

Legislative Journal

TUESDAY, SEPTEMBER 16, 1980

Session of 1980

164th of the General Assembly

Vol. 2, No. 52

SENATE

TUESDAY, September 16, 1980.

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

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

PRAYER

The Chaplain, The Reverend PHILLIP S. BENDLE, III, Pastor of Trinity Lutheran Church, Pottsville, offered the following prayer:

Let us pray: Father God, let Your blessings rest highly upon all who assemble here this day.

Keep us in Your care, Father, and protect us and our loved ones from all danger and harm.

Use us as Your instruments toward justice, equity and Your will among Your children.

Enable us to walk in the ways of wisdom that we may use the vast resources of this Commonwealth, both natural and living, to Your service.

Bless all the leaders of this State, that following Your example of sacrifice and servanthood we might lead by example and encourage by our practice.

All this, Lord, and whatever else You see that we need, grant us in the name of Christ. 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.

COMMUNICATIONS FROM THE GOVERNOR

RECALL COMMUNICATIONS 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 LOCK HAVEN STATE COLLEGE

August 29, 1980.

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 6, 1980, for the appointment of Joseph N. McClellan, 871 West Bald Eagle Street, Lock Haven 17745, Clinton County, Twenty-third Senatorial District, as a member of the Board of Trustees of Lock Haven State College, to serve until the third Tuesday of January, 1985, and until his successor is appointed and qualified, vice Harris Lipez, Lock Haven, whose term expired.

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

DICK THORNBURGH.

MEMBER OF THE WORKMEN'S COMPENSATION APPEAL BOARD

September 15, 1980.

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 6, 1980, for the appointment of Patrick A. Gleason, Esquire, 1128 Confer Avenue, Johnstown 15905, Cambria County, Thirty-fifth Senatorial District, as a member of the Workmen's Compensation Appeal Board, to serve until the third Tuesday of January, 1983, and until his successor shall have been appointed and qualified, vice Edmund J. McCullough, Esquire, Hazleton, whose term expired.

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

DICK THORNBURGH.

NOMINATION BY THE GOVERNOR REFERRED TO COMMITTEE

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

DISTRICT JUSTICE

September 16, 1980.

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 Roger A. Estep, 408 Longview Avenue, New Cumberland 17070, York County, Thirty-first Senatorial District, for appointment as District Justice in and for the County of York, Class 3, District 09, to

serve until the first Monday of January, 1982, vice J. Wilbur Kriner, Ethers, retired.

DICK THORNBURGH.

HOUSE MESSAGES

HOUSE INSISTS UPON ITS NONCONCURRENCE IN AMENDMENTS TO HB 1177, AND APPOINTS COMMITTEE OF CONFERENCE

The Clerk of the House of Representatives being introduced, informed the Senate that the House insists upon its nonconcurrency in Senate amendments to **HB 1177**, and has appointed Messrs. DeVERTER, A. C. FOSTER and LETTERMAN as a Committee of Conference to confer with a similar committee of the Senate (already appointed) to consider the differences existing between the two houses in relation to said bill.

HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION

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

Weekly adjournment.

BILL SIGNED

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

SB 1053.

ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. The Majority and the Minority Leaders have given permission to the Committee on Appropriations to hold a meeting off the floor during today's Session. When they do meet, they will be considering House Bill No. 2794.

PERMISSION TO ADDRESS SENATE

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

Senator COPPERSMITH. Mr. President, yesterday, I inadvertently reported to the floor of the Senate a bill that had a tie vote in committee. When we get to the Calendar, I will be requesting that it be recommitted.

REPORTS FROM COMMITTEES

Senator COPPERSMITH, from the Committee on Public Health and Welfare, reported, as amended, **SB 1480** and **HB 2044**.

Senator O'PAKE, from the Committee on Judiciary, reported, as committed, **SB 1361** and **1407**; as amended, **SB 1411** and **HB 401**.

BILL REREFERRED

Senator LYNCH, from the Committee on Transportation, re-

turned to the Senate **SB 381**, as amended, which was rereferred to the Committee on Appropriations.

BILLS INTRODUCED AND REFERRED

Senators SMITH and GURZENDA presented to the Chair **SB 1510**, entitled:

An Act amending the act of May 20, 1937 (P. L. 728, No. 193), entitled, as amended, "An act providing for the creation of a Board of Claims arising from contracts with the Commonwealth;....," extending the time period for appointing hearing panels.

