

LEGISLATIVE JOURNAL

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SESSION OF 1990

174TH OF THE GENERAL ASSEMBLY

No. 44

SENATE

TUESDAY, June 26, 1990.

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

The PRESIDENT (Lieutenant Governor Mark S. Singel) in the Chair.

PRAYER

The Chaplain, the Reverend Mr. JOHN B. BARKER, Pastor of Brentwood Presbyterian Church, Pittsburgh, offered the following prayer:

Let us pray.

Almighty God, You rule the world with love, care and compassion, with a constant attention for the needs of Your people.

We thank You for these men and these women who rule as our representatives. We pray that the same care and compassion, the same love and insight into people that You have would be shown in them. Guide their decisions and their deliberations this afternoon. May Your Spirit come upon them that they may use their imagination, their intelligence and their love for all people.

We ask this in Your Gracious name. Amen.

The PRESIDENT. The Chair thanks Reverend Barker, the guest this day of Senator Fisher.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of June 25, 1990.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator LOEPER, further reading was dispensed with, and the Journal was approved.

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

June 26, 1990

HB 1911 and 1912 — Committee on Environmental Resources and Energy.

HB 2416 — Committee on Community and Economic Development.

HB 2480 — Committee on Aging and Youth.

HB 2579 — Committee on Appropriations.

REPORTS FROM COMMITTEE

Senator BELL, from the Committee on Consumer Protection and Professional Licensure, reported the following bills:

SB 1528 (Pr. No. 2365) (Amended)

An Act regulating the practice of lay-midwifery; providing for the licensure of licensed birth attendants; and making repeals.

SB 1585 (Pr. No. 2150)

An Act amending the act of June 19, 1931 (P. L. 589, No. 202), entitled, as amended, "Barbers' License Law," providing for a temporary period to serve as a barber while awaiting examination results.

SB 1621 (Pr. No. 2203)

An Act amending the act of March 28, 1984 (P. L. 150, No. 28), entitled "Automobile Lemon Law," further providing for the coverage of the act.

REGULATIONS REPORTED

Senator BELL, from the Committee on Consumer Protection and Professional Licensure, reported the following regulations for submission to the Independent Regulatory Review Commission, without objection:

State Board of Engineers, Regulation #16A-226;

State Board of Nursing, Regulation #16A-263;

State Medical Board, Regulation #16A-264.

The Committee supports the Philadelphia Taxicab budget request.

LEGISLATIVE LEAVES

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Afflerbach, Senator Andrezski and Senator Scanlon and a legislative leave for Senator Jones.

The PRESIDENT. Senator Mellow requests temporary Capitol leaves for Senator Afflerbach, Senator Andrezski and Senator Scanlon and a legislative leave for Senator Jones. The Chair hears no objection. Those leaves will be granted.

CALENDAR

HB 1921 CALLED UP OUT OF ORDER

HB 1921 (Pr. No. 2478) — Without objection, the bill was called up out of order, from page 5 of the Third Consideration Calendar, by Senator LOEPER, as a Special Order of Business.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1921 (Pr. No. 2478) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further defining the term "street rod."

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—50

Afferbach	Greenleaf	Lynch	Rocks
Andrezski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR D. MICHAEL FISHER PRESENTED TO SENATE**

Senator FISHER. Mr. President, you previously recognized Reverend John Barker from the Brentwood Presbyterian Church, who is our guest Chaplain here in the Senate today and tomorrow. Mr. Barker is accompanied here to Harrisburg by his wife, Sandy, and their four children, Bill, Johnny, Brad and Blair.

The PRESIDENT. Would the guests of Senator Fisher please rise or wave so we could welcome you to the Senate of Pennsylvania.

(Applause.)

GUESTS OF SENATOR H. CRAIG LEWIS PRESENTED TO SENATE

Senator LEWIS. Mr. President, I am pleased to have three guests from Bucks County with us today. Serving as a page with us today is Scott Utain, and seated in the gallery are Scott's parents, Warren and Michele. I would ask if the Senate would give its usual warm welcome to these guests of mine from Bucks County.

The PRESIDENT. Would all of the guests of Senator Lewis please rise so we can welcome you to the Senate of Pennsylvania.

(Applause.)

The PRESIDENT. And we appreciate the efforts of our new page.

GUESTS OF SENATOR M. JOSEPH ROCKS PRESENTED TO SENATE

Senator ROCKS. Mr. President, I, too, would like to present two guests who are with us today. First of all, another guest page, Andrew Sutor, is here. He is an honor student who in August will begin the University of Pennsylvania. Andy is in his fourth year of lifeguarding at one of the eastern shore points of Philadelphia, in Ventnor, New Jersey, and given his skill at that by now, had two rescues this past weekend. Andy Sutor also is an oarsman rowing on the eight-man crew seen frequently on our Schuylkill River in the City of Philadelphia. He will begin Penn as a pre-law student.

The proud father of Andy is Andrew Sutor, Sr., who serves us in this Commonwealth as the Deputy Director of the Bureau of Narcotics, a former well-known inspector from the Philadelphia Police Department and a part now of the law enforcement drug fighting team in our Attorney General's Office. I am happy to present Andrew, Jr. and Andrew, Sr.

The PRESIDENT. Would both Mr. Sutors please rise. We thank you very much for coming and welcome you to the Senate of Pennsylvania.

(Applause.)

RECESS

Senator LOEPER. Mr. President, at this time I would ask for a recess of the Senate for the purpose of a Republican caucus to begin immediately in the Majority caucus room on the first floor, with an expectation of returning to the floor at approximately 2:45 p.m.

Senator MELLOW. Mr. President, I would request an immediate meeting of the Democrat Members of the caucus to take place in our caucus room at the rear of the Chamber.

The PRESIDENT. For purposes of Republican and Democratic caucuses to begin immediately, the Senate will stand in recess.

AFTER RECESS

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

CONSIDERATION OF CALENDAR RESUMED

BILL ON CONCURRENCE IN HOUSE AMENDMENTS AS AMENDED

SENATE CONCURS IN HOUSE AMENDMENTS AS AMENDED BY THE SENATE

SB 917 (Pr. No. 2354) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the establishment and operation of regional poison control centers throughout this Commonwealth; imposing powers and duties on the Department of Health; and providing for funding.

Senator BRIGHTBILL. Mr. President, I move the Senate do concur in the amendments made by the House as amended by the Senate to Senate Bill No. 917.

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

LEGISLATIVE LEAVES

Senator BRIGHTBILL. Mr. President, I would like to ask for Capitol leave for Senator Jubelirer.

Senator STAPLETON. Mr. President, I ask for a temporary Capitol leave for Senator Porterfield.

The PRESIDENT. Senator Brightbill asks for temporary Capitol leave for Senator Jubelirer. Senator Stapleton asks for temporary Capitol leave for Senator Porterfield. The Chair hears no objection. The leaves will be granted.

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

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

YEAS—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tighman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

LEGISLATIVE LEAVES CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Scanlon. His temporary Capitol leave will be cancelled. Likewise, Senator Afflerbach who is here, present, reporting for duty.

CONSIDERATION OF CALENDAR RESUMED

BILL ON CONCURRENCE IN HOUSE AMENDMENTS AS AMENDED

BILL OVER IN ORDER

SB 1272 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON CONCURRENCE IN HOUSE AMENDMENTS

BILL OVER IN ORDER

SB 430 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

THIRD CONSIDERATION CALENDAR

PREFERRED APPROPRIATION BILL OVER IN ORDER

HB 2458 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL OVER IN ORDER

HB 62 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL OVER IN ORDER TEMPORARILY

HB 176 — Without objection, the bill was passed over in its order temporarily at the request of Senator BRIGHTBILL.

BILL OVER IN ORDER

SB 374 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 635 (Pr. No. 2358) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for criminal history record information.

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 WILLIAMS. Mr. President, I desire to interrogate one of the prime sponsors of Senate Bill No. 635, the gentleman from Bucks, Senator Lewis, since we have had some discussions with him and his cooperation on this piece of legislation.

The PRESIDENT. Will the gentleman from Bucks, Senator Lewis, permit himself to be interrogated?

Senator LEWIS. I will, Mr. President.

Senator WILLIAMS. Mr. President, we have discussed many aspects of this bill which are of some concern to a number of us. But one aspect of this bill which is of fundamental concern is the requirement of various standards and guidelines being set for the criminal justice agencies which would have something to do with this kind of intelligence and investigative information. I could not find in the bill any legislative authorization or power given to any person or agency of government with the power or responsibility for establishing the guidelines or standards by which the criminal justice agencies refer to or go to. Could he tell us just what agency would be responsible for developing the guidelines and the standards by which this information is to be formulated, secured and treated?

Senator LEWIS. Mr. President, the gentleman is correct that the bill does not define the agency which is responsible for the promulgation of the rules and regulations. It is my expectation that that agency would be the Attorney General's Office. In absence thereof, it is my understanding that the obligation would fall upon the executive department.

Senator WILLIAMS. Mr. President, the statement was that it would fall, in the absence of any designation or any participation by the Attorney General's Office, on the executive department. Could the gentleman be clear as to what he means by the executive department?

Senator LEWIS. Mr. President, it is my understanding that under Title 18, to which this bill makes an amendment, the general regulatory powers fall within the lines of responsibility of the Attorney General. So my information at this point leads me to believe the obligation would be upon the Attorney General's Office, and in light of that new information, I would be inclined to amend my initial response to the gentleman and now simply state that the obligation, with respect to the regulatory obligations, would fall upon the Attorney General's Office.

Senator WILLIAMS. Mr. President, the gentleman says he would be satisfied that the responsibility for the establishment of these procedures and policies would be on the Attorney General's Office. Could he be a bit clearer as to how he makes that connection with responsibility in view of the fact that in the bill itself there is an absence of such a clarity?

Senator LEWIS. Mr. President, the bill, as I am sure the gentleman has noted, is an amendment to Title 18 of the Consolidated Statutes. At another location within the existing Title 18 is the language that specifies that the Attorney General's Office has the responsibility for promulgating regulations with regard to the items that appear generally throughout Title 18. It is upon that basis that I form this opinion.

Senator WILLIAMS. Mr. President, on page 3 of the bill, subsection (b)3, under dissemination of protected information, it imposes a restriction that intelligence information shall be disseminated only to other agencies which have established policies and procedures regarding certain things consis-

tent with the regulations promulgated under this section. I assume the regulations promulgated under this section would be the regulations promulgated and defined by, let us say, the Attorney General, if we assume the gentleman is correct in the first answer. My question then is, who is to make the judgment as to what is consistent from other agencies with these regulations? Who in the bill or the legislation will make the judgment as to what is consistent in other agencies to the regulations made under this act? Let me make it clear. In other words, let us say a criminal justice agency in California is asking to have certain information and the act here says that it has to be consistent with our rules and regulations. Who is to make the judgment as to what is consistent under this act?

Senator LEWIS. Mr. President, let me begin by saying that this section which was added in the amendment adopted yesterday is, in my opinion, an extremely important part of the changes that have been made in this bill. In the bill in its original form, there were no standards, and any criminal justice agency could have pretty much decided on its own what it wanted to do and how it was going to deal with this very sensitive information. This subsection is intended to make it clear that there will be one set of rules and guidelines that will be established for all criminal justice agencies in Pennsylvania to begin with, and that all of those criminal justice agencies will have to adopt and abide by those standards and guidelines or they cannot participate in the dissemination of this information. With respect to criminal justice agencies outside of Pennsylvania, they too, at a minimum, would have to have policies and procedures that would meet the guidelines promulgated in our regulations. If they should fail to do so, then, as with Pennsylvania agencies, they would not be permitted dissemination of this information. The act anticipates that the arbiter or the determiner in the first instance of all of the administrative facets of this proposal will be the Attorney General. So, with respect to the final part of the gentleman's question, the question as to whether those policies and procedures were consistent with the regulations adopted in this Commonwealth would be a decision made by the Attorney General's Office. Obviously, if anyone felt that that determination was an inaccurate one, there would be the available routes of administrative agency and then appropriate court jurisdiction appeal to determine whether the consistency requirements had been met.

Senator WILLIAMS. One final question of my interrogation, Mr. President. I assume that this act or system would allow, basically, computerization in connection with all this information. That being so, I suppose this information would, in fact, be subject to computer theft to the same extent that other computer information would be subject to computer theft. Would I be correct in that, Mr. President?

Senator LEWIS. Mr. President, the bill attempts to establish, as best as any individuals can, protections and guidelines to assure all of us that the information which is stored will remain confidential and that the dissemination of that information will occur only under the most carefully guarded supervision. It is, I believe, impossible for any of us to assure

that any information, regardless of how it is stored, whether on computer or in locked file cabinets or in any other fashion, may not be subject to theft. I have to say to the gentleman there is nothing in here which can give any of us the absolute, unequivocal guarantee that there may not be some effort to try to improperly obtain this information, but we believe the bill has anticipated those possibilities and established requirements to the best of the technological and human capabilities that we have which will provide some comfort that this information will remain confidential.

Senator WILLIAMS. Mr. President, I said that was my final interrogation, but I do have one, possibly two more for the gentleman with whom I have discussed this for a while, so I know he is familiar with the questions and, therefore, it would help us along.

Mr. President, some of this information involves information that may be as low as a misdemeanor in terms of the information that would give rise to prosecution, graded as misdemeanors number one. There is also connected here that this information can be secured if there is a reasonable suspicion that the information is or may involve criminal activity. Having said those two things, that it is information that could involve misdemeanors and a reasonable suspicion, basically, of that kind of activity, my question really is, if you are talking about misdemeanors and you are talking about activity that may give rise to misdemeanors, is there any base of information or condition that, solidified, is of such a demand to the extent of a problem involving misdemeanors that we would need to systematize this information? In other words, if we are talking about misdemeanors, why would we really need, in terms of public policy, to enact this? What would be the reason for doing that?

Senator LEWIS. Mr. President, I think it is important for all of us to appreciate that at this time there are no limitations in the Commonwealth with respect to the gathering of intelligence or investigatory information. The only restrictions which currently apply in the Commonwealth are those which prohibit the storage or the dissemination of whatever material may be gathered through the use of computers, and so this bill takes a number of very important steps. The first is that for the first time we are going to establish some criteria which need to be met before any intelligence information can be gathered. Those two criteria are the items which the gentleman has mentioned. The first is the requirement that the criminal justice agency has a reasonable suspicion of criminal activity, and the second is that the criminal activity suspected must at least rise to the level of a misdemeanor under state statute or under federal statute of a crime that would be punishable by imprisonment of at least a year.

As we worked through the language of this bill, I looked at the various offenses which would be included within the definition of misdemeanors of the third degree, and I have to admit to the gentleman that there are a number of infractions contained therein which I do not believe ought to be the appropriate subject for investigatory material. I also had my attention drawn to a series of infractions which, undoubtedly,

could be the basis for establishing a pattern of criminal activity, whether it is criminal activity that may involve child abuse as part of a pornographic ring, whether it is criminal activity that may show indications of the manufacture or distribution of drugs, these misdemeanor categories oftentimes are the beginning of the circumstances which we find, as they are followed through, evolve into the discovery of very significant patterns of criminal activity.

So, when we keep two things in mind, one being that the overall objective here is to help our law enforcement agencies really combat patterns of organized crime and the second being that today we have no restrictions whatsoever, I think the use and the incorporation of these two terms really strikes a fair balance between the concerns and the objectives. I know that in our caucus the gentleman asked me about the phrase "reasonable suspicion." I should again mention that that terminology has actually been addressed by the federal courts in an Ohio case. I think it has provided a framework or a touchstone, if you will, so that we will know the standard that exists. Basically, it is a standard which, in the totality of the events that are present at the time, must convey a reasonable anticipation that criminal activity is or may be about to be engaged in. What we tried to do was to incorporate a standard. We did not want no standard at all, but we tried to use one that would not unfairly inhibit the investigatory agencies, the law enforcement agencies, because I think we all can, as well, gain a tremendous amount of comfort from knowing that the First Amendment rights guaranteed under the United States Constitution are not intended, nor could they be abridged in any way by this state statute, even if we may have inadvertently used a standard which some might fear could potentially do that.

Senator WILLIAMS. Mr. President, on the idea of reasonable suspicion as being the basis and standard used to collect, share, disseminate and record this information, I would like to ask this hypothetical question. Let us just say that John Doe, cop, saw Mary Roe and her husband, redheads, and did not like them. Therefore, he thought it was reasonable and he put it in the system that they were, let us say, suspected of pornographic kind of activity, and it is in the system. Is there anything to prevent him from putting it in the system and sharing his opinion? Is there any court he has to go to? Is there anybody he has to check with who makes the determination if that is reasonable or not? Or, indeed, is it not correct, no matter how wild it is, there is nothing to stop anybody from putting it into the system and sharing it? In other words, is it not true that there is no one to decide ahead of time what is reasonable or not reasonable until maybe later on there might be a court case. So is it not true the information will be put into the system, it will function and the person putting it in there is the judge? Is that not true, Mr. President?

