pake,    | Stout,     |
| Fumo,        | Kusse,     | Orlando,   | Sweeney,   |
| Gekas,       | Lewis,     | Reibman,   | Tilghman,  |
| Gurzenda,    | Lynch,     | Romanelli, | Zemprelli, |
| Hager,       | McCormack, |            |            |

**NAYS—0**

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

Ordered, That the Governor be informed accordingly.

**NOMINATION LAID ON THE TABLE**

Senator SCANLON. Mr. President, I request that the nomination of the Honorable George S. Pulakos, as Secretary of Transportation, be laid on the table.

The PRESIDENT. This nomination will be laid on the table.

**NOMINATIONS TAKEN FROM THE TABLE**

Senator SCANLON. Mr. President, I call from the table for consideration the remainder of the nominations reported from committee today and previously read by the Clerk, which require a majority vote.

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,  |
| Coppersmith, | Hopper,    | Moore,     | Smith,     |
| Corman,      | Howard,    | Murray,    | Snyder,    |
| Dougherty,   | Jubelirer, | Nolan,     | Stapleton, |
| Dwyer,       | Kelley,    | Noszka,    | Stauffer,  |
| Early,       | Kury,      | O'Pake,    | Stout,     |
| Fumo,        | Kusse,     | Orlando,   | Sweeney,   |
| Gekas,       | Lewis,     | Reibman,   | Tilghman,  |
| Gurzenda,    | Lynch,     | Romanelli, | Zemprelli, |
| Hager,       | McCormack, |            |            |

**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 SCANLON. Mr. President, I move that the Executive Session do now rise.

The motion was agreed to.

**PERMISSION TO ADDRESS SENATE**

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

Senator KELLEY. Mr. President, is it possible since we are on the Second Consideration Calendar that I have a meeting of the Committee on Law and Justice? That meeting is in recess and I would like to reconvene the meeting, to consider House Bill No. 1493, in the Minority caucus room.

The PRESIDENT. In a brief conference, Senator Kelley has agreed to hold up the meeting while we consider the important business of today's Second Consideration Calendar.

**CONSIDERATION OF CALENDAR RESUMED**

**SECOND CONSIDERATION CALENDAR**

**BILLS ON SECOND CONSIDERATION**

**HB 46 (Pr. No. 3733), HB 210 (Pr. No. 2680) and HB 222 (Pr. No. 242)** — Considered the second time and agreed to,  
Ordered, To be transcribed for a third consideration.

**BILL OVER IN ORDER**

**HB 232** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

**BILL ON SECOND CONSIDERATION**

**HB 238 (Pr. No. 3715)** — Considered the second time and agreed to,  
Ordered, To be transcribed for a third consideration.

**BILLS OVER IN ORDER**

**HB 276, 648 and 663** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

**BILLS ON SECOND CONSIDERATION**

**HB 813 (Pr. No. 917) and HB 956 (Pr. No. 1105)** — Consid-

ered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

#### BILL OVER IN ORDER

**HB 1115** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

#### BILLS REREFERRED

**SB 1229 (Pr. No. 1509)** and **SB 1230 (Pr. No. 1510)** — Upon motion of Senator SCANLON, and agreed to, the bills were rereferred to the Committee on Appropriations.

#### BILL ON SECOND CONSIDERATION AND RECOMMITTED

**HB 1249 (Pr. No. 3398)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

Upon motion of Senator SCANLON, and agreed to, the bill just considered was recommitted to the Committee on State Government.

#### BILL RECOMMITTED

**SB 1271 (Pr. No. 2030)** — Upon motion of Senator SCANLON, and agreed to, the bill was recommitted to the Committee on Finance.

#### BILLS ON SECOND CONSIDERATION

**SB 1495 (Pr. No. 1905)** and **SB 1524 (Pr. No. 2137)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

#### BILLS OVER IN ORDER

**SB 1603, 1604** and **HB 1698** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

#### BILL ON SECOND CONSIDERATION AND REREFERRED

**HB 1702 (Pr. No. 3683)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

Upon motion of Senator SCANLON, and agreed to, the bill just considered was rereferred to the Committee on Appropriations.

