COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

TUESDAY, JUNE 15, 1976

Session of 1976 160th of the General Assembly Vol. 1, No. 110

SENATE

TUESDAY, June 15, 1976.

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

The PRESIDENT pro tempore (Martin L. Murray) in the Chair.

PRAYER

The Chaplain, The Reverend RICHARD WOLF, Pastor of St. James Lutheran Church, Coopersburg, offered the following prayer:

Let us pray:

Father, thanks for the freedom and renewing experience of fun and sleep. Thanks also for the need to come back to work. For to work is to be involved in a purpose, and we know the purpose of what we are about here is beautiful, to promote order and justice among all people. We also know government is one of Your gifts to us, and we give praise to You for all those who participate so intimately in that process.

Bless all those who have been given power to make decisions for all people. Make them proud of that responsibility as their lives are spent in the legislative processes.

Be God of this Session and work Your works through this Session and through all of us. In our Lord's Name we pray, Amen.

JOURNAL APPROVED

The PRESIDENT pro tempore. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session.

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

SENATOR NOLAN TO VOTE FOR SENATOR ZEMPRELLI

Senator NOLAN. Mr. President, I request a legislative leave of absence for the gentleman from Allegheny, Senator Zemprelli.

The PRESIDENT pro tempore. The Chair hears no objection, and the leave of absence will be granted.

COMMUNICATION FROM THE GOVERNOR

NOMINATIONS BY THE GOVERNOR REFERRED TO COMMITTEE

The Secretary to the Governor being introduced, presented communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows, and referred to the Committee on Rules and Executive Nominations:

MEMBERS OF THE STATE BOARD OF EXAMINERS OF PUBLIC ACCOUNTANTS

June 15, 1976

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate the following for appointment as members of The State Board of Examiners of Public Accountants, pursuant to Act 148, approved December 16, 1975:

Charles Kofsky, C.P.A., 1008 Arboretum Road, Wyncote 19095, Montgomery County, Twelfth Senatorial District, to serve for a term of four years and until his successor is appointed and qualified.

Louis A. Werbaneth, Jr., C.P.A., 325 Holiday Drive Pittsburgh 15237, Allegheny County, Fortieth Senatorial District, to serve for a term of four years and until his successor is appointed and qualified.

Irving Yaverbaum, C.P.A., 315 Edward Street, Harrisburg 17110, Dauphin County, Fifteenth Senatorial District, to serve for a term of four years and until his successor is appointed and qualified.

William Francis Jacobs, Jr., Esquire (At-large), Apartment 101, 5619 Kentucky Avenue, Pittsburgh 15232, Allegheny County, Thirty-eighth Senatorial District, to serve for a term of four years and until his successor is appointed and qualified.

MILTON J. SHAPP

HOUSE MESSAGES

HOUSE BILL FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 2387**, which was referred to the Committee on Agriculture.

HOUSE ADOPTS REPORT OF COMMITTEE OF CONFERENCE

He also informed the Senate that the House insists upon Report of Committee of Conference on **SB 1365**.

HOUSE INSISTS UPON ITS NONCONCURRENCE IN AMENDMENTS TO HB 614, AND APPOINTS COMMITTEE OF CONFERENCE

He also informed the Senate that the House insists upon its nonconcurrence in Senate amendments to **HB 614**, and has appointed Messrs. GEISLER, BRUNNER and L. E. SMITH 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.

SENATE BILL RETURNED WITH AMENDMENTS

He also returned to the Senate **SB 954**, with the information that the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDENT pro tempore. The bill, as amended, will be placed on the Calendar.

HOUSE CONCURS IN SENATE BILLS

He also returned to the Senate **SB 636, 637, 1327, 1329, 1330** and **1359**, with the information that the House has passed the same without amendments.

BILLS SIGNED

The President pro tempore (Martin L. Murray) in the presence of the Senate signed the following bills:

SB 636, 637, 1011, 1166, 1327, 1329, 1330, 1359, 1365, HB 361, 385, 460, 690, 1690 and **1893.**

REPORTS FROM COMMITTEES

Senator NOSZKA, from the Committee on Appropriations, rereported, as committed, **SB 1431** and **1466**; as amended, **SB 121** and **HB 856**; reported, as committed, **SB 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, HB 2456, 2457** and **2458.**

Senator REIBMAN, from the Committee on Education, reported, as committed, **HB 2123.**

BILL REREFERRED

Senator NOSZKA, from the Committee on Appropriations, returned to the Senate **HB 545**, which was rereferred to the Committee on Public Health and Welfare.

BILLS INTRODUCED AND REFERRED

Senators O'PAKE, MURRAY, LEWIS, DOUGHERTY, JUBELIRER, DWYER, SWEENEY and MESSINGER presented to the Chair **SB 1614,** entitled:

An Act establishing an Office for Children, a Child Development Coordinating Council and a State Advisory Council on Children; providing for their powers and duties; requiring the development of a comprehensive Statewide child care service plan; and making an appropriation.

Which was committed to the Committee on Aging and Youth.

Senator HILL presented to the Chair **SB 1615**, entitled:

A Joint Resolution proposing amendments to the Constitution of the Commonwealth of Pennsylvania, further providing for the Municipal Court of Philadelphia.

Which was committed to the Committee on Judiciary.

Senators KURY, SMITH, EWING and HOBBS presented to the Chair **SB 1616,** entitled:

An Act amending the act of August 5, 1941 (P. L. 752, No. 286), entitled "Civil Service Act," further providing for the disqualification and removal of officers and employes.

Which was committed to the Committee on State Government.

Senators ROMANELLI and NOLAN presented to the Chair **SB 1617,** entitled:

An Act prohibiting smoking and eating in certain conveyances operated in counties of the second class and providing a penalty.

Which was committed to the Committee on Law and Justice.

Senators ROMANELLI, ROSS and NOLAN presented to the Chair **SB 1618,** entitled:

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), entitled, as amended, "Second Class County Code," providing for the appointment of a solicitor by the coroner, only in counties of the second class.

Which was committed to the Committee on Local Government.

RECESS

Senator NOLAN. Mr. President, I request a recess of the Senate until 4:00 p.m., for the purpose of holding a Democratic caucus and a Republican caucus.

The PRESIDENT pro tempore. Are there any objections? The Chair hears no objection, and declares a recess of the Senate until 4:00 p.m., Eastern Daylight Saving Time.

AFTER RECESS

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

CALENDAR

REPORTS OF COMMITTEES OF CONFERENCE

BILLS OVER IN ORDER

HB 153 and **SB 668**—Without objection, the bills were passed over in their order at the request of Senator NOLAN.

REPORT ADOPTED

HB 1817 (Pr. No. 3406)—Senator NOLAN. Mr. President, I move that the Senate adopt the Report of Committee of Conference on House Bill No. 1817, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, adding revised, compiled and codified provisions relating to vehicles and pedestrians.

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

Senator LYNCH. Mr. President, when this bill originated in the House nine months ago, the Commonwealth of Pennsylvania, in conformation with the Motor Vehicle Code, was fifty out of fifty-one. The only one behind us was the District of Columbia, Washington D. C.

The primary purpose of the proposed Motor Vehicle Code is to bring the traffic rules of the Commonwealth into compliance with the requirements of the Federal Highway Safety Act, and the standards, principally, the uniform standards for state highway safety programs. This is what the Conference Committee, after the passage of House Bill No. 1817, tried to do in bringing this bill to the floor.

Some of the major points of the bill are: They have deleted studded tires effective May 1, 1978; staggered registration will become effective July 1, 1978; colored photographs on licenses effective July 1, 1978, cost to be borne by applicant, about forty cents to sixty cents every four years.

The limited license which was known as the "bread and butter" license has been deleted from the bill itself.

State Police are the only ones authorized to use radar.

In the ARD program, now the courts are required to notify the Department of Transportation on the action taken.

The drunken driving phase, first conviction, six months suspension; the same if a person refuses to take a Breathalizer test.

Drivers' education is not mandatory, but is left to the option of the student. He can still get an adult license and an insurance break if he completes that program.

The effective date of the point system, the amnesty in penalties in this bill will be upon the signature of the Governor. The effective date of the remainder of the bill will be July 1, 1977.

Mr. President, I urge my colleagues on both sides of the aisle to cast an affirmative vote on this bill.

Senator FLEMING. Mr. President, I rise, unfortunately, to oppose the adoption of the Conference Committee Report. Admittedly, I guess we could term this a mixed bag. It has some good provisions and some very bad provisions. I guess this, to some extent, is normal, although it, perhaps, should not be.

I would like to read just one sentence that appeared in yesterday morning's Philadelphia Inquirer. This was the lead sentence of the article which appeared on the front page, and it stated, "Pennsylvania's hundreds of thousands of bad drivers are about to be left off the hook." I guess that about sums it up.

For, with all the good provisions that are provided as our friend, the gentleman from Philadelphia, Senator Lynch, just noted, there is still the amnesty provision that remains a part of the bill. That is the only part of the bill that becomes effective immediately upon the Governor's signature. All the other parts of the measure become effective on either July 1, 1977, or July 1, 1978. But the amnesty provision alone becomes effective upon the signature of the Governor, and there are hundreds of thousands waiting for that to take place. It is my understanding that PennDOT has all the machinery in order to restore driving privileges with the Governor's stroke of a pen.

The pluses have already been pointed out by the gentleman from Philadelphia, Senator Lynch. Driver education is back in the measure; the ban on studded tires, of course, becomes effective in 1978. Unfortunately, that should take place sooner. It would save us a good many hundreds of thousands of dollars of highway repairs. The "bread and butter" license is no longer a part of this measure. All of these are pluses, but I think that the emphasis must be placed on the fact here that, not only are we granting amnesty to poor drivers, by the very philosophy of this measure, since it will be immeasurably more difficult to acquire points now under this new bill, we have changed the philosophy of the present Motor Vehicle Code, which is one of penalizing drivers, recognizing that driving is a privilege and a responsibility. We have made it much easier to pay fines, higher fines admittedly, but acquire less points.

How often have we all heard people say in our Districts, "I do not mind paying the fine, I just do not want the points." This is exactly what is happening here with this Motor Vehicle Code. We have adopted this philosophy and said, all right, it is perfectly all right now for you to pay higher and higher fines. They are high fines. Illustrative of this is the fine for drunken driving which the maximum was $300 and it could go as high as $2,500. It will cost you a good deal to drink and drive now, which it should. But the suspension of license is reduced from a year to six months. This is, in itself, inappropriate.

So that while I would very much like to support the Conference Committee Report because I think it does represent a tremendous effort and I would compliment those who had a part in it, I still have the gnawing suspicion that this is not going to make our highways any safer, it is going to make them less safe. As a matter of fact, one could drive up to eighty-six miles an hour before endangering the suspension of one's license. That only requires a hearing. It does not really mean that the suspension of that license is mandatory even at that point. So that from a safety standpoint I do not think that we are doing anything of a respectable nature for the good citizens, the safe drivers in Pennsylvania, under the terms of this measure.

Senator HOLL. Mr. President, it is my understanding that the portions of the new Motor Vehicle Code which will deal with those items referred to by the gentleman from Montgomery, Senator Fleming, will go into effect some time hence and the questions we really must address ourselves to today, in order to comply with the Federal requirements, are met. If we have serious problems with any of these other items, we can reasonably take care of them at a later date before the Act becomes effective.

