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SENATE

MONDAY, September 25, 1978.

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, Reverend Father THOMAS JACKSON, Director of the Commonwealth Chaplain Program, Harrisburg, offered the following prayer:

O Almighty God, we address You in many titles, as Allah, Jahweh and as God our Father, as we, Your diverse children, invite Your Holy Presence into this gathering of the Pennsylvania Senate.

We acknowledge Your presence, Your rule, Your power and Your love.

O God, You have given us rules of conduct to cover our dealings with people. Help us to apply these rules in concrete situations in a way that is fair, just and honorable.

Help us to work conscientiously, diligently and honestly to regain the faith of our people in Your servants who govern through legislation.

As we look forward to a busy week, remind us to be thorough and exact, patient and kind.

We ask Your guidance on the people of Pennsylvania as they prepare to select a Governor and Members of the Senate. May we be ready to serve if called upon in a spirit of genuine love of the Commonwealth.

Let us realize, O Lord, that while the electors may give us a periodic performance rating in the elections, it is really Your final performance rating on our lives and our work that counts in the end.

Inspire us, as only You can, O Lord, to live accordingly. Amen.

The PRESIDENT pro tempore. The Chair wishes to thank Father Jackson, who is the guest this week of Senator Murray.

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 MESSINGER, further reading was dispensed with, and the Journal was approved.

COMMUNICATIONS FROM THE GOVERNOR

APPROVAL OF SENATE BILLS

The Secretary to the Governor being introduced, presented communications in writing from His Excellency, the Governor, advising that the following Senate Bills had been approved and signed by the Governor:

SB 1200 and 1326.

RECALL COMMUNICATION REFERRED TO COMMITTEE

He also 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:

MEMBER OF THE STATE BOARD OF PODIATRY EXAMINERS

September 22, 1978.

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

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated September 14, 1978 for the appointment of John J. Marlette, D.P.M., 2 Tee Street, Selinsgrove 17870, Snyder County, Twenty-seventh Senatorial District, as a member of the State Board of Podiatry Examiners, to serve for a term of four years, and until his successor shall have been appointed and qualified, vice John N. Petrus, D.S.P., Erie, whose term expired.

I respectfully request the return to me of the official message of nomination in the premises.

MILTON J. SHAPP.

NOMINATIONS BY THE GOVERNOR REFERRED TO COMMITTEE

He also presented communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows, and referred to the Committee on Rules and Executive Nominations:

MEMBER OF THE STATE BOARD OF CHIROPRACTIC EXAMINERS

September 22, 1978.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Louis P. Latimer, D.C., R. D. #1, Crystal Lake Forest, Carbondale 18407, Susquehanna County, Twentieth Senatorial District, for appointment as a member of the State Board of Chiropractic Examiners, to serve until July 15, 1981, and until his successor is appointed and

qualified, vice Dr. John C. Pammer, Jr., North Catasauqua, whose term expired.

MILTON J. SHAPP.

COMMISSONER OF DEEDS

September 22, 1978.

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 John William Sherman, R. D. #2, Wards Road, Blairstown, Warren County, New Jersey, 07825, for appointment as Commissioner of Deeds for the Commonwealth of Pennsylvania, with residence in the State of New Jersey, for the term of five years, to compute from the date of confirmation.

MILTON J. SHAPP.

MEMBER OF THE BOARD OF TRUSTEES OF
KUTZTOWN STATE COLLEGE

September 22, 1978.

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 Ms. Mary Grace Ann Reilly, 135 South Ithan Avenue, Rosemont 19010, Delaware County, Seventeenth Senatorial District, for appointment as a student member of the Board of Trustees of Kutztown State College, to serve for three years or for so long as she is a full-time undergraduate student in attendance at the college, whichever period is shorter, vice James B. Gallo, Northumberland, whose term expired.

MILTON J. SHAPP.

MEMBER OF THE BOARD OF TRUSTEES OF
LOCK HAVEN STATE COLLEGE

September 22, 1978.

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 Craig Phillip Miller, 229 Sixth Street, Renovo 17764, Clinton County, Twenty-fifth Senatorial District, for appointment as a student member of the Board of Trustees of Lock Haven State College, to serve for a term of three years, or for so long as he is a full-time undergraduate student in attendance at the college, whichever period is shorter, vice Jeffrey M. Briel, Camp Hill, whose term expired.

MILTON J. SHAPP.

MEMBER OF THE BOARD OF TRUSTEES OF
THE PENNSYLVANIA STATE UNIVERSITY

September 22, 1978.

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

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate Helen C. Davies, Ph.D., 7053 McCallum Street, Philadelphia 19119, Philadelphia County, Thirty-sixth Senatorial District, for reappointment as a member of the Board of Trustees of The Pennsylvania State University, to serve until July 1, 1981, and until her successor shall have been appointed and qualified.

MILTON J. SHAPP.

MEMBER OF THE BOARD OF TRUSTEES OF
THE PENNSYLVANIA STATE UNIVERSITY

September 22, 1978.

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 Honorable Ronald G. Lench, 3981 Dora Drive, Harrisburg 17110, Dauphin County, Fifteenth Senatorial District, for appointment as a member of the Board of Trustees of The Pennsylvania State University, to serve until July 1, 1981, and until his successor shall have been appointed and qualified, vice Robert L. Ruttenberg, Limekiln, whose term expired.

MILTON J. SHAPP.

MEMBER OF THE JUNIATA COUNTY
BOARD OF ASSISTANCE

September 22, 1978.

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 Mrs. Florence M. Stump (Republican), 624 Washington Avenue, Mifflintown 17059, Juniata County, Thirty-third Senatorial District, for appointment as a member of the Juniata County Board of Assistance, to serve until December 31, 1978, and until her successor is duly appointed and qualified, vice Clair E. Parsons, Port Royal, resigned.

MILTON J. SHAPP.

JOINT SESSION

He also presented communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows:

September 25, 1978.

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

If it meets with the approval of the General Assembly, I ask that they convene in Joint Session on Wednesday, September 27, 1978, at a time convenient to the General Assembly, for the purpose of hearing an address by Asher Naim, Israeli Consul in Philadelphia, on the occasion of the 30th anniversary of the establishment of Israel.

MILTON J. SHAPP.

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 2334**, which was referred to the Committee on Aging and Youth.

He also presented for concurrence **HB 2406, 2706, 2715 and 2722**, which was referred to the Committee on Appropriations.

He also presented for concurrence **HB 2654**, which was referred to the Committee on Business and Commerce.

He also presented for concurrence **HB 1022 and 2460**, which were referred to the Committee on Local Government.

He also presented for concurrence **HB 2404**, which was referred to the Committee on Rules and Executive Nominations.

He also presented for concurrence **HB 2517** and **2732**, which were referred to the Committee on State Government.

He also presented for concurrence **HB 18**, which was referred to the Committee on Transportation.

He also presented for concurrence **HB 2029**, which was referred to the Committee on Urban Affairs and Housing.

HOUSE CONCURS IN SENATE AMENDMENTS BY AMENDING SAID AMENDMENTS TO HOUSE BILL

He also informed the Senate that the House has concurred in amendments made by the Senate by amending said amendments to **HB 198**, in which the concurrence of the Senate is requested.

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

SENATE BILLS RETURNED WITH AMENDMENTS

He also returned to the Senate **SB 195, 282, 1008** and **1477**, 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 bills, as amended, will be placed on the Calendar.

HOUSE CONCURS IN SENATE AMENDMENTS TO HOUSE BILL

He also informed the Senate that the House has concurred in amendments made by the Senate to **HB 2371**.

HOUSE CONCURS IN SENATE BILL

He also returned to the Senate **SB 1506**, with the information that the House has passed the same without amendments.

HOUSE CONCURS IN SENATE CONCURRENT RESOLUTION

He also informed the Senate that the House has concurred in Senate Concurrent Resolution, Serial No. **224**, entitled:

Postponing enforcement of the Bedding and Upholstery Law.

BILL SIGNED

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

SB 1506.

ANNOUNCEMENTS BY THE SECRETARY

The SECRETARY. The following committee meetings will be held this afternoon:

The Committee on Consumer Affairs will meet in Room 353 at 1:00 o'clock to consider House Bill No. 2200 and House Bill No. 2309.

The Conference Committee on Senate Bill No. 522 will meet in Room 169 at 1:30 p.m.

The Committee on Urban Affairs and Housing will meet in Room 168 to consider Senate Bill No. 1623 at 1:30 p.m. and sometime during today's Session the Committee on State Gov-

ernment will call a meeting off the floor to consider House Bill No. 1076 and House Bill No. 2740.

BILLS INTRODUCED AND REFERRED

Senators EARLY, MURRAY, ARLENE, LYNCH, O'PAKE, HANKINS, ROSS and SCANLON presented to the Chair **SB 1644**, entitled:

An Act naming a portion of Highway Route No. I-279 in Allegheny County, the "Raymond E. Wilt Memorial Highway".

Which was committed to the Committee on Transportation.

Senator ARLENE presented to the Chair **SB 1645**, entitled:

An Act amending the act of June 2, 1915 (P. L. 736, No. 338), entitled, as amended, "The Pennsylvania Workmen's Compensation Act," further defining earning power in relation to partial disability, deleting provisions relating to automatic supercedeas and making editorial changes.

Which was committed to the Committee on Labor and Industry.

Senator HOLL presented to the Chair **SB 1646**, entitled:

A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for real property taxes.

Which was committed to the Committee on Constitutional Changes and Federal Relations.

SENATE CONCURRENT RESOLUTION

JOINT SESSION

Senator MESSINGER offered the following resolution which was read, considered and adopted:

In the Senate, September 25, 1978.

RESOLVED, (the House of Representatives concurring), That the Senate and House of Representatives meet in Joint Session at eleven o'clock A.M., Wednesday, September 27, 1978 for the purpose of hearing an address by Asher Naim, Israeli Consul in Philadelphia; and be it further

RESOLVED, That a committee of three on the part of the Senate be appointed to act with a similar committee on the part of the House of Representatives to escort Consul Naim to the Hall of the House of Representatives.

RECESS

Senator MESSINGER. Mr. President, at this time I request a recess of the Senate for the purpose of a Democratic caucus to begin promptly at 2:00 o'clock with the expectation of returning to the floor at 3:30 p.m.

Senator HAGER. Mr. President, I would like to remind the Republican Members that the designee for Secretary of PennDOT, Mr. Pulakos, is coming to our caucus at 1:30 p.m. and all Republican Members should be there then. We will caucus on the Calendar immediately thereafter.

The PRESIDENT pro tempore. The Senate will stand in recess until 3:30 p.m.

AFTER RECESS

The **PRESIDENT** (Lieutenant Governor Ernest P. Kline) in the Chair.

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

HOUSE MESSAGES**SENATE BILLS RETURNED WITH AMENDMENTS**

The Clerk of the House of Representatives being introduced, returned to the Senate **SB 191, 224, 767, 1319 and 1320**, with the information that the House has passed the same with amendments in which the concurrence of the Senate is requested.

The **PRESIDENT**. The bills, as amended, will be placed on the Calendar.

PERMISSION TO ADDRESS SENATE

Senator **ORLANDO**. Mr. President, I have here a letter of transmittal.

The **PRESIDENT**. The Chair thanks the Senator and his report will be printed in the Journal.

**REPORT AND RECOMMENDATIONS OF THE
SENATE FINANCE COMMITTEE INVESTIGATING
SENATE BILLS 889, 890, 891, AND 1271**

LETTER OF TRANSMITTAL**TO THE MEMBERS OF THE SENATE:**

The Senate Finance Committee submits to you this final report covering its entire investigation of the proposals before the Senate to replace property taxes for education.

The report has attempted to sum up the points raised at the public hearings. At these hearings there was obviously points and counter points. Without getting deeply into these arguments we have outlined the arguments and discussed briefly their implications.

In this report we have tried to put to rest questions about school subsidy levels and to show how the bills will meet school costs. The committee was able to do this by not accepting any statistics from any source without careful evaluation and scrutiny. The committee asks for the same evaluation of its figures.

In conclusion, the committee expresses its appreciation and thanks for their efforts and assistance in the investigation and preparation of this document particularly to Joe O'Connor, Jack Heneks, Amy Free and Debra Rose.

Respectfully submitted,

QUENTIN R. ORLANDO,
Chairman
Senate Finance Committee

SUMMARY OF MAJOR POINTS

1. Senate Bill 889 et al will provide enough state-wide revenue to meet mandated school subsidy increases.
2. The proposal will give most, but not all school districts, the necessary state subsidies and local income tax authorization to meet projected school costs.
3. In some instances, particularly in the suburban Philadelphia area, the ceiling on the local income tax rate will prohibit school districts from fully funding some programs.

4. Poorer school districts, because they are already receiving upwards to 100% state subsidy, will benefit less from the subsidy increase than wealthier school districts.

4A. The insertion of maximum reimbursement levels that do not reflect current spending will mean that the 80% state share of education costs can not be met. It will be an approximately 70% share.

5. Groups who generally will be relieved of tax liability under the bill include

- A. Landlords
- B. Senior citizens
- C. Vacant landholders

Groups who will generally feel an increased tax liability include

- A. Tenants
- B. Savings and loan associations and banks
- C. Insurance companies

6. The net loss of the contribution of certain groups makes it possible that the middle income taxpayer may have to meet the gap created by such losses.

