Now therefore, the Senate of the Commonwealth of Pennsylvania congratulates the "Mounties" Marching Band of Mount Carmel High School on their outstanding record of performances for a band on a high school level, and extends commendations to the school and to the Director, Paul Semicek, for making such a superior music program available to the students.

And further directs that a copy of this document, sponsored by Senator Franklin L. Kury, be transmitted to the "Mounties" Marching Band, Mount Carmel High School, Mount Carmel, Pennsylvania 17851.

On the question,

Will the Senate adopt the resolutions?

The resolutions were adopted.

PETITIONS AND REMONSTRANCES

Senator KURY. Mr. President, no aspect of this Body's activities and responsibilities under the Constitution has created more public criticism of this Body than on the whole question of the Senate's role in confirming gubernatorial appointments. We have heard a great deal about this in recent weeks, and there is no question that Members on both sides of the aisle agree the present system has been a sad comedown from the concept of our Founding Fathers and that the whole process now is nothing short of a farce. I think the Members on both sides and the leadership on both sides are aware of this, because last year we appointed a special committee, on which I had the honor to serve as chairman, for the purpose of reviewing this whole process and recommending reforms.

Mr. President, that special committee worked long and hard during the year 1973, and on December 5th we filed our report which was given to every Member of this Body and, of course, was made available to the public.

Mr. President, in the six weeks since that report has been made public I am pleased to report that the reaction to the report from the press and the public has been quite good. In fact, I am quite gratified at the response which our report has received. For example, the Harrisburg Patriot went so far as to say this: "Not only is the committee's proposal reasonably appropriate, but its report on the issue could stand as a model for legislative fact-finding." Other comments from other papers are equally as commendatory.

Mr. President, at this time I would like to insert into the record a number of editorials and comments from various commentators on this report so that they may be preserved in the records of the Senate.

Secondly, Mr. President, I want to point out that in the six weeks since we have had this report and received these comments, one thing has happened. That is, it is now time for this Body to start implementing those reforms and to start acting on that report. We have the report, and now is the time for us, as Senators and as responsible public officials, to do our job to implement it and make it reality.

It is for that reason today, Mr. President, that I have introduced two bills which are now on the desk. To implement this report will take three basic changes:

First, we will have to change the Constitution;

Second, we will have to amend the Administrative Code;

Third, we will have to amend the Rules of this Senate.

Mr. President, the Committee agreed that we could not try to do that this Session, or by January 1, 1974. We also agreed that we would not try to do it in terms of present personalities, the present occupant of the Governor's Office or in terms of who is now in the Majority or the Minority. The target date for implementing the full report is the Primary Election of 1975. Yet, we have to get started and that is why I have introduced today a constitutional amendment and an amendment to the Administrative Code to carry out the spirit and the intent of our Committee's report.

The bills are on the desk, but they cannot be referred until next week because of the Rules of the Senate. However, I urge and suggest to every Senator on either side that the bills are there and I would be delighted, and I think we would all be glad, to see the Members on both sides, who care to, join as cosponsors on those bills so that when they are put in print they will have the widest possible support.

Mr. President, I believe that early action on these bills is most urgent and necessary, and I am certainly hopeful that we will be able to act on these bills quickly and show the public that we are, indeed, responsible public officials who want to reform a very bad situation.

(The following editorials were made a part of the record at the request of the gentleman from Northumberland, Senator KURY:)

The Patriot—December 19, 1973

INTERIM APPOINTMENT PRACTICES EVADE STATE CONSTITUTION

PANEL'S REPORT COULD END CONFIRMATION SHENANIGANS

By LARRY REINSTEIN
Associated Press Staff Writer

ANALYSIS

Exactly 100 years ago last month, delegates to a state constitutional convention included a provision aimed at allowing governors to fill jobs when the Legislature was in long recesses. The appointments did not need Senate confirmation.

At the same time, framers decided that two-thirds of the 50 senators should be required to confirm an appointment.

Today, those two sections have turned the confirmation process into a mockery and encouraged political wheeling and dealing.

A special Senate select committee that last week called for reform concluded that the confirmation process is not the effective check and balance originally envisioned.

"To the contrary, the process has become characterized by indefensible delay by the Senate, circumvention of the constitutional requirement by the governor and excessive political maneuvering by the Senate and the governor. It has opened both the executive and legislative branches of Pennsylvania government to deserved criticism," the committee report said.

In a bit of irony, the committee issued the report as the Shapp Administration was brewing a plan to avoid Senate confirmation for appointments to powerful posts on the Public Utility Commission and the Pennsylvania Turnpike Commission.