#### BILL ON SECOND CONSIDERATION

**HB 1863 (Pr. No. 3702)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

#### BILLS OVER IN ORDER

**HB 1980, 2067, 2091** and **2092** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

#### BILL ON SECOND CONSIDERATION AND REREFERRED

**HB 2097 (Pr. No. 2647)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

Upon motion of Senator SCANLON, and agreed to, the bill just considered was rereferred to the Committee on Appropriations.

#### BILL ON SECOND CONSIDERATION AMENDED

**HB 2099 (Pr. No. 2649)** — The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

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

Amend Title, page 1, lines 1 through 6, by striking out all of said lines and inserting:

Amending the act of March 17, 1978 (No. 11), entitled, "An act amending the act of June 21, 1963 (P. L. 174, No. 104), entitled, as amended, 'An act granting and regulating exemption from payment of real estate taxes by war veterans in need thereof who are blind, paraplegic, have suffered the loss of two or more limbs as a result of military service or have a one hundred per cent permanent disability; imposing duties on the State Veterans' Commission; and prohibiting the sale of certain real estate for taxes after grant of an exemption,' extending the act to include veterans with total service-connected disability," providing for the act to be retroactive to January 1, 1978.

Amend Bill, page 1, lines 9 through 20, by striking out all of said lines and inserting:

Section 1. Section 2, act of March 17, 1978 (No. 11), entitled, "An act amending the act of June 21, 1963 (P. L. 174, No. 104), entitled, as amended 'An act granting and regulating exemption from payment of real estate taxes by war veterans in need thereof who are blind, paraplegic, have suffered the loss of two or more limbs as a result of military service or have a one hundred per cent permanent disability; imposing duties on the State Veterans' Commission; and prohibiting the sale of certain real estate for taxes after grant of an exemption,' extending the act to include veterans with total service-connected disability," is amended to read:

Section 2. This act shall take effect immediately and shall be retroactive to January 1, 1978.

Section 2. This act shall take effect immediately.

On the question,

Will the Senate agree to the amendments?

They were agreed to.

On the question,

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

It was agreed to.

Ordered, To be transcribed for a third consideration.

#### BILLS OVER IN ORDER

**HB 2185, 2214, 2218, 2219, 2221, 2222, 2223, 2224, 2225, 2227, 2228, 2229, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238** and **2239** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

#### BILL ON SECOND CONSIDERATION

**HB 2305 (Pr. No. 2939)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

## BILL ON SECOND CONSIDERATION AMENDED

HB 2314 (Pr. No. 2948) — The bill was considered.

On the question,

Will the Senate agreed to the bill on second consideration?

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

Amend Title, page 1, line 17, by striking out "further providing for zoning ordinances." and inserting: further providing time limitations regarding certain public hearing findings; further providing for zoning ordinances, further regulating the time of hearings and judicial relief, further providing for substantive challenges and providing for joint municipal zoning.

Amend Bill, page 1, lines 20 through 25; pages 2 and 3, lines 1 through 30; and page 4, lines 1 through 24, by striking out all of said lines on said pages and inserting:

Section 1. Section 603 and clause (2) of section 605, act of July 31, 1968 (P. L. 805, No. 247), known as the "Pennsylvania Municipalities Planning Code," are amended to read:

Section 603. Ordinance Provisions.—Zoning ordinances may permit, prohibit, regulate, restrict and determine:

(1) Uses of land, watercourses and other bodies of water;

(2) Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures;

(3) Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures;

(4) Density of population and intensity of use.

In addition, zoning ordinances may contain:

(1) Provisions for special exceptions and variances administered by the zoning hearing board, which provisions shall be in accordance with this act;

(2) Provisions for conditional uses to be allowed or denied by the governing body after recommendations by the planning agency, pursuant to express standards and criteria set forth in the ordinances;

(3) Provisions for the administration and enforcement of such ordinances; [and]

(4) Such other provisions as may be necessary to implement the purposes of this act; and

(5) Provisions for the protection and preservation of natural resources and agricultural land and activities.