Senator LEWIS. Mr. President, the sufficiency of the information is, of course, going to be a subjective determination made by someone within the criminal justice agency, some individual who makes the determination to input this material into the system. To begin with, we have the reason-

able suspicion threshold, and I understand the gentleman's hypothetical question is asking whose subjective determination will decide whether a reasonable suspicion exists. Before we focus on that, let me jump ahead for one moment, however, and say to the gentleman that in language which can be found on the top of page 4, he should also note the requirement for the establishment of retention schedules and procedures with regard to data. He will also find in the bill the standards and the requirements that any criminal justice agencies seeking to access this information must have a legitimate investigative and criminal justice purpose for accessing the information. So what is intended across all of the provisions of this bill is to try to minimize the possibility that information will cavalierly be put into a system and then, with a similarly cavalier attitude, just communicate it around the Commonwealth or around the world. Unfortunately, short of having some on-line full-time agency attempting to review every piece of information before it is put into the system, the best we can do is to say that if at any time during the course of the existence of this information it is determined that it does not meet the standards that are established in this bill, then all of the persons who have been involved in that process in making those subjective decisions under the provisions of this bill will be subject to very severe penalties. That language is found on the bottom of page 5. So, as with the prior questions of the gentleman, I cannot stand here and give him an unequivocal assurance there may not be some hypothetical situation in which information which does not meet these standards may be logged and may be communicated. I think the likelihood of that happening is very remote. If it does happen, we have the mechanisms for expunging it and for dealing with anybody who has been involved in that inappropriate collection and dissemination, and when balanced against the greater needs in terms of the law enforcement process within this Commonwealth, I think it is an acceptable risk to take when balanced against all of the other circumstances.

Senator WILLIAMS. Mr. President, that finishes my interrogation. I would like to comment on the bill.

Mr. President, I have maybe four points to share of some concern about this bill and its objective. I first have to say I have not yet heard any screaming need for the proliferation of permanent records of information which would connect in the solving of any significant crimes. I have not heard that. I have heard the description and the call for a system that obviously is going to cost more budget monies and more contracts for electronic and computer systems, and so forth and so on. But to say, number one, if there is organized crime, or whatever kind of activity law enforcement may seek to get information, as of now it can be shared orally, or what have you, with no problem and in secret, and it is productive to some extent and in some cases to a very effective extent. This proposal proposes to put on permanent written records information which tends to have the indication of probity, truth, permanency, legitimacy, credibility and investigative expertise. You put it on the record. You put it in the paper. You put it in the system. That means there is some credibility to that, especially

if it is a system that costs a lot of money and is shared around the country, the importance looms very, very high even for misdemeanors. My first objection to this piece of legislation, therefore, is that some dummy, some idiot, some mental defective, all walking around in the guise of normalcy, because that happens in every group—I am not talking about any particular group—could push a button and could put away Mary, Joe and Jane Doe. They are a bunch of perverts, they live across the street. And here is where I think it goes into a system and it goes into a lot of systems and it is on there. The judge and the jury, the investigator and the executor is that nut, that idiot, that irresponsible person, and there is nowhere in this piece of legislation for anybody to look at him. It is in the system because it is his reasonable suspicion. I mean, reasonable search and seizure, probable cause, they have historically been difficult words that are described and resolved ten years later, ten years after someone is screwed. In this case they do not even have to go before a court to arrest someone before they determine that. This can happen by one defective person. It goes into the system, and so Lieutenant Governor Singel might be in that redhead category. You did not know for ten years you were in that category. Come on. This is America. You know, there is a picture called "Dick Tracy" and everybody ought to know if you have children. I saw it four times and Big Boy Caprice said there is one Napoleon, there is one Washington and there is one me. We know what Big Boy was after. This is the Big Boy bill because whoever is Big Boy Caprice has the ability to do that. I am not saying this could not be written differently, but it is written that way now.

Number two. As all of the standards and the guidelines for securing this very safe system, in other words, the bill goes through pains to make sure that the information does not leak out. They recognize its sensitivity. They have penalties and all of that. Therefore, by definition, the information should be secure. But who decides that? What man decides that? I was told by the Senator that it is his interpretation, because it is not in the bill, that by constructing this bill with the other legislation, it ought to be the Attorney General, and we are guessing. Even if it is the Attorney General, suppose the Attorney General at that time had the Big Boy Caprice mentality: There is only one me. So he decides whatever standards he wants. That is one vote deciding for everybody else. Once again this bill leaves that particular decision in the hands of one person for everybody.

Mr. President, the theory and operation of this piece of legislation is, in my judgment—and I use this expression loosely—anti-American. It has nothing to do with conservative or liberal philosophy. There are certain basic guarantees in America and sometimes we do not recognize them until they reach up and bite you. But this bill allows for a permanent record by the judgment of someone with no guides. It then reaffirms how that is shared by one person without any guidelines. How dare we. How dare we endanger our people by this kind of a system. I oppose the bill not because of its general objectives, but because the operation of it is, by defi-

dition, to give default to American citizens and to abdicate, by those of us who make laws, responsibilities to guarantee an orderly and safe judgment when it comes to proliferation of information of this kind.

Senator FUMO. Mr. President, I rise in the spirit of our founding fathers to oppose this bill. It was only a few years ago that we made a big deal out of celebrating the bi-centennial of the Constitution. We went to Philadelphia. We had a special Session there for which the media criticized our expenses, and maybe rightfully so. In fact, my wife criticized us back then by saying she went to the event to hear something interesting and all she heard was a bunch of politicians getting up to talk to each other to tell them how important they were. But that was only a lay person's view and we recognize that.

Mr. President, the important part is that then we were into the Constitution. We thought it was a great document, and today we desecrate that document with this bill. I remember saying I was going to try to secretly prepare amendments to bills that would gradually erode the Bill of Rights. I was not going to say what I was doing, but I was going to offer them. I said I was willing to bet anybody that I could probably pass enough bills in the Senate of Pennsylvania to totally do away with the Bill of Rights by almost unanimous votes.

Mr. President, it is a sad day in our country, it is a sad day in our state when we stand here to even consider such nonsensical and dangerous legislation such as this. This legislation allows the rumor mill to be computerized and allows those records to be accessed by anyone in the nation who says they are a law enforcement agency. Mr. President, the sole determinant as to what goes into this data bank is, as the gentleman from Bucks, Senator Lewis, the proponent of the bill, says, a subjective standard. In America we do not adapt legislation so men are bigger than laws and so individuals such as that can use subjective standards to impugn the rights of privacy of others.

Mr. President, a democracy is not a perfect, efficient form of government. We all know the price you pay to live in a democracy. We pay it to live in an open society. One of the guiding principles in a democracy is when you have to err, you err on the side of individual rights, not the government. Our forefathers founded this nation based on a right of privacy. There can be no overriding factor to take that away from citizens in this country.

Mr. President, I have heard Senator Lewis talk about the severe penalties contained in page 5 of this bill. No offense to the gentleman, but I do not think administrative penalties and civil actions are severe. In fact, they do not even rise to the standard of criminal activity as set forth in the bill by which you can get put into one of these computers. Mr. President, that is not severe.

Potential for abuse is something I think we should look at. Have we ever seen that in this country? I submit that we have and we have seen it in recent history. I remember in Philadelphia when a Democratic Mayor by the name of Frank Rizzo had his spy squad and basically said that every Democratic politician who disagreed with him was a crook. Quite frankly,

he still does that on his radio program and it is still Democrats whom he is after, although he now includes Ron Castille and other political opponents on his list. Mr. President, if this were in effect back in the days of Mayor Rizzo, many outstanding citizens of Philadelphia would be in this computer bank as suspicious of criminal activity, and I fully submit their private lives to the best of that spy squad would be emblazoned somewhere in a computer data bank for every happy wacko who has access to one of the computers to punch up. That is not what America is supposed to be about. We are a government of laws, not of men. We do not have subjective standards, we have objective standards.

Mr. President, there have been other abuses. We all remember too well the Nixon justice department that was exposed ultimately during all the Watergate investigations, when John Mitchell and J. Edgar Hoover, the crime fighters, targeted Congressmen and had all their private lives on file in case they did not vote the right way. That was an abuse in America. There is nothing in this bill that safeguards that from ever happening again. In fact, this bill is a license to continue and go even further in those abuses. There are no limits to what can be placed into this thing. Intelligence information means an awful array of information, and not only intelligence and criminal and investigative information, but also treatment information. We want that in a computer about someone who has not been convicted of a crime, about someone who has not been arrested, about someone who has not been indicted, about someone who the only determination is that there may be some reasonable suspicion that the subject of the information is or may be involved in criminal activity. Where do we go for the definition of reasonable suspicion? Certainly not in Pennsylvania jurisprudence and certainly not in this bill. Senator Lewis tells us that we look to some federal case interpreting some Ohio case. We do not even have a citation of that, and if it is the legislative intent of this General Assembly to put that in, then let us put the language in and debate what reasonable suspicion of criminal activity is. I submit to you it is nonsense and it is probably nothing.

Mr. President, there is another interesting provision in here with all the safeguards that are supposed to be in here. That appears on page 5 when we talk about the actual computer terminal that is going to be tied into this network, and we say where that terminal "...is not used solely for the administration of criminal justice, the criminal justice agency"—whatever that is—"is accorded equal management participation in computer operations used to maintain the intelligence information, investigative information or treatment information." It has nothing to do with the fact that that terminal has to be secure, nothing to do with the fact that that criminal justice agency, whatever it is, has to maintain the security of that terminal, no, just that it has to run right so we have our input into it. That means that every clerk who works in that office who uses that computer can punch up that information.

Mr. President, who are we kidding here? I remember the last time we debated this bill and it got run out of the Senate, and now it is back with a new look, but it is a new look that

really is not a new look. It is a new look hidden behind some speculation. I remember then when the gentleman from Washington, Senator Stout, raised an interesting argument that I happen to agree with. I am one of those ACLU members who is also a patron member of the NRA. Some of you may find that some interesting, conflicting philosophy, but I do not.

Mr. President, this bill clearly allows for abuses in the area of gun ownership and registration. It is very easy to put into that computer the fact that I suspect Joe Jones of sleeping with someone's wife or as the gentleman from Philadelphia, Senator Williams, said, maybe making porno movies in his bedroom, so I stop him and I find out what kind of gun he may have in his car. That is in the computer. When I want to get his guns, I know about that, too. Mr. President, there are absolutely no realistic safeguards in this bill at all. I submit to you, with the exception of a little bit of extra verbiage to make it look good, it is no different from the last version we sent back to committee. Mr. President, again I remind you this type of Orwellian big brother, big government legislation has no place in a free America or a free Pennsylvania, and I urge you to do what we celebrated a few years ago and celebrate that Constitution. Celebrate the memory of our forefathers and get rid of this nonsense and vote it down resoundingly. There is no need for it in a free society, and yes, we might make a mistake now and then, but that is the price you pay for a democracy. Democracy is not free, and not only do you have to fight for it on the battlefields when we are at war, you have to fight for it each and every day that you live in it. If we want a dictatorship, if we want an authoritarian form of government, then I submit to you this is the first step down that path. I urge you, I beg you, to keep alive the traditions we celebrated in Philadelphia and get rid of this garbage.

Senator HOPPER. Mr. President, Senate Bill No. 635 before us now for final passage, in my judgment, gives us an excellent opportunity to add one more important weapon in our fight against drugs. The drug trafficking has been accelerating; everybody will admit that. Mr. President, Dr. William Bennett, the Director of the National Drug Control Policy Office, who is now better known as the federal drug czar, noted this bill and said there was a very real need for Pennsylvania to pass this type of legislation. As a matter of fact, he complimented Pennsylvania in its fight against drugs and in drug control and being able to keep records of drug defendants, and being able to share them in an equally secure way with law enforcement agencies which need this information. We can do a lot to keep things in focus and a little more in our efforts to nail those who are trying so hard and with such absolute disregard in trying to poison so many young minds and young dreams of the young people of Pennsylvania. It is a no-holds-barred fight, Mr. President. If someone is convicted of selling drugs, that information is readily available. If there is a reasonable suspicion—and I underscore the word “reasonable,” which we have heard discussion about—that someone is involved in criminal activity, then that, too, should be information that is collected and stored on comput-

ers. This will significantly improve opportunities to collate that data when the appropriate criminal justice agencies are pulling together the often scattered bits and pieces that are so essential in building a case. This bill will simply enable us to keep the same kind of information in secure computers today, tomorrow and forever. Anything we can do in our war against drugs, within appropriate limits that protect an individual's rights, we must do. Beyond that, Mr. President, as I said, it is a no-holds-barred fight. Pennsylvania is the only state out of fifty that prohibits computer storage of intelligence, investigative and treatment data—the only one out of the fifty states in this great United States of America. This is a bill that has the support of the Attorney General, the District Attorneys Association, the State Police, and they want it because it is a tool they can use effectively. Please, let us give it to them by voting in support of Senate Bill No. 635, this important piece of drug-fighting legislation. I urge an “aye” vote on this legislation, Mr. President.

Senator WILLIAMS. Mr. President, I did not intend to speak twice on this bill and I do not believe I will change a vote, but I do hope to at least record a fundamental concern and to share on the record the extent to which sometimes we will go. We are talking about both proven history and what we do with our time and money when it comes to fundamental rights. I shared, frankly, with my fellow Democrats that usually that is the group which stands up for those rights. Some of them said they were shaky. I do not want to talk about anybody in particular, and I understand that. But J. Edgar Hoover, if you read “Blood and Power” by Stephen Fox, and if you read “Mafia Kingfish,” it will give you the history of America when it comes to this. J. Edgar Hoover said there was no Mafia, there was no Cosa Nostra, there was no conspiracy. He said that and America believed it because we made him like a god. He met every month with the Prime Minister, Frank Costello, in Central Park, and he knew what was happening in Alabama. He knew it all. Did he share it with us? He said no, let us go get the communists and the labor unions, and all that. That was unofficial so none of that got in the record. He made the decisions and he controlled the system. Now we learned that J. Edgar Hoover was not a god and that he made some fundamental attacks on our system. But let us learn not to repeat that. This bill calls for a J. Edgar Hoover who will put reasonable suspicion into a central repository so the cops do not have to work anymore, because we just watch that little system, here they are. I do not like to differ with the gentleman from Cumberland, Senator Hopper, on my committee, but I would say to you that the district attorneys, state police, the attorneys general of this country, rather than spend all their money putting things in a system, should put a plan on paper, put it in public, give it to us and show a comprehensive step-by-step attack on that drug war because they had all the information in the system, and Mr. Bennett did not know and the Coast Guard top brass did not even know that their men were working with the people bringing drugs in here and that some of them left the Coast Guard, became millionaires and now are put in jail, and our

government did not even know that. The same people who were sent to intercept the drug pushers coming here worked with them, gave them the information, gave them the codes. Everybody made money because it depended on the mentality of some individuals, some human beings who were dishonest. And so the drug war is not responding to some system that sounds good. Mr. Bennett, what are you going to do? What is your plan? Why do you not even know what is happening in your system, Mr. District Attorney, Mr. Attorney General and Mr. State Police? You ask them what their drug plan is and they cannot tell you. Not that they are not trying, but I am saying the choice between giving us the power to record information or giving us the responsibility to develop a plan, I say let them spend their time developing a plan.

Mr. President, the more we discuss this the more dangerous it seems to me to become. We are not talking about crimes here, we are not talking about information that would lead to convictions and indictments. This is reasonable suspicion, exactly what the McCarthy era was talking about. Spend your time doing that and not working on the problem.

Mr. President, one final comment, there are any number of cases—I think the Manson family cases and a few others I have read about, I think even the Ted Bundy history—where the information was there. It just never was used and all those people were able to commit those heinous crimes. So it is not a question. The problem here is not making records of suspicions of Americans. That is not the problem. The problem is identifying and executing some effective plans about those people who are identified already.

The Cosa Nostra Mafia always was identified in the various families, and it was not until recently where some hard-working U.S. Attorneys and people like that went to work and put their shoulders to the wheel and solved those. I just repeat my strong opposition to this bill and hopefully pointed out the fundamental defects that exist in some areas of it.

Senator AFFLERBACH. Mr. President, upon first reading of this bill I must confess I came to the floor today prepared to support it. It appeared, as the gentleman from Cumberland, Senator Hopper, has indicated, to be a piece of legislation that would, in fact, enhance our ability to bring to justice those individuals who are involved in the drug trade and all of the things which that trade infects this society with. But, then I perhaps made a mistake, and I read the bill much more thoroughly and much more carefully as the debate was going on, because I am now convinced that it is not a good piece of legislation, that there is serious danger within this bill. As the gentlemen from Philadelphia, Senator Fumo and Senator Williams, have indicated, the bill provides a very, very subjective method by which individuals may not only gather but may, in fact, computerize so-called intelligence information. I am particularly troubled by sub-paragraph (6) on page 2 which states, "Intelligence information may not be collected or maintained concerning participation in a political, religious or social organization, or the organization or support of any nonviolent demonstration, assembly, protest, rally or similar form of public speech, unless"—and this is the

troubling part—"there is a reasonable suspicion that the subject of the information is, or may be, involved in criminal activity." Now precisely what do the words "or may be" mean? Do they mean involved in criminal activity last year, this year, at this moment, next year, or five years from now or ten years from now?