Twice in the last three years the courts have had to determine the legality of mass appoint-

ments made by Shapp and former Gov. Raymond P. Shafer. A third suit is promised if the administration goes through with its new plan.

Governors are not totally to blame for not seeking the consent of the Senate, for the chamber has traditionally refused to act on many nominations.

A two-thirds vote is needed to confirm an appointee and that means one party cannot do so itself. The last time either party controlled the necessary 34 votes was in the 1949-50 session, and only three times in the last 40 years has a party been so powerful.

So in this highly partisan state neither party when not holding the governor's chair is likely to provide the necessary two-thirds vote unless it gets something in return, like power to make some of the appointments or support for its proposals.

Sometimes, however, those demands are too great for a governor to accept. One powerful Republican suggested recently that his party not permit Shapp to make appointments to the PUC or the turnpike commission unless he buys their tax relief package. That's not going to happen, so no appointees will get confirmed and the positions remain vacant.

Caught in this grip, governors have restored to something called interim appointment.

In 1873 when the process was adopted, the legislature met for only a few weeks at a time and then adjourned for a year or two.

Mainly to guard against sudden departures, the section allowing appointments to be made when the Legislature was in recess was added. The purpose was to avoid having key posts unmanned over long legislative recesses.

Now, the Legislature meets virtually yearround every year, but the interim provision remains. So when the Legislature adjourns between sessions—sometimes only a matter of minutes—governors can make appointments without obtaining Senate approval and the appointee can serve until the next session.

So despite what a Lycoming senator argued in 1873, the confirmation process has not been lifted above the "influence of politicians" nor have appointees been confirmed "upon their merit and not as a reward merely of political services."

There have been two court decisions on the controversy, both upholding the governors' appointees.

In 1971 Commonwealth Court dismissed a suit that challenged a dozen judicial appointments made by Shafer. The suit was brought by Shapp's former attorney general, J. Shane Creamer, who contended Shafer was required to submit a nomination for a judicial appointment when the vacancy occurred rather than at a later date.

The second case involved about 800 appointments Shapp made between the 1971 and 1972 sessions. Three Republican senators contended the constitutional provision was not intended to be used when only a few days intervened between sessions. They also said a final adjournment can only come between two-year sessions rather than each year.

Commonwealth Court disagreed and said the adjournment was legal. The case was appealed to the State Supreme Court, which heard arguments in September 1972 but has yet to hand down a decision.

Now, Shapp is considering making another slew of appointments at the end of this year, without Senate confirmation.

This case is considerably more complicated, however, because in past situations one party controlled both chambers and could adjourn the Legislature. This year only the Senate intends to adjourn while the Republican-controlled House will remain in session up to start of the new session at noon Jan. 1.

With a whole new controversy sure to start up if the administration goes through with its plan, it's possible recommendations for reform made by the Senate select committee may have a chance.

They would require the Senate to act on a nomination within 25 days of submission, or allow the nominee to take office automatically. This would prevent the chamber from sitting on appointments indefinitely.

While this provision weakens the Senate's power, it is offset by one eliminating interim appointments. Any nominations made by a governor during a recess would still need Senate confirmation when it returned to session.

The two-thirds requirement is changed to a majority for all but the top 200 positions. While this will still foster some political dealing, it is considered the only proposal that could pass the Legislature.

Since a constitutional amendment is required, the earliest the reforms could be enacted is 1975.

The Legislative Bulletin
Pennsylvania Chamber of Commerce
1973 Session

Bulletin No. 33 December 14, 1973

The Interim Waltz

The General Assembly, which has been deadlocked all year on most questions, now seems determined to wind up the year deadlocked on when to wind up the year. The Senate this week adopted a resolution for adjournment until December 31. The House announced its intention of amending the resolution to reconvene January 1, when the Constitution requires the new session to commence. This was not agreeable to the Senate, so both chambers will be in on Monday, December 17. It is not expected to be a normal legislative day, however, and the only item likely to be considered is the adjournment resolution.

The latest deadlock may seem bewildering to the observer, but it has a very practical reason. The House would like to avoid an interim period between the 1973 and 1974 sessions, to deny Governor Shapp the right to make interim appointments without submitting them to the Senate. Last year, the Governor made over one thousand such appointments.

The Senate is reported to be planning to adjourn finally the 1973 session on December 31, which would provide an interim period until noon on January 1, during which appointments could be made. If this is done, the Senate will have deliberately chosen to avoid its Constitutional duty and to turn over its responsibility to the Executive branch.

