

# Legislative Journal

WEDNESDAY, NOVEMBER 28, 1979

Session of 1979

163rd of the General Assembly

Vol. 1, No. 67

## SENATE

WEDNESDAY, November 28, 1979.

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

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

## PRAYER

The Chaplain, the Reverend Father FRANCIS LAHOUT, Pastor of Our Lady of Lourdes Catholic Church, Enola, offered the following prayer:

In the name of the Father, and of the Son, and of the Holy Spirit.

Let us remember the holy presence of God; let us adore His Divine Majesty; create our spirits; come and visit the souls that are Yours; fill with heavenly grace the hearts that You created.

You are called by the names of Paraclete, Gift of God Most High, Spring of Life, Fire Love and the Souls Anointing.

Seven gifts are Yours to give.

You are the finger of the Father's right hand, the clear promise of the Father. Give men's tongues the grace of speech.

Kindle the light in our minds, pour love into our hearts and uphold with Your unfailing strength the frailty of our human nature.

Drive our enemies far from us and give us always the gift of peace.

So may it be that with Your grace ever guiding us in this way, we may avoid all that is sinful.

Grant that through You we may know the Father and the Son. May we ever believe You to be the Spirit of both the Father and the Son.

Breathe in us, O Holy Spirit, that our thoughts may be holy.

Act in us, O Holy Spirit, that our work may be holy.

Draw our hearts that we may love only what is holy.

Strengthen us to defend all that is holy.

Guard us that we may always be holy.

Glory be to God the Father, and to the Son who rose from the dead and to the Paraclete, forever and ever. Amen.

In the name of the Father, and of the Son and of the Holy Spirit.

## 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 Ses-

sion, when, on motion of Senator SCANLON further reading was dispensed with, and the Journal was approved.

## COMMUNICATIONS FROM THE GOVERNOR

### NOMINATIONS BY THE GOVERNOR REFERRED TO COMMITTEE

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

#### MEMBER OF THE BOARD OF TRUSTEES OF CLARKS SUMMIT STATE HOSPITAL

November 23, 1979.

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 Dominick L. Touch, 1036 Beech Street, Archbald 18403, Lackawanna County, Twenty-second Senatorial District, for appointment as a member of the Board of Trustees of Clarks Summit State Hospital, to serve until the third Tuesday of January, 1985, and until his successor is appointed and qualified, vice Gerald Gilroy, Archbald, whose term expired.

DICK THORNBURGH.

#### MEMBER OF THE BOARD OF TRUSTEES OF SELINGSGROVE CENTER

November 23, 1979.

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 Ms. Dorothy E. Delbaugh, R. D. 1, Box 7, McAlisterville 17049, Juniata County, Twenty-seventh Senatorial District, for appointment as a member of the Board of Trustees of Selingsgrove Center, to serve until the third Tuesday of January, 1985, and until her successor is appointed and qualified, vice Larry Niemond, Richfield, whose term expired.

DICK THORNBURGH.

## GENERAL COMMUNICATION

### LISTS OF LOBBYISTS AND ORGANIZATIONS

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

November 28, 1979.

To the Honorable, the Senate of the Commonwealth of Pennsylvania

To the Honorable, the House of Representatives of the Commonwealth of Pennsylvania

In compliance with Act No. 712 of the 1961 Session and Act No. 712 of the 1976 Session of the General Assembly titled the "Lobbying Registration and Regulation Act," we herewith jointly present a list containing the names and addresses of the persons who have registered from November 1, 1979 through November 27, 1979 for the 163rd Session of the General Assembly. This list also contains the names and addresses of the organizations represented by these registrants.

Respectfully submitted:

MARK GRUELL, JR.  
Secretary of the Senate

CHARLES F. MEBUS  
Chief Clerk  
House of Representatives

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

### REPORTS FROM COMMITTEES

Senator LYNCH, from the Committee on Transportation, reported, as amended, **HB 739**.

Senator EARLY, from the Committee on Constitutional Changes and Federal Relations, reported, as committed, **SB 1021**; as amended, **SB 888** and **982**.

### RESOLUTIONS REPORTED FROM COMMITTEE

Senator SCANLON, from the Committee on Rules and Executive Nominations, reported with amendment, Senate Resolution, **Serial No. 69**, entitled:

Amending Senate Rule 14 by adding Section 8.1.

Senator SCANLON asked and obtained unanimous consent for the immediate consideration of this resolution.

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

On the question,

Will the Senate adopt the resolution?

### SENATE RESOLUTION, SERIAL NO. 69, ADOPTED

Senator SCANLON. Mr. President, I move that the Senate do adopt Senate Resolution, Serial No. 69.

The motion was agreed to and the resolution was adopted.

Senator EARLY, from the Committee on Constitutional Changes and Federal Relations, reported without amendment, the following Senate Resolution, numbered and entitled:

**Serial No. 61** — Expressing opposition to regulations and rule-making practices by Federal agencies against ownership and possession of firearms for lawful purposes.

He also, from the Committee on Constitutional Changes and Federal Relations, reported without amendment, the following Senate Concurrent Resolutions, numbered and entitled:

**Serial No. 211** — Memorializing President and Congress to implore Canada to stop slaughter of infant Harp Seals.

**Serial No. 216** — Memorializing Congress take action returning policy making authority to State legislative bodies in areas delegated by constitutional provisions.

He also, from the Committee on Constitutional Changes and Federal Relations, reported without amendment, the following House Concurrent Resolutions, numbered and entitled:

**No. 14** — General Assembly memorialize Congress propose full federal funding of all programs for State and local governments.

**No. 36** — General Assembly memorialize Congress grant tax deductions and/or credits to industrial users of oil or natural gas who convert to coal.

**No. 87** — General Assembly memorialize President and Congress raise export cost of grain to oil producing countries.

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

### BILLS INTRODUCED AND REFERRED

Senators FUMO, REIBMAN, MESSINGER, LLOYD and DWYER presented to the Chair **SB 1126**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," providing for the payment to employees of part of their unused sick leave.

Which was committed to the Committee on Education.

Senators BELL, LOEPER and STAUFFER presented to the Chair **SB 1127**, entitled:

An Act amending the act of June 22, 1937 (P. L. 1987, No. 394), entitled, as amended, "The Clean Streams Law," further providing for permits for the disposal of industrial waste or sludge.

Which was committed to the Committee on Environmental Resources.

Senators BELL, MESSINGER and ARLENE presented to the Chair **SB 1128**, entitled:

An Act amending the act of June 2, 1915 (P. L. 736, No. 338), entitled, as amended, "The Pennsylvania Workmen's Compensation Act," providing for the time within which one suffering from asbestosis must give notice thereof to his employer.

Which was committed to the Committee on Labor and Industry.

Senators BELL, LYNCH, MESSINGER and ARLENE presented to the Chair **SB 1129**, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, certain interest charges may be prohibited by the commission for certain unpaid services.

Which was committed to the Committee on Consumer Affairs.