Which was committed to the Committee on State Government.

Senator MOORE presented to the Chair **SB 1511**, entitled:

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for investment of school district funds.

Which was committed to the Committee on Education.

Senator ROSS presented to the Chair **SB 1512**, entitled:

An Act amending the act of July 7, 1947 (P. L. 1368, No. 542), entitled "Real Estate Tax Sale Law," providing for service by constables.

Which was committed to the Committee on Local Government.

Senator LEWIS presented to the Chair **SB 1513**, entitled:

An Act authorizing the Department of General Services, with the approval of the Department of Environmental Resources and the Governor of the Commonwealth of Pennsylvania to convey a certain lot or tract of ground situate in the Township of Bensalem, Bucks County, Pennsylvania.

Which was committed to the Committee on State Government.

Senator GREENLEAF presented to the Chair **SB 1514**, entitled:

An Act requiring the Department of Community Affairs to provide examinations of applicants for police force positions in certain municipalities and authorizing it to issue rules and regulations relating thereto.

Which was committed to the Committee on State Government.

He also presented to the Chair **SB 1515**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for certain lie detector tests.

Which was committed to the Committee on Judiciary.

He also presented to the Chair **SB 1516**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," excluding boats purchased by certain nonresidents from the Tax for Education.

Which was committed to the Committee on Finance.

He also presented to the Chair **SB 1517**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No.

175), entitled "The Administrative Code of 1929," providing for the employment of certain employes of State hospitals by the Medical College of Pennsylvania.

Which was committed to the Committee on State Government.

Senators GREENLEAF, EARLY, O'PAKE and SNYDER presented to the Chair **SB 1518**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," providing a credit against personal income tax for gifts to certain educational institutions.

Which was committed to the Committee on Finance.

Senator GREENLEAF presented to the Chair **SB 1519**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, requiring school buses to use flashing lights any time during the year.

Which was committed to the Committee on Transportation.

Senator HOLL presented to the Chair **SB 1520**, entitled:

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), entitled, as amended, "Second Class County Code," further providing for publication of the controller's report.

Which was committed to the Committee on Local Government.

Senators O'CONNELL, PECORA, CORMAN, HOPPER, PRICE and REIBMAN presented to the Chair **SB 1521**, entitled:

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), entitled "Pennsylvania Election Code," authorizing candidates to appoint watchers at any election.

Which was committed to the Committee on State Government.

Senators O'CONNELL, SNYDER, GURZENDA and HOPPER presented to the Chair **SB 1522**, entitled:

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), entitled "The Administrative Code of 1929," transferring the State hospitals to the Department of Health.

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

Senators SCHAEFER and O'PAKE presented to the Chair **SB 1523**, entitled:

An Act providing for legislative and congressional reapportionment procedures.

Which was committed to the Committee on State Government.

Senators O'PAKE, MESSINGER and REIBMAN presented to the Chair **SB 1524**, entitled:

An Act making an appropriation to the Department of Public Welfare.

Which was committed to the Committee on Appropriations.

Senators BODACK, MURRAY, MESSINGER, GURZENDA, MELLOW, STOUT, ORLANDO, McKINNEY, HANKINS, EARLY, SMITH, LYNCH, COPPERSMITH, LINCOLN, KELLEY, STAPLETON, ROMANELLI, SCANLON, ARLENE, SCHAEFER, LLOYD, O'PAKE, LEWIS, FUMO, ZEMPRELLI and REIBMAN presented to the Chair **SB 1525**, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, prohibiting the use of certain income expenses and normalization; requiring approval for deferrals and providing for distribution of reserves.

Which was committed to the Committee on Consumer Affairs.

Senators FUMO, SMITH, BELL, ZEMPRELLI, O'CONNELL, MURRAY, HAGER, STAUFFER, JUBELIRER, STAPLETON, HANKINS, ROSS, MESSINGER, GURZENDA, LOEPER, LINCOLN, O'PAKE, LYNCH, LLOYD, COPPERSMITH, BODACK, CORMAN, KURY, REIBMAN, ANDREWS, MOORE, HOWARD, MANBECK, GEKAS, GREENLEAF, PRICE, DWYER, SCANLON, ORLANDO, SCHAEFER, KELLEY and STOUT presented to the Chair **SB 1526**, entitled:

A Supplement to the act of _____, entitled "An act providing for the capital budget for the fiscal year 1979-1980," itemizing a public improvement project to be acquired and constructed by the Department of General Services together with its estimated financial cost; authorizing the incurring of debt without the approval of the electors for the purpose of financing the project, stating the estimated useful life of the project, authorizing the acquisition of property, the leasing of the project to Conrail, the transfer of the completed project to Conrail, and making an appropriation.