The nature of the situation was clearly spelled out this week in a report by a special senatorial committee chaired by Frank Kury and including Senators Ammerman, Frame, Messinger and Stroup. The committee described the present procedures for senatorial confirmation as "characterized by indefensible delay by the Senate, circumvention of the Constitutional requirement by the Governor and excessive, political maneuvering by the Senate and the Governor."

The committee recommended: (1) elimination of 473 positions with advisory responsibilities from the requirement for confirmation; (2) adding about 60 Deputy Secretary positions to the confirmation process; (3) amending the Constitution to permit confirmation by simple majority for about 1,300 positions; (4) retaining the two-third requirement for Department heads, judges, members of independent administrative boards and commissions and members of certain departmental boards with extraordinary discretionary powers; (5) amending the Constitution to eliminate interim appointments and to insert time limits of 90 days within which the Governor must submit a nomination following a vacancy, and 25 days during which the Senate must act on nominations; and (6) prohibiting by law a nominee from serving in office if his nomination has been rejected.

The committee recommended that its laws and rules changes carry an effective date of January, 1975—after the next election for Governor—and that the Constitutional amendment be submitted to the voters in May of 1975—the earliest date possible.

The Constitution presently requires that two-thirds of the Senate approve gubernatorial appointments. The practice, as outlined in the Kury report, is quite different. Interim appointees assume office, receive compensation and are again reappointed, without senatorial consent. In at least one case, an appointee was specifically rejected by the Senate, but reappointed on an interim basis, and served for several years.

Because the two-thirds vote requires minority agreement, it has been possible for any Senator to hold up confirmation. In such cases, no hearing on the fitness of the candidate is held, and no report is made. The Senate simply ignores the appointment until an interim occurs, and the Governor makes it legal. Three Cabinet members, Attorney General Packel, Police Commissioner Barger and Banking Secretary Dellmuth are currently serving without confirmation.

The Kury report is an excellent one, and its application would improve the process of State Government, but much of the present mess could have been avoided if the Senate would simply do its duty, hold hearings on the qualifications of appointees, and then vote them up or down.

The Patriot, Harrisburg, Pa. Thursday, Dec. 20, 1973

APPOINTEES
LET'S STOP "INTERIM WALTZ"

AS THE SON-IN-LAW of Simon Cameron and the founder of the Harrisburg law firm that has produced the most judges, Wayne MacVeagh knew a few things about politics when he represented Dauphin County at the 1873 Constitutional Convention.

The issue arose as to having a two-thirds Senate confirmation of gubernatorial appointments. "In times of great political excitement," observed MacVeagh, "it is asking a great deal of senators of one political party to vote to confirm in places of high trust and power obnoxious political opponents."

Make it MacVeagh's Rule—"Never ask too much of a politician." Governors propose, Senate minorities oppose. Interim appointments are made, and many of them become semi-permanent appointments—violating the true spirit of the Constitution. The State Attorney General himself, the highest law-enforcement official in the Commonwealth, has not been confirmed. Neither has the Secretary of Education, who manages half the State's budget outgo. Neither has the State Police Commissioner, nor three out of four Parole Board members.

WE ARE NOW in the period of the "Interim Waltz," as the State Chamber of Commerce's Legislative Bulletin aptly put it. Governor Shapp, thwarted by the two-thirds rule which only Texas among all the other states has, is ready to sock it to them with interim appointments. The Republican-controlled House, on the other hand, is trying to prevent an intermission between the years, so that Shapp can't get his appointments through.

With public problems, the wise don't seek solutions—for there are few of these in life—but rather resolutions, which correct the situation if not necessarily the basic problem. The Senate's Special Committee on Confirmation Procedure, however, deserves commendation for coming up with a profoundly fair and intelligent solution to the "Interim Waltz."

Instead of 2,000 positions needing confirmation, the committee recommends that only 200 get the two-thirds treatment. Another 1,312 would require only a majority vote of the Senate, as the national Constitution requires of all presidential appointments, even to the Supreme Court incidentally. The committee would add to the list now not needing confirmation the posts of 60 deputy secretaries, positions of great power in Pennsylvania government.

The committee, furthermore, would require a Governor to fill all vacancies needing confirmation within 90 days. The Senate would have 25 legislative days to act, or the Governor's appointment would stand. If the Senate rejected an appointment, the Governor would have to withdraw the candidate. In addition, confidential State Police reports would accompany all nominees and the

Senate would be required to act publicly on appointments.