Senator MANBECK. Mr. President, I am sorry to see that my colleague from Montgomery, Senator Fleming, is so violently opposed to this bill that we are about to vote on and that he feels there are so many hundreds of unsafe drivers traveling on our highways. I, for one, do not know the difference between the people from out of state that are driving fast and the people of this State that also drive fast. I object to our Pennsylvania drivers being second class citizens by the program we have today.

I happen to travel Route 78 and Route 81 every day. For the twenty-nine mile stretch that I travel, I have had from ten to thirty cars—out of state cars—pass me constantly and many of them by ten, fifteen and twenty miles an hour, and the trucks do the same. Out of staters use our highways at any rate of speed, and I, therefore, think that we are taking the proper action.

The point system, as the gentleman has explained it, I certainly do not agree with. The gentleman asserts the points are much harder to accumulate and that is, of course, his judgment. I disagree with that. There are thirteen different areas where points can be assessed against your record that have not been there before. A person that has points assessed against him under the present system can earn credit and thus have those points reduced. Under our present system, the drivers who have no points can immediately lose their driving privileges. Under the new proposed Vehicle Code that is not so unless they drive at an excessive rate of speed and then, rightfully, they should lose their license. But from

my personal experience, it would seem to me that you should hit the driver in his pocketbook, where he really minds it, instead of assessing points against him and making him lose his license when he drives at a rate of speed that many of the other drivers drive on our highways.

Mr. President, I just think the committee has worked hard. The Senate Members have voted for the bill and, of course, it was in conference committee. There was a great deal of time spent in preparing the report and I respectfully request my colleagues on both sides of the aisle to support this legislation.

Senator SMITH. Mr. President, as a Member of the Conference Committee, I had asked the members to consider the limited license or the "bread and butter" license and I asked the chairman if he would survey the Department of Transportation and see what the accident rate of a truck driver would be against the passenger car. No one believed me then—and I am going to make a total nuisance of it—nobody is going to believe me now because nobody pays any attention to our truck drivers. They are, I guess, the least of all members of society.

If you think about it, Mr. President, we are celebrating Gay Liberation Week and nobody gets excited about that. A modern Fagin is tutoring our young people to declare bankruptcy, and I understand that 361 have done so, to beat us out of the loans we made to them to finish school. Nobody gets excited about that. A convicted felon who commits robbery by gun, you cannot give him a mandatory sentence. But you know if you talk about "bread and butter" license, the guy that goes out and works for a living, let me tell you, Mr. President, you can shake up this whole General Assembly. Everybody runs to the microphone to condemn, to villainize, the truck driver. And I guess if you had to say anything for him, you would say, "Well, in the strata of society, he is like the leper of the third century. Nobody wants to get near this fellow."

Mr. President, just let me give a report compiled by, first, the Washington State Police. They did a heavy truck accident survey and our own PennDOT did the same thing. It is a boring report but it is awfully effective.

Mr. President, across the page it is broken down into accident totals, passenger cars, trucks and ratio.

Fatal accidents in the Commonwealth of Pennsylvania, 2,019. Passenger cars engaged in those 2,019 accidents were 1,625. Now listen to this amazing amount: truck drivers, 248. Number of persons killed on our highways, 2,299; passenger cars involved in fatal accidents, 1,878; trucks, 272. Bodily injuries in accidents, total, 82,033; passenger cars 68,681; trucks 7,754. Number of injured, total 127,318; people injured by passenger cars, 108,590; people injured in trucks, 11,468. Now here is a real interesting one: Property damage caused by passenger cars 182,686; property damage by trucks 24,678.

Mr. President, PennDOT has noted on its pages that passenger cars represent 83 per cent of all accidents in Pennsylvania. Tractor-trailers represent 2.7 per cent of all accidents. Passenger cars represent 80 per cent of fatal accidents. Truck-tractors represent 5.2 per cent of all fatal accidents.

Mr. President, both of these reports, one by the Washington State Police and the other by our own PennDOT show that the true and the real safe driver is the truck driver. I offer these because nobody is going to pay attention to them, but they should be noted for the record and the next time somebody brings up a "bread and butter" license, no one is going to vote for it.

Senator BELL. Mr. President, while the focus of everybody in the room is on amnesty, I suggest that there are other parts of this Code that should be carefully examined. I have a good idea that this Code will pass today, but there are defects in it.

I am going to point out one. However, I will congratulate the chairman of the committee of the Senate and the chairman of the committee of the House, because they took the "Mickey Mouse" out of the points. Under the old point system, if you went through a green light over fifteen miles an hour, you could get three points. This point system has been cleaned up, so that they are offenses that are dangerous.

However, the new point system is effective when this Act passes, and it refers to title numbers in the Code which are not effective until a year from now. Therefore, during the year we are going to be operating with the offenses under the old Motor Vehicle Code and the points under the new Motor Vehicle Code. These offenses are not necessarily the same.

In the body of the bill is an attempt to give to the Department of Transportation the power to interpret the new Code in the light of the old Code. That may not make sense to anybody, but I will try to tell it again. Under the new Code, let us assume speeding has a new Code number of 3300-and-something. Under the old Code it was a different section number, but the words pertaining to speeding are different in the new Code than from the old Code. Therefore, we are attempting, in this act, to give to the PennDOT personnel the power of implementing it with regulations. We say PennDOT shall promulgate regulations to implement the provisions of 75 Pennsylvania Consolidated Statutes 1535, by assigning points for similar violations occurring prior to the effective date of this act.

Then it goes on to say PennDOT's regulations may be promulgated without compliance with statutory requirements relating to notice of proposed rule-making and public hearings. It may be made effective immediately upon publication in the Pennsylvania Bulletin and may be made retroactive to the date of final enactment of this act.

I submit, Mr. President, this is not the way to do it. But again we are trapped. We are trapped with a policy of this Legislature to pass 400-page bills, and when you reprint a bill like this it costs $4,500. Perhaps from what I have said here today, some of the leaders of this Senate and of the House might consider passing a bill in segments so that we could reprint perhaps a segment with a printer's number of 3406a, 3406b, et cetera, so that you could pass it in segments of twenty to twenty-five pages in order that we could pull out things like this, rather than either buy it all or reject it all.

Mr. President, I am going to vote "no" on this, largely because of the amnesty provision, but also there is another little turkey hidden in here. With the passage of this bill, you are going to fine motorists to fill potholes. I do not think that should be the purpose of fines; you should fine people as a penalty for doing something wrong. I say that because in this bill there is a provision when local police make an arrest, instead of the money as it now goes under certain sections of the Motor

Vehicle Code, to the local municipal treasury, only one-half of it will go to the municipal treasury and the rest will go to PennDOT to fill potholes.

Senator STAUFFER. Mr. President, when one looks at the situation of highway safety, two issues arise which run contrary to highway safety. One of them is, of course, the drunken driver. I know that State Police statistics show that drunken drivers cause more highway deaths than any other single reason for highway deaths and the issue of the drunken driver as he is treated in this bill has already been spoken to.

Then we turn to the second group, and they are the speeders. I think it is incredible if one takes a look at what this bill provides for the speeder. Let us suppose someone is stopped for driving a hundred miles an hour, really excessive speeding, what will his penalty be? First of all, he will be assigned five points. Then it says in the bill that he will have a departmental hearing and sanctions provided under Section 1538d. When we have that departmental hearing, we set up a person who is literally a czar because that person is going to have the power to conduct the hearing with that person who drove a hundred miles an hour, and he is going to determine that that person may be required to attend a driver improvement school. Is that not a joke? Or he may require that that person undergo another driver's examination; or he may require that the person have a suspension not exceeding fifteen days.

I think it is wrong to set up a czar who would have the privilege of overlooking or temporizing, if you will, the serious violation of someone who would drive at ninety, ninety-five, a hundred miles an hour; but, beyond that, to say that he would have the privilege to choose between those penalties and that one could be as relatively minor as saying you have to go a couple of evenings to a driver improvement school. Yet, that same person has been endangering the lives of people and the property of people by driving at speeds that can go in that range. I think that provision alone, Mr. President, makes this bill unacceptable and on that basis, along with the drunken driving provisions and other things which have already been spoken to, I will vote against this bill.

Senator DUFFIELD. Mr. President, initially I want to reiterate the statement of the gentleman from Philadelphia, Senator Smith, that I also feel that the safest drivers we have on the highways today are our professional drivers, our truck drivers.

Secondly, I would like to address my remarks on the amnesty situation as far as this bill is concerned. I have been in the Senate almost seven years. As a State Senator, we represent approximately 240,000 people. We have certain things which come to our consideration from our constituents, such as the awarding of scholarships, liquor licenses for which we have to intercede to find out what can be done, and many, many other personal items that our constituents happen to become involved with with State government.

However, by far, the primary thing that they come to see me about is when they are picked up for a motor violation and they become involved with the possible loss of their driving privileges, or the point system. They always want to get, to use the vernacular, the fix put in somewhere. Our office handles probably, on an average, a dozen requests a week from citizens who are not law violators. They would not knowingly or intentionally violate the law if they had to, but let these citizens, these good, law-abiding Christian citizens who proclaim so much about the other guy getting in trouble, let him get picked up for going ten or fifteen miles over the speed limit, and he is going to cry like hell. "Do something for me. Do you know anybody in Harrisburg? Is there anything that can be done?"

I say the cry about amnesty as far as motor vehicles are concerned is a bunch of baloney. It all depends, Mr. President, on whose ox is gored. People want justice, they want retribution and they want severity of fines in punishment for the other guy. They want the other fellow's license suspended if he goes seventy or seventy-five miles an hour. But let poor little Johnny, that little kid who is out on the night, get picked up for speeding or driving with a license that is overdue, then the pillars of society come to our office and plead with us to see what we can do for their little Johnny. After all, he is a good little boy, and there was nothing wrong. Or, I have to use my car to go to work. How am I going to go to work? I will go on welfare. Let the other guys get suspended, but as far as I am concerned, I need my car to go to work and give me a limited license or something of that sort.

Therefore, the prevailing opinion in my District is—and I assume it is the same in most Districts—people are naturally hungry to condemn the other fellow, and people are naturally hungry to protect themselves. We have not quite yet become our brother's keeper. So the majority of our citizens, I would say nine out of ten of my citizens in my community, if they are picked up speeding on the Pennsylvania Turnpike, they want me to go to bat for them and save their license. But, if their neighbor, John Smith, is picked up they want me to string him to a cross.

This amnesty business is a bunch of baloney. The people, when it applies to them, do not really want amnesty; but when it applies to the other driver and that terrible truck driver that is driving that big rig, yeah, take him off the highway. I can give you example after example. Most of the people with whom I deal are leading citizens of the community, good Christian citizens and those are the same phoneys that come to me and want their licenses fixed.

Senator ANDREWS. Mr. President, I have only a couple brief remarks to make in regard to this bill. I would like to call to the attention of the Members of the General Assembly, particularly the Members of the Senate, there is one provision about which there has been no discussion of the difference between the bill which passed the Senate originally, Printer's No. 3266, and that of the Conference Committee Report, Printer's No. 3406. I would particularly call attention to Section 3731 of the Code which defines the offense of drunken driving. Under the original Senate bill which we passed here a couple of weeks ago, there was a provision that a conviction for drunk driving would lie whenever there was a blood alcohol content of .10 per cent, or greater, of alcohol by weight in the blood. This provision would make it very, very easy to secure convictions for drunken driving. It really tightened the law as far as that particular offense was concerned. I have had a lot of experience with drunken driving cases serving as district attorney of Lawrence County for three years. This would be a boon for prosecution, it would make it very, very easy to prose-

cute because of the simplistic standards which this particular printer's number set forth.