Mr. President and my colleagues, I suggest to you that any ambitious individual in a criminal justice agency could, under this present law, justify placing virtually whatever information they wished to place into the authorized computer files on the basis that a certain individual may become involved in criminal activity at some point in the future. I think that is extremely dangerous. I can tell you from my own personal experience as an intelligence information individual in the military, that with this piece of law in my hands, if I were working in a criminal justice system today, I could indeed place into this computerized file virtually anything I would want to place into it on any individual in this room. This is a very, very dangerous piece of legislation as it stands and I urge its defeat.

Senator FUMO. Mr. President, I desire to interrogate the gentleman from Cumberland, Senator Hopper.

The PRESIDENT. Will the gentleman from Cumberland, Senator Hopper, permit himself to be interrogated?

Senator HOPPER. I will, Mr. President.

Senator FUMO. Mr. President, I listened very carefully to the Senator's remarks when he was speaking on the bill, and he referred to the fact that reasonable suspicion is something that is in here that protects us. Can the gentleman define for me and give me an example of what reasonable suspicion is?

Senator HOPPER. Mr. President, the answer is, no.

Senator FUMO. Mr. President, well, then will the gentleman tell me why it is in the bill if there is no definition of it?

Senator HOPPER. Mr. President, I am not an expert in the prosecution of this type of case. I have great faith in the people who are trying to fight drug trafficking, and, evidently, the Attorney General, the District Attorneys Association and the State Police feel, in addition to the drug czar, that this is an important piece of legislation.

Senator FUMO. Mr. President, is the gentleman then telling me that we should not or do not have to know what this means because the people lobbying for it do and we should just go along with that? Does he mean that as the prime sponsor of this bill he does not know what the words in it mean and he wants me to vote for it?

Senator HOPPER. Mr. President, I am saying that I am not going to debate what reasonable suspicion is with the gentleman.

Senator FUMO. Mr. President, all I asked for was a definition. I did not ask for a debate. He is the one who wrote the bill and I thought he would know what he wrote, or at least what the lobbyist told him to write, and if he can just tell me what—

POINT OF ORDER

Senator BRIGHTBILL. Mr. President, I rise to a point of order.

The PRESIDENT. The gentleman from Lebanon, Senator Brightbill, will state it.

Senator BRIGHTBILL. Mr. President, I think that the gentleman from Philadelphia has asked his question and the gentleman from Cumberland has given his answer. If the gentleman wants to debate as to what he thinks reasonable suspicion means, that is fine, but I think that criticism of the gentleman's answer is inappropriate.

The PRESIDENT. The Chair thanks the gentleman for his position, and while the answer may not be acceptable to the gentleman from Philadelphia, the gentleman from Cumberland has, in fact, answered it to the extent he wishes.

Senator FUMO. Mr. President, the gentleman also in his remarks—not mine, not in the bill—said that this information would be held, and I quote, “in secured computers forever.” Will the gentleman tell me what he means by a secured computer?

Senator HOPPER. Mr. President, the computers have certain built-in safeguards, like codes and passwords, and it would be up to the law enforcement agency in the jurisdiction to use whatever codes or passwords they felt were adequate.

Senator FUMO. Mr. President, will the gentleman tell me where in the bill it provides that this information be kept in a secured computer?

Senator BRIGHTBILL. Mr. President, may we be at ease for a moment.

The PRESIDENT. The Senate will be at ease.

(The Senate was at ease.)

Senator HOPPER. Mr. President, on page 3 of the bill, there is information on how data will be kept secure.

Senator FUMO. Mr. President, will the gentleman please tell me what line? I did not see that.

Senator HOPPER. Mr. President, it is on line 18, subsection (3), through line 24.

Senator FUMO. Mr. President, how does that language regarding security fit into page 5, subsection (3), line 17 and on, where it talks about the shared computer system? In there it says that the only obligation is that the criminal justice agency have equal management regarding the maintenance of that and not the security of that.

Senator HOPPER. Mr. President, any criminal justice agency is not going to get this information unless they should have it and it meets certain security requirements.

Senator FUMO. Mr. President, I respectfully disagree with the gentleman. Had the language on page 5 talked about security with a shared system, I might tend to agree with him, but it does not, and I would urge him to take another look at that at some point in time to see the problem there.

Mr. President, I have another question for the gentleman. The gentleman said that the information placed in this computer would be within appropriate limits—and they were his words, not mine—to protect individual rights. Can the gentleman tell me what those appropriate limits would be? It is not in the bill, Mr. President. It was in his written statement.

Senator HOPPER. Mr. President, the bill provides for categorization of information that is stored in the computers to

be based on subject matters which would give rise to prosecution of a state offense graded as a misdemeanor or felony, et cetera. That is on page 2, starting with line 10 in subsection (3).

Senator FUMO. Mr. President, is that what he is saying? What about subsection (6) on the same page that says that intelligence information, basically, can be collected if “...there is a reasonable suspicion that the subject of the information is, or may be,”—which means, in the future I think he might do something wrong—“involved in criminal activity.” Is that an appropriate limit, that if I think somebody in the future might commit a crime, I can put information in there about him?

Senator HOPPER. Mr. President, the answer is yes.

Senator FUMO. Mr. President, then by that definition, would the gentleman tell me that if I am a local police officer in a township somewhere and I have reason to believe there is going to be a union picket line around a property for a labor dispute and I suspect they might engage in fisticuffs or some other sort of assault and battery on people, can I put into that computer all the names of the people on that picket line because they might do that or the union list of the whole union because they might be in there picketing at some point in time?

Senator HOPPER. Mr. President, not in my judgment on the facts as presented.

Senator FUMO. Mr. President, it says, as I understand it, “Intelligence Information,” and it is a little bit confusing when it says, “may not be collected or maintained, concerning participation in a political, religious or social organization, or the organization or support of any nonviolent demonstration, assembly, protest, rally or similar form of public speech, unless there is a reasonable suspicion that the subject of the information is, or may be, involved in criminal activity,” and criminal activity above is any misdemeanor or any offense which has more than a year in jail, and certainly assault and battery does. Would I then not be able to put into that computer the people on that picket line, those people who are participating in a form of public speech who I think might start a fight?

Senator HOPPER. Mr. President, before anyone could collect any information they must have a factual basis for collection of such information, and that is not based on what somebody might do.

Senator FUMO. Mr. President, then can the gentleman tell me whether he is prepared to offer an amendment to take out the words “or may be” on line 25? That is not what the bill says. Where does the bill say it has to be factual that it has happened? It says, “or may be, involved in criminal activity.” May—not is, was, will, you know—be involved, and as I read the English language, that pertains to something of the future. It does not have to be factual that it happened if it is a reasonable suspicion that he might or may be involved in such criminal activity, and certainly assault and battery is a criminal activity.

Senator HOPPER. My reading of the bill, Mr. President, is that no corrections officer, no officer, could proceed without reasonable suspicion of factual information.

Senator FUMO. Mr. President, in the bill—and again I could be confused and the gentleman could read it to me, the words are very clear—“reasonable suspicion”—which we already concede, according to the gentleman, we do not know what that means but other people do—“that is the subject”—the guy on the line with the picket sign—“of the information”—he is the guy who is going to be out there picketing—“is, or may be, involved in criminal activity.”

Senator HOPPER. Mr. President, the police officer or the corrections officer must have facts to substantiate his suspicion. He could not do it just on a whim or something that might happen.

Senator FUMO. Mr. President, will the gentleman tell me anywhere in this bill where the word “facts” is used, because that is a term of art that is important? Show me where the word “facts” is. That is the crux of our argument against the bill, Mr. President. It is not anywhere in here.

Senator HOPPER. Mr. President, that is implied in the use of the words “reasonable suspicion” by a law enforcement officer.

Senator FUMO. Mr. President, we began this interrogation by my asking the gentleman if he could define “reasonable suspicion,” and he said he could not. Now is he telling me there is a definition he wished to put forth? Could he give it to me now?

Senator LEWIS. Mr. President, I rise to ask the indulgence of the parties who are currently involved in the debate. I may be able to help resolve the issue at hand. I think I may be able to provide a definition of “reasonable suspicion” which the gentleman is seeking.

The PRESIDENT. Would the gentleman from Philadelphia, Senator Fumo, object to addressing the question to Senator Lewis at this point?

Senator FUMO. If he has an answer for me, Mr. President, I would take it from anybody, if it makes any sense. Would the gentleman tell me where the word “facts,” F-A-C-T-S, is in this bill?

Senator LEWIS. Mr. President, the use of the word “facts” is not to be found. But as the gentleman from Cumberland, Senator Hopper, indicated, it is implied. Senator Fumo asked then again for the reference to the definition of “reasonable suspicion,” and I will be glad to share with him that definition, which is the one to which I alluded in my earlier interrogation by Senator Williams, and it is again with regard to a federal court decision in which the court held that in determining whether an action is reasonable under the circumstances, “...due weight must be given, not to his”—in this case meaning a police officer—“inchoate and unparticularized suspicion or ‘hunch,’ but to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience.” That is the definition of reasonable suspicion to which I previously alluded. I think that it incorporates the reference to facts as the gentleman has asked for, and I

believe is the best and the only definition of reasonable suspicion, which I am aware of, coming from the federal courts.

Senator FUMO. Mr. President, will the gentleman, Senator Lewis, give me the citation of that case and the title of that case?

Senator LEWIS. Mr. President, I will.

Senator BRIGHTBILL. Mr. President, I was going to suggest that Senator Fumo is a lawyer. He could find it himself, but I will not say that, sir.

Senator FUMO. Mr. President, I would not know how to find a case that somebody tells me exists. It is a federal case interpreting Ohio statute. I mean, if the gentleman wants to give me a course in legal research, I would appreciate it, but I want to know how he would find it and if he knows the citation.

The PRESIDENT. The Chair thanks both gentlemen and awaits Senator Lewis’ response to the initial question.

Senator LEWIS. Mr. President, the citation is *Beck v. State of Ohio*, which is to be found in 379 U.S. 89, with specific references to a variety of other courts. I have not checked these citations, but the indication from common usage would be that a variety of other previous cases are on point with the decision in this one and they include a series of other cases reported from as far back as, apparently, 1878, and I will be glad to share this list of citations with the gentleman.

Senator FUMO. Mr. President, is the gentleman telling me that is a U.S. Supreme Court case and not a district court case?

Senator LEWIS. I do not know the answer to that, Mr. President.

Senator FUMO. Mr. President, will the gentleman tell me what precedential value that case would have in Pennsylvania state courts, if any?

Senator LEWIS. Mr. President, I think that, first of all, one would anticipate the possibility of a litigation, if such were to ensue with regard to an alleged violation of one’s constitutional rights, to proceed in federal court. But even if that were not the case and if the interpretation of the statute were to become an issue in state courts, I think we all know that our state courts are not the slightest bit reluctant to reach outside of their own jurisdiction if, in fact, they do not have a holding on point, but to reach outside and to find common and normal and customary interpretations for ordinary phrases that are frequently used in our language. I would feel quite comfortable with the belief that the Pennsylvania Supreme Court has, in all likelihood, with frequency in the past, looked to other courts around this nation for the help in defining phrases if they have not had the occasion to do so themselves in the past.

Senator FUMO. Mr. President, if that is the definition the gentleman wants for “reasonable suspicion,” why did he not put it into the bill or into the amendment?

The PRESIDENT. The Chair would remind the gentleman that Senator Lewis is not the prime sponsor of the bill, but Senator Lewis rephrased the question.

Senator FUMO. Mr. President, the reason why I directed the question to Senator Lewis, Mr. President, was because when I asked the question of Senator Hopper to define the words "reasonable suspicion," Senator Lewis came to the fore and offered us his enlightenment. Obviously, he has more knowledge about the issue than Senator Hopper does.

The PRESIDENT. The question to Senator Lewis is, why is that definition not in the language of the bill? Would the gentleman care to respond?

Senator LEWIS. Mr. President, it is not defined and I was materially involved in the process of drafting the amendments, so I will speak from that experience. It was not defined simply because it seemed to me that an attempt to be specific would be, by its very nature, one in which circumstances which we might not now anticipate might be excluded. Rather than running that risk, but in the hopes of having the definition fit as broadly to as many varied fact circumstances as might arise, we would leave it to the interpretation of the courts, relying upon their common sense application of everyday usage of the definitions of these words as all of us employ them in our normal speech.

Senator FUMO. Then obviously, Mr. President, the definition the gentleman put forth is not adequate or else it would have been placed in there. I thank the gentleman for standing for interrogation.

Mr. President, I have heard reference that the drug czar, William Bennett—I notice the walls shake when I say that name—is a strong proponent of this bill. He is the same person who told us he solved the drug problem in Washington, D.C. with millions and millions of dollars. In a little town on the east coast down there where you have every federal agency in the world, he was going to solve that drug problem. Later on he came on and said, I cannot do it, or have not done it. I fully suspect they have all this because someone, I think Senator Hopper, said we are the only state in the Union that does not have this yet. Well if this is so valuable, I submit to you that it is not working in the drug war because the drug war in this country is a dismal failure from sea to shining sea. Mr. Bennett, if he is going to assume the accolades for any progress in that war, he must also assume the responsibility for its dismal failure. I submit to you that we should not be taking heed from him in this area. He is certainly a johnny-come-lately who is, I believe, somewhat confused.

Mr. President, we could bug the confessional of every Catholic church in America and get a lot of information about crime. We do not do that because this is a democracy. We would get a lot of interesting information, probably get a lot of confessions of murder, even. We do not do that, not in a democracy. Mr. President, this bill, if enacted, will lead to unbelievable abuses, as I said before, even to the point of probably putting in union information.

I remember a situation in Philadelphia where the Teamsters had a picket line going on, and the then District Attorney, Eddie Rendell, was very upset about that picket line, very angry at Johnny Morris. I went in to assist in the representa-

tion of the union when Mr. Rendell threatened that he would investigate the entire union with a grand jury if they did not back off that picket line. I told him I thought we would wind up in federal court the minute he issued the first subpoena. Mr. President, I may have been able to do that, but I could not have stopped Eddie Rendell from putting the names of every Teamster in the local union into this computer and say that they were suspected thugs. Mr. President, is that what we want in America? You know, you say this is going to help solve the problem of drugs in this country. You are kidding yourself because your own argument said the 49 other states have it, if you think any state has solved this problem because of this or has even been helped by it. You have to put these things on a scale. You have to weigh the positive versus the negative. For the infinitesimal amount of positive benefit, I submit to you if there is any, there is a huge, huge amount of negative potential and damage that can be done to people.

Mr. President, there is no way that an individual can review his file to make sure the information is accurate and not scurrilous. There is no way for that. People can walk around and look at them funny if they are law enforcement people or corrections officers. He will not even know why. Mr. President, the amount of governmental abuse this licenses is catastrophic. I submit to you it is not something we want in a democracy. It is not something we want to do in Pennsylvania, the birthplace of liberty. You offend our reputation by even considering this kind of nonsense.

LEGISLATIVE LEAVES

Senator BRIGHTBILL. Mr. President, I would ask for Capitol leaves for Senator Loeper, Senator Tilghman, Senator Greenwood, Senator Madigan and Senator Punt.

Senator O'PAKE. Mr. President, I request temporary Capitol leaves for Senator Dawida, Senator Mellow, Senator Lincoln, Senator Fattah and Senator Fumo.

The PRESIDENT. Senator Brightbill requests temporary Capitol leaves for Senator Loeper, Senator Tilghman, Senator Greenwood, Senator Madigan and Senator Punt. Senator O'Pake requests temporary Capitol leaves for Senator Dawida, Senator Mellow, Senator Lincoln, Senator Fattah and Senator Fumo. The Chair hears no objection. The leaves will be granted.

And the question recurring,
Shall the bill pass finally?

Senator STOUT. Mr. President, I desire to interrogate the gentleman from Cumberland, Senator Hopper.

The PRESIDENT. Will the gentleman from Cumberland, Senator Hopper, permit himself to be interrogated?

Senator HOPPER. I will, Mr. President.

Senator STOUT. Mr. President, earlier in this Session, when we considered and debated Senate Bill No. 635, the gentleman may recall that we asked some questions concerning this proposed legislation, whether Senate Bill No. 635 could be used as a basis to establish a record for gun registration and gun control in this Commonwealth. As a result of that debate and the answers, I believe that led to the decision to recommit

the bill back to committee and now it is coming out under a new Printer's No. 2358. Have the concerns of this Body regarding this computer system being used for gun registration and gun control been corrected?

Senator HOPPER. Mr. President, the answer is yes.