Which was committed to the Committee on Appropriations.

SENATE CONCURRENT RESOLUTION

MEMORIALIZING CONGRESS PASS LEGISLATION TO EXPEDITE DEPORTATION OF ALIENS WHO COMMIT ACTS OF CIVIL DISOBEDIENCE

Senators GREENLEAF, GEKAS, SNYDER, MANBECK, EARLY and CORMAN offered the following resolution (**Serial No. 237**), which was read and referred to the Committee on Rules and Executive Nominations:

In the Senate, September 16, 1980.

WHEREAS, Aliens have been involved in recent acts of crime and civil disobedience such as the Cubans who rioted at Fort Indiantown Gap and the Iranians who threw rocks at, and tried to assault another group of Iranians in Washington, D.C., and who then resisted arrest and refused to cooperate with authorities; and

WHEREAS, There appears to be evidence that agitators are actively causing disruptions on orders of, and, at the very least, encouragement and approval of foreign governments; and

WHEREAS, It is imperative that those aliens who would turn our laws that are designed to preserve freedom against us to destroy our freedom be deported immediately; and

WHEREAS, Only Congress can pass laws relating to foreign nationals; therefore be it

RESOLVED (the House of Representatives concurring), That the General Assembly of the Commonwealth memorialize the Congress of the United States to develop and pass legislation to expedite the deportation of those aliens who commit crimes or acts of civil disobedience, especially in those cases where there

is evidence the disruptive acts are committed on orders from foreign governments; and be it further

RESOLVED, That copies of this resolution be sent to the presiding officers of each House of Congress and to each member of Congress from Pennsylvania.

CALENDAR

BILL WHICH HOUSE HAS NONCONCURRED IN SENATE AMENDMENTS

SENATE RECEDES FROM ITS AMENDMENTS NONCONCURRED IN BY THE HOUSE TO HB 2184

HB 2184 (Pr. No. 3607) — Senator ZEMPRELLI. Mr. President, I move that the Senate do recede from its amendments nonconcurring in by the House to House Bill No. 2184.

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

Senator HAGER. 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 HAGER. Mr. President, it is my understanding that the amendments which were originally placed in this bill by the Senate were technical amendments originally requested by the Chief Justice who has since decided that those technical amendments are not necessary and that is all we were receding from so the bill is not damaged from its original purpose nor is the Senate's intent being frustrated by our receding from our amendments. Is that correct?

Senator ZEMPRELLI. That is correct, Mr. President. It is also my understanding, Mr. President, and I understand the fact that we have not completely caucused on this matter and it was my hope and thought that if in the event there was any objection to what I consider to be an innocuous matter, that we could reconsider the vote by which we receded.

Senator HAGER. Mr. President, then I would join the Majority Leader in asking for an affirmative vote on his motion to recede from the Senate amendments in House Bill No. 2184, Printer's no. 3607.

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

The yeas and nays were required by Senator ZEMPRELLI.

YEAS—48

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

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.

RECESS

Senator ZEMPRELLI. Mr. President, I would request a short recess of the Senate for the purpose of a Democratic caucus to commence immediately in the Rules Committee room. Mr. President, that is with advice the purpose is to review several bills on today's Calendar for consideration, then to return forthwith to the floor, complete the Calendar and to go into an extensive caucus thereafter with respect to important matters.

Mr. President, if the Chair will accommodate my request, we can proceed immediately to the Rules Committee room for a very short caucus.

Senator HAGER. Mr. President, I desire to interrogate the gentlemen 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 HAGER. Mr. President, would the Majority Leader please advise us, for purposes of planning, what he intends this week for Session?

Senator ZEMPRELLI. Mr. President, as I suggested, today's calendar would be to come back immediately after a short caucus, to adjourn the Session until tomorrow morning at 11:00 for an additional short Session and then adjourn tomorrow until Monday.

Senator HAGER. Mr. President, is the Majority Leader intending to have roll calls tomorrow morning at 11:00.