Mr. President, the Conference Committee Report has deleted that and, in a sense, leaves the law of Pennsylvania with respect to driving under the influence as it is today, under the present Motor Vehicle Code. This may be good or bad. I am certainly not going to argue that particular morality, but I would suggest that this is a change which has not been called to the attention of the Members of the General Assembly. We have reduced not only the length of suspension but we have also not done anything to tighten up convictions in this Conference Committee Report. So, I would throw that forth to the Members of the General Assembly for their consideration.

Mr. President, I would also like to dwell for just a second on the comment of the gentleman from Lebanon, Senator Manbeck, that we have raised the fines substantially for drunken driving and it is now $2,500. There is not a judge in the Commonwealth of Pennsylvania who will ever impose a fine of $2,500, unless they are under the most horrible of conditions. The fine, at the present time, has been a maximum of $500 and very, very few judges even imposed that. I think if we are telling the people of Pennsylvania we are increasing the penalty with a $2,500 fine, we are really misleading the people because this is entirely at the discretion or lack of discretion of the judiciary in our respective counties and I do not know that the $2,500 fine is going to have any impact whatsoever on the penalties for drunken driving.

Parenthetically, we are reducing the possible jail time from three years to one year; three years I think is very, very high. I think that is perhaps unjust, but that is the other side of the same coin.

Mr. President, the third thing I would like to mention is that I hope when we pass this bill today, the Governor will sign it immediately because we will be going through a period during which no one can get any points for any traffic violations in Pennsylvania for a period of time. If all of us would get arrested on the way home tonight, we would have to pay a $10 fine, which is the law of Pennsylvania and, theoretically, we would get points but the points will be wiped out immediately upon the affixing of the signature of the Governor to this particular bill. So, for a period of time, however long it takes the Governor to sign this bill, we are going to be virtually home free as far as any point system, as far as any effective law enforcement is concerned, and I would urge the Governor to sign this bill immediately so that the new provisions might take effect so we will have some sanctions for those who misuse our highways in the coming days.

Senator SNYDER. Mr. President, I think that any relaxation of the traffic laws, whether they affect drunken drivers, speeders or whatever, are almost certain to result in an increase in the number of accidents, persons injured, persons killed. The insidious part of this is that the identity of these victims is at the present moment unknown. If we do, indeed, vote to relax the traffic laws we are, by our vote, condemning, in a sense, some persons to injury and to death just by the fact that drivers will become less careful.

Mr. President, the further deplorable part of this is that they are frequently persons who are utterly beyond the ability to control the situation. They are either passengers in a car or they may be the drivers of the other car but, if they are killed, they are just as dead as though they were the ones who were at fault.

So, Mr. President, in the belief that tighter laws will save lives and suffering and in the fear that this bill, even in spite of its many good points, does indeed relax the traffic laws in some degree, I would vote against it, not for the sake of punishing anyone but for the sake of preventing harm.

Senator HAGER. Mr. President, I will not burden the record with a lot of remarks. I really want to say that, because of the amnesty provision and because of the total relaxation of the point system, because of the almost impossibility of anybody to ever lose their license under this bill, I am going to vote "no" on the bill. The gentleman from Delaware, Senator Bell, says that the "Mickey Mouse" has been taken out of the point sytsem, but so has effective law enforcement and so have suspensions.

Senator MANBECK. Mr. President, there was reference made that I suggested that the fine was made $2,500 for drunken driving. I, at no point in my remarks, mentioned drunken driving and I want the record to show that. I did not discuss that at all and, as far as the statements that have been made here on the floor about relaxing the laws and the rules of the road, that is a matter of every person's opinion. In my opinion, we have equalized the laws of the road for the Pennsylvanians to compare with the out of staters. I do not believe, in my opinion, that we have at all relaxed the laws. In fact, we have made it easier for points to be assessed against the drivers.

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

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

YEAS—30

Ammerman,	Holl,	Murphy,	Romanelli,
Arlene,	Kelley,	Murray,	Ross,
Coppersmith,	Lewis,	Myers,	Scanlon,
Duffield,	Lynch,	Nolan,	Smith,
Early,	Manbeck,	Noszka,	Stapleton,
Hankins,	McKinney,	O'Pake,	Sweeney,
Hill,	Mellow,	Orlando,	Zemprelli,
Hobbs,	Moore,		

NAYS—19

Andrews,	Fleming,	Jubelirer,	Snyder,
Bell,	Frame,	Kury,	Stauffer,
Dougherty,	Hager,	Lentz,	Tilghman,
Dwyer,	Hess,	Messinger,	Wood,
Ewing,	Howard,	Reibman,	

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

Ordered, That the Clerk inform the House of Representatives accordingly.

BILL WHICH HOUSE HAS NONCONCURRED IN SENATE AMENDMENTS

BILL OVER IN ORDER

HB 567—Without objection, the bill was passed over in its order at the request of Senator NOLAN.

FINAL PASSAGE CALENDAR

BILLS OVER IN ORDER

SB 1222 and **HB 1883**—Without objection, the bills were passed over in their order at the request of Senator NOLAN.

THIRD CONSIDERATION CALENDAR

BILLS OVER IN ORDER

HB 65, SB 136 and **994**—Without objection, the bills were passed over in their order at the request of Senator NOLAN.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1237 (Pr. No. 1482)—Considered the third time,

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

Senator HILL, by unanimous consent, offered the following amendments:

Amend Title, page 1, line 2, by removing the comma after "negligence" and inserting: ; providing for findings of fact and apportionment of damages,

Amend Sec. 1, page 1, lines 6 through 14, by striking out all of said lines and inserting:

Section 1. Comparative Negligence.—Contributory negligence shall not bar recovery in any action by any person, or his or her legal representative, to recover damages for negligence resulting in death or in injury to person or property, if such negligence was not as great as the negligence of the defendant or defendants against whom recovery is sought, but any damages allowed shall be diminished in proportion to the amount of negligence attributable to the person for whose injury, damages or death recovery is made.

Amend Bill, page 2, by inserting between lines 7 and 8:

Section 3. Findings of Fact; Apportionment of Damages.—In any action to which this act applies the court in a non-jury trial shall make findings of fact, or in a jury trial the jury shall answer specific questions indicating:

(1) The amount of damages which the party bringing the action would be entitled to recover had that person not been at fault.

(2) The degree of negligence of each party expressed as a percentage.

The court shall then reduce the amount of the verdict in proportion to the amount of negligence attributable to the person for whose injury, damage or death recovery is made, however, if the said proportion is equal to or greater than the negligence of the person against whom recovery is sought, then, in such event the court will enter a judgment for the defendant.

Amend Sec. 3, page 2, line 8, by striking out "3." and inserting: 4.

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

Senator HILL. Mr. President, I would like to explain these amendments. They are difficult to explain because the law in the Commonwealth today is quite simple when it comes to recovering in an accident case, whether the accident is an automobile case of the kind not covered by no-fault insurance, whether it is a slipping and falling case or just a common negligence case, not having anything to do with automobile accidents or any other particular specialty in the field of negligence.

The law today is, if you, as a plaintiff, are one tiny bit at fault then you cannot recover at all. All of the fault must be on the defendants, the persons whom you are suing for the injuries you claim resulted from the accident.

Senate Bill No. 1237, which is a comparative negligence statute, changes this concept of the law drastically. Under Senate Bill No. 1237 if you are equally at fault with the person whom you claim caused your injuries but the fault is equally yours and equally that person's, then you are entitled to recover.

Now, I admit that I am against the whole concept of comparative negligence. I think the present law is a fair law, and I think it has worked well. However, the amendments which I have are not an attempt to sabotage the concept of comparative negligence as advanced under Senate Bill No. 1237. They are an attempt to improve that bill, because I recognize that comparative negligence is going to pass in this Senate and is going to become the law of Pennsylvania. Therefore, my amendments are an attempt to improve that law.

Now, what my amendments attempt to do is simply this: You are entitled to recover under these amendments if you are at fault, but you must be less at fault than the person from whom you are trying to recover. That, Members of the Senate and Mr. President, is the law in most of the states in this country. There are several different types of comparative negligence statutes in this country today. There is the slight gross system. Under those statutes, if a plaintiff's negligence is slight and the defendant is gross in comparison, plaintiff can recover, but his damages will be diminished by the percentage of fault attributable to him. That system is not involved in this debate.

Then there is the pure comparative negligence which is this bill, that is Senate Bill No. 1237. Under the pure concept, if you as a plaintiff are equally at fault or even if you are more at fault than the other person, even if you are more at fault, you can still recover. That is pure comparative negligence. You can only be one per cent at fault under pure comparative negligence and still recover, or you can be ninety-nine per cent at fault and the other person from whom you are seeking to recover, one per cent, and you can still recover under pure comparative negligence. That is what this particular statute is—well, it is not quite pure comparative negligence, because under this bill if you are equally negligent, you can recover.

Under the amendments which I have, they will adopt what most states have, which is the fifty per cent system. In these states, the plaintiff is barred from recovering if he is equally negligent to the other side or more so. But if he is less in any degree than the defendant, then he can recover.

I think that is absolutely fair. Why should you, as a defendant in an accident case or any kind of a case, if your fault is equal to that of the plaintiff, if he is equal to you, why should he recover from you? I cannot see the logic of it myself, and I do not represent any insurance company or any defendants. I do represent some plaintiffs. Therefore, I have not any personal axe to grind in these amendments. However, I do think it is very unfair to say that you can recover in a case where you are equally at fault with the person from whom you are seeking a recovery.

My amendments do embrace comparative negligence. They drastically change the law too, because under these amendments you will have comparative negligence. The only thing is, if you are equally at fault with the person whom you are suing, you cannot recover; you must be less at fault than he, even if it is only slightly less.

The other factors in the amendments which I am supporting have to do with a clarification section of the bill that the jury or the judge, if it is just a case without a jury, must specify first the total amount of damages which the person bringing the suit would be entitled to were there no fault on that person's part. In other words, if he was completely free from fault, then the jury or the judge would say he is entitled to X dollars, were he completely free from fault. Then the jury or the judge must find the degree of negligence of the plaintiff and may reduce the award by that degree of negligence. That is a rational and logical way to do it and a way in which many states do it.

I just did not dream this up. This is taken from other states which have the same apportionment of damages and findings of fact. I think it would make it much more clear than under the bill as drawn, which is before us, because under that bill you do not know if the jury is guessing or you do not know how they are arriving at the amount of recovery because there is no basis for them to do so, and you do not know what it is.

Therefore, Mr. President, I ask that the Senate adopt these amendments. They are not an attempt to delay this bill. They are not an attempt to have the bill go over in its order. The bill is on the eighth day. It can be voted on on the tenth day or it can be voted on on the ninth day, if the Senate is meeting on the ninth day. I think these amendments make it a much better bill, a moderate bill and one of which most states have embraced.

Senator DUFFIELD. Mr. President, I desire to interrogate the gentleman from Philadelphia, Senator Hill.

The PRESIDENT pro tempore. Will the gentleman from Philadelphia, Senator Hill, permit himself to be interrogated?

Senator HILL. I will, Mr. President.

Senator DUFFIELD. Mr. President, if these amendments are adopted, will the gentleman embrace the concept of comparative negligence and vote for the bill?