THIS LEGISLATURE should get busy on such a reform because it would require changing the 1873 constitutional provision. Two consecutive Legislatures must pass the measure and then the people must approve it at the polls.

Not only is the committee's proposal reasonably appropriate, but its report on the issue could stand as a model for legislative fact-finding. Senators Franklin L. Kury, chairman from Sunbury, Joseph S. Ammerman of Curwensville, Richard C. Frame of Franklin, Henry C. Messinger of Allentown and Stanley G. Stroup of Bedford deserve credit for attempting to clean up what has been one of the most disgraceful aspects of Pennsylvania politics.

Pennsylvania Mirror, State College, Pa., Saturday, December 29, 1973

OPINION
INTERIM APPOINTMENTS

By O. T. Hill

If you take a few minutes off from reveling this weekend, you'll be able to witness one of the silliest productions in state government.

And if you remember all that goes on around here, you'll know that this must really be something!

As 1973 draws to a close, the Democrats who control the Senate will adopt a motion for a sine die adjournment of the Legislature, that is, an adjournment with no date to return.

If the Democrats were also in charge of the House there would be no difficulty over the motion but since the Republicans are in control, they likely will raise a fuss which will end up in the courts next spring.

Although you may feel there is no reason why members of either chamber would not want to adjourn indefinitely, considering how little they like to be here, the problem with this adjournment is political.

As he has in past years, Gov. Milton J. Shapp will use the brief period between the sine die adjournment of the 1973 session and the opening of the 1974 session to make scores and perhaps hundreds of so-called interim appointments to all sorts of jobs in state government.

Normally these appointments would require Senate confirmation by a twothirds vote but the Constitution allows them to serve on an "interim" basis if they are named while the General Assembly is not in session.

Obviously this rule was put into the Constitution to give the Governor the ability to fill vacancies as they arise during those many months of the year when the lawmakers are not in session.

This no longer applies in modern times when the General Assembly has been in session almost year round, at least in theory.

But it has become useful for governors from both parties who have found it impossible to secure a two-thirds vote for almost anyone from the State Senate for confirmation.

Many of the appointments Shapp will make have been before the Senate for consideration for months but have not been called up by the leadership because they know the two-thirds vote is not there.

In a Senate that is almost evenly balanced (26-24 for the Democrats) it is easy for the minority party to use appointments by the Governor as a hostage for things, or people, they want.

Thus both the legislative and executive branches play hob with the law to secure their own ends and the people are denied the smooth operation of the checks and balances system we have been led to believe our government depends on.

Surely, you say, there must be a better way. And in fact there is.

A committee of the Senate, led by freshman Sen. Franklin Kury of Sunbury, has studied this process and come up with recommendations for improvement he hopes will be on the ballot in 1975 as a Constitutional amendment.

The first thing Kury would do is reduce the number of jobs which require Senatorial confirmation.

The committee found that nearly 2,000 positions must pass the Senate.

Compare this with the Federal system where only the most major of Presidential appointments must come before the Senate and then must receive only a simple majority vote.

Under the Kury proposal, a two-thirds vote would be required for only 192 key positions. A simple majority would suffice for another 1,312 positions and 475 jobs, mostly advisory or honorary, would be taken from Senate consideration.

Also, the Senate would be required to act on a nomination within 25 days rather than letting it lie around for months while both sides try to make deals for votes.

And if someone is voted down, he leaves office rather than hang on for months in limbo as is the case now.

This proposal could have some flaws in the decision to classify positions in each of the categories and even to retain the two-thirds vote at all.

But it is certainly much better than what is now going on and deserves a chance to go before the voters in a referendum for their consideration.

The Philadelphia Inquirer, Tuesday, January 1, 1974

ISN'T PENNSYLVANIA READY FOR RULE BY THE MAJORITY?

Although neither chamber of the Pennsylvania General Assembly had any vital matters on its agenda, both were in session Monday. The Senate met in order to adjourn. The House met in order not to adjourn.

The strategy of the Democratic-controlled Senate was to permit the governor to use a constitutional loophole to make hundreds of interim

appointments without Senate confirmation. The strategy of the Republican-controlled House was, if not to prevent them, at least to lay a groundwork for a legal challenge.

We don't propose to go into the merits of any of the individuals involved. The question is, why doesn't the Senate?

For if Gov. Shapp has, like his predecessors, exercised his constitutional power to make interim appointments when the Senate is out of session, it is because the Senate has refused to exercise its constitutional responsibility to vote them up or down.