Senator MELLOW presented to the Chair **SB 1130**, entitled:

An Act amending the act of May 29, 1956 (1955 P. L. 1804, No. 600), entitled "Municipal Police Pension Law," further providing for pensions to widows or children of deceased police officers.

Which was committed to the Committee on Local Government.

**RECESS**

Senator SCANLON. Mr. President, I request a recess of the Senate until 2:00 p.m., for the purpose of holding a Democratic caucus and a Republican caucus.

The PRESIDENT. Are there any objections? The Chair hears no objection, and declares a recess of the Senate until 2:00 p.m., Eastern Standard Time.

**AFTER RECESS**

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

**HOUSE MESSAGE**

**SENATE BILL RETURNED WITH AMENDMENTS**

The Clerk of the House of Representatives being introduced, returned to the Senate **SB 224**, 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.

**BILLS SIGNED**

The President (Lieutenant Governor William W. Scranton III) in the presence of the Senate signed the following bills:

**HB 177, 630, 1068 and 1069.**

**GUESTS OF SENATOR HENRY G. HAGER PRESENTED TO SENATE**

Senator HAGER. Mr. President, we have in the gallery today five members of the Legislative Affairs Committee of the Williamsport Junior League, Williamsport—and, Senators, that is where the Grit is. They are Misses Alberts, Gibbs, Engle, Crotty and Alonga.

I ask, Mr. President, that you and the Senate greet kindly Linda, Mary, Mary, Dottie and Winkie.

The PRESIDENT. Would these guests please stand so the Senate may give you its traditional warm welcome?

(Applause.)

**CALENDAR**

**BILL WHICH HOUSE HAS NONCONCURRED IN SENATE AMENDMENTS**

**SENATE INSISTS UPON ITS AMENDMENTS NONCONCURRED IN BY THE HOUSE TO HB 1262**

**HB 1262 (Pr. No. 2106)** — Senator SCANLON. Mr. President, I move that the Senate do insist upon its amendments to House Bill No. 1262, 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.

**BILLS ON CONCURRENCE IN HOUSE AMENDMENTS**

**SENATE CONCURS IN HOUSE AMENDMENTS**

**SB 210 (Pr. No. 1312)** — Senator SCANLON. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 210.

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

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

**YEAS—46**

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

**NAYS—0**

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

Not being present at the time of roll call, Senator LINCOLN announced his vote in the affirmative.

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

**SB 276 (Pr. No. 1260)** — Senator SCANLON. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 276.

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

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

**YEAS—44**

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

**NAYS—2**

Bell, Kury,

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

Not being present at the time of roll call, Senator LINCOLN announced his vote in the affirmative.

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

BILL OVER IN ORDER

SB 395 — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

SENATE CONCURS IN HOUSE AMENDMENTS

SB 502 (Pr. No. 1321) — Senator Scanlon. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 502.

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

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

YEAS—47

Table with 4 columns of names: Andrews, Arlene, Bell, Bodack, Coppersmith, Corman, Dwyer, Early, Fumo, Gekas, Greenleaf, Gurzenda, Hager, Hankins, Hess, Holl, Hopper, Howard, Jubelirer, Kelley, Kury, Kusse, Lewis, Lloyd, Loeper, Lynch, Manbeck, McKinney, Mellow, Messinger, Moore, Murray, O'Connell, Pecaora, Price, Reibman, Romanelli, Ross, Scanlon, Snyder, Stapleton, Stauffer, Stout, Tilghman.

NAYS—0

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

Not being present at the time of roll call, Senator LINCOLN announced his vote in the affirmative.

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

THIRD CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

HB 601 — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

BILL OVER IN ORDER TEMPORARILY

SB 355 — Without objection, the bill was passed over in its order temporarily at the request of Senator SCANLON.

BILLS OVER IN ORDER

SB 445 and 487 — Without objection the bills were passed over in their order at the request of Senator SCANLON.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 830 (Pr. No. 2523) — 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

Table with 4 columns of names: Andrews, Arlene, Bell, Bodack, Coppersmith, Corman, Dwyer, Early, Fumo, Gekas, Greenleaf, Gurzenda, Hager, Hankins, Hess, Holl, Hopper, Howard, Jubelirer, Kelley, Kury, Kusse, Lewis, Loeper, Lynch, Manbeck, McKinney, Mellow, Messinger, Moore, Murray, O'Connell, O'Pake, Orlando, Pecora, Price, Reibman, Romanelli, Ross, Scanlon, Smith, Snyder, Stapleton, Stauffer, Stout, Tilghman.

NAYS—1

Lloyd,

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

Not being present at the time of roll call, Senator LINCOLN announced his vote 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.

SB 869 (Pr. No. 1370) — 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—47

Table with 4 columns of names: Andrews, Arlene, Bell, Bodack, Coppersmith, Corman, Dwyer, Early, Fumo, Gekas, Greenleaf, Gurzenda, Hager, Hankins, Hess, Holl, Hopper, Howard, Jubelirer, Kelley, Kury, Kusse, Lewis, Lloyd, Loeper, Lynch, Manbeck, McKinney, Mellow, Messinger, Moore, Murray, O'Connell, O'Pake, Orlando, Pecora, Price, Reibman, Romanelli, Ross, Scanlon, Smith, Snyder, Stapleton, Stauffer, Stout, Tilghman.

NAYS—0

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

Not being present at the time of roll call, Senator LINCOLN announced his vote in the affirmative.

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

## BILLS OVER IN ORDER

**SB 924, 985, 986 and 1004** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

## BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**SB 1019 (Pr. No. 1371)** — 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, I will be brief.

In March this Senate passed a resolution creating a Special Senate Committee to Investigate Medicaid Fraud in Pennsylvania. As chief sponsor of that resolution, I was named chairman of that committee. This bill, Senate Bill No. 1019, is a product of our committee's work. Senate Bill No. 1019, which will make it a serious crime, a felony, for health care providers to engage in Medicaid fraud, is badly needed now in Pennsylvania.

During the course of hearings held by the Special Senate Committee on Medicaid Fraud, we have been told that fraud and abuse in the Medicaid program, as administered by the Department of Public Welfare in Pennsylvania, is now costing the taxpayers at least \$100 million a year right here in Pennsylvania.

Unless we make the punishment fit the crime, there is very little to deter unscrupulous medical care providers and businessmen from continuing to rip-off the system. Unfortunately, restitution and civil remedies do not have the deterrent effect that this amendment to the Crimes Code will have in stopping this widespread and expensive criminal activity.

Let me give you a few examples of the rip-offs that are taking place: The State paid over \$2 million last year for a single item, orthopedic shoes. Ninety per cent of those shoes went to people in Philadelphia. It seems that Philadelphians are averaging one pair of orthopedic shoes for every seven recipients, while in the other counties, only one in eighty-one recipients is getting orthopedic shoes. It strains credibility to believe that these statistics mean that more Philadelphians on medical assistance have bad feet.

There is a clear pattern of abuse in Philadelphia that has been going on for years. One store alone in Philadelphia received over \$700,000 for orthopedic shoes under Medicaid in 1977. During the last calendar quarter, in 1977, four shoe providers in Philadelphia each were paid over \$100,000 for providing shoes in a three-month calendar period.