Senator ZEMPRELLI. Very definitely, Mr. President.

Senator HAGER. Mr. President, for purposes of a very short caucus to deal with, I believe, six bills, and come back right back to the floor, I would ask all the Members of the Republican caucus to go immediately to their caucus room upon recess.

Senator ZEMPRELLI. Mr. President, I have been advised of the necessity for calling a very short meeting of the Committee on Rules and Executive Nominations. I would ask that the Committee on Rules and Executive Nominations be alerted to the fact that as soon as the Democratic caucus is completed, we will ask the Chair to assemble the Committee on Rules and Executive Nominations in the same room for the purpose of that meeting.

The PRESIDENT. For the purpose of party caucuses, the Democrats will meet in the Rules Committee room at the rear of the Chamber, the Republicans in their regular caucus room, to be followed by a short meeting of the Committee on Rules and Executive Nominations, the Chair declares the Senate in recess.

AFTER RECESS

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

CONSIDERATION OF CALENDAR RESUMED

SB 1172 CALLED UP OUT OF ORDER

SB 1172 (Pr. No. 1439) — Without objection, the bill was called up out of order, from page 3 of the Third Consideration Calendar, by Senator ZEMPRELLI.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1172 (Pr. No. 1439) — Considered the third time and agreed to.

On the question,
Shall the bill pass finally?

Senator HAGER. Mr. President, I would just like to call the attention of the Senate to the fact that this is the kind of a bill we should be doing as much of as possible. The gentleman from Beaver, Senator Ross, the main sponsor, has been approached by people pointing out to him that one of the problems of industry locating in this State is the additional ways we seem to tax everything and anything they do. What Senate Bill No. 1172 does is make clear that for the machinery exemptions to the real estate tax, that you just cannot put a piece of machinery on soft ground, you have got to put a concrete pad or a foundation under it, and it should be exempt from the tax, and exempt from sales tax.

Mr. President, I would recommend that all the Members of the Senate vote in favor of Senate Bill No. 1172 as an additional indication of our commitment to creating jobs in this State.

And the question recurring,
Shall the bill pass finally?

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

YEAS—49

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

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.

HB 1624 CALLED UP OUT OF ORDER

HB 1624 (Pr. No. 1972) — Without objection, the bill was called up out of order, from page 3 of the Third Consideration Calendar, by Senator ZEMPRELLI.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1624 (Pr. No. 1972) — 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—49

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

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.

HB 1369 CALLED UP OUT OF ORDER

HB 1369 (Pr. No. 3605) — Without objection, the bill was called up out of order, from page 3 of the Third Consideration Calendar, by Senator ZEMPRELLI.

BILL ON THIRD CONSIDERATION AMENDED

HB 1369 (Pr. No. 3605) — Considered the third time,

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

Amend Sec. 2 (Sec. 7), page 3, line 19 by inserting after "ADOPT";, either in full or by reference,

On the question,
Will the Senate agree to the amendment?
It was agreed to.
Without objection, the bill, as amended, was passed over in its order at the request of Senator LEWIS.

SB 1508 CALLED UP OUT OF ORDER

SB 1508 (Pr. No. 2010) — Without objection, the bill was called up out of order, from page 4 of the Second Consideration Calendar, by Senator ZEMPRELLI.

PREFERRED APPROPRIATION
BILL ON SECOND CONSIDERATION

SB 1508 (Pr. No. 2010) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

SB 1143 CALLED UP OUT OF ORDER

SB 1143 (Pr. No. 1396) — Without objection, the bill was called up out of order, from page 6 of the Second Consideration Calendar, by Senator ZEMPRELLI.

BILL RECOMMITTED

SB 1143 (Pr. No. 1396) — Upon motion of Senator ZEMPRELLI, on behalf of Senator COPPERSMITH, and agreed to, the bill was recommitted to the Committee on Public Health and Welfare.

REMAINING CALENDAR OVER IN ORDER

All remaining bills on today's Calendar not considered were passed over in their order at the request of Senator ZEMPRELLI.

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

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

**MEMBER OF THE BOARD OF STATE COLLEGE
AND UNIVERSITY DIRECTORS**

August 6, 1980.

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 July 7, 1980, for the appointment of Mrs. Anne Jackson, Blackburn Road, Sewickley 15143, Allegheny County, Fortieth Senatorial District, as a member of the Board of State College and University Directors, to serve until June 30, 1985, and until her successor is appointed and qualified, vice Peter A. McGrath, West Chester, whose term expired.