7. The shift from a property tax to income means that the ability to pay will be more closely accommodated.

8. It is not possible to ascertain the equity of the shifts in tax liability caused by Senate Bills 889, 890 and 891 because the base we are comparing the shifts to, the present property tax, is itself inequitable.

9. The unincorporated business association tax will tend to be regressive as it will fall heaviest on a high volume, low profits operation.

10. There is a strong possibility that local mercantile and business privilege taxes could not be levied because the unincorporated business tax will pre-empt the field-causing double taxation.

11. The increase in the Insurance Premiums Tax would subject Pennsylvania domestic insurance companies to additional tax liability from insurance taxes in other states.

12. It will be difficult for the Department of Revenue to verify accurately the income of school districts and to collect the surtax for the districts.

13. The value of land will be increased and the price of homes will rise accordingly.

14. There could be a surplus of approximately \$150 million to \$200 million. The bills mandate \$1.8 billion in new taxes with \$1.2 billion in instructional cost subsidy increases and approximately a \$400 million to \$450 million increase in other state subsidies.

INTRODUCTION

In recent years, dramatic increases in property values coupled with increasingly higher cost of local government services, particularly education, have driven property tax bills upward. As the dollar amounts of property tax bills has grown, three questions have been asked; can property tax be made more fair from our property to another? Can relief be given to those who cannot afford to pay their property taxes? Should not property taxes be reduced and/or replaced?

The bills under consideration, Senate Bills 889, 890, 891 and 1271 seek to reduce property taxes and replace property taxes. As such, they shift the responsibility for funding education from property owners to wage earners and businesses. It should be pointed out that Senate Bills 889, 890 and 891 would not reduce taxes or hold down education costs but rather find a new way to pay for these costs.

There has been some criticism of the committee for taking time to write a report and conduct a study. It is said the bills are simple, the shifts involved are minor and the proposed increases modest. The question then to be posed is: If the shifts are in fact minor, why undertake such a major overhaul to accomplish "minor shifts"? If, however, the shifts are major, as they in some cases appear to be, then full and complete study would appear to be very much in order.

In this vein, two departments of State government, the Department of Education and the Department of Community Affairs, are in the process of indepth, extensive research, some of it contracted for with non-governmental agencies, on the ques-

tion of replacing the property tax and questions raised by these bills. These studies are not complete and were not available to the Senate Finance Committee at the time of this writing.

This report seeks to do two things; answer the questions raised in the committee's 5 public hearings on the bills; second it will present and describe, as far as possible, the effect of these bills on the different school districts and taxpayers around the state.

It should be noted that Senate Bill 1271 has been amended substantially following the public hearings. The amendments alter the purpose and the effect of the bill. Since none of the witnesses spoke to the amended bill, the following analysis will address only to the implications of the new bill and the policy questions it raises.

As indicated, the future of the property tax as a revenue source is under pressure. The property tax places a heavy burden on the poor and those with large families. The property tax is an ever increasing burden on the senior citizen and those people on fixed incomes. The property tax is difficult to collect and very poorly administered.

Senate Bills 889, 890, and 891 seek to remedy this by eliminating the use of this tax and shift the responsibility to income and business taxes. Senate Bill 1271 gives local school districts the option of shifting to wage taxes and it would place a cap equal to 1% of the assessed valuation on the amount which could be raised.

To understand the implications of these bills, the Finance Committee conducted public hearings from April 12, 1978 to May 10, 1978 in Harrisburg, Philadelphia, Pittsburgh, Scranton and Erie. Direct testimony was received from 60 witnesses while 5 witnesses submitted written testimony.

This report contains the major points developed in the public hearings and a statistical breakdown of Senate Bills 889, 890 and 891 by school district.

Because the bills are very complicated, the report is divided into two sections. The first dealing with the effects of eliminating the property tax and the second deals with the impact of the replacement taxes and revenues.

In a nutshell, this proposal is sponsored by Senator Henry Messinger (D-Lehigh) but it actually is the work of Senator John Stauffer (R-Chester).

As embodied in Senate Bills 889, 890 and 891, they call for an increase in state aid to education from a statutorily mandated 50% to 80% on a schedule to take effect in 1982-83. The increased subsidy of approximately \$1.1 billion will be paid by a 1% increase in the state income tax to 3.2% and increases in the following business taxes

Capital stock and franchise — 10 to 25 mills
 Insurance Premiums Gross Receipts — 2 to 2.1%
 Mutual Thrift Institutions — 11.5% to 14%
 Bank and Trust Company Shares — 15 to 18.5 mills
 Titles Insurance and Trust Company Shares — 15 to 18.5 mills

In addition, a 5 mill tax would be levied on the new category of unincorporated business associations. This would include partnerships and sole proprietorships, such as doctors, lawyers, dentists and small merchants among others.

The subsidy program will be altered in two major ways. The floating reimbursement rate that was placed in Act 59 passed in 1977 will be eliminated and replaced with a stated reimbursement rate. In other words, under the present system, the actual per pupil median costs of a school district in Pennsylvania is computed each year and 50% of that figure given to the school district based on the level of wealth in each school district. The actual average this year was \$1010 and it is estimated that the figure will rise to approximately \$1400 by 1982-83. Senate Bill 889, on the other hand, inserts the maximum rate at \$920 for the first year and a cap of \$1260 in 1982. The 80% instead of 50% stated share will be computed against that figure, instead of the actual school costs. Thus, in effect, the state will be reimbursing less than 80% of the actual school costs. According to preliminary figures from the Senate Finance Committee, it would be a 70-74% state share and not the advertised 80% figure.

The second change would be to calculate the wealth of a dis-

trict on its total income wealth. Presently, wealth of the district is calculated by a weighted formula of 40% based on income wealth and 60% based on property wealth.

The local share would have to be raised primarily by a local income tax which would be piggybacked on the state income base. The school district would not be allowed to levy above a 2% rate or, if it levies an earned tax under the Local Tax Enabling Act, a 2% rate.

THE CASE AGAINST THE PROPERTY TAX

It would serve no purpose to rehash here at great length the problem with the property tax. The testimony of Senator John Stauffer at the Finance Committee hearing in Harrisburg on April 12, 1978 is an eloquent summary of the problems of this tax.

As Senator Stauffer pointed out, the tax is unfair to the poor and those on fixed income. It is not responsive to economic trends. Its administration is a nightmare and its collection the most difficult of any of the major taxes. In addition, the property tax is the most unpopular of taxes.

To the Stauffer testimony, we need to add the report of Senator Quentin R. Orlando on assessment practices in Pennsylvania. This report detailed a system of assessments so out of date, so poorly maintained, so unprofessionally prepared that Orlando found property tax assessments in Pennsylvania bear no relationship to the legal requirement of fair market value.

On top of this, we need to add the constitutional challenges to which this tax is subjected.

In Pennsylvania, the Commonwealth Court in *Danson v. Case*, Pa. Comm. 38 2A 2d 1238 (1978) dismissed for failure to state a cause of action the efforts of Philadelphia school district residents to have the new school subsidy formula contained in Act 59 of 1977 declared unconstitutional. The Court found that the act provided a uniform state-wide formula for distribution of state subsidy money to the local school districts which was rationally related to the constitutional mandate of providing a thorough and efficient education for children in the state.

The court failed to find that education was a fundamental interest following the reasoning of *San Antonio Independent School District v. Rodriguez*, 441 U. S. 1.

The taxpayers had contended that by virtue of the subsidy formula, Philadelphia was forced to truncate services and this meant that a less than thorough education was being provided by the state.

The court was not persuaded by the argument, maintaining that the severity of the services cut was not clear and that the formula was not, in fact, the cause of such truncated service.

The court did not look into the municipal overburden argument that has been successfully maintained at the trial level in New York and Ohio. Under this theory, a poorer district or an urban district has special problems which require more money. But those states' subsidy formulas did not take this into consideration. Since the poorer district has less tax base and is dependent on the property tax which other municipal governments use as well, the district is reluctant to and, in many cases, cannot raise additional taxes from the property tax. The combination of the two forces has voided the financing system.

Again, Commonwealth Court did not allow the issue to go to trial, finding that there were no such glaring deficiencies in Pennsylvania. It stated:

"Challenges predicated upon similar constitutional provisions have succeeded in other jurisdictions by virtue of the reliance placed in those jurisdictions upon local real property tax base in determining either the permissible level of local taxation or the limits of state subsidies, and the manner in which such reliance discriminates against poorer districts. See *Serrano v. Priest*, 5 Cal.3d 584, 96 Cal.Rptr. 601, 487 P.2d 1241 (1971); see also *Horton v. Meskill*, supra note 15. We find no undue reliance in Pennsylvania's equalization grant formula. A state aid system weighing district density or sparsity, poverty, number of students, cost per student and district wealth measured by income and equalized real property assessments bears a facially fair and substantial relation to promoting equal

educational opportunity. Any compromises of that effort are the result of what we feel to be legitimate and strong state objectives of maintaining state and local control and distributing exiguous sums among the many school districts. We believe that petitioners' generalized attack upon the State system of financing the public school system vis-a-vis its impact upon the Philadelphia School District fails to state a cause of action." Pa. Comm. 382 A 2d at 1246.

The taxpayers are now awaiting a decision by the Supreme Court as to the propriety of Commonwealth's Court dismissal. The major point of the appeal is to have the court go beyond that *San Antonio* decision and adopt education as a fundamental interest. This would force the court to use strict scrutiny and not the relaxed rational relationship test employed by Commonwealth Court. The argument of the taxpayer is that the U. S. Supreme Court in *San Antonio* could not declare education a fundamental interest because education was not contained in the federal constitution. In contrast, the thorough and efficient education clause is explicit within the Pennsylvania Constitution. Connecticut in *Horton v. Meskill* 376 A 2d 359 (Conn. 1977) has adopted this theory in invalidating that state's school finance system.

It is unclear at this time if the Court will uphold the decision or remand for a full trial in Commonwealth Court. In any event, there is a noticeable difference in the subsidy share of Pennsylvania and those states in which the finance system was invalidated. The reimbursable share is higher, the reliance on property tax less due to the alternative Act 511 taxes such as the wage tax, and the municipal overburden not as significant for the same reasons. Thus, while it is not clear, it appears that a similar finding of unconstitutionality in Pennsylvania is not imminent.

This summary is not a conclusive picture. In addition to the testimony, report and cases cited, the report of the Attorney General on mass tax assessment practices and the work of the Penn State Center for Land and Water Research detail in depth the legal and statistical short-comings of Pennsylvania property tax practices.

ANALYSIS OF SENATE BILLS 889, 890, 891

Senate Bill 889 has 3 major operating components. First, the property tax for local educational purposes will be eliminated as a source of income. It will be replaced by a local income tax which will be applied to the same income tax base as the state income tax, i.e., piggybacked on the state tax. There will be a limit on the local income tax which is based on whether the school district retains a local wage tax on earned income under the Local Tax Enabling Act (Act 511). By 1983, if the district chooses to retain the wage tax, it can levy a 2% maximum tax. If it abandons the wage tax, the school district can levy a 3% tax.

The bill will not tamper with present Act 511 taxes, thus allowing a district the option of collecting both a piggybacked local income tax and a wage tax, or simply collecting the piggybacked income tax.

The property tax elimination will be accomplished by a four-year phaseout. In 1979, the local school board will be able to collect from property taxes 3/4 of the previous year's property tax revenues. In 1980 and 1981, the board may collect 1/2 and 1/4, respectively, of the previous year's property tax revenues. In 1982 and thereafter, there will be no property taxes collected.

The second part of the bills is the increase in the state subsidy for basic instructional costs from the present mandated 50% of actual costs to the bill mandates the state for 80% of local school costs. There are some notable changes that the bills made in Act 59 of 1977 which modified the school subsidy formula. Act 59 eliminated what was, in effect, a ceiling on state expenditures by establishing a state-wide reimbursable cost component which would "float" each year. This would indicate what were the actual median costs of a school district in Pennsylvania. The former system had set a stated reimbursable cost of \$750. It was against this figure that the 50% state share was assessed. As school costs increased and the state share did not, the school districts were forced to raise local taxes to meet

the deficit. By allowing the figure to float each year in Act 59, the state would ensure that it met its burden of matching the rise in school costs.

An indication of the discrepancy in the 50% state share is the reimbursement median for the first year of Act 59 which was \$1010. The \$100 million cap which was inserted in the Act due to budgetary restraints kept the state from fully meeting its 50% stated goal. An additional \$50 million re-inserted in the Act for 1978-79 fiscal year by a legislative override of the Governor's veto brought the state to around 45%. If the cap is removed for the next fiscal year and the legislature appropriates funds sufficient for complete implementation, it is estimated that another \$220-240 million implementation, it is estimated that another \$220-240 million will be necessary.

Under 889, the cap would remain removed but the stated reimbursable amounts ala pre-Act 59 would be inserted into the subsidy formula. For instance, in the 1978 school year the maximum will be \$920 with the figure rising to \$1,040 in 1979, \$1,160 in 1980, \$1,260 in 1981 and thereafter. Though the cap will be removed, there is a serious question as to whether the state will, in fact, supply 80% of the basic instructional costs. With the actual costs per pupil rising perhaps more than \$100 a year above the bill's reimbursable amounts, a statistical analysis of the committee puts the figure at 70% state share. This is a significant departure from the advertised 80% figure and could have serious consequences to those districts which could be hamstrung by the 2% and 3% income limits in the bill. It may be that the implementation of the bills might mean actual cuts in school budgets in those districts.