Other examples of the outrageous rip-offs in the Medicaid program involve such services as X-rays, blood tests, prescription drugs and medical equipment. We have been told that as high as forty-five per cent of all the X-rays billed under Medicaid involve cheating. As the former Assistant District Attorney from Philadelphia testified, "The X-ray rip-off is systematic and universal." He also indicated there is over-

whelming evidence of kickbacks in certain laboratories in Philadelphia. Unfortunately, what really hurts in this whole mess is the poor quality of care being provided to our elderly and truly needy in Pennsylvania. More of these abuses will be outlined in the final report of the committee, which is due at the end of the year.

My bill, Senate Bill No. 1019, sponsored by all the members of that committee, not only permits a seven-year jail sentence for those found guilty of Medicaid fraud, it also requires that they be put out of the Medicaid program and that they pay triple damages for every fraudulent claim submitted.

Until now, prosecutors have had to rely on general theft and deceptive practices statutes in order to convict these crooks. Even when convictions were obtained, most received only a slap on the wrist, such as a suspended jail sentence and payment of restitution for what they had stolen. Such light penalties cannot deter Medicaid fraud because the economic incentive is still there to try and get away with it, because so few are prosecuted and those who are have only to pay back what they wrongfully took.

In conclusion, I want to thank the hardworking members of this bipartisan committee, the gentleman from Lancaster Senator Richard Snyder, the gentleman from Allegheny, Senator James Romanelli, the gentleman from Lackawanna, Senator Robert Mellow, and the gentleman from Philadelphia, Senator Philip Price, for their bipartisan cooperation. I also want to thank Auditor General, Al Benedict and his staff for their cooperation and fine work in the area of Medicaid fraud detection. Their efforts have been praised by all the witnesses who testified on that subject. I wish that the same cooperation had been provided by the Department of Public Welfare and the Department of Justice. Perhaps their reluctance to fully cooperate can be understood when you consider testimony by several witnesses:

"The performance of the Medicaid Fraud Control Unit in the Justice Department has not been good..."

"There appears to be a lack of interest in prosecution by the Pennsylvania Medicaid Fraud Control Unit..."

"Communication with the Medicaid Fraud Control Unit in the Justice Department has been poor to non-existent..."

I hope that our committee has stimulated these agencies of government to give the priority and aggressiveness to the Medicaid fraud problem that the taxpayers of Pennsylvania deserve. Passage of this bill by us and by the House of Representatives will give prosecutors a badly needed tool in their efforts to crack down on a racket that is hurting the taxpayers much more than any individual recipient fraud.

This legislation, Senate Bill No. 1019, is an essential element in combatting fraud and abuse. Millions of dollars are at stake, and Pennsylvania cannot afford to sit idly by and let those hard-earned tax dollars go to cheaters and crooks. By putting the crime of Medicaid fraud in our Crimes Code, we tell these unscrupulous few that we are ready to take a hard line against them, and the time when Medicaid meant easy money is over.

Mr. President, I urge an affirmative vote.

Senator SNYDER. Mr. President, I concur in large part in what the gentleman from Berks, Senator O'Pake, has said. I,

too, urge an affirmative vote on the legislation.

I think if I may add a dissenting note, however, to the gentleman's criticism of the Department of Justice, I think a comparison of their work with that of an adjoining State which has a quite similar situation, will show that our department is not quite so remiss as the gentleman would make it appear. I think that time will vindicate this position and I think we should give the Department of Justice a little more time to prove itself. On the whole, however, Mr. President, I urge the passage of this legislation.

And on 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—47

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

## NAYS—0

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

Not being present at the time of roll call, Senator LINCOLN announced his vote in the affirmative.

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

## BILL OVER IN ORDER

**SB 1066** — Without objection, the bill was passed over in its order at the request of Senator STAUFFER.

## BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

**HB 1531 (Pr. No. 2326)** — 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—47

Andrews,	Hager,	Loeper,	Price,
Arlene,	Hankins,	Lynch,	Reibman,
Bell,	Hess,	Manbeck,	Romanelli,
Bodack,	Holl,	McKinney,	Ross,
Coppersmith,	Hopper,	Mellow,	Scanlon,
Corman,	Howard,	Messinger,	Smith,
Dwyer,	Jubelirer,	Moore,	Snyder,
Early,	Kelley,	Murray,	Stapleton,

Fumo,	Kury,	O'Connell,	Stauffer,
Gekas,	Kusse,	O'Pake,	Stout,
Greenleaf,	Lewis,	Orlando,	Tilghman,
Gurzenda,	Lloyd,	Pecora,	

## NAYS—0

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

Not being present at the time of roll call, Senator LINCOLN announced his vote 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.

## RECESS

Senator SCANLON. Mr. President, at this point I would request that the Senate recess for the purpose of a short meeting of the Committee on Rules and Executive Nominations, to be held in the Rules Committee room immediately.

The PRESIDENT. For the purpose of a brief meeting of the Committee on Rules and Executive Nominations to be held in the Rules Committee room at the rear of the Chamber, the Chair declares the Senate in recess.

## AFTER RECESS

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

### COMMUNICATION FROM THE GOVERNOR REPORTED FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

Senator FUMO, by unanimous consent, reported from the Committee on Rules and Executive Nominations, communication from His Excellency, the Governor, recalling the following nomination, which was read by the Clerk as follows:

## DISTRICT JUSTICE

November 21, 1979.

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 28, 1979, for the appointment of Mrs. Violet Rivlin, R. D. # 4, Merryweather Drive, Bethlehem 18015, (Lower Saucon Township) Northampton County, Eighteenth Senatorial District, for appointment as District Justice in and for the County of Northampton, Class 2, District 04, to serve until the first Monday of January, 1980, vice Joseph E. Martin, Hellertown, Mandatory Retirement.

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

DICK THORNBURGH.

## NOMINATION RETURNED TO THE GOVERNOR

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

The motion was agreed to.  
The PRESIDENT. The nomination will be returned to the Governor.

## REPORT FROM COMMITTEE ON RULES AND EXECUTIVE NOMINATIONS

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

### SECRETARY OF HEALTH

November 1, 1979.

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 Doctor H. Arnold Muller, 354 East Chocolate Avenue, Hershey 17033, Dauphin County, Fifteenth Senatorial District, for appointment as Secretary of Health, to serve until the third Tuesday of January, 1983, and until his successor shall have been appointed and qualified, vice The Honorable Gordon Kenneth MacLeod, M.D., Pittsburgh, resigned.

DICK THORNBURGH.

## EXECUTIVE NOMINATION

### EXECUTIVE SESSION

Motion was made by Senator FUMO,

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

Which was agreed to.

### CONSIDERATION OF EXECUTIVE NOMINATION

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

### NOMINATION TAKEN FROM THE TABLE

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

On the question,

Will the Senate advise and consent to the nomination?