Section 605. Classifications.—In any municipality, other than a county, which enacts a zoning ordinance, no part of such municipality shall be left unzoned. The provisions of all zoning ordinances may be classified so that different provisions may be applied to different classes of situations, uses and structures and to such various districts of the municipality as shall be described by a map made part of the zoning ordinance. Where zoning districts are created, all provisions shall be uniform for each class of uses or structures, within each district, except that additional classifications may be made within any district:

(2) For the regulation, restriction or prohibition of uses and structures at or near (i) major thoroughfares, their intersections and interchanges, and transportation arteries, (ii) natural or artificial bodies of water, (iii) places of relatively steep slope or grade, or other areas of hazardous geological or topographic features, (iv) public buildings and public grounds, (v) aircraft, helicopter, rocket, and spacecraft facilities, (vi)

places having unique historical or patriotic interest or value, (vii) flood plain areas, and other places having a special character or use affecting and affected by their surroundings. As among several classes of zoning districts, the provisions for permitted uses may be mutually exclusive, in whole or in part.

Section 2. The act is amended by adding a section to read:

Section 609.2. Procedure Upon Municipal Curative Amendments.—(1) A municipality, by formal action, may declare its zoning ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty days following such declaration and proposal, the governing body of the municipality shall:

(a) By resolution make specific findings setting forth the declared invalidity of the zoning ordinance which may include: (i) references to specific uses which are either not permitted or not permitted in sufficient quantity, (ii) reference to a class of use or uses which require revision, or (iii) reference to the entire ordinance which requires revisions.

(b) Begin to prepare and consider a curative amendment to the zoning ordinance to correct the declared invalidity.

(2) Within one hundred eighty days from the date of the declaration and proposal, the municipality shall enact a curative amendment to, or reaffirm the validity of, its zoning ordinance pursuant to the provisions required by section 609, to cure the declared invalidity of the zoning ordinance.

(3) Upon the initiation of the procedures, as set forth in subsection (1), the governing body shall not be required to entertain or consider any landowner's curative amendment filed under section 609.1 nor shall the Zoning Hearing Board be required to give a report requested under section 910 or 913.1 subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by subsection (1)(a). Upon completion of the procedures as set forth in subsections (1) and (2), no rights to a cure pursuant to the provisions of sections 609.1 and 1004 shall, from the date of the declaration and proposal, accrue to any landowner on the basis of substantive invalidity of the unamended zoning ordinance for which there has been a curative amendment pursuant to this section.

(4) A municipality having utilized the procedures as set forth in subsections (1) and (2) may not again utilize said procedure for a thirty-six-month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning ordinance, pursuant to subsection (2); provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the municipality by virtue of a change in

statute or by virtue of a Pennsylvania Appellate Court decision, the municipality may utilize the provisions of this section to prepare a curative amendment to its ordinance to fulfill said duty or obligation.

Section 3. The introductory paragraph of subsection (a) of section 709 is amended to read:

Section 709. The Findings.—(a) The governing body, within [thirty] sixty days following the conclusion of the public hearing provided for in this article, shall, by official written communication, to the landowner, either:

\* \* \*

Section 4. Subsection (9) of section 908, amended December 10, 1974 (P. L. 822, No. 272), is amended to read:

Section 908. Hearings.—The board shall conduct hearings and make decisions in accordance with the following requirements:

\* \* \*

(9) The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five days after the last hearing before the board or hearing officer. Except in home rule municipalities, where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the board shall make his report and recommendations available to the parties and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than forty-five days after the decision of the hearing officer. Where the board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within [forty-five] sixty days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the municipality shall give public notice of said decision within ten days in the same manner as provided in subsection (1) of this section. Nothing in this subsection shall prejudice the right of any party opposing the application to urge that such decision is erroneous.

