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TUESDAY, FEBRUARY 10, 1998

SESSION OF 1998 182ND OF THE GENERAL ASSEMBLY

No. 11

SENATE

TUESDAY, February 10, 1998

The Senate met at 11 a.m., Eastern Standard Time.

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

PRAYER

The Chaplain, Reverend BRUCE W. POTTEIGER, of Christ Evangelical Lutheran Church, Fleetwood, offered the following prayer:

Please bow your heads.

Lord God, we come before You today thankful for the many blessings that You have lavished upon us, for our home and family, for food and for work. We especially thank You for the gift of freedom You have given our land and a gift offered to all nations. Bless and preserve our State and our nation, that each citizen might cherish the freedom they possess, and seek the prosperity of peace and goodwill toward all peoples.

Give this Senate the dedication to work toward the welfare of all people in this Commonwealth. Give them wisdom for their special duties, and with a spirit of love we ask that You, O Lord, would guide this Senate to make all decisions with a spirit of mercy and justice, with uprightness and kindness, that each individual in this Senate might serve unselfishly for the common good of all peoples.

We thank You for Your presence in our deliberations this day. All glory and honor be Yours, O Lord, now and forever. Amen.

The PRESIDENT. The Chair thanks Reverend Potteiger, who is the guest today of Senator O'Pake.

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of February 9, 1998.

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 MESSAGE

**HOUSE CONCURS IN SENATE
CONCURRENT RESOLUTION**

The Clerk of the House of Representatives informed the Senate that the House has concurred in resolution from the Senate, entitled:

Recess adjournment.

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:

February 10, 1998

Senators CONTI, HART, GERLACH, LEMMOND, BRIGHTBILL, TOMLINSON, RHOADES, MELLOW, ROBINS, DELP, SLOCUM, O'PAKE, KASUNIC, HUGHES, AFFLERBACH, STAPLETON, KITCHEN and STOUT presented to the Chair **SB 1289**, entitled:

An Act amending the act of March 4, 1971 (P.L.6, No.2), entitled Tax Reform Code of 1971, providing for the personal income tax treatment of contributions to and distributions from a Keystone Investment and Retirement Plan.

Which was committed to the Committee on FINANCE, February 10, 1998.

Senators KASUNIC, STOUT, BELL, STAPLETON, MELLOW, FUMO, COSTA, RHOADES and MUSTO presented to the Chair **SB 1290**, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for disqualification for a commercial driver's license.

Which was committed to the Committee on TRANSPORTATION, February 10, 1998.

**COMMITTEE OF CONFERENCE
APPOINTED ON HB 1760**

The PRESIDENT. The Chair announces, on behalf of the President pro tempore, the appointment of Senators LOEPER, LEMMOND and KUKOVICH as a Committee of Conference on the part of the Senate to confer with a similar committee of

the House if the House shall appoint such committee to consider the differences existing between the two houses in relation to House Bill No. 1760.

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

REPORTS FROM COMMITTEE

Senator ARMSTRONG, from the Committee on Labor and Industry, reported the following bills:

SB 698 (Pr. No. 1663) (Amended)

An Act relating to the industrial hygiene and safety professions; providing protection to the professions of industrial hygiene and safety.

SB 1247 (Pr. No. 1589)

An Act amending the act of May 2, 1929 (P.L.1518, No.452), entitled, as reenacted and amended, Elevator Regulation Law, providing for technical standards; further providing for regulations and fees; increasing penalties; and providing for accident reporting requirements.

SENATE RESOLUTION

Senators MELLOW, FUMO, BODACK, STAPLETON, MUSTO, O'PAKE and KASUNIC offered the following resolution, which was read as follows:

In the Senate, February 10, 1998

A RESOLUTION

Discharging the Committee on Appropriations from further consideration of Senate Bill No. 1, Printer's No. 1531.

RESOLVED, That Senate Bill No. 1, Printer's No. 1531, entitled "An Act regulating lobbying; providing for further duties of the State Ethics Commission; requiring the registration of lobbyists and principals and the submission of certain reports; providing penalties; establishing a restricted receipts fund; making an appropriation; and making a repeal," having been referred to the Committee on Appropriations on December 8, 1997, and the committee not having reported the same to the Senate for a period of over ten legislative days, the committee is discharged from further consideration thereof.

The PRESIDENT. The resolution will appear on the Calendar.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Indiana, Senator Stapleton.

Senator STAPLETON. Mr. President, I request a temporary Capitol leave for Senator Kukovich, and legislative leaves for Senator Bodack, Senator O'Pake, and Senator Williams.

The PRESIDENT. Senator Stapleton requests a temporary Capitol leave for Senator Kukovich, and legislative leaves for Senator Bodack, Senator O'Pake, and Senator Williams. Without objection, those leaves are granted.

LEAVES OF ABSENCE

Senator LOEPER asked and obtained leaves of absence for Senator HELFRICK and Senator MADIGAN, for today's Session, for personal reasons.

CALENDAR

SENATE RESOLUTION No. 122 CALLED UP OUT OF ORDER, ADOPTED

Senator LOEPER, without objection, called up from page 4 of the Calendar, as a Special Order of Business, **Senate Resolution No. 122**, entitled:

A Resolution designating February 1998 as "Pennsylvania Crimestoppers Month."

On the question,
Will the Senate adopt the resolution?

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

YEA-48

| | | | |
|------------|-----------|-----------|-------------|
| Afflerbach | Gerlach | Mellow | Stapleton |
| Armstrong | Greenleaf | Mowery | Stout |
| Belan | Hart | Murphy | Tartaglione |
| Bell | Holl | Musto | Thompson |
| Bodack | Hughes | O'Pake | Tilghman |
| Brightbill | Jubelirer | Piccola | Tomlinson |
| Conti | Kasunic | Punt | Uliana |
| Corman | Kitchen | Rhoades | Wagner |
| Costa | Kukovich | Robbins | Wenger |
| Delp | LaValle | Salvatore | White |
| Earll | Lemmond | Schwartz | Williams |
| Fumo | Loeper | Slocum | Wozniak |

NAY-0

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

SPECIAL ORDER OF BUSINESS GUESTS OF SENATOR ROBERT J. THOMPSON PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Thompson.

Senator THOMPSON. Mr. President, from time to time the distinguished Senator from Dauphin County introduces students who are shadowing him around the Capitol for a day. The student whom I am introducing casts an extremely long shadow. She is Hande Kartel, from Turkey, a Rotary International exchange student who is here in the United States this year as the guest of the Caln Rotary Club in Chester County, and she is a student at Downingtown High School. With her this morning is Jack Hines, who is the township manager for West Bradford Township in Chester County, and I would like them both to stand so that the Senate may give them its usual warm welcome.

The PRESIDENT. Will our guests please rise so that the Senate may acknowledge you.

(Applause.)

GUESTS OF SENATOR WILLIAM L. SLOCUM PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Warren, Senator Slocum.

Senator SLOCUM. Mr. President, it is indeed a privilege for me this morning to introduce to the Senate some special people from my district. With us this morning is Christa Blose, from Emporium, who is the recipient of the 1997 Poem-of-the-Year Honor Medal presented by the American Family Institute just this morning.

Christa is a fifth grade student in the Cameron County School District and was chosen from a group of 300 students who submitted poems to the American Family Institute. Christa is truly deserving of this prize.

Before introducing the rest of her family, I would like to take a moment today and read the poem that this fifth grade, 11-year-old student wrote. It is entitled "Gift of Time."

(Reading:)

Some people want the most expensive gifts money can buy-
They search for happiness until the day they die.
But gifts far more precious, which don't cost a dime-
Are those freely given called the gifts of time.

My family enjoys going to many different places,
We've had lots of great times and met many new faces.
It doesn't take much money to enjoy the company of each other-
My Mom and Dad always have time for me and my brother.

We really enjoy fishing and camping to name but a few-
My grandparents come along and join in the fun, too!
Lots of nice memories to remember and be retold-
I sure have some good ones and I'm only 11 years old!

True happiness is wrapped up with love as the gift-
People caring about you certainly can give one a lift.
I'm so happy to be part of the family I belong-
When we make time for each other, no one can go wrong!

That is Christa's poem.

I would like to introduce her, along with her mother, Teresa; her father, Ron; her brother, Jason; grandmother, Sue DeMark, and school counselor, Bill Floyd, and ask the Senate to give them its usual warm welcome.

(Applause.)

The PRESIDENT. Our guests have already risen, and I ask the Senate to give them its usual warm welcome.

(Applause.)

SPECIAL ORDER OF BUSINESS LINCOLN DAY ADDRESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, at this point today, it is traditional that we usually have one of our new Members present to the Members of the Chamber a traditional Lincoln Day speech,

and at this time I would ask that you recognize Senator Conti in order to make that presentation.

The PRESIDENT. The Chair recognizes the gentleman from Bucks, Senator Conti.

Senator CONTI. Mr. President, I have been a Member of the State Senate now for less than 3 months, making me not only the newest Republican but by far the most junior Member of this body. Those of you who have been here longer than I know that such a distinction can have its disadvantages. It is early in the day, but I have not yet been asked to chair a powerful committee, and my office is not quite as large or ornate as those of some of my colleagues with more seniority. But Senator Jubelirer has reminded me that being the new kid on the block does bring with it one special honor, and that is offering the annual Lincoln Day Address and tribute to our first Republican President.

I thought today, because there have been many fine Lincoln Day Addresses before mine, that I would reflect a little bit on some of the ideals of our founder of this Commonwealth, William Penn, and then we will try to look at Penn's and Lincoln's ideas together, because certainly a brief reflection of our founder William Penn will show ideas that were really provocative for their time.