Senator HILL. Mr. President, I do not know that it makes any difference whether I do. I do not like the concept of comparative negligence. I stated that at the beginning. My basic gut reaction is to vote against it in any event, but I do think with these amendments it will be a better bill for the citizens of Pennsylvania. I do not have a personal motive in it since I do not do that kind of work, except for plaintiffs if I do it at all.

So, Mr. President, my answer to the gentleman is, I do not think it makes any difference how I vote on the bill itself. I have explained that I am not trying to sabotage this bill by last minute amendments—and it is on the eighth day—since there are two more days, and I certainly do not see that my vote on the bill itself can be said to affect the merits of these amendments, which are solid amendments and the kind which many states have.

Senator DUFFIELD. Mr. President, the only reason I brought it out, the gentleman mentioned the personal aspect that he did not intend to sabotage the bill by introducing these amendments. I think this would sabotage the bill. I think it would confuse the jurors. I also am probably speaking here more impartially than the gentleman from Philadelphia, Senator Hill. He says he has not represented any insurance companies, I do not know whether his firm does or not, but I am sure I am not representing anybody right now, one way or the other—the Supreme Court saw to that—but I definitely agree with the principles of the comparative negligence doctrine.

Mr. President, for too long in Pennsylvania we have been under a false impression. For instance, I could be injured in an automobile accident and I could be one per cent at fault. The individual that contributed to my suffering in the accident could be ninety-nine and forty-four one-hundredths per cent at fault and, yet, if I were a fraction of a per cent at fault, I could not recover. I think that is wrong. I think this bill is a very good bill to correct that, which has long been done in other states, and to bring Pennsylvania up to negligence law as regard to our sister states.

Mr. President, I believe the jury is confused enough. The amendments of the gentleman from Philadelphia, Senator Hill, would require of the jurors, twelve citizens uneducated in the law of negligence, that which took most of us a year of law school to learn what negligence was. There is a course in law school labeled negligence and, after a year's course, a lot of us still do not know what negligence is. It takes a judge some hours of instructions to try to tell the jury what negligence is. Now when you go to the jury, by their concept they usually find pretty much ahead of time so and so is at fault and he should pay so much money. They have the medical bills, they have the lost earnings, they have the future earnings, loss of future earnings, and so forth, and it usually amounts to a compromise anyway. One member of the jury will come up and say, "We should award John Doe $15,000."

Two members of the jury say, "Well, we should not award him anything."

Eventually they get down to the point, and they end up finding in favor of John Doe for $7,500. It is a compromise in most of these cases where you have twelve people on the jury.

Mr. President, in the latter part of the gentleman's amendments, he has the jury come up with a specific percentage of negligence on the part of all parties concerned. I would dare say, and I think the other trial lawyers in the Senate will bear me out on this, that if you have twelve judges sitting as jurors, twelve judges learned in the law, it would be impossible for them to come up with any degree of certainty as to an exact percentage of negligence, and they would probably be as far afield as twelve laymen who know nothing about negligence.

Here you are putting a burden upon twelve housewives, upon twelve mechanics and plumbers that have never been in court in their life, who come in there and hear that a certain accident occurred on November 4, 1975, resulting in a collision or in B suing C, that B is eighty-seven and one-half per cent negligent and C is twelve and a half per cent negligent. It is a matter that is beyond any realm of certainty. You could have the sages of all time sitting on the jury and they could not come out with an exact percentage point that would bear up upon any great higher tribunal that might reconsider the case.

Mr. President, I think that we have the best system in the world in the jury system in determining these things. They assess the demeanor of the witnesses on the stand. By the time they get to the jury room the jurors are convinced that so and so is at fault or he is not at fault, and they come out with either a verdict of so many thousand dollars for the plaintiff or they

find that the plaintiff was not free of fault, so they find for the defendant and award no damage.

Mr. President, these amendments would confound and confuse the jury system. They would require Tom, Dick and Harry, who are serving on a jury, to have to get into items for their consideration that would confound some of the most learned legal minds in the United States. I would hate to have the Supreme Court of Pennsylvania sit as a jury and try to determine the per cent of negligence on the plaintiff and defendant, or any other individual, in regard to dollars or figures. Under the bill as it is, they come up and find so much for the plaintiff, or they find for the defendant, and they reduce his damages in round dollars and cents by how much they think, in their justification, he might have contributed to the accident. That is the plain simple way of doing it.

Senator SWEENEY. Mr. President, I am not burdened with the legal talent or acumen evidenced by the distinguished Senator from Fayette County, but as a layman I would like to observe that I have implicit faith in the jury system. I am sure that housewives and plumbers can render the kind of in-depth opinion which was rendered. If I might divert a moment, at the Council of Trent where the theologians argued for years about how many angels could sit on the head of a pin; and after a number of sessions and a number of years, the janitor who was cleaning the building said, "Why don't you end it, none can."

Therefore, I say that the jury system is all that we have and we have to go along with it.

Mr. President, I desire to interrogate the gentleman from Philadelphia, Senator Hill.

The PRESIDENT pro tempore. Will the gentleman from Philadelphia, Senator Hill, permit himself to be interrogated?

Senator HILL. I will, Mr. President.

Senator SWEENEY. Mr. President, as I perceive the amendments, I support them. However, I would like the gentleman to clarify for my edification a few pertinent points.

It is my understanding that one of the thrusts of the gentleman's amendments is that negligence has to be established beyond the fifty per cent point against one of the parties in order for the injured party to collect.

Senator HILL. Mr. President, under Senate Bill No. 1237, which is now before us, the plaintiff can recover even if he is equally at fault with the defendant. That is, if the scales balance absolutely evenly, if I am suing the gentleman and I am equally at fault with the gentleman, I can still recover under Senate Bill No. 1237. Under the amendments which I am offering, the gentleman must be—if I am suing the gentleman—more negligent than I. I must be less negligent. I can still be negligent, but I can recover. However, I must be less negligent, even if only slightly, than the gentleman.

Under the present law, if I am negligent at all, I do not recover at all. Therefore, this is a giant step forward as far as that is concerned.

Senator SWEENEY. Mr. President, then the jury is the one who makes the decision as to the degree of negligence?

Senator HILL. Mr. President, the jury in any event would make the decision as to the degree of negligence, because if you did not have the findings of fact—and actually, Mr. President, the most important part of these amendments is not necessarily the part which I belabored so much at the beginning about the gentleman having to be more negligent than I if I am suing the gentleman, the most important is the findings of fact, because it is done all the time in other states. It is only an attempt to clarify it.

However, if you do have it spelled out that the jury must report with their verdict the actual findings of fact—the amount of the damages and the percentage of negligence in which each party is involved, they do that anyway in the jury room. They would have to do it anyway—this makes it more clear that they are, in fact, arriving at a fair verdict, because they must come and say, yes, we find that the plaintiff was injured to the extent of, let us say, $100,000. Were he not at fault at all, he would be getting $100,000, but since he is at fault and he is forty per cent at fault, he will only receive a proportion of that $100,000. This is spelled out that the jury must go through it, and they must put it on the record.

This is the law in many states today. It is not an attempt to confuse it as the gentleman from Fayette, Senator Duffield, has said. It makes it less confusing. It is much less confusing for the jury to state on the record the percentages that they find—and if there is any error, it can be corrected—than it would be for them to do it in the jury room where nobody knows what kind of concoctions they go through. I do not think it is confusing. It is very simply spelled out here. It is done in other states, and there is no problem at all in those states.

Senator KELLEY. Mr. President, I too have great confidence in the jury system as does the gentleman from Delaware, Senator Sweeney. I disagree with our esteemed colleague, the gentleman from Philadelphia, Senator Hill, the author of these amendments.

The main reason I disagree is that I believe we have an unintentional misrepresentation of what the amendments do. Maybe not so much what the amendments do, but what the bill in its present form says without the amendments. Any jurisdiction in this country which has the doctrine of comparative negligence does, in effect, through court instruction, have the jury make findings of percentage determination just as the gentleman from Philadelphia, Senator Hill, said his amendments would mandate. It is absolutely necessary, without the amendments of the gentleman, that this bill, becoming law, that the courts would have to make the findings of fact which he has set forth in his amendments, and that the jury would have to find the percentages.

I would like to suggest that, likewise, there is no need for the amendments of the gentleman from Philadelphia, Senator Hill, because the expression in the negative can also be expressed in the positive, and that is that the present form where it is not greater is the same as saying it is lesser.

In this regard there is no doubt in my mind that the letter and intent of the bill in its present form is, that if there is an equal determination of fifty per cent negligence between two parties, it is a wash out. It is impossible for an ascertainment of any damages whenever the negligence is fifty-fifty.

The sole purpose of this bill in its present form is, singularly, to be as simple and concise to correct something that I, and I believe most people in this country, feel has been wrong in the original jurisprudence. The gentleman from Philadelphia, Senator Hill, the author

of these amendments has said that he believes the present system has worked well when he has defined that system as saying when somebody, some individual, who has been wronged is in the slightest detail guilty of his own negligence, in the slightest degree, even though the defendant may have been greatly negligent, that that plaintiff's small negligence is a total defense to the great negligence of the defendant.

That is inherently wrong and inconsistent with logic and ethics and equity. I would suggest that it is long overdue for the Commonwealth of Pennsylvania to enter into the realities of the doctrine of comparative negligence where the jury, in whom we all equally believe, goes in and deliberates, calling on all its resources to ascertain a percentage from all the evidence and facts it had in the case, the percentage between the parties as to who was wrong and to what degree. The bill in its present form provides for that. I believe that the amendments offered by the gentleman from Philadelphia are not only unnecessary, I believe they are cumbersome and rather cause a degree of ambiguity.

Therefore, Mr. President, I urge my colleagues to vote in the negative on the amendments.

Senator JUBELIRER. Mr. President, I desire to interrogate the gentleman from Philadelphia, Senator Hill.

The PRESIDENT pro tempore. Will the gentleman from Philadelphia, Senator Hill, permit himself to be interrogated?

Senator HILL. I will, Mr. President.

Senator JUBELIRER. Mr. President, is there anything in Senate Bill No. 1237 which takes away the right of a defendant to file a counterclaim?

Senator HILL. Of course not, Mr. President.

Senator JUBELIRER. Mr. President, if there is nothing in the bill which takes away the right to file a counterclaim, if the gentleman from Philadelphia, Senator Hill, is concerned about if the plaintiff is fifty per cent negligent and if the defendant is fifty per cent negligent, would it not be, for all practicality, good strategy on the part of the defendant to file a counterclaim and, thus, if the jury found each of them fifty per cent negligent, would that not be a wipe out, Mr. President, and nobody would recover anything?

Senator HILL. No, Mr. President, it would not be a wipe out because, first of all, if there is an accident—let us take a common intersection accident—and assuming that no-fault would not cover it because it is above the threshold, one of the parties might not be injured and there would not be any basis for a counterclaim by that particular party. The other party might be injured, and he would be bringing the claim. Therefore, of course, it would not be a wash out. That is not the way to handle it anyway, through wash outs.

Senator JUBELIRER. Mr. President, I thank the gentleman for his answer.

I think that the gentleman would be incorrect. I think the fact is that if the jury found both the plaintiff and the defendant fifty per cent negligent and there was a counterclaim, I think as a practical matter they would take that into consideration and there probably would be a wipe out. But, in the event that they would not, Mr. President, I think that juries have a great knack of coming up with a common sense answer.