* * *

The state Constitution makes it easy for the Senate to brush aside its responsibilities, since the Constitution requires that for some 2,000 or so appointees the Senate must confirm by a two-thirds majority of its total membership, 34 out of 50. By comparison, the Constitution of the United States requires no more than a simple majority of the senators present to confirm Presidential nominations of Supreme Court justices, Cabinet officers, ambassadors and so on.

A select Senate committee, headed by state Sen. Franklin Kury (D., Northumberland), has proposed a partial solution. The committee would amend the Constitution to eliminate the interim appointment proviso. At the same time, it would require the Senate to act on gubernatorial nominations within 25 legislative days or else the nominees would assume office as if confirmed.

* * *

Unfortunately, what Sen. Kury calls the "consensus of this committee's best thinking" did not bring it as far as the Sproul Commission in 1920, the Woodside Commission in 1959, a Scranton constitutional revision commission in 1963, or two studies of the Pennsylvania Bar Association in 1963 and 1966.

All, as the committee report notes, recommended majority approval, as is the case in practically every state as well as the Federal Government.

Instead, the committee would retain the two-thirds requirement for the 192 highest appointive officers. In addition it would require the Senate to confirm, although by majority votes, 1,312 second level officials—far more than the Senate can possibly review intelligently.

We think the number should be brought down to manageable proportions, and majority rule made the rule of the state. For what is involved is not this governor or those nominations but whether the process of state government shall function in an orderly way.

The Patriot, Harrisburg, Pa., Thursday, Jan. 3, 1974

A BAD SYSTEM

APPOINTEE FUSS IS POINTLESS

IN 1873, when legislative sessions of several weeks' duration were followed by recesses lasting many months, delegates to a Pennsylvania constitutional convention wrote in a section permitting Governors to make interim appointments "during the recess of the Senate" which would permit appointees to serve to "the end of (the legislative) session" without confirmation.

That well-intended provision, plus a stipulation that confirmation require "consent of two-thirds of the members elected to the Senate," has played hob with due process and orderly government in the Commonwealth since the 1930s. Only three times in the last 40 years, most recently in the 1949-50 session, has one party had a sufficient majority in the upper house to confirm gubernatorial nominees. Governors of both parties have therefore resorted in desperation to massive appointments during recesses. Last New Year's eve Governor Shapp named 678.

The system is wrong and, apparently, relief is unlikely through court action. In 1971, Commonwealth Court dismissed a Democratic suit challenging a dozen judicial appointments, made in the closing days of the Shafer Administration. In 1972 the same court decided that about 800 Shapp appointments were legal. Three Republican senators appealed to the State Supreme Court and arguments were heard in September, 1972, but no decision has been handed down.

Now three Republican senators are suing again in Commonwealth Court but asking the Supreme Court to take initial jurisdiction. The difference this time—a technicality—is that while the Senate adjourned "sine die" the House did not adjourn at all and, the suit avers, one house cannot adjourn sine die "without consent of the others."

ALL THIS spinning of wheels is pretty much beside the point. It is the Commonwealth's Constitution that needs changing, not a court suit that needs winning. To this end a Select Senate Committee on Senate Confirmations headed by Sen. Franklin Kury (D-Northumberland) reported proposals on Dec. 11 that would reduce the number of gubernatorial appointments requiring confirmation to about 1,500 and recommended that 1,312 of these be subject only to majority vote. If the Senate failed to act within 25 days, nominees would take office automatically.

The report stops short of recommending any procedural change in the way candidates for approximately 180 top jobs are confirmed. Hence, even though the Governor would be enjoined by the Committee's proposals from making future interim appointments, high-voltage contention would continue over confirmation to the State's top appointive positions. Only a constitutional rewrite making a majority vote sufficient for all nominees is likely to end the intricate and degrading bargaining between the two parties now necessary to get anyone confirmed under present rules.

THE GOVERNOR took note of the backdoor tactics which both he and his predecessors have been using. As he swore in his new appointees on Monday, he said:

"Let me say frankly that the interim appointment procedure is no way to run a government, but this is the only course of action available to this Administration."

Short of a sellout to Republican demands, he was right. But if the legislators would spend as much energy framing and approving a simple constitutional change as they do scheming and suing under the present system, a majority-vote amendment could be placed before the voters in 1975 with approval a near-certainty.