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

DICK THORNBURGH.

**MEMBER OF THE BOARD OF
CHIROPRACTIC EXAMINERS**

August 6, 1980.

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 June 9, 1980, for the appointment of Tedd Koren, D.C., 279 D. Langhorne Yardley Road, Langhorne 19047, Bucks County, Tenth Senatorial District, as a member of the Board of Chiropractic Examiners, to serve until July 15, 1982, and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Doctor B. P. Fitterer, Palmyra, resigned.

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

DICK THORNBURGH.

NOMINATIONS RETURNED TO THE GOVERNOR

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

The motion was agreed to.

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

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

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

MEMBER OF THE STATE REAL ESTATE COMMISSION

May 21, 1980.

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 Sydney Eckman (public member), 2328 Griffith Street, Philadelphia 19152, Philadelphia County, Fifth Senatorial District, for appointment as a member of the State Real Estate Commission, pursuant to Act 292, approved November 26, 1978, to serve for a term of five years, or until his successor has been appointed and qualified, but not longer than six months beyond that period.

DICK THORNBURGH.

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

June 23, 1980.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Mrs. Marjorie J. Douglas (Republican), 14 William Street, Towanda 18848, Bradford County, Twentieth Senatorial District, for appointment as a member of the Bradford County Board of Assistance, to serve until December 31, 1980, and until her successor is duly appointed and qualified, vice Mrs. Catherine Hutchinson, Cadis Stage, resigned.

DICK THORNBURGH.

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

June 23, 1980.

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 Edward B. Woodruff (Republican), 336 Fulton Street, South Waverly 18471, Bradford County, Twenty-third Senatorial District, for appointment as a member of the Bradford County Board of Assistance, to serve until December 31, 1982, and until his successor is duly appointed and qualified, vice Father Thomas A. Flynn, Towanda, whose term expired.

DICK THORNBURGH.

DISTRICT JUSTICE

June 24, 1980.

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 Wilbur L. Reddinger, 418 South Shamokin Street, Shamokin 17872, Northumberland County, Twenty-seventh Senatorial District, for appointment as District Justice in and for the County of Northumberland, Class 3, District 03, to serve until the first Monday of January, 1982, vice John E. Moore, Shamokin, retired.

DICK THORNBURGH.

JUDGE OF COMMONWEALTH COURT

May 15, 1980.

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 Madaline Palladino, Esquire, 226 North Twenty-seventh Street, Allentown 18101, Lehigh County, Sixteenth Senatorial District, for appointment as Judge of Commonwealth Court, to serve until the first Monday of January, 1982, vice The Honorable James S. Bowman, Harrisburg, deceased.

DICK THORNBURGH.

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator ROSS,

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

Which was agreed to.

CONSIDERATION OF EXECUTIVE NOMINATIONS

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

NOMINATION LAID ON THE TABLE

Senator ROSS. Mr. President I request that the nomination of Madaline Palladino, Esquire, as Judge of Commonwealth Court, be laid on the table.

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

NOMINATIONS TAKEN FROM THE TABLE

Senator ROSS. Mr. President, I call from the table for consideration the nominations reported from committee today and previously read by the Clerk for Sydney Eckman, as a member of the State Real Estate Commission; Mrs. Marjorie J. Douglas and Edward B. Woodruff, as members of the Bradford County Board of Assistance; and Wilbur L. Reddinger, as District Justice in and for the County of Northumberland.

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

YEAS—49

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

NAYS—0

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

Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

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

The motion was agreed to.

PERMISSION GRANTED COMMITTEE TO MEET DURING SESSION

Senator ZEMPRELLI. Mr. President, at the request of the Committee Chairman, I announce a meeting of the Committee on Appropriations, to be held immediately, during which time the Senate can proceed with its business.

The PRESIDENT. There being no objection, the Committee on Appropriations will proceed with its meeting.

PERMISSION TO ADDRESS SENATE

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

Senator ZEMPRELLI. Mr. President, on behalf of the gentleman from Philadelphia, Senator Fumo, as principal sponsor, myself and many other Members of the Senate, I read in place and present to the Chair a bill that is presently being sponsored by other parties and reserve the right to offer the bill before the Session is closed.