Senator STOUT. Mr. President, would the gentleman show me exactly what changes were made in Senate Bill No. 635 that lead him to provide that information to this Body?

Senator HOPPER. Mr. President, the entire amendment was designed to correct the methods from the last debate. We are talking about criminal activity.

Senator STOUT. Mr. President, what I am concerned about is that I do not believe, in closely following the debate here on the floor this afternoon, that I am completely satisfied, nor should this Body be satisfied, that Senate Bill No. 635 is in such a position as it is before us right now to assure us that this type of computer information and authority given by this legislation would not create a basis to gun registration. If someone is stopped for any type of violation where he would have a gun in his presence, as I used in the previous debate an example where a person returning with a shotgun or a hunting rifle, and so forth, in violation of any type of offense that comes under this bill, would show up that that person owns firearms. I think it is a very dangerous thing for us to pass this type of legislation, and I would urge a "no" vote on Senate Bill No. 635. I think every Member should give serious consideration to what this could do, and we know many of our constituents are strongly opposed in this Commonwealth to gun control and gun registration. I think the passage of Senate Bill No. 635 could lead to that.

Senator LEWIS. Mr. President, we are living in a world that is dominated by the advances in high technology. I am sure there are none of us in this Body who do not now rely upon the daily use of fax machines in order to communicate information between our offices. We find ourselves on a daily basis depending upon the receipt of information that is beamed from satellites at points all over the world, and I think each of us in this Chamber probably wonders how we managed to work with any degree of efficiency before the computers were installed in our offices here and in our districts, and the information that we knew was around in books or in our files or logged away someplace in legislative reference now becomes much more readily available for our use, maximizing our time and our efficiency and enabling us to do a better job. That is really what this bill is all about, and that is bringing one aspect of law enforcement into this same twentieth century mode of high technology domination and communication which impacts us in so many other ways in our lives.

Let us keep one thing absolutely clear. There is nothing in this bill that will permit the collection or the retention of information beyond anything that is presently available in Pennsylvania today. Let me state that again and in another way because I think it is a very important point to make. Today in Pennsylvania there are no restrictions upon law enforcement agencies from the collection and the storage of

investigatory and intelligence information. No restrictions at all. The only restriction we have is in the method by which they can store that information and the means by which they can communicate it to other law enforcement agencies. So what we have is the opportunity for every one of the questionable activities that has been recited in the debate today to occur, and I do not doubt that on occasion they do occur. We have every challenged issue that has been raised on this floor capable of happening today without respect to this bill. What the law enforcement agencies do is collect their information. They will put it on their word processing machines or they will scribble it on tablets. They will put it in file folders. They will use fax machines to communicate it to other agencies. They will pick up telephones. They will make photocopies. Do not for a moment think this information is not transmitted in one way or another. All we are doing is denying them the opportunity to use the most modern techniques available upon which every one of us relies on a day-to-day basis. In fact, what this bill does is for the first time to establish standards where none exist today, and for the first time to establish penalties for the abuse of those standards and there are none of those in place today. In fact, and ironically, one of the most significant parts of this bill is to dramatically improve the protections for citizens in this Commonwealth, the very issue which has been raised by those who claim to be opposed to this bill. We, for the first time, provide guidelines, assurances and standards and they do not exist today.

What else do we do? We make it possible for Pennsylvania to become the 50th state in this nation to be able to effectively communicate with other law enforcement agencies on a national and interstate basis. That means to take information, to be able to pick up bits and pieces of information gathered in states all over this country and by federal investigatory agencies and to collate some of that information with agencies which we may be developing here to determine whether patterns of criminal activity, in fact, are existing. Serious criminal activity is not something today which is located exclusively in my town or yours or in one part of this Commonwealth or in one part of this nation. In order for us to be able to effectively combat that kind of multi-tentacled criminal activity, we need to give our law enforcement agencies the methods so they can benefit from the information that is stored and has been collected because of criminal activity or the reasonable suspicion thereof from other law enforcement agencies all over this country. So let us be realistic when we talk about what this bill really does. It establishes standards for the first time and it brings our law enforcement mechanisms into the twentieth century capacity for an electronic communication.

Specifically, with regard to the question raised by the gentleman from Washington, Senator Stout, I want to apply again the same points which I am making in a broad and general way. There are no restrictions today against the collection of information about gun registration in Pennsylvania. This bill, for the first time, will provide those kinds of restrictions because no agency will be able to collect or store or dis-

seminate information unless there has first been established a reasonable suspicion of criminal activity that meets the minimum penalty qualifications established in this bill. Furthermore, and of greater importance, none of that information can be used for any purpose other than the pursuit of criminal activity investigations and can only be disseminated and utilized by agencies in pursuit of those activities and only for those purposes. So, if one is concerned about the possibility of the collection and the inappropriate use of information with regard to gun registrations, one ought to be deathly afraid of the fact that there are no standards or requirements today, and one ought to look at this bill in its new and improved form as a significant benefit and improvement over where things are today. I supported the motion to table the bill in its last debate on this Senate floor because the questions raised by Senator Stout about the inappropriate utilization of the techniques at that time with regard to gun control were well made. As we have moved through the drafting of the amendatory language which exists here today, I can assure him and every Member on this floor that the message that came through clearly from that action of this Senate and those concerns of that Member were always in the forefront of my mind as we drafted this new language, and I am satisfied that it speaks to that issue as clearly and as plainly and succinctly as any language could possibly do.

Mr. President, we have to be realistic about our commitment to effective law enforcement in this Commonwealth. I think this bill provides adequate safeguards, that it provides reasonable steps and that, most importantly, it provides the long overdue opportunities to utilize legitimate information from which our law enforcement agencies can significantly benefit. I will not stand here and make an unqualified commitment to anybody in this Chamber that there may not be an abuse by someone, somewhere, of some of the provisions of this bill. Unfortunately, none of us can do that about any of the laws or, for that matter, the constitutional guarantees that exist within this country. But the beauty of our system and the strength that has really carried us forward is that, ultimately, those who abuse the standards that have been established are held accountable for that abuse and will pay the penalties as prescribed by law. More than that I do not think any of us can ask or expect. This bill now in its current form provides the framework for the historical institutions of this country to move forward and to take their place, and they will provide the guarantees that I think are being sought by those who are concerned about possible abuses which may arise. This bill, in the main, is solid legislation. I think that it puts the opportunity before us to make a significant improvement in our law enforcement mechanisms, and I would urge an affirmative vote.

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

Andrezeski	Helfrick	Loeper	Rhoades
Armstrong	Hess	Madigan	Rocks
Baker	Holl	Mellow	Salvatore
Bell	Hopper	Musto	Shaffer
Brightbill	Jubelirer	Pecora	Shumaker
Corman	LaValle	Peterson	Stapleton
Fisher	Lemmond	Punt	Tilghman
Greenleaf	Lewis	Regoli	Wenger
Greenwood	Lincoln	Reibman	Wilt

NAYS—14

Afflerbach	Fattah	O'Pake	Stewart
Belan	Fumo	Porterfield	Stout
Bodack	Jones	Scanlon	Williams
Dawida	Lynch		

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

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

SPECIAL ORDER OF BUSINESS ANNOUNCEMENT BY THE SECRETARY

The SECRETARY. The Majority and Minority Leaders have given their permission for the Committee on Intergovernmental Affairs to meet immediately in the Rules Committee room to consider House Bill No. 2350.

THIRD CONSIDERATION CALENDAR RESUMED

HB 176 CALLED UP

HB 176 (Pr. No. 195) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 2 of the Third Consideration Calendar, by Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AMENDED

HB 176 (Pr. No. 195) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for the grading and offense of a former convict not to own a firearm.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator GREENLEAF, by unanimous consent, offered the following amendment No. A2615:

Amend Title, page 1, line 3, by removing the period after "firearm" and inserting: and for mandatory sentencing for convictions for certain drug offenses.

Amend Sec. 1, page 1, line 6, by striking out "6119" and inserting: 6314

Amend Sec. 1 (Sec. 6119), page 1, line 18; page 2, lines 1 through 3, by striking out all of said lines on said pages

Amend Sec. 1, page 2, by inserting between lines 3 and 4:

§ 6314. Sentencing and penalties for trafficking drugs to minors and for offenses in the vicinity of schools.

(a) General rule.—A person [over] 18 years of age or older who is convicted in any court of this Commonwealth of a violation of section 13(a)(14) or (30) of the act of April 14, 1972

(P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, shall, if the delivery or possession with intent to deliver of the controlled substance was to a minor, be sentenced to a minimum sentence of at least one year total confinement, notwithstanding any other provision of this title or other statute to the contrary.

(b) Additional penalties.—In addition to the mandatory minimum sentence set forth in subsection (a), the person shall be sentenced to an additional minimum sentence of at least two years total confinement, notwithstanding any other provision of this title or other statute to the contrary, if the person did any of the following:

(1) Committed the offense with the intent to promote the habitual use of the controlled substance.

(2) Intended to engage the minor in the trafficking, transportation, delivery, manufacturing, sale or conveyance.

(3) Committed the offense within 1,000 feet of the real property on which is located a public, private or parochial school or a college or university.]

(b.1) Offenses in the vicinity of schools.—Any person 18 years of age or older who is convicted in any court of this Commonwealth of a violation of section 13(a)(14) or (30) of The Controlled Substance, Drug, Device and Cosmetic Act shall, if the offense was committed within 1,500 feet of the real property on which is located a public, private or parochial school or a college or university; a playground; or a licensed child-care facility, be sentenced to a minimum sentence of at least two years total confinement, notwithstanding any other provision of this title or other statute to the contrary.

(c) Proof at sentencing.—The provisions of this section shall not be an element of the crime. Notice of the applicability of this section to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The court shall consider evidence presented at trial, shall afford the Commonwealth and the defendant an opportunity to present necessary additional evidence, and shall determine, by a preponderance of the evidence, if this section is applicable.

(d) Authority of court in sentencing.—There shall be no authority for a court to impose on a defendant to which this section is applicable a lesser sentence than provided for in [subsection (a)] this section, to place the defendant on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section. Disposition under section 17 or 18 of The Controlled Substance, Drug, Device and Cosmetic Act shall not be available to a defendant to which this section applies.

(e) Appeal by Commonwealth.—If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

(f) Forfeiture.—Assets against which a forfeiture petition has been filed and is pending or against which the Commonwealth has indicated an intention to file a forfeiture petition shall not be subject to a fine under this section.

(g) Definition.—As used in this section, the term "minor" means an individual under 18 years of age.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator GREENLEAF.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Andrezeski. His temporary Capitol leave will be cancelled.

THIRD CONSIDERATION CALENDAR RESUMED

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 678 (Pr. No. 722) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for penalties for exceeding maximum weights.

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—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezeski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

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

SPECIAL ORDER OF BUSINESS

EXECUTIVE NOMINATIONS

EXECUTIVE SESSION

Motion was made by Senator WILT,

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

Which was agreed to.

NOMINATIONS TAKEN FROM THE TABLE

Senator WILT. Mr. President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

MEMBER OF THE BOARD OF CLAIMS

April 10, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Louis G. O'Brien, 3434 Alinda Circle, Camp Hill 17011, Cumberland County, Thirty-first Senatorial District, for appointment as a member of the Board of Claims, to serve until November 15, 1990 and until his successor is appointed and qualified, vice Charles Mebus, Camp Hill, deceased.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD OF DENTISTRY

April 27, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Norbert O. Gannon, D.D.S., 1208 Milton Avenue, Pittsburgh 15218, Allegheny County, Forty-fourth Senatorial District, for appointment as a member of the State Board of Dentistry, to serve for a term of six years or until his successor is appointed and qualified, but not longer than six months beyond that period, vice Dr. Robert A. Probst, Warren, whose term expired.

ROBERT P. CASEY.

On the question,

Will the Senate advise and consent to the nominations?

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

YEAS—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

Ordered, That the Governor be informed accordingly.

NOMINATIONS TAKEN FROM THE TABLE

Senator WILT. Mr. President, I call from the table certain nominations and ask for their consideration.

The Clerk read the nominations as follows:

JUDGE, COURT OF COMMON PLEAS, ALLEGHENY COUNTY

March 28, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Cheryl Allen Craig, Esquire, 102 Elena Court, Pittsburgh 15201, Allegheny County, Thirty-eighth Senatorial District, for appointment as Judge of the Court of Common Pleas of Allegheny County, to serve until the first Monday of January, 1992, vice The Honorable Ralph J. Cappy, elected to the Supreme Court.

ROBERT P. CASEY.

JUDGE, COURT OF COMMON PLEAS, ALLEGHENY COUNTY

June 14, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Joan Orié Melvin, 1411 Grandview Avenue 410, Pittsburgh 15211, Allegheny County, Forty-second Senatorial District, for appointment as Judge of the Court of Common Pleas of Allegheny County, to serve until the first Monday of January, 1992, vice The Honorable Donald J. Lee, resigned.

ROBERT P. CASEY.

On the question,

Will the Senate advise and consent to the nominations?

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

YEAS—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

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

The motion was agreed to.

THIRD CONSIDERATION CALENDAR RESUMED**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 700 (Pr. No. 3766) — The Senate proceeded to consideration of the bill, entitled:

An Act prohibiting health care practitioners from balance billing for services to certain patients.

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?

RECONSIDERATION OF HB 700

Senator RHOADES. Mr. President, I move to reconsider the vote by which the bill passed on third consideration.

The motion was agreed to.

And the question recurring,

Will the Senate agree to the bill on third consideration?

Senator RHOADES, by unanimous consent, offered the following amendment No. 2410:

Amend Sec. 4, page 3, line 28, by striking out “(A) GENERAL RULE.—”

Amend Sec. 4, page 4, lines 2 through 14, by striking out all of said lines.

On the question,

Will the Senate agree to the amendment?

Senator RHOADES. Mr. President, what the amendment does is delete Section 4 on pages 3 and 4 of the bill, which in essence removes the exceptions which were added in committee which says that now we will have parity and equity among all the health professions without any exception. There will not be any exceptionalities in here. If our attempt in House Bill No. 700 is to control costs or limit costs, then why would we make an exception or extension? What happens with the extension is that senior citizens would be forced to pay overcharges for nursing home visits, home visits, office visits, personal care visits, also for family practitioners or general internists. What we are saying is there are no exceptions. All are in the same category. All would be applied the same way.

Senator PETERSON. Mr. President, I desire to interrogate the gentleman from Schuylkill, Senator Rhoades.

The PRESIDENT. Will the gentleman from Schuylkill, Senator Rhoades, permit himself to be interrogated?

Senator RHOADES. I will, Mr. President.

Senator PETERSON. Mr. President, would the maker of the amendment explain what he means by overcharges?

Senator RHOADES. Mr. President, it would be my impression that under the Medicare system that functions there are—depending upon what area you come from and upon what assignment you would take, what is charged and what is paid by Medicare—charges that go beyond that. The charges they will not accept and go beyond are those that have to be made up by the individual.

Senator PETERSON. Mr. President, is there some federal definition of overcharge that you are going by?

Senator RHOADES. Mr. President, I have more, and I would look to the information that has been provided to me and some that has been addressed, I guess, through the MACC. Charts have been provided where they give us numbers that go beyond what is a reimbursable factor.

Senator PETERSON. Mr. President, in the explanation of the Medicare Act, it says the following: Medicare has two parts, hospital insurance and medical insurance. Hospital insurance helps pay for inpatient hospital care and certain follow-up care. Medical insurance helps pay for your doctor services and many other medical services and items. That is the federal government’s explanation of Medicare. You are saying that if a doctor charges above that, in your opinion, it is an overcharge?

Senator RHOADES. Mr. President, the balance would be an overcharge.

Senator PETERSON. Mr. President, how do you use the word overcharge when the federal act says that it helps pay for it?

Senator RHOADES. Mr. President, I think I would use it from the standpoint of what has to be paid beyond the limit that Medicare has established.

Senator PETERSON. Mr. President, is it your opinion that Medicare, when it was created, was an insurance program to assist people in paying their health care bills?

Senator RHOADES. Mr. President, could the gentleman repeat the question?

Senator PETERSON. Mr. President, does the gentleman agree with the statement that when Medicare was passed by the federal government that it was a program providing a means of assisting our senior citizens to pay for their health care costs?

Senator RHOADES. Mr. President, not being one who participated in developing that legislation at either the state or federal level, I think you would have to check with the documents at that particular time. I think the attitude that was put in place was that it would assist in paying for that particular limit but would not create an overburden on the person who was using it.

Senator PETERSON. Mr. President, I thank the gentleman for the interrogation.

