

follow-through on the part of the sponsors, and others, to see that it is carried out.

I asked the Department for the summary report which was asked for in the 1967 law, the law which this amends and, in effect, would replace. I found that the Department does, indeed, have a summary of the number of abused children and that, indeed, this number has increased from something like 500 per year to 1,000 per year. The report raises the caveat that there is no way they know, of course, whether the number of abused children is increasing or whether they are now merely receiving reports which they did not get before.

In any case, the thing that struck me was that the law as it now stands, the 1967 law, required what would appear to be a report of the individual cases, so they would be listed over here. They never asked for or received that in the Department of Welfare. This goes back two Administrations, I realize, but they do not have a roster, and they could have it now. I asked the prime sponsor of the 1967 law whether he intended that they have a list of the individual cases in the Department of Welfare. That was his understanding and, yet, it was never done.

I come back to my main point: It is not the good intent or the need for this law, but it is a matter of, is it going to be carried out the way it should be and, particularly, will it be carried out by the Department of Welfare?

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—46

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|-----------------|-----------------|------------|------------|
| Ammerman, | Fleming, W. E., | Manbeck, | Orlando, |
| Andrews, | Frame, | Mazzel, | Reibman, |
| Arlene, | Hager, | McCreesh, | Rovner, |
| Bell, | Hess, | Mellow, | Smith, |
| Cianfrani, | Hill, | Messinger, | Snyder, |
| Coppersmith, | Hobbs, | Moore, | Stapleton, |
| Dengler, | Holl, | Murphy, | Stauffer, |
| Dougherty, | Howard, | Murray, | Stroup, |
| Duffield, | Kury, | Nolan, | Tilghman, |
| Dwyer, | Lamb, | Noszka, | Wood, |
| Ewing, | Lentz, | O'Pake, | Zemprelli, |
| Fleming, R. D., | Lynch, | | |

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.

SB 1377 (Pr. No. 1705)—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—46

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| Ammerman, | Fleming, W. E., | Manbeck, | Orlando, |
| Andrews, | Frame, | Mazzel, | Reibman, |
| Arlene, | Hager, | McCreesh, | Rovner, |
| Bell, | Hess, | Mellow, | Smith, |
| Cianfrani, | Hill, | Messinger, | Snyder, |
| Coppersmith, | Hobbs, | Moore, | Stapleton, |
| Dengler, | Holl, | Murphy, | Stauffer, |

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| Dougherty, | Howard, | Murray, | Stroup, |
| Duffield, | Kury, | Nolan, | Tilghman, |
| Dwyer, | Lamb, | Noszka, | Wood, |
| Ewing, | Lentz, | O'Pake, | Zemprelli, |
| Fleming, R. D., | Lynch, | | |

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 1399 (Pr. No. 2597)—Considered the third time and agreed to,

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

On the question, Shall the bill pass finally?

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

YEAS—46

- | | | | |
|-----------------|-----------------|------------|------------|
| Ammerman, | Fleming, W. E., | Manbeck, | Orlando, |
| Andrews, | Frame, | Mazzel, | Reibman, |
| Arlene, | Hager, | McCreesh, | Rovner, |
| Bell, | Hess, | Mellow, | Smith, |
| Cianfrani, | Hill, | Messinger, | Snyder, |
| Coppersmith, | Hobbs, | Moore, | Stapleton, |
| Dengler, | Holl, | Murphy, | Stauffer, |
| Dougherty, | Howard, | Murray, | Stroup, |
| Duffield, | Kury, | Nolan, | Tilghman, |
| Dwyer, | Lamb, | Noszka, | Wood, |
| Ewing, | Lentz, | O'Pake, | Zemprelli, |
| Fleming, R. D., | Lynch, | | |

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 with amendments in which concurrence of the House is requested.

SB 1409 (Pr. No. 2060)—Considered the third time and agreed to,

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

On the question, Shall the bill pass finally?

Senator KURY. Mr. President, I shall be very brief. I think we are all aware of the importance of this bill and the companion bills which go with it. These are the bills to implement the report of the Senate committee on confirming the Governor's appointments. I think all of the Members now have on their desks a printed version of that report. The complete compilation of the report is in the blue backer and is on every Member's desk. I think that contains the complete report of the committee and a lot of valuable material explaining it, how we arrived at our report, and the background of this legislation.

