

In the Senate, March 12, 1979.

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, March 19, 1979 and when the House of Representatives adjourns this week it reconvene on Monday, March 19, 1979.

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

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 3 (Pr. No. 3) — Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

Senator O'PAKE. Mr. President, I would urge my colleagues to support and adopt this resolution. This is the second leg in a constitutional amendment and I feel very strongly that the voters of Pennsylvania should be given the choice in November as to whether or not the Constitution of Pennsylvania should be amended to expand the size of the Superior Court.

I have a few statistics to share with my colleagues. The Superior Court was created in 1895 with seven members. In 1953, with seven members, 503 appeals were filed in the Pennsylvania Superior Court. In 1978 almost ten times as many appeals were filed in the Superior Court. The exact number was 4,606 cases. Still the number of judges remains the same at seven. As of July there were 1,140 undecided cases before the Superior Court. Since that time, it is true, the Superior Court has been sitting in panels of three judges and they have substantially reduced that backlog. However, as long as the total number of judges is kept at seven, they will never be able to keep pace with the backlog. Many of these people are criminals who are spending time in jail appealing a sentence. Of course, if they have the sentence reversed they have spent time in jail improperly.

Mr. President, I urge my colleagues to approve this resolution, send it to the House, get it approved there and give it to the voters in November. Perhaps we will then be able to expand the number of judges. I want to emphasize all this does is lift the lid at seven. We will then be able to legislate the specific number of needed judges next year to make sure that justice is properly administered in the Appellate Courts of Pennsylvania.

Senator KELLEY. Mr. President, I join with the gentlemen from Berks, Senator O'Pake, in asking for the affirmative consideration of my colleagues on this bill. However, I would like to point out that part of the difficulty in the separation of powers is that the Superior Court, while operating on its own breakdown of panels, the specific authority to do so has never been identified. Presently pending before the Supreme Court of this Commonwealth is an attack upon that procedure. We may well have an even more complicated backlog of lists because those cases which are being disposed of through the panel system may be held unconstitutional by adding to it.

Therefore, Mr. President, I would urge an affirmative vote.

Senator HAGER. Mr. President, I am going to be voting for this measure merely to keep it moving through the legislative and electoral process. However, I must tell the Members that I think the idea of increasing the size of the Superior Court and then going to three-man panels is a mistake.

Within the last month I introduced a bill creating a criminal court of appeal which would certainly clear the dockets of both the Superior Court and the Supreme Court and I would ask all my colleagues, who are joining in moving this legislation along, to keep an open mind because I believe the solution, as joined in by Judge Robert Woodside, is in a separate court which handles only criminal appeals.

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—47

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

NAYS—0

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

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

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

BILLS OVER IN ORDER

SB 95, 181, 189, 190 and 274 — Without objection, the bills were passed over in their order at the request of Senator ZEMPRELLI.

SECOND CONSIDERATION CALENDAR

BILLS ON SECOND CONSIDERATION

SB 58 (Pr. No. 58), SB 64 (Pr. No. 64), SB 137 (Pr. No. 137), SB 138 (Pr. No. 138), SB 139 (Pr. No. 380), SB 197 (Pr. No. 381), SB 223 (Pr. No. 224) and SB 224 (Pr. No. 225) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 225, 243 and 265 — Without objection, the bills were passed over in their order at the request of Senator ZEMPRELLI.

SB 281 (Pr. No. 283) — Considered the second time and agreed to,