UNFINISHED BUSINESS

SENATE CONCURRENT RESOLUTION

EXPRESSING OBJECTIONS TO USURPATION OF STATE POWER TO REGULATE UTILITY RATES

Senators BODACK, MURRAY, MESSINGER, GURZENDA, MELLOW, STOUT, ORLANDO, MCKINNEY, HANKINS, EARLY, SMITH, LYNCH, LINCOLN, KELLEY, O'PAKE, SCANLON, ARLENE, ROMANELLI, ZEMPRELLI, STAPLETON, SCHAEFER, LLOYD, LEWIS, FUMO and COPPERSMITH offered the following resolution (Serial No. 238),

which was read and referred to the Committee on Rules and Executive Nominations:

In the Senate, September 16, 1980.

RESOLVED (the House of Representative concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to inform them that the General Assembly thoroughly objects to the usurpation of State power to regulate utility rates, that §§ 46(f) and 169(1) of the Internal Revenue Code unduly encourage utility overbuilding and unduly charges ratepayers for phantom tax expenses not actually incurred by utilities. These charges materially contribute to inflating the cost-of-living and they act oppressively upon ratepayers; and be it further

RESOLVED, That copies of this resolution be sent to the presiding officers of both houses of Congress and to each member of Congress from the Commonwealth.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Mr. and Mrs. Cyril Wachter, Sr. by Senator Gurzenda.

Congratulations of the Senate were extended to Group 750 of the Polish National Alliance of Glassport by Senator Zemprelli.

Congratulations of the Senate were extended to the community of Slatington and Hose Company Number 1 by Senator Reibman.

Congratulations of the Senate were extended to Paul Z. Knier by Senators Manbeck and Snyder.

Congratulations of the Senate were extended to Mr. and Mrs. Mark Foster and to Mr. and Mrs. James R. Anderson by Senator Stout.

Congratulations of the Senate were extended to Mary Langan Egan, Mr. and Mrs. Samuel Friedman, Mr. and Mrs. Raymond Gunton, Mr. and Mrs. John Kuntz, Mr. and Mrs. Fred Turner, Mr. and Mrs. Abram Nesbitt, II, Monsignor Francis A. Kane and to Richard Evans by Senator O'Connell.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

SB 1361, 1407, 1411, 1480, HB 401 and 2044.

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

COMMUNICATION FROM THE GOVERNOR

NOMINATION BY THE GOVERNOR REFERRED TO COMMITTEE

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

MEMBER OF THE BOARD OF STATE COLLEGE AND UNIVERSITY DIRECTORS

August 6, 1980.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Mrs. Anne Jackson, Blackburn Road, Sewickley 15143, Allegheny County, Fortieth Senatorial District, for appointment as a member of the Board of State College and University Directors, to serve until June 30, 1981, and until her successor is appointed and qualified, vice Irving O. Murphy, Esquire, Edinboro, resigned.

DICK THORNBURGH.

PETITIONS AND REMONSTRANCES

Senator BODACK. Mr. President, I rise today to submit for this Body's review and determination a legislative proposal which is designed as a first step in efforts to remedy what I believe to have been perhaps the greatest consumer ripoff of the past decade.

I am talking of the issue of the so-called "phantom taxation" by the utility companies who have, through a series of gimmicks, charged customers for the payment of certain taxes which are deferred and perhaps never paid by the companies.

As Chairman of the Special State Senate Committee to investigate the laws and regulations affecting taxation on public utilities, created pursuant to Senate Resolution, Serial No. 68, I believe we have now reached the point in our probe where legislative action is necessary.

To date, and with just our study of the electric utilities serving Pennsylvania, our committee has been able to determine that the ratepayers of Pennsylvania have been billed for a "phantom tax" tab over the past eight to ten years which totals some \$1.72 billion.

That \$1.7 billion does not take into consideration the "phantom tax" dollars these same customers may have paid out to other utilities such as the gas industry, the telephone industry, water companies and the like.

Of course, the utilities maintain their innocence of any wrongdoings and claim that the Federal Government permits them to collect these "phantom taxes" as a form of an interest free loan. Yet, we find, that there is no authorization for what they are doing in State law. And their action is illegal.

Specifically, it is the utility practice of normalized accounting which has resulted in Pennsylvania's utilities being able to collect excessive sums of money from customers for income tax purposes.

Utility executives repeatedly have referred to a memorandum issued by the Pennsylvania Public Utility Commission who in 1970 wrote a policy paper allowing them to begin utilizing the process of normalized accounting.