So you see, Mr. President, I believe that juries to a great degree today already practice, to a certain extent, the doctrine of comparative negligence even if they are not charged so by the court. What happens in my experience in talking with jurors is that if they may find even a scintilla of contributory negligence, nevertheless, in their deliberations in arguing about damages they may reduce damages in order to come to a unanimous verdict.

The doctrine of comparative negligence, Mr. President, certainly is a doctrine whose time has come. If a plaintiff were to recover fifty per cent of what is asked for, then that is really the change in the law which we are seeking. We are seeking to compensate the plaintiff for only that to which he is entitled, and if that be fifty per cent or forty per cent, or what-have-you, I think that the juries would come to the proper decision. This, as I understand it, is the Wisconsin statute and one which has worked well there.

I think another practical answer to what would happen here, Mr. President, is that there would be a tremendous decrease in the case load of the courts by virtue of the fact that insurance companies now would settle cases based on this: If my man is thirty per cent negligent, or if somebody else were seventy per cent negligent, they would settle on that basis rather than saying, you are contributory negligence so we go to court. I think the practical effect of this bill, Mr. President, would mean a great reduction, a reduction I certainly think is needed, in the dockets of the court and, in fact, this would create a much better situation for both plaintiffs and defendants.

In the second part of the gentleman's amendments, I do not think that the findings of fact which he has asked this bill to have is necessary. In fact, I think it will be cumbersome because when cases do go to trial, lengthy trials rather than trials that might take two days, it may take an extra half day or so to get the jury to understand what they have to do.

I think the court is well equipped, as they are by law now, to charge the juries as to what their responsibilities, in fact, are as jurors. I think the jurors will make the common sensical decision based on what the judge charges them and from the testimony evidence they hear.

Mr. President, I am concerned that if the amendments would be adopted by this Body, they would create a situation that would hamper this kind of legislation and would not really be in the best interests of the public who stands most to benefit by the doctrine of comparative negligence.

Mr. President, I would respectfully request that my colleagues consider the bill as is and reject the amendments.

Senator MYERS. Mr. President, I rise in support of the amendments. I have long felt that the existing standard of negligence was archaic and that if a man was one per cent at fault the fact that the law prescribed that he could not recover from the defendant was absolutely absurd. I am for comparative negligence, but I think that these amendments make sense and, therefore, I am going to support them. I feel that if I am forty-nine per cent at fault, I should be able to recover from the other party, but if I am fifty per cent at fault and the other man is fifty per cent at fault, I feel that it does not make sense that a recovery can take place.

In addition, Mr. President, I feel that the other portion of the amendments that requires the jury to set forth their finding as to the degree or percentage of negligence and the amount of award is reasonable. I think it would

aid in public confidence of the jury system because it would indicate clearly why and how the particular verdict was reached. I sometimes think, in our present system, people are absolutely confused and mystified as to why a certain amount of money is awarded and another amount of money is not.

For these reasons, Mr. President, I think that the amendments make real sense and I am going to support them.

The PRESIDING OFFICER (Michael A. O'Pake) in the Chair.

Senator MURPHY. Mr. President, I hate to belabor the point anymore than it already has been, but I would like to remind the Members that, with the exception of the learned gentleman from Philadelphia, Senator Hill, all of us favor the doctrine of comparative negligence.

Mr. President, I point out to my colleagues that jurors have found a way to be far ahead of us in the statutory law in that they already weigh who is the most negligent of the acting parties.

Mr. President, I oppose the amendments because of the wording that is contained on lines 13 and 14 of the present bill. They make it quite clear. Let me state, ". . . any damages sustained by the plaintiff shall be diminished in proportion to the amount of negligence attributed to the plaintiff." I think this wording is the simplest we could apply, far simpler than the amendments being considered, and I urge the Members to support the bill as it is.

Senator HAGER. Mr. President, I, of course, rise in opposition to the amendments.

As to the second portion of the amendments, may I state that this bill comes almost exclusively from the Wisconsin statute. The Wisconsin rule has been considered for a long, long time to be the most conservative of the comparative negligence doctrines. It has worked very well in Wisconsin and it is my understanding and my hope that in Pennsylvania it will work the same way. In Wisconsin, in proper cases, there is a request by the judge for special verdicts from a jury, so that the language which the gentleman from Philadelphia, Senator Hill, has put in as the second portion of his amendments already is called for in the law and if the judge wishes to do it in a proper case it can be done. I think there is a possibility of it leading to confusion in some simple cases and it is not necessary across the board. For that reason, I oppose that portion of the amendments.

Mr. President, as to the first portion of the amendments, which really says, "lesser than" rather than "no greater," we are really talking about the difference between fifty per cent and something just slightly less than fifty per cent. While I have great respect for the gentleman from Philadelphia, Senator Hill, and for the gentleman from Cumberland, Senator Myers—and I understand, I think, the reason for their adherence to this position—might I point out that I think that their position is mired to the past. In the past we have been very concerned about who is more at fault and should somebody recover at all if he contributes to the injury. I think that is putting the shoe on the wrong foot. What we are trying to do now is to see that people are compensated for injuries and for accidents and to see that persons who injure them contribute to their recovery in the proportion of their contribution to the accident.

Mr. President, rather than worry about whether a person can recover if he is equally to blame, what we should be considering is, how much should a person contribute to pay for the damages of a person that he has caused and if he has caused your accident fifty per cent, why should he not respond in fifty per cent of the damages. If I injure the gentleman from Cumberland, Senator Myers, in an intersection accident, if I am half to blame for his injuries, why should I not contribute half to pay for them. That is the whole difference between the position of the gentleman from Philadelphia, Senator Hill, and the position of the gentleman from Cumberland, Senator Myers, and mine.

Mr. President, I ask all the Members in the interest of tomorrow and not being tied to the old ways to beat the amendments, vote against these amendments and support the bill.

One thing, Mr. President, with all the debate that has gone on, I guess there will not be any necessity to debate the final bill when we get to that point.

Senator AMMERMAN. Mr. President, I do not want to prolong this debate but I do want to say that, although I am not practicing law now, I have had some considerable experience in the field. On the basis of that experience and looking at the matter from a practical point of view of the citizenry at large, I support the doctrine of comparative negligence and support the general concept of the bill whether or not the amendments are adopted, but I feel that the amendments would improve the bill and therefore urge your support of it.

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

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

YEAS—15

Ammerman,	Kury,	Murray,	Stapleton,
Coppersmith,	Lewis,	Myers,	Sweeney,
Hill,	Lynch,	O'Pake,	Wood,
Howard,	Manbeck,	Snyder,	

NAYS—30

Andrews,	Frame,	Messinger.	Romanelli,
Bell,	Hager,	Moore,	Ross,
Dougherty,	Hess,	Murphy,	Scanlon,
Duffield,	Hobbs,	Nolan,	Smith,
Dwyer,	Holl,	Noszka,	Stauffer,
Early,	Jubelirer,	Orlando,	Tilghman,
Ewing,	Kelley,	Reibman,	Zemprelli,
Fleming,	Lentz,		

So the question was determined in the negative, and the amendments were defeated.

And the question recurring,
Will the Senate agree to the bill on third consideration?
It was agreed to.

On the question,
Shall the bill pass finally?

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

YEAS—48

Ammerman,	Hager,	Manbeck,	Reibman,
Andrews,	Hankins,	McKinney,	Romanelli,
Arlene,	Hess,	Mellow,	Ross,
Bell,	Hobbs,	Messinger,	Scanlon,
Coppersmith,	Holl,	Moore,	Smith,
Dougherty,	Howard,	Murphy,	Snyder,

Duffield,	Jubelirer,	Murray,	Stapleton,
Dwyer,	Kelley,	Myers,	Stauffer,
Early,	Kury,	Nolan,	Sweeney,
Ewing,	Lentz,	Noszka,	Tilghman,
Fleming,	Lewis,	O'Pake,	Wood,
Frame,	Lynch,	Orlando,	Zemprelli,

NAYS—1

Hill,

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

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

BILL ON THIRD CONSIDERATION AMENDED

SB 1241 (Pr. No. 1489)—Considered the third time,

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

Senator DUFFIELD, by unanimous consent, offered the following amendment:

Amend Sec. 1, page 2, line 2, by striking out "ten" and inserting: twenty

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

Senator DUFFIELD. Mr. President, this is a very simple amendment to the bill. It is not hard to understand. In the first place, let me state again that I am not speaking as a lawyer for the defense or for the district attorney on this.

Mr. President, Senate Bill No. 1241 I think is unnecessary at the present time. In the first place, it reduces the peremptory challenges for both the Commonwealth and defendant in jury trials, but I am not too worried about reducing the challenges on felony, I am interested in, you might say, the capital crimes, reducing from the present twenty challenges to ten. For those laymen who are not conversant with the legal terms, a person in drawing a jury can get anybody off the jury if they have a fixed opinion or they have their mind made up on the case, they cannot be a good juror for some reason or other and they express that cause. Those are called challenges for cause. They are getting less and less because the courts are trying to pursue some cases rapidly. So, we come down to a peremptory challenge. In other words, on a peremptory challenge either the defendant or the district attorney is privileged to scratch out a certain amount of names, maybe because they do not like their looks, maybe because they gave certain answers to certain questions that were asked on the voir dire and, therefore, they do not want them to serve as a juror to judge their client or the Commonwealth, but they do not have a reasonable cause to get that particular juror off the jury.

Mr. President, I reecntly defended a case that involved on this. I have defended thirty-nine murder cases with success and I will give you a particular example of why we need more than ten peremptory challenges.

Mr. President, I recently defended a case that involved a considerable amount of publicity. It was in the newspapers all the time as headlines, on the radio and so forth. I knew that the majority of the people, maybe ninety per cent of the people in the county, were acquainted with the facts of the case, had read the case through the paper, had heard about it on television, and to find a juror that did not know anything about the case was almost impossible. Many jurors that I asked the question, "Have you read anything about the case?" They would say, "Yes, we have."

"Have you heard anything about it on the radio?"

"Yes, we have."

Then I would say, "After hearing the facts in the case and the evidence, would you be impartially inclined to submit a verdict one way or the other or would you be inclined to submit a not guilty verdict for my client?"

They would smile and say, "Oh, I think so," or something like that.

Mr. President, there is the type of juror that I knew had his mind made up, but on the record, for no plausible reason could I get him off on cause. I could not say that he smiled or his appearance would get him off. Now, we are talking about life and death, that is people that are in capital offenses that are subject to life imprisonment or the electric chair under certain circumstances.

Mr. President, we want a jury that attorneys, on both sides, feel is impartial and is broadminded in deliberating the merits of the case as you can get. Sometimes you know by seeing a juror on the witness stand taking the questions he is inclined in his beliefs one way or the other. In other words, he could be a hanging juror or he might be the type of juror that he believes in letting everybody off and you cannot have a cause to dismiss him, so you have to have a peremptory challenge.

Mr. President, I think the seriousness of first degree cases requires—and it has been the law I suppose for 100 years, although I do not know when it first came into vogue in this country, and we got along very well with it—the twenty peremptory challenges for each capital defendant. I cannot see the need for the change to cut it to ten.

The gentleman from Philadelphia, Senator Hill, had hearings on this. There were a couple judges who testified. The judges' interest is primarily to save time and court costs, which is commendable, but we have to think of getting justice in a serious crime such as this. We are not talking about burglary and larceny, we are not talking about rape, we are not talking about malicious mischief, we are talking about murder and cases of that sort. To protect the Commonwealth as well as to protect the defendant, I think an attorney to do a proper job for either side, requires at least twenty peremptory challenges to properly protect his client; whether it be the Commonwealth or whether it be some mangy defendant that you happen to be defending.