\* \* \*

Section 5. Clause (a) of subsection (2) of section 1004 of the act, added June 1, 1972 (P. L. 333, No. 93), is amended to read:

Section 1004. Validity of Ordinance; Substantive Questions; Landowner Appeals.—\* \* \*

(2) The submissions referred to in subsection (1) shall be governed by the following:

(a) The landowner shall make a written request to the board or governing body that it hold a hearing on his challenge. The request shall contain a short statement reasonably informing the board or the governing body of the matters that are in issue and the grounds for the challenge. Such statement shall contain a certification that the landowner did not know at the time of the application (i) that the municipality had resolved to consider a particular scheme of rezon-

ing by publication of notice of hearings on a proposed comprehensive plan or proposed zoning ordinance or otherwise, or (ii) that the scheme of rezoning would be inconsistent with the landowner's proposed use; provided that this rezoning scheme had reached sufficient particularity to disclose that, if adopted, it would cure the defect in the zoning ordinance attacked by the substantive challenge.

\* \* \*

Section 6. Subsections (1) and (2) of section 1011 of the act, added June 1, 1972 (P. L. 333, No. 93), are amended and a subsection is added to read:

Section 1011. Judicial Relief.—(1) In a zoning appeal the court shall have power to declare any ordinance or map invalid and set aside or modify any action, decision or order of the governing body, agency or officer of the municipality brought up on appeal only if it determines that:

(a) the municipality has not acted in good faith or made a bona fide attempt in the adoption of its ordinances or maps, or any amendments thereto, to meet the statutory and constitutional requirements for nonexclusionary zoning; or

(b) the ordinance imposes limitations that are not reasonably related to the municipality's authority to determine its physical growth pattern, protect the Commonwealth's public natural resources, coordinate development with the provision of public services, or protect the character of the community. Where municipalities have adopted a joint municipal comprehensive plan and enacted zoning legislation consistent with the joint municipal comprehensive plan within a region pursuant to Articles XI and XI-A, the court, when determining the validity of a challenge to such a municipality's zoning ordinance shall consider the zoning ordinance or ordinances as they apply to the entire region and shall not limit its consideration to the application of the zoning ordinance within the boundaries of the respective municipalities.

(2) If the court, in accordance with the standards provided in subsection (1), finds that an ordinance or map or a decision or order thereunder which has been brought up for review unlawfully prevents or restricts a development or use which has been described by the landowner through plans and other materials submitted to the governing body, agency or officer of the municipality whose action of failure to act is in question on the appeal, it may order the described development or use approved as to all elements or it may order it approved as to some elements and refer other elements to the governing body, agency or officer having jurisdiction thereof for further proceedings, including the adoption of alternative restrictions, in accordance with the court's opinion and order. In issuing its order the court shall consider the following: (i) the locational suitability of the site for the uses proposed including the general location of the site with regard to major roads, sewer facilities, water supplies, schools and other public service facilities or the comprehensive plan and zoning ordinance of the munic-

ipality and the county if they exist; (ii) the impact of the proposal on regional housing needs, the transportation network, and the other public services and facilities; (iii) the suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, flood plains, aquifers, natural resources and other natural features; (iv) the impact of the proposed use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and (v) the impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.

Upon motion by any of the parties or upon motion by the court, the judge of the court may hold a hearing or hearings to receive additional evidence or employ experts to aid the court to frame an appropriate order. If the court employs an expert, the report or evidence of such expert shall be available to any party and he shall be subject to examination or cross-examination by any party. He shall be paid reasonable compensation for his services which may be assessed against any or all of the parties as determined by the court. The court shall retain jurisdiction of the appeal during the pendency of any such further proceedings and may, upon motion of the landowner, issue such supplementary orders as it deems necessary to protect the rights of the landowner as declared in its opinion and order.

\* \* \*

(4) No court shall grant or enforce relief with respect to a substantive challenge without first making an affirmative finding of fact that the landowner's certification required by section 1004(2)(a) has in fact been made and is true and correct.

Section 7. The act is amended by adding an article to read:

#### ARTICLE XI-A

##### Joint Municipal Zoning

Section 1101-A. General Powers.—The governing body of each municipality cooperating in a joint municipal comprehensive plan, in accordance with the conditions and procedures set forth in this act, may enact, amend and repeal joint municipal zoning ordinances to implement the joint municipal comprehensive plan and to accomplish any of the purposes of this act. For these purposes, a municipality may enact and or adopt a joint municipal zoning ordinance which has been or is to be enacted by each municipality cooperating in the joint municipal comprehensive plan.