In 1681, William Penn received the Land Grant Charter for the colony of Pennsylvania from King Charles II of England in payment of a debt owed by the King to Penn's late father, Admiral Sir William Penn. We all remember that Penn's underlying intention in establishing his colony was to create a haven of religious freedom for the Quakers, a sect of which Penn was a member. And this freedom of religion was an important foundation in his colony. Penn referred to his colony as the holy experiment to establish a godly, virtuous, and exemplary society.

But I think there is much more to his ideas about government. Penn's ideals of government can be found in several major documents. These include the 1681 First Frame of Government, the proposed Constitution for his new colony, the 1682 Great Law, a humanitarian code which formed the basis of Pennsylvania law and which guaranteed liberty of conscience. That is a term I kind of like, "liberty of conscience," or religious freedom, and certainly his famous 1701 Charter of Privileges. The 1681 First Frame of Government claims two basic purposes for government, and I quote, "...to terrify evil-doers;" and "to cherish those that do well." Penn saw government once again, I quote, as "...a thing sacred in its institution and end."

While admittedly not capable of removing the causes of evil, government can serve to crush its effect. Penn felt that correction is the secondary role of government, with the primary role being the care and regulation of the affairs of men. He also felt that the form government takes, be it monarchy or democracy, is not the deciding factor in whether that government is free. What is crucial to freedom is the participation of the people in making the laws. Penn warned that the best planned government is no better than those who run it. Good men and, may I add, women, will fix a bad government, and bad men and women will ruin a good one. Penn comes full circle in suggesting that the more input that people have in making the law, the more likely they are to obey and respect it.

So let us leap some 175 years forward and reflect on the impact of Abraham Lincoln, State legislator and President of our nation. Abraham Lincoln is universally admired for his honesty, strength of character, and his unswerving belief in doing what was right even if it was not politically popular. But one of the traits I admire most about Lincoln was that he never allowed the power and trappings of the most powerful office of the land to go to his head. Abraham Lincoln was truly a man of the people.

By his own admission, Lincoln was a plain, inelegant man. He once said, if I were two-faced, why would I be wearing this one? He came from humble roots and he felt more comfortable among the common people than the rich and well-heeled. Once while Lincoln was attending a gathering of Washington elite, he overheard several dignitaries comment on his appearance. One of them said very loudly, he is a very common looking man. Calmly Lincoln replied, the Lord prefers common-looking people. That is the reason he made so many of us.

Lincoln recognized that our nation was founded on a deep faith in the dignity and basic rights of not only people of common looks but people of common means, people who raise a family, pay taxes, and work hard every day to meet the mortgage and provide a better life for their children and their families. Nobody knew better than Lincoln, a common man blessed with uncommon common sense. As our first Republican President, he left an extraordinary legacy that we are still living up to today, and he serves as a proud reminder of our party's strong foundation and our continuing commitment to representing the common man and to making life better. Our challenges today are much different than those that Lincoln faced. But we can still learn from the way he faced adversity and worked to bring consensus, and most importantly, govern with decency and courage.

Looking back, we can see the monumental tasks that he faced and completed so well to take a nation coming apart at the seams, win the war that tried so hard to tear it apart, and set the tone for what became the healing process. How did he do that? The answer lies within the man. Lincoln was a man of sound judgment. He had an internal moral compass that he trusted to guide his life, regardless of what others told him was right or wrong. No public opinion poll or political pundits could sway his direction when he believed he was right. Lincoln once said, and I quote, "I do the very best I know how-- the very best I can; and I mean to keep doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference."

Like Abraham Lincoln, we as public officials will have to answer our own consciences, and as Lincoln's life provides, our consciences can be a very good guide. In 1861, as the nation stood on the brink of war, Lincoln confidently stated, and again I quote, "The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union when again touched, as surely they will be, by the better angels of our nature." As public officials I believe we have an obligation

every day to trust in the better angels of our nature, and to govern with respect for the common man. It is a privilege and an obligation, one that strikes at the very heart of public service.

When I first came to the Senate, I was struck by the beauty of the Chamber, and in particular, the mural of Lincoln giving his Gettysburg Address. His head is lowered as if by the weight of his sadness and the burden of bringing together our broken Union. It is a low point in the Civil War, but the still weary faces of the soldiers and the hopeful faces of the women and children look to Lincoln, a common man facing an uncertain future with hope, determination, and a belief in God and himself. The words around the painting say, "It is rather for us the living to be dedicated to the unfinished work."

My friends and colleagues, it is an honor and privilege to serve in this General Assembly as I enter my fifth year of service. I think the term that comes to mind more often for me is a term of reverence, and every time I walk into this wonderful building where we all work for the good of the people I am struck by the reverence, the beauty, and majesty that we all participate in here in our public service for the Commonwealth. For centuries now, beginning with our founder William Penn, the people of this great Commonwealth have placed their hopes for a better future for themselves and for their children in those of us sitting in this room, their elected representatives. Let us dedicate ourselves to the unfinished work today and honor Abraham Lincoln, a common man who left his mark in a most uncommon and unforgettable way.

Thank you, Mr. President.

(Applause.)

The PRESIDENT. The Chair, on behalf of the Senate, appreciates the remarks of Senator Conti and his providing such important reflections.

CONSIDERATION OF CALENDAR RESUMED

BILLS ON CONCURRENCE IN HOUSE AMENDMENTS AS AMENDED

SENATE CONCURS IN HOUSE AMENDMENTS

SB 635 (Pr. No. 1659) -- 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 sentencing for the offense of drug delivery resulting in death, for certain assaults by prisoners and for wiretapping and electronic surveillance; and providing for the Office of Attorney General, the General Counsel, special investigative counsel and independent counsel and their powers and duties.

On the question,

Will the Senate concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 635?

Senator BRIGHTBILL. Mr. President, I move that the Senate do concur in the amendments made by the House, as amended by the Senate, to Senate Bill No. 635.

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

LEGISLATIVE LEAVE

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I ask for a temporary Capitol leave for Senator Belan.

The PRESIDENT. Senator Mellow requests a temporary Capitol leave for Senator Belan. Without objection, that leave is granted.

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

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

YEA-36

| | | | |
|------------|-----------|-----------|-----------|
| Afflerbach | Earl | Mowery | Stapleton |
| Armstrong | Gerlach | Murphy | Thompson |
| Bell | Greenleaf | Musto | Tilghman |
| Bodack | Hart | O'Pake | Tomlinson |
| Brightbill | Holl | Piccola | Uliana |
| Conti | Jubelirer | Punt | Wagner |
| Corman | Lemmond | Rhoades | Wenger |
| Costa | Loeper | Salvatore | White |
| Delp | Mellow | Schwartz | Wozniak |

NAY-12

| | | | |
|--------|----------|---------|-------------|
| Belan | Kasunic | LaValle | Stout |
| Fumo | Kitchen | Robbins | Tartaglione |
| Hughes | Kukovich | Slocum | Williams |

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.

BILL OVER IN ORDER

SB 640 -- 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 492 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

THIRD CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 508 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 5 (Pr. No. 1661) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Titles 62 (Procurement), 1 (General Provisions) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, adding provisions relating to procurement; and making repeals.

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?

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, I request temporary Capitol leaves for Senator Loeper, Senator Lemmond, and Senator Delp.

The PRESIDENT. Without objection, those leaves are granted.

And the question recurring,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, Senate Bill No. 5 is a very important proposal that we are dealing with today and perhaps it should have been dealt with on a number of other occasions, but since we did not have the opportunity of doing that, I guess we have to do the best to deal with the proposal today.

Mr. President, the way Senate Bill No. 5 was originally proposed to the Members of the General Assembly, I believe under the sponsorship of Senator Greenleaf, the proposal potentially could have cost the steelworkers and other Pennsylvanians many, many jobs because of some of the problems that were in the bill. It was a controversial provision, Mr. President, in the bill that we were able to remove that would have allowed the use of foreign steel in public projects costing less than \$250,000.

Mr. President, these changes and the way we were able to remove those changes are a significant victory for Pennsylvania working men and women, because without these changes contractors working on public works projects would be free to replace American steel made by American men and women working in American plants, and hopefully Pennsylvania men and women working in Pennsylvania plants. Without this amendment they would have been replaced with foreign steel, steel that would be manufactured in eastern Europe, in Africa, in Asia, or anywhere else but in the United States.

So I am very happy that one of the amendments that we were able to offer ended up with bipartisan support, but initially it was being very strongly pushed by the Democratic Members of the Senate, to eliminate that very controversial provision of the pro-

posal. Mr. President, now there is no threshold of \$250,000 for projects, and there will be a better opportunity for men and women working in the steel industry, manufacturing steel in Pennsylvania and in the great United States of ours. It will give them a greater opportunity to have their steel used in public works projects that are paid for by the taxpayer because of amendments that I am very proud we were able to insert into the proposal. I ask for a positive vote on the bill, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Thompson.

Senator THOMPSON. Mr. President, from time to time the Members of this body have been asked to vote on legislation that can indeed be called historic, and I think today can be that kind of a day. This is a victory for all Pennsylvanians with Senate Bill No. 5. It is something that will have a tremendously positive effect on the citizens of this Commonwealth for many years to come. Today is one of those days, Mr. President. We have the opportunity today to vote in favor of Senate Bill No. 5, which would, for the first time in decades, change the way the Commonwealth of Pennsylvania buys goods and services from its countless vendors and contractors.