The News-Item, Shamokin, Pa., Friday, January 4, 1974

AN OBSOLETE WAY TO MAKE APPOINTMENTS

Governor Shapp admits the interim appointment procedure is "no way to run a government, but this is the only course of action available to this administration."

The governor on Monday of this week made 678 interim appointments to the various boards in the commonwealth. The interim-appointment route is steeped in Pennsylvania tradition. It first became the vogue in 1873, when the delegates to the Constitutional Convention wrote in a section permitting governors to make interim appointments "during the recess of the Senate," permitting the appointees to serve to "the end of the legislative session" without confirmation.

Interim appointments are a way for political parties to gain control of a state board or agency. Hence, in addition to being steeped in tradition, it is ingrained even deeper in the political patronage system.

There was practically no way for Governor Shapp to receive Senate confirmation of the 678 because the Democrats hold only a one-vote majority in the upper chamber of the State Legislature, and it takes a two-thirds vote to confirm.

The argument is not with the governor, but with the device he had to use in order to appoint people to state posts which would reflect his administration.

The interim appointment method should be changed. In fact, it should be relegated to history's scrap heap.

Fortunately a study has been made on this totally unpalatable system by a Select Senate Committee on Senate Confirmations, which was chaired by Senator Franklin L. Kury. On Dec. 11 the committee proposed that gubernatorial appointments requiring Senate confirmation be reduced to 1,500 with 1,312 of that number subjected to majority vote. They would automatically take office if the Senate failed to act within 25 days.

Under the present system, court suit is following court suit as the Republicans contest the appointments made by the governor. And it seems there is much more important business at hand in the commonwealth than clogging the courts with suits contesting the legality of appointments to state boards and agencies.

The Senate committee's proposals would require only a simple constitutional change which could be placed before the voters in 1975.

Harrisburg Highlights—January 4, 1974

NEED FOR REFORM

By John L. Moore
Ottaway News Service

Barely had a Senate panel called for reforming the ways a Pennsylvania governor makes political appointments when Gov. Shapp and the Legislature proved the need for reform.

Throughout 1973, Shapp had submitted literally hundreds of appointments to all sorts of major and minor posts to the Senate for the confirmation required by the State Constitution.

But the Senate, clearly not a body to break with tradition, sat on the nominations.

Then came Dec. 31, and the Senate by adjourning cleared the way for Shapp to make all the appointments he wished without Senate confirmation or any confirmation at all. With both House and Senate required by the Constitution to meet New Year's Day, Shapp had little time to spare after the Senate went out.

But he lost hardly a minute because by nightfall Dec. 31, he had made some 678 appointments, none of which needed Senate approval, by pushing them through a constitutional loophole which lets Pennsylvania governors bypass the Senate in making appointments after the Senate recesses.

This got the new year off to a rousing, too partisan start because:

The Republican who chairs the Pennsylvania Turnpike Commission refuses to accept the appointment of a New Year's Eve Democrat. The Republican is claiming the Democrat's appointment is illegal and is staying on the job.

What's more, Commission Chairman Lester F. Burlein says he has been advised he can stay on until a properly appointed successor comes along.

A Democrat that the voters voted off the state Superior Court last year in the May primary was reappointed New Year's Eve to a term which apparently will run through 1975.

Judge Edmund Spaeth Jr. was appointed to the bench a year ago, and the governor obviously believes that the electorate's failure to elect him really doesn't interfere with Spaeth's right to remain in the court.

A trio of Republican senators, crying foul with the way that Shapp, a Democrat, made the appointments, have filed suit in Commonwealth Court in the hope of having the court overturn the New Year's Eve appointments.

The Senators are claiming that the constitutional loophole that Shapp used to make the appointments did not exist New Year's Eve because the House of Representatives had never concurred with the Senate's move to adjourn.

But it is questionable whether the Senate in fact had needed House concurrence. The Constitution states that House concurrence is required whenever the Senate plans to "adjourn for more than three days."

The New Year's Eve adjournment motion only let the Senate out for one day because the Senate came back Jan. 1, as required by the constitution.

And the House stayed in "token" session through Dec. 31, not moving any legislation, but nonetheless remaining in session.

Whatever the court decides, the Legislature and the governor have again showed that the entire practice of nominating and confirming appointments needs cleaning up.

Just weeks before Shapp and the Legislature got enmeshed in their latest tangle, a special Senate committee chaired by Sen. Franklin L. Kury, D-Northumberland, had studied the whole nominations-confirmation picture to find "the process has become characterized by indefensible delay by the Senate, circumvention of the constitutional requirement by the governor and excessive political maneuvering by the Senate and the governor."