Senator ORLANDO. Mr. President, I rise today to speak about the nomination of Dr. H. Arnold Muller to be the Secretary of Health.

Mr. President, I have no question about Dr. Muller's background or qualifications. I think he is eminently qualified to be our Secretary of Health. However, Dr. Muller has told a Senate committee he plans to hold down two other positions to supplement the State's salary of \$41,250. I feel in my mind that the requirement that the Health Secretary be a medical doctor forces the appointment of someone who is going to work at other jobs as well in today's economy.

Mr. President, no practicing physician could afford to take the position that cuts his salary to \$41,250. I strongly believe that while Dr. Muller is eminently qualified, the head of a major State department should be someone who works at it full time and whose loyalty also is full time to the department.

By changing this requirement to a person with ten years in the public health care field, we should be able to find someone equally qualified who can live on the State's salary alone. I do not want to lower the standards for the position just to assure that Cabinet Members spend the better part of their time serving the State in the positions they hold.

Mr. President, in addition, this appointment raises the issue of a double standard for Cabinet Members since Governor Thornburgh fired Secretary Ethel Allen as Secretary of State based on her outside employment. Dr. Allen and those who support her have a right to raise serious questions about her firing particularly in the light of Dr. Muller's appointment coupled with his outside employment.

Rather than vote against Dr. Muller, Mr. President, I will introduce legislation removing the requirement that the Secretary of Health be a medical doctor, so that we can get a full-time person for this position.

Senator BELL. Mr. President, I desire to interrogate the gentleman from Cambria, Senator Coppersmith.

The PRESIDENT. Will the gentleman from Cambria, Senator Coppersmith, permit himself to be interrogated?

Senator COPPERSMITH. I will, Mr. President.

Senator BELL. Mr. President, I understand this present nominee is presently connected with the Hershey Medical School which receives State money. I wish somebody in this Senate could tell me if one of those other jobs he is going to hold is funded by State money?

Senator COPPERSMITH. Mr. President, in answer to the question of the gentleman from Delaware, Senator Bell, the second position that Dr. Muller would hold would be performing certain services for the Army, which would be Federal money.

Senator BELL. Mr. President, I wonder if the gentleman would tell us what type of employment with the Federal Government? Is he a member of the Army Reserve, National Guard or what?

Senator COPPERSMITH. Mr. President, if I recall it is a clinic in Carlisle. In his statement he sets it forth in detail, but I do not have the statement with me. In regard to Dr. Muller's other position, he is the Director of the Emergency Department at the Hershey Medical Center.

Senator BELL. Mr. President, I think there is a constitutional provision that says that nobody holding a State job shall hold any Federal office of trust or profit except in the National Guard or the Army Reserve. I am very hesitant about hiring a full-time man who is going to be doing two other jobs. Mr. President, I am going to vote "no" today.

Senator HANKINS. Mr. President, in regard to the nomination of Dr. Muller at this time, I requested some weeks ago in writing to the Governor to get an answer on certain issues that were creating some problems in Philadelphia.

In the Department of Health's division of the Bureau of Vital

Statistics of the Philadelphia office, there is indication and there have been sent out a number of furloughs in that department. There are presently twenty persons on the payroll of the facility. Twelve of these persons are to be furloughed, leaving a staff of only seven people to perform the functions of this facility. There are approximately 21,200 death records a year and 126,000 births are recorded a year; plus 130,780 certified copies of death certificates are issued approximately each year, and 128,000 birth certificates are issued a year. Actually, it would be impossible to service this constituency all of whom come into the Philadelphia office. I understand there is a general furlough over the entire State. But actually when you look at the figures here that I presently spoke about, they are as many as the rest of the entire State of Pennsylvania.

Mr. President, I did speak by telephone to a doctor and indicated my concern. In writing to the Governor, I have not received an answer to that letter which was sent about a week or ten days ago. This has been brought to my attention through the various State associations and the local associations of the Commonwealth and Philadelphia.

I feel that this should be in the records that I have indicated this on the floor of this Senate today, due to the fact that I have not been able to receive any communications from the Administration whatsoever.

Senator SNYDER. Mr. President, I think the point raised by the gentleman from Erie, Senator Orlando, deserves reply because, admittedly, a person who undertakes a Cabinet responsibility and who hopes to continue his other responsibilities does raise a question with all of us.

This was gone into at the hearing of the Committee on Public Health and Welfare and at that time, the nominee promised unequivocally to give a priority to his official duties if at any time they came into conflict as a matter of time or substance. He promised further to give a full working week to his duties as Secretary of Health. He gave a detailed breakdown of the hours he spends currently in various duties which totaled upwards of seventy or seventy-two hours.

I think measuring this in dollars is a misleading thing in this situation. I think the Doctor's paramount concern is keeping his hand, shall we say, in the active practice of medicine and in the very fast-moving developments in the fields at Hershey Medical Center. He has a very commendable record, particularly in the field of emergency health care which is a very busy current area. He has experience as a practicing physician which was quite reassuring to some of us who realize the family practice problems in the State.

Mr. President, I think in all ways he met the stature that would seem to be called for in this situation. There are some people who are quite able to do what might be regarded as several person's work. We know of them in our own experience. Dr. Muller appears to be one of these, and I am confident he will give a very excellent performance as Secretary of Health.

Senator KELLEY. Mr. President, I just want the record of this Senate to be complete in its confirmation proceedings for Dr. Muller and inform my colleagues that the Committee on Public Health and Welfare did extensively consider the fact that there is a potential conflict of responsibility relative to

servicing as Secretary of Health and also as a Director of Emergency Services in a hospital which would have accountability thereto.

In the pursuit thereof, the committee was obviously satisfied by his answer that he would not allow himself to be put in such a position of conflict and would not participate in anything on behalf of the hospital in relationship to that supervisory position that he would have as Secretary of Health. The committee was satisfied and so am I, Mr. President.

Senator BELL. Mr. President, despite what some people may think, Article VI, Section 2 of the Constitution does read:

"No Member of Congress from this State, nor any person holding or exercising any office or appointment of trust or profit under the United States, shall at the same time hold or exercise any office in this State to which a salary, fees or perquisites shall be attached."

Now, that is clear to me; it apparently is not clear to anybody else in this room. It means if you are on the Federal payroll, you cannot be on the State payroll. If you are working in the Durham Army Hospital at the Army War College or on the payroll part-time or full-time, you are drawing a Federal salary.

If we are going to start a new precedent, why not hire a couple other people or full-time Federal people to be Secretaries.

Senator KELLEY. Mr. President, I desire to interrogate the gentleman from Delaware, Senator Bell.

The PRESIDENT. Will the gentleman from Delaware, Senator Bell, permit himself to be interrogated?

Senator BELL. I will, Mr. President.

Senator KELLEY. Mr. President, is it the gentleman's contention to interpret that section of the Constitution of the Commonwealth that if an individual was the recipient of a Federal Veteran's pension, he could not serve in the General Assembly?

Senator BELL. No, it is not.

I know that is a personal attack on me and I am damn proud to have a Federal pension. Maybe some of the rest of you should have served a little while. You might be qualified.