To avoid this possibility, an amendment was inserted in committee by Senator Stauffer which would make the state provide the monetary difference between the 3% ceiling and the actual income level needed by the district to pay for 1977-78 school year expenditures. By freezing the reimbursement figure at the 1977-78 school year, the state will not be reimbursing those districts permanently. As discussed later, there is a real question as to the equity of the state reimbursing those districts which tend to be wealthier, even if that reimbursement is temporary. On the other hand, the state reimbursement will not solve the long range problem of a district being unable to raise funds when expenditures exceed the 77-78 school year expenditures. This would result not in actual cuts, but in the diminished ability of the school district to keep up with increasing costs.

The bill will be implemented in the same 4 year phase-in with the 58%, 65%, 72.5%, and 80% in 78-79, 79-80, 80-81, and 81-82, respectively.

The third component is the source of revenues for this enormous increase in the state share of education. First, there would be a 1% rise in the state income tax to 3.2%. Next, many business taxes would be increased on the state level to compensate for the removal of property taxes on commercial properties in the local area. The most notable tax would be a 5 mill gross receipts tax on unincorporated business associations. This is a completely new tax which would be applied against any partnership, individual proprietorship, or any unincorporated combination engaging in a business in the state.

Under present tax laws, a partnership or a sole proprietor files a return for the business but business income is merely channeled to the person in the business for use on that individual's tax return. The partnership pays no tax — it merely acts as a conduit for the individual.

The bill would require the partnership to file and pay a separate tax on its total receipts. Since the tax is on gross receipts, it would not operate in a similar manner to corporate net income tax which taxes profits after expense deduction. Thus, the high volume, low profit dealer will tend to pay more than a low volume, high profit business.

There are definitional problems in the bill, such as the inclusion of limited partnerships, unincorporated joint ventures, corporate and partnership joint ventures within the purview of the tax. It appears that the language is broad enough to encompass these types of combinations, but there is little in the bill to indicate the scope of the tax. The Revenue Department has indicated that this may create administrative problems in processing and litigation.

The other business tax changes will be an increase in the millage or percentage rates applied to several different taxes. The capital stock and franchise tax will be increased from 10 to 25 mills. This tax was initiated prior to 1900 and is a millage tax on the value of the stock or assets of corporations doing business in Pennsylvania. Domestic corporations are taxed on the value of the stock of the company. Foreign corporations are taxed on the privilege of doing business in the state — measuring the privilege by the worth of the business enterprise. The usual computation is to value the assets of a corporation, then apportion that part of the valuation which is connected to Pennsylvania. This is accomplished by a 3 pronged test using sales, property, and payroll as the factors. A domestic corporation may also elect the apportionment factor if the corporation was subject to tax in another state.

The millage increase would take collection up to \$419.2 million.

The single most controversial aspect of the tax in the bill is the retention of the exemption for manufacturing, processing, research and development activities. For a brief period after the Tax Reform Code of 1971 was enacted, this exemption was repealed. The Legislature re-enacted the exemption in 1972 and it has remained in the Code. In the original Stauffer bills — 397, 398, 399, the exemption was removed. Due to the intense pressure from the business community which feels that this exemption affords a valuable incentive for new manufacturers, as well as retains a favorable climate for present manufacturing interests, the exemption was inserted in the bill. The exemption's effectiveness in this direction has not been documented, but during the hearings there was no noticeable support for repeal of the exemption.

The use of the franchise act rather than the CNI raises another question as to the equity of raising taxes in this manner if the manufacturer's exemption is intact. The result of the property tax elimination would mean that manufacturing firms would be effectively removed from paying any local share for education in any increased state share. In others, the CNI tax would be the only vehicle to capture the manufacturer for state tax purposes. The capital stock tax would pass him by — as would the other business taxes which are limited bank, title insurance, mutual thrift and insurance premium taxes. Thus, there is a serious gap in this respect which the legislature could assert that as a policy matter the gap should exist.

ANALYSIS OF SENATE BILL 1271

This bill, as amended, would do two things: first, give local school boards the option of shifting from property taxes on residential property to an income tax on earned and unearned income; second, if this option is taken, the bill would cap the amount of revenue a district could receive from the income tax to 1% of the assessed value of all the real property within the district. The bill would, at the same time, permit property, with the 1% cap, to continue on commercial, industrial and agricultural property.

This feature is controversial. Section 1 of Article VIII of the Pennsylvania Constitution holds that all taxes shall be uniform on any given subject. By exempting residential property from the property taxes, while keeping property taxes on commercial property, this bill would appear to violate this section of the Constitution.

In April of this year, legislation (Senate Bill 1438) was introduced to amend Article VIII to permit the classification of property for tax. This bill has passed the Senate (28-20) on June 19, 1978 and is presently in the House Rules Committee.

It may be that Senate Bill 1271 must first require a constitutional amendment to cure the Constitutional prohibition against the taxation of real property by classification. If this is the case, Senate Bill 1271 is implementing legislation for Senate Bill 1438 which cannot be considered by the voters before May, 1979.

If 1271 became law and if local officials exercise the option, or shifting from property taxes, Senate Bill 1271 would decrease the amount of taxes to 1.3% of the total assessed value.

In dollars on a statewide basis, this would mean that the present \$1.442 billion collected for education from property taxes would be reduced by \$1.095 billion to \$347 million.

At present, 36.6% of local school revenues are raised from commercial, industrial and agricultural property. The remaining 63.4% is raised by taxing homeowners on residential property. Under Senate Bill 1271, as amended, businesses, share of local school costs would be reduced to 26.9%.

This comes about through language in the bill which restricts commercial, industrial and agricultural property taxes to 1% of the assessed value of only commercial, industrial and agricultural property. At the same time, residential taxpayers would have to pay up to 1% of the total assessed value of all property including commercial, industrial and agricultural in income taxes if the local officials chose the option provided.

In addition, it is noted that the "cap" on the income tax would mean an average income tax of almost six-tenths (6/10) of one percent. School districts are generally receiving five-tenths (5/10) of one percent in local wage taxes on earned income. This means that the only additional revenue some school districts could receive would be that from adding the unearned income to the taxable base. No additional income taxes could be imposed.

The net effect of this bill would be to reduce by \$1.8 million the revenues available to the average Pa. school district for education.

THE EFFECT OF SENATE BILLS 889, 890, AND 891 ON TAXPAYING GROUPS

By abolishing the property tax for education and substituting income taxes and business taxes, Senate Bills 889, 890, and 891 raise questions about effects of this shift.

It has been contended that any time there is a shift by its very nature some will pay more and some will pay less. By the nature of the shift contained in Senate Bills 889, 890 and 891 those who have to pay more are those who can most afford to, i.e., those with higher incomes.

This contention admits to several questions. Is the shift necessary and beneficial in the first instance? What is the effect of the shift on individuals and groups? Who will be excused from support of education? Who will have to make up the difference? What ancillary effects will the shift cause? Will assistance be necessary for some taxpayers under the new system such as is provided at present by property tax assistance for senior citizens?

This section will explore these questions, it cannot answer them fully but it can raise the points necessary for full consideration of these bills.

The first question: "Is a shift away from property taxes necessary?" is perhaps the most difficult. Proponents of a shift cite polls and surveys to conclude the tax is hated. They have evidence to show that property taxes are poorly administered, fast rising, and unfair. They claim that property taxes are subject to political manipulation.

Other witnesses say that these things need not be so. The property tax can be reformed to make it fair, equitable and evenly applied. They say that with a series of caps and circuit breakers for the poor, those with little income and those senior citizens on fixed incomes that the evils of the property tax can be largely eliminated.

According to the latest data available for the period of 1965-66 to 1974-75, Pennsylvania has maintained a ranking below the national average on per capita property taxes paid during that ten-year period. The source of this information is the U.S. Department of Commerce, Bureau of Census publication, *Governmental Finances*. In 1965-66, the total property tax burden for local governments amounted to \$88 per person; ranking Pennsylvania 33rd in the nation. By 1974-75, the property tax collections were \$159 per capita, ranking Pennsylvania 34th.

Although property taxes are comparatively low by national standards in Pennsylvania, they still produce a large amount of revenue, \$1.442 billion for education. By shifting from prop-

erty taxes to income taxes for individual taxpayers, certain taxpayers will escape some or all responsibility for paying for education because of the nature of their wealth or income.

The first group is pensioners whose income is excluded from Pennsylvania taxes. Under Pennsylvania law, pensions are not taxed as income by the state or by municipalities under Act 511. As a result of eliminating property taxes for education, we would in effect, absolve pensioners of any responsibility for supporting schools. Contrast this treatment for pensioners with those senior citizens whose income is not from pensions but from dividends and interest—this latter group would be asked to shoulder a larger share of the burden of education since, unlike pensions, this income is taxable from interest and dividends at both the state and the local level. The Internal Revenue Service indicates that income from pensions in Pennsylvania equaled \$1.8 billion in 1977. The question is, should practically all of this money be totally tax exempt?

A second group which would be favorably affected by this legislation would be large landowners. In the first instance, they would be relieved of approximately 65% of the tax burden on their property. In addition, the reduction of taxes would make land a better investment, thereby increasing the value of land. One ancillary effect of this would be to drive up the cost of building and homes. If that landowner was an out-of-state resident, they could escape paying for education.

The case of manufacturers under these bills is not quite as simple. Under this program, manufacturers would have their property tax liability reduced. In response, they would be asked to pay a capital stock and franchise tax. As noted in a later section, however, the manufacturer's exemption excludes the stock which affects the value of the manufacturing portion of the business. Under the present property tax, machinery and equipment is excluded from the assessment of a plant and is therefore, not taxed. It is, therefore, impossible to determine the net effect of this shift except that businesses which do not enjoy a manufacturer's exemption would have an increased tax liability under these bills over those that are covered by this exemption.

The case of landlords would seem to be clearer. At present, landlords pay a property tax which they collect from their tenants as part of the rent. The landlord under this shift, would be subject to the increased business taxes. Two questions arise. First, would renters realize a reduction in their rents commensurate with the reduction in property taxes, particularly in areas where rental units are scarce? Second, can a safeguard be developed to assure that renters are not asked to pay twice, first in increased income taxes and second, in rents which continue to reflect property taxes which are no longer levied?

In the area of renters and prospective home buyers, these bills would seem to have an additional effect. When property taxes are reduced, the value of property, particularly as a tax shelter, would rise. This increase in land values could result in additional rents and the increased value of property would certainly offset any decrease due to a reduction of property taxes in the cost of real property for the home buyer.

At the committee's hearing in Philadelphia, Charles Wismer of the Pennsylvania State Grange pointed out the special concerns of farmers. The property tax is levied on real estate, and farmers, by the nature of their work, must own a great deal of property. This investment is assessed not on the farmer's ability to make a profit, but on the value of the land. He is then taxed regardless of whether he has realized a profit or not. In 1973, the Legislature passed legislation and the electorate approved a Constitutional amendment allowing farm land to be assessed on its farm value, not on its development value. Mr. Wismer indicated that this "Clean and Green" was applied sporadically and ineffectually. For these reasons, farmers, Mr. Wismer said, favor a switch from property taxes to income taxes.

As in any shift, there are those who gain and those who would appear to lose. At the hearings, the greatest amount of testimony centered on the additional liability for unincorporated businesses. These businesses, proprietorships and partnerships would be liable for a 5 mill tax on gross receipts. Critics at the hearings said this tax is regressive, that it falls

heaviest on high volume — low profit concerns that with the increase in income taxes, this additional burden would be a hardship.

To properly evaluate the impact of this package including the Gross Receipts Tax, the taxpayer should calculate that on the average 65% of his property tax bill goes to education and it is this portion only which will be eliminated. Having arrived at this figure, the taxpayer, in this case, a small store owner, with sales of \$200,000, would be liable for \$1,000 under the 5 mills tax on gross receipts. If that storeowner paid himself \$30,000 in salary, he would be liable for \$300 under the 1% state income tax increase. Finally, he would have to pay any additional local surtax.

As mentioned previously, renters would be potentially liable for increased taxes since there is no guarantee their property taxes would be rebated through rolled back rents and they would be subject to the increased tax on income. Additionally, renters seeking to buy homes would find the prices generally increased for as property taxes are reduced, the investment value of land and property would increase.

Suburban Philadelphia stands in a unique position in the local government tax picture. Under the Sterling Act, residents of suburban Philadelphia who work in Philadelphia pay the City Wage Tax of 4- $\frac{1}{16}$ %. In return, these commuters receive a credit which would apply against any wage tax levied by the municipality in which they reside.

As a result of the Philadelphia wage tax and the credit provision, suburban municipalities have been reluctant to levy any wage tax which would only tax a portion of the residents. Property taxes then which apply to all residents had to bear full school costs. The Messinger-Stauffer plan proposes to eliminate property taxes and give the school district the power to levy an income tax surcharge of up to 3% on residents to make up the revenues. However, the crediting provisions would not apply to this surtax. This means that a suburban resident would pay the local surtax in addition to paying the Philadelphia wage tax. The commuters income tax bill for local and state taxes would equal 2.2% for the present state income tax, 4- $\frac{1}{16}$ % for the Philadelphia wage tax, 3% for local school taxes and 1% in additional state income tax for a total of 10.51% income tax for local and state purposes.