I think it suffices to say that if anybody were to write this report themselves—if I were writing it myself, I might write it a lot differently. In fact, I think I would, but this report represents the best thinking of five Members from both sides of the aisle who worked long and hard to put together a report which would be a substan-

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tial reform and which it would be possible to enact in both Houses of this Legislature, and I think we have that.

Therefore, Mr. President, without going into any further remarks at this time, I would like to submit for the record my prepared remarks, as well as copies of editorials from various newspapers around the Commonwealth and various television stations which have editorially endorsed these bills. I believe these bills have a broad degree of public support and I hope they will have the same kind of support here in the Senate, as well as in the House of Representatives.

Senator BELL. Mr. President, I am quoting from the report of this special committee to study the confirmation procedure which, unfortunately, only arrived on our desks shortly before this crucial vote. I am quoting from page 7 and, apparently, one of the main parts of this report is the recommendation to amend the Constitution to remove provisions permitting interim appointments and to insert a time limit of ninety calendar days within which the Governor must submit a nomination following a vacancy. That is found on the bottom of page 7 and the top of page 8.

By amendment that provision was gutted out of this bill, so that makes the editorials fifty per cent less applicable. So, all we have left is a provision that the Senate must act upon the appointments within twenty-five days or the person is confirmed.

A constitutional amendment, if it passes this Legislature and there is an intervening general election, as will take place in November, can be resubmitted to the new Legislature and then to the people for their vote. It is entirely possible that what we are voting on today can become the law of Pennsylvania in April of next year. That means the Governor who is Governor next year—and I am sure whoever is Governor is going to carry a majority of this Body—will have something to say as to who the Majority Leader of the Senate is and that the Governor can send little messages over to the Majority Leader, and they will be thus: Just sit on this for twenty-five legislative days. Do not have it brought up in front of the Committee on Rules and Executive Nominations and, thereby, there is no need to have a confirmation by the Senate.

This is the booby trap which was explained on the floor of this Senate when the amendments were prepared. I say that because there is no guarantee that the nominations can be called to the floor of this Senate, and this is a meaningless and dangerous bill and does not meet what those editorials are calling for. The editorials are calling for a mandate that to the floor of the Senate shall come the nominations. There is no such mandate in what you are passing today, and I do not want to hear the answer, we are going to take care of that by statute, because the time to take care of it is right now when we pass this constitutional amendment.

Senator KURY. Mr. President, I want to take the strongest possible exception to the remarks of my good friend and colleague, the gentleman from Delaware, Senator Bell.

First of all, Mr. President, lady and gentlemen of the Senate, this report was not given to the Senate for the first time today. Mimeographed copies of this were put on the Members' desks back in November. What we distributed today was a reprint of the same thing, which is now bound in very nice volumes. So, the Members have had this report to study since November.

Secondly, the bill as it now exists, Senate Bill No. 1409, still removes the power of the Governor to make interim appointments. However, before we can take away the Governor's right to make interim appointments, we have to change the Constitution. I want to do that, and I think most Members of this Body want to stop the interim appointment process. To do that, we have to change the Constitution, and I hope the gentleman from Delaware, Senator Bell, is right, that we do pass this next April or May, because the sooner the better.

While I have great respect for majority leaders, regardless of which party they come from, I think the gentleman from Delaware, Senator Bell, is attributing power to them which they might wish to have but do not have. As I point out, the next bill which we will take care of in this package, Senate Bill No. 1579, which I hope we will pass with this bill today, will provide that any five Members can call any of these nominations up for a vote and guarantee that the Members of this Senate will have a chance to vote on the floor for any nominee.

I think the fears raised by the gentleman from Delaware, Senator Bell, are groundless, and I think that this package ought to be passed as rapidly as possible.

Senator TILGHMAN. Mr. President, two years ago I was one of the Senators who took a case to the Supreme Court challenging the interim appointments of the Governor. This year I am also a party to such a challenge, and I believe the case is being argued today in the Supreme Court in Philadelphia.

I want to see the system changed in the Senate of Pennsylvania for confirmations of gubernatorial appointees.

However, I find fault with this bill in two particular instances, and I am going to vote against the bill. First of all, last week we eliminated the ninety-day provision as to the time in which the Governor would have to make the appointments, and he can now make the appointments a year or two years later. Maybe two years is an exaggeration, but certainly a year later. I think that is just ridiculous.