Mr. President, we are all well aware, and the Chair particularly, as a leader of Pennsylvania's efforts to reengineer State government, that our current procurement system, there is no question about it, is chaotic, perplexing, and a maze of bureaucracy. It was created many, many years ago when this Commonwealth was a very different place, and at that time in our State government quality, value, and customer service were not a priority when it came to obtaining the needed items or performing the necessary functions that it had to do. The deal was just to get the job done. The result is that over the years, too much taxpayer money that should have gone toward goods and services has been lost instead in wasted time, piles of paperwork, and squandered public assets. Obviously, the administrative practices that caused these problems are not appropriate for the 1990s, and therefore we are in great need of changing the way we do business.

Mr. President, not very long ago Pennsylvania's IMPACCT Commission made the recommendation for many of these changes. The result is Senate Bill No. 5, which would consolidate a confusing array of procurement laws into a single comprehensive code and would save State taxpayers literally hundreds of millions of dollars just in the next several years. Moreover, hopefully it will open the door to scores of small and disadvantaged firms that will be able to do business with the Commonwealth, and for the first time we can give our State agencies more latitude and flexibility in their purchasing practices, while simultaneously demanding better accountability. By centralizing the vast majority of our State procurement policies and services within the Department of General Services and by creating a single procurement manual with one set of guidelines for all our departments and vendors, we can establish a modernized, streamlined purchasing system that will reduce bureaucracy and help to create a more efficient and more customer-friendly State government. With this legislation, we are bringing Pennsylvania into the 20th century, and since it is 1998, I do not think we can be accused of acting too precipitously.

Mr. President, Senate Bill No. 5 will allow us to meet one of the Governor's top priorities in his administration - making government less burdensome and more cost-effective, with an ultimate aim toward better serving the citizens of Pennsylvania. It is long overdue and it simply makes good sense.

Mr. President, I would like to say that Senate Bill No. 5 was years in the making. If I say that, it is not a gross understatement by any means. What we are doing today was first suggested more than 20 years ago. Since then there have been hearings, task forces, and commissions all making meaningful suggestions, most recently, of course, the IMPACCT Commission.

Mr. President, I want to express my appreciation to my colleagues on both sides of the aisle, the Committee on State Government, the legal staffs of the Republican and Democratic leadership, members of the IMPACCT Commission, the Ridge administration, as well as professional trade and labor organizations for their hard work and cooperation in working out many differences and coming to the agreement that makes this bill possible. I urge my colleagues in the Senate to vote in favor of Senate Bill No. 5 and to take advantage of this opportunity to do something meaningful and monumental for the citizens of Pennsylvania.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Chester, Senator Gerlach.

Senator GERLACH. Mr. President, I also rise in support of this legislation. As was just mentioned by Senator Thompson from Chester County, this legislation is the product of a lot of hard work through the process known as IMPACCT, which was set up and established after we passed House Resolution No. 2 in the last Session. And in that House resolution, we specifically authorized the formation of the commission to specifically cut costs, increase efficiency, increase effectiveness, consolidate functions, and bring greater efficiency to the governmental process, and that is exactly what Senate Bill No. 5 does. It brings efficiencies and cost-cutting efforts together in reforming the way State government purchases its supplies, its equipment, and its services. There has been a lot of hard work, as was just mentioned, by staff and representatives from the administration and representatives of the General Assembly to get us to this point today, but through all that hard work, we are going to realize on behalf of the taxpayers hundreds of millions of dollars of savings over the next 5 years.

Too often we in the General Assembly seem to hone in on whether we should increase taxes or decrease taxes, and we do not hone in enough, I believe, on how to make the existing tax dollars that are spent on behalf of our constituents stretch further and bring about more government efficiency and productivity. This legislation will allow us to do that, and we should salute the efforts of the Committee on State Government, under Senator Lemmond, and all the hard work of Senator Thompson and his staff, as well as the administration, for bringing home one of the most important aspects of the IMPACCT Commission report that is bringing about more government efficiency and more produc-

tivity. I salute Senator Thompson and the committee and the staff and the administration for pushing this legislative effort forward to ultimately realize hundreds of millions of dollars of savings for Pennsylvania taxpayers.

Thank you.

The PRESIDENT. The Chair recognizes the gentleman from Lancaster, Senator Armstrong.

Senator ARMSTRONG. Mr. President, would the prime sponsor stand for brief interrogation?

The PRESIDENT. Senator Thompson, would you stand?

Senator THOMPSON. Yes, Mr. President.

Senator ARMSTRONG. Mr. President, under page 41, section 515, line 28, it says, "It is in the best interest of the Commonwealth. The written determination authorizing sole source procurement shall be included in the contract file." I just want to make sure we do not get caught up in some legalese, that this does not override the lowest responsible contractor, whether it be union or nonunion. I just want to make sure it is always the lowest responsible contractor in any major contract that would receive that bid.

Senator THOMPSON. Mr. President, it would not and these would be for small, very small contracts as well, and there will be printed regulations, as there will be printed regulations throughout the bill which would govern those provisions.

Senator ARMSTRONG. Mr. President, so the gentleman sees no threat that they could pick and choose anybody at all? The gentleman sees no threat that someone over in the department could pick and choose who would get the bid? These contracts have to go to the lowest responsible contractor?

Senator THOMPSON. Mr. President, the lowest responsible proposal at this time, yes.

Senator ARMSTRONG. All right, Mr. President. I have no further questions.

I congratulate the prime sponsor for the hard work and urge a "yes" 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:

YEA-48

| | | | |
|------------|-----------|-----------|-------------|
| Afflerbach | Gerlach | Mellow | Stapleton |
| Armstrong | Greenleaf | Mowery | Stout |
| Belan | Hart | Murphy | Tartaglione |
| Bell | Holl | Musto | Thompson |
| Bodack | Hughes | O'Pake | Tilghman |
| Brightbill | Jubelirer | Piccola | Tomlinson |
| Conti | Kasunic | Punt | Uliana |
| Corman | Kitchen | Rhoades | Wagner |
| Costa | Kukovich | Robbins | Wenger |
| Delp | LaValle | Salvatore | White |
| Earll | Lemmond | Schwartz | Williams |
| Fumo | Loeper | Slocum | Wozniak |

NAY-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 105, SB 114, SB 157, SB 212, SB 268 and SB 962 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 985 (Pr. No. 2892) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, reenacted and amended June 29, 1987 (P.L.32, No.14), further providing for sales by liquor licensees, for special occasion permits, for certain performing arts facilities, for stadium or arena permits, for breweries, for local options, for unlawful acts relative to malt or brewed beverages, for unlawful acts relative to liquor, malt and brewed beverages and licensees and for nuisances and injunctions.

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:

YEA-48

| | | | |
|------------|-----------|-----------|-------------|
| Afflerbach | Gerlach | Mellow | Stapleton |
| Armstrong | Greenleaf | Mowery | Stout |
| Belan | Hart | Murphy | Tartaglione |
| Bell | Holl | Musto | Thompson |
| Bodack | Hughes | O'Pake | Tilghman |
| Brightbill | Jubelirer | Piccola | Tomlinson |
| Conti | Kasunic | Punt | Uliana |
| Corman | Kitchen | Rhoades | Wagner |
| Costa | Kukovich | Robbins | Wenger |
| Delp | LaValle | Salvatore | White |
| Earll | Lemmond | Schwartz | Williams |
| Fumo | Loeper | Slocum | Wozniak |

NAY-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.

BILL OVER IN ORDER

SB 1013 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

BILLS ON THIRD CONSIDERATION
AND FINAL PASSAGE

SB 1163 (Pr. No. 1631) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 51 (Military Affairs) of the Pennsylvania Consolidated Statutes, further providing for advisory councils for veterans' homes.

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:

YEA-48

| | | | |
|------------|-----------|-----------|-------------|
| Afflerbach | Gerlach | Mellow | Stapleton |
| Armstrong | Greenleaf | Mowery | Stout |
| Belan | Hart | Murphy | Tartaglione |
| Bell | Holl | Musto | Thompson |
| Bodack | Hughes | O'Pake | Tilghman |
| Brightbill | Jubelirer | Piccola | Tomlinson |
| Conti | Kasunic | Punt | Uliana |
| Corman | Kitchen | Rhoades | Wagner |
| Costa | Kukovich | Robbins | Wenger |
| Delp | LaValle | Salvatore | White |
| Earll | Lemmond | Schwartz | Williams |
| Fumo | Loeper | Slocum | Wozniak |

NAY-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 1261 (Pr. No. 1602) -- 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 sentencing procedure for murder of the first degree.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I request temporary Capitol leaves for Senator Fumo and Senator Hughes.

The PRESIDENT. Without objection, those leaves are granted.

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:

YEA-41

| | | | |
|------------|-----------|-----------|-----------|
| Afflerbach | Gerlach | Murphy | Thompson |
| Armstrong | Greenleaf | Musto | Tilghman |
| Belan | Hart | O'Pake | Tomlinson |
| Bell | Holl | Piccola | Uliana |
| Bodack | Jubelirer | Rhoades | Wagner |
| Brightbill | Kasunic | Rhoades | Wenger |
| Conti | LaValle | Robbins | White |
| Corman | Lemmond | Salvatore | Wozniak |
| Costa | Loeper | Slocum | |
| Delp | Mellow | Stapleton | |
| Earll | Mowery | Stout | |

NAY-7

| | | | |
|--------|----------|-------------|----------|
| Fumo | Kitchen | Schwartz | Williams |
| Hughes | Kukovich | Tartaglione | |

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.

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

SB 100, SB 252, HB 1189 and SB 1239 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

HB 1757 (Pr. No. 2830) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of solicitation of minors to traffic drugs.