I would like to share a few thoughts from the committee structure of why this amendment was placed in the act. I think there are some misconceptions in the Commonwealth that Medicare is and has been an insurance program that pays or should pay all costs. I guess I would like to also clarify that Medicare is a federal program funded by the federal government. It is part of the Social Security System. I have asked a lot of individuals to show me some parallel where the state government in Pennsylvania or some other state has put state rules on a federal program. This program costs state government nothing. It is a federal program. On top of that the federal government, due to some of the concerns, has made a lot of changes. Most recently, in 1989 in the fall, physicians

now must accept assignment or payment in full for all Medicaid patients. It is mandated that they do the paperwork free, at no charge. By 1993 there will be a limit of 115 percent of the charge that could be charged under Medicare, in other words by 1993, 115 percent or 15 percent additional charge over and above what Medicare would pay. Those are just some of the changes that have been made.

This seems like a very simplistic bill. It seems like, gee, it sounds nice. It feels good. People would only have to pay their 20 percent copay and there would be no additional charges for any procedure. It is a very simplistic approach to a very complex problem. The problem is that as we look at the health care picture in Pennsylvania and in this country, it is one of the major concerns of all of us. I do not think anyone would argue with that. What we are doing in this bill is we are once again squeezing the balloon—the example I use—but when you squeeze the balloon at the side it comes out at the top or bottom, and the balloon is as big as the air within it and that is what we are doing here. We are going to squeeze the balloon again. Unfortunately, with the Rhoades amendment, people like Elizabeth Taylor, if they lived in Pennsylvania, would qualify for subsidized health care. Jack Palance or James Michener or the Art Rooneys or the Kellys, some of the wealthiest people in this country who reside in Pennsylvania, would get subsidized health care. They would not pay the normal doctors' charges.

As you look at the issue a little broader, we all get more interested in how it affects each and every one of our communities. I urge my colleagues to look at some of the statistics that are available. In Medicaid, a program that the state helps fund, the state makes the rules and we have to pay part of the budget. We sort of do not pay much attention to what we pay doctors and other practitioners in Medicaid, and what has happened? A lot of physicians and other health care practitioners do not participate in Medicaid, so we have communities with very limited health care to the poor. There are those who claim the federal government is approaching that in their approach to trying to control costs and control the federal deficit with Medicare, and the same problem could be coming. Well, what happens in communities where doctors do not take Medicaid? People get their health care in a hospital emergency room. It costs the system three times as much as if they were taken care of in a doctor's office. Is that better? I think one of the things we need to look at and the reason for the amendment in the Senate is that the most important part of our health care system to all of us is our family physician. We all have one. Primary care is provided by family physicians, internists, pediatricians and OB/GYN. Those are four primary care fields that we are struggling now to recruit in many parts of Pennsylvania. They are all going into the high tech fields where the money is greater and the hours are better. So what we are ending up doing in this country and in this state is we are treating more and more people through high priced specialists and in hospital settings, and it is much more expensive. My concern with this bill is that when you look at communities that have a high Medicaid population

and you couple that with a high senior citizen population, you are going to get some figures that are a little bit scary. The Highland Hospital and Health Center, an acute care hospital in Fayette County, has 28 percent Medicaid. That is the welfare system. Sixty-six percent of the people in that county are in the Medicare system who are in the health care system. You have over 90 percent of the people on a government program for health care with a set fee, if this bill passes, through Medicaid and Medicare. If you are a young doctor, are you going to go to Fayette County to practice in that area? You look at Oil City in my district in Venango County, it is 28 percent Medicaid. It is a rural community. It used to be affluent, but it is poor today. It has 54 percent Medicare which is a total of 82 percent. You go on down the list, whether it is in the Meadville Hospital in Crawford County, you get a total of 76 percent government health care, Bradford Hospital in McKean County has 78 percent, Dubois Regional Medical Center has a total of 67 percent of Medicaid and Medicare. What happens when young doctors are looking for places to practice medicine? Are they going to pick a neighborhood or a community hospital setting that has 70, 80 or 90 percent government set rates? I do not think so. The other thing, some of you may have communities where you do not have as high a Medicaid population but you have neighborhoods where you have a concentration of senior citizens and you have a concentration of poor people. In those neighborhoods you are going to have the same problem. You are not going to have doctors locating there.

As we look at this issue across the country, no major state has passed this legislation. The only state of much size and population is the state that most people consider a disaster in health care and certainly a disaster in finances, and that is Massachusetts. Maryland defeated this issue for the fourth time this year when it was brought up there. If we pass this bill with the Rhoades amendment, we will end up with communities that do not have primary care physicians. We will have hospitals that are already in trouble financially, unable to recruit primary care physicians. What happens to rural hospitals when they do not recruit the adequate number of primary care physicians? If a rural hospital, say, needs six primary care physicians to have activity in that hospital to stay afloat and they lose half of them, it is a matter of time until that hospital is going to be in financial straits, where it will not be there. I urge all of you to be concerned that we would be able to maintain good quality health care in all parts of Pennsylvania.

It is important, as we debate this bill, that we go beyond the feel-good state. It is nice to say I voted for a bill that says you do not ever have to accept a payment over and above the rate that Medicare reimburses. My amendment in the committee only exempted family physicians and internists, those who give the primary family care in the home setting, in the office setting and in the nursing home and boarding home setting, in their simple physician visits, no cases where they are providing other care over and above, just the visits. Procedures are not included. This is a very simple exclusion trying to make sure

that we will be able to have primary care physicians in all hospitals and neighborhoods in Pennsylvania. That was our motivation for the amendment, and we urge the defeat of the Rhoades amendment which would go back to the original bill.

Senator ROCKS. Mr. President, I rise in support of the Rhoades amendment. I do it with very large respect to the previous speaker and also commend him as chairman of the committee that gave much consideration to this legislation, and also to the fact that the bill is in front of us today to be finally considered.

On the Rhoades amendment, however, we have a difference of opinion. The speaker and the chairman of the committee, the gentleman from Venango, Senator Peterson, explains that this is not a simplistic issue, and certainly in listening to his explanation, this is not a simple issue. Health care costs in our nation's experience today are as complex as any issue we face. Much of what the gentleman describes in his rebuttal of the Rhoades amendment deals with many aspects of the complexity of the cost of health care, particularly for an older person. Mr. President, the Rhoades amendment, in my mind, is simply understood.

Elizabeth Taylor and Jack Palance at least do not live in the 4th Senatorial District, and I am checking the names. Many senior citizens in need of this amendment do live in the 4th Senatorial District and, Mr. President, with all respect to a medical profession that I hold in extremely high regard for the quality of health care that we as a people have, I do not know any practitioners who are going broke offering health care. I know some people whom I represent who are going broke when they get sick, and those people have worked a lifetime in order to qualify for a Medicare payment. Their greatest fear in their twilight years is that they will become sick to the point whereby the Medicare payment does not cover the billing they receive for whatever degree of the sickness or illness they face. I think many of us know in our districts the depth of that concern. This amendment simply rectifies what would be the Medicare overcharge portion of the concern of that person in the district I represent. Based on that, and quite simply, I rise in support of the Rhoades amendment.

Senator AFFLERBACH. Mr. President, I desire to interrogate the gentleman from Venango, Senator Peterson.

The PRESIDENT. Will the gentleman from Venango, Senator Peterson, permit himself to be interrogated?

Senator PETERSON. I will, Mr. President.

Senator AFFLERBACH. Mr. President, in this bill, on page 3, the gentleman inserted in the Committee on Public Health and Welfare a prohibition against balanced billing, and he defines that activity as charging or collecting from a beneficiary of health insurance, under Title 18 of the Social Security Act known as the Medicare Program, an amount in excess of the reasonable charge for the service provided as determined by the United States Secretary of Health and Human Services. My question to the gentleman is, what does he call that excess amount of money?

Senator PETERSON. Mr. President, I guess you have lost me.

Senator AFFLERBACH. Mr. President, let me restate the question. The gentleman defines an activity known as balanced billing to which he refers to a charge collected from a beneficiary in excess of the reasonable charge for the service provided. My question is, what does he call that excess charge for the service provided?

Senator PETERSON. Mr. President, I would call it a balanced billing. I would not call it an overcharge.

Senator AFFLERBACH. Mr. President, I would suggest that balanced billing is, in fact, the activity, and we all know that what we are talking about when we talk about overcharge is, in fact, the excess which the gentleman attempts to prohibit. But let me move on to another question. My next question would be, if I am a citizen living in a rural area and I now discover that my family practitioner or general internist has been exempted from this bill, what happens if I go to an ophthalmologist for my primary eye care? Is he considered to be a family practitioner or general internist, and is he exempted from this bill?

Senator PETERSON. No, Mr. President.

Senator AFFLERBACH. Mr. President, so he would then be considered a specialist?

Senator PETERSON. Yes, Mr. President.

Senator AFFLERBACH. Mr. President, therefore, he would be prohibited from balanced billing under this bill?

Senator PETERSON. Yes, Mr. President.

Senator AFFLERBACH. Mr. President, therefore, it would be to my benefit to avoid my family practitioner or general internist and go to the specialist because he is prohibited from balanced billing whereas the others are not.

Senator PETERSON. Mr. President, if I were sick I would not go to an ophthalmologist. I would go to a family doctor or internist, unless I had an eye problem. Then I should go to the ophthalmologist.

Senator AFFLERBACH. Mr. President, but is it not a fact that family practitioners may, in fact, treat primary eye ailments?

Senator PETERSON. Mr. President, they might treat some simple infection of the eye, but if there is any serious problem, I think most people go to an ophthalmologist.

Senator AFFLERBACH. Mr. President, let me move on to another question. Are doctors practicing in rural areas of federally designated physician manpower shortage areas reimbursed to a higher degree of the Medicare standard than doctors practicing in other nondesignated areas?

Senator PETERSON. Mr. President, that is a very few doctors in the Commonwealth. One of the real problems with this bill is that in your own community you will have a doctor in one neighborhood under Medicare receiving \$14.50 for an office visit. You will go down the street and you will have another doctor getting \$17.70 for an office visit. You will go down the street further and you will have a doctor getting \$21.30 for a visit. That is the unfairness of the Medicare system we are locking in.

Senator AFFLERBACH. Mr. President, but the question that remains is this: Are doctors serving in federally desig-

nated physician manpower shortage areas, i.e., rural areas, reimbursed at a higher degree under Medicare than those who are not serving in such areas?

Senator PETERSON. Mr. President, I am not sure, but that would be so few doctors in the Commonwealth. That would be a statistic that would hardly be measureable. There are very few doctors in that program in the Commonwealth.

Senator AFFLERBACH. Mr. President, I have completed the interrogation and wish to move on to comments on the amendment offered by the gentleman from Schuylkill, Senator Rhoades.

I think the record should indicate that it is, in fact, true that physicians servicing Medicare patients in the federally designated physician manpower shortage areas, that is to say the rural areas, are indeed reimbursed at an additional ten percent above the normal Medicare payment. Therefore, the federal government has taken into consideration that these individuals may, in fact, need a higher billing accessibility than those physicians serving in the more urban areas. But let me talk just a little bit about a few other things that the bill would do without the Rhoades amendment. First and very clearly, it sets up two distinctive classes of health care coverage. One class which can, indeed, continue to balance bill, as the gentleman from Venango, Senator Peterson, would say, or overcharge, as the gentleman from Schuylkill, Senator Rhoades, and I would say, above the Medicare standard. That class would be the specialists, the people who are already charging far higher fees than the general practitioner or the internist. Perhaps what is most disturbing about that is that this bill, without the Rhoades amendment, does nothing to contain health care costs, rather it increases health care inflationary costs, because it encourages people not to go to the family practitioner who, by and large, is charging less of a fee than the specialist, but rather to go to the specialist for even the most simple primary care, because the specialist will be prohibited from that balanced billing. So we start an inflationary cycle by encouraging people to attend the most expensive practitioners rather than to attend the less expensive practitioners.

Beyond that we have the issue of confusion. I daresay that most of the population in Pennsylvania does not go into the doctor and ask, are you a family practitioner? Are you a general internist? Are you exempt from this legislation? May you balance bill? May you overcharge or may you not? Indeed, they would have to begin asking those questions, because otherwise they do not know whether they are going to be covered completely by their Medicare plus their 20 percent copayment, or whether they are going to be billed in excess of that. So we have a great education effort in front of us, if you will, just to advise people when they seek health care to make certain as to what that doctor is going to be able to bill or not bill. The Rhoades amendment puts an end to that confusion. It puts all health care practitioners in exactly the same situation and will not confuse the public with who may bill what.

We have heard some description about how the act in Massachusetts may be working. I would only observe that the U.S.

General Accounting Office has reported that the Medicare overcharge measure in Massachusetts and in Rhode Island has not had a negative impact on physician access even in rural areas. In fact, the GAO has reported an increase in access. That increase may, in fact, be somewhat misleading because it is probably an increase in the number of Medicare billings. Once people learn they are not going to be charged more than what Medicare will cover, other than their 20 percent copayment, they tend to seek medical attention more frequently and more specifically, when they need it rather than postponing it.

I have one final statement on the Rhoades amendment. I have alluded to the fact that it levels the playing field on all health care practitioners. I think that is an extremely important point if this bill is to become law, because if we do not level the playing field from the beginning, we can look forward to additional amendments and additional attempts by other practitioners to have themselves exempted from the provisions of this law. I am personally already aware of the fact that there may be amendments offered today to specifically exempt chiropractors, to specifically exempt podiatrists, to specifically exempt who knows how many other health care fields down the line. If we start out with limited exemptions now to favor a few, we can expect to be bombarded with requests to favor the many. I strongly support the Rhoades amendment. If we are going to do this, let us at least do it on a level playing field.

Senator BELL. Mr. President, I sat here listening and everything was directed to the Medicare recipients. This bill covers far more than the Medicare recipients the way I read it. Maybe I am wrong. I have in my district, in addition to the Medicare recipients, many independent shopkeepers, storekeepers who are not fortunate enough to get the perks of having somebody pay for their Blue Cross/Blue Shield, and many of them cannot afford Blue Cross/Blue Shield and they still are not 62-65 years old to get it under Medicare. I would suggest that in rural Pennsylvania there are many, many of our citizens who cannot afford Blue Cross/Blue Shield who are paying perhaps higher rates than Blue Cross/Blue Shield forces the medical practitioners to accept. This is not just Medicare and older people from heavily populated areas. An awful lot of people, younger people, cannot afford Blue Cross/Blue Shield.

Senator PETERSON. Mr. President, the day has been long, I will be quick. I think the argument made a few moments ago about a level playing field is an important one. There was talk that people would choose specialists. I have a rural district and most communities have few specialists. I happen to have a mother and a mother-in-law who qualify for the PACE program. They are both in their 70s and both are at a time in their lives when health care is very important to them. My mother, personally, has never complained about the three dollars or four dollars a doctor might charge her to go to her family physician. When she had surgery last year and the surgical procedure was \$3,100—and I am going on memory here—I think the doctor received around \$2,200 or

something like that from Medicare, and he accepted assignment, and she was very happy about that because that would have been a major hit on her budget. But a three dollar or four dollar charge to have health care available I do not think is a major worry of a lot of senior citizens. My mother-in-law also has never complained about having to pay an additional charge for a doctor's visit when she had surgery last year and had the same experience where the doctor accepted assignment.

Let us look at the record in Pennsylvania. In Pennsylvania, in 93 percent of the cases doctors take assignment, 95 percent of the money goes out on assignment, but only 38 percent of the time do doctors sign up full time for what they will take. They pick and they choose because of the unfairness of a lot of the billings. The Medicare system is not a fair paying system. People get different payments in different parts of town in different communities. The problem that I think is most important to be thought about is—and it goes a lot deeper than this bill—are we going to have a playing field where we have primary care physicians for all of our hospitals and all of our communities? When you look at the list there are 14 counties in Pennsylvania where more than 70 percent of the health care is being paid by Medicaid and Medicare. There are 48 counties in Pennsylvania where more than 60 percent of the health care is paid by Medicaid and Medicare. Doctors choose where they practice. Doctors are graduating from college and their residency programs annually, and these are the kinds of figures they look at. If we are not careful and if we do not do something to attract more people to primary practice overall, forgetting this bill, we are not going to have primary care physicians in many parts of Pennsylvania, and certainly not in the rural and interurban parts of Pennsylvania where the poor and the elderly need them. I urge a defeat of the Rhoades amendment.

Senator RHOADES. Mr. President, I would just add one point. I guess one of the things that drives home to me, on one of the maps it has geographic classifications and goes from a class one, through two, three and four in terms of overcharges. I guess the thing that hits me most of all because I am exempting the exception, it says for internists there is a 53 percent higher charge in class four, which is my home area and also where a majority of my senior citizens are from. I will also say this. If they were against it, then I would not have received from AARP an endorsement asking me to remove all amendments. I would not have received requests from the AFL/CIO to help their retirees or the ILGWU retirees to support this amendment and to remove all amendments which limit their access.

LEGISLATIVE LEAVE CANCELLED

Senator BRIGHTBILL. I believe Senator Punt is on the floor. His leave can be cancelled.

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Punt. His temporary Capitol leave will be cancelled.

LEGISLATIVE LEAVES

Senator BRIGHTBILL. Mr. President, I would ask for a Capitol leave for Senator Armstrong.

