

# Legislative Journal

TUESDAY, JUNE 5, 1979

Session of 1979

163rd of the General Assembly

Vol. 1, No. 31

## SENATE

TUESDAY, June 5, 1979.

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

The PRESIDENT (William W. Scranton III) in the Chair.

## PRAYER

The Chaplain, the Reverend ALBERT F. CAMPBELL, Pastor of Mt. Carmel Baptist Church in Philadelphia, offered the following prayer:

Let us be reverent during these moments as we pray together: O Lord, our Lord, how excellent is Thy name in all the earth, whose glories the heavens are telling of our great and glorious God, who does brood over the conditions of our creation and over the circumstances of mankind, whose heart is often made to grieve by our careless and casual as well as our pompous and presumptuous handling of that which Thou has made and given. Forgive us, we pray, not only for our frequent negligence, but also for our sometimes inordinate pride, which prevents us from thinking and speaking and doing that which is just and right and responsible.

For the Members of this Body of State Senators, their colleagues and co-workers, whose activities, deliberations and decisions affect the lives of so many, we ask Thy choicest favors and blessings. Grant them wisdom, grant them courage for the facing of the issues of these days. May they see in this process not simply the fulfillment of position description requirements, but also and more importantly, the servanthood of Thee, our divine Creator, and of Thy divine creation. May they always be challenged and motivated to do and give their best for Thee even as Thou dost do and give Thy best for all of us. May their highest hopes and best dreams for all the people of this Commonwealth be more nearly realized because of their sense of service to Thee. In Thy Holy Name, we pray. Amen.

## JOURNAL APPROVED

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

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

## SENATOR ZEMPRELLI TO VOTE FOR SENATOR BODACK AND SENATOR LINCOLN

Senator ZEMPRELLI. Mr. President, I would ask for a tem-

porary leave of absence of a legislative nature on behalf of Senator Bodack and Senator Lincoln, both of whom are not able to be on the floor of the Senate presently, but who will join us during the course of the afternoon. I would respectfully request permission to vote them on the Calendar as it proceeds.

The PRESIDENT. Senator Zemprelli asks temporary legislative leaves of absence for Senator Bodack and Senator Lincoln. Are there any objections? The Chair hears no objections, the leaves are granted.

## SENATOR STAUFFER TO VOTE FOR SENATOR DWYER AND SENATOR HAGER

Senator STAUFFER. Mr. President, I would ask for a legislative leave of absence for Senator Dwyer who is meeting with the Turnpike Commission and may be able to return and join with us later. I will be voting him. I also will ask for a legislative leave for Senator Hager who has a meeting outside the Capitol, and it is possible that he, too, will return and be with us later in the day.

The PRESIDENT. Senator Stauffer asks legislative leaves of absence for Senator Dwyer and Senator Hager. Are there any objections? The Chair hears no objection, the leaves are granted.

## COMMITTEE OF CONFERENCE APPOINTED ON SB 499

The PRESIDENT. The Chair announces, on behalf of the President pro tempore, the appointment of Senators SMITH, ZEMPRELLI and TILGHMAN, as a Committee of Conference on the part of the Senate to confer with a similar committee of the House (if the House shall appoint such committee) to consider the differences existing between the two houses in relation to Senate Bill No. 499.

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

## HOUSE MESSAGES

### HOUSE BILL FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 815**, which was referred to the Committee on State Government.

**HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION**

He also informed the Senate that the House has concurred in resolution from the Senate, entitled:

Weekly Adjournment.

**REPORTS FROM COMMITTEE**

Senator KELLEY, from the Committee on Law and Justice, reported, as committed, **SB 640** and **682**.

**BILLS INTRODUCED AND REFERRED**

Senators MESSINGER, REIBMAN, DWYER, ZEMPRELLI, HANKINS, HOPPER, CORMAN, HESS, LINCOLN and GREENLEAF presented to the Chair **SB 800**, entitled:

An Act amending the act of August 7, 1963 (P. L. 549, No. 290), entitled, as amended, "An act creating the Pennsylvania Higher Education Assistance Agency; . . .," creating an Educational Loan Assistance Fund; authorizing the Pennsylvania Higher Education Assistance Agency to borrow money and issue bonds and other evidences of indebtedness without pledging the credit of the Commonwealth; imposing powers and duties upon and authorizing the agency to act as a lender including an eligible lender under the provisions of Part C of the Health Professions Education Assistance Act of 1976.

Which was committed to the Committee on Education.

Senator MESSINGER presented to the Chair **SB 801**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," providing for collective bargaining rights for certain administrative and supervisory professional employees.