We also find in the same section of this bill the twenty-five day argument that we have heard here on the floor, whereby if we do not act within twenty-five days the person is confirmed. I do not know why it is not just the opposite, if we do not act within twenty-five days, he cannot serve.

The gentleman from Northumberland, Senator Kury, will argue that we are going to pass Senate Bill No. 1579 and that takes care of it. Suppose it does not pass, suppose the public does not buy Senate Bill No. 1579? There are all kinds of peculiar things can happen on voting machines. People may forget to vote for it. Then we are really in the soup if this passes, the constitutional amendment, and the other does not pass.

I fail to understand why some Members working on this committee had to insist—and they were absolutely adamant, they would not make any change in this section of the bill—on this when they knew it was going to be a bone of contention and a reason for argument on the floor. When I say this, I am talking about the twenty-five day clause. It is also the reason for my negative vote and, I hope, a majority of negative votes.

Senator COPPERSMITH. Mr. President, I intend to vote against this bill because I think that the cure it offers for a problem is worse than the problem which presently exists. In my mind, there are three basic things wrong with this bill.

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First of all is the two-thirds requirement. Only one other state has a two-thirds requirement on gubernatorial appointments. It only takes a constitutional majority to pass very, very important legislation in this Body and I, for one, fail to see why we have to have the two-thirds requirement. It is contrary to majority rule, and I think it can lead to a breakdown in governmental processes.

You know we have three basic branches of government, the judicial, the legislative and the executive, and I have always been a strong believer that the legislative branch should legislate and the executive branch should administrate. One of the problems which we have had in the Legislature over the years is that we have been losing power over the appropriations process, and in other areas, and to compensate for that loss we try to obtain influence in the executive branch through appointments to various boards and commissions which exercise executive power. This is wrong. I think when we insist on this two-thirds rule to approve gubernatorial appointments it is an erosion of the executive power. The executive should have the right to make these appointments subject to majority confirmation, as is done in the Federal Congress and in all but one of the other states.

The next objection I have to this bill is that it is completely contrary to the existing committee system in this Legislature. Under the three-bill package, any five Senators can force a vote on appointees out of the committee within twenty-five legislative days. The committees will have to operate too quickly even to have hearings and, in my opinion, it flies in the face of the committee system as we understand it in this Legislature, and I see no reason to have a statute mandating the internal processes of this legislative Body.

The third reason I would like to point out is that this statute will apply to existing appointees. For instance, we have three cabinet members who are not confirmed, as I understand, the Secretary of Banking, the Commissioner of the State Police and the Attorney General. If this bill should pass and go into effect in 1975 and those gentlemen had not yet been confirmed, their appointments would expire at the end of 1975. Then any interim appointments would have to be confirmed by this Body, if five Members brought it before the Body, or they would be out of office. In my opinion, this would be giving unwarranted power over existing governmental appointees, assuming they continue in office in 1975, and beyond; it would be giving unwarranted power to this Senate over those existing cabinet appointees to remove them from office by failing to give them a two-thirds confirmation if the matter were brought to a vote.

It is for these reasons that I am against this proposal. Although it is offered as an improvement over the existing situation, I think what will happen will be much worse, that we will politicize the confirmation process even much more than we do now. As a Legislature we should exercise our power in those areas where we should exercise our power, the appropriations process and in the passing of legislation.

We have been losing power in this area and we should recover the power we have lost to the executive, but we should not make up for our loss of power by trying to create too great a control over the gubernatorial appointment process.

I do not care whether the Governor is a Republican

or a Democrat. A Republican Governor has the right to select his appointees for these positions, and they should be confirmed, if a majority of this Body confirms them if a majority of the Body is of the same party and they can confirm them, so be it, because this nation and this State run by majority rule. That is the basic concept by which we operate, and we should use the same consideration which we use to pass legislation in approving gubernatorial appointments.

It is for these reasons, Mr. President, that I intend to vote against this package.

Senator STAUFFER. Mr. President, it is with a great deal of disappointment that I state that I intend to vote against this bill. When this study began, it held great promise for improving a situation which has been particularly bad in the Commonwealth of Pennsylvania for many years, and I, along with others, had great hopes that this bill was going to bring about a situation which we could be proud and which would eliminate the great controversy which has existed for many years.