The 1973 New Year's Eve fiasco is an excellent illustration of the political silliness that the Kury committee was talking about.

Sunday Patriot-News — January 6, 1974

INTERIM APPOINTMENTS

A PLAN TO LOCK THE DOOR ON THE HILL

By JOHN SCOTZIN
Of The Sunday Patriot-News

THE KURY report for reform of the Senate confirmation process isn't going to be shelved, backers insist.

When the Senate returns on Jan. 14, Sen. Franklin L. Kury, D-Sunbury, plans to introduce a proposed constitutional amendment to implement the report of the bipartisan select committee he heads, which would make meaningful the procedure of "advise and consent" to a governor's appointments.

The timeliness of the legislation, now ready in draft form, is highlighted by the current hassle over Gov. Shapp's 678 interim appointments which circumvented—as many governors before him had done—the two-thirds confirmation vote.

Shapp did this through sine die adjournment of the Senate over New Year's Eve, forced by the Democratic majority. The fact that the House wasn't consulted is the basis of the court suit filed Wednesday by three Senate Republicans challenging Shapp's authority to install the appointees before the 1974 session convened.

The signal for an early floor vote on the reform recommendations appeared to have been given by endorsement of the report by Senate President Pro Tem Martin L. Murray, D-Luzerne, and Majority Leader Thomas F. Lamb, D-Allegheny.

Since the House is not involved in the process, reform advocates see no reason for the amendment to be delayed there once it has cleared the Senate. The measure could be voted on at the earliest in the May, 1975, primary elections.

If the plan goes through, the next governor would lose the power to make any interim appointments. He would submit a nomination within 90 calendar days of a vacancy, and the Senate would be required to act within 25 legislative days afterward. If the Senate failed to act, the nominee would assume office.

In the event of a lengthy sine die adjournment at the time a vacancy occurred, the governor could speed up the confirmation procedure by convening the Senate in special session.

The committee's report includes the mechanism to prevent the controlling Senate Rules and Executive Nominations Committee from bottling up a nomination, and thus effect confirmation by default. The Senate's operating rules would include a provision for any three members of this committee to force a report-out to the floor for a vote if the committee had not acted after 15 days.

Backers expect that if Kury's bill runs into contention, the issue would likely concern the number of positions—presently some 2,000—that should continue to require a two-thirds vote of 34, rather than the reform concept itself.

The committee recommended that the two-thirds requirement be retained for only the 192 highest appointive offices, and dropped to a simple majority of 26 for 1,312 second-level policy or administrative offices.

Public hearings—unknown in the existing practice—would be held on the qualifications and character of a nominee. The plan further provides for public inspection of sworn statements filed by the nominees detailing their personal background and qualifications.

An ironic note to the committee's overhaul efforts is that Kury and the other two Democratic members—Sen. Joseph S. Ammerman, of Clearfield, and Henry C. Messinger, of Allentown—felt obliged to go along with the old practice of accommodating the governor's interims. Without the votes of the three, the Democratic majority would have been unable to carry the party-line division of 24-22 for sine die adjournment.

Senator TILGHMAN. Mr. President, I would like to read into the record an article which I saw in the Evening Bulletin written by William Keough of December 30, 1973. The headline of the article says, "Packel Disputes Jury; Denies Law Breaking." We are all conscious of having something taken out of context, and I assure you that I am not doing that. I am going to skip the first half column, if you will, of this article and go to one paragraph. It really is a shocking statement by the Attorney General of the Commonwealth of Pennsylvania. I am going to read you the whole paragraph:

"Concerning the admissions of Kishbaugh and Winner, Packel said, 'I don't think that makes them guilty of a crime. It's a crime for the distillers to try to improperly influence state government.'" Now, I continue with the quote to an alarming sentence: "'But it is not a crime for state officials to accept gifts that might influence them.'"

The Attorney General said that it is perfectly all right —and these are his words—"for state officials to accept gifts that might influence them." I disagree with him in toto. I do not think there is a person in this room who really thinks they could go out and have received money for casting their vote on a piece of legislation and be considered in conformity with our Constitution. However, the Attorney General has said that it is not a crime for state officials to accept gifts that might influence them.

Mr. President, does this mean that a person heading up a department, such as a cabinet officer, may accept gifts? Let us say they are not money. May he accept a car for influencing legislation from his position as a cabinet officer? We know that cabinet officers put in what are called Administration bills and they can pass. I do not know if this statement meets with the approval of the Governor of the Commonwealth of Pennsylvania; it is certainly his lawyer who is speaking. I find it discouraging, I find it in poor taste, and I think the Attorney General should correct this statement. If he believes in this statement, he should resign from office.