Mr. President, before I was so nicely interrupted, we are going to make a decision here today. This is going to be a precedent. We are going to make a decision as to whether we are going to have your Cabinet members full-time people or part-time people. That is the only thing in front of us.

I do not go for this seventy-two-hour-a-week talk, that a man is going to work over ten hours every day and be fresh and capable of handling the seven-hour-a-day job of Secretary of Health. We have similar Secretaries now that none of us can get in touch with. We have some of our Chairmen of Commissions. I am thinking of the Governor's Energy Council. I wrote him a letter about a month ago and he has not had time to answer it yet.

Now this is what is in front of us. So vote your conscience. Vote whether you want a full-time Secretary of Health or one who has two other jobs.

Senator HAGER. Mr. President, I do not want to talk about the issue of full-time or part-time. That has been fully delineated and everyone here has that fully in mind.

I would like to say that the last speaker works at least eighty



hours a week himself and he does an extremely effective job of that.

On the issue of the constitutional question, a couple of things which I think should be pointed out. The wording is: ". . . any office or appointment. . ." That does not mean employment. That means where you have been elected to office or have been appointed. I am sure there is nothing in this Constitution which would say that someone who is a Federal employee is ineligible for State employment or State office.

To even further remove this and to remove any doubts which may exist in people's minds, the prospective Secretary, the designee of the Governor, was interviewed on this point by members of the press just last week and he told them very clearly and unequivocally that he is not on a Federal payroll anyway; that all fees which come from this position, which is at the War College, as I recall, are either from a private trust fund or from patient fees. He is not the recipient of any Federal dollars whatsoever. So the issue is really not before us, Mr. President.

Senator LLOYD. Mr. President, to comment briefly on the question that has arisen regarding having three jobs, I think it is an important area and I think we must be aware that everyone feels Dr. Muller is a man of integrity and certainly was a man of openness with the committee.

We also recognize that it is very difficult to get a top quality physician for the salary that this position pays on a full-time basis.

However, I do not think that it is realistic to assume anyone can hold three jobs and deal with them effectively. There has been a great deal of discussion about a total of sixty-five hours. It was pointed out that some people work eighty hours. I think though it is a lot easier to work sixty-five hours at one job than it is to work sixty-five hours at three different jobs, because the emotional and physical and mental strain involved in planning and transportation to and from several jobs tends to wear on one more than performing that number of hours in one given endeavor.

It is not with any question of Dr. Muller's integrity or his openness or his salary requirements that I will be voting "no," it is with a serious question as to the ability to deal effectively with three positions.

Senator FUMO. Mr. President, I, too, want to address the issue of multiple employment in this case. The argument has been made, as I understand it, that it is very difficult to find a competent physician at this salary. I think that argument really does not hold water. We have the same problem when we talk about the Attorney General of Pennsylvania. People make sacrifices when they want to hold public office. There are attorneys that are making a lot of money but they recognize if they want to be Attorney General, they are going to have to leave their practice and become a full-time Attorney General.

I do not think it is unreasonable to request an individual who is a physician to give up his practice to become a member of the Governor's Cabinet and to serve in this capacity. I think we are talking about an extremely important issue, whether or not we want our Cabinet members to be not only full-time but whole time. I believe that is the definition of the word we are using.

I think Cabinet members should be whole time. I can recall

when I served as a Bureau Chief, I was criticized by the media for going to night school. Yet, I hear no criticism on this particular nominee holding down three jobs. I do not know the inconsistency.

I happen to agree that people should be whole time if they are going to be Cabinet members. It removes immediately the potential for conflict of interest and it certainly removes the criticism of whether or not they are spending enough time on the job.

Again I must reiterate, it is unbelievable to me that the Governor would send a gentleman who is holding down three jobs to us in light of his firing of Ethel Allen, who was going out and making occasional speeches.

I am sure there is no one in this Chamber who is going to argue with me that the Secretary of the Commonwealth's responsibilities are greater than the Secretary of Health. In fact, if anything, I think we agree that they are much less. We are even talking about abolishing the department. Yet, there is a great degree of consternation over Ethel Allen if she makes a few speeches. Here we have an individual running an important department where his direct management skills are necessary on a day-to-day basis and no one is concerned about him being part-time.

Senator HAGER. Mr. President, I desire to interrogate the gentleman from Philadelphia, Senator Fumo.

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

Senator FUMO. I will, Mr. President.

Senator HAGER. Mr. President, I find it very interesting, the language, about the inconsistency of holding two jobs and the fact that there is a potential conflict of interest which is removed if we do not allow that kind of thing to happen. I wonder if the gentleman would care to explain to us for his caucus why they, to a person, recommitted the bill which was Senate Bill No. 792, I believe, which would have made it impossible for people to hold both local office and serve in the General Assembly?

Senator FUMO. Mr. President, I do not know that. But I would also tell the gentleman from Lycoming, Senator Hager, that in the discussion on the ethics bill in committee when the gentleman was there with me I supported the fact that State Legislators should not be practicing before State agencies. If I overlooked that one particular bill, I apologize for that and certainly if we were voting on it today, I would vote in favor of saying that they should not hold two offices. I apologize for my inadequacy on that particular bill, Mr. President.

Senator HAGER. Mr. President, for the record, that is Senate Bill No. 792, the bill of the gentleman from Allegheny, Senator Pecora, which would have proscribed what is presently being done by some people, holding local office and also holding office in the General Assembly. For the record, that was recommitted to the Committee on State Government on a straight party line vote, the Democrats voting to recommit on October 23, 1979, because they felt that people should be able to hold more than one job.

Senator FUMO. Mr. President, may I elaborate on that issue, however.

I think that the gentleman from Lycoming, Senator Hager, should be aware of the fact that there are two different situations within that one issue. Number one, that the local officials are elected individuals and when people elect people it is their option to elect an individual who they know is going to hold down another job—although I do not agree with it philosophically, but there is that check and balance system. Secondly, these individuals many times in local township positions are not full-time people. They merely go to one meeting a week, if they go to that. Here we are talking about an individual who is being placed in a position whose management skills are necessary, not merely his integrity and good judgment, but his day-to-day management skills. Certainly that must have been one of the considerations that the Governor looked for when he looked for a Secretary of Health.

Mr. President, I do not think that the situations are analogous, although I do have to say that I did vote under a misapprehension and I would vote differently on Senate Bill No. 792, but I do not think it is directly analogous to the situation.

Senator PRICE. Mr. President, having participated in the committee meeting at which Dr. Muller was questioned closely on this issue, I can say that in answer to a question that was put very directly, if there came to be a conflict between his present schedule and the other two jobs and running the Department of Health, he was perfectly clear to me that the Department of Health would take his first priority and that he would make that commitment to the members of the committee. I think it was fully discussed in the committee. His credentials are well known to everybody. For those two reasons, Mr. President, I will vote "yes."

Senator LLOYD. Mr. President, I think it is important in a discussion like this that we have our facts straight.