It should be understood that only 4% of the 10.51% is new income tax. Such a heavy reliance on income taxes for this group of citizens raises serious questions which were voiced at the committee's Philadelphia hearing.

The analysis of the impact of the business taxes has been hampered by the need to make in a case by case, business by business study to assess the effect. At the committee's Philadelphia hearing, two industries, the insurance and mutual savings associations, were represented and gave the committee concrete evidence of the impact of the proposals on their businesses.

The Insurance Federation pointed out that the vast majority of states (including Pennsylvania) had retaliatory provisions against any state increasing the Gross Premiums Tax beyond the present 2%. Senate Bill 891 proposes an increase of .10%. According to the Federation, this increase in the Premiums Tax for foreign and Pennsylvania domiciled insurance firms would subject Pennsylvania firms to additional taxes in the conduct of their out-of-state business. This would increase their tax liability to other states and make them non-competitive vis-a-vis out of state firms.

In the second instance, representatives of the Mutual Savings Bank appeared before the Committee at the same Philadelphia hearing. They presented figures which showed these associations would be liable for from 60% to 125% more in taxes under the Messinger/Stauffer package than they presently pay under the property tax scheme.

The final major group who might expect to suffer from this proposal are persons who have large incomes but who have little property. It may be argued that it is this group who can most afford to pay taxes. However, it should be clearly understood that this group would receive little or no relief from property taxes and would have their tax liability increased substantially at the state and local level.

MUTUAL THRIFT INSTITUTION TAX ACT

EXHIBIT A

	Total School Property Tax	MTIT at 11.5%	MTIT at 14%
1976	\$ 594,455	\$ 4,404,155	\$ 5,347,021
1977	643,516	5,793,835	7,234,719
Total	\$1,237,971	\$10,197,990	\$12,581,740

	Increase in MTIT	Net Additional Tax	Percent Increase in Tax Liability
1976	\$ 942,866	\$ 348,411	58.6%
1977	1,440,884	797,368	123.9%
Total	\$2,383,750	\$1,145,779	92%

*This chart was taken from the testimony of Leonard Ebert of the Mutual Savings Banks Association.

THE EFFECT OF SENATE BILLS 889, 890 AND 891
ON SCHOOL DISTRICTS

The Finance Committee has been hampered in the study of the bills by the lack of available data on a school district by school district basis. The Joint State Government Commission prepared initial estimates as to how the bills would affect total state revenues and expenditures. (These estimates are shown in Appendix A.) The committee has many reservations over the reliability and usefulness of these figures.

First, they are at variance with the official Revenue Department estimates.

Secondly, the total income base for each school district used for Act 59 (the school subsidy formula) purposes has caused severe administrative problems for the Department of Revenue. Though the total base in the state was \$56 billion in 1977, the breakdown for each school district arrived at by the designation of individual taxpayers as to their school district residence added up to \$48 billion. This means that there is approximately a 16% underestimate of the available school district income. When the commission attempted to estimate how much income tax a school district would have to levy for the local share, it increased each district's income by that 16%. This would naturally reduce the tax rate projection. Thus, the tentative conclusion that there was only one school district — Cornell — which would need more than a 3% levy to match present expenditures is at variance with a later study by the committee and is suspect.

Thirdly, the Commission's figures are based on totals, not individual school districts. The district by district variations have not, in fact, been considered by the commission.

The figures given the committee by the Department of Education partially filled the gap. These figures have been interpolated with other relevant data to indicate some district by district consequences. The committee has attempted through the Data Processing Center to develop its own statistical base. Using both data banks, the committee sought to determine how the state increase in subsidies would affect local share and local contributions needed. At the same time, the Department of Education was preparing a similar analysis based on its own data. The committee proceeded with its own work throughout the period due in part to the sluggish response of the department to the needs of the committee for a detailed analysis of the affects of the bills. Because of a shuffling of departmental responsibility for the data, those reports were not forthcoming. Thus, the committee has used the preliminary data as the basis for the reports.

That data indicates that the average school district's local income tax will be 0.7%. This means that the median increase in an individual's income tax will be 1.7% with the increased 1.0% state tax. Under the present tax structure, the average income tax will be 3.9%. But the suburban Philadelphia taxpayer who works in Philadelphia will continue to pay the 4-³/₁₆ths wage tax, in addition to the other average income taxes.

In addition, the average increase belies some individual school district aberrations which threaten the viability of the proposal. In some suburban Philadelphia school districts which rely heavily on the property tax because of Sterling Act restric-

tions on the use of the commuting taxpayer's income, the income tax will rise above 3.0%. This would result in an absolute cut in expenditures unless Act 511 nuisance taxes are used or the 3% ceiling in the bill is raised.

Outside of the Philadelphia area, there are several districts in Allegheny County which exceed the 3% or 2% ceiling.

As mentioned earlier, an amendment inserted in committee by Senator Stauffer would mandate that the state make up the difference between the 3% ceiling and the actual income level needed by the district in present funding. This provision, while providing a means, to avoid an expenditure cut crisis, creates an inequity in the subsidy formula. By finance committee calculations, the districts which would be receiving the increased state aid are the richer districts. The reason for the adjustment is that these schools tend to spend more dollars per pupil. Thus, if the state makes up the difference, it will be reimbursing richer districts at the expense of the rest of the districts in the state.

The statewide subsidy inequity may not be as large an issue as the ultimate ceiling on local school effort detailed earlier. The reason is that the amendment would freeze reimbursements at 1977-78 school year expenditures levels. This would make the state role temporary in bridging any deficiency.

The second aspect is how the districts will be benefited by the subsidy increases. The data indicates that many of the larger cities will not have to raise replacement revenue for the property tax or will have to raise substantially little replacement revenue through the income tax. For instance, Philadelphia will not have to levy an income tax at all. Because of the data base, it may be that property tax revenues will increase by 1982 to more than offset the subsidy formula which is established in the bill. In that case, an income tax will be needed. But the large amount of available income in Philadelphia ensures that the tax rate will not be more than 0.1%. The same analysis applies to Pittsburgh.

When it comes to smaller cities, however, there are no discernible patterns except that the income levies range around or below the state median.

Suburban Philadelphia school districts will pay the major portion of the local income tax because of Sterling Act complications. Allegheny County suburban communities also will tend to pay more than the median. Yet, even in this area, the generalizations are limited as the local tax rate varies substantially from school district to school district. The revenue obtained from Act 511 does not account for the differences. The mix of local revenue sources makes it extremely difficult to ascertain what type of district will be affected by the change.

The rural communities will usually need less local income tax than the median and in many cases will need little income tax to replace the property tax. This is due to the increased state share of the school costs. It must be kept in mind, however, that the residents of those communities will be paying an extra 1% in state income tax.

This fact raises the question as to how much of that 1% state tax will be returned to the district. Again, even in rural areas within the same county, the income tax paid out compared to the subsidy return varies from district to district.

Since suburban school districts presently receive proportionately less state money than other districts, the 80% state reimbursement median will increase the state subsidy for those districts more dramatically. Since poorer districts already are being reimbursed at that level or above, they will benefit less from the new reimbursement level.

In addition, there was no extended discussion of state subsidies other than instructional costs. In fact, PSEA explicitly maintained that these subsidies were not affected by the bills. This was in error. Transportation and rentals will be increased by the new aid ratios. But the Department of Education has not calculated the additional subsidies and the committee has adopted an approximate \$400-450 million increase figure which was developed by the Joint State Government Commission. Since this was not dealt with in depth, the impact of the other subsidies in the package is not clear.

MUTUAL THRIFTS

The tax on mutual thrift institutins is an excise tax on net

earnings of building and loan associations, state incorporated savings and loan associations and federal savings and loan associations located within the states. It is in lieu of corporate net income tax and capital stock and franchise tax. Since 1969, the rate of tax has been 11½%.

Under the bill, the rate would be increased to 14% by 1982. In comparison, during this period, the CNI tax has fluctuated from a 12% high in 1971 to a low of 9½% in 1973 to its present 11%. The capital stock and franchise act remained at 10 mills during this period.

The Revenue Department estimates that the tax will bring in an extra \$4.4 million added on to the present \$16.9 million base.

There is no current figure as to the amount of property taxes now paid by these institutions. In testimony before the committee by Mr. Leonard Ebert representing the Mutual Savings Bank Association of Pennsylvania, a survey of the effects of the change on Savings Banks in Pennsylvania was presented to the committee. The survey indicated that the tax liability would be increased by the change with approximately a \$350,000 increase if 1976 figures were used with an \$800,000 increase for 1977. It may be that the inflationary effects of the property tax may reduce the extent of the increased tax liability. If the study is accurate, however, there will be increased taxation of this group under the bill. Again, it is a policy decision as to whether present tax policy is equitable if the institutions are now benefiting from an unjust tax system.

BANK AND TITLE INSURANCE

The tax on bank shares, title insurance and trust companies' shares is a millage levy on the actual shares of stock ascertained by adding the amount of capital paid in, surplus and undivided profits divided by the number of shares.

The present rate is 15 mills with the proposed increase to 18.5 mills. At present, \$60 million is raised by the tax on bank shares and on title insurance. The increase would be \$17.9 million for both taxes.

Again, these institutions are not subject to the CNI or capital stock and franchise tax. In contrast to the CNI, this tax has not fluctuated since 1971.

There are indications from the Pennsylvania Bankers Association that the trade-off in the bill would increase the liability of the banks under the tax. Yet, the major criticism from those affected by the tax seems to be the inconsistency of the tax trade-off. Banks with large property holdings will be benefited more than high intensity banks or title insurance operations.

This attack at the inconsistency of the trade-off ignores the fact that the current situation is similarly inconsistent. In fact, the contribution by these groups may be more properly measured by the value of the shares and its reflection on earnings rather than by a property tax which is removed from the ability to pay for schools.

This is more apparent when leases for branch offices are involved. Leases may or may not require property tax payment by the bank. This fortuitous situation does not strike the committee as an equitable reflection of the ability to pay.

INSURANCE PREMIUMS

All life, fire and casualty insurance companies now pay a 2% gross premiums tax which is in lieu of the CNI and the capital stock and franchise tax. The 2% tax is applied to all premiums and does not take into account the earning of the insurance companies. In 1976, the state received \$82.2 million in revenues from the tax.

Under the bill, the tax would be increased to 2.1%, netting an extra \$6.9 million.

There have been strenuous objections to this increase based chiefly on the view that such action would invite retaliatory action by other states against domestic Pennsylvania insurance companies. This situation was apparent in 1969 when a 6% sales tax was attached to premiums. A serious public reaction to the imminent removal of many domestic companies to other states due to retaliatory actions by other states made a quick repeal necessary. Thus, if a state increases its premium

tax on foreign corporations, the other state will increase its premium tax on a domestic Pennsylvania company doing business in that state. The situation is particularly sensitive in Pennsylvania due to the large number of domestic insurance companies.

In testimony before the committee, Mr. Thomas Finley, President of the Insurance Federation of Pennsylvania, indicated that most of the states in the northeast have retained the 2% tax. The many states that have gone beyond the 2% tax are those which have few domestic companies, and thus, little to lose through the raise.

The committee has found that the retaliatory actions of other states is a real possibility and one which must be considered by the Legislature in increasing the tax. Domestic companies would be placed at a competitive disadvantage of some sort and it is up to the Legislature to determine whether the combination of an increase in domestic taxation and possible retaliatory actions minus the property tax now paid by the insurance companies would result in a serious economic disadvantage.

Secondly, there are indications that the present tax nets more income than a CNI tax would. The elimination of the property tax may leave the insurance companies with a lessened tax liability but a larger argument is whether their present situation is over-burdening. A possible direction is to subject the insurance industry to a CNI tax, capital stock and franchise tax.

CONCLUSION

This report, like everything else about the property tax, is subject to individual interpretation and opinion. No matter how this report is read, it must not be construed to be a defense of our present property tax system. Clearly, the Pennsylvania property tax demands reform.

This report was written to give the reader a precise idea of the Messinger/Stauffer reform proposal. We have gone a bit further to discuss the implications of the bills.

The first conclusion is that the package of bills will work. That is, it will permit property tax to be abolished for education and replaced by revenue from new taxes. The second conclusion is that there are concerns raised by the effects of this switch.

Will future tax relief be available if certain individuals and businesses are asked to shoulder an unfair burden under these bills? Will the state maintain its responsibility for 80% of school costs as mandated by the bills when they haven't lived up to their mandated responsibility at 50%? Will local control of schools be eroded because of the heavy state contribution to local school costs? Will the 65-35% personal-business tax ratio be maintained?

To some of these questions the answer can only be supplied by the future; the future of Pennsylvania education, the future of Pennsylvania's economy and the future action of Pennsylvania's leaders. For the present, these proposals would reform the Pennsylvania property tax system. Much of the confusion and negative feelings about these proposals may be due more to the inequities and capriciousness of the property tax rather than the unfairness of the Messinger/Stauffer package.

At the same time, however, there are sizable differences in how groups of persons and entities are affected by the bills. Some of these groups may deserve the benefit while others may reap a hidden windfall. This report attempts to point out those areas while leaving the policy decision as to whether certain groups should benefit up to the Legislature.