Which was committed to the Committee on Education.

**CALENDAR**

**BILL ON CONCURRENCE IN HOUSE AMENDMENTS**

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 2 (Pr. No. 842)** — Senator ZEMPRELLI. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 2.

On the question,

Will the Senate agree to the motion?

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

**YEAS—50**

Andrews,	Hankins,	Lynch,	Reibman,
Arlene,	Hess,	Manbeck,	Romanelli,
Bell,	Holl,	McKinney,	Ross,
Bodack,	Hopper,	Mellow,	Scanlon,
Coppersmith,	Howard,	Messinger,	Schaefer,
Corman,	Jubelirer,	Moore,	Smith,
Dwyer,	Kelley,	Murray,	Snyder,
Early,	Kury,	O'Connell,	Stapleton,
Fumo,	Kusse,	O'Pake,	Staufner,
Gekas,	Lewis,	Orlando,	Stout,
Greenleaf,	Lincoln,	Pecora,	Tilghman,

Gurzenda, Lloyd, Price, Zemprelli,  
Hager, Loeper,

**NAYS—0**

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

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

**THIRD CONSIDERATION CALENDAR**

**BILL ON THIRD CONSIDERATION AMENDED**

**HB 215 (Pr. No. 1521)** — Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Sec. 1 (Sec. 224), page 2, line 11, by striking out "Chief Clerk of the Senate and" and inserting:

Secretary of the Senate and the Chief Clerk of the

Amend Sec. 1 (Sec. 224), page 2, line 25, by striking out "department," and inserting: appropriate board

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 SCHAEFER.

**BILL OVER IN ORDER ON FINAL PASSAGE**

**SB 372 (Pr. No. 376)** — Considered the third time and agreed to,

On the question,

Shall the bill pass finally?

Senator ZEMPRELLI. Mr. President, with respect to Senate Bill No. 372, I had been advised by a number of people that Senate Bill No. 372 represents a total recodification of the Uniform Commercial Code, so as to make it a part of the Judicial Code. In that representation I had also been advised that it was a verbatim recompilation. I have had a sidebar discussion with the gentleman from Lawrence, Senator Andrews, and the gentleman has advised me there have been certain editorial changes with respect to deletions or inclusions of conjunctives and other bits of language that do not in fact change the substance of the Uniform Commercial Code as far as we are aware.

But, Mr. President, so as to not impune the credibility of those who have suggested to us that the Uniform Commercial Code has not been changed in this recompilation, I have agreed to allow Senate Bill No. 372 to go over until Monday, at which time it will be considered so as to afford the gentleman from Lawrence, Senator Andrews, the opportunity to affirm the fact that there were no substantive changes.

The PRESIDENT. Without objection, Senate Bill No. 372 will go over in its order on final passage.

**BILL OVER IN ORDER**

**SB 449** — Without objection, the bill was passed over in its order at the request of Senator ZEMPRELLI.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 510 (Pr. No. 550) — 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—50

Andrews,	Hankins,	Lynch,	Reibman,
Arlene,	Hess,	Manbeck,	Romanelli,
Bell,	Holl,	McKinney,	Ross,
Bodack,	Hopper,	Mellow,	Scanlon,
Coppersmith,	Howard,	Messinger,	Schaefer,
Corman,	Jubelirer,	Moore,	Smith,
Dwyer,	Kelley,	Murray,	Snyder,
Early,	Kury,	O'Connell,	Stapleton,
Fumo,	Kusse,	O'Pake,	Stauffer,
Gekas,	Lewis,	Orlando,	Stout,
Greenleaf,	Lincoln,	Pecora,	Tilghman,
Gurzenda,	Lloyd,	Price,	Zemprelli,
Hager,	Loeper,		

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 ON THIRD CONSIDERATION AMENDED

SB 535 (Pr. No. 555) — Considered the third time,

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

Amend Sec. 1 (Sec. 1), page 2, lines 5 and 6, by striking out "binding undertaking" and inserting: written agreement

Amend Sec. 1 (Sec. 1), page 2, line 10, by striking out "undertaking" and inserting: agreement

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

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

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 540 (Pr. No. 873) — 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—50