Now, Mr. President, what has been the progress of other states? The gentleman from Philadelphia, Senator Hill, in his exhaustive hearings before the Judiciary Committee, I think, has the results of thirty-nine or forty states and I think about thirteen of them have over twenty, and in those thirteen are states that are more homogeneous to Pennsylvania.

California recently increased the number of peremptory challenges to twenty or to twenty-six. New York has twenty. Michigan has twenty. I think one or two others of our contiguous states have in that neighborhood. There are approximately thirteen states that have under ten. I cannot see the necessity for this. It has been stated that it would cut costs. Well, I do not know whether it would or not. A judge I know does not like to sit up there and listen to all this questioning of lawyers to determine the eligibility of jurors. For instance, you can ask a wide range of questions which are usually agreed upon by both

sides beforehand. You might find one of the prospective jurors, for instance, had a cousin by the first marriage that was shot under similar circumstances some ten years ago and the guy got off free. And you might say to her, the fact that your second cousin by your first marriage got off free, would that cause you to convict or acquit this defendant?

Naturally she would say, I do not believe so.

Well, you cannot get her off for cause, but you know darn well it will, and in the normal human life day these things do occur. I think there has not been adequate reason to propound it for this bill, to cut it to ten. Of course, there is no magic number. Why do we have twelve jurors? We have had them for a long time, and we are getting away from that to a certain extent. However, there is still no magic number.

I found that in probably as much experience as anybody here on trying murder cases that—and I am trying to speak from experience, with no axe to grind—twenty peremptory challenges is usually adequate to properly give a fair trial to the defendant and to the Commonwealth.

I might say that many times we use sixteen or seventeen challenges apiece, and the district attorney uses as many challenges as we do. They use their challenges when they see people who have probably had some trouble before; they look like bums, they look slimy and they think the guy is going to be irresponsible and find for the defendant, so, they strike them off. The district attorney strikes that sort of a character off.

I think to subject either side to ten challenges on a serious case—and bear in mind we are not talking about the major felonies, we are talking about the capital cases—would be a disservice to justice.

Senator COPPERSMITH. Mr. President, in answer to the gentleman from Fayette, I would like to point out that no suggestion has been made that five peremptories for misdemeanor cases and seven for felonies, some of which have very long sentences indeed, would create injustice in the trial of the case.

Secondly, with murder cases, picking a jury many times now takes longer than the trial of the actual case itself. There is no need to have twenty peremptories. You can get a fair jury with ten peremptories. You do not have to have the prolonged questioning of witnesses. The same procedures which we use for the serious felonies I think are very applicable to capital cases.

There is one other factor that militates against bias to the defendant. If you are questioning jurors in a capital case, you may ask them if they believe in capital punishment or not. If they answer that they do not believe, it may be a challenge for cause. However, if it is not, you may use a peremptory, and the jurors who believe in capital punishment normally are those who more readily convict. I think any prosecutor will agree with me that those jurors who believe in capital punishment are more ready to convict.

Therefore, a defendant in a murder case has really an advantage in that question being asked and finding out those jurors who do believe in capital punishment.

Mr. President, for that reason I am against this amendment.

Senator DUFFIELD. Mr. President, I desire to interrogate the gentleman from Cambria, Senator Coppersmith.

The PRESIDING OFFICER. Will the gentleman from Cambria, Senator Coppersmith, permit himself to be interrogated?

Senator COPPERSMITH. I will, Mr. President.

Senator DUFFIELD. Mr. President, could the gentleman tell me how many misdemeanor cases he has tried in which he voir dired the jurors?

Senator COPPERSMITH. Mr. President, I have never voir dired the jury on a misdemeanor case.

Senator DUFFIELD. Right, Mr. President. Can the gentleman tell me how many he has voir dired on a felony case?

Senator COPPERSMITH. Mr. President, there have been felony cases involving rapes which created a great deal of publicity, or armed robberies where we have voir dired the jury.

Senator DUFFIELD. Mr. President, can the gentleman tell me how many he has actually voir dired as representing a defendant or the district attorney on felony cases?

Senator COPPERSMITH. Mr. President, on felony cases I would say not more than—

POINT OF ORDER

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

The PRESIDING OFFICER. The gentleman from Delaware, Senator Bell, will state it.

Senator BELL. Mr. President, I suggest that this is the Senate of Pennsylvania, not a court of law. I also suggest that the questions are out of order.

The PRESIDING OFFICER. The gentleman's remarks are well taken, and I would caution Senator Duffield to please restrict his interrogation to the bill before us.

Senator DUFFIELD. Mr. President, I think we have already brought out the point. I will restrict my questioning.

The statement was made that we only have five peremptory challenges for misdemeanors. The only reason the question was asked, it was not personal to see how many cases were tried or anything like that, but we never question jurors that I know of on a misdemeanor charge. Therefore, you do not have much chance to exercise your peremptory challenge. You just scratch them off because you do not know anything about their backgrounds.

On felonies it is the slim occasion, and it has to be granted by special court approval. I recently had a felony case involving the Connellsville police where there was a lot of publicity. We had to petition the court to permit us to ask those jurors questions. But from time immemorial in every murder case which has been tried in this Commonwealth, you have had the right of voir dire, to question jurors as to their background and their ability to sit on the case. That is my concern.

When the gentleman from Cambria, Senator Coppersmith, brought in the comparison with misdemeanors and other felonies, he proved my point. He said he has never voir dired or questioned jurors on misdemeanors, which is the truth. As far as those things are concerned, it was not my intent to prove the point which I proved, that on misdemeanors you do not worry about it. You sit there and look at them and find the poop sheet that you have. You find out what their occupation is, what their background is, whether they are married. You look at them and see if they look mean or not. If you are defense counsel, you scratch them. If they look Presby-

terian, you scratch them. If you are the district attorney and they look like a slouch, you scratch them.

However, I wish our remarks would be held to this one amendment, to felony murder cases and to capital cases and not to misdemeanors where we never have a voir dire as far as jurors are concerned.

Senator ANDREWS. Mr. President, I wish I had known of some of the methods of selecting juries of the gentleman from Fayette, Senator Duffield, when I was district attorney, it may have been very helpful a time or two.

I would rise to state that the gentleman from Fayette, Senator Duffield, has set forth his reasons as a defense attorney; he would prefer to have twenty peremptory challenges. I was a district attorney for three years. I did not try thirty-nine cases, but I tried five murder cases and I would not want to have fewer than twenty challenges on voir dire. I think it is the only fair way to do it. You have numerous reasons, numerous occasions and numerous answers which have been given to questions for which you would like to strike a juror. I do not think there is any money to be saved. I do not think there is a substantial delay. I do not believe that I ever took twenty challenges, but I would take fifteen, sixteen, seventeen or somewhere around there.

I do not see any necessity for this bill at all. I cannot see any reason to cut the number of peremptory challenges from twenty to ten. Therefore, I would urge my colleagues to support the amendment of the gentleman from Fayette, Senator Duffield.

Senator HILL. Mr. President, I would like to explain the point involved in this bill and why we put it in.

First, the amendment, I think, does gut the bill. The reason the bill was put in was because the judges in Philadelphia and Pittsburgh asked it to be put in. They came here and we had a hearing. They testified. Judge Strauss from Allegheny County, who is Administrative Judge in charge of the Criminal Division, and Judge Cavanaugh from Philadelphia County, both of these judges and many of their associates were very interested in this particular bill for three reasons. Incidentally, they were supported in their testimony by the district attorney and also by some segments of the defense bar.

The reasons for the challenges were given as follows: Under the present law you have six peremptory challenges for a misdemeanor. Under the bill we would reduce that to five. Under the present law, there are eight for noncapital felonies, and that would be reduced to seven. Under the present law there are twenty for capital offenses, and that would be reduced to ten.

There are thirteen states which have under ten for capital offenses or maximum penalty offenses; fourteen states have between fifteen and ten; and thirteen states have over fifteen, including many that had in the twenties.

The reasons against twenty were given as follows: First there is a lot of delay involved with twenty. You can see that if you have a defense attorney examining on voir dire, he could go on for a long time. We just had an example of that—and he could go on even longer.

Secondly, the cost is very high. Judge Strauss from Allegheny County indicated it would cost between $200,000 and $400,000 more by having twenty rather than ten. The judges from Philadelphia indicated a great deal of delay going into this. The defense attorney, Mr. Rockington who testified in favor of this—and he has handled many murder cases, that is basically what he does in Philadelphia—said it was very much of an unfair advantage to have twenty peremptory challenges because it helps the defendant who has the most money to spend in examining the panel of jurors.

We have had some good examples of that recently, the Joan Little case which was down in North Carolina; the Maurice Stans case and the John Mitchell case. If you followed those cases you would have read that the success of the defense was based on a very expensive—running into the thousands of dollars—examination of the jury background. They employed psychologists, sociologists and investigators in all of those cases, and they were able to figure out from looking at the jury panel and the members on that panel and the examinations which they made of their background who would be favorable to them and who would not.

An accused who does not have these kinds of funds could not do that, and therefore, it does give an unfair advantage to someone who does have it.

Thirdly, in the City of Philadelphia and in other communities there is a large minority segment and if you have twenty peremptory challenges and, let us say, fifteen blacks on the jury, you can knock them all off. It was testified to that this is the kind of thing that is done if you have a black defendant. If the district attorney wants to do that and he does do it, you just have white members on the panel survive for the jury. Conversely you could have, in another community, the whites stricken off.

So, with a large number of peremptory challenges of this kind, both the district attorney and the defense counsel testified that it did mean that it did play up to this business of getting minority members of the community, whether they be black, white or whatever, off the jury with a large number of peremptory challenges.

All of those present at the hearing were unanimously in favor of this particular piece of legislation. The committee, with the exception of one or two members, also was unanimously in favor of it.

Senator DUFFIELD. Mr. President, in short rebuttal to what went on in the committee meeting, the gentleman from Philadelphia, Senator Hill, very graciously gave me a copy of the transcript of the proceedings of the committee meeting. Out of the two judges and a defense lawyer testifying, there was not any great outpouring of sentiment one way or the other.

He says that Judge Strauss came down from Allegheny County to support this bill. The major thrust of the hearing before the Committee on Judiciary at that time was on another matter and this portion came up.

I have very great respect for Judge Strauss from Pittsburgh. The gentleman from Philadelphia, Senator Hill, quoted him. Here is what Judge Strauss said. The gentleman from Bucks, Senator Howard, asked him if he had cleared this with Mr. Irvis over in the House of Representatives, whether he was going to get this bill passed. "I think the success of what we are doing in the House is going to hinge upon Mr. Irvis, and I am inferring that we have more cooperation at the Philadelphia end rather than the Pittsburgh end. May I ask has this measure been discussed with Mr. Irvis?"

Judge Strauss says, "To be perfectly frank with you, we have been so busy and preoccupied in our county I didn't even know these bills were up. When Judge Cavanaugh called me on the telephone to ask me if I would

come down and when I started to review this matter, I thought my God, this is tailor-made for us."

That is the expert testimony which we have from Judge Strauss: "Clear it with Irvis."

Senator JUBELIRER. Mr. President, I hesitated to debate the bill since I felt that it was covered very well, but I think I would be remiss.