Considered the second time and agreed to,

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

SENATE RESOLUTION No. 125, ADOPTED

Senator BRIGHTBILL, without objection, called up from page 4 of the Calendar, **Senate Resolution No. 125**, entitled:

A Resolution designating March 1 as "St. David's Day"; and honoring the many Pennsylvanians of Welsh heritage.

On the question,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

SENATE RESOLUTION No. 126, ADOPTED

Senator BRIGHTBILL, without objection, called up from page 5 of the Calendar, **Senate Resolution No. 126**, entitled:

A Resolution adopting a temporary rule of the Senate relating solely to amendments to the general appropriation bill and other appropriation bills for the fiscal year beginning July 1, 1998, including any amendments offered to or for supplemental appropriations for prior fiscal years.

On the question,
Will the Senate adopt the resolution?

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

YEA-48

| | | | |
|------------|-----------|-----------|-------------|
| Afflerbach | Gerlach | Mellow | Stapleton |
| Armstrong | Greenleaf | Mowery | Stout |
| Belan | Hart | Murphy | Tartaglione |
| Bell | Holl | Musto | Thompson |
| Bodack | Hughes | O'Pake | Tilghman |
| Brightbill | Jubelirer | Piccola | Tomlinson |
| Conti | Kasunic | Punt | Uliana |
| Corman | Kitchen | Rhoades | Wagner |
| Costa | Kukovich | Robbins | Wenger |
| Delp | LaValle | Salvatore | White |
| Earl | Lemmond | Schwartz | Williams |
| Fumo | Loeper | Slocum | Wozniak |

NAY-0

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

**SENATE RESOLUTION No. 127,
AMENDED AND ADOPTED**

Senator BRIGHTBILL, without objection, called up from page 5 of the Calendar, **Senate Resolution No. 127**, entitled:

A Resolution creating a special Senate Committee on Interscholastic Athletics to examine the system of interscholastic athletics in Pennsylvania and to make recommendations to ensure that the organization of athletic competitions in this Commonwealth is in the interests of Pennsylvania's student athletes and citizens.

On the question,
Will the Senate adopt the resolution?

Senator RHOADES offered the following amendment No. A0619:

Amend Third Resolve Clause, page 3, line 14, by inserting after "ex-officio": and a voting

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?

The PRESIDENT. The Chair recognizes the gentleman from Schuylkill, Senator Rhoades.

Senator RHOADES. Mr. President, Senate Resolution No. 127, with its 33 sponsors, proposes to establish a special Senate Committee on Interscholastic Athletics. This committee of 10 Senators, with provisions for an advisory board of interested Pennsylvanians, will work to study and report on the organization

of interscholastic athletics in Pennsylvania by November 30 of this year. The purpose of this special committee is to gather facts.

I think we all know and admit, because we have all talked to each other over the past several months, that many of us have been asked questions about interscholastic athletics and how the PIAA organizes a system of interscholastic athletics for many of Pennsylvania's schools. We have been contacted by constituents, we have talked with principals and coaches, we have read press reports, but we still do not have all the facts, and the questions remain.

The special Committee on Interscholastic Athletics that Senate Resolution No. 127 establishes will give the Senate a mechanism to gather the facts that we need to make a well-reasoned assessment of the situation. Questions have been raised about what action to take on interscholastic athletics and about whether to place this responsibility under a State department, an agency, or subject it to executive or legislative review. Today we do not know the answers to these questions. However, after the special committee submits its report in November, I feel assured that we will have these answers or we will at least know the reasons why, and then we will be prepared to act.

So I ask the Members of the Senate to join me today in support of this resolution to authorize the special Senate Committee on Interscholastic Athletics to gather the facts so that the Senate can decide whether the present organization of interscholastic athletics truly benefits the boys and girls of our great Commonwealth.

Thank you, Mr. President.

The PRESIDING OFFICER (Noah W. Wenger) in the Chair.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Mr. President, I want to congratulate Senator Rhoades for introducing a resolution that is somewhat overdue. Although we have done investigations in the past of the PIAA, I think Senator Rhoades has seized the moment when there is so much discontent with this organization, an organization that I believe is operating totally in the dark from the public and the school districts which support it. Senator Rhoades has been working on this for some time and certainly deserves credit for the strong leadership that he has exerted in bringing this resolution to the forefront.

Mr. President, this is a time when people are demanding greater accountability, not less. The organizations and agencies that choose to act without regard or respect for the public interest or for public concern will soon find themselves under a great deal of scrutiny. When something goes wrong, people look to elected officials for answers and action, irrespective of the assumed independence or autonomy of the offending organization.

There is a rapidly mounting displeasure over the PIAA, and I was amazed, although perhaps I have been the most vocal in my criticism, at the length and the depth of the criticism in this body and in the other House across the Rotunda for this organization. The problems and controversies surrounding the PIAA have been

building for a long, long time. The need to investigate the organization can be found in complaints and reports going back to well before the unfortunate decision on the site of future football championships, which is a very small portion of the allegations against this organization. Media accounts have documented a long list of questionable decisions and unexplained money maneuvers. This step has a precedent, for there have been other times over the years when the General Assembly has been compelled to investigate the PIAA.

I want to be clear, Mr. President, on what is driving this investigation. What the PIAA has done on matters such as eligibility questions and financial practices are the primary issues. We would be voting this resolution and undertaking this investigation irrespective of the decision on the site of various playoffs, whether they be football or other playoffs. There are questions there to be sure, but it is in no way the motivation or the focus of this investigation.

The effort described in Senator Rhoades' resolution is a very, very serious one. It is more than just holding a meeting to exchange unpleasanties and then picking up the action with nothing changed. I think that PIAA officials have a lot to defend and to explain. The public believes, and many here are convinced, that changes are definitely in order. Decisions the PIAA makes affect the lives of students and affect the financial situations of every school district. When they are wrong, these decisions have consequences well beyond the trophy shelf.

Mr. President, there are problems here, and it is time for us as a body to take a hard look at this organization, determine the extent of the problems, and develop necessary solutions. We will do it right, we will do it thoroughly. Under the leadership of Senator Rhoades, I have no doubt that it will be a very comprehensive, forthright, and very compelling investigation that will likely bring about future legislation.

Thank you, Mr. President, for the opportunity to speak on this very important resolution.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I do not want to prolong the morning part of our Session, because I know we have lunch and a caucus and some business this afternoon, but I can only add to what was said by both Senator Jubelirer and Senator Rhoades, that I just add my complete support. This is something that is long overdue. A total investigation has been necessary for a number of years, and I believe under the direction of Senator Rhoades that we will be in very capable hands. We will have four Members of the Democratic side who will be completely prepared and dedicated to this resolution to try to resolve the differences that may exist between the 501 public school districts and the PIAA.

So I say, congratulations. It is long overdue, and I look forward to serving on the committee myself.

Thank you.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Mercer, Senator Robbins.

Senator ROBBINS. Mr. President, I would just like to also thank Senator Rhoades for putting this resolution in, and I just want to make a point that I think is very important. We are not

here today because of a single event. We are here today because of years of activities that have gone on and need to be looked into. We truly have to find out, as we look at the interscholastic sports system in Pennsylvania, what truly is best for our student athletes and go forward from here.

As a person who has been involved as an athlete, as a coach, as a teacher, as a person who worked with the USA Wrestling Association, the Olympic organization outside of the Pennsylvania Interscholastic Athletic Association, over the last 40 years that I have been involved there have been consistent complaints about the processes. I think we truly are to the point today, and again, not because of a specific event but because of years of things that have added up through the referees associations, the coaches, the schools, that we need in Pennsylvania a system that truly addresses the student athletes. So I commend all the people who have gotten involved in this, and I think this is a very necessary resolution.

And the question recurring,

Will the Senate adopt the resolution, as amended?

A voice vote having been taken, the question was determined in the affirmative.

SENATE RESOLUTION No. 128, ADOPTED

Senator BRIGHTBILL, without objection, called up from page 5 of the Calendar, **Senate Resolution No. 128**, entitled:

A Resolution urging Congress to take action on comprehensive transportation funding legislation and supporting an increase in Federal funding of transportation projects.

On the question,

Will the Senate adopt the resolution?

The PRESIDING OFFICER. The Chair recognizes the gentleman from Blair, Senator Jubelirer.

The PRESIDENT pro tempore. Mr. President, I have a few remarks as the prime sponsor of Senate Resolution No. 128. Mr. President, for more than a year now, Congress has been debating the details of reauthorization for Federal transportation funding. The outcome of this debate has enormous consequences for Pennsylvania, determining how broad our State transportation effort will be and how quickly we can move on priority projects. In light of our extensive transportation needs, we cannot afford to have moneys steered to other States. In light of our priorities, we cannot afford to have money raised for transportation withheld from transportation.

Federal funding pays for the largest share on most of our major transportation projects and thus is absolutely indispensable to the program. Congressman Bud Shuster, the chairman of the Transportation and Infrastructure Committee of the United States Congress, and other transportation advocates have been working to commit more Federal transportation revenues to the distribution under a potential 6-year reauthorization.

I had an opportunity to spend some time in Washington this past week at a leader-to-leader conference, Mr. President. It clearly was the number one issue before legislators and legislative leaders all across these United States. We had the opportunity to meet with Congressman Gephart, Senator Kerry, Con-

gressman Shuster, Congressman Casey, and Senator Trent Lott, and the leaders across the country were crying out for this solution.

This resolution now puts the Senate on record as supporting the efforts of Congressman Shuster and others who have done a remarkable job in advocating for Pennsylvania's interest and delivering on projects throughout the State. Transportation is a vital part of our effort to hold jobs and to attract jobs, and many projects are necessary to improve safety.