Andrews,	Hankins,	Lynch,	Reibman,
Arlene,	Hess,	Manbeck,	Romanelli,
Bell,	Holl,	McKinney,	Ross,
Bodack,	Hopper,	Mellow,	Scanlon,
Coppersmith,	Howard,	Messinger,	Schaefer,
Corman,	Jubelirer,	Moore,	Smith,
Dwyer,	Kelley,	Murray,	Snyder,
Early,	Kury,	O'Connell,	Stapleton,
Fumo,	Kusse,	O'Pake,	Stauffer,
Gekas,	Lewis,	Orlando,	Stout,
Greenleaf,	Lincoln,	Pecora,	Tilghman,
Gurzenda,	Lloyd,	Price,	Zemprelli,
Hager,	Loeper,		

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 543 — Without objection, the bill was passed over in its order at the request of Senator ZEMPRELLI.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 565 (Pr. No. 872) — 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—50

Andrews,	Hankins,	Lynch,	Reibman,
Arlene,	Hess,	Manbeck,	Romanelli,
Bell,	Holl,	McKinney,	Ross,
Bodack,	Hopper,	Mellow,	Scanlon,
Coppersmith,	Howard,	Messinger,	Schaefer,
Corman,	Jubelirer,	Moore,	Smith,
Dwyer,	Kelley,	Murray,	Snyder,
Early,	Kury,	O'Connell,	Stapleton,
Fumo,	Kusse,	O'Pake,	Stauffer,
Gekas,	Lewis,	Orlando,	Stout,
Greenleaf,	Lincoln,	Pecora,	Tilghman,
Gurzenda,	Lloyd,	Price,	Zemprelli,
Hager,	Loeper,		

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

HB 643 — Without objection, the bill was passed over in its order at the request of Senator ZEMPRELLI.

**ANNOUNCEMENT BY THE PRESIDENT**

The PRESIDENT. The Secretary of the Senate has requested the Members when they leave the Chamber today to leave Senate Bill No. 372, Printer's No. 376 on their desks. Apparently they are in short supply and if you would comply with that request it would facilitate the operations of the Senate.

**GUESTS OF SENATOR JAMES A. ROMANELLI PRESENTED TO SENATE**

Senator ROMANELLI. Mr. President, I would like at this time to take the opportunity to introduce to the Members of the Senate three constituents of mine who are here from South Park High School in South Park Township in Allegheny County. Mr. Ralph Losey is the teacher supervising the two students who are here.

Two young ladies were elected representatives in that high school, one to be a Member of the House of Representatives and one to be a Senator in the Senate Chamber of Pennsylvania. Mr. President, the Senator is Laura Cerrar and the Representative is Maria Lacey. Mr. President, I would like at this time for the Senate to extend its usual warm welcome to these people.

The PRESIDENT. Would Senator Romanelli's distinguished constituents please rise so that the Members may give you their traditional warm welcome?

(Applause)

Senator ROMANELLI. Mr. President, I would like you to know that Miss Cerrar sat in your seat and found it very comfortable; she had her picture taken there, and probably will have designs on both mine and your seats someday.

**CONSIDERATION OF CALENDAR RESUMED**

**SECOND CONSIDERATION CALENDAR**

**PREFERRED APPROPRIATION BILL OVER IN ORDER**

**SB 799** — Without objection, the bill was passed over in its order at the request of Senator ZEMPRELLI.

**PREFERRED APPROPRIATION BILL ON SECOND CONSIDERATION AMENDED**

**HB 1258 (Pr. No. 1649)** — The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

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

Amend Sec. 2, page 23, by inserting between lines 26 and 27:

The following Federal augmentation amounts, or as much thereof as may be necessary, are hereby specifically appropriated to supplement the sum of [\$37,072,000] \$41,072,000 appropriated from Commonwealth revenues for public nursing homes:

"Medical Assistance" — For provision of medical assistance services to patients in public nursing homes

[\$77,109,000]  
\$86,059,000

The following Federal augmentation amounts, or as much thereof as may be necessary, are hereby specifically appropriated to supplement the sum of [\$80,000,000] \$89,000,000 appropriated from Commonwealth revenues for private nursing homes:

(1) "Medical Assistance" — For provision of medical assistance services to patients in private nursing homes . . . . . [\$98,374,000]  
\$109,324,000

On the question,

Will the Senate agree to the amendment?

Senator SMITH. Mr. President, what this amendment does is reappropriate the Federal augmentation monies. This is the additional Federal monies due after we had appropriated general fund monies for both the private and the public nursing homes. This is no more than reappropriating the additional Federal funds due us after our general fund monies.

Senator HAGER. Mr. President, I would urge support of the gentleman from Philadelphia, Senator Smith's amendment.

And the question recurring,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

It was agreed to.

Ordered, To be transcribed for a third consideration.