Mr. President, I think we cannot lose sight of one very important fact, and that is the Senate alone has not been guilty of the wrong which has been inherent in the present confirmation system. I think too often we are prone to criticize the Senate and forget that the executive also must bear a portion of this criticism. This is a joint responsibility. The Governor has a responsibility and we have a responsibility and, unfortunately, the bill which we have before us only provides a narrow way street.

There have been a number of examples given as to the shortcomings of the bill, but I am particularly concerned about the amendment which was successfully passed into Senate Bill No. 1409 last week which takes away the mandate to the Governor to submit a timely recommendation to this Senate. If a Governor is not forced to nominate someone to fill a vacancy within a reasonable length of time, we are right back to the same old political game we have had before.

Yes, it is true as the gentleman from Northumberland Senator Kury, said, the Governor does not have the ability to appoint an interim appointee, but he is able to appoint someone as an acting officer, and that successfully circumvents the entire process which we are trying to move forward.

Therefore, on that basis, Mr. President, I am for to vote "no" for a bill I had hoped very much I would be able to support.

Senator LAMB. Mr. President, I am going to support this bill and I am going to ask the Members of the Senate to join with me.

Let me first point out an error in what the gentleman from Montgomery, Senator Tilghman, has said, and I am sure it was not intentional on his part. But, if we look at the other bill on the Calendar, and I believe that is Senate Bill No. 1579—you may correct me, if I am wrong—that is not a constitutional amendment. The gentleman posed the problem as to what would happen if people did not vote in the affirmative for this position. The fact of the matter is the people do not vote on it at all, it is a legislative enactment which we are going to vote on. So, any of you who may have been persuaded by the gentleman's argument, just remember that the other bill on the Calendar is a legislative enactment not a constitutional amendment. The bill presently before us is an amendment to the Constitution.

If I may, I would like to turn my discussion to that of the gentleman from Cambria, Senator Coppersmith. I think we all recognize—and the gentleman from Northumberland, Senator Kury, said it last week, and he again referred to it today—that the bill before us really is, in effect, a compromise. I know if Senator Kury had his druthers, he would go and ask for a simple majority, and I, too, having watched the system over a number of years, would be for a simple majority in the matter of confirmation. But, the fact of the matter is, and we know this to be so, and the committee who worked upon this piece of legislation knows it to be so, we would not be able to get through this Body and through the other Body a measure which called for a simple majority.

So, what did this special committee recommend? They came upon a compromise and they said this: There are certain positions in the administrative structure of this Commonwealth, in the executive structure of this Commonwealth, that are of extreme importance and these are those areas, those divisions, those bureaus, those departments, those commissions, whatever they may be, that, in effect, set very important policy. Let us leave those with a two-thirds majority and then those other sections, those boards, for example, which do not have this extreme importance, which do not set policy for the whole Commonwealth, let us establish those at a majority in the matter of confirmation. Let us go one step further: There are approximately 475 positions which presently require a two-thirds confirmation that really we should not have to confirm at all, so let us just eliminate those altogether from the matter of confirmation. This, basically, is what the committee reported and this, basically, is what we are acting on, if not in this particular bill, it will be included in other bills of the package.

So, although some of us will have a different attitude about this, such as the gentleman from Cambria, Senator Coppersmith, I must say to the gentleman, and to others, this should not then be our reason for completely failing to act at all in an area that cries for action. But, the simple excuse of saying, we are not getting all we want, let us do nothing, merely continues a situation which we all recognize demands change.

With respect to the matter as to whether or not we are effectually creating a statutory discharge, let me point out that the Rules of this Senate provide for a discharge whenever this Senate wants to use it. So, now whether we have it by Rule of this Senate, or whether we have it in some statutory form that goes farther than a Rule, it seems to me we still have the same in the way of substance. I think this matter is a matter of such importance that the people of this Commonwealth have every reason at this point in time to say to us, let us not continue the horse and buggy operation, a completely dominated, politically motivated operation.

