

Foster, W.	Logue	Ryan	
Freind	Lynch	Salvatore	Irvis,
Fryer	Mackowski	Scanlon	Speaker

NAYS—0

NOT VOTING—10

Beloff	Harper	Rappaport	Shelton
Bennett	Misceyich	Richardson	Williams
Gleeson	Mullen, M. M.		

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative.

Ordered, That the clerk present the same to the Senate for concurrence.

REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Caputo. For what purpose does the gentleman rise?

Mr. CAPUTO. Mr. Speaker, to get the Allegheny County delegation up to date, if I had been in my seat instead of in the caucus of the Allegheny County delegation, on HB 147, PN 160, page 5, I would have voted in the affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

The Chair recognizes the gentleman from Allegheny, Mr. Trello. For what purpose does the gentleman, Mr. Trello, rise?

Mr. TRELLO. Mr. Speaker, on SB 717, the Allegheny County delegation was in a brief caucus and we would all like to be voted in the affirmative.

The SPEAKER. The Chair recognizes the gentleman from Allegheny, Mr. Trello. Will the gentleman give the Chair a list of those members who wish to be recorded in the affirmative on the vote?

Mr. TRELLO. Mr. Speaker, the dean of our delegation, Mr. Caputo, is getting that information together and will send it up to the Speaker's chair.

The SPEAKER. The Chair thanks the gentleman. When that information is here at the desk, the Speaker will see that the gentlemen are recorded in the Journal as to their vote.

DECISION RECONSIDERED ON SB 280

The SPEAKER. The Chair reconsiders its announcement that SB 280, PN 282, on page 4, is not called for today. The Chair has been advised by the gentleman, Mr. Berson, that that bill is available for final passage today.

JUDICIARY BILL ON THIRD CONSIDERATION

Agreeable to order,

The House proceeded to third consideration of **Senate bill No. 280, printer's No. 282**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania providing for filling vacancies in the office of justice judge or justice of the peace.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, Shall the bill pass finally?

The SPEAKER. The Chair would respectfully suggest to the members that this is an important bill, and some of you are so busily at work talking that you do not know what you are going to be voting on.

The Chair recognizes the gentleman from Lehigh, Mr. Zeller. Mr. ZELLER. Thank you, Mr. Speaker.

I agree with your statement, and I also feel that this is a very serious bill.

Would someone, please, from the Judiciary Committee or the majority leader explain what this bill does? I think that we should know because we are dealing with the judiciary, with the justice system, and I really do not know what I am voting on. That is nothing new, I guess.

The SPEAKER. The Chair recognizes the gentleman from Philadelphia, Mr. Berson.

Mr. BERSON. This bill is designed to clear up an ambiguity in the constitution as to what occurs when a vacancy occurs and the Governor appoints to fill the vacancy and the question that arises, does the person appointed to fill that vacancy hold office until the expiration of the term of the person who either resigned or retired or does he hold office until the next municipal election occurring within I think it is 10 months after the appointment? The amendment is designed to clear up that ambiguity, although there is a Pennsylvania Supreme Court decision which deals with the subject, and the answer is, at the amendment would answer that question, he holds office until the first of those events occurs; in other words, until there is a municipal election or until the term expires, whichever happens first.

The SPEAKER. The Chair recognizes the gentleman from Lehigh, Mr. Zeller.

Mr. ZELLER. Would the gentleman, Mr. Berson, consent to brief interrogation?

The SPEAKER. The gentleman, Mr. Berson, indicates that he will stand for interrogation. The gentleman, Mr. Zeller, is in order and may proceed.

Mr. ZELLER. Thank you, Mr. Speaker.

Mr. Speaker, does the age factor—I believe it is 70—come into the picture also?

Mr. BERSON. Yes; that would come into it, because under the constitution you have a mandatory retirement age for judges at 70. So if he were elected for a 10-year term and he turned 70 and let us say he served 2 years, there would be 8 years remaining of his term. Then the question arises—and it has been litigated—when the Governor appoints to fill the vacancy, does that person appointed hold office for the remaining 8 years or does he just hold office until the next municipal election when he would have to run as any appointed judge would have to run? And the answer is, under this amendment

under the decided cases, he has to run at the next municipal election.

Mr. ZELLER. The last question, please: The joint resolution proposes, "... proposing an amendment to the Constitution . . ." Does this in any way come before the voters or is this final action?

Mr. BERSON. Yes; this must be approved by the voters.

Mr. ZELLER. Okay. Thank you.

On the question recurring, shall the bill pass finally?