**BILL ON SECOND CONSIDERATION**

**SB 61 (Pr. No. 61)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILL REREFERRED**

**HB 62 (Pr. No. 459)** — Upon motion of Senator ZEMPRELLI, and agreed to, the bill was rereferred to the Committee on Appropriations.

**BILL ON SECOND CONSIDERATION**

**HB 140 (Pr. No. 1598)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

**BILLS OVER IN ORDER**

**SB 144, HB 160, 177 and 178** — Without objection, the bills were passed over in their order at the request of Senator ZEMPRELLI.

**BILLS ON SECOND CONSIDERATION**

**SB 241 (Pr. No. 844), HB 247 (Pr. No. 267), SB 284 (Pr. No. 286), SB 285 (Pr. No. 287) and SB 290 (Pr. No. 293)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

## BILL OVER IN ORDER

**SB 298** — Without objection, the bill was passed over in its order at the request of Senator ZEMPRELLI.

## BILL ON SECOND CONSIDERATION

**SB 311 (Pr. No. 315)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

## BILLS OVER IN ORDER

**SB 362, HB 405 and SB 411** — Without objection, the bills were passed over in their order at the request of Senator ZEMPRELLI.

## BILL ON SECOND CONSIDERATION

**HB 448 (Pr. No. 480)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

## BILLS OVER IN ORDER

**HB 486 and 568** — Without objection, the bills were passed over in their order at the request of Senator ZEMPRELLI.

## BILLS ON SECOND CONSIDERATION

**SB 602 (Pr. No. 634), SB 603 (Pr. No. 635), and HB 645 (Pr. No. 1073)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

## BILLS OVER IN ORDER

**SB 649 and 696** — Without objection, the bills were passed over in their order at the request of Senator ZEMPRELLI.

## BILL ON SECOND CONSIDERATION

**SB 763 (Pr. No. 818)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

SENATE CONCURRENT RESOLUTION  
SERIAL NO. 205, CALLED UPRESOLUTION ON CONCURRENCE  
IN HOUSE AMENDMENTS

Senator ZEMPRELLI, without objection, called up from page 7 of the Calendar, Senate Concurrent Resolution, Serial No. 205, entitled:

Urging local governments and State agencies to assist all Pennsylvanians in meeting housing needs.

On the question,

Will the Senate concur in the amendments made by the House to the resolution?

## SENATE NONCONCURS IN HOUSE AMENDMENTS

Senator ZEMPRELLI. Mr. President, I move that the Senate do nonconcur in the amendments made by the House to Senate Concurrent Resolution, Serial No. 205, and that a Committee of Conference on the part of the Senate be appointed.

The motion was agreed to.

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

ANNOUNCEMENT BY MAJORITY LEADER  
RE CONSIDERATION OF  
EXECUTIVE NOMINATIONS

Senator ZEMPRELLI. Mr. President, for the information of the Senate and also the Members of the Committee on Rules and Executive Nominations, many of us were expectant of having that committee consider the advice and consent of the Senate with respect to the appointment of now Justice John Flaherty at today's Session. As it developed in the meeting of the leadership prior to today's Session, there is some confusion with respect to the application of the new Disclosure Law and its conformity to the standing Rules of the Senate.

Mr. President, it was agreed among the leadership that we would suggest to our various caucuses that the rule with respect to confirmation be supplemented by a new rule of the Senate which would allow for nominations to come across the table of the Senate and not be acted upon for at least ten days, thereby allowing for both the Disclosure Act and the nomination process to both dovetail with one another and to resolve the inconsistency that appears to be patent with the reading of the Act of Disclosure. As that rule is not in effect at this time, it would seem that it would be inconsistent with that consideration to now consider Judge Flaherty's nomination. We are going to hold that in abeyance until such time as we have promulgated the rule and discussed the issue with the caucus. I think in that way, Mr. President, we will have made a major step to the avoidance of any conflicts that may arise in the future with respect to both conformity with the Disclosure Law and the Rules for nomination as we now understand with respect to the Senate and the executive nominations. For that reason, Mr. President, we will not be considering Judge Flaherty's nomination today. However, we will be considering it on Monday or Tuesday as the time elements involved, both for disclosure and for the proposed rule will have then been both complied with with the passage of at least ten days from the onset of both the nomination and also the filing of the disclosure statement.

Senator KELLEY. Mr. President, I desire to interrogate the gentleman from Allegheny, Senator Zemprelli.

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

Senator ZEMPRELLI. I will, Mr. President.