Section 1102-A. Compliance With Code.—The governing body of each municipality cooperating in a joint municipal comprehensive plan and zoning ordinance shall otherwise comply with all applicable sections of the act.

Section 1103-A. Joint Municipal Comprehensive Plan.—(a) The governing body of a municipality, by formal action, may advertise a proposed joint municipal comprehensive plan. The municipality shall have one hundred sixty days from the date of the advertisement to adopt such a plan.

(b) During this period of time, the governing body shall not be required to entertain or consider any landowner's curative amendment filed under section 609.1, nor shall the zoning hearing board be required to give a report requested under section 910 or 913.1, subsequent to the advertisement required by subsection (a) and based upon the municipality's existing zoning ordinance.

Section 1104-A. Intention to Enact Zoning Ordinances.—(a) Subsequent to, or simultaneous with, the adoption of a joint municipal comprehensive plan, the governing body of a municipality cooperating in that plan, may declare its intention to enact a zoning ordinance pursuant to section 1101-A by advertising the same. The municipality shall have one hundred twenty days from the date of this advertisement to enact such an ordinance.

(b) During this period of time, the governing body shall not be required to entertain or consider any landowner's curative amendment filed under section 609.1, nor shall the zoning hearing board be required to give a report requested under section 910 or 913.1, subsequent to the declaration required by subsection (a) and based upon the municipality's existing zoning ordinance.

Section 1105-A. Adoption of Regional Zoning Ordinances.—(a) The governing body of each municipality participating in the joint municipal comprehensive plan shall adopt the regional zoning ordinance in order for the regional ordinance to be effective.

(b) Once the regional ordinance is effective the municipal zoning ordinance shall be null and void.

Section 1106-A. Amendments to Regional Zoning Ordinance.—(a) Amendments to the regional zoning ordinance shall be approved by a simple majority of all participating municipalities including the municipality or municipalities which will be physically affected by the proposed amendment.

(b) The same procedures shall be followed in amending the regional zoning ordinance as are set forth in Article VI.

Section 1107-A. Regional Hearing Board.—(a) A regional hearing board is hereby established. It shall possess the same powers and duties with respect to the region as the zoning hearing board presently enjoys pursuant to Article IX.

(b) Each municipality shall appoint one person to serve on the regional hearing board.

Section 1108-A. Intention to Withdraw.—A munic-

ipality may announce its intention to withdraw from the regional zoning ordinance, the regional hearing board and the joint municipal comprehensive plan by passing a resolution stating therein its intention to withdraw. The withdrawal shall not become effective for a period of three years from the date of the passing of the withdrawal resolution.

Section 8. (a) Anything in this act to the contrary notwithstanding, the procedures established by section 1011 of this act shall apply to substantive challenges within the jurisdiction of any court on the effective date of this act.

(b) It is hereby declared that the provisions of subsection (a) are found to be needed to alleviate the problems caused by uncoordinated development of municipalities and are essential to the maintenance of the health, safety and welfare of the residents of the Commonwealth.

Section 9. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 10. This act shall take effect immediately.

On the question,

Will the Senate agree to the amendments?

They were agreed to.

On the question,

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

It was agreed to.

Ordered, To be transcribed for a third consideration.

#### BILLS OVER IN ORDER

**HB 2339, 2340, 2341, 2342, and 2344** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

#### BILL ON SECOND CONSIDERATION AMENDED

**HB 2345 (Pr. No. 3749)** — The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

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

Amend Sec. 3 (Sec. 4), page 5, line 18, by striking out "OR UNSECURED"

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

It was agreed to.

Ordered, To be transcribed for a third consideration.

#### BILLS OVER IN ORDER

**HB 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353 and**

**2354** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

#### BILL ON SECOND CONSIDERATION AMENDED

**HB 2355 (Pr. No. 3759)** — The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

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

Amend Sec. 3 (Sec. 10), page 5, line 29, by striking out "OR UNSECURED"

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

It was agreed to.