ADDENDUM BY SENATOR JOHN STAUFFER

This past spring the Senate Finance Committee held public hearings on Senate Bills 889, 890 and 891 in Harrisburg, Philadelphia, Pittsburgh, Scranton and Erie. Scores of men and women, representing many diverse viewpoints, presented testimony on this reform legislation. The hearings produced nearly 1,000 pages of input, which covered every conceivable issue.

As is noted earlier in this report, Senate Bills 889, 890 and 891 are "very complicated." Again, they are so far-reaching

that Chairman Quentin R. Orlando, to his credit, saw fit to hold five public hearings. At the hearings, questions were raised by representatives of many organizations and special interest groups. As the official transcripts show, many of these questions were discussed at great length and virtually all criticisms of this proposed legislation were blunted.

One goal of the preceding report, according to the "Introduction," is to "answer the questions raised in the committee's five public hearings on the bills." However, having participated in many days of these hearings, I believe that all questions have been answered. In fact, I feel it is a disservice to members of the Senate for this report to presume: (1) that questions have been left unanswered; and (2) that a 25-page report can readily supplant the hundreds and hundreds of pages of testimony, much of which was presented by well-versed and articulate spokespersons.

For example, the "Summary of Major Points" mentions the modest gross receipts tax on unincorporated businesses. It notes that such a "tax will tend to be regressive as it will fall heaviest on high volume, low profits operation." Further, it states that "there is a strong possibility that local mercantile and business privilege taxes could not be levied because the unincorporated business tax will pre-empt the field, causing double taxation." Not only are such statements highly misleading, but they are easily refutable.

First of all, in seeking to reform the system of school financing and eliminate the unfairness of funding public schools through property taxation, we quickly agreed it was essential that every individual and class of individual contribute his or her fair share.

Quite obviously, if we took away the real property tax, we couldn't pick one segment of the population and allow it to go scot-free and not make any contribution. The public—quite justifiably—wouldn't sit still for having unincorporated businesses, for instance, not paying any tax into the school system. Some levy must be devised to tax these businesses and the best means of doing it is the gross receipts tax. Many of us believe that using any barometer, it's a very fair and very modest tax.

If you take the business doing a \$100,000 to \$200,000-a-year volume, which is an average retail volume, its 5 mill tax (the maximum level after four years) would result in a \$500 tax on the basis of a \$100,000 volume and a \$1,000 tax on a \$200,000 volume. I submit that it's going to be a rare business which does that volume and would not benefit. This is especially true when you know that business leaders readily acknowledge that higher volume businesses require greater real estate; and more real estate currently guarantees higher property taxes.

The desirability of the gross receipts tax is discussed at great length in my testimony, which was presented in Harrisburg, and during several of the question-and-answer sessions at each of the hearings. For the foregoing summary to imply uncertainty about tax burden for unincorporated businesses is misleading. Again, for detailed clarification, I direct the concerned reader to the official transcripts.

Similarly, the "Conclusion" notes that these bills may cause some groups to "reap a hidden windfall." It must be emphasized that the correction of past inequities should not be viewed as providing a windfall, but rather easing disproportionate burdens. To reiterate, the purpose of this legislation is to minimize favored treatment and maximize fairness—for every taxpayer.

Further, the "Conclusion" notes that "to some of these questions the answers can only be supplied by the future." I will concede that any legislation, major or minor, may be modified in the future because of unforeseen circumstances. The new Motor Vehicle Code, Act 81 of 1976, is one recent and vivid example.

Nevertheless, those of us associated with Senate Bills 889, 890 and 891 have run every practical test to minimize any future uncertainty. As I have repeatedly stated, I studied the concept for one and one-half years before first introducing this legislation in the 1973-74 session. All types of studies were run and, in fact, continue to be run. Again referring to the gross receipts tax, individual case studies were run on all types of unincorporated businesses and each study reiterated that this proposed tax is modest, fair and highly workable.

I could challenge several other statements and conclusions in this report which, as the "Conclusion" notes, "is subject to individual interpretation and opinion." I am disappointed that some key points were too quickly reviewed or not mentioned or presented in a misleading manner.

Yet, I believe that this report was prepared in a conscientious manner. And I obviously agree with the statement included in this report "that the package of bills will work." I encourage those interested in the many ramifications of the legislation to focus their time and attention on the detailed discussion of all major points, which is contained in the lengthy transcripts.

COMMITTEE ON FINANCE
SENATE OF PENNSYLVANIA
September 1978

SENATOR QUENTIN R. ORLANDO
Chairman
SENATOR BARRY STOUT
Vice-Chairman
SENATOR HENRY MESSINGER
SENATOR JOSEPH SMITH
SENATOR STANLEY M. NOSZKA
SENATOR MARTIN MURRAY
SENATOR THOMAS NOLAN
SENATOR JOHN STAUFFER
SENATOR WILLIAM MOORE
SENATOR EDWARD HOWARD
SENATOR FRANKLIN KURY

SB 1254, TOGETHER WITH GOVERNOR'S VETO MESSAGE TAKEN FROM THE TABLE

SB 1254 (Pr. No. 1543) — Without objection, Senator DOUGHERTY called from the table SB 1254, together with the Governor's veto message.

The Clerk read the Governor's message as follows:

June 23, 1978.

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

I return herewith, without my approval, Senate Bill No. 1254, Printer's No. 1543, entitled, "An Act amending the act of September 10, 1974 (P. L. 639, No. 209), entitled, 'Abortion Control Act,' prohibiting subsidizing of abortions."

To prohibit the use of public money to pay for abortions as the legislature has attempted to do in this bill would be economic discrimination of the worst kind.

The effect of this language would be to say a woman may have an abortion on demand if she is wealthy enough to pay for it but not if she is poor. In effect, the legislature would say to our citizens who are least able to provide economic support for unwanted children that they do not have the same right extended to more affluent women.

In fact, this language goes so far as to prevent a victim of rape or incest from qualifying for medical assistance for an abortion.

Furthermore, a federal district court in Illinois found that state's statutory language similar to this to be a violation of Title XIX of the Social Security Act. While that court did not need to reach the constitutional issue, many legal scholars believe that to condition the denial of the necessary medical benefits on the exercise of a woman's constitutionally recognized right—i.e., to choose an abortion—is to deny that woman the equal protection of the law.

For these reasons, the bill is not approved.

MILTON J. SHAPP.

RECONSIDERATION OF SB 1254 THE OBJECTIONS OF THE GOVERNOR TO THE CONTRARY NOTWITHSTANDING

Senator DOUGHERTY. Mr. President, I move that the Sen-

ate proceed with the reconsideration of Senate Bill No. 1254, Printer's No. 1543, and agree to pass the same, the objections of the Governor to the contrary notwithstanding.

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

Senator DOUGHERTY. Mr. President, we have a long night and I will be brief. There has been a great deal of rhetoric on the whole question of abortion. Let me simply say that when we wipe away the rhetoric what it comes down to tonight is that each Member of the Senate will be voting on whether or not . . .

POINT OF ORDER

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

The PRESIDENT. The gentleman from Philadelphia, Senator McCormack, will state it.

Senator McCORMACK. Mr. President, I believe the motion before the Senate is a reconsideration and requires a second to the motion. I did not hear a second. If a second is required, I second the motion.

The PRESIDENT. Senator McCormack seconds the motion.

I am sorry Senator Dougherty, you may proceed.

Senator DOUGHERTY. Mr. President, what we are saying here is, when we take away all the rhetoric, if we believe that an unborn child is alive then the only question before us this evening is: Will we do what we can to preserve the lives of 13,000 infants?

The bill deals with whether or not taxpayers' funds will fund abortions. The bill makes the exclusion for the life of the mother. It is something we have discussed many times in the past and I would ask for an "aye" vote.

Senator COPPERSMITH. Mr. President, so the Members will understand the substantive matters here, I intend to vote to override the Governor's veto but they should realize that presently Federal law does restrict the Medicaid funding for abortions.

The State is required, each quarter, to submit the number of abortions funded by Medicaid which occurred in Pennsylvania and list them in the three categories permitted by Federal law. Federal law allows funding of Medicaid abortions if the life of the mother is in danger, in cases of rape or incest or if there is a severe and prolonged danger to the health of the mother.

In the second quarter of 1978 I saw a copy of the report from the Department of Public Welfare indicating that thirty-four abortions of this type occurred in Pennsylvania and the category listed in all of them was the danger to the life of the mother. If we pass Senate Bill No. 1254 we really will not be affecting what is going on in Pennsylvania. I understand it is an important symbolic issue, but I believe the Members should know that existing Federal law has cut down drastically on the funding of Medicaid abortions.

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—35

Andrews,	Hopper,	Murray,	Smith,
Bell,	Kelley,	Nolan,	Snyder,
Coppersmith,	Kusse,	Noszka,	Stapleton,
Dougherty,	Lynch,	O'Pake,	Stauffer,
Dwyer,	Manbeck,	Orlando,	Stout,
Early,	McCormack,	Romanelli,	Sweeney,
Gurzenda,	McKinney,	Ross,	Tilghman,
Hess,	Mellow,	Scanlon,	Zemprelli,
Holl,	Moore,	Schaefer,	

NAYS—13

Arlene,	Gekas,	Howard,	Lewis,
Corman,	Hager,	Jubelirer,	Messinger,
Duffield,	Hankins,	Kury,	Reibman,
Fumo,			

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

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

CALENDAR

REPORTS OF COMMITTEES OF CONFERENCE

BILL OVER IN ORDER

HB 920 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

REPORT ADOPTED

SB 984 (Pr. No. 2156) — Senator MESSINGER. Mr. President, I move that the Senate adopt the Report of Committee of Conference on Senate Bill No. 984, entitled:

An Act amending the act of December 3, 1959 (P. L. 1688, No. 621), entitled, as amended, "Housing Finance Agency Law," authorizing the agency to promote, develop, administer, engage in or finance additional programs, including but not limited to a loans to lenders program, a mortgage purchase program, and a home improvements loan program to make loans and provide and accept assistance, including contract administration for Federal housing assistance programs, for the purpose of facilitating the construction of new housing and the rehabilitation and improvement of existing housing, to make loans to mortgage lenders for the purpose of providing funds with which such lenders shall make residential mortgage loans, to provide for conflicts of interests, to supersede inconsistent provisions in other laws, to add to the powers and duties of the agency and further to change and add definitions.

On the question,
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—42

Andrews,	Hager,	McKinney,	Ross,
Arlene,	Hankins,	Mellow,	Scanlon,

Bell,	Holl,	Messinger,	Schaefer,
Coppersmith,	Howard,	Murray,	Smith,
Corman,	Jubelirer,	Nolan,	Stapleton,
Dougherty,	Kelley,	Noszka,	Stauffer,
Duffield,	Kury,	O'Pake,	Stout,
Dwyer,	Lewis,	Orlando,	Sweeney,
Early,	Lynch,	Reibman,	Tilghman,
Fumo,	Manbeck,	Romanelli,	Zemprelli,
Gurzenda,	McCormack,		

NAYS—6

Gekas,	Hopper,	Moore,	Snyder,
Hess,	Kusse,		

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 OVER IN ORDER

HB 1841 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

**PREFERRED APPROPRIATION
BILL ON CONCURRENCE IN HOUSE AMENDMENTS
SENATE CONCURS IN HOUSE AMENDMENTS**

SB 906 (Pr. No. 2134) — Senator MESSINGER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 906.

On the question,

Will the Senate agree to the motion?

CONSTITUTIONAL POINT OF ORDER

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

The PRESIDENT. The gentleman from Westmoreland, Senator Kelley, will state it.

Senator KELLEY. Mr. President, dealing with Senate Bill No. 906, Printer's No. 2134, I make the constitutional point of order that the bill is specifically in violation of Article III, Section 1, wherein the same is amended, not consistent with its original purpose.

The PRESIDENT. We will be at ease for just one minute.

(The Senate was at ease).

The PRESIDENT. The Secretary has just commented, Senator, "Wait until you see the bills on the Calendar tomorrow."

It is the ruling of the Chair that the gentleman's point is not well taken inasmuch as it is an appropriations bill and deals with the general subject contained in the bill which was sent to the House from the Senate.

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

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

Senator SMITH. I will, Mr. President.

Senator STAUFFER. Mr. President, when we held our caucus we were under the impression that this bill was going over in its order today. It was not until we got into the mark-up session

that we learned it was going to be run.

Would the gentleman, for the benefit of our caucus, explain what the Federal augmentations are which are included in the bill before us?

Senator SMITH. Mr. President, the total amount of money to be expended is \$25,345,000. These are Federal moneys which the departments themselves had applied for and were given grants through the Federal government.

Senator STAUFFER. Mr. President, I wonder if the gentleman could give us a general breakdown of what these moneys are to be used for.

Senator SMITH. Mr. President, excuse me for just one minute.

The PRESIDENT. We will be at ease for just a moment while Senator Smith has the opportunity to gather his notes together and, also, get his glasses.

(The Senate was at ease).

Senator SMITH. Mr. President, this bill is broken down into three components. They would be Title XX money, LEAA money and the CETA money.

Senator STAUFFER. Mr. President, would the gentleman be able to define a little more directly what types of programs are involved? For the Senator's benefit, I would like this information so that our Members will have a general idea of what is included in this bill upon which we are about to vote.

Senator SMITH. Mr. President, I could read the whole bill but let me try to put it more concisely for the gentleman.

"I. Executive Department. To the Governor.