On Senate Bill No. 792, which the gentleman from Lycoming, Senator Hager, has pointed out to be an analogous situation that was not voted along straight party lines, I for one voted with the gentleman from Allegheny, Senator Pecora, on it. I believe some others from the Democratic caucus did as well. If it is a good government issue, it is of note that apparently all Republican Senators voted the same way on it. The gentleman may want to check the record on that.

Senator SNYDER. Mr. President, for the record I think it ought to show that these are not three full-time jobs by any means. The two positions that Dr. Muller would retain are strictly part-time.

Mr. President, I would like to remind the Members that Dr. Bachman of the previous Administration, at the same time he was serving as Secretary of Health, spent, as I recall, one day a week in Philadelphia in his position there retaining his work in, I believe, the x-ray or radiology field. At that time his reason for doing it was in part, I think, what Dr. Muller's is, that he wanted to keep his hand in active practice. That was to the advantage of the State in this situation. His predecessor, Dr. Speller, also continued practice, I think, in his specialty in Philadelphia while he was Secretary of Health.

Mr. President, I think this is an area where we have to make that kind of an exception. I think the Commonwealth is better

off if we do. Certainly there is ample precedent here for expecting the Secretary to put in a full work week for the Commonwealth, but at the same time, not deprive him of his activity in his profession which would contribute to his abilities.

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, in observing and listening to the gentleman interrogate the gentleman from Philadelphia, Senator Fumo, I wonder if it is the gentleman's belief, in referring to the Pecora bill, that the Republican caucus is against a person holding more than one job? If that is the case, I wonder and anticipate what position it would be on the nominee?

Senator HAGER. Mr. President, I do not wonder that the gentleman wonders that, but probably nobody else does.

And the question recurring,

Will the Senate advise and consent to the nomination?

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

#### YEAS—35

Andrews,	Hager,	Loeper,	Romanelli,
Bodack,	Hess,	Manbeck,	Ross,
Coppersmith,	Holl,	Mellow,	Scanlon,
Corman,	Hopper,	Moore,	Snyder,
Dwyer,	Howard,	Murray,	Stapleton,
Early,	Jubelirer,	O'Connell,	Stauffer,
Gekas,	Kelley,	Orlando,	Stout,
Greenleaf,	Kusse,	Price,	Tilghman,
Guزندا,	Lewis,	Reibman,	

#### NAYS—11

Bell,	Kury,	Lynch,	Pecora,
Fumo,	Lincoln,	McKinney,	Smith,
Hankins,	Lloyd,	Messinger,	

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

The motion was agreed to.

#### PERMISSION TO ADDRESS SENATE

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

Senator LINCOLN. Mr. President, I would like to be recorded on certain bills that have been voted. I was out of my seat on other Legislative duties and had I been present in the hall of the Senate, I would have voted as follows:

In the affirmative on Senate Bill No. 210;

In the affirmative on Senate Bill No. 276;

In the affirmative on Senate Bill No. 502;

In the affirmative on House Bill No. 830;

In the affirmative on Senate Bill No. 869;

In the affirmative on Senate Bill No. 1019;  
 In the affirmative on House Bill No. 1531.  
 The PRESIDENT. The gentleman's remarks will be noted in the record.

## CONSIDERATION OF CALENDAR RESUMED

### SB 355 CALLED UP

**SB 355 (Pr. No. 1256)** — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 2 of the Third Consideration Calendar by Senator SCANLON.

### BILL ON THIRD CONSIDERATION AMENDED

**SB 355 (Pr. No. 1256)** — Considered the third time,

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

Amend Sec. 1 (Sec. 1318), page 2, line 4, by striking out "ANY PARTY INTERESTED" and inserting: the board

Amend Sec. 1 (Sec. 1318), page 2, lines 5 through 9, by striking out "SETTING FORTH THE FACTS, WHICH COURT" in line 5, all of lines 6 through 9, and inserting: to enforce such subpoena. Any person who shall refuse to appear and testify before the board after being ordered by the court to do so shall be held in contempt.

Any testimony at such board hearings shall

On the question,  
 Will the Senate agree to the amendments?  
 They were agreed to.  
 With objection, the bill, as amended, was passed over in its order at the request of Senator ROMANELLI.

## SECOND CONSIDERATION CALENDAR

### NONPREFERRED APPROPRIATION BILL OVER IN ORDER

**SB 911** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

### BILLS OVER IN ORDER

**SB 361, 560, HB 571 and 606** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

### BILL ON SECOND CONSIDERATION AMENDED

**HB 777 (Pr. No. 2524)** — The bill was considered.

On the question,  
 Will the Senate agree 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 Sec. 1, page 1, line 17 by striking out

"SECTIONS" and inserting: a section  
 Amend Sec. 1 (Sec. 15.4), page 1, lines 18 through 21 by striking out all of said lines

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

Senator HOWARD. Mr. President, the effect of these amendments are to remove from House Bill No. 777 a paragraph that was inserted in the meeting of the Committee on Appropriations yesterday. For the benefit of the Members, the paragraph is short and I would like to read it. It says: "The Senate of Pennsylvania shall have the power through the adoption of Senate rules to fix the additional compensation of Majority and Minority Chairmen and a Majority Vice-Chairman of every Senate standing committee."

That is the language that was inserted in the meeting of the Committee on Appropriations yesterday, with three dissenting votes. The purpose of these amendments is to remove that from the bill. The reason for the offering of the amendments on behalf of myself and others in the Republican caucus is that this insertion has the effect of giving the Senate the power to increase its own salaries, to a rules change which is questionable at best and a substantial departure from past practices. I urge the adoption of the amendments, Mr. President, and I would ask for a roll call vote.

Senator SMITH. Mr. President, it is true that we amended it as read by the gentleman from Bucks, Senator Howard.

Mr. President, let me say this was a target of opportunity. The gentleman from Bucks, Senator Howard, as well as the Republican Party, together with all the Democrats, knowing we were going to amend at the first opportunity Section 417 of the bill.

Mr. President, for the last two years I can remember we spoke of doing this. In the past we had chairmen of major and minor committees. What we are doing is simply acknowledging that some committees do have greater responsibilities. We are acknowledging that some chairmen must spend longer hours and many days here in the Senate. If you read the amendments, they do not say the chairman is going to get \$10,000, as I was quoted as having made that statement. It just so happens Joe Smith thinks he is worth \$10,000. I think every Senator sitting alongside of me is worth that or more.

Mr. President, what the amendments could do and what we intend them to do is this: We could pay a chairman maybe \$25, perhaps \$50, for an extra day he spends here in the Senate working with his committee. For the gentleman from Bucks, Senator Howard, to say this is another way of getting an increase in our compensation or pay is not totally true. I said it was a target of opportunity. When was the last time that we amended No. 417? It comes often. Maybe once every two or three years. We did it simply to set the precedent in the Senate that we are worth, those who work as chairmen of committees or vice-chairmen of committees, that extra compensation that is necessary for the time we spend here in the Senate. Mr. President, I urge the defeat of the amendments offered by the gentleman from Bucks, Senator Howard.