Ordered, To be transcribed for a third consideration.

#### BILLS OVER IN ORDER

**HB 2356, 2357, 2358, 2359 and 2360** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

#### BILLS ON SECOND CONSIDERATION

**HB 2392 (Pr. No. 3254), HB 2393 (Pr. No. 3255), HB 2397 (Pr. No. 3256), HB 2398 (Pr. No. 3257) and HB 2399 (Pr. No. 3258)** — Considered the second time and agreed to, Ordered, To be transcribed for a third consideration.

#### BILLS OVER IN ORDER

**HB 2488, 2489, 2490 and 2506** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

#### HB 276 CALLED UP

**HB 276 (Pr. No. 3160)** — Without objection, the bill, which previously went over in its order, was called up, from page 9 of the Second Consideration Calendar by Senator SCANLON.

#### BILL ON SECOND CONSIDERATION

**HB 276 (Pr. No. 3160)** — Considered the second time and agreed to, Ordered, To be transcribed for a third consideration.

#### UNFINISHED BUSINESS

#### REPORT OF COMMITTEE OF CONFERENCE SUBMITTED

Senator ROMANELLI submitted the Report of Committee of Conference on SB 984, which was placed on the Calendar.

### REPORTS FROM COMMITTEES

Senator O'PAKE, from the Committee on Judiciary, reported, as amended, **HB 2138, 2215, 2226 and 2437.**

Senator ARLENE, from the Committee on Labor and Industry, reported, as committed, **SB 1608, HB 1446 and 2149;** as amended, **HB 1330.**

Senator MCKINNEY, from the Committee on State Government, reported, as amended, **SB 1592 and HB 404.**

Senator SWEENEY, from the Committee on Military Affairs and Aeronautics, reported, as amended, **HB 131 and 2142.**

### RESOLUTION REPORTED FROM COMMITTEE

Senator SWEENEY, from the Committee on Military Affairs and Aeronautics, reported with amendment; Senate Concurrent Resolution, **Serial No. 223,** entitled:

Thanking the Pennsylvania National Guard and declaring the Months of October and November be known as "Get Your Guard Up" months.

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

### CONSIDERATION OF SENATE RESOLUTION, SERIAL NO. 96

Senator HAGER. Mr. President, I ask unanimous consent to call up Senate Resolution, Serial No. 96 and ask for its immediate consideration.

Senator SCANLON. Mr. President, I object to calling up the resolution for immediate consideration.

The PRESIDENT. An objection having been raised, the matter will go over until—

Senator SCANLON. Mr. President, would it be in order for me to explain why, without objection?

The PRESIDENT. Yes, Senator, you may state your reasons for objecting without getting into the substantive matter of the resolution. I think you understand that. The gentleman may proceed.

Senator SCANLON. Mr. President, yesterday, because there was a committee meeting going on at the time of the Democratic caucus, we did not have an opportunity to discuss this particular resolution with the Members of our caucus. That, coupled with the fact that I am voting seven Members who are away on legislative leave in Washington, D. C., and do not wish to anticipate as to how they would vote on this issue, I am of the opinion that this matter can wait until we come back next week.

Senator HAGER. Mr. President, I desire to interrogate the gentleman from Allegheny, Senator Scanlon.

The PRESIDENT. Will the gentleman from Allegheny, Senator Scanlon, permit himself to be interrogated?

Senator SCANLON. I will, Mr. President.

Senator HAGER. Mr. President, will the gentleman give the Minority Members of the Senate his assurance that this resolution will be voted on Monday?

Senator SCANLON. Mr. President, I am only the Acting Majority Leader and if I am acting in this chair on Monday, I give

the gentleman my assurance it will be voted. However, I cannot speak for the Majority Leader, Senator Messinger, on that subject.

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

### PARLIAMENTARY INQUIRY

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

The PRESIDENT. The gentleman from Lycoming, Senator Hager, will state it.