Our study has determined that in fact there was such a memorandum issued by the Commission on June 24, 1970.

The PUC memorandum, which carried no signatures, it has no Commission seal, and which resulted from a closed-door executive meeting of the Commission without the benefit of

hearing or testimony on the part of consumer interests, in effect, gave away the fort.

Not only did that memo allow Federal law to interfere with Pennsylvania's right to regulate its own utilities, but it also extended this practice of normalized accounting to State income taxes, in addition to the Federal income taxes.

The measure I am today proposing is not intended to put us on a collision course with the Federal law, but rather it is intended to reaffirm the law of Pennsylvania and explicitly condemn any so-called accumulation of revenues or normalization of taxes other than those explicitly protected by the Federal Internal Revenue Code.

It is not our desire to impair the financial viability of Pennsylvania's public utilities. But it should be understood that it is the ratepayers of Pennsylvania that we are concerned about the most.

In essence, Mr. President, this bill is a beginning toward bringing a costly ripoff and a hoax on the utility customers of this State to an end.

It stipulates that the only income tax expenses utilities may collect from ratepayers are income taxes which are "paid or payable."

It prohibits Pennsylvania utilities from "normalizing" State income taxes and it requires that utilities only defer up to a thirty percent tax rate on accelerated depreciation of facilities and that the companies use the shortest lives possible for such tax deferral on properties.

This bill would require the State Public Utility Commission to formulate a plan by which the State's public utilities would return "in the fairest and most expeditious manner" all deferred taxes not specifically protected by sections of the Federal Internal Revenue Code.

From our investigation, Mr. President, it is safe to estimate that Pennsylvania's electric utilities under this bill would be required to return approximately \$95 million in State income taxes they now hold in reserve to their customers.

Furthermore, this initial legislative action will likely reduce all future phantom taxes on Pennsylvania's utility ratepayers by at least one-third.

But as I said, this legislation is only the beginning. It would appear that other steps will be necessary both at the State and the Federal level.

In conjunction with this bill, Mr. President, I am also introducing a resolution to put the Pennsylvania General Assembly on record urging the Federal Government to repeal those sections of the Internal Revenue Service Code which have enabled utility companies to go on a power building binge, generating excess power plant construction and huge generating reserves far above peak demand.

The resolution additionally is intended to serve notice on the Congress of the United States that Pennsylvania has a legal right to regulate its own utilities in the best interest of its citizens.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

WEDNESDAY, SEPTEMBER 17, 1980

10:00 A.M.	STATE GOVERNMENT (to consider Senate Bills No. 439, 1356; Senate Resolutions No. 75, 76; House Bills No. 962, 1094, 2176 and 2378)	Room 461, 4th Floor Conference Rm., North Wing
------------	--	---

MONDAY, SEPTEMBER 22, 1980

12:00 Noon	AGING AND YOUTH (to consider House Bill No. 213)	Room 459, 4th Floor Conference Rm., North Wing
------------	--	---

TUESDAY, SEPTEMBER 23, 1980

10:00 A.M.	INSURANCE (to consider the nomination of Michael L. Browne for Insurance Commissioner)	Room 460, 4th Floor Conference Rm., North Wing
------------	--	---

10:30 A.M.	LOCAL GOVERNMENT (agenda to be announced at a later date)	Room 459, 4th Floor Conference Rm., North Wing
------------	---	---

11:00 A.M.	ENVIRONMENTAL RESOURCES (agenda to be announced at a later date)	Room 460, 4th Floor Conference Rm., North Wing
------------	--	---

REPUBLICAN CAUCUS

Senator STAUFFER. Mr. President, before recognizing the gentleman from Allegheny, Senator Zempelli, for the adjournment motion, I would like to remind all Republican Senators on the floor and in their offices to come immediately to the Republican caucus room for an important but brief caucus.

DEMOCRATIC CAUCUS

Senator ZEMPRELLI. Mr. President, I would also remind all Members of the Democratic caucus of the fact that we do have a very important caucus to commence immediately. I would ask that we all go to that caucus in the Majority caucus room immediately.

ADJOURNMENT

Senator ZEMPRELLI. Mr. President, I move that the Senate do now adjourn until Wednesday, September 17, 1980, at 11:00 a.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 3:16 p.m., Eastern Daylight Saving Time.