Senator HOWARD. Mr. President, may I share with the Members of the Senate Section 8 from Article II of the Consti-

tution of Pennsylvania. It says: "The members of the General Assembly shall receive such salary and mileage for regular and special sessions as shall be fixed by law, and no other compensation whatever, whether for service upon committee or otherwise. No member of either House shall during the term for which he may have been elected, receive any increase of salary, or mileage, under any law passed during such term."

It would certainly seem that what the gentleman from Philadelphia, Senator Smith, proposes in this piece of legislation would be in direct contradiction to that section of the Constitution, among other defaults and deficiencies that it has.

Senator BELL. Mr. President, I think I know a little bit about that section of the Constitution because I was present when it was tested in Court. If the intention of the gentleman from Bucks, Senator Howard, is correct, everyone of the present officers of the Republican caucus of the Republican Party are illegally receiving more than their basic pay because they did get elected to additional duties and they did get their pay increase.

Senator SMITH. Mr. President, to elaborate on the comments of the gentleman from Delaware, Senator Bell, he may remember in the last two or three years, we created the caucus chairmen and the policy committee chairmen. They receive extra compensation and those sharp constitutional lawyers, those sharp watchdogs of the Treasury, never said a word. Suddenly, it is time for publicity, and now we make something big of it.

Senator KELLEY. Mr. President, I am not sure yet how I am going to vote on the amendments of the gentleman from Bucks, Senator Howard, but I want to add a few thoughts that I have that I am not really persuaded by the initial argument the sponsor made.

Deviation from past practice was just well exhibited by thirty-five Members of this Body on a confirmation. Deviation from past practices is not something for which to be fearful. In fact, I think it is rather inviting for progress. If the question is the one on reference to the Constitution, the Constitution in its language also applies to judges, except for the fact that the judges in a court decision so remove themselves. I understand there is language in House Bill No. 777 which provides the contingency.

We must sometimes talk about what our opinions are in regard to the Constitution, but ultimately it is in the Judicial Branch where it is going to be determined.

Indeed, I have never been bashful about the compensations of the Members of the General Assembly being inadequate. I do not like the back door. If one can make a solid argument that additional compensation derives to Members of the General Assembly because of additional responsibilities they have over and above just being plain Members, then that is not devious, it is not circumventure, it is open and above board.

I think there is much merit in the fact that what language is in the bill deserves to stay there. I think we cannot just say because it is new or innovative it is devious. I think there is merit to what is there. I think the amendment of the gentleman has merit. I wish the roll would not be called so soon. Maybe we ought to deliberate on it a little bit longer, Mr. President.

Senator PRICE. Mr. President, it seems to me in view of what

we recently did by way of increasing our own salaries next year and abolishing the Compensation Commission in the process, we set, it seems to me, a good way of handling this issue. This seems to be a step backwards, because what we are doing is not up front at the moment, but we are saying by rule sometime in the future there is this power.

I am in favor of the amendments of the gentleman from Bucks, Senator Howard, because if we do increase our pay, it seems to me public trust and the public requires that we do it out front.

And the question recurring,

Will the Senate agree to the amendments?

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

#### YEAS—26

Andrews,	Gurzenda,	Kelley,	Price,
Bell,	Hager,	Kury,	Reibman,
Coppersmith,	Hess,	Kusse,	Snyder,
Corman,	Holl,	Lloyd,	Stapleton,
Dwyer,	Hopper,	Loeper,	Stauffer,
Gekas,	Howard,	Moore,	Tilghman,
Greenleaf,	Jubelirer,		

#### NAYS—19

Arlene,	Lincoln,	Messinger,	Ross,
Bodack,	Lynch,	Murray,	Scanlon,
Early,	Manbeck,	O'Connell,	Smith,
Fumo,	McKinney,	Orlando,	Stout,
Hankins,	Mellow,	Romanelli,	

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

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 OVER IN ORDER

**SB 785** — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

#### BILLS REREFERRED

**HB 852 (Pr. No. 2372)** and **SB 963 (Pr. No. 1367)** — Upon motion of Senator SCANLON, and agreed to, the bills were referred to the Committee on Appropriations.

#### BILLS OVER IN ORDER

**SB 1016, 1039, 1052, 1083** and **1093** — Without objection the bills were passed over in their order at the request of Senator SCANLON.

#### BILL REREFERRED

**SB 1115 (Pr. No. 1368)** — Upon motion of Senator SCANLON, and agreed to, the bill was rereferred to the Committee on Appropriations.

## BILL ON SECOND CONSIDERATION

**SB 1122 (Pr. No. 1357)** — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

## BILLS OVER IN ORDER

**HB 1622** and **1686** — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

## UNFINISHED BUSINESS

## REPORTS FROM COMMITTEE

Senator McKINNEY, from the Committee on State Government, rereported, as amended, **SB 855**; reported, as amended, **SB 1101**.

## SENATE RESOLUTION

**URGING PRESIDENT AND CONGRESS DEMAND  
RELEASE OF AMERICAN HOSTAGES IN IRAN AND  
CONDEMNING AYATOLLAH KHOMEINI REGIME AS  
TERRORIST OUTLAWS**

Senators DWYER, FUMO, BELL, GURZENDA, LOEPER, MURRAY, HOPPER, SNYDER, O'CONNELL, HESS, MANBECK, TILGHMAN, PRICE, GREENLEAF, CORMAN, JUBELIRER, GEKAS, HOWARD, STAUFFER, HANKINS, MOORE, ANDREWS, HAGER, PECORA, KUSSE, HOLL, SCANLON, ROMANELLI, ROSS, MESSINGER, MELLOW, ORLANDO, KURY, REIBMAN, LLOYD, ARLENE, STOUT, BODACK and LEWIS offered the following resolution (**Serial No. 71**), which was read as follows:

In the Senate, November 28, 1979.

WHEREAS, The Ayatollah Khomeini of Iran has caused the seizure and virtual imprisonment of innocent American citizens as hostages; and

WHEREAS, The seizure of United States Embassy personnel violates every diplomatic custom and tradition among civilized nations; and

WHEREAS, We share the outrage of the American people at the illegal and unjustified detainment and treatment of our Embassy personnel in Iran; therefore be it

RESOLVED, That the Senate of Pennsylvania hereby condemns the Khomeini regime as terrorist outlaws and further urges that this extortion be totally rejected; and be it further

RESOLVED, That the Senate of Pennsylvania calls upon the Congress and the President to stand firm in their resolve to demand the release of all Americans in Iran; and be it further

RESOLVED, That a copy of this resolution be transmitted to the President of the United States and the presiding officers of the United States Senate and the United States House of Representatives and each United States Senator and Member of Congress from the Commonwealth of Pennsylvania.

Senator DWYER asked and obtained unanimous consent for the immediate consideration of this resolution.

On the question,

Will the Senate adopt the resolution?

SENATE RESOLUTION, SERIAL NO. 71, ADOPTED

Senator DWYER. Mr. President, I move that the Senate do adopt Senate Resolution, Serial No. 71.