Senator HAGER. Mr. President, I am correct, am I not, that this matter will be on the Calendar and may be called up for consideration without unanimous consent on Monday?

The PRESIDENT. Any Member may call the matter before the Senate for consideration without the necessity for unanimous consent. That is correct, Senator.

Senator HAGER. Thank you, Mr. President. I wish to serve notice upon the Assistant Majority Leader that the matter will be called for a vote on Monday.

Senator SCANLON. Mr. President, the gentleman's notice has been accepted.

### SENATE RESOLUTION

#### DIRECTING PUBLIC UTILITY COMMISSION TO SUBMIT ITS FINDINGS ON INCREMENTAL GAS PRICING TO THE SENATE OF PENNSYLVANIA

Senators HAGER, ROSS, JUBELIRER and SNYDER offered the following resolution (**Serial No. 122**), which was read and referred to the Committee on Rules and Executive Nominations:

In the Senate, September 19, 1978.

WHEREAS, The Pennsylvania Public Utility Commission has by order dated June 8, 1978 and published in the Pennsylvania Bulletin on August 5, 1978, proposed an incremental pricing system for nonhistoric gas supplies; and

WHEREAS, The United States Congress is presently debating a natural gas policy which includes a form of incremental gas pricing to be applicable throughout the United States; and

WHEREAS, Incremental gas pricing will cause substantial increases in the cost of gas to industrial and commercial gas customers; and

WHEREAS, Increases in industry's cost of doing business are almost invariably passed along to the consumer within a relatively short time; and

WHEREAS, The price residential users pay for gas may rise significantly as industrial customers shift to alternate fuels and gas companies are forced to cover high fixed pipeline costs established by the Federal Power Commission from smaller volumes of gas; and

WHEREAS, The net result of incremental gas pricing may be that gas companies will hesitate to commit themselves in advance to securing new sources of natural gas or alternate forms of gas since they face a very real possibility of purchasing such high priced gas without a market for it; and

WHEREAS, Incremental gas pricing may give residential users little incentive to either conserve natural gas or use an alternate fuel; and

WHEREAS, Incremental gas pricing may further erode continued employment of employment opportunities; and

WHEREAS, The establishment of incremental gas pricing in Pennsylvania may place an unfair and substantial competitive burden upon Pennsylvania's industrial and large commercial

gas customers and may result in long-term detrimental effects on the economy of Pennsylvania; and

WHEREAS, The establishment of incremental gas pricing would be a major policy revision which should not be affected without specific approval; and

WHEREAS, The sentiment of the Senate as expressed in Senate Bill No. 995 was that the Public Utility Commission should study the issue of incremental gas pricing and report back its findings; therefore be it

RESOLVED, That the Senate of Pennsylvania directs the Pennsylvania Public Utility Commission to submit a study of its findings on its order dated June 8, 1978 proposing incremental gas pricing to the Senate so that the General Assembly can provide whatever legislative response that may be appropriate.

### CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to James Taylor Lynch by Senator Gekas.

Congratulations of the Senate were extended to Zion Lutheran Church of Philadelphia by Senator Dougherty.

Congratulations of the Senate were extended to Mr. and Mrs. Edmund Lopus by Senator Kusse.

Congratulations of the Senate were extended to Ellnora Weight Kirchoff by Senator Corman.

Congratulations of the Senate were extended to St. Michael's Roman Catholic Church of Philadelphia by Senator Fumo.

### BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follow:

**SB 9, 1539, 1592, 1608, 1630, HB 131, 133, 404, 471, 552, 1330, 1446, 1508, 1673, 1778, 1859, 1880, 2138, 2142, 2149, 2207, 2215, 2226, 2437 and 2542.**

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

### REPORTS FROM COMMITTEE

Senator MELLOW, on behalf of Senator STAPLETON, by unanimous consent, from the Committee on Agriculture and Rural Affairs, reported, as committed, **HB 1097** and **2487**; as amended, **HB 2145**.

### BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

**HB 1097, 2145 and 2487.**

And said bills having been considered for the first time,

Ordered, To be laid aside for second consideration.