Senator O'PAKE. Mr. President, I would like to request temporary Capitol leaves for Senator Bodack and Senator Williams.

The PRESIDENT. Senator Brightbill requests temporary Capitol leave for Senator Armstrong. Senator O'Pake requests temporary Capitol leaves for Senator Bodack and Senator Williams. The Chair hears no objection. Those leaves will be granted.

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

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

YEAS—29

Afflerbach	Holl	Musto	Rhoades
Andrezeski	Jones	O'Pake	Rocks
Belan	LaValle	Pecora	Salvatore
Bell	Lewis	Porterfield	Scanlon
Bodack	Lincoln	Punt	Shaffer
Fattah	Lynch	Regoli	Stout
Fumo	Mellow	Reibman	Williams
Greenleaf			

NAYS—19

Armstrong	Greenwood	Lemmond	Stapleton
Baker	Helfrick	Loeper	Stewart
Brightbill	Hess	Madigan	Wenger
Corman	Hopper	Peterson	Wilt
Fisher	Jubelirer	Shumaker	

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

On the question,
Will the Senate agree to the bill on third consideration, as amended?

Senator AFFLERBACH, by unanimous consent, offered the following amendment No. A2435:

Amend Sec. 5, page 5, lines 17 through 19, by striking out all of said lines and inserting:

(e) Other disciplinary action.—A third or subsequent violation of this section shall be grounds for the refusal, revocation or suspension of a license, permit, certificate or registration to practice any of the healing arts, and for the imposition of other disciplinary action against a health care practitioner that is found to have violated this section.

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

Senator AFFLERBACH. Mr. President, this amendment directs itself to page 5, lines 17 through 19 of the bill. In committee the bill was amended to specifically state that no penalty imposed under this bill should be considered cause to withhold, suspend or revoke the license of a health care practitioner by a licensing board. My belief is, if this bill is to have any teeth whatsoever, we must, in fact, permit the licensing boards of health care practitioners to take into consideration repeated violations of this act. Therefore, the amendment that

I offer today would strike lines 17 through 19 of the existing bill and replace those lines with language that makes it very clear that for a third or subsequent violation of this particular act, the board of licensure of the appropriate health care practitioner may consider those violations to be grounds for the refusal, revocation or suspension of the license, permit, certificate, registration to practice the healing arts in Pennsylvania. In short, it is an amendment that puts teeth into the enforcement section of the bill and I would ask support for this amendment.

SPECIAL ORDER OF BUSINESS

ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. The Majority and Minority Leaders have given their permission for the Committee on Environmental Resources and Energy to meet immediately in the Rules room to consider House Bill No. 1912 and certain administrative regulations.

LEGISLATIVE LEAVES

Senator O'PAKE. Mr. President, I request temporary Capitol leaves for Senator Lewis, Senator Regoli and Senator Scanlon.

The PRESIDENT. Senator O'Pake requests temporary Capitol leaves for Senator Lewis, Senator Regoli and Senator Scanlon. The Chair hears no objection. Those leaves will be granted.

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

(During the calling of the roll, the following occurred:)

Senator BELAN. Mr. President, I would like to change my vote from "aye" to "no."

The PRESIDENT. The gentleman will be so recorded.

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

YEAS—15

Afflerbach	Fumo	Lincoln	O'Pake
Andrezeski	Jones	Lynch	Regoli
Bodack	LaValle	Mellow	Williams
Fattah	Lewis	Musto	

NAYS—34

Armstrong	Greenwood	Pecora	Scanlon
Baker	Helfrick	Peterson	Shaffer
Belan	Hess	Porterfield	Shumaker
Bell	Holl	Punt	Stapleton
Brightbill	Hopper	Reibman	Stewart
Corman	Jubelirer	Rhoades	Stout
Dawida	Lemmond	Rocks	Wenger
Fisher	Loeper	Salvatore	Wilt
Greenleaf	Madigan		

Less than a majority of the Senators having voted "aye," the question was determined in the negative.

The PRESIDENT. House Bill No. 700 will go over, as amended.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

SB 955 (Pr. No. 2355) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of March 11, 1971 (P. L. 104, No. 3), entitled, as reenacted and amended, "Senior Citizens Rebate and Assistance Act," further defining "income" to exclude certain Social Security cost-of-living increases; and increasing eligibility under the property tax or rent rebate and inflation dividend.

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—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezeski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

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

BILL ON THIRD CONSIDERATION AMENDED

HB 1141 (Pr. No. 3060) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for obscene and other sexual materials; and providing for obscene performances.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator O'PAKE, on behalf of Senator SCANLON, by unanimous consent, offered the following amendment No. A2114:

Amend Title, page 1, line 3, by striking out "and"

Amend Title, page 1, line 4, by removing the period after "performances" and inserting: ; and prohibiting the disclosure of confidential tax information by certain persons.

Amend Bill, page 9, by inserting between lines 1 and 2:

Section 2. Title 18 is amended by adding a section to read:
§ 7326. Disclosure of confidential tax information.

(a) Offense defined.—A person commits a misdemeanor of the third degree if he discloses, except to authorized persons for official governmental purposes, any tax information that is:

(1) designated as confidential by a statute or ordinance of a city of the second class; and

(2) obtained by him in conjunction with any declaration, return, audit, hearing or verification required or authorized by statute or ordinance.

(b) Exception.—Subsection (a) shall not apply where disclosure is required by law or by court order.

(c) Definition.—As used in this section, the term "person" includes, but is not limited to, a current or former officer or employee of the Commonwealth or any of its political subdivisions and any other individual who has access to confidential tax information.

Amend Sec. 2, page 9, line 2, by striking out "2" and inserting:
3

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

Senator BRIGHTBILL. Mr. President, the amendment is not agreed to.

Senator O'PAKE. Mr. President, may we be at ease for a moment.

The PRESIDENT. The Senate will be at ease.
(The Senate was at ease.)

Senator BRIGHTBILL. Mr. President, would the gentleman explain the amendment, please?

Senator O'PAKE. Mr. President, I have a copy of the amendment before me and, while it is not my amendment, for the benefit of the Members I will give a brief explanation of the amendment as I have it. It amends Title 18, adds Section 7326 and provides for the disclosure of confidential tax information and it makes it a criminal offense, a misdemeanor of the third degree, if a person discloses any tax information that is designated as confidential by a statute or ordinance, except to an authorized person or if this information is obtained by him in conjunction with any declaration, return audit, hearing or verification required or authorized by statute or ordinance. It does not apply where the disclosure is required by law or by order of court. It defines a person as a current or former officer or employee of the Commonwealth or any of its political subdivisions or any other individual who has access to confidential tax information.

Senator STEWART. Mr. President, maybe I could explain as it was explained to us in caucus. The City of Pittsburgh or the County of Allegheny—I am not sure which—has been trying to share tax information with the IRS. The IRS has told them that unless we have something in criminal statutes for the misuse of that information, they cannot get it and I believe the amendment gets to that problem.

LEGISLATIVE LEAVE CANCELLED

The PRESIDENT. The Chair recognizes the presence on the floor of Senator Scanlon and would recognize him for further comment.

Senator SCANLON. Mr. President, I apologize. I was advised by Mr. MacNett, the counsel for the Republican caucus, that this amendment was agreed to. Otherwise I

would have never asked the gentleman from Berks, Senator O'Pake, to introduce it on my behalf. If there are any questions on it, I will be glad to answer them.

And the question recurring,
Will the Senate agree to the amendment?
It was agreed to.

The PRESIDENT. House Bill No. 1141 will go over, as amended.

**BILL ON THIRD CONSIDERATION
AND FINAL PASSAGE**

HB 1294 (Pr. No. 3468) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for exemption from registration fees; increasing the penalty for certain parking violations relating to handicapped and disabled veterans' parking spaces; and authorizing local authorities to permit handicapped persons and disabled veterans to issue certain statements.

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—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezeski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

Ordered, That the Secretary of the Senate 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.

BILLS OVER IN ORDER

SB 1396, 1445, 1446, 1448, 1449 and 1450 — Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILLS ON THIRD CONSIDERATION AMENDED

SB 1453 (Pr. No. 2240) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 21, 1943 (P. L. 571, No. 254), entitled, as amended, "The Fourth to Eighth Class County Assessment Law," including third class counties within the scope of the act; further providing for assessment procedures; further providing for appeals of assessments; further providing for the powers and duties of county commissioners and of the governing body of home rule charter counties; making editorial changes; and making repeals.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator BRIGHTBILL, by unanimous consent, offered the following amendment No. A2334:

Amend Sec. 30 (Sec. 602.1), page 21, line 6, by inserting after "Valuation.—": (a)

Amend Sec. 30 (Sec. 602.1), page 21, line 15, by inserting before "The": (b)

Amend Sec. 30 (Sec. 602.1), page 21, by inserting between lines 18 and 19:

(c) A county shall not engage in the practice commonly referred to as "spot reassessment." For purposes of this subsection, "spot reassessment" shall mean reassessment of a property or properties that is not conducted as part of a county-wide revised reassessment and which creates, sustains or increases the disproportionality among properties' assessed values. In the event that a county shall engage in the practice of "spot reassessment," the property owner may appeal the assessment to the board for the assessment and revision of taxes or to the court as set forth in Article VII. Upon a finding by the board for the assessment and revision of taxes or an adjudication by the court that the property owner has been subjected to a "spot reassessment," the county shall be obligated to compensate the property owner for all costs and reasonable attorney fees incurred in filing and hearing the assessment appeal. In addition, the property owner shall be entitled to a refund of any taxes paid pursuant to a "spot reassessment" and interest thereon at the same rate and in the same manner as the Commonwealth is required to pay interest pursuant to section 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code." This subsection shall not apply to counties of the first class.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator BRIGHTBILL.

SB 1454 (Pr. No. 2241) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 22, 1933 (P. L. 853, No. 155), entitled "The General County Assessment Law," limiting the act to counties of the first, second and second A classes; further providing for the powers of the county commissioners relating to assessments; expanding the powers of assessment boards in counties of the first, second and second A classes; providing for optional assessment revision and appeals procedures; and making repeals.

Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

Senator ROCKS, on behalf of himself and Senator SALVATORE, by unanimous consent, offered the following amendment No. A2827:

Amend Sec. 9 (Sec. 402), page 14, by inserting between lines 18 and 19:

(a.3) A county of the first class shall not engage in the practice commonly referred to as "spot reassessment." For purposes of this subsection, "spot reassessment" shall mean reassessment of a property or properties that is not conducted as part of a county-wide revised reassessment and which creates, sustains or increases the disproportionality among properties' assessed values. In the event that a county shall engage in the practice of "spot reassessment," the property owner may appeal the assessment to the board for the assessment and revision of taxes or to the court as set forth in Article V. Upon a finding by the board for the assessment and revision of taxes or an adjudication by the court that the property owner has been subjected to a "spot reassessment," the county shall be obligated to compensate the property owner for all costs and reasonable attorney fees incurred in filing and hearing the assessment appeal. In addition, the property owner shall be entitled to a refund of any taxes paid pursuant to a "spot reassessment" and interest thereon at the same rate and in the same manner as the Commonwealth is required to pay interest pursuant to section 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator ROCKS.

LEGISLATIVE LEAVES

Senator O'PAKE. Mr. President, I request temporary Capitol leave for Senator Scanlon.

Senator BRIGHTBILL. Mr. President, I would ask for a temporary Capitol leave for Senator Pecora.

The PRESIDENT. Senator O'Pake requests temporary Capitol leave for Senator Scanlon. Senator Brightbill asks temporary Capitol leave for Senator Pecora. The Chair hears no objection. Those leaves will be granted.

THIRD CONSIDERATION CALENDAR RESUMED

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1455 (Pr. No. 2242) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 23, 1931 (P. L. 932, No. 317), entitled "The Third Class City Code," further defining "common level ratio"; further providing for board determinations in assessment appeals; providing for assessment errors and refunds; and further providing for court determinations in assessment appeals.

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—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

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

SB 1456 (Pr. No. 2243) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 27, 1947 (P. L. 1046, No. 447), entitled, as amended, "State Tax Equalization Board Law," further providing for powers and duties of the State Tax Equalization Board; expanding use of the common level ratio to third class city assessments; imposing further duties on recorders of deeds; providing for the application of revised assessment rates; and making editorial changes.

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—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

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

SB 1506 (Pr. No. 1987) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 11, 1968 (P. L. 149, No. 84), entitled "Volunteer Firemen's Relief Association Act," further providing for the expenditure of the funds of a volunteer firemen's relief association.

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—50

Afflerbach	Greenleaf	Lynch	Rocks
Andrezski	Greenwood	Madigan	Salvatore
Armstrong	Helfrick	Mellow	Scanlon
Baker	Hess	Musto	Shaffer
Belan	Holl	O'Pake	Shumaker
Bell	Hopper	Pecora	Stapleton
Bodack	Jones	Peterson	Stewart
Brightbill	Jubelirer	Porterfield	Stout
Corman	LaValle	Punt	Tilghman
Dawida	Lemmond	Regoli	Wenger
Fattah	Lewis	Reibman	Williams
Fisher	Lincoln	Rhoades	Wilt
Fumo	Loeper		

NAYS—0

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

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

BILLS OVER IN ORDER

SB 1652 and **HB 1658** — Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

HB 334 CALLED UP OUT OF ORDER

HB 334 (Pr. No. 3765) — Without objection, the bill was called up out of order, from page 12 of the Second Consideration Calendar, by Senator BRIGHTBILL, as a Special Order of Business.

BILL ON SECOND CONSIDERATION AMENDED

HB 334 (Pr. No. 3765) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for a special license plate for Pearl Harbor survivors; promoting the development of the carnival and circus industry by establishing special license fees for vehicles exclusively used to transport carnival and circus rides, shows and concessions on a seasonal basis; further providing for suspension of registration, for revocation or suspension of operating privilege and for cancellation of driver's license; prohibiting discharging, disciplining or discriminating against an employee for refusal to operate a motor vehicle or for filing a complaint or instituting or testifying in a proceeding relating to a motor vehicle safety rule; establishing the Motor Vehicle Transaction Recovery Fund; providing for assessments on holders of motor vehicle dealer registration plates and on agents of the department; providing for penalties; further providing for snowmobile restricted receipts fund, for snowmobile certificates of registration and decals and for exemptions from snowmobile registration; and making a repeal.

The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator CORMAN offered the following amendment No. A2655 and, if agreed to, asked that the bill be considered for the second time:

Amend Title, page 1, lines 2 through 19, by striking out "further providing for a special license plate for" in line 2 and all of lines 3 through 19 and inserting: further providing for certificate of title applications, transfers and security interests and for manufacturer and dealer registration plates; providing for special registration plates for Pearl Harbor survivors and for circus and carnival use; further providing for suspension of registration, suspension of vehicle business registration plates, revocation or suspension of operating privilege and cancellation of driver's license; providing for personnel actions based on certain employee safety considerations and for the Motor Vehicle Transaction Recovery Fund; further providing for a certain restricted receipts fund, for certificates of registration and decals and for exemptions from registration; and making a repeal.

Amend Bill, page 1, line 22; page 2, line 1, by striking out all of said lines on said pages and inserting:

Section 1. Section 1103 of Title 75 of the Pennsylvania Consolidated Statutes is repealed.

Section 2. Title 75 is amended by adding a section to read:

§ 1103.1. Application for certificate of title.

(a) Contents of application.—Application for a certificate of title shall be made upon a form prescribed and furnished by the department and shall contain a full description of the vehicle, the vehicle identification number, odometer reading, date of purchase, the actual or bona fide name and address of the owner, a statement of the title of applicant, together with any other information or documents the department requires to identify the vehicle and to enable the department to determine whether the owner is entitled to a certificate of title and the description of any security interests in the vehicle.

(b) Signing and filing of application.—Application for a certificate of title shall be made within 20 days of the sale or transfer of a vehicle or its entry into this Commonwealth from another jurisdiction, whichever is later. The application shall be accompanied by the fee prescribed in this title, and any tax payable by the applicant under the laws of this Commonwealth in connection with the acquisition or use of a vehicle or evidence to show that the tax has been collected. The application shall be signed and verified by oath or affirmation by the applicant if a natural person; in the case of an association or partnership, by a member or a partner; and in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(c) Manufacturer's Statement of Origin for new vehicles.—If the application refers to a new vehicle, it shall be accompanied by the Manufacturer's Statement of Origin for the vehicle.

(d) Vehicles purchased from dealers.—If the application refers to a vehicle purchased from a dealer, the dealer shall mail or deliver the application to the department within 20 days of the date of purchase. The application shall contain the names and addresses of any lienholders in order of priority, the amounts and the dates of the security agreements, and be assigned by the dealer to the owner and signed by the owner. Any dealer violating this subsection is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$50 for each violation. The requirement that the dealer mail or deliver the application to the department does not apply to vehicles purchased by fleet owners or governmental or quasi-governmental agencies.