"(A) For the office of human resources the following Federal augmentation amounts, or as much thereof as may be necessary, are hereby specifically appropriated to supplement the sum of \$204,000 appropriated from Commonwealth revenues for administration and operation: . . ."

If the gentleman will look on page 7, beginning with the \$70,000, these funds will be used to contract for services with nonprofit agencies in each Pennsylvania Department of Public Welfare region in this Commonwealth. These agencies will gather data on children's services in each region and convene child development councils for each region. The intent is to provide Federal funds for two years so that the regional council can develop to a point where they are financially self-sustaining. If any award is made by HEW, January 1, 1979, is seen as the starting date of that program.

The next item would be \$36,100. A current staff member will be assigned to conduct this program. Ten regional conferences will be held to acquaint services, agencies with the early and periodic screening, diagnosis and treatment programs and encouragement of their participation in the program.

The next amount is \$24,400.

Senator STAUFFER. Mr. President, would the gentleman please yield for just a moment?

Since he has been reading some of the provisions in the bill, some of our Members have had an opportunity to obtain a copy of it and have begun to look at the items. I can relieve the gentleman of that necessity.

However, I have been requested to ask one question. On page 10, line 15, the bill provides \$10,000 for the promotion of

Canadian tourism in Pennsylvania. Is that meant to be an advertising program of the Commonwealth to attract Canadian tourists to come to Pennsylvania?

Senator SMITH. Mr. President, as I turn to page 10, if the gentleman will bear with me, I shall read what it says:

"An ad campaign will be undertaken in the Canadian Provinces of Quebec and Ontario with the emphasis on newspaper ads. The intent is to get Canadian tourists to stop in Pennsylvania rather than just pass through on their way to other designations. A \$10,000 match is required."

Senator STAUFFER. Mr. President, I think we are satisfied. I thank the gentleman.

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

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

Senator SMITH. I will, Mr. President.

Senator KELLEY. Mr. President, is it accurate to say that the part which appears to be stricken by amendment on pages 1 through and including most of page 6, was the original version considered by the Senate?

Senator SMITH. Mr. President, that is a true statement.

Senator KELLEY. Then, Mr. President, it was the House of Representatives that struck all that, in a sense, gutting the bill, and amending a different act entirely which is what is now the active part of the bill, beginning on page 7 through the end of the bill?

Senator SMITH. Yes, Mr. President, that is true.

Senator KELLEY. Mr. President, it seems to me that the Chair ruled this bill constitutionally in order. In its present form, the bill amends Act 56-A. As originally considered by us, it amended Act 55-A. This then means that, under our Rules, we are not permitted to offer amendments to this, but only to concur or nonconcur. Therefore, we have not had, at any time in this Senate, the substance of what is contained in the bill in its present form.

Mr. President, I believe this is rather irresponsible for us to pursue because essentially the substance of this bill has been changed by the other Body and now, by our Rules, we are unable to offer any amendments thereto. We must either accept or reject it in its entirety.

I, for one, would much rather see a pursuit, at least by part of us, into a Committee of Conference. Just on a matter of principle, Mr. President, I will vote in the negative.

Senator SMITH. Mr. President, I would like to make a simple explanation. The amounts stricken on pages 2, 3, 4, 5 and down to line 23 on page 6, were acted upon in another bill. They have passed the Senate; they have also passed in the House. We are using this as the vehicle to promote the augmentation money by the Federal government to cover those programs which were applied for by the different departments and which were approved by the Federal government.

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—47

Andrews,	Hager,	McCormack,	Ross,
Arlene,	Hankins,	McKinney,	Scanlon,
Bell,	Hess,	Mellow,	Schaefer,
Coppersmith,	Holl,	Messinger,	Smith,
Corman,	Hopper,	Moore,	Snyder,
Dougherty,	Howard,	Murray,	Stapleton,
Duffield,	Jubelirer,	Nolan,	Stauffer,
Dwyer,	Kury,	Noszka,	Stout,
Early,	Kusse,	O'Pake,	Sweeney,
Fumo,	Lewis,	Orlando,	Tilghman,
Gekas,	Lynch,	Reibman,	Zemprelli,
Gurzenda,	Manbeck,	Romanelli,	

NAYS—1

Kelley,

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 ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE NONCONCURS IN HOUSE AMENDMENTS

SB 1481 (Pr. No. 2106) — Senator MESSINGER. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 1481.

On the question,

Will the Senate agree to the motion?

Senator TILGHMAN. Mr. President, this is one of those pieces of legislation which I urge you to read very carefully, because when we sent it to the House it allowed the Turnpike Commission to issue certain bonds with the approval of the General Assembly. That is what our Constitution says we must do. However, it has come back to us and if we pass this legislation, it allows the Turnpike Commission to issue bonds for any portion, for any work, safety or otherwise, on the Turnpike without the approval of the General Assembly. The concept was turned around 180 degrees, and I believe this is the type of legislation we should read most carefully during these last days of the Session.

I want to go into it with some detail because if the Members will get the bill—and I hope they will—and look at page 2, lines 9 and 10, it gives the ". . . Turnpike Commission undertaking projects from time to time designed to improve the safety of the Pennsylvania Turnpike System . . ." Then it goes to all of page 3 and lists the sections of the Turnpike. They run from the Ohio border to Irwin, to Carlisle, Valley Forge, Delaware to the New Jersey Turnpike, et cetera.

When Harristown was conceived I took a case to the Supreme Court relative to the issuance of bonds or the rental agreements by the State without the approval of the General Assembly contending that the bonds were an obligation of the Commonwealth of Pennsylvania. Although I took the case within less than three weeks of knowing of the situation, the court threw me out on laches—I guess that is the way it is pronounced—saying that I had not brought a case in time.

Mr. President, I do not know whether I will bring a case on

this or not, but I am standing up here right now to tell the Supreme Court that, as of this moment, I am aware that this piece of legislation will allow a commission in Pennsylvania to issue bonds which are considered, I understand, by the bond houses as an obligation of the Commonwealth, with the faith and credits behind them, without the approval of the General Assembly. It is not a threat because I really do not know; I am not a lawyer. I have not talked to counsel but they well may have the same issue before them if this bill should pass.

Mr. President, I hope my colleagues will vote in the negative. I do not think we should give the Turnpike Commission a carte blanche to issue bonds for anything they want to do on the Turnpike without coming to the General Assembly. We are the people who are entrusted with spending the money, that is the principal and the interest of bonds, for the people, and they should come to us, designate what their projects are on the Turnpike Commission and be able to do a good enough job to convince us to vote for the bonds. Do not give them this power because we will never get back the right to overlook the projects they do if we pass this bill.

Senator BELL. Mr. President, if this bill passes we, the General Assembly, are going to turn over into the hands of several people, not elected but appointed by the Governor and confirmed by the Senate, infinitesimal borrowing power which will continue not only through our generation but through our children's generation.

The Turnpike Commission is a creature of this General Assembly and I say to the gentleman from The Philadelphia Inquirer in the back if he thinks that the Senatorial Scholarships are a scandal, wait until this one happens because the same people, appointed for ten-year terms, are going to borrow money. They are not going to be responsible to anybody. The Senators of Pennsylvania are going to put in the hands of a few people the right to determine the capital expenditures on that Turnpike. It does not matter if they say the tolls pay for them or not.

Mr. President, when my colleagues go back to their Districts, will they tell their constituents that they gave carte blanche to this Commission to borrow all the money in the world that they wanted and spend it the way they wanted?

Senator TILGHMAN. Mr. President, I am sorry to rise again on the same subject but I neglected to point out to my colleagues here that when we first passed this bill, the language in the bill is found on page 2, lines 29 and 30. It says: "In carrying out the provisions of this act the commission may exercise all powers conferred . . ." et cetera ". . . with the approval of the General Assembly . . ." In other words, we did vote in favor of giving the Turnpike Commission additional bonding powers, with our approval. It comes back to us with that section deleted from the bill.

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

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

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

The PRESIDENT. The gentleman will be so recorded.

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

YEAS—14

Duffield, Fumo, Gurzenda, Hankins,	Lewis, Lynch, McKinney, Messinger,	Murray, Noszka, Romanelli,	Ross, Scanlon, Zemprelli,
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NAYS—34

Andrews, Arlene, Bell, Coppersmith, Corman, Dougherty, Dwyer, Early, Gekas,	Hager, Hess, Holl, Hopper, Howard, Jubelirer, Kelley, Kury, Kusse,	Manbeck, McCormack, Mellow, Moore, Nolan, O'Pake, Orlando, Reibman,	Schaefer, Smith, Snyder, Stapleton, Stauffer, Stout, Sweeney, Tilghman,
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Less than a majority of all the Senators having voted "aye," the question was determined in the negative.

The PRESIDENT. The Senate has nonconcurrent in the amendments made by the House to Senate Bill No. 1481.

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

THIRD CONSIDERATION CALENDAR

BILL REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 80 (Pr. No. 3767) — 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—44

Andrews, Arlene, Coppersmith, Corman, Dougherty, Dwyer, Early, Fumo, Gekas, Gurzenda, Hager,	Hankins, Hess, Holl, Hopper, Howard, Jubelirer, Kelley, Kury, Kusse, Lynch, Manbeck,	McCormack, McKinney, Mellow, Messinger, Moore, Murray, Nolan, Noszka, O'Pake, Orlando, Reibman,	Romanelli, Ross, Scanlon, Schaefer, Smith, Snyder, Stapleton, Stauffer, Stout, Tilghman, Zemprelli,
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NAYS—4

Bell,	Duffield,	Lewis,	Sweeney,
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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.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 46 (Pr. No. 3733) — 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 agreeable to the provisions of the Constitution and were as follows, viz:

YEAS—48

Andrews,	Hager,	Manbeck,	Romanelli,
Arlene,	Hankins,	McCormack,	Ross,
Bell,	Hess,	McKinney,	Scanlon,
Coppersmith,	Holl,	Mellow,	Schaefer,
Corman,	Hopper,	Messinger,	Smith,
Dougherty,	Howard,	Moore,	Snyder,
Duffield,	Jubelirer,	Murray,	Stapleton,
Dwyer,	Kelley,	Nolan,	Stauffer,
Early,	Kury,	Noszka,	Stout,
Fumo,	Kusse,	O'Pake,	Sweeney,
Gekas,	Lewis,	Orlando,	Tilghman,
Guizenda,	Lynch,	Reibman,	Zemprelli,

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.

BILL ON THIRD CONSIDERATION AMENDED

HB 210 (Pr. No. 2680) — Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Title, page 1, line 11, by removing the period after "Fund" and inserting: making unlawful the use of certain devices and substances, imposing penalties, providing for the appointment of an official State veterinarian and imposing duties on the Secretary of Agriculture.

Amend Bill, page 4, by inserting between lines 26 and 27:

Section 2. The act is amended by adding sections to read:

Section 22.1. Prohibition Against Use of Certain Devices and Substances.—(a) No person shall, or shall attempt to, or shall conspire with another or others to:

(1) Use any electrical device or any electrical equipment or any mechanical or other appliance not generally accepted as regulation racing equipment or an irritant to stimulate, depress, goad, spur or retard a race horse during a race, a warmup in preparation therefor, or in the paddock before a race.

(2) Administer novocaine or other local anesthetics

to a race horse's leg or legs within twelve hours prior to any race in which such race horse is entered: Provided, however, That a race horse need not be withdrawn from the race when the medication administered consists only of external rubs and innocuous compounds which are certified by the State Veterinarian as not having any stimulant, depressant, local anesthetic, analgesic, tranquilizer, or anti-inflammatory characteristics.

(3) Administer phenylbutazone or any drug, medicant, stimulant, depressant, narcotic or hypnotic to a race horse within forty-eight hours prior to any race in which it is entered: Provided, however, That nothing herein contained shall make unlawful the treatment, by medication or otherwise, of any race horse by a licensed veterinarian, for any condition. Such treatment occurring within forty-eight hours prior to a race horse's race shall mean that the race horse shall be withdrawn from the race.

(b) Presence of phenylbutazone or any drug, medicant, stimulant, depressant, narcotic or hypnotic in the blood, saliva or excretions of a race horse on the day of its race will be considered prima facie evidence of the prohibited use of such substance or substances under subsection (a)(3).

(c) Any person who violates the provisions of this section shall, upon conviction in a summary proceeding, be sentenced to pay a fine not exceeding three hundred dollars (\$300). Certification of such conviction shall be sent, by the court in which the conviction is entered, to the Pennsylvania State Horse Racing Commission, which shall, upon receipt of same, suspend the license of the violator in the Commonwealth of Pennsylvania for a period of sixty days.

(d) As used in this section "race horse" shall mean an equine entered in a racing competition in an event held by any licensee of the Pennsylvania State Horse Racing Commission.

Section 22.2. Official Veterinarian.—The Secretary of Agriculture shall employ a licensed veterinarian to serve as the official veterinarian at each event held by any licensee of the State Horse Racing Commission or the State Harness Racing Commission. The secretary shall have the authority to employ such other individuals as shall be necessary to carry out his responsibilities under this section.

(a) The costs of the administration of this program and the compensation of the official veterinarian and other individuals employed to carry out the provisions of this act which compensation shall be fixed by the Secretary of Agriculture, shall be paid to the Department of Agriculture for such purpose by the State Horse Racing Commission.