My colleague, Senator Tomlinson of Bucks County, was the first to suggest that the Senate should go on record while this debate was taking place. Frankly, Mr. President, as he stands up to express his views, I look at him and tell him, Senator, you were right. We owe it to the people in the communities who are awaiting a favorable decision to demonstrate our support for Pennsylvania getting a fair share and a necessary share of Federal transportation funding.

Thank you, Mr. President. I urge all Members to support Senate Resolution No. 128.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Bucks, Senator Tomlinson.

Senator TOMLINSON. Mr. President, I want to congratulate and thank Senator Jubelirer for his efforts in traveling to Washington to talk to the different leaders. One of the things that struck me when this debate first began that I think is most important, if you turn to page 2, line 15, in this resolution, and I will read it to you, "Whereas, Money raised through Federal transportation taxes should be used to pay for transportation projects and enhanced motor vehicle and truck safety measures, not to cover deficits in other areas of Federal endeavor."

I think that is one of the most important points we have to make in this resolution, that money raised for transportation and motor and truck safety should be spent on transportation. And as someone who comes from a district whose transportation infrastructure has been neglected for many, many years and who has worked very, very hard to turn that situation around, I want to thank the Senate for passing this resolution. I want to thank the President pro tempore for sponsoring it, and I ask for everyone's support.

LEGISLATIVE LEAVES CANCELLED

The PRESIDING OFFICER. Senator Kukovich and Senator Hughes have returned, and their temporary Capitol leaves will be cancelled.

The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, Senator Loeper and Senator Lemmond have returned, and I request that their temporary Capitol leaves be cancelled.

The PRESIDING OFFICER. Senator Loeper and Senator Lemmond have returned, and their temporary Capitol leaves will be cancelled.

And the question recurring,

Will the Senate adopt the resolution?

A voice vote having been taken, the question was determined in the affirmative.

UNFINISHED BUSINESS SENATE RESOLUTIONS ADOPTED

Senators WENGER, STAPLETON, JUBELIRER, EARLL, BRIGHTBILL, CORMAN, STOUT, BELAN, HELFRICK, ROBBINS, KASUNIC, WAGNER, MOWERY, O'PAKE, MUSTO, TOMLINSON, AFFLERBACH, GREENLEAF, SALVATORE, COSTA, THOMPSON, ARMSTRONG, PUNT, SLOCUM, RHOADES, PICCOLA, LEMMOND, GERLACH, SCHWARTZ and HART, by unanimous consent, offered **Senate Resolution No. 130**, entitled:

A Resolution proclaiming the week of February 21 through 28, 1998, as "Future Farmers of America Week" in Pennsylvania.

Which was read, considered and adopted.

Senators BRIGHTBILL, JUBELIRER, LOEPER, ROBBINS, EARLL, GERLACH, WENGER, WAGNER, GREENLEAF, ULIANA, HECKLER, MOWERY, BELAN, KITCHEN, SALVATORE, COSTA, TOMLINSON, WHITE, FUMO, AFFLERBACH, MADIGAN, CORMAN, SLOCUM, STOUT, O'PAKE, MUSTO, ARMSTRONG, RHOADES and SCHWARTZ, by unanimous consent, offered **Senate Resolution No. 131**, entitled:

A Resolution designating Saturday, February 14, 1998, as "Read to Your Child Day" in Pennsylvania.

Which was read, considered and adopted.

HOUSE MESSAGE

HOUSE INSISTS UPON ITS NONCONCURRENCE IN SENATE AMENDMENTS TO HB 1760, 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 1760**, and has appointed Representatives CLYMER, RAYMOND and M. COHEN 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.

PETITIONS AND REMONSTRANCES

Senator KUKOVICH. Mr. President, can I respectfully request Petitions and Remonstrances at this time?

Senator LOEPER. Mr. President, in order to deal with the timeframe that we are dealing with today, I would be willing to let the gentleman proceed in that order of business.

The PRESIDING OFFICER. We will go to Petitions and Remonstrances, and the Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I would like to thank Senator Loeper, but I would like to turn the microphone over to Senator Schwartz for Petitions and Remonstrances.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Philadelphia, Senator Schwartz.

Senator SCHWARTZ. Mr. President, I thank the Majority party for allowing us to do Petitions and Remonstrances at this point in time. I would like to speak to a resolution that I just introduced today. It is a resolution on which I had hoped for wide bipartisan support. Unfortunately, that did not occur. Instead we have every Democrat signed on to this resolution and not one Republican. I was surprised about that.

The resolution addresses an issue that we dealt with in the General Assembly a number of years ago. It has to do with Medicare. It is a resolution that memorializes Congress to be sure not to allow bills that they have pending before both the House and the Senate on the Federal level, House Bill No. 2497 and Senate Bill No. 1194, which are referred to as the Medicare Beneficiary Freedom to Contract Act, and while that sounds like a good thing, in fact it would be very detrimental to the seniors in Pennsylvania.

We have taken a stand on this issue in Pennsylvania. My colleagues may recall that in 1990 we passed a measure with wide bipartisan support that was referred to as the MOM Act. What that did was to assure that physicians and practitioners could not charge Medicare recipients additional fees for Medicare-covered services. Unfortunately, this Federal legislation, if it were to pass, would undo the MOM legislation. It would undo those protections for our seniors and for the disabled in Pennsylvania.

I will try to be brief here, but it is really quite astounding what this legislation would do. Let me explain briefly, if I may, the Medicare private contracting legislation that is pending before Congress, and I will tell you that a number of Pennsylvania Congressmen and at least one of our Senators have already signed on to this legislation, so it is a serious threat to our seniors. What this would do would really undermine the health insurance program for our seniors in this country. It would say that practitioners could charge on a service-by-service basis. They could choose to say I am not going to accept Medicare in this instance and would say to the patient, if you want to continue seeing me, this is my fee and I am going to charge you independently. If you choose not to see me, obviously they could then start to shop around for someone who would take the Medicare rates.

Right now it is possible for physicians not to choose to accept Medicare. About 10 percent of them do not, but 90 percent of the physicians in this country accept Medicare rates and charges. The fact that at a vulnerable time for seniors when they are sick for a practitioner to say I will see you but I will not accept the Medicare covered rate, instead you have to either shop around or pay me my fee, is really taking advantage of the consumer in this situation. That is something that we have been outspoken about in Pennsylvania. We have some extraordinary services for our seniors. We have a PACE program that notwithstanding some debate about PACENET, I think all of us are very proud of the kinds of services we provide, the kinds of benefits we provide to our seniors in this State.

It seems to me that one of the things we ought to do in the Senate and the House, but certainly starting in the Senate, is to speak out and to say we do not want our seniors and our disabled to be vulnerable in this way. We believe that the Medicare sys-

tem works, it works very well for both providers and for consumers, and we want it protected. And no matter what kind of flowery, fancy language about freedom to choose that you might want to put into this legislation the way it has been touted, the fact is that it would be harmful to our seniors.

I have drafted a letter as well, which was written to our entire Congressional delegation, and I will read parts of it, because I think it helps make clear what is wrong with this program. (*Reading:*)

This federal legislation...contains no real benefits for Medicare patients. Doctors would be permitted to opt in or opt out of the program on a patient by patient basis, even procedure by procedure and as a result, charge seniors whatever they please for services. Currently, there are limits on fees charged by doctors who participate in the Medicare program. Allowing doctors to contract privately for services with individual seniors, on a per service basis, will undermine the Medicare program. Instead it will provide incentives to doctors to treat only wealthier patients, increase the potential for fraud and abuse, and mean greater out of pocket expenses for beneficiaries. It will create uncertainty and confusion for Medicare beneficiaries and providers and may result in seniors unable to obtain needed medical services. All of these consequences are counter to the purpose of Medicare, which was always to be an assurance of necessary medical services to all Americans over 64 years of age.

I call on our entire Congressional delegation to be aware of the negative effects of this legislation on our seniors, and I call on my colleagues, both Republican and Democrat, as we have before, to stand up for the seniors in Pennsylvania, to stand up for coverage for medical services as they have been in the past. We have a strong and important history of providing for seniors, the only group in this country that is guaranteed some coverage for medical services. We are moving in the direction of some additional coverage and substantial additional coverage for children in this country. We are actually even looking at legislation in this General Assembly that would assure that those who are covered under managed care would have access to certain kinds of services that are important and necessary.

This is a dramatic move backwards, and it is unacceptable, I believe, to many of us in this Chamber, and I hope that this resolution will be dealt with in committee and will be voted on, because I do believe that most of us in this Chamber want to protect Medicare for the seniors in Pennsylvania, for the disabled in Pennsylvania, and we ought to lend our voice to that.

Thank you for the opportunity to speak on this, Mr. President, and hopefully we will have the resolution heard in committee and on this floor in the future. Thank you.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, just for the record, the gentlewoman circulated a sponsorship memo back at the end of January, January 26, I think, and she is only today putting the resolution in and she asked for unanimous consent. I think the tradition here in the Senate has been that when something is substantive, we do not grant unanimous consent, that we put it through the committee system to take a look at it as is appropriate, and as the gentlewoman notes, this is very substantive and very important. Our not giving unanimous consent was not re-

lated to the substance but merely related to the fact that we wanted some time to take a look at it, and I am certain that we will. The gentlewoman from Philadelphia raises an important issue.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Montgomery, Senator Greenleaf.

Senator GREENLEAF. Mr. President, I would like to rise to address two bills that I introduced that the Senate just passed. One is Senate Bill No. 635, and as it is now written it would accomplish two important goals. The first one would be to update our present wiretap laws to put law enforcement on the same level, on the same playing field as the criminals who are now using modern technological devices to evade the law and to break the law, and this update of our wiretap law would make it similar to the Federal wiretap legislation in other States and give law enforcement the opportunity to deal with and investigate criminals on the same technological playing field.