On the question,

Will the Senate agree to the motion?

Senator DWYER. Mr. President, briefly, I would like to mention that thirty-nine Members of the Senate are on this resolution. I am sorry I was unable to contact each of you. I would ask the Secretary to accept additional sponsors of this resolution throughout the day.

This resolution would condemn the Khomeini regime of Iran as terrorist outlaws and further urges that the extortion be totally rejected and further the Senate of Pennsylvania would call upon Congress and the President to stand firm in their resolve to demand the release of all Americans being held hostage in Iran.

I think it is very important that this Senate join with other legislative bodies in the general populace of this Nation in standing behind our Congress and our President in this very difficult time. I think it is appropriate that we pass this resolution of support now since President Carter has scheduled a news conference on the issue tonight at 9:00 p.m.

One of my constituents was a hostage originally. I am very fortunate and we are grateful in northwestern Pennsylvania that Kathy Gross was among the first three to be released and on Thanksgiving day was reunited with her parents.

As we know, there are forty-nine other hostages still illegally held as virtual prisoners in the occupied American Embassy in Tehran and it is essential that this Nation continue to show a united effort to back down the demands of the Khomeini regime so that international law and order will continue in the world and that we will not have other incidents like this.

I would ask for the unanimous approval of this resolution, Mr. President.

And the question recurring,

Will the Senate agree to the motion?

The motion was agreed to and the resolution was adopted.

## CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Richard E. Anderson by Senator Hopper.

Congratulations of the Senate were extended to William A. Henderson, Jr. by Senator Loeper.

Congratulations of the Senate were extended to Mr. and Mrs. Edward Poland, Mr. and Mrs. Steve Hayas, Reverend and Mrs. John Mueller, Mr. and Mrs. Bernard Kimble, Mr. and Mrs. Harry Wright, Mr. and Mrs. A. Kenneth Morris and to Mr. and Mrs. Charles Hallaway by Senator Stout.

Congratulations of the Senate were extended to Archbishop Iakovos by Senator Fumo.

Congratulations of the Senate were extended to the Eastern Lebanon County High School Soccer Team by Senator Manbeck.

Congratulations of the Senate were extended to the South Western High School Marching Band and to the Hanover Senior High School Marching Band by Senator Hess.

Congratulations of the Senate were extended to Mr. and Mrs. B. Lloyd Penfield by Senator Orlando.

Congratulations of the Senate were extended to Stephen Holowach by Senator Dwyer.

Congratulations of the Senate were extended to Mr. and Mrs. Elmer E. Harris by Senator Corman.

Congratulations of the Senate were extended to Mr. and Mrs. Paul Dugan by Senator Bell.

Congratulations of the Senate were extended to Mr. and Mrs. James McGonigle, Mr. and Mrs. George Schwertz and to Mr. and Mrs. James H. Huffmyer, Sr. by Senator Early.

Congratulations of the Senate were extended to Mr. and Mrs. Henry Tamanini by Senator Gurzenda.

Congratulations of the Senate were extended to Mrs. Betty Erdos by Senator Andrews.

Congratulations of the Senate were extended to Olive Kephart by Senator Jubelirer.

Congratulations of the Senate were extended to Mr. and Mrs. Marvin E. Casterline by Senator O'Connell.

Congratulations of the Senate were extended to Mrs. Mary Fritz by Senator Zemprelli.

Congratulations of the Senate were extended to the Youth for America Ecology Club of Riverside High School by Senator Ross.

Congratulations of the Senate were extended to Mr. and Mrs. Anthony Demitras, Mr. and Mrs. Earl R. Miller, Mr. and Mrs. Harry Miller and to Mr. and Mrs. Martin Marinack by Senator Bodack.

### BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

**SB 888, 982, 1021, 1101 and HB 739.**

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

### PETITIONS AND REMONSTRANCES

Senator SNYDER. Mr. President, among the congratulatory resolutions passed was one honoring a famous Pennsylvanian, Jimmy Stewart, the motion picture actor and a Lieutenant Colonel in the Air Force retired.

He was recently honored nationally on a TV program and among the people paying tribute to him was former President Gerald Ford, who said, "No one epitomized the best in American character better than Jimmy Stewart."

He is a native of Indiana, Pennsylvania, and the gentleman from Indiana, Senator Stapleton, and I sponsored a resolution which all of you passed unanimously, I am happy to note.

I think there seems to be no special reason for doing it at this time except that Jimmy Stewart has arrived at a time in life when honors are due him. He has appeared in motion pictures which have delighted the American public for more than forty

years. He has a nice family and he served very credibly in the war and in the reserves after the war with the Air Force.

I think when we have a native Pennsylvanian who has achieved such fame nationwide and, indeed, throughout the world by his pictures, it is certainly fitting that we should honor him.

### HOUSE MESSAGE

#### SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives being introduced, returned to the Senate **SB 316**, 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.

### BILLS SIGNED

The President (Lieutenant Governor William W. Scranton III) in the presence of the Senate signed the following bills:

**SB 210, 276 and 502.**

#### COMMITTEE OF CONFERENCE APPOINTED ON HB 1262

The PRESIDENT. The Chair announces, on behalf of the President pro tempore, the appointment of Senators ORLANDO, SMITH and DWYER, 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 House Bill No. 1262.

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

### ANNOUNCEMENTS BY THE SECRETARY

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

#### SENATE OF PENNSYLVANIA

#### COMMITTEE MEETINGS

THURSDAY, NOVEMBER 29, 1979

10:00 A.M. URBAN AFFAIRS AND HOUSING (to consider the nomination of Shirley Dennis as Secretary of the Department of Community Affairs)	Senate Majority Caucus Room
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TUESDAY, DECEMBER 4, 1979

9:00 A.M. ENVIRONMENTAL RESOURCES and CONSUMER AFFAIRS (Public Hearing regarding the	Senate Majority Caucus Room
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Commonwealth's participation in the upcoming Energy Crisis Assistance Program)

10:00 A.M. EDUCATION (Oversight Hearing on the Department of Education discussing Departmental reorganization, accomplishments, goals and priorities for the coming year) Room 188

10:30 A.M. LOCAL GOVERNMENT (agenda to be announced at a later date) Room 633

11:00 A.M. URBAN AFFAIRS AND HOUSING (to consider Senate Bills No. 50, 705, 706 and 707) Rules Committee Conference Room

WEDNESDAY, DECEMBER 12, 1979

9:30 A.M. INSURANCE (Public Hearing on Senate Bill No. 937) 902 Five Penn Center Plaza, Philadelphia, PA

FRIDAY, DECEMBER 14, 1979

9:00 A.M. Special Senate Committee to on Municipal Pensions Philadelphia City Council Chambers, Philadelphia, PA

4:00 P.M. (Public Hearing)

ADJOURNMENT

Senator SCANLON. Mr. President, I move that the Senate do now adjourn until Monday, December 3, 1979, at 1:00 p.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 4:45 p.m., Eastern Standard Time.