(b) The Secretary of Agriculture shall have the au-

thority to promulgate rules and regulations to effectuate section 22.1 and shall:

(1) Promulgate and supervise a system for testing race horses prior to and following entry in competition to detect the presence of substances or practices prescribed by section 22.1.

(2) Promulgate a list of substances and medicants and practices, which he may from time to time amend and supplement, which shall be considered proscribed substances and practices under section 22.1, including, but not limited, to stimulants, depressants, narcotics, or hypnotics or any substance which has such affect or affects whether currently available or in the future to become available or any substance or practice presently available or in use or in the future to become available or in use which by its nature might, in the reasonable judgment of the Secretary of Agriculture, mask or screen the presence of a proscribed substance or practice or prevent or delay testing procedures promulgated under clause (1).

Amend Sec. 2, page 4, line 27, by striking out "2." and inserting: 3.

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

Senator HOWARD. Mr. President, these amendments are simply a copy of Senate Bill No. 539 which the Senate passed 48 to 0 last spring, the so-called "Bute" bill. It deals with the administration of "Bute" to race horses. It was debated and a number of objections which were raised at the time of the passage of the bill were incorporated into the bill. The gentleman from Lackawanna, Senator Mellow, was one who had an objection which we remedied. The gentleman from Erie, Senator Orlando, had objections which we remedied. The Department of Agriculture, working with the gentleman from Allegheny, Senator Nolan, had suggestions, all of which have now been incorporated in this bill. It is our hope that we will now be able to incorporate this feature with this bill so that we can agree to the amendments and send the bill back to the House for concurrence. We do not remove the aspects which are presently in the bill.

And the question recurring,
Will the Senate agree to the amendments?
They were agreed to.

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

BILLS OVER IN ORDER

HB 222 and 238 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 276 (Pr. No. 3160) — Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEAS—48

Andrews,	Hager,	Manbeck,	Romanelli,
Arlene,	Hankins,	McCormack,	Ross,
Bell,	Hess,	McKinney,	Scanlon,
Coppersmith,	Holl,	Mellow,	Schaefer,
Corman,	Hopper,	Messinger,	Smith,
Dougherty,	Howard,	Moore,	Snyder,
Duffield,	Jubelirer,	Murray,	Stapleton,
Dwyer,	Kelley,	Nolan,	Stauffer,
Early,	Kury,	Noszka,	Stout,
Fumo,	Kusse,	O'Pake,	Sweeney,
Gekas,	Lewis,	Orlando,	Tilghman,
Gurzenda,	Lynch,	Reibman,	Zemprelli,

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 without amendments.

BILLS REREFERRED

HB 668 (Pr. No. 3681) and HB 675 (Pr. No. 753) — Upon motion of Senator MESSINGER, and agreed to, the bills were rereferred to the Committee on Appropriations.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 813 (Pr. No. 917) — Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEAS—48

Andrews,	Hager,	Manbeck,	Romanelli,
Arlene,	Hankins,	McCormack,	Ross,
Bell,	Hess,	McKinney,	Scanlon,
Coppersmith,	Holl,	Mellow,	Schaefer,
Corman,	Hopper,	Messinger,	Smith,
Dougherty,	Howard,	Moore,	Snyder,
Duffield,	Jubelirer,	Murray,	Stapleton,
Dwyer,	Kelley,	Nolan,	Stauffer,
Early,	Kury,	Noszka,	Stout,
Fumo,	Kusse,	O'Pake,	Sweeney,
Gekas,	Lewis,	Orlando,	Tilghman,
Gurzenda,	Lynch,	Reibman,	Zemprelli,

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 without amendments.

BILLS OVER IN ORDER

HB 872, 885, SB 889, 890, 891, HB 956 and SB 1156 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILLS OVER IN ORDER TEMPORARILY

HB 1171 (Pr. No. 3682) — Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

ORLANDO AMENDMENTS

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

Amend Sec. 1, page 3, line 20, by inserting after "4524": 4525(c)

Amend Bill, page 152, by inserting between lines 12 and 13:

§ 4525. Tire equipment and traction surfaces.

(c) [Tire] Ice grips and tire studs.—[No vehicle having tire containing studs shall be driven on any highway.] Tires in which ice grips or tire studs of wear resisting material have been installed which provide resiliency upon contact with the road and which have projections not exceeding two thirty-seconds of an inch beyond the tread of the traction surface of the tire shall be permitted between November 1 of each year and April 30 of the following year. The Governor may by executive order extend the time tire with ice grips or tire studs may be used when highway conditions are such that such tires would be a safety factor in traveling Commonwealth highways. Firefighting, fire emergency, police vehicles and school buses may use tires with ice grips or tire studs during any time of the year. The use of tires with ice grips or tire studs contrary to the provisions of this subsection shall be unlawful.

On the question,

Will the Senate agree to the amendments?

Senator ORLANDO. Mr. President, these amendments will permit tire studs of wear resistant material to be used on passenger vehicles from the period of November 1st to April 30th, as originally was in the Vehicle Code. In addition to this, it will permit fire-fighting, fire emergency, police vehicles and school buses to use ice grips, or studded tires, at any time of the year.

The contention by the Department of Transportation is that the reason for the failure of our highways and the erosion of our highways is basically due to the tire studs. I disagree with the comments made by the Department of Transportation in opposing this particular bill. I contend that much of the damage in our super highways or the interstate system particularly—because that is what we can see—is due to, number one, overloaded trucks—and I mean overloaded—very poor construction in many sections of our interstate system and regular system of highways and negligent maintenance of these highways.

One of the most important reasons for the erosion of the highways in my opinion—and this can be seen on bridges and other sections of the highways—is the overuse of salt. If my colleagues will look at some of our bridges as they travel throughout the Commonwealth, they will see that the concrete walls are completely destroyed, as well as the surface of the bridge. The warning signs at the approach to these bridges always warn that, "Bridge surface freezes before road surface." The Department of Highways, in the interest of safety, spreads a lot of salt on the bridge surfaces because of the icing condition. This salt works into the concrete and, when it freezes, it breaks the surface of the concrete. The same thing is true when the salt trucks put too much salt on the regularly traversed part of the road, where there is constant thawing and freezing. This breaks the surface. Naturally, the outside lane, if you want to call it that, is the one where there might be troughing, due basically, to the erosion of the surface.

I must also remind my colleagues that nobody is being compelled to use the studs. I feel that I can say, without fear of contradiction, that perhaps ninety-five per cent of my colleagues have not been north of Interstate 80 in the Commonwealth of Pennsylvania, particularly during the winter months.

My concern is not so much about the main highways. Those are plowed and no trouble is experienced traversing these main highways. My concern is for our secondary roads in many of our rural sections. We do have people living on these secondary roads. They must get in to work. They must get to the doctor. Many times it is impossible for them to get in to work or to get in to see a doctor or do their shopping because they cannot traverse the roads because of ice and other conditions.

The Greater Erie Safety Traffic Council, unbeknown to me, distributed petitions just in my particular District. They have sent to me over 10,000 signatures unsolicited by myself. I, and I know many of my colleagues in this Chamber, have received letters from all over the Commonwealth from people urging that the amendment be restored for tire studs. Many of these came from senior citizens and also from people living in the rural areas. I am asking once again for support for my amendments for the return of the tire studs.

Senator LYNCH. Mr. President, I rise to oppose the amendments for studded tires. The condition of our highways today, after last winter, and with another winter approaching, perhaps as treacherous as last year, it could do nothing but harm to the highways of Pennsylvania.

Therefore, Mr. President, I ask my colleagues to vote "no" on these amendments.

Senator KURY. Mr. President, I respect and understand the deep feelings which my colleague from Erie, Senator Orlando, has on this subject. However, I find myself in total disagreement with him.

It is true that studded tires will help stopping and navigation on icy roads under certain ice and snow conditions. But, Mr. President, every study made of this problem shows that that effective time period is less than five per cent of the time in which the studded tires are used. It is about three percent which means that the other ninety-five per cent of the time these studded tires run ruts into our roads and cause damage.

Under other circumstances they even contribute to highway hazards because they slow down the stopping time and make it more difficult to control the vehicle.

Mr. President, everyone in this room knows how badly we need highway money for maintenance repairs. I know how badly they need bridges in Allegheny County. I know how badly we need them in Northumberland and Columbia Counties. I know how badly we need maintenance funds. If we vote for these amendments and they become law, we are putting PennDOT into the hole by another \$40 million to \$45 million per year. This is money they do not have now and we have to come up with an additional revenue increase.

Mr. President, with all due respect to my colleague, the gentleman from Erie, Senator Orlando, studded snow tires are an illusion except for three per cent or four per cent of the time they are used. The rest of the time they only cause more damage to our highway system and put PennDOT deeper into financial problems.

Senator McCORMACK. Mr. President, I desire to interrogate the gentleman from Erie, Senator Orlando.

The PRESIDENT. Will the gentleman from Erie, Senator Orlando, permit himself to be interrogated?

Senator ORLANDO. I will, Mr. President.

Senator McCORMACK. Mr. President, have these amendments been on the floor previously for consideration during this Session?

Senator ORLANDO. Yes, they have been, Mr. President.

Senator McCORMACK. Mr. President, can the gentleman tell me how many times?

Senator ORLANDO. Mr. President, I believe they were considered on two other occasions.

Senator McCORMACK. Mr. President, on those two occasions, is it not correct that the amendments were defeated?

Senator ORLANDO. Mr. President, a vote was taken and the vote was reconsidered on a different piece of legislation, not on the Vehicle Code.

Senator McCORMACK. Mr. President, can the gentleman tell me what was the posture of the amendments at that time. They were amendments to what bill?

Senator ORLANDO. Mr. President, I believe it was Senate Bill No. 1341.

Senator McCORMACK. Mr. President, were the amendments offered to Senate Bill No. 1341 identical to the present amendments?

Senator ORLANDO. No, Mr. President, they are not identical. I have added the emergency vehicles, fire trucks and school buses to these amendments.

Senator KUSSE. Mr. President, I rise to agree with the gentleman from Erie, Senator Orlando. I would point out one other fact to be taken into consideration especially since my good friend, the gentleman from Northumberland, Senator Kury, raises the economic point.

I would point out to the gentleman that Pennsylvania has hundreds of miles of common boundary with New York State. Motorists in New York are allowed to use studded tires. Many of those people come over on our side of the line to shop; they

come over to use our ski areas in the winter; they come over to go deer hunting and big game hunting. We may preclude a lot of them from doing that. I hope the gentleman will consider that point.

Senator MANBECK. Mr. President, I have served on the Committee on Transportation for many years and have studied the problems of the highways and the use of them quite thoroughly. It has been my experience that when you have a problem, you go to the person who is qualified to give you the proper advice.

The Department of Transportation has made a very thorough study of the deterioration of the highway system that we have in the Commonwealth of Pennsylvania. There have been studies made throughout the United States and in Canada concerning the use of studded tires. When the studded tires were introduced in the Commonwealth of Pennsylvania a company was manufacturing them as a Pennsylvania company. Today I understand they are manufactured in a foreign country and shipped into the United States for use.

I can agree that they have some minimal use to certain persons, perhaps the people who drive a few miles a day. I personally have had an experience with studded tires that was very dangerous. When steel is put in contact with cement and we try to stop, there is no way we can stop safely. I personally have discontinued using the studded tires, but not for the reason of doing damage to the highways.

As the gentleman from Erie, Senator Orlando, stated previously, the trucks have done a great deal of damage to our highways. There is no doubt in my mind that salt is creating problems for the highways and the surrounding areas of the highways. That has nothing to do with the problem we are debating tonight.

In my judgment, when I have a problem, I go to the people who are qualified to give me the advice. The engineers who have studied the problem have said the studs are creating a great problem; they are creating a great expense and are doing much damage to our highways. I, personally and many of my constituents are not ready to vote for a fuels tax to supplement the damage that the studded tires are doing to the highway.

Therefore, Mr. President, I would ask my colleagues to cast their vote in the negative on these amendments.

Senator ROMANELLI. Mr. President, I rise to support the amendments of the gentleman from Erie, Senator Orlando. I made this speech on the floor before and if the gentleman from Philadelphia, Senator McCormack, does not want to listen, he does not have to. However, to those of us in Southwestern and Northwestern Pennsylvania, the economic impact that this bill will have on the City of Pittsburgh because of not being able to use studded tires becomes more of an emotional issue on the streets of Pittsburgh than taxes are at times.

I have had more people in my District—and I represent a great portion of Center City Pittsburgh—come to me and plead, "Senator, please do not let them take our studs. We will not be able to get around."

The PRESIDENT. The Chair will see that the gentleman's statement is fully amplified in the record.

Senator ROMANELLI. "Do not let them take our studded

tires. We will not be able to get around during the winter.”

We have plants in the City of Pittsburgh which are located at the bases of hills, strewn all along the rivers, in the valleys, in the whole steel valley. They need those studded tires to get up and down those hills early in the morning, when they begin work at 6:30 or 7:00 o'clock, after a sleet storm at night.

Mr. President, I plead with my colleagues to recognize the plight of the people in Western Pennsylvania and vote for these amendments.

Senator ORLANDO. Mr. President, I concur with my distinguished colleague from Lebanon, Senator Manbeck. I, too, would go to the so-called specialist when I want an answer to a problem. I believe the gentleman will agree with me, however, that many studies are made and studies can be directed in any direction in which one wants to direct them. Knowing the problems of PennDOT I am pretty sure the study which might have been made, the report the gentleman is speaking of, by PennDOT would lay the blame on studded tires rather than on the fact that there was poor construction; the fact that the overuse of salt had some bearing on the deterioration of our roads.