I attended the Judiciary Committee meeting conducted by the gentleman from Philadelphia, Senator Hill. At the time I went to the hearing, Mr. President, I was somewhat concerned that this would be a potential abridgment of constitutional due process on the part of certain defendants. I think the manner in which the gentleman from Philadelphia, Senator Hill, set forth the hearing at the Judiciary Committee is totally and completely accurate and, as one who attended that meeting, I certainly rise to support the bill and oppose the amendment.

Mr. President, I have never prosecuted a case, but I have tried numerous criminal cases in the thirteen odd years that I have been at the Bar. I do not think that it is an outlandish thing to cut the number of peremptory challenges, as this bill would do. I have been convinced, particularly by the defense counsel, who offered his testimony that, in effect, he felt that the more peremptory challenges there were, the more advantage the prosecution would have and not the defendant. I think the manner in which they testified was certainly very clear. The remark as to Representative Irvis—I was there—was not the major part of the testimony. I think that what they had to offer somewhat enlightened me because, as I stated before, I was somewhat skeptical about this kind of legislation. But I know, Mr. President, that it is most difficult in this day and age to get people to serve as jurors. The courts force them to do it, but it is still most difficult and many people come up with medical excuses and other excuses.

In addition, Mr. President, the liberalization of challenges for cause has been extended greatly. Therefore, the courts have been allowing many more excuses on challenges for cause, particularly in capital cases. I think for those reasons, I intend to vote against the amendment and support the bill.

Senator HILL. Mr. President, just one correction: There were quite a few judges at the hearing, also district attorney representatives and others.

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

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

YEAS—24

Andrews,	Hess,	Manbeck,	Ross,
Duffield,	Hobbs,	Murphy,	Scanlon,
Dwyer,	Holl,	Murray,	Smith,
Early,	Kelley,	Nolan,	Stapleton,
Frame,	Kury,	Noszka,	Tilghman,
Hager,	Lynch,	Romanelli,	Zemprelli,

NAYS—20

Ammerman,	Fleming,	Lewis,	Reibman,
Bell,	Hill,	Messinger,	Snyder,
Coppersmith,	Howard,	Moore,	Stauffer,
Dougherty,	Jubelirer,	Myers,	Sweeney,
Ewing,	Lentz,	O'Pake,	Wood,

So the question was determined in the affirmative, and the amendment was agreed to.

The PRESIDING OFFICER. Senate Bill No. 1241 will go over, as amended.

BILL OVER IN ORDER

SB 1340—Without objection, the bill was passed over in its order at the request of Senator NOLAN.

BILL REREFERRED

HB 1462 (Pr. No. 3356)—Upon motion of Senator NOLAN, and agreed to, the bill was rereferred to the Committee on State Government.

BILLS OVER IN ORDER

HB 1642, 1956, 1957 and **2002**—Without objection, the bills were passed over in their order at the request of Senator NOLAN.

The PRESIDENT pro tempore (Martin L. Murray) in the Chair.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 2071 (Pr. No. 3417)—Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—48

Andrews,	Hankins,	Manbeck,	Reibman,
Arlene,	Hess,	McKinney,	Romanelli,
Bell,	Hill,	Mellow,	Ross,
Coppersmith,	Hobbs,	Messinger,	Scanlon,
Dougherty,	Holl,	Moore,	Smith,
Duffield,	Howard,	Murphy,	Snyder,
Dwyer,	Jubelirer,	Murray,	Stapleton,
Early,	Kelley,	Myers,	Stauffer,
Ewing,	Kury,	Nolan,	Sweeney,
Fleming,	Lentz,	Noszka,	Tilghman,
Frame,	Lewis,	O'Pake,	Wood,
Hager,	Lynch,	Orlando,	Zemprelli,

NAYS—1

Ammerman,

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

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

HB 2073 (Pr. No. 3327)—Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—48

Ammerman,	Dwyer,	Jubelirer,	Reibman,
Andrews,	Hankins,	Manbeck,	Romanelli,
Arlene,	Hess,	McKinney,	Ross,
Bell,	Hill,	Mellow,	Scanlon,
Cianfrani,	Hobbs,	Messinger,	Smith,
Dougherty,	Holl,	Moore,	Snyder,
Duffield,	Howard,	Murray,	Stapleton,

Early,	Kelley,	Myers,	Stauffer,
Ewing,	Kury,	Nolan,	Sweeney,
Fleming,	Lentz,	Noszka,	Tilghman,
Frame,	Lewis,	O'Pake,	Wood,
Hager,	Lynch,	Orlando,	Zemprelli,

NAYS—1

Murphy,

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

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

HB 2178 (Pr. No. 3357)—Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—49

Ammerman,	Hankins,	Manbeck,	Reibman,
Andrews,	Hess,	McKinney,	Romanelli,
Arlene,	Hill,	Mellow,	Ross,
Bell,	Hobbs,	Messinger,	Scanlon,
Coppersmith,	Holl,	Moore,	Smith,
Dougherty,	Howard,	Murphy,	Snyder,
Duffield,	Jubelirer,	Murray,	Stapleton,
Dwyer,	Kelley,	Myers,	Stauffer,
Early,	Kury,	Nolan,	Sweeney,
Ewing,	Lentz,	Noszka,	Tilghman,
Fleming,	Lewis,	O'Pake,	Wood,
Frame,	Lynch,	Orlando,	Zemprelli,
Hager,			

NAYS—0

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

Ordered, That the Clerk return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

PERMISSION TO ADDRESS SENATE

Senator HILL asked and obtained unanimous consent to address the Senate.

Senator HILL. Mr. President, I was out of the Senate Chamber a minute ago when you came to House Bill No. 1956 and I was not going to put in an amendment because I was told it would delay the bill, but the bill went over anyway and now I would like to put in that amendment if I may.

The PRESIDENT pro tempore. Does Senator Nolan have any objection?

Senator NOLAN. Mr. President, the only reason we went over House Bill No. 1956 and House Bill No. 1957 was that I was informed that the gentleman from Philadelphia, Senator Hill, wanted to amend the bill. Rather than keep this Chamber here later tonight because there is going to be debate on this amendment as well as the others, I then requested it over in order.

The PRESIDENT pro tempore. Will Senator Hill withdraw his amendment at this time?

Senator HILL. Mr. President, I withdraw the amendment but I would like to point out it is a simple thing just to conform the penalty provision.

POINT OF ORDER

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

The PRESIDENT pro tempore. The gentleman from Venango, Senator Frame, will state it.

Senator FRAME. Mr. President, is the bill before the Senate?

The PRESIDENT pro tempore. It is not, Senator.

Senator FRAME. Then, Mr. President, may I suggest the debate is not germane at this time.

Senator HILL. Mr. President, I do not intend to debate the bill. I simply asked the courtesy of stating what the point of the amendment was. It is not long. I withdraw it, but I simply want to point out that there is a mistake in the present bill and wanted to remedy it. It is not of any great moment; it should be conformed properly and it is not and that was the basis for the amendment, but I withdraw it.

The PRESIDENT pro tempore. Senator Hill withdraws his amendment.

CONSIDERATION OF CALENDAR RESUMED

SECOND CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED ON SECOND CONSIDERATION

HB 694 (Pr. No. 3481)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL REREPORTED FROM COMMITTEE AS AMENDED OVER IN ORDER

SB 1465—Without objection, the bill was passed over in its order at the request of Senator NOLAN.

HB 1643 CALLED UP OUT OF ORDER

HB 1643 (Pr. No. 3254)—Without objection, the bill was called up out of order, from page 16 of the Second Consideration Calendar, by Senator NOLAN.

BILL ON SECOND CONSIDERATION AMENDED

HB 1643 (Pr. No. 3254)—The bill was considered.

On the question,
Will the Senate agree to the bill on second consideration?

Senator STAPLETON offered the following amendments and, if agreed to, asked that the bill be considered for the second time:

Amend Sec. 2, page 2, line 5, by inserting after "Mines.—": (a)

Amend Sec. 2, page 3, by inserting between lines 4 and 5:

(b) Notwithstanding any other provision of this act, emergency medical personnel shall be employed in surface coal mines as follows:

(i) If 20 or more persons are employed on a shift, all of the provisions of this act shall apply. A shift shall include all persons working at the different locations of a mine.

(ii) If a mine has employees working at different locations within a radius of not more than

ten miles or a lesser number of miles as may be determined by the Department of Environmental Resources and said locations are connected by telephone service or equivalent facilities, an emergency medical technician or the equivalent at any location on the shift shall be deemed to be compliance with the provisions of this act.

(iii) If less than 20 persons are employed on a shift, an ambulance service with three members certified as emergency medical technicians, not necessarily coal employees, located within a radius of ten miles, or such other distance as may be approved by the Department of Environmental Resources upon request for and approval of a variance thereto, shall be deemed to be in compliance with the provisions of this act.

(iv) If an area ambulance service is not available, three persons, not necessarily coal employees, possessing certification as an emergency medical technician, or the equivalent thereof, residing within a radius of ten miles, or such other distance as may be approved by the Department of Environmental Resources, upon request for and approval of a variance thereto, for which on-call service has been arranged, shall be compliance with the provisions of this act.

On the question,

Will the Senate agree to the amendments?

They were agreed to.

On the question,

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

It was agreed to.

Ordered, To be transcribed for a third consideration.

PREFERRED APPROPRIATION BILL ON SECOND CONSIDERATION

SB 1557 (Pr. No. 1957)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

PREFERRED APPROPRIATION BILL ON SECOND CONSIDERATION AMENDED

HB 1601 (Pr. No. 3411)—The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator LEWIS offered the following amendments and, if agreed to, asked that the bill be considered for the second time:

Amend Title, page 1, line 5, by removing the period after "institutions" and inserting: and for a construction project at the Benjamin Rush State Park.

Amend Bill, page 1, by inserting between lines 14 and 15:

Section 2. The following amounts are appropriated to the Department of Environmental Resources for the construction of buildings, landscaping, parking facilities and other miscellaneous items at Benjamin Rush State Park:

Benjamin Rush House	$160,000
Parking	29,000
Landscaping	30,000
Visitors Center	89,000
Miscellaneous	65,000

Amend Sec. 2, page 1, line 15, by striking out "2." and inserting: 3.

On the question,

Will the Senate agree to the amendments?

They were agreed to.

On the question,

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

It was agreed to.

Ordered, To be transcribed for a third consideration.

BILL ON SECOND CONSIDERATION

HB 2 (Pr. No. 3226)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL ON SECOND CONSIDERATION AMENDED

HB 167 (Pr. No. 3404)—The bill was considered.

On the question,

Will the Senate agree to the bill on second consideration?

Senator MESSINGER offered the following amendment:

Amend Sec. 2, page 2, line 12, by inserting after "debts.": The term does not include any officer or employee of the United States or any state to the extent that collecting or attempting to collect any debt is in the performance of his official duties.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

On the question,

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

Senator MESSINGER offered the following amendment:

Amend Sec. 3, page 2, line 23 by striking out "residing with the debtor" and inserting: or the postsecondary institution the debtor is attending, attended, or plans to attend,

On the question,

Will the Senate agree to the amendment?

It was agreed to.

And the question recurring,

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

Senator HILL. Mr. President, I offer an amendment to House Bill No. 167.

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

The PRESIDENT pro tempore. The Senate will be at ease.

(The Senate was at ease.)

Senator HILL. Mr. President, the purpose of this amendment is two-fold.