In addition, the legislation also would punish prisoners who commit assaults against prison guards or other individuals with bodily fluids. It is a common practice in prison for prisoners to attack guards by using bodily fluids, and so Senate Bill No. 635 would make it a third-degree felony for a prisoner to intentionally cause a person to come in contact with certain bodily fluids. In addition, it would make it a second-degree felony if that individual, when the assault occurs, is infected with a communicable disease such as Hepatitis B or HIV, and the sentences would be served consecutively, not concurrently.

In addition, the Senate passed Senate Bill No. 1261, which adds an additional aggravating circumstance when an individual is convicted of first-degree murder and the jury is requested to determine whether the person should be sentenced to death or life imprisonment. This bill would add an additional aggravating circumstance or a circumstance in which the jury would be allowed to determine that a person was entitled to the death penalty or should receive the death penalty, and that is when an individual commits a murder in order to obtain life insurance proceeds.

This was a situation that arose in Montgomery County in which an individual committed a murder in order to obtain the life insurance proceeds of his wife, who was a working mother and who was killed by her husband in order for him to obtain the life insurance proceeds to continue his illicit lifestyle. At the present time, when this matter came to trial and he was convicted of first-degree murder, the district attorney of Montgomery County was prevented from asking for the death penalty because there were no aggravating circumstances that applied in this case. If we had this provision in place, he then could have asked for the death penalty and the jury could have considered the fact that he committed this murder to obtain life insurance proceeds.

Certainly, such action is similar to a contract murder. It is premeditated and cold-blooded in order to obtain proceeds as a result of this murder. I think it was certainly an important step for us to take, and I thank and congratulate the Senate for passing both measures.

Thank you.

RECESS

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Mr. President, I now ask for a recess of the Senate. We expect to be out until 1:00 or 1:30, and would reconvene at that time.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I would like to announce a Democratic caucus at 12:45.

The PRESIDING OFFICER. For purposes of a Democratic caucus and perhaps other activities, the Senate will stand in recess to the call of the Chair. The Senate stands in recess.

AFTER RECESS

The PRESIDING OFFICER (David J. Brightbill) in the Chair.

The PRESIDING OFFICER. The time of recess having expired, the Senate will come to order.

REPORT OF COMMITTEE OF CONFERENCE

Senator LOEPER submitted the Report of Committee of Conference on **HB 1760**, which was placed on the Calendar.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 1

REPORT ADOPTED

HB 1760 (Pr. No. 2949) -- The Senate proceeded to consideration of the bill entitled:

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, further providing for eligibility for absentee ballots, for the powers and duties of county boards of election and the Secretary of the Commonwealth, for court establishment of new election districts, for polling place layouts, for voting machines, for special elections for members of the General Assembly, for affidavits of candidates, for objections to nomination filings, for ballot number and samples and for absentee ballots; removing certain jurisdiction from the courts; further providing for late contributions and independent expenditures, for unlawful possession and counterfeiting of ballots, for forged and destroyed ballots, for perjury, for tampering with voting machines, for illegal or unlawful voting, for denial of voting, for election officer fraud, for election interference, for violence at polls, for improper party voting, for repeat voting, for removal of ballots, for election bribery, for duress and intimidation of voters and for absentee violations; and making repeals.

Senator LOEPER. Mr. President, I move that the Senate adopt the Report of the Committee of Conference on House Bill No. 1760.

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

MOTION TO SUSPEND RULES

The PRESIDING OFFICER. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I was a member of the Committee of Conference and at the last minute did get a chance to look at the amendment to House Bill No. 1760, which became the Committee of Conference Report. And I have had a chance to see that there are some very positive things in that Conference Committee Report, some things that Members on both sides of this aisle have supported in the past and have voted for in the past, but there is some very troublesome language in the bill, and I had an oral amendment which I offered in the Committee of Conference because we did not have the opportunity, obviously, to get the written amendment drafted. It did show up minutes after the Committee of Conference was over. I do have that amendment in front of me now, and I would like to, at this point, move to suspend the rules for the purpose of offering an amendment to the Conference Committee Report.

The PRESIDING OFFICER. The motion to suspend the rules is out of order, as there is a highly privileged question before the Senate.

PARLIAMENTARY INQUIRY

Senator KUKOVICH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The gentleman will state his parliamentary inquiry.

Senator KUKOVICH. Mr. President, if I were to appeal the ruling of the Chair, would we be able to get a roll-call vote on that?

The PRESIDING OFFICER. The matter would then be submitted to the body.

RULING OF THE CHAIR APPEALED

Senator KUKOVICH. Mr. President, because of the serious nature of the specific language which this potential amendment would address, I think it would be important that we do have a roll-call vote. That being the case, I would like to appeal the ruling of the Chair.

The PRESIDING OFFICER. The gentleman has appealed the ruling of the Chair that a motion to suspend the rules to offer an amendment to a Committee of Conference Report is out of order.

An "aye" vote sustains the appeal, and a "no" vote sustains the Chair.

On the question,
Shall the appeal of the ruling of the Chair be sustained?

LEGISLATIVE LEAVES

The PRESIDING OFFICER. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, Senator Delp and Senator Earll have been called from the floor, and I request legislative leaves on their behalf. Senator Gerlach has been called to his

office, and I request a temporary Capitol leave on his behalf, and also for Senator Bell, Senator Tilghman, and Senator Punt.

The PRESIDING OFFICER. Without objection, the legislative leaves for Senator Delp and Senator Earll, and temporary Capitol leaves for Senator Gerlach, Senator Bell, Senator Tilghman, and Senator Punt will be approved.

The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I request temporary Capitol leaves for Senator Kasunic and Senator Stapleton.

The PRESIDING OFFICER. Senator Kukovich requests temporary Capitol leaves for Senator Kasunic and Senator Stapleton. Without objection, those leaves will be granted.

And the question recurring,
Shall the appeal of the ruling of the Chair be sustained?

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

YEA-20

| | | | |
|------------|----------|-----------|-------------|
| Afflerbach | Hughes | Mellow | Stout |
| Belan | Kasunic | Musto | Tartaglione |
| Bodack | Kitchen | O'Pake | Wagner |
| Costa | Kukovich | Schwartz | Williams |
| Fumo | LaValle | Stapleton | Wozniak |

NAY-28

| | | | |
|------------|-----------|-----------|-----------|
| Armstrong | Gerlach | Mowery | Slocum |
| Bell | Greenleaf | Murphy | Thompson |
| Brightbill | Hart | Piccola | Tilghman |
| Conti | Holl | Punt | Tomlinson |
| Corman | Jubelirer | Rhoades | Uliana |
| Delp | Lemmond | Robbins | Wenger |
| Earll | Loeper | Salvatore | White |

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

The PRESIDING OFFICER. The ruling of the Chair is sustained.

And the question recurring,
Will the Senate agree to the motion to adopt the Committee of Conference Report on House Bill No. 1760?

The PRESIDING OFFICER. The Chair recognizes the gentleman from Westmoreland, Senator Kukovich.

Senator KUKOVICH. Mr. President, I am asking for a "no" vote on the Committee of Conference Report on House Bill No. 1760 for one very specific reason. Within the text of this bill, which when it first reached our desks was about a 2 1/2-page bill and is now about a 56-page bill, a number of things changed. Senate Bill No. 200, which this body approved last year, was placed for the most part into this Conference Committee Report, absent the language of third-party signatures, which led to a gubernatorial veto.

But there is some language in here dealing with the affidavit of Senate and House Members that causes great concern. Currently, if there is a question of eligibility for a candidate for one of these State offices, if it has to do with age, if it has to do with

residency, if it has to do with the provisions of embezzlement or defrauding of money, that is a decision that is to be decided by the courts. If this language were to stand, that rule of law would be undercut and replaced by a rule of majority, in essence turning that decision over to the respective body where the election is taking place, be it the House or the Senate. Not only does that change the rules under which we have operated in midstream, it also apparently has been done, because I know of no other such circumstances currently, because of an instance in the House of a potential challenge over residency.

I think it is a problem to try to pass such special interest legislation. The name of this bill would not be read this way, and we might not mention it in this Chamber, but certainly in the media and outside these halls, if this legislation actually comes into law, this will be referred to as the Pippy bill. I think that is a dangerous precedent to set, and I think not only because of the isolated circumstances under which that legislation was amended into this Conference Committee Report, but also because of the precedent it sets.

I would submit to this body that if this language stands, then someone from any other jurisdiction, any other State, could circulate a petition and their opponent would not have legal standing to prevail in court. Their day in court would be lost. And assuming the person who is violating the residency requirement was able to have enough funds, was able to run the kind of campaign where they could prevail, they could be seated, if, probably, their party was in the Majority. I think that flies in the face of basic fairness. I think it flies in the face of the Democratic process.

And when I say process, that brings me back to another question. Do you remember how embarrassed we all were when Senate Bill No. 200 passed at the last minute last year and then the newspapers, the editorials showed that what we had done was made it virtually impossible for a third party candidate to gather enough names on a petition to place her or his name on the ballot? The Governor vetoed that. The same kind of thing is happening now where at the last minute a bill is placed before us and another subterfuge is being presented. I would hope that Governor Ridge, as an advocate of good government and had vetoed that bill once before, would veto this bill if it reaches his desk in this form.