(e) Out-of-State vehicles.—If the application refers to a vehicle last previously titled or registered in another state or country, the following information shall be contained in or

accompany the application or be forwarded in support of the application as required by the department:

(1) Any certificate of title issued by the other state or country.

(2) A tracing of the vehicle identification number taken from the official number plate or, where it is impossible to secure a legible tracing, verification that the vehicle identification number of the vehicle has been inspected and found to conform to the description given in the application. The department shall provide by regulation the persons who are authorized to verify vehicle identification numbers under this paragraph.

(3) Any other information and documents the department reasonably requires to establish the ownership of the vehicle and the existence or nonexistence of security interests in the vehicle.

(f) Foreign vehicles owned by military personnel.—If the application refers to a vehicle last previously registered in another country by a person on active duty in the armed forces of the United States, the department may accept a complete form issued by the United States Department of Defense as evidence of ownership.

(g) Specially constructed or reconstructed vehicles.—If the vehicle to be titled is a specially constructed or reconstructed vehicle, that fact shall be stated in the application. The department may promulgate rules and regulations pertaining to the titling of specially constructed or reconstructed vehicles.

(h) Penalties.—Any person who falsely verifies a vehicle identification number under subsection (e)(2) or who verifies a vehicle identification number without being authorized as provided in subsection (e)(2) commits a summary offense punishable by a fine of \$300.

Section 3. Sections 1113(a), 1132(b), 1335 and 1336 of Title 75 are amended to read:

§ 1113. Transfer to or from manufacturer or dealer.

(a) Transfer to manufacturer or dealer.—When the purchaser or transferee of a vehicle is a manufacturer or registered dealer who holds the vehicle for resale, a certificate of title need not be applied for as provided for in section 1111 (relating to transfer of ownership of vehicle) for a period of six months from the date of the assignment, but the transferee shall, within seven days from the date of assignment of the certificate of title to the manufacturer or dealer, forward to the department, upon a form prescribed and furnished by the department, notification of the acquisition of the vehicle. Notification as authorized in this section may not be used in excess of three consecutive transactions after which time an application shall be made for a certificate of title. Notwithstanding the foregoing, a transferee shall apply for a certificate of title no later than six months from the date of the assignment.

§ 1132. Perfection of security interest.

(b) Method of perfection.—A security interest is perfected [by notation thereof by the department on the certificate of title for the vehicle] at the time an application for a certificate of title is received or date stamped by the department. In order to obtain such notation the lienholder shall deliver to the department the existing certificate of title, if any; an application for a certificate of title upon a form prescribed by the department containing the name and address of the lienholder; and any other information regarding the security interest as may be reasonably required and the required fee.

§ 1335. Registration plates for manufacturers and dealers.

(a) General rule.—The department shall issue to dealers and manufacturers licensed by the State Board of Vehicle Manufacturers, Dealers and Salespersons and other dealers governed by

department regulations, upon posting of a bond in the amount of \$20,000, special registration plates which may be displayed on vehicles operating on highways in lieu of registering each vehicle individually.

(a.1) Bond already on file.—An authorized dealer or manufacturer who has filed a bond with the Commonwealth shall not be required to file a separate bond under this section if the bond already on file with the Commonwealth is in the name of the Commonwealth and in an amount and coverage at least equal to that required under this section.

(b) Application for plates.—Application for dealer registration plates shall be made by the dealer or manufacturer on a form provided by the department together with a copy of his license from the State Board of Motor Vehicle Manufacturers, Dealers and Salesmen.

(c) Exemption from individual registration.—Vehicles displaying dealer registration plates may be operated on the highway without registering each vehicle individually, provided that the plates are used in accordance with the limitations of section 1336 (relating to use of dealer registration plates).

(d) Modular housing manufacturers.—For the purposes of this section, no modular housing manufacturer shall be required to be licensed by the State Board of Motor Vehicle Manufacturers, Dealers and Salesmen of the Department of State in order to receive registration plates.

§ 1336. Use of dealer registration plates.

(a) General rule.—Dealer registration plates may be used on any vehicle owned or in possession of a dealer or manufacturer [and operated by the dealer or manufacturer or their employees only when the vehicle is], but only if the vehicle is being held for sale, is unladen except for safety equipment, jumper cables and similar items, or is being used for any of the following purposes:

[(1)] (1) In the business of the registrant as a dealer or manufacturer.

[(2)] (1) For the personal [pleasure or] use of the dealer or members of his immediate family, or when the dealer is a corporation, for the personal [pleasure or] use of the officers or members of their immediate families, or for the personal use of the regular employees of the dealer.

[(3)] (2) For teaching students enrolled in an approved driver education course how to operate a vehicle and for the new driver to take an examination for a driver's license.

[(4)] (3) For testing vehicles in the possession of the dealer or manufacturer.

[(5)] (4) For demonstrating vehicles in the possession of the dealer or manufacturer.

[(6)] (5) For loaning to customers whose vehicles are being repaired.

[(7)] (6) For loaning to prospective purchasers for a period not exceeding five days for the purpose of demonstrating vehicles.

(b) Records.—Records shall be kept by the dealer in a manner prescribed by the department indicating which vehicles have been used as provided in subsection [(a)(3), (6) and (7)] (a)(2), (5) and (6). The records shall be open to inspection by representatives of the department and police officers.

Section 4. Title 75 is amended by adding sections to read:

Amend Sec. 2, page 2, line 23, by striking out "2" and inserting: 5

Amend Sec. 2, page 2, line 23, by striking out "SECTION 1373 OF TITLE 75 IS" and inserting: Sections 1373 and 1374 of Title 75 are

Amend Sec. 2, page 3, by inserting between lines 19 and 20:

§ 1374. Suspension or revocation of vehicle business registration plates.

(a) [General rule] Suspension or revocation after opportunity for hearing.—The department may suspend or revoke regis-

tration plates for dealers, manufacturers or members of the "Miscellaneous Motor Vehicle Business" class after providing opportunity for a hearing in any of the following cases when the department finds upon sufficient evidence that:

(1) [The] Except as provided in subsection (b)(1), the registrant is no longer entitled to licensing as a dealer or manufacturer or to registration in the "Miscellaneous Motor Vehicle Business" class.

(2) The registrant has made or permitted to be made any unlawful use of the vehicle or registration plate or plates or registration card or permitted the use by a person not entitled thereto.

(3) The registrant has knowingly made a false statement or knowingly concealed a material fact or otherwise committed a fraud in any application.

(4) The registrant has failed to give notice of transfer of ownership or of the destruction or junking of any vehicle when and as required by this title.

(5) The registrant has failed to deliver to a transferee lawfully entitled thereto or to the department, when and as required by this title, a properly assigned certificate of title.

(6) The registrant has repeatedly violated any of the provisions of this title.

(7) Any fee payable to the Commonwealth in connection with the operation of the business of the registrant has not been paid.

(b) Suspension without hearing.—The department may suspend or revoke registration plates for dealers, manufacturers or members of the "Miscellaneous Motor Vehicle Business" class without providing the opportunity for a hearing in any of the following cases:

(1) The registrant's license as a dealer or manufacturer has been suspended or revoked by the State Board of Vehicle Manufacturers, Dealers and Salespersons or the board has determined that the registrant is not entitled to such a license.

(2) If the Pennsylvania State Police shall certify that the dealer, manufacturer or member of the "Miscellaneous Motor Vehicle Business" class is no longer in business.

[(b)] (c) Recommended action by State licensing board.—The department may also audit and investigate dealers and manufacturers registered by the State Board of [Motor] Vehicle Manufacturers, Dealers and [Salesmen] Salespersons to determine whether any dealer or manufacturer has violated any provision of this title pertaining to dealers or manufacturers or any regulation promulgated by the department. The department may recommend that the State Board of [Motor] Vehicle Manufacturers, Dealers and [Salesmen] Salespersons suspend the license of any dealer or manufacturer which it finds has committed a violation and the board shall take prompt action on any such recommendations under the act of [September 9, 1965 (P.L.499, No.254), known as the "Motor Vehicle Manufacturer's, Dealer's and Salesmen's License Act."] December 22, 1983 (P.L.306, No.84), known as the Board of Vehicles Act.

Amend Sec. 3, page 3, line 20, by striking out "3" and inserting: 6

Amend Sec. 4, page 5, line 11, by striking out "4" and inserting: 7

Amend Sec. 5, page 6, line 2, by striking out "5" and inserting: 8

Amend Sec. 6, page 9, line 27, by striking out "6" and inserting: 9

Amend Sec. 6 (Sec. 2302), page 10, line 25, by striking out "\$75" and inserting: \$60

Amend Sec. 7, page 13, line 15, by striking out "7" and inserting: 10

Amend Sec. 8, page 16, line 19, by striking out "8" and inserting: 11

Amend Sec. 9, page 17, lines 14 through 20, by striking out all of said lines and inserting:

Section 12. This act shall take effect as follows:

(1) Sections 1 (section 1103), 2 (section 1103.1) and this section shall take effect immediately.

(2) Section 6 (section 1532(a) and (b)(1) and (3)) shall take effect November 1, 1990, or immediately, whichever is later.

(3) Sections 3 (sections 1113(a), 1132(b), 1335 and 1336) and 5 (section 1374) shall take effect in 30 days.

(4) Section 4 (section 1349) shall take effect in 180 days.

(5) The remainder of this act shall take effect in 60 days.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate agree to the bill on second consideration, as amended?

It was agreed to.

Ordered, To be printed on the Calendar for third consideration.

HB 2116 CALLED UP OUT OF ORDER

HB 2116 (Pr. No. 3767) — Without objection, the bill was called up out of order, from page 6 of the Third Consideration Calendar, by Senator BRIGHTBILL.

BILL OVER IN ORDER

HB 2116 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

THIRD CONSIDERATION CALENDAR RESUMED

BILLS OVER IN ORDER

HB 2469 and **2470** — Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

SECOND CONSIDERATION CALENDAR

PREFERRED APPROPRIATION BILL OVER IN ORDER

SB 1559 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

PREFERRED APPROPRIATION BILL ON SECOND CONSIDERATION AND RECOMMITTED

HB 2571 (Pr. No. 3520) — The Senate proceeded to consideration of the bill, entitled:

An Act appropriating money from the Sunny Day Fund to the Department of Commerce for various projects throughout this Commonwealth for fiscal year 1990-1991.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

NONPREFERRED APPROPRIATION BILLS ON SECOND CONSIDERATION AND RECOMMITTED

HB 2515 (Pr. No. 3477) — The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of April 1, 1863 (P. L. 213, No. 227), entitled "An act to accept the grant of Public Lands, by the United States, to the several states, for the endowment of Agricultural Colleges," making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations; and providing a method of accounting for the funds appropriated.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2516 (Pr. No. 3478) — The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of July 28, 1966 (3rd Sp. Sess., P. L. 87, No. 3), entitled "University of Pittsburgh—Commonwealth Act," making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations; and providing a method of accounting for the funds appropriated.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2517 (Pr. No. 3479) — The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of November 30, 1965 (P. L. 843, No. 355), entitled "Temple University—Commonwealth Act," making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations; and providing a method of accounting for the funds appropriated.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2518 (Pr. No. 3480) — The Senate proceeded to consideration of the bill, entitled:

A Supplement to the act of July 7, 1972 (P. L. 743, No. 176), entitled "Lincoln University—Commonwealth Act," making appropriations for carrying the same into effect; providing for a basis for payments of such appropriations; and providing a method of accounting for the funds appropriated.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2519 (Pr. No. 3481) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to the Trustees of the University of Pennsylvania.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2520 (Pr. No. 3482) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to the Hahnemann University, Philadelphia.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2521 (Pr. No. 3483) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to the Thomas Jefferson University, Philadelphia.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2522 (Pr. No. 3484) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to The Medical College of Pennsylvania, East Falls, Philadelphia.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2523 (Pr. No. 3485) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Philadelphia College of Osteopathic Medicine, Philadelphia.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2524 (Pr. No. 3486) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Trustees of Drexel University, Philadelphia.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2525 (Pr. No. 3487) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to the Delaware Valley College of Science and Agriculture at Doylestown.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2526 (Pr. No. 3488) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Philadelphia University of the Arts, Philadelphia.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2527 (Pr. No. 3489) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Philadelphia College of Textiles and Science.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2528 (Pr. No. 3490) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to the Trustees of the Berean Training and Industrial School at Philadelphia.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2529 (Pr. No. 3491) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to the Downingtown Industrial and Agricultural School, Downingtown.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2530 (Pr. No. 3492) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Johnson Technical Institute of Scranton.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2531 (Pr. No. 3493) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Williamson Free School of Mechanical Trades in Delaware County.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2532 (Pr. No. 3494) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Pennsylvania College of Optometry, Philadelphia.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2533 (Pr. No. 3495) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Pennsylvania College of Podiatric Medicine, Philadelphia.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2534 (Pr. No. 3496) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Fox Chase Institute for Cancer Research, Philadelphia, for the operation and maintenance of the cancer research program.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2535 (Pr. No. 3497) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to the Wistar Institute-Research, Philadelphia.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2536 (Pr. No. 3498) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Central Penn Oncology Group.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2537 (Pr. No. 3499) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Trustees of the University of Pennsylvania for cardiovascular studies.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2538 (Pr. No. 3500) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to St. Francis Hospital, Pittsburgh.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2539 (Pr. No. 3501) — The Senate proceeded to consideration of the bill, entitled:

An Act making appropriations to St. Christopher's Hospital, Philadelphia.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2540 (Pr. No. 3502) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Lancaster Cleft Palate.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2541 (Pr. No. 3503) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Pittsburgh Cleft Palate.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2542 (Pr. No. 3504) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Trustees of Jefferson Medical College and Hospital of Philadelphia for a comprehensive program relating to Tay-Sachs disease.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2543 (Pr. No. 3505) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Burn Foundation of Greater Delaware Valley.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2544 (Pr. No. 3506) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Home for Crippled Children, Pittsburgh.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2545 (Pr. No. 3507) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Arsenal Family and Children's Center.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2546 (Pr. No. 3508) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Beacon Lodge Camp.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2547 (Pr. No. 3509) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Trustees of the University of Pennsylvania for the general maintenance and operation of the University of Pennsylvania Museum.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2548 (Pr. No. 3510) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Carnegie Museum of Natural History for maintenance and the purchase of apparatus, supplies and equipment.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2549 (Pr. No. 3511) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Franklin Institute Science Museum.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2550 (Pr. No. 3512) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Academy of Natural Sciences.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2551 (Pr. No. 3513) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Trustees of the Buhl Science Center.

Considered the second time and agreed to,
Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2552 (Pr. No. 3514) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Museum of the Philadelphia Civic Center for maintenance and the purchase of apparatus, supplies and equipment.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2553 (Pr. No. 3515) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Afro-American Historical and Cultural Museum for operating expenses.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

HB 2554 (Pr. No. 3516) — The Senate proceeded to consideration of the bill, entitled:

An Act making an appropriation to the Everhart Museum in Scranton.

Considered the second time and agreed to,

Ordered, To be printed for third consideration.

Upon motion of Senator BRIGHTBILL, and agreed to, the bill just considered was recommitted to the Committee on Appropriations.

BILL ON SECOND CONSIDERATION

SB 452 (Pr. No. 467) — The Senate proceeded to consideration of the bill, entitled:

An Act prohibiting and restricting the use of certain instruments in connection with renal dialysis; granting rights to renal dialysis patients; and imposing duties on the Department of Health.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 452 and 502 — Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 853 (Pr. No. 3768) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for juror qualification.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILL OVER IN ORDER

HB 1023 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILLS ON SECOND CONSIDERATION

SB 1111 (Pr. No. 2352) — The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of November 24, 1976 (P. L. 1163, No. 259), entitled "Generic Equivalent Drug Law," further providing for the addition and deletion of generic drugs from the formulary.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

SB 1202 (Pr. No. 2282) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the Office of State Inspector General in the Office of General Counsel; and providing for the powers and duties of the office.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 1220, 1221, SB 1284 and 1325 — Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

SB 1535 (Pr. No. 2328) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing judgment exemptions.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILLS OVER IN ORDER

HB 1665 and 1831 — Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 2029 (Pr. No. 3314) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for jurisdiction to enjoin certain nuisances in the City of Philadelphia.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILL OVER IN ORDER

HB 2178 — Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 2179 (Pr. No. 3088) — The Senate proceeded to consideration of the bill, entitled:

An Act providing for the creation of tax increment districts; providing for additional powers and duties to be exercised by redevelopment authorities and by industrial and commercial development authorities; authorizing the creation and approval

of project plans for tax increment financing; providing for the establishment of a tax increment base; allocating the payment of positive tax increments; providing for the financing of project costs; and providing for the issuance of tax increment bonds and notes.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

**SENATE CONCURRENT RESOLUTION
NO. 172, CALLED UP**

Senator BRIGHTBILL, without objection, called up from page 14 of the Calendar, **Senate Concurrent Resolution No. 172**, entitled:

A Concurrent Resolution creating a task force and advisory committee to develop a plan to diagnose, treat and refer substance abusers.