Agreeable to the provision of the Constitution, the following roll call was recorded:

YEAS—188

Abraham	Gallen	Manmiller	Scheaffer
Anderson	Gamble	McCall	Schmitt
Armstrong	Garzia	McClatchy	Schweder
Arthur	Gatski	McGinnis	Scirica
Berber	Geesey	McIntyre	Seltzer
Bellomini	Geisler	McLane	Shuman
Berlin	George, C.	Mebus	Shupnik
Berson	George, M.	Meluskey	Sirianni
Bettinger	Giammarco	Milanovich	Smith, E.
Bittle	Gillette	Miller	Smith, L.
Borski	Goebel	Milliron	Spencer
Brandt	Goodman	Miscevich	Spitz
Brown	Gray	Moehlmann	Stairs
Brunner	Greenfield	Morris	Stapleton
Burd	Greenleaf	Mowery	Stewart
Burns	Halverson	Mullen, M. P.	Stuban
Bustera	Hamilton	Mullen, M. M.	Sweet
Caltagirone	Hasay	Musto	Taddonio
Caputo	Haskell	Novak	Taylor, E.
Cassidy	Hayes, D. S.	Noye	Taylor, F.
Cassar	Hayes, S. E.	O'Brien, B.	Tenaglio
Canciulli	Helfrick	O'Brien, D.	Thomas
Cohen	Hoeffel	O'Connell	Trello
Cole	Honaman	O'Donnell	Valicenti
Cowell	Hopkins	O'Keefe	Vroon
Cavies	Hutchinson, A.	Oliver	Wagner
DeMedio	Hutchinson, W.	Pancoast	Wansacz
DeVerter	Itkin	Parker	Wargo
DeWeese	Johnson	Petrarca	Wass
DeCarlo	Jones	Piccola	Weidner
Dietz	Katz	Pievsky	Wenger
DiNinni	Kelly	Pitts	White
Dombrowski	Kernick	Polite	Wiggins
Donatucci	Klingaman	Pott	Wilson
Dorr	Knepper	Prendergast	Wilt
Boyle	Kolter	Pyles	Wise
Duffy	Kowalyszyn	Ravenstahl	Wright, D.
Dumas	Laughlin	Reed	Wright, J. L.
Eaglehart	Lehr	Renwick	Yahner
Fee	Letterman	Rhodes	Yohn
Fischer, R. R.	Levi	Richardson	Zeller
Fisher, D. M.	Lincoln	Rieger	Zitterman
Flaherty	Livengood	Ritter	Zord
Foster, A.	Logue	Ruggiero	Zwilk
Foster, W.	Lynch	Ryan	
Freind	Mackowski	Salvatore	Irvis,
Fryer	Madigan	Scanlon	Speaker
Gallagher	Manderino		

NAYS—2

Mrkonic	Pratt
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NOT VOTING—10

Beloff	Gleeson	Rappaport	Williams
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Bennett
Cimini

Grieco
Harper

Shelton

Zearfoss

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative.

Ordered, That the clerk return the same to the Senate with information that the House has passed the same without amendment.

REMARKS ON VOTES

The SPEAKER. The Chair recognizes the gentleman from Delaware, Mr. Zearfoss. For what purpose does the gentleman rise?

Mr. ZEARFOSS. Mr. Speaker, I request permission to make a statement for the record.

The SPEAKER. The gentleman is in order and may proceed.

Mr. ZEARFOSS. Mr. Speaker, I was discussing a legislative matter with a member of the staff at the rear of the House when the vote on SB 280 was taken. Had I been in my seat, I would have voted in the affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

The Chair recognizes the gentleman from Lycoming, Mr. Cimini.

Mr. CIMINI. Mr. Speaker, my switch was locked out on SB 280, PN 282. I wish to be recorded in the affirmative.

The SPEAKER. The gentleman's remarks will be spread upon the record.

The Chair recognizes the gentleman from Lycoming, Mr. Grieco.

Mr. GRIECO. Mr. Speaker, on SB 280, I was discussing the bill with my colleagues and I was too slow in voting, but I would like to be voted "yes."

The SPEAKER. The gentleman's remarks will be spread upon the record.

STATE GOVERNMENT BILLS ON THIRD CONSIDERATION

Agreeable to order,

The House proceeded to third consideration of **House bill No. 338, printer's No. 1962**, entitled:

An Act authorizing and directing the Department of General Services with the approval of the Department of Public Welfare and the Governor to convey to the Plymouth Fire Company No. 1 of the Township of Plymouth 1.126 acres of land more or less situate in Plymouth Township Montgomery County Pennsylvania.

On the question, Will the House agree to the bill on third consideration? Bill was agreed to.

The SPEAKER. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, Shall the bill pass finally?

Agreeable to the provision of the Constitution, the roll call will now be taken.