But I would just like to say based on that process, and I have risen on the floor of this Chamber to talk about that process once before, and I do not mean to place this just at the feet of the Republican Majority here. I do think the Republican House also should recognize that being in the Majority carries with it a certain responsibility. And I would suggest that, and I would like you to hold me to this, if my party were in the Majority and they were trying to do this to your party to help one Democratic Member, I would vote with the Republican Party. I think that is how fundamentally unfair this flaw is in the bill. Whether we are in the Majority or the Minority, we have a responsibility not only to our process but to the fact that this kind of effort breeds disrespect for the entire system. I do not think any of us want to be a party to that.

For all those reasons, Mr. President, I would ask for a vote against the Conference Committee Report.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, very briefly, the bill that is before us today, the Conference Committee Report as is contained in House Bill No. 1760, essentially, as the gentleman indicated, contains many of the provisions that the Members of this Senate already have voted on, and I think as the gentleman also stated in his remarks, ones that were very positive issues that came before us. As he also indicated, one of the problems with Senate Bill No. 200 dealt with the filing of third-party candidates and the requirements thereof, and that language has been deleted from the bill that is before us.

There are only two changes, Mr. President, in the legislation that we are about to vote on today that have not appeared before us before, and I think one of those is the ratification of the constitutional amendment question in November of 1997 relating to absentee ballot eligibility by changing the standard from the former county of residence to the absence from municipality of residence. That was overwhelmingly passed by the electorate in the November election.

The other provision to which the gentleman alluded has to do with the affidavit requirements, and that essentially what the affidavit requirement change in the bill reflects is a 1984 Supreme Court decision which essentially returns to the rules set forth by the court regarding the separation of powers issue where it is the duty of the Chambers to determine the qualifications of its Membership.

And therefore, Mr. President, I would ask for an affirmative vote on the bill.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, House Bill No. 1760 as before us today is a blatant slap in the face to the 12 million people who live in this Commonwealth who asked for elected officials who are going to represent their best interests and are going to uphold the oath of office that we take as State Senators that day that we were sworn in in January the year following the election. Mr. President, in that oath of office that we take we guarantee that we will uphold, honor, and obey the Constitution of the United States and the Constitution of Pennsylvania.

Mr. President, I believe this is a very important issue, it deals with our Founding Fathers and the Constitution, and I hope that we can have some form of participation on the floor where we have the opportunity of being heard, and I hope the Senate could come to order.

The PRESIDING OFFICER. Would the Senate please come to order.

The gentleman may continue.

Senator MELLOW. Mr. President, the first thing that we are asked to do when we are elected to the Senate for the initial time is to uphold, obey, and defend the Constitution of the United States and the Constitution of Pennsylvania. Mr. President, that is probably the most important thing that we must do as elected

officials here in the Commonwealth and in the State Senate, because each one of us should remember that this is not our office. We only hold this office in trust for the people who have elected us as long as we are doing the type of job that they want us to do and as long as we are upholding the Constitution of Pennsylvania and of the United States.

Well, House Bill No. 1760 just slams right in the face of that oath of office. And I heard Senator Loeper say before in his remarks that the reason for the bill was because of a 1984 court ruling, but the thing that he did not tell us, Mr. President, was that in the Session of 1985, the Majority party changed that ruling through Act 4. It was Senate Bill No. 3 in the Session of 1985. So what Senator Loeper said to us about complying with a court order of 1984 was changed by the General Assembly in Act 4, Senate Bill No. 3, of 1985, signed into law by Governor Dick Thornburgh. Unfortunately, the story was not completed.

The part that bothers me with this bill is not the fact that it will be named after a Member of the House of Representatives, and I think that Senator Kukovich did an excellent job in explaining it here on the floor and in representing the interests of 12 million people in front of a conference committee, not that it may be known as the Pippy bill, Mr. President, but what in fact it does to violate the oath of office that we have taken, and I will try to point out very quickly what I am referring to, Mr. President.

In this particular proposal, on page 14 and on page 15 of the proposal, on page 14, line 28, it reads, "In cases of certificates for candidates for the General Assembly, the candidate's affidavit shall state (1) that the candidate will satisfy the eligibility requirements contained in sections 5 and 7 of Article II of the Constitution of Pennsylvania." It further goes on, Mr. President, to say that the candidate also must be a resident of the district for 1 year and of the Commonwealth for 4 years, and that if you are going to be a Member of the Pennsylvania State Senate, if you are going to run for office, according to the Constitution, you must be at least 25 years of age on the first day of the term of office, which means you could run when you are 24, but before you can be sworn in you must be 25. And if you are going to run for the House of Representatives, the same thing would hold true and you must be 21 years of age.

And then it goes on further, Mr. President, and says that the candidate must swear in the affidavit that he or she has not been convicted of embezzlement of public money, bribery, perjury, or other infamous crimes. What this bill does, Mr. President, is wipes that part of the requirement out of the affidavit, which means basically this: that if an individual, in section 5 of the Constitution, who is under the age of 25 on the day he or she is supposed to take office, that no longer will the Constitution take effect because we have eliminated that from the affidavit before he can run for office, what will then kick in is the politics of the General Assembly at the time, which means that if the makeup of the Senate would be to the point where that one person, even though that person is underage, the only way that individual could not be seated is if the Members of the Senate, the Majority Members then would say that person cannot be seated, which

means we have removed it from a constitutional requirement which we have been sworn to uphold and we have now made it a political requirement which the Members of the General Assembly say should take place. And that in its own right, Mr. President, is egregious as far as I am concerned.

But the part that offends me even much greater is basically not the residency. The way the residency is with this proposal, as advanced by the Republican Party here in the Senate today, is that if you are a resident of the States of Virginia or West Virginia or Ohio or New Jersey or any other State outside of Pennsylvania and you have moved into Pennsylvania within the past year or within the past 3 1/2 years, basically the way the law is today prior to the enactment of this proposal, if you come from out of State into Pennsylvania, you must be a resident for 4 years if you want to run for the General Assembly, and you must be a resident of your district for 1 year.

Well, Mr. President, what this proposal says, as it has been explained to me to try to protect a Member of the House of Representatives who apparently was not a citizen or a resident of Pennsylvania for 4 years and would not meet that requirement, what basically House Bill No. 1760 would say is that when you file your affidavits, you do not have to swear to the fact that you have been a resident of Pennsylvania for 4 years and a resident of the district for 1 year. We will leave that up to the governing body or to the body to which you have been elected to make that jurisdictional authorization once you have been elected.

Mr. President, the last part of it, which is Section 7, Article II, of the Pennsylvania Constitution, and Section 7, Article II, of the Pennsylvania Constitution is very clear. It says that you will be ineligible by criminal conviction. Section 7 says, "No person hereafter convicted of embezzlement of public moneys, bribery, perjury or other infamous crime, shall be eligible to the General Assembly, or capable of holding any office of trust or profit in this Commonwealth."

I started out, Mr. President, by saying that those of us who have the opportunity of serving in this body, this is not our office. We do not own this office. We only hold this office in trust for the constituents who have sent us here. The Constitution says that you may hold the office, that you are capable of holding any office of trust. This is an office of trust, but what we are doing with the enactment of House Bill No. 1760 is we are abusing that trust because we are circumventing the Constitution of Pennsylvania, which our forefathers worked on for the best interests of all the people who reside in this State. We are saying if the Republicans are successful today and Governor Ridge signs into law House Bill No. 1760, that two parts of that Constitution, Article II, Sections 5 and 7, of the Constitution are invalid until the individual has been elected and then only valid if the General Assembly and the body that person has been elected to decides that they should move on that person's eligibility or certification to take the term of office.

Mr. President, the way I look at this, this is an absolute abuse of authority, it is an absolute abuse of power. An infamous criminal is defined as anyone who commits a felony. A felon can be a person who is a serial murderer, an individual who has commit-

ted the most heinous crime you can commit in Pennsylvania. Yet because the affidavit has been removed on the eligibility of a criminal conviction, that person can run for this body or the body across the Rotunda from ours, the House of Representatives, and the only way that person can be removed from office is not by the Constitution but by a vote of the Members of the body in which he or she has been elected to, if in fact this particular proposal carries.

Mr. President, this is an absolute violation of the Constitution. It is a great indication to us that absolute power corrupts absolutely, because if we were not in the position of trying to protect, which I understand is one House Member, we would not be dealing with this particular proposal here today because I would believe that confidentially there is not a Member of this Chamber who will tell you privately that this is something that we as elected officials should be working on. It is not what we have been elected to do. We have been elected to uphold the Constitution and not, in fact, to violate it. We have been elected to represent in the best interest of the people who have sent us here what they reflect we should represent, Mr. President. And we have been elected to hold an office in trust, and by us adopting a proposal like this, we have completely, completely neglected and violated our constitutional mandate when we were sworn into office, and I would ask for a negative vote.

I cannot believe that in this day and age with public scrutiny the way it is, with each and every one of us living in that so-called fishbowl that we all live in, with the fact that we are to defend and to protect the basic rights and principles that have founded this great State and this great country of ours, that we would even be considering such a noxious piece of legislation, and I ask for a negative vote.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, again, I think very briefly, the issue is that we are returning to the rules set down by the Supreme Court in 1984. And, Mr. President, this is in accord with the Constitution of Pennsylvania, and I believe if we took a look it would be Article II, Section 9, that in part says that each House shall be the judge of the election and qualification of its Members. It says nothing about the courts becoming involved. I think, Mr. President, the Constitution is quite clear, and the qualifications as outlined in the Constitution stand. They are not circumvented in any way, and it is for the Senate and the House of Representatives to enforce those qualifications.

Mr. President, I believe that the oaths that the Members take here are the same as those that are taken by the judiciary, and I believe that the Members of each House certainly have the integrity to judge the qualifications of their Members.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, this is a complicated debate, and I speak this afternoon to the people of Pennsylvania, because I know talking in here to my Republican colleagues is basically a waste of time. I speak to the people of Pennsylvania through

the Chair, which I must do, and again I thank God for PCN, that people can come in and watch what is actually going on here.