Senator COPPERSMITH. Mr. President, in answer to the remarks of the gentleman from Montgomery, Senator Tilghman, the statement he credited the Attorney General with having said is that it is not a crime to accept gifts that might influence you. I interpret that that he is referring to the very difficult area which we are all faced with of getting minor gifts at Christmastime, and I challenge one Senator in this room to say that he has not received some cheese, or some other minor gift, at Christmastime from some lobbyist amounting to $5.00, or less.

All he is saying is, theoretically and conceivably, that gift might influence a person. As a practical matter it does not. He certainly means that if you get anything of substance, or of value, and it is designed to influence you, that is a crime. There is no dispute about that.

All of us have our own rule of thumb as to what we will accept and what we will not accept. We keep it low, we do not take anything that would, by any standard of any reasonable person, influence us. But, who can say that a minor gift can influence you.

Mr. President, I think in fairness to the Attorney General, you have to put his remarks in context and he certainly is not saying that you may receive payment for the exercise of your judgment and not be guilty of a crime.

Senator LAMB. Mr. President, I am shocked. The Attorney General has been a most respected lawyer, a most respected judge of the Superior Court of this Commonwealth, and a most respected Attorney General. For anyone to take a clipping from a newspaper, which we all know very seldom carries the direct and the full connotation, or the full story, and to spread an innuendo or an insinuation from just those words, in my opinion, is unworthy of this Senate.

Senator TILGHMAN. Mr. President, first of all, I thank the gentleman from Cambria, Senator Coppersmith, for replying. That is his opinion and he does not have any idea what the Attorney General thinks. The remarks of the gentleman from Allegheny, Senator Lamb, are to be expected. However, I am not quoting something from a paragraph in a newspaper, I am quoting a quotation that a lot of people read. It is in a quote. This whole article is a quote from the Attorney General with great lengthy quotations. He said it. He did not say anything about accepting a piece of cheese. I do not know what the gentlemen are talking about, they cannot make excuses for that kind of stuff.

He said they accept gifts that might influence them. I say to the gentleman from Cambria, Senator Coppersmith, I am one who does not accept gifts which influence me, and that is one Senator. If the gentleman likes to do it, that is his argument.

Senator COPPERSMITH. Mr. President, I must say this about the gentleman from Montgomery, Senator Tilghman: He knows how to use his knees and elbows. Let me also say this to him: I did not say I accept gifts which influence me. I think I made it very crystal clear that something like cheese, or something that someone gives you at Christmastime of minor value, you accept, because socially people are insulted if you ascribe improper motives to them if they are giving you a very small token of very minor value. Just as I, at Christmas, at times give candy and things to people with whom I am friendly. I do not worry whether they are public officials, or they are not. I just want to show them that my wife and I remember them at the holiday season, we are not trying to buy anything, we are just trying to show them that we appreciate their friendship and we want to remember them at the holiday season.

I do not accept things which influence me, but we do live in a complicated society. I challenge the gentleman to say that he never was taken out to dinner, that he never had someone else pay a check for him, that he never had someone buy a drink for him. To imply that that type of thing influences me, I think is rather insulting. I think it is unparliamentary, and I think that there is nothing wrong with observing the rules of courtesy and parliamentary usage in this Body.

You will find that if you observe the social amenities and that if you treat people respectfully, we will have a much finer Legislature, and we really do not score many political points by carrying on in this way.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

Eastern Daylight Saving Time	DATE AND COMMITTEE	Room
	MONDAY, JANUARY 21, 1974	
11:00 A.M.	JUDICIARY to consider Senate Bill No. 1290 (public hearing)	Majority Caucus room
12:00 Noon	RULES to consider Senate Resolution No. 236	Committee meeting room
	MONDAY, JANUARY 28, 1974	
11:00 A.M.	JUDICIARY to consider Senate Bill No. 1089 (public hearing)	Majority Caucus room
	TUESDAY, JANUARY 29, 1974	
10:00 A.M.	EDUCATION to consider Senate Bills No. 100, 1275, 1327 and House Bill No. 62	188

The SECRETARY. The exceutive sessions of the State Government Committee which were scheduled for Wednesday and Thursday, January 16th and 17th, will be held as scheduled. Tomorrow's hearing will be held at 9:00 a.m. in the Majority caucus room and Thursday's hearing