First, they take out language in the bill—

AMENDMENT OUT OF ORDER

The PRESIDENT pro tempore. Senator Hill, this amendment is not in order. I thought you were going to withdraw your amendment.

Senator HILL. Mr. President, I will withdraw it.

The PRESIDENT pro tempore. Senator Hill withdraws his amendment.

House Bill No. 167 will go over, as amended.

BILL ON SECOND CONSIDERATION

HB 219 (Pr. No. 3418)—Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL REREFERRED

SB 224 (Pr. No. 1987)—Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILL OVER IN ORDER

HB 290—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 305 (Pr. No. 3358)—Considered the second time and agreed to,
Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 340, HB 485, 556, 596 and **600**—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 615 (Pr. No. 693)—Considered the second time and agreed to,
Ordered, To be transcribed for a third consideration.

BILL OVER IN ORDER

HB 797—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILLS ON SECOND CONSIDERATION

SB 959 (Pr. No. 1990) and **HB 1089 (Pr. No. 3410)**—Considered the second time and agreed to,
Ordered, To be transcribed for a third consideration.

BILL REREFERRED

SB 1103 (Pr. No. 1311)—Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

SB 1170 and **1172**—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION AMENDED

SB 1189 (Pr. No. 1422)—The bill was considered.

On the question,
Will the Senate agree to the bill on second consideration?
Senator MESSINGER offered the following amendment and, if agreed to, asked that the bill be considered for the second time:

Amend Sec. 1 (Sec. 303), page 4, by inserting between lines 21 and 22:
Full funding for qualifying local libraries under this clause must be allocated from available funds before implementing the provisions of clauses (2), (2.1), (3) and (4).

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

On the question,
Will the Senate agree to the bill on second consideration, as amended?
It was agreed to.
Ordered, To be transcribed for a third consideration.

BILL ON SECOND CONSIDERATION

HB 1196 (Pr. No. 3420)—Considered the second time and agreed to,
Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

HB 1231, SB 1243, HB 1310, SB 1313, 1363 and **1380**—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

The PRESIDING OFFICER (James R. Kelley) in the Chair.

BILL ON SECOND CONSIDERATION

HB 1409 (Pr. No. 3270)—Considered the second time and agreed to,
Ordered, To be transcribed for a third consideration.

BILL REREFERRED

SB 1412 (Pr. No. 1743)—Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILL OVER IN ORDER

SB 1413—Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL RECOMMITTED

SB 1425 (Pr. No. 1942)—Upon motion of Senator MESSINGER, and agreed to, the bill was recommitted to the Committee on State Government.

BILLS OVER IN ORDER

SB 1435, HB 1468, SB 1478, 1487, HB 1498, SB 1512, 1513 and **1516**—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL REREFERRED

SB 1517 (Pr. No. 1988)—Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILLS OVER IN ORDER

SB 1519, 1520 and **HB 1538**—Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 1556 (Pr. No. 2917)—Considered the second time and agreed to,
Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 1559, 1560, 1561, 1562, 1563, HB 1607, 1619, 1752, 1764, 2141 and **2281**—Without objection, the bills were passed over in their order at the request of Senator NOLAN.

BILL ON SECOND CONSIDERATION

HB 2294 (Pr. No. 3181)—Considered the second time and agreed to,
Ordered. To be transcribed for a third consideration.

UNFINISHED BUSINESS

REPORT OF COMMITTEE OF CONFERENCE SUBMITTED AND LAID ON THE TABLE

Senator KURY submitted the Report of Committee of Conference on **HB 175**, which was laid on the table.

REPORTS FROM COMMITTEES

Senator HANKINS, from the Committee on Insurance, rereported, as committed, **HB 649**; reported, as committed, **SB 1547, 1569, HB 2059, 2061, 2062, 2064** and **2065**; as amended, **HB 2063.**

Senator REIBMAN, from the Committee on Education, reported, as amended, **SB 903.**

Senator COPPERSMITH, from the Committee on Public Health and Welfare, reported, as amended, **HB 546** and **1078.**

Senator SMITH, from the Committee on State Government, rereported, as committed, **HB 2202**; reported, as committed, **HB 2353**; as amended, **HB 1579.**

BILL REREFERRED

Senator HILL, from the Committee on Judiciary, returned to the Senate **SB 1552**, which was rereferred to the Committee on Aging and Youth.

SENATE RESOLUTIONS

SENATE COMMITTEE TO INVESTIGATE FARVIEW STATE HOSPITAL

Senator MESSINGER, on behalf of Senator CIANFRANI, offered the following resolution (**Serial No. 91**), which was read and referred to the Committee on Rules and Executive Nominations:

In the Senate, June 15, 1976.

Treatment of the inmates of Farview State Hospital has raised some questions as to mistreatment of patients and methods of restraint employed by the personnel of Farview State Hospital; therefore be it

RESOLVED, That the President pro tempore of the Senate appoint a six member bipartisan Senate committee, three from the majority party, and three from the minority party, to investigate Farview State Hospital in the Department of Public Welfare as to the methods of treatment and methods of restraint; and be it further

RESOLVED, That the committee may hold hearings, take testimony and make its study at such places as it deems necessary within this Commonwealth. It may issue subpoenas under the hand and seal of its chairman commanding any person to appear before it and to answer questions touching matters properly being inquired into by the committee and to produce such books, papers, records and documents as the committee deems necessary. Such subpoenas may be served upon any person and shall have the force and effect of subpoenas issued out of the courts of this Commonwealth. Any person who willfully neglects or refuses to testify before the committee or to produce any books, papers, records or documents, shall be subject to the penalties provided by the laws of the Commonwealth in such case. Each member of the committee shall have power to administer oaths and affirmations to witnesses appearing before the committee; and be it further

RESOLVED, That the committee shall report its findings together with its recommendations for appropriate legislation, or otherwise, to the Senate as soon as possible.

DIRECTING THE SENATE COMMITTEE ON EDUCATION TO INVESTIGATE THE DISCHARGE OF THE PRESIDENT OF SLIPPERY ROCK STATE COLLEGE

Senators ANDREWS, FRAME and DWYER offered the following resolution (**Serial No. 92**), which was read and referred to the Committee on Rules and Executive Nominations:

In the Senate, June 15, 1976.

WHEREAS, The present Governor of Pennsylvania and the present Secretary of Education on Friday, June 11, 1976, abruptly discharged the President of Slippery Rock State College; and

WHEREAS, Said discharge was abrupt and appears to have been without any regard to accepted personnel procedures or due process; and

WHEREAS, Said discharge was made without consultation with the duly constituted Board of Trustees of Slippery Rock State College; and

WHEREAS, No supporting evidence has been offered to support the allegations made at the time of the dismissal; therefore be it

RESOLVED, That the Committee on Education undertake an investigation of the circumstances of the discharge of the President of Slippery Rock State College to determine whether such discharge was warranted and whether the procedures employed in the discharge were equitable and lawful; and be it further

RESOLVED, That the committee may hold hearings, take testimony, and make its investigations at such places as it deems necessary within this Commonwealth. It may issue subpoenas under the hand and seal of its chairman commanding any person to appear before it and to answer questions touching matters properly being inquired into by the committee and to produce such books, papers, records and documents as the committee deems necessary. Such subpoenas may be served upon any person and shall have the force and effect of subpoenas issued out of the courts of this Commonwealth. Any person who willfully neglects or refuses to testify before the committee or to produce any books, papers, records or documents, shall be subject to the penalties provided by the laws of the Commonwealth in such case. Each member of the committee shall have power to administer oaths and affirmations to witnesses appearing before the committee; and be it further

RESOLVED, That the committee shall report to the Senate as soon as possible on its investigation and its findings and recommendations resulting therefrom.

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 James McCarthy by Senator Murray.

Congratulations of the Senate were extended to Mr. and Mrs. Duane C. Polan by Senator Murphy.

Congratulations of the Senate were extended to Court Leechburg by Senator Stapleton.

Congratulations of the Senate were extended to Gene Wettstone by Senator Ammerman.

Congratulations of the Senate were extended to Brigadier Gilbert E. Hess, Mr. and Mrs. Clifford Young, Mr. and Mrs. A. Ross Criswell and to Mr. and Mrs. Cloyd Lane by Senator Jubelirer.

Congratulations of the Senate were extended to Mr. and Mrs. Louis Tracey, Sr. by Senator Orlando.

Congratulations of the Senate were extended to Mr. and Mrs. Edward Wheeler, Mr. and Mrs. D. C. Gillette,

Mr. and Mrs. Emerson Maynard, Mr. and Mrs. Harland Pardoe and to Mr. and Mrs. James T. Bowes by Senator Hager.

Congratulations of the Senate were extended to Mr. and Mrs. Eugene L. Quigley by Senator Moore.

BILLS ON FIRST CONSIDERATION

Senator MESSINGER. 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 903, 1547, 1569, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, HB 546, 1078, 1579, 2059, 2061, 2062, 2063, 2064, 2065, 2123, 2353, 2456, 2457 and **2458.**

And said bills having been considered for the first time, Ordered, To be laid aside for second consideration.

HOUSE MESSAGES

HOUSE BILL FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 572**, which was referred to the Committee on Judiciary.

HOUSE INSISTS UPON ITS AMENDMENTS NONCONCURRED IN BY THE SENATE TO SB 33, AND APPOINTS COMMITTEE OF CONFERENCE

He also informed the Senate that the House insists upon its amendments nonconcurred in by the Senate to **SB 33**, and has appointed Messrs. MANDERINO, ENGLEHART and O'CONNELL 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.

SENATE BILL RETURNED WITH AMENDMENTS

He also returned to the Senate **SB 1268**, with the information that the House has passed the same with amendments in which the concurrence of the Senate is requested.

The PRESIDING OFFICER. The bill, as amended, will be placed on the Calendar.

HOUSE ADOPTS REPORTS OF COMMITTEES OF CONFERENCE

He also informed the Senate that the House has adopted Reports of Committees of Conference on **SB 670** and **883.**

The PRESIDENT pro tempore (Martin L. Murray) in the Chair.

BILLS SIGNED

The President pro tempore (Martin L. Murray) in the presence of the Senate signed the following bills:

SB 670 and **883.**

The PRESIDING OFFICER (James R. Kelley) in the Chair.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

Eastern Daylight Saving Time	DATE AND COMMITTEE	Room
	WEDNESDAY, JUNE 16, 1976	
9:00 A.M.	CONSUMER AFFAIRS to consider Senate Bills No. 162 and 479	Minority Caucus Room
	MONDAY, JUNE 21, 1976	
10:30 A.M.	JUDICIARY Hearing on House Bill No. 2257	156
	TUESDAY, JUNE 22, 1976	
10:30 A.M.	JUDICIARY to consider Senate Bills No. 996, 1350, 1474 and House Bill No. 412	172
12:00 Noon	RULES AND EXECUTIVE NOMINATIONS	Rules Committee Conference Room

ANNOUNCEMENT BY MAJORITY WHIP

Senator MESSINGER. Mr. President, before I make the motion to adjourn, I wish to remind all the Senators who may still be in this building that tomorrow will be a token session with a special Calendar. The purpose of the token session is to move bills up into place.

On Monday we will be back with the regular Calendar. I do not think it is going to be very regular when I heard all of the bills which were read today, but at least we will come back with an encyclopedia.

ADJOURNMENT

Senator MESSINGER. Mr. President, I move that the Senate do now adjourn until Wednesday, June 16, 1976, at 11:00 a.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 6:50 p.m., Eastern Daylight Saving Time.