Senator KELLEY. Mr. President, if I understand the articulate gentleman from Allegheny, Senator Zemprelli, he is saying that the leadership today agreed not to do something in anticipation of a rule change that may occur. The conclusion seems to be, therefore, that the leadership has effected upon the entire Body a rule that we have not yet adopted. Does the gentleman understand my understanding to be correct?

Senator ZEMPRELLI. Mr. President, I was very careful not to anticipate the actions of the Senate. I used words of art such as "suggest," "recommend" and other classic uses of the English language which would suggest anything less than an agreement between leadership that would be imposed unilaterally

upon the Body of the Senate. It is, however, a clear understanding that if we were to withhold action until Monday we would not be abrogating any rules or any proposed rules, or rules which we may formulate or not formulate. The inconsistency would be, however, Mr. President, that if we were to work and advise and consent on Judge Flaherty's nomination today, we would have been placed in the position of having first abrogated a rule that we would superimpose at a later finding or holding of the Senate and establish a precedent inconsistent with that which we had later decided. For that reason, the leadership in its wisdom determined that it would not act at this time upon Judge Flaherty's nomination.

Senator HAGER. Mr. President, in addition to what the gentleman from Allegheny, Senator Zemprelli, said, whatever it was, there was an additional consideration. It was the feeling of the leadership, when looking at the schedule as it has been to this date, it very well may be that it has not been ten days since Judge Flaherty's executive nomination was laid upon the table, so rather than take that chance with soon to be Mr. Justice Flaherty, we would not only be protecting a rule which we are intending to offer to the Membership but at the same time we are also protecting the gentleman's legal rights if we wait until the next Session of this Senate to do it.

Senator ZEMPRELLI. Mr. President, I yield to the gentleman from Westmoreland, Senator Kelley.

Senator KELLEY. Mr. President, I desire to interrogate the gentleman from Lycoming, Senator Hager.

The PRESIDENT. Will the gentleman from Lycoming, Senator Hager, permit himself to be interrogated?

Senator HAGER, I will, Mr. President.

Senator KELLEY. Mr. President, I would like to suggest that the answer to my question that was reported to the gentleman from Allegheny, Senator Zemprelli, is "yes," the leadership is imposing a practice which is the substance of a rule that they expect to be considered and hopefully adopted by this Body in toto later on next week as far as imposing a ten-day rule for the financial report to be on the Calendar not necessarily filed as a matter of ten days; is that correct?

Senator HAGER. Mr. President, no, that is not correct. The issue is an interpretation of Act 170 and it has been proposed that we promulgate a rule which will make certain the interpretation of Act 170. But the more important consideration, Mr. President, for us and for this Body is, that because there is a question of that interpretation we would prefer not to subject the advice and consent of Judge Flaherty to a possible misinterpretation and that may be solved by waiting one more legislative day.

Senator ZEMPRELLI. Mr. President, a direct answer to the gentleman from Westmoreland, Senator Kelley, is yes.

Senator KELLEY. Mr. President, I believe that the rather apparent difference of opinion between the Majority and Minority Leaders on the face of it is sufficient for us to act with due dispatch in this regard under the present law. I believe it is rather irresponsible for this entire Body to not act in anticipation of something that may or may not be done in our own Rules.

Secondly, Mr. President, if we consider the fact that we are

talking about a rule that would be altering a statute of this Commonwealth, I doubt that we would not all be practicing what we have been all criticizing in the administrative practice of what we call the bureaucracy in rule making.

Mr. President, we are affecting the rights of not only this nominee but every nominee. Now the law specifically says that the financial report be on file for ten days. Now there is no doubt in anybody's mind that that report has been on file for ten days and I say do dispatch to respond to the electorate.

Mr. President, we should confirm this gentleman today as a Justice to the Supreme Court, and I would like to see that the leadership accept that responsibility of what the present Rules of this Body are, as well as the laws of the Commonwealth.

Senator ZEMPRELLI. Mr. President, of course, there is no firm rule which requires that the Senate act at any specific day except within the limitations of twenty-five days, and I am sure the gentleman from Westmoreland, Senator Kelley, understands that. The problem is this: You have a situation that exists where the statute calls for ten days prior to the time that you may act upon a nomination from the date that a disclosure statement has been filed. There is no coordinate with respect to the time that the Governor may make a nomination. It appears to be rather obvious that the purpose for a disclosure statement is so that parties may observe, review and otherwise take a look at a disclosure statement and it would appear that important to having any kind of knowledge about a disclosure statement is the fact that a nomination has been made. So that what is being obviated is a disclosure statement that may be filed by a party who is anticipating a nomination, that lying upon the desk of the Senate for a period of nine days, the Governor having made a nomination on the ninth day, and you would have a conformance with the Rules as they now exist, and yet that would be a total frustration of the intent of Act 170 and the whole meaning of disclosure.