Conceivably, I would have to agree with the gentleman from Cambria, Senator Coppersmith, that possibly a few years from now if, for example, the next Session of this Legislature again brings this matter before the Bodies and if the people agree and vote affirmatively on the question, then sometime after that, no question about it, people who may be serving in an interim capacity will have to be confirmed, and is that not the purpose of this whole piece of legislation? I wish there were some way that we could say that those who are presently in office by virtue of some interim appointment do not

have to be worried about this change of law. But, you and I know we cannot get that type of an amendment through, and I do not know how many of us would want to get it through. Let us recognize that we have an obligation, if we feel we have an obligation, and I think every Member here, if he were polled, would say we have to do something constructive, we have to do something different about the confirmation process.

This is what we have before us. Maybe it does not do all the things that some want it to do. Maybe it does not do too much. The gentleman from Delaware, Senator Bell, has indicated that he cannot support it because we took out last week the matter of the Governor submitting a name within a certain period of time. The gentleman from Chester, Senator Stauffer, has indicated the same reluctance to go along for that reason.

Let me just suggest to you that you set those minor considerations aside, and let us get to the problem of confirmations and what we can best do at this time to solve it.

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

Senator KURY. At a time when much of the nation is disillusioned with government, the Senate of Pennsylvania is in a position to demonstrate that it has the will to abandon a politics-as-usual approach to one of its most important responsibilities.

Passage of this package of bills can demonstrate to the citizens of Pennsylvania that this body has the determination and the desire to reject when warranted the idea that things must continue to function as they do because that is the way they have always functioned.

This package of bills proposes to reform in a very substantive manner the process by which gubernatorial nominees are confirmed by this Senate to hold the high office to which they have been designated.

This package proposes to:

—both modernize and streamline the confirmation of gubernatorial appointees.

—provide the mechanism for a more thorough, a more public examination of both the qualification and character of gubernatorial nominees.

—and most significantly, set forth a procedure which, at one and the same time, requires a governor to meet his constitutional obligation to fill high government positions while also requiring the Senate to act on those nominations.

It is true, I suppose, that change in government is often slow in coming. Too slow, perhaps, but that proposition does not make worthwhile change any less desirable, any less essential.

The confirmation of gubernatorial nominees to government posts is, admittedly, a problem principally for the Senate to address.

Yet, it is by no means a Senate problem alone. For the Senate is a public body with a public responsibility. How the Senate fulfills that public responsibility is a matter meriting the concern of the public at large.

That is why passage of this reform legislation is so essential. For approval of this package in this legislative session and early in that of the session to follow next year can put the question of confirmation reform promptly before the electorate of this state for a judgment.

It is a judgment we would be well advised to seek as expeditiously as possible. This package of reform

THE PRESENT two-thirds rule and interim ap-

pointment scheme are only 100 years old. Before 1873, the Commonwealth went by the simple majority rule. The current constitutional stipulation was demanded by Democrats because the Republicans controlled the Senate from 1867 to 1873. It didn't much matter, because the GOP went on to control the next 32 Senates also today, with Pennsylvania's more evenly balanced political scene, the Democrats—as they have for the last three years—do have a shot at senatorial leadership. The hammer-hold the minority has by virtue of the two-thirds rule is probably more unfair in this age than ever before.

Sen. Franklin L. Kury of Sunbury conducted the informative hearings on the question of confirmation. He and his colleagues, such as Minority Whip Sen. Stanley Stroup, were backed by such diverse interests as the Governor's Office, the Pennsylvania Bar, the League of Women Voters Lt. Gov. Ernest P. Kline and others.

While details remain to be worked out, there is a mood for updating this counter-productive feature of State Government. That seldom happens in Harrisburg, but it is always refreshing when it does.

Pittsburgh Post-Gazette, May 16, 1973

TO END A BAD TRADITION

NOTHING has helped make the Pennsylvania state governmental system more political than the 100-year-old procedure of requiring a two-third Senate confirmation of a governor's appointments by a simple majority of

President's appointments has been an important safeguard of the constitutional separation of powers at the national level and an honorable tradition seldom misused. But in Pennsylvania where since 1873 a two-thirds vote has been required, it has led to one of the worst governmental traditions, lending itself to endless horse trading between Senate and governor with dimly maying opportunities for blackmail and even corruption.

Now, fortunately, the Pennsylvania Senate and the Governor's office are seeking to work out a new system to end the patronage-ridden game of the past. Partly it is because higher standard now are being expected in state government, but mostly because the more even balance of power in the electorate between Republicans and Democrats means that each has a stake in a better procedure. (It didn't seem to matter when the GOP dominated the Pennsylvania Senate for decades.)