### PETITIONS AND REMONSTRANCES

Senator ZEMPRELLI. Mr. President, on June 13, 1978, the Senate considered House Bill No. 711. At that time, voting under a misapprehension, I was voted in the negative with respect to that legislation and it was my desire to vote in the affirmative.

Although the bill passed, I would like very much to have the record show that had I an opportunity, a second opportunity, to consider that important measure, I would have been voted in the affirmative.

The PRESIDENT. The gentleman's remarks will be noted in the record.

### HOUSE MESSAGES

#### HOUSE BILL FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 2444**, which was referred to the Committee on State Government.

#### HOUSE INSISTS UPON ITS AMENDMENTS NONCONCURRED IN BY THE SENATE TO SB 736, AND APPOINTS COMMITTEE OF CONFERENCE

He also informed the Senate that the House insists upon its amendments nonconcurring in by the Senate to **SB 736**, and has appointed Messrs. KOWALSHYN, F. TAYLOR and ZEARFOSS as a Committee of Conference to confer with a similar committee of the Senate (already appointed) to consider the differences existing between the two houses in relation to said bill.

#### HOUSE INSISTS UPON ITS NONCONCURRENCE IN AMENDMENTS TO HB 1851, AND APPOINTS COMMITTEE OF CONFERENCE

He also informed the Senate that the House insists upon its nonconcurrency in Senate amendments to **HB 1851**, and has appointed Messrs. A. K. HUTCHINSON and SCHWEDER and Mrs. HONAMAN as a Committee of Conference to confer with a similar Committee of the Senate (already appointed) to consider the differences existing between the two houses in relation to said bill.

#### HOUSE INSISTS UPON ITS NONCONCURRENCE IN AMENDMENTS TO HB 1858, AND APPOINTS COMMITTEE OF CONFERENCE

He also informed the Senate that the House insists upon its nonconcurrency in Senate amendments to **HB 1858**, and has appointed Messrs. A. K. HUTCHINSON and SCHWEDER and Mrs. HONAMAN as a Committee of Conference to confer with a similar Committee of the Senate (already appointed) to consider the differences existing between the two houses in relation to said bill.

#### HOUSE ADOPTS REPORT OF COMMITTEE OF CONFERENCE

He also informed the Senate that the House has adopted Report of Committee of Conference on **SB 645**.



**BILL SIGNED**

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

**SB 645.**

**ANNOUNCEMENTS BY THE SECRETARY**

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

**SENATE OF PENNSYLVANIA**

**COMMITTEE MEETINGS**

**WEDNESDAY, SEPTEMBER 20, 1978**

- 9:00 A.M. FINANCE (to consider Senate Bill No. 1473) Senate Minority Caucus Room
- 9:30 A.M. CONSUMER AFFAIRS (Hearing on House Bill No. 2200) Senate Majority Caucus Room
- 10:00 A.M. Special Senate Committee to investigate Cable Television service in Philadelphia County pursuant to Senate Resolution 104 Room 168
- 10:30 A.M. URBAN AFFAIRS AND HOUSING (to consider Senate Bill No. 1623) Room 168

**THURSDAY, SEPTEMBER 21, 1978**

- 10:00 A.M. Special Senate Committee to investigate legalizing dog racing and jai alai in Pennsylvania (Public Hearing) Senate Majority Caucus Room

**MONDAY, SEPTEMBER 25, 1978**

- 10:30 A.M. JUDICIARY (agenda to be announced at a later date) Senate Majority Caucus Room

**WEDNESDAY, SEPTEMBER 27, 1978**

- 9:30 A.M. CONSUMER AFFAIRS (Hearing on Acts No. 215, 216 of 1976) Senate Majority Caucus Room

The SECRETARY. I have been asked to announce that the recessed meeting of the Committee on Law and Justice will meet in the Minority caucus room immediately upon adjournment.

**ADJOURNMENT**

Senator SCANLON. Mr. President, I move that the Senate do now adjourn until Wednesday, September 20, 1978, at 12:00 Noon, Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 11:59 p.m., Eastern Daylight Saving Time.