Mr. President, simply what the proposed rule would do would be to allow the two to act concurrently, then you would have a ten day requirement with respect to both disclosure statement and the time at which a nomination was made by the Governor. Nobody's rights have been violated. As a matter of fact, it seems to me that the rights of all parties, including the duties of the Senate would be consolidated into a comprehensive understanding of what the nomination process is and is intended to be.

Senator ORLANDO. Mr. President, since the majority membership of this Body is composed of non-attorneys and the dialogue so far has involved legal talent on both sides of the aisle, can somebody explain it to us in lay language what is going on?

Senator STAUFFER. Mr. President, maybe another non-lawyer can explain it. I think the matter is really simple. That is, the law requires that a financial statement for everyone nominated to positions by the Governor be before the Senate for ten days. Judge Flaherty's nomination came over to the Senate last Tuesday, which means it is on the eighth day today. Mr. President, it is the view of those of us in leadership that the financial statement should follow this same timetable as the nomination and, therefore, we are on the eighth day and we still need two more days to accomplish the ten day requirement

of Act 170, so we can do it next week and meet the requirements of the law with no problem.

Senator FUMO. Mr. President, not having been at that leadership meeting and being a little confused about this, I would just like to take issue with my Majority Leader by saying that given the scenario which the gentleman just recently put forth to this Body, if that situation came before us, I am sure that this Senate would not act irresponsibly and vote on an individual whose financial statement we wanted to take a look at.

Number two, Mr. President, I would like to ask either one of the Leaders, Majority or Minority, who was at that meeting, why has this issue just been raised when we are about to consider the nomination of about-to-be Justice Flaherty whether this Chamber likes it or not? We have run other nominations through here when this issue has not been raised. I think what the gentleman from Westmoreland, Senator Kelley, said was very true, that we passed the law which everyone said was very clear, which passed unanimously; now if we find it is not clear, let us amend the law. I can understand that you can do this with a Senate Rule, but this is the very same thing for which we constantly criticize administrative agencies.

Mr. President, my basic question to either the gentleman from Allegheny, Senator Zemprelli, or the gentleman from Lycoming, Senator Hager, whoever would like to respond to it, is why has this issue been raised at this time regarding this nominee and never before in this Chamber?

Senator ZEMPRELLI. Mr. President, there is nobody in this Chamber that is more anxious to have Judge Flaherty confirmed than I. The reason the issue was presented for any consideration was one that was raised by the Secretary of the Senate when he queried whether or not the filing date of the disclosure statement was that date upon which that disclosure was filed with him, or the time at which the disclosure statement came across the desk of the Senate, understanding that the filing with the Secretary always proceeds crossing the Senate desk.

Mr. President, the issue then became an analysis of having that disclosure statement then before the Senate, either by the filing with the Secretary, or crossing the desk of the Senate, was a decision that had to be made, it would most assuredly be best recognized in the form of a rules change.

The second question, Mr. President, then becomes one of what effect does that have upon the time at which the nomination was made. It was at that point where it was determined or at least believed that the intent of disclosure was to allow a nominee's name to be reviewed with respect to that disclosure statement, and that it would be totally inconsistent and perhaps the frustration of the law, if we allow the person to file a disclosure statement who was not at that point in time a nominee. Otherwise, what would be the meaning of having a disclosure statement on record for a period of ten days.

Then to resolve the issue, Mr. President, it was recommended that we both require disclosure statements to be filed for a period of ten days and the nomination also be before the Senate for the same period; by that operation it then would require there be no conflict about the time requirements with respect

to disclosure and with respect to nomination and approval. It was that simple, nothing more or nothing less; no major problem, no big deal.

Mr. President, I would also suggest to the gentleman from Philadelphia, Senator Fumo, that we were not aware of the fact that the same problem existed with respect to any other nominations heretofore considered and after the time at which the disclosure law was passed.

Senator STAUFFER. Mr. President, for the benefit of the gentleman from Philadelphia, Senator Fumo, I would supplement what the gentleman from Allegheny, Senator Zemprelli, said by agreeing with everything and adding that Act 170 is not crystal clear in its language. There is a question of interpretation and, therefore, it is our belief that to avoid any questions in the future regarding interpretation, that if we suggest a rule to the Senate which clearly spells out the scenario that the gentleman from Allegheny, Senator Zemprelli, has expressed, then we will in an orderly fashion handle all nominations without any possibility of a question arising.