I also would like to point out that our experts approved the Neville Island Bridge and also the Brady Street Bridge. Both these bridges were closed due to faults which happened to them and they were declared unsafe for public use.

My only conclusion, Mr. President, is that reports can be geared in any way one wants them; statistics can be geared the same way. I urge my colleagues to vote for these amendments.

Senator DWYER. Mr. President, I also support the amendments of the gentleman from Erie, Senator Orlando. We hear that studded tires are illusionary; they do not help. I think the tremendous outpouring of requests from people who have used studded tires and who need studded tires in the snowbelt area is an absolute contradiction of any report that studded tires are illusionary or do not benefit those who use them. They do help. If they were not helpful, people would not pay the additional money to have studs inserted into their tires. The public outcry, the public request for studs simply indicates that they are tremendously helpful. They are needed, particularly in the snowbelt areas.

I would also like to point out that Pennsylvania is the Keystone State. We are the keystone of transportation. We have many interstate and noninterstate highways traversing the State east to west and north to south. The states north of us, east of us, west of us and south of us all permit studded tires. In order to travel into this State, through this State or across this State, they must travel through Pennsylvania somehow or other. Are we going to permit the motorists from other states to travel through this State with the studded tires they are permitted to have in their states and restrict our own residents from the use of studded tires? Are we going to arrest the people from New York and New England who travel Routes 95, 81, 80, 90, 79, 70, 76 and all the noninterstate through highways and really shut off commerce through this State? We are either going to shaft our own people and let others get away with using the studded tires or we are going to shut off commerce. It is essential, not only for the safety of our own residents but also

for the fact of our being the Keystone State, as the hub of transportation on the Eastern Seaboard, that we continue to use studded tires. All states south to Georgia permit the use of studded tires and it is ridiculous for Pennsylvania, one of the snowbelt states of the north, not to permit their use.

Senator MANBECK. Mr. President, in answer to my colleague from Crawford, Senator Dwyer, I would like to say that a delegation went to Washington last week to talk to the Congressional delegation concerning funds for the reconstruction of highways and it is true that we are the keystone of the Nation as a State. The other states have taken advantage of us by authorizing the construction of interstate highways, many of which my colleague has mentioned—I am not familiar with all those numbers—but they have constructed interstate highways throughout our State so they have made bankrupt our Department of Transportation by giving us the funds to construct the highways but not supplying the funds to keep them in repair. Therefore, I say to my colleague from Crawford, Senator Dwyer, that he should convince the Congressional delegation to persuade the Secretary of Transportation to make funds available for the repair, maintenance and upgrading of those interstate highways that the out-of-staters want to use and deteriorate for us.

Interstate 80 is a very good example of what is happening to our highway system. It was built about eighteen years ago. The bonds were sold for thirty years' amortization. The highway is broken up and must be replaced. The Federal government does not listen to us when we ask for help to repair those highways.

I again say to my colleagues, let us outlaw the studded tires.

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

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

Senator MCKINNEY. Mr. President, I would like to change my vote from “aye” to “no.”

The PRESIDENT. The gentleman will be so recorded.

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

YEAS—19

Bell,	Dwyer,	Orlando,	Stauffer,
Coppersmith,	Early,	Romanelli,	Stout,
Corman,	Kusse,	Schaefer,	Tilghman,
Dougherty,	Mellow,	Smith,	Zemprelli,
Duffield,	Nolan,	Stapleton,	

NAYS—29

Andrews,	Holl,	Lynch,	Noszka,
Arlene,	Hopper,	Manbeck,	O'Pake,
Fumo,	Howard,	McCormack,	Reibman,
Gekas,	Jubelirer,	McKinney,	Ross,
Gurzenda,	Kelley,	Messinger,	Scanlon,
Hager,	Kury,	Moore,	Snyder,
Hankins,	Lewis,	Murray,	Sweeney,
Hess,			

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?

ZEMPRELLI AMENDMENTS OFFERED

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

Amend Sec. 1, page 3, line 16, by striking out "(A) AND"

Amend Sec. 1 (Sec. 3525), page 136, lines 20 through 26, by striking out all of said lines and inserting: ***

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

Senator ZEMPRELLI. Mr. President, simply, the amendments would delete portions of the new Vehicle Code which would make it optional for persons to use helmets who operate motorcycles over age eighteen.

As a Member of the House, many years ago, I cosponsored legislation with Representative Joseph Rigby of Allegheny County which resulted in the passage of legislation requiring motorcycle operators to wear helmets. I have been unsuccessful in attempting to get these amendments into the Code. The Bureau of Traffic Safety strongly recommends the continuance of the present act which would require the use of helmets.

More important than anything else is that a comprehensive study was made into this area as it related to fatalities and other serious injuries. The overwhelming facts are that helmets, worn by motorcycle operators, have been a deterrent to serious injury. In those states where the helmet law has been removed there was an increase in injuries of forty-one per cent in the year following as a direct result of the types of accidents which happened where helmets were not required.

Everybody looks at this as a right of the motorcycle operator to wear a helmet. I look at it not only from that point of view and not wanting to be my brother's keeper, but I am also thinking in terms of being an operator of a motor vehicle that would come in contact with the operator of a motorcycle and the chances of inflicting that kind of fatal or serious injury on somebody who is on a motorcycle, as a direct result of an accident in which I might be involved.

I seriously ask the Senate to amend the Vehicle Code to delete that portion of the Code which would, in effect, make it optional as to the use of motorcycle helmets.

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

AMENDMENTS WITHDRAWN

The PRESIDENT. The Chair would like to explain to the Members that the amendments provided to Senator Zemprelli are not to this printer's number and, as a consequence, it does not say what I know he wants to do.

He will withdraw his amendments temporarily while he gets the corrected amendments drawn. I understand there are other amendments with which we can deal while he straightens out his amendments.

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

Senator SCHAEFER. Mr. President, I ask unanimous consent to offer amendments to House Bill No. 1171.

The PRESIDENT. The Chair would like to explain that this bill was amended on September 12th and the current printer's number is 3682. Any amendments requested from the Legislative Reference Bureau prior to that time would not be in conformity with the current bill and we would have a difficult time accepting them unless they are correct.

Senator SCHAEFER. May we be at ease, Mr. President?

The PRESIDENT. We will be at ease for just a moment.
(The Senate was at ease.)

Senator SCHAEFER. Mr. President, I withdraw my amendments.

The PRESIDENT. Senator Schaefer withdraws the amendments.

Senator ZEMPRELLI. Mr. President, for the obvious reason that the amendments are not in order, I would at this time ask that the bill go over temporarily for the purpose of straightening out the amendments.

The PRESIDENT. Without objection, House Bill No. 1171 will go over temporarily in order to give Senator Zemprelli an opportunity to correct his amendments.

BILL OVER IN ORDER

SB 1350 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1495 (Pr. No. 1905) — Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

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

YEAS—48

Andrews,	Hager,	Manbeck,	Romanelli,
Arlene,	Hankins,	McCormack,	Ross,
Bell,	Hess,	McKinney,	Scanlon,
Coppersmith,	Holl,	Mellow,	Schaefer,
Corman,	Hopper,	Messinger,	Smith,
Dougherty,	Howard,	Moore,	Snyder,
Duffield,	Jubelirer,	Murray,	Stapleton,
Dwyer,	Kelley,	Nolan,	Stauffer,
Early,	Kury,	Noszka,	Stout,
Fumo,	Kusse,	O'Pake,	Sweeney,
Gekas,	Lewis,	Orlando,	Tilghman,
Guizenda,	Lynch,	Reibman,	Zemprelli,

NAYS—0

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

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

BILL OVER IN ORDER

SB 1524 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 1596 (Pr. No. 2073) — Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

Senator HANKINS. Mr. President and fellow Senators, we are about to consider, at this point, the ratification of an amendment which Congressional Representatives of our government have afforded the individual states the opportunity to affirm through ratification consent with the laws of our land.

The fact that Congress has voted this amendment which we, the Pennsylvania Senate, are asked to consider, based the recommendation of the Committee on Constitutional Changes and Federal Relations of the Pennsylvania Senate, is important for each of us to understand.

I, as a Senator from the Seventh Senatorial District of the Commonwealth, am very anxious that the State in which I am a part of this august group of lawmakers, have a special desire that my fellow Members join with the United States Congress by striving to be one of the first to ratify.

It is fitting and proper that we accomplish this because this is the State where our Nation had its being and where the first Constitutional Convention was held.

Mr. President, we are a great Nation with a form of government which offers to each succeeding generation the chance to modify circumstances sufficient to meet the demands of contemporary life. As I stand on this floor today I believe it is fitting that I remind my colleagues that one of the cornerstones of our Constitution has been the ratification process. This is the check system which involves only lawmakers of this great Nation. The Judiciary cannot overturn this Act of Congress, nor can the Executive Branch of government veto. The several states are the sole judge of the action of the Federal Congress.

For the next few days we will debate the action and finally make a decision which I hope will be an affirmation of this day to give the last segment of citizens, residing on the soil of continental United States, the right to have a voice in the determination of their destiny. Yes, a vote to decide what changes should be made in the Constitution. Citizens of our country must be governed.

Mr. President, I have heard some interesting negative arguments relating to the status of Washington, D. C. Such comments are usually prefaced with the fact, relating what our forefathers did when they established the District of Columbia. Some have said that all the residents of the District of Columbia should do is to move to Maryland or Virginia and they would have the right to vote but my colleagues and I know that this is an approach filled with subterfuge. There is a serious doubt in my mind whether either Maryland or Virginia would issue an invitation to the District of Columbia residents to move to their state.

There have been changes made in the District of Columbia since its inception. This was done out of conscience. Through the years it has become evident that Washington, D. C. de-

serves the right to be heard in the Halls of Congress and that right was given, but the voice of recognition was muted because it was a voice without power. The District of Columbia representative is a paper tiger who cannot vote the will of his constituents.

I submit to my colleagues, Mr. President, that Congress, through its vote says, and I agree, that this is wrong and must be corrected.

I recall, as I reflect the history of this Nation, that the spirit which created the concept of this country was the spirit of protests—protests against taxation without representation. As a part of the English Colony System, we had a voice but we had no vote. We lacked the power to say “yes” or “no.” I believe that the men of good will who respect the constituency of the Commonwealth are as concerned about their fellowman as were those men in Boston Harbor who determined that the greatest contribution they could make to their posterity was to send a message to the Crown that those individuals who comprised the residents of the colonies must have a voice in their destiny.

I ask each of my colleagues on both sides to join hands with the determined men of the Boston Tea Party to make their act for posterity complete, to ratify the Constitutional Amendment making it the amendment saying that every segment of the continental United States shall be a participant through appropriate representation, consistent with the constitutional direction, the kind which gives them a chance to even consider Proposition 13.

Mr. President, I urge my fellow Senators on both sides to make the Commonwealth of Pennsylvania one of the leaders on this act in the history of this great Nation.

Mr. President, I ask all the Members on both sides of the aisle to consider this legislation and support it.

Senator STAUFFER. Mr. President, we have before us today an emotionally-charged bill which affects people 100 miles from us more directly than it affects citizens within the borders of Pennsylvania. Nevertheless, we are charged with reviewing this legislation and its far-reaching implications.

Before arguing the merits of such a constitutional change, I would like, briefly, to put to rest three important misconceptions about this issue.

The first misconception is that such a change of status only affects the 750,000 residents of the City of Washington. Those who hold this position argue that we in the fifty states should give approval to Washingtonians to map their own destinies.

The fact is that any change in the status quo regarding our Federal District and our overall Federal structure affects every American. Our concern is a just and a proper one.

Second, opposition to this Constitutional Amendment is perceived by some as being racist, an attempt they say to maintain colonial status over a jurisdiction which is seventy-one per cent black. Perhaps some feel that way, but it must be remembered that Washington is more than a city with a heavy concentration of blacks. It is a city with a heavy concentration of bureaucrats and government workers, many of whom are transients. It is a city which is bursting at the seams with expansion, increasing wealth and bigger and bigger government. To say Washington is a black city is like saying Pennsylvania is a

Democrat State. It is supported by statistics, but characterized by other important variables.

Third, there is a prevailing feeling that the District of Columbia lacks representation, it is a colony unfairly taxed without representation. However, the District of Columbia has a non-voting Representative in the U. S. House of Representatives. Further, government employees who work and live in Washington more than adequately represent the interest of Washingtonians in Congress and in hundreds of departments and Federal agencies.

One United States Senator put it well when he recently said of this amendment, "What we are doing here is giving the Federal bureaucracy itself voting representation in Congress."

Let us not forget that D. C.'s clout is so strong that it pays twenty-nine cents in taxes for every dollar it receives in Federal funds. In contrast, Pennsylvania, presumably a key industrial State, pays nearly \$2.00 in taxes for every \$1.00 it receives in Federal funds.

Let us look at some specific figures. According to the United States House Appropriations Subcommittee on the District of Columbia, the Federal payment to the District was \$276 million for fiscal 1977. The District also received \$32.2 million in revenue sharing funds. The District received \$101 million in Federal loans. The total Federal funds for fiscal 1977 was a whopping \$750 million, almost exactly \$1,000 for every man, woman and child living in the District of