On the question,

Will the Senate adopt the resolution?

Senator BRIGHTBILL, on behalf of Senator JUBELIRER, offered the following amendment No. A2674:

Amend Third Resolved Clause, page 2, line 28, by inserting after "providers": and the President pro tempore of the Senate shall appoint one of the members of the advisory committee to be chairman of the committee

Amend Last Resolved Clause, page 3, line 12, by striking out "September 1," and inserting: October 15,

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

Will the Senate adopt the resolution, as amended?

**SENATE CONCURRENT RESOLUTION
NO. 172, ADOPTED, AS AMENDED**

Senator BRIGHTBILL. Mr. President, I move that the Senate do adopt Senate Concurrent Resolution No. 172, as amended.

The motion was agreed to and the resolution was adopted.

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

SB 1059 TAKEN FROM THE TABLE

Senator BRIGHTBILL. Mr. President, I move that Senate Bill No. 1059, Printer's No. 1250, be taken from the table and placed on the Calendar.

The motion was agreed to.

The PRESIDENT. The bill will be placed on the Calendar.

**UNFINISHED BUSINESS
REPORTS FROM COMMITTEES**

Senator ROCKS, from the Committee on Intergovernmental Affairs, reported the following bill:

HB 2350 (Pr. No. 3162)

A Supplement to the act of June 12, 1931 (P. L. 575, No. 200), entitled, "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," authorizing certain projects of the Delaware River Port Authority pursuant to Article XII of the Compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority.

Senator TILGHMAN, from the Committee on Appropriations, reported the following bills:

SB 1523 (Pr. No. 2321) (Rereported)

An Act amending the act of November 4, 1983 (P. L. 217, No. 63), entitled "Pharmaceutical Assistance Contract for the Elderly Act," further defining "maximum annual income."

SB 1661 (Pr. No. 2270) (Rereported)

An Act amending the act of October 20, 1966 (3rd Sp. Sess., P. L. 96, No. 6), entitled "Mental Health and Mental Retardation Act of 1966," requiring reasonably safe conditions for persons in mental health facilities.

HB 1810 (Pr. No. 3751) (Rereported)

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), known as the "Public School Code of 1949," requiring instruction relating to the cause and prevention of alcohol, chemical and tobacco abuse; providing for in-service training programs; requiring in-service training for teachers in the field of substance abuse; establishing a distribution formula for Pennsylvania Drug and Alcohol Abuse Initiative appropriations to the Department of Education; and making a repeal.

Senator FISHER, from the Committee on Environmental Resources and Energy, reported the following bill:

HB 1912 (Pr. No. 3837) (Amended)

An Act amending the act of July 7, 1980 (P. L. 380, No. 97), known as the "Solid Waste Management Act," adding and amending certain definitions; providing that no bond shall be required as a condition for issuance of a permit to a municipality or a municipal authority for land application of sewage sludge; and extending the deadline for filing for a permit for disposal of municipal wastes.

BILLS ON FIRST CONSIDERATION

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

The motion was agreed to.

The bills were as follows:

SB 1528, 1585, 1621, HB 1912 and 2350.

And said bills having been considered for the first time,

Ordered, To be printed on the Calendar for second consideration.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Lee A. Butz and to the William Allen High School Softball Team of Allentown by Senator Afflerbach.

Congratulations of the Senate were extended to Dr. and Mrs. L. Roy Dunkelberger, Mr. and Mrs. David C. Harnish, Mr. and Mrs. Wilson Spang, Mr. and Mrs. William C. Mowery, Sr. and to Mr. and Mrs. Silvio Trenta by Senator Armstrong.

Congratulations of the Senate were extended to William M. Skertich by Senator Bodack.

Congratulations of the Senate were extended to Mr. and Mrs. William Gentzel, Mr. and Mrs. Clyde McGonigal, Mr. and Mrs. Ernest Russo, Mr. and Mrs. John Shadle and to Mr. and Mrs. Clair Wenker by Senator Corman.

Congratulations of the Senate were extended to Florence C. Hughes and to Stephen P. Maddock by Senator Greenleaf.

Congratulations of the Senate were extended to the Order of the Arrow of the Boy Scouts of America on the celebration of the seventy-fifth anniversary of Unami Lodge No. 1 of Treasure Island by Senator Greenwood.

Congratulations of the Senate were extended to Mr. and Mrs. Marvin B. Chandler, Mr. and Mrs. William Neidig, Mr. and Mrs. Marlin R. Pardoe, Mr. and Mrs. Woodrow W. Robbins, Sr., Mr. and Mrs. Robert H. Weaver and to Mr. and Mrs. Chester Zimmerman by Senator Helfrick.

Congratulations of the Senate were extended to Madeline Cartwright by Senator Jones.

Congratulations of the Senate were extended to Francean Marie Pisano by Senator Musto.

Congratulations of the Senate were extended to Hilton L. Woodruff by Senator Peterson.

Congratulations of the Senate were extended to the Hagerstown Municipal Band of Maryland by Senator Punt.

Congratulations of the Senate were extended to Mr. and Mrs. Samuel Chaiken, Christopher Kabrhel and to Boy Scout Troop 155 of Philadelphia by Senator Salvatore.

Congratulations of the Senate were extended to Mr. and Mrs. Philip Blinn, Mr. and Mrs. H. Ross Snyder, Mr. and Mrs. Herbert McConnell, Mr. and Mrs. Steve F. Kern, Jr., Mr. and Mrs. Elmer J. Depew, Mr. and Mrs. Oscar Callihan, Mr. and Mrs. Merle R. Byers, Mr. and Mrs. George Zinz and to the Shenango Area High School Baseball Team of New Castle by Senator Shaffer.

Congratulations of the Senate were extended to Central Lincoln-Mercury, Incorporated of Harrisburg by Senator Shumaker.

Congratulations of the Senate were extended to Bertha Marie Nordness Edwards by Senator Wenger.

PETITIONS AND REMONSTRANCES

Senator SHUMAKER. Mr. President, I rise to draw my colleagues' attention to yet another example of the Casey Administration not putting its money where its mandates are for a vital program that will benefit the people of the Commonwealth of Pennsylvania.

The latest casualty is the Household Hazardous Waste Program which was established by law nearly two years ago. By turning a blind eye to this important environmental protection program, the Governor and the Department of Environmental Resources are raising two very serious questions. First, in light of the fact that the program has been ignored, we must consider the validity of the administration's oft-professed commitment to doing all it can to protect this Commonwealth's very fragile environment. Second, we must question the administration's commitment to upholding and executing laws that were duly passed by the Legislature and signed into law by the Governor.

Mr. President, hardly a day goes by in this Body when we are not confronted with legislation designed to increase protections for the environment, and in proposing a host of strong and comprehensive measures, this Senate has demonstrated that no step is too small or insignificant if it will increase protections afforded to Pennsylvania's natural resources. The Household Hazardous Waste Program could be an important step forward in the Commonwealth's environmental agenda because the dangers posed by everyday materials used in the home are very real. Materials like cleansers, disinfectants, paints, pool sterilizers, garden pesticides and other chemicals are often thrown out with the trash and do threaten our communities.

You know, there are short-sighted people who say, what problems can old paint or a partially full container of weed killer cause compared to drums of toxic waste? The point, Mr. President, is not the amount of the toxic substance, but the severity of its effect if it seeps into our groundwater. And the scientific facts are clear: If these chemicals are improperly disposed of in landfills, the toxic chemicals from these products can leak into groundwater and contaminate a community's drinking water. If we wait for that to occur, if we wait until someone becomes seriously ill or dies, if we wait for the finger pointing to begin, we will have waited too long.

This is the rationale behind the Household Hazardous Waste Program that I sponsored that is part of Act 101. That is the rationale that we in the Senate recognized when we voted to include this program in that bill. The major component of this effort is education, because the people of Pennsylvania just are not aware how toxic these everyday substances are. In addition, the law requires DER to set up a grant program that would help municipalities establish and operate household hazardous waste collection programs. It is the law. Yet, nearly two years after the Governor signed this bill into law, not one dime has gone to local governments to help them set up these programs.

And so an administration that brags about its environmental record is needlessly putting communities in jeopardy

by ignoring a program that the General Assembly has included in the law. This brings us to the second and, frankly, larger concern that the Casey Administration's inaction raises. The administration seems to think that it can separate the law like Pennsylvanians separate their trash for recycling, into parts that are useful and parts that are not. Clearly, the household hazardous waste law has been cast down into the "cannot use" file and pile, and the mandates contained in the law are being treated like yesterday's trash. But this situation has another similarity to yesterday's trash. It is sending off a foul odor, and let me tell you why. Under this Commonwealth's Constitution, the Legislature—elected by the people—writes the laws. The Governor, if he approves of legislation, signs the bill into law. Once the Governor lifts his pen from the bill, the law is the law, unless we in the Legislature amend it or unless the courts throw it out. That is the way the system works, and it has worked very well for more than 200 years.

My copy of the Constitution, Article IV, Section 2, states that "The supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed...." There is nothing added to that sentence saying, "except portions of the law the Governor does not like." Our system of representative government depends on the Executive Branch, led by the Governor, carrying out the laws. There is no right to pick and choose which portions of the law it will obey and which portions it will ignore. Yet this administration has flagrantly disregarded the law. The grant program that the law calls for was not part of the administration's budget proposal for the 1990-91 fiscal year, which begins on Sunday, nor was it included in the current year's budget.

While the department has attempted to smooth over this situation by developing guidelines for municipalities to use in setting up the program, DER has not recommended that any funds be provided to assist in this effort, funds that the laws say must be provided. In fact, one high-level official at the department informed me in a letter that DER feels the cost of the program, a program designed to protect the environment, is "not justified at this time." Mr. President, that is not their call to make. No one elected the bureaucrats at DER. No one pulled a lever in a voting booth to put Art Davis into the Governor's Cabinet, and their unilateral decision to ignore the law should get under the skin of every Member of this Legislature, Democrat or Republican. It sure gets under the skin of the voters. We cannot allow the bureaucracy to usurp the constitutional responsibilities of the Legislature and of the Governor, and we cannot allow the unelected to make choices that we, here, were elected to make.

The Governor's decision to ignore the Household Hazardous Waste Program for almost two years not only puts the health of Pennsylvanians at risk, but it threatens the system of checks and balances that is at the heart of representative government. Clearly, the administration must have realized how poor its record is in this regard, because it has come to my attention that an effort is under way to pass entirely new legislation that, for all intents and purposes, will re-create the

same Household Hazardous Waste Program. Mr. President, this is a perfect example of duplication of legislative efforts for the sole purpose of trying to discredit a good program simply because it was sponsored by a Republican. There are so many pressing concerns in this state, so many problems that the people are urging us to tackle, that it is appalling that some leaders would have us take the time and effort to pass legislation that is already included in the law. But I am an optimist and I like to look on the bright side. One shining light in this situation is that the administration and Members on the other side of the aisle have apparently agreed on a funding source for the Household Hazardous Waste Program. There is a proposal to transfer \$2.5 million from the Solid Waste Resource Recovery Development Fund, a proposal that is welcome. However, by attempting to tangle this issue up in partisan reelection politics, the administration is ignoring the simple and logical solution. After all, if the Governor is willing to transfer funds for a bill of his own origin, why would he not be willing to transfer funds for the same program which is already existing in the law? Whatever route is needed to accomplish this transfer through the budget, through amending any existing bill or other legislative action or action by the Governor, it is surely better than reinventing the wheel for political expediency.

Protecting the environment is a duty of both parties, and it is imperative that we come together in a bipartisan fashion and demand that the administration fully execute and fund Act 101. After all, it is the law.

Senator O'PAKE. Mr. President, without having the benefit of such a carefully prepared script, let me just make my political sound byte less than 30 seconds. The Casey Administration has done more to reduce hazardous waste, toxic waste and all types of solid waste than any other administration in the history of Pennsylvania, period.

CONSIDERATION OF CALENDAR RESUMED

RECONSIDERATION OF SB 1506

BILL ON THIRD CONSIDERATION OVER IN ORDER

SB 1506 (Pr. No. 1987) — Senator BRIGHTBILL. Mr. President, I move the Senate do now reconsider the vote by which Senate Bill No. 1506, Printer's No. 1987, just passed finally.

The motion was agreed to.

And the question recurring,
Shall the bill pass finally?

Senator BRIGHTBILL. Mr. President, I move to reconsider the vote by which the bill was agreed to on third consideration.

The motion was agreed to.

And the question recurring,
Will the Senate agree to the bill on third consideration?

Senator BRIGHTBILL. Mr. President, I request that Senate Bill No. 1506 go over in its order.

The PRESIDENT. Without objection, the bill will go over in its order on third consideration.

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS BY THE GOVERNOR REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows, and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE STATE BOARD OF COSMETOLOGY

June 26, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Helen Rizak Gaskey (Public Member), R. D. #1, Box 164, Daisytown 15427, Washington County, Forty-sixth Senatorial District, for appointment as a member of the State Board of Cosmetology, to serve until March 14, 1992 and until her successor is appointed and qualified, but not longer than six months beyond that period, vice Lisa Smith, Hanover, resigned.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD OF LANDSCAPE ARCHITECTS

June 26, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Marcia A. Hirschmann, 1027 Christy Road, Hermitage 16148, Mercer County, Fiftieth Senatorial District, for appointment as a member of the State Board of Landscape Architects, to serve for a term of three years and until her successor is appointed and qualified, but not longer than six months beyond that period, vice H. Edward Black, Camp Hill, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE STATE BOARD OF NURSING

June 26, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Jean Hathaway Ferguson, 279 Lawndale Avenue, King of Prussia 19406, Montgomery County, Nineteenth Senatorial District, for appointment as a member of the State Board of Nursing, to serve for a term of six years or until her successor is appointed and qualified, but not longer than six months beyond that period, vice Rena Mae Lawrence, Ph.D., Lancaster, whose term expired.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

June 26, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Graysha Harris, R. D. #2, Tunkhannock 18657, Wyoming County, Twentieth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until her successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

MEMBER OF THE STATE PLANNING BOARD

June 26, 1990.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Marleen Reese, R. D. #2, Box 613, Port Matilda 16870, Centre County, Thirty-fourth Senatorial District, for appointment as a member of the State Planning Board, to serve for a term of four years and until her successor is appointed and qualified, pursuant to Act 42, approved July 7, 1989.

ROBERT P. CASEY.

HOUSE MESSAGE

HOUSE INSISTS UPON ITS NONCONCURRENCE IN SENATE AMENDMENTS TO HB 1083, AND APPOINTS COMMITTEE OF CONFERENCE

The Clerk of the House of Representatives informed the Senate that the House insists upon its nonconcurrence in Senate amendments to **HB 1083**, and has appointed Messrs. COWELL, COY and SCHULER as a Committee of Conference to confer with a similar committee of the Senate (already appointed) to consider the differences existing between the two houses in relation to said bill.

BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled and referred as follows, which were read by the Clerk:

June 26, 1990

Senator ROCKS presented to the Chair **SB 1701**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, permitting warrantless arrests for violation of nondomestic protective orders.

Which was committed to the Committee on JUDICIARY, June 26, 1990.

Senators ROCKS, SALVATORE and LYNCH presented to the Chair **SB 1702**, entitled:

An Act amending the act of January 22, 1968 (P. L. 42, No. 8), entitled, as amended, "Pennsylvania Urban Mass Transportation Law," imposing maintenance responsibilities concerning certain streets on the authority, municipalities and the Commonwealth of Pennsylvania.

Which was committed to the Committee on TRANSPORTATION, June 26, 1990.

Senators ROCKS and SALVATORE presented to the Chair **SB 1703**, entitled:

An Act providing for the licensing of paramedics, for the revocation and suspension of licenses and for the renewal of licenses; regulating paramedicine in general; and prescribing penalties.

Which was committed to the Committee on CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, June 26, 1990.

Senators ROCKS and SALVATORE presented to the Chair **SB 1704**, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for sentencing and penalties for trafficking drugs to minors.

Which was committed to the Committee on JUDICIARY, June 26, 1990.

Senators FISHER, SCANLON, DAWIDA, BODACK and REGOLI presented to the Chair **SB 1705**, entitled:

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), entitled, as amended, "Second Class County Code," further providing for the tax on hotel room rentals; and providing for appropriations to tourist promotion agencies.

Which was committed to the Committee on LOCAL GOVERNMENT, June 26, 1990.

ANNOUNCEMENT BY THE SECRETARY

The following announcement was read by the Secretary of the Senate:

SENATE OF PENNSYLVANIA

COMMITTEE MEETING

WEDNESDAY, JUNE 27, 1990

Off the	RULES AND EXECUTIVE	Rules Committee
Floor	NOMINATIONS (to consider certain executive nominations)	Conference Room

ADJOURNMENT

Senator BRIGHTBILL. Mr. President, I move the Senate do now adjourn until Wednesday, June 27, 1990, at 11:00 a.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 7:10 p.m., Eastern Daylight Saving Time.