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

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

Senator STAUFFER. I will, Mr. President.

Senator FUMO. Mr. President, can the gentleman from Chester, Senator Stauffer, tell me why this same objection was not raised when we were considering members of the Governor's Cabinet? I recall at that point in time there was not even an Ethics Commission to file the statement with. From what I understand to the gentleman's agreement with the gentleman from Allegheny, Senator Zemprelli, that we now are interjecting the Secretary of the Senate as a receiving agent for these statements. So why is this thing being raised now and it was not raised back when we were considering the Governor's Cabinet?

Senator STAUFFER. Mr. President, I think the answer to that question has already been answered by the gentleman from Allegheny, Senator Zemprelli. The Secretary of the Senate raised the question during the markup Session today in order that he would have it clarified so that he would know how he should handle these statements when they come to the gentleman. The Secretary is faced with the problem where anyone can walk into his office and lay a financial disclosure statement on his desk, which on its face is meaningless if we have not had a nomination sent over from the Governor's office.

Mr. President, recognizing that when you get into the flow of executive nominations, there will be a large number of them at times, it would not be an orderly process for the Secretary to not have a definite method through which the gentleman would handle them.

Senator FUMO. Mr. President, does Act 170 require a place for this statement to be filed? I believe it does and I believe it is with the Ethics Commission. Am I mistaken in that belief?

Senator STAUFFER. Mr. President, that is one of the questions. I believe there is a question of interpretation when you look at the language in Act 170. That is why in our discussion we agreed the best way to guarantee that the spirit of Act 170

would be carried out would be for this disclosure statement to cross the desk of the Senate, because it is a well-recognized legislative fact that nothing is in the possession of the Senate until it has crossed the desk of the Senate.

Senator FUMO. Mr. President, is this proposed rule change going to address itself to ten legislative days or ten calendar days?

Senator STAUFFER. Mr. President, ten calendar days.

Senator FUMO. Mr. President, having heard the argument, I fail to really see how it does anything but do an injustice to Judge Flaherty, so it is my intention today to ask for a roll call vote on the gentleman's nomination when that is in order. If it is in order now, I would like to make that motion.

Senator HAGER. Mr. President, I was not present for the meeting of leadership, which brought this issue to the floor now. I can only tell you I have confidence, particularly since it was a meeting between the Democratic leadership and the Republican leadership that Judge Flaherty is not the subject or the object of this rule change.

Mr. President, I personally want to thank Judge Flaherty, who, at a moment's notice, flew in here today to give the Republican caucus the opportunity to interview him. I do not know how any particular individual on this floor intends to vote on that nomination, but I can tell you there is no playing for time, there is no reason given other than the one which has been given by both the gentleman from Allegheny, Senator Zemprelli, and the gentleman from Chester, Senator Stauffer. I do not know how else to say it except to say that to force this issue now is really forcing it against a backdrop in which there is no real controversy.

Judge Flaherty is not the reason for this proposed postponement of the vote on him until next Monday.

## UNFINISHED BUSINESS

### REPORTS FROM COMMITTEE

Senator COPPERSMITH, from the Committee on Public Health and Welfare, reported, as amended, **SB 184** and **HB 308**.

## CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Clearfield County by Senator Corman.

Congratulations of the Senate were extended to the Reverend Melvin E. Nicholson by Senator Andrews.

Congratulations of the Senate were extended to Mr. and Mrs. Ernest Barthel by Senator Early.

Congratulations of the Senate were extended to Mr. and Mrs. Louis Moroski and to Mr. and Mrs. John C. Peters by Senator Orlando.

Congratulations of the Senate were extended to Colonel Paul D. Eisen by Senator Lynch.

Congratulations of the Senate were extended to Russell Cheyney by Senator Bell.

Congratulations of the Senate were extended to Mrs. Florence McMullen and to Mrs. Clara Weidensaul by Senator Jubelirer.

## CONDOLENCE RESOLUTION

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

Condolences of the Senate were extended on the passing of A. Philip Randolph by Senators Arlene and Hankins.

## BILLS ON FIRST CONSIDERATION

Senator ZEMPRELLI. Mr. President, I move that the Senate do not proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

**SB 184, 640, 682 and HB 308.**

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

## PETITIONS AND REMONSTRANCES

Senator MESSINGER. Mr. President, yesterday I introduced legislation to enable the Pennsylvania Higher Education Assistance Agency to sell revenue bonds so that the proceeds of the bond issue may be used to make loans to the banks and other lenders under a contractual arrangement which will assure that these lenders will make loans available in sufficient quantity and at a reasonable interest rate to handle the requirements of the Health Professions Assistance Loans Program, other graduate student loan requirements and middle-income families in the undergraduate guaranteed student loan program.