Mr. President, this nation always prided itself on being a government of law, not a government of men. We have to ask ourselves, what does that mean? To some people it becomes confusion. What it means, Mr. President, is that we set down laws for conduct and then we all abide by those laws uniformly, that men do not change them as they see fit. No one likes the rules changed in the middle of the game. Mr. President, what is going on here today is a very simple exercise of the arrogance of absolute power. What happened was we happened to have an individual serving in the General Assembly in the House, Mr. Pippy, who does not meet the constitutional qualifications for serving there. But because he is a Republican, there were no expulsion procedures taken against him in that house because Republicans control that house. They are not going to expel one of their own, regardless of the Constitution. But because now he has to file to run again and under our law must sign an affidavit stating that he has lived in this Commonwealth for a period of 4 years, that presents a problem to him and to the Republican Party, because when he signs on that dotted line, citizens from his district can go to court and say he does not meet the qualifications. And as is the case for every other elected office, if you do not meet the qualifications when you file your affidavit in your candidacy, you are stricken from the ballot. And because there is a fear that that will happen, because that is the law, what is the Republican answer to this? Change the law. The hell with the Constitution. The hell with right and wrong. Absolute power controls.

This is one great lesson for the children of Pennsylvania to learn about how its State government works. We give out all those little booklets, *How Does A Law Get Made? How Does A Bill Become A Law?* I think the title is. But what we fail to tell those children is the corruption of arrogant power. That is what they see today, and that is what Pennsylvanians will see. Does anyone in their right mind believe for one instant that if this is taken out and this law passes and the Governor signs it, which I fully suspect he will, does anyone think for one moment that there will be an action in the House of Representatives to expel Mr. Pippy because he does not meet the constitutional requirements to be in that house? No, we all know that is not going to happen. This is a way to shield him from the judicial process that applies to every one of us.

If you run for Auditor General of Pennsylvania, or if you run for Attorney General of Pennsylvania, if you run for Governor of Pennsylvania, you have to file an affidavit and you have to meet all those criteria. But not if you run for the House or the Senate.

So what we are watching here today, ladies and gentlemen of Pennsylvania, is a law being written which in essence says if you are a Republican, you are not bound by the constitutional requirements to hold office. You are given a special category, an elitist category. You can do what you want. That is not what America is about. That is not what this State is about, and I am ashamed of my colleagues on that side of the aisle for putting forth this kind of philosophy today as we adjourn.

It is being done right now and it is going to steamroll through because on the 17th of February the petitions start to be circulated. I cannot believe that the people who stood here with me when I took my oath of office to uphold the Constitution are going to vote today to say that that Constitution does not require Republicans to have to listen to it. You should be ashamed of yourselves. You should be ashamed for your party, and the rank-and-file Members there should be very upset with their leadership for trying to pull this off.

Mr. President, it is a sad day in Pennsylvania, and regrettably the days get sadder and sadder and sadder as we take the Constitution of this State and basically rip it up. It does not mean anything. It means what the Majority wants it to mean. That is not what America is about, that is what dictatorships are about. That is not what democracies are about.

Mr. President, I urge a negative vote, and I am very sure that every one of the Republicans over there will vote "yes" to protect their party and put their party above the Constitution. It is a shame, but as I have said to you before, keep it up, keep it up, keep it up and eventually the people of Pennsylvania will wake up and throw you out of this Chamber. But then again maybe you will find another law that says you can sit here forever. Who knows?

Thank you, Mr. President.

And the question recurring,

Will the Senate agree to the motion to adopt the Committee of Conference Report on House Bill No. 1760?

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

YEA-27

| | | | |
|------------|-----------|-----------|-----------|
| Armstrong | Greenleaf | Murphy | Thompson |
| Bell | Hart | Piccola | Tilghman |
| Brightbill | Holl | Punt | Tomlinson |
| Conti | Jubelirer | Rhoades | Uliana |
| Corman | Lemmond | Robbins | Wenger |
| Delp | Loeper | Salvatore | White |
| Gerlach | Mowery | Slocum | |

NAY-21

| | | | |
|------------|----------|-------------|----------|
| Afflerbach | Hughes | Musto | Wagner |
| Belan | Kasunic | O'Pake | Williams |
| Bodack | Kitchen | Schwartz | Wozniak |
| Costa | Kukovich | Stapleton | |
| Earll | LaValle | Stout | |
| Fumo | Mellow | Tartaglione | |

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.

**UNFINISHED BUSINESS
SENATE RESOLUTION ADOPTED**

Senators ULIANA, AFFLERBACH, LAVALLE, KASUNIC, CORMAN, HELFRICK, EARLL, SALVATORE, WHITE, BRIGHTBILL, O'PAKE, BELAN, TOMLINSON, LEMMOND,

STOUT, COSTA, FUMO, ROBBINS, SLOCUM, WENGER, WOZNIAK, HOLL, LOEPER, THOMPSON, GREENLEAF, SCHWARTZ, RHOADES, MUSTO, ARMSTRONG and TILGHMAN, by unanimous consent, offered **Senate Resolution No. 132**, entitled:

A Resolution declaring the week of March 16, 1998, as the American Cancer Society's "Daffodil Days."

Which was read, considered and adopted.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Mr. and Mrs. Leo Kelly, Mr. and Mrs. C. Edwin Schlinkman and to Cody Ressel by Senator Armstrong.

Congratulations of the Senate were extended to Ronald H. Quinter by Senator Brightbill.

Congratulations of the Senate were extended to Samuel A. Overholt by Senator Earll.

Congratulations of the Senate were extended to Bryan S. Batdorf, Peter Bierman Bistline, Daniel Dean LaBar, Mark Dong Lee, Aaron Michael Richer and to Jeff Ziembicki by Senator Holl.

Congratulations of the Senate were extended to Mr. and Mrs. Leonard Phillips and to Erma Grace Baily by Senator Lemmond.

Congratulations of the Senate were extended to Alan F. and Marlene L. Hoffman and to Baldwin-Whitehall Council of PTAs by Senator Murphy.

Congratulations of the Senate were extended to the Historic Harrisburg Association by Senator Piccola.

Congratulations of the Senate were extended to Susan Baldwin by Senator Robbins.

Congratulations of the Senate were extended to Zonia Zoltek by Senator Salvatore.

Congratulations of the Senate were extended to Andre R. Kydd by Senator Schwartz.

Congratulations of the Senate were extended to Christa Blöse and to the Owens-Brockway Glass Containers Crenshaw Plant by Senator Slocum.

Congratulations of the Senate were extended to Michael Henning by Senator Thompson.

Congratulations of the Senate were extended to Andrew Robert Tarry by Senator Tomlinson.

CONDOLENCE RESOLUTIONS

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

Condolences of the Senate were extended to the family of the late Joseph R. Kovish by Senator Afflerbach.

Condolences of the Senate were extended to the family of the late Jack Sher by Senators Afflerbach and Uliana.

BILLS ON FIRST CONSIDERATION

Senator MURPHY. Mr. President, I move that 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 698 and **SB 1247**.

And said bills having been considered for the first time, Ordered, To be printed on the Calendar for second consideration.

BILL SIGNED

The PRESIDING OFFICER. The Chair wishes to announce that the following bill was signed by the President in the presence of the Senate:

HB 1291

RECESS

The PRESIDING OFFICER. The Chair recognizes the gentleman from Delaware, Senator Loeper.

Senator LOEPER. Mr. President, before I make a motion, for the information of the Members, I am going to request of the Chair that the Senate recess to the call of the President pro tempore because there are bills that have to go back and forth yet from the House. However, it will be the intention upon the adjournment motion that the Senate would adjourn until Monday, March 9, 1998, at 2 p.m. However, I am not in a position at this point to make that motion, and I would at this time request a recess to the call of the President pro tempore.

The PRESIDING OFFICER. The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Mr. President, my only request for information on that is that I am assuming that there will be no further roll-call votes taken, it is just for the purpose of waiting for bills and things?

Senator LOEPER. Mr. President, the gentleman is correct.

The PRESIDING OFFICER. It has been moved by Senator Loeper that the Senate do now recess to the call of the President pro tempore.

The motion was agreed to.

The PRESIDING OFFICER. The Senate stands in recess.

AFTER RECESS

The PRESIDENT pro tempore (Robert C. Jubelirer) in the Chair.

The PRESIDENT pro tempore. The time of recess having expired, the Senate will come to order.

HOUSE MESSAGES**HOUSE CONCURS IN SENATE BILL**

The Clerk of the House of Representatives returned to the Senate **SB 1209**, with the information the House has passed the same without amendments.

HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE BILLS

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate to **HB 14** and **HB 1048**.

BILLS SIGNED

The PRESIDENT pro tempore (Robert C. Jubelirer) in the presence of the Senate signed the following bills:

SB 1209, HB 14 and **HB 1048**.

RECESS

The PRESIDENT pro tempore. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Mr. President, I move that the Senate recess to the call of the President pro tempore.

The PRESIDENT pro tempore. Senator Mellow moves that the Senate do now recess to the call of the President pro tempore.

The motion was agreed to.

The PRESIDENT pro tempore. The Senate will stand in recess to the call of the President pro tempore.

AFTER RECESS

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

The PRESIDENT. The time of recess having expired, the Senate will come to order.

ADJOURNMENT

Senator PICCOLA. Mr. President, I move that the Senate do now adjourn until Thursday, February 12, 1998, at 8:33 a.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 11:59 p.m., Eastern Standard Time.