At hearings this month a select five-member bipartisan committee of the Senate tossed around suggestions along these lines:

1. Cut the two-thirds rule to conform to the U.S. Senate's 51 per cent.
2. Drastically reduce the number of gubernatorial appointments requiring Senate confirmation (now 1,915 on 265 boards).
3. Allow the Governor to make interim appointments

measures can serve to demonstrate in the most positive manner possible that constructive change in government is, indeed, achievable if government will but step out in that direction.

The Patriot, Harrisburg, Pa., Monday, May 7, 1973

CHANGE IS DUE STATE EYES CONFIRMATION RULES

THAT THE Pennsylvania Senate and the Governor's Office both appear willing to relinquish some of their historic political power is a man-bites-dog story, unbelievable to those who know Pennsylvania's old-time political game.

Yet this will happen if recommendations made at the recent Senate hearings are acted upon and the people, by referendum, eventually change the 100-year-old system of Senate confirmation of a Governor's appointments.

What is sought is this: The Governor would make considerably fewer than the current 1,915 appointments to 265 State boards requiring Senate confirmation. He would fill jobs for his administration, of course, but Senate okay would be needed for only the top positions. Confirmation for a seat on the Advisory Board for Boating, for example would be out.

The two-thirds rule in the Pennsylvania Senate would be changed to conform with the U.S. Senate's 51 per cent. Thus, an appointment to the Dauphin County Board of Assistance no longer would require 34 out of 50 Pennsylvania Senate votes, while the U.S. Secretary of State needs only 51 out of 100.

The third change would be as vital as any. The Governor could make important interim appointments, but nothing like the 828 which Governor Shapp made between the end of the 1971 legislative session and the beginning of 1972. The Senate would receive, perhaps, 45 days to approve or disapprove an appointment. Its "no" vote would remove the appointee from office—not as it is today, where a rejected appointee often serves until the end of the session anyway.

THESE CHANGES would make a major impact upon some of the least wholesome aspects of Pennsylvania politics.

It would reduce the patronage-only game played in the Senate. Currently, for example, the senators want the administration to supply the hometowns, not just the counties, of appointees, because they are confused about which senatorial district some live in. The changes also would reduce the behind-the-scenes deals. With confirmation requiring 34 votes, the minority party swaps votes for favors. This is done often when it comes to judges, and is one of the reasons why the Pennsylvania Bar Association is behind the reform movement to change the confirmation system.

The changes also would make the Governor more responsible. No longer could he skip by on interim "acting" appointments. He would have to get confirmation and, for those not needing approval, he would have to accept authority for the quality of the work they perform.

ments but give the Senate a fixed number of days, such as 45, in which either to approve or to disapprove.

This third provision would eliminate blackmail in which a recalcitrant Senate could sit on an appointment until it finally forced a governor to appoint some of its particular choices . . . or accept some other demand of Senate leaders. It also would make unnecessary the dodge by which Governor Shapp flooded many appointments through between sessions in order to escape the confirmation barrier (such as 828 interim appointments Mr. Shapp made between the end of the 1971 legislation session and the opening of the 1972 session).

The select committee headed by Franklin L. Kury (D-Sunbury) obviously is on the right track. However, we would urge one more vital ingredient for making the confirmation procedure work in the best interests of the Commonwealth:

Require all Senate Committee hearings on confirmations to be held in public.

It is this provision which has made the U.S. Senate confirmation hearings so valuable, in some cases historic, as the tide turned toward or against a Presidential appointee depending upon the ability and integrity he displayed in full public view.

Add this to the three elements the Kury Committee already is mulling and we have a chance to transform one of Pennsylvania's worst traditions.

The Patriot, Harrisburg, Pa., Thursday, December 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.

Wilkes-Barre—Times-Leader, January 4, 1974

EDITORIAL COMMENT

THE GOVERNOR'S APPOINTEES

In a rare display of bipartisanship, both Democrats and Republicans in the Pennsylvania General Assembly agree that the state's method of confirming gubernatorial appointees is a shambles. In seeking solutions, however, both sides revert to partisan positions.

Nub of the problem is an article in the Pennsylvania Constitution written a century ago which sets forth the method of making gubernatorial appointments. The Constitutional Convention of 1873 debated the appointment article at length, and it was the delegates' consensus that the provision

as written would prevent a governor from naming party hacks to important positions.