The bonding concept permits the Agency to initiate a program without any cost to the Commonwealth. Under the Health Education Assistance Loan Program, the private lenders will make loans to students enrolled in the health professions to assure accessibility to loans bearing reasonable interest charges for these students. Such loans have not been available under this new Federal program to date. The plan will keep the private lenders as the maker of the loans and will take advantage of the Federal insurance provisions and the Federal funding of loan forgiveness for practice in areas where medical services are in short supply. It will avoid State funding of payments to lenders as was enacted in New York.

Mr. President, the bond issue will not require pledging of the faith and credit of the Commonwealth and could also be used to finance a program of consolidation of loans for students so that students with multiple loans could make timely repayment over an extended period of time by simply issuing a single monthly check. In case the private lenders would fail to make the necessary loans, the Agency would be in a position to make direct loans from revenue bonds.



## ANNOUNCEMENTS BY THE SECRETARY

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

## SENATE OF PENNSYLVANIA

## COMMITTEE MEETINGS

MONDAY, JUNE 11, 1979

- |            |   |                             |
|------------|---|-----------------------------|
| 10:00 A.M. | Special Senate Committee on Medicaid Fraud (Public Hearing to discuss the problems in the Medicaid administration, such as fraud and abuse) | Senate Majority Caucus Room |
| 11:30 A.M. | LOCAL GOVERNMENT (to be announced at a later date)  | Senate Minority Caucus Room |
| 12:00 Noon | AGRICULTURE AND RURAL AFFAIRS (to consider Senate Bills No. 414, 727 and 756)   | Room 182                    |
| 1:30 P.M.  | CONSUMER AFFAIRS (to hear testimony from Robert K. Bloom)   | Senate Minority Caucus Room |
| 2:00 P.M.  | AGING AND YOUTH (to consider Senate Bills No. 235, 237 and 238)   | Senate Majority Caucus Room |

TUESDAY, JUNE 12, 1979

- |            |   |          |
|------------|---|----------|
| 10:00 A.M. | EDUCATION (to consider Senate Bills No. 307, 629 and 783)               | Room 188 |
| 10:30 A.M. | LABOR AND INDUSTRY (to consider Senate Bills No. 337, 556, 557 and 639) | Room 286 |

WEDNESDAY, JUNE 13, 1979

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|------------|--|-----------------------------|
| 10:00 A.M. | PUBLIC HEALTH AND WELFARE (Public Hearing to consider the oversight with the Department of Public Welfare) | Senate Majority Caucus Room |
|------------|--|-----------------------------|

MONDAY, JUNE 18, 1979

- |            |   |                             |
|------------|---|-----------------------------|
| 11:00 A.M. | STATE GOVERNMENT (to consider Senate Bills No. 260, 261, 357, 487, 650, 701, 753, 764, 767, 772, 773; House Bills No. 31, 713 and 1261) | Senate Majority Caucus Room |
|------------|---|-----------------------------|

TUESDAY, JUNE 19, 1979

- |            |  |                             |
|------------|--|-----------------------------|
| 12:00 Noon | PROFESSIONAL LICENSURE (to consider Senate Bill No. 507) | Senate Majority Caucus Room |
|------------|--|-----------------------------|

WEDNESDAY, JUNE 20, 1979

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|------------|---|-----------------------------|
| 9:30 A.M.  | CONSUMER AFFAIRS (Public Hearing on the nomination of Walter W. Cohen as Consumer Advocate) | Senate Majority Caucus Room |
| 12:30 P.M. |   |                             |

THURSDAY, JUNE 21, 1979

- |           |  |                             |
|-----------|--|-----------------------------|
| 9:30 A.M. | PUBLIC HEALTH AND WELFARE (Public Hearing on Senate Bills No. 175 and 363) | Senate Majority Caucus Room |
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WEDNESDAY, JULY 11, 1979

- |           |   |                             |
|-----------|---|-----------------------------|
| 9:30 A.M. | PUBLIC HEALTH AND WELFARE (Public Hearing on Senate Bill No. 183) | Senate Majority Caucus Room |
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## ADJOURNMENT

Senator ZEMPRELLI. Mr. President, I move that the Senate do now adjourn until Monday, June 11, 1979, at 3:00 p.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 2:31 p.m., Eastern Daylight Saving Time.