That may have been so in 1873, when a two-thirds vote of the Senate could be obtained for confirmation, but in 1974, the situation has changed drastically. Even the U. S. Senate requires only a majority of members present to confirm a presidential appointee, and of the 50 states, only Pennsylvania and Texas require a two-thirds vote of all members to confirm an appointee.

Some 1,600 positions of high and lesser importance in Pennsylvania are filled by gubernatorial appointment, and each must be either confirmed by a two-thirds vote of the Senate, or named—as in the past three years—when the Senate is not in session.

Given the razor-thin margins by which controlling parties have held the Senate in recent years, it is obvious that the two-thirds majority of elected members for confirmation of appointees in most instances is an impossible dream.

For that reason, the "back door" approach has been taken by Governor Shapp in 1971, 1972, and 1973. Last Monday, New Year's Eve, he made 678 interim appointments, claiming the Senate, which has party control, was in recess. Three Republicans, including Senator T. Newell Wood of Harveys Lake, have begun a court challenge of the appointments, contending the GOP-controlled House was not in recess, and therefore the General Assembly was still in session.

Just a week ago, the State Supreme Court, acting on an earlier challenge, upheld the 1971 action by Shapp in naming 800 to various positions when both the Senate and House had adjourned. This year, the GOP contends, since the House had not adjourned, the situation is different and the 1973 appointments are illegal.

While the court battle rages, however, both the Senate and House should consider changing the Constitution, so that the outmoded, unrealistic and burdensome Article IV, Section 8 can be modernized. Several solutions have been proposed, any of which would require approval of two sessions of the Legislature before being placed on the ballot in 1975.

A Senate Committee which has been taking testimony since last spring has proposed an amendment which would eliminate the interim appointment proviso, but would require the Senate to act on gubernatorial nominations within 25 legislative days or else the nominees would assume office as if confirmed. Opponents see many problems from that course, and favor instead the plan set forth by at least five study groups.

The latter, which were convened in 1920, 1959, two in 1963, and another in 1966, all favored confirmation of most appointees by a majority, as is done in the U. S. Senate and in 48 state legislatures across the nation. For the top 192 appointive officers, a two-thirds majority would be needed, but for 1,312 of lesser importance, a majority vote would suffice.

That plan, we believe, has merit, and if adopted would end the confusion and chaos generated by the 1873 rule. Energy expended in that direction

would be of greater benefit to the Commonwealth than in partisan court challenges.

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 Highlites, January 4, 1974

NEED FOR REFORM

By John L. Moore
Ottaway News Service

Barely had a Senate panel called for reform-

ing 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 night-fall 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.

Editorial—KDKA-TV 2/KDKA Radio 1020
March 5, 1974

SENATE CONFIRMATION

If we are ever to have truly modern government in the Commonwealth of Pennsylvania, there are certain restrictions in our State constitution which must be amended and brought up to date. One very inefficient restriction in our present constitution is the requirement that hundreds upon hundreds of State officials who are appointed by the Governor must be confirmed by a two-thirds vote of the Senate.

Since neither political party has ever had two-thirds control of the Senate in the last generation—since 1950 to be exact—it's almost impossible for any governor to get Senate approval. The result is that every governor—in order to keep State government operating—must resort to interim appointments. This is government without continuity. It violates the whole intent of our out-moded constitution.

Senator Frank Kury has introduced two bills—Senate Bills 1409 and 1410—which would amend the State constitution. They'd allow the governor's appointments to be approved by a simple majority of the Senate.

If these bills are approved by both houses in two succeeding sessions of the legislature, the voters could then be given the opportunity to amend the constitution and bring it up to date. This legislation is long over-due, and we hope that legislature approves it.

The Evening News, Wednesday, April 3, 1974

STATE REFORMS

THESE TWO ARE LONG OVERDUE

TWO MAJOR procedural reforms in the Pennsylvania Legislature are overdue—like 100 years overdue.

The first is the constitutional majority requirement to pass legislation. Unlike Congress' simple majority of those present and voting, the Pennsylvania Legislature requires a majority of 50 senators and 203 representatives. Legislators who don't show up to vote in effect are voting "no." Deceased legislators are a "no" vote. At times, legislators have been carried in on stretchers to get the majority vote. At other times, they have been known to be lured to drunkenness so

they would be unable to walk to the legislative chamber.

What Pennsylvania needs is a simple majority to pass legislation. The Senate could have a 20 "yes" vote minimum and the House an 80 "yes" vote minimum. The exact number is debatable. In any account, two Legislatures must pass such a reform and the people must approve it by referendum. So far, unfortunately, there has been no action taken.

ON THE OTHER necessary reform, action is underway. Unlike Congress and unlike all states but Texas, Pennsylvania requires a two-thirds Senate confirmation for 2,000 gubernatorial appointments. Two-thirds mean 34 votes in the Senate of 50 members. The last time any party had such a majority was the Republicans under Jim Duff in 1949-50, and even then not all the Republicans admired Governor Duff. The result is the minority party wheels and deals for its necessary votes, and to an extreme degree.

Because of the two-thirds confirmation requirement, Pennsylvania has what is called the "Interim Waltz." This is that period between Nov. 30 and the first Tuesday of the following January in even-numbered years, such as 1974, when the old Legislature is out and the Governor can make interim appointments to last for 23 months.

ALL MODERN Governors have found the "Interim Waltz" an outrageous violation of the spirit of the Constitution, but they practice it anyway, as they are thoroughly disgusted with Senate politics. So, currently Pennsylvania has an unconfirmed Attorney General, State Police Commissioner, three out of four Parole Board commissioners and a host of other policy-makers. It is a deplorable way to run government. It is equivalent to a corporation having department heads not approved by the board of directors.

The Senate's Special Committee on Confirmation Procedure, headed by Sen. Franklin L. Kury of Sunbury, has tried to do something about this. The Kury Committee suggested a constitutional change that would limit the two-thirds requirement to 200 posts and would subject 1,312 other jobs to a simple majority vote. The Governor would be required to fill these major vacancies within 90 days. If the Senate didn't accept or reject his recommendations in 25 legislative days, the Governor's appointments would stand.

The Kury plan should go through and the Constitution should be changed. Meanwhile, Pennsylvania shouldn't have to wait, as Kury himself agrees. A new bipartisan bill, with a simple change of law, would permit as few as five senators to bring to the floor any appointment after 15 legislative days and the Senate would have to act. This legislation would at least end Senate paralysis over appointments, and that would be a major step.

Anatomy is destiny, as some psychologists like to say. Restrictions like the constitutional majority and two-thirds confirmation have been the dismal destiny of the Pennsylvania Legislature. Responsible lawmaking would be given a break by modernizing these old stumbling blocks.

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—36

Ammerman,	Fleming, W. E.,	Lynch,	Noszka,
Andrews,	Frame,	Mazzei,	O'Pake,
Arlene,	Hankins,	McCreesh,	Orlando
Cianfrani,	Hill,	Mellow,	Reibman,
Dengler,	Hobbs,	Messinger,	Smith,
Dougherty,	Holl,	Moore,	Stapleton,
Duffield,	Howard,	Murphy,	Stroup,
Dwyer,	Kury,	Murray,	Wood,
Fleming, R. D.,	Lamb,	Nolan,	Zemprelli,

NAYS—10

Bell,	Hager,	Manbeck,	Stauffer,
Coppersmith,	Hess,	Snyder,	Tilghman,
Ewing,	Lentz,		

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 1533 (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—46

Ammerman,	Fleming, W. E.,	Lynch,	O'Pake,
Andrews,	Frame,	Manbeck,	Orlando,
Arlene,	Hager,	Mazzei,	Reibman,
Bell,	Hankins,	McCreesh,	Smith,
Cianfrani,	Hess,	Mellow,	Snyder,
Coppersmith,	Hill,	Messinger,	Stapleton,
Dengler,	Hobbs,	Moore,	Stauffer,
Dougherty,	Holl,	Murphy,	Stroup,
Duffield,	Howard,	Murray,	Tilghman,
Dwyer,	Kury,	Nolan,	Wood,
Ewing,	Lamb,	Noszka,	Zemprelli,
Fleming, R. D.,	Lentz,		

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 passed the same without amendments.

BILL REREFERRED

SB 1550 (Pr. No. 2045)—Upon motion of Senator LAI and agreed to, the bill was rereferred to the Committee on Appropriations.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1573 (Pr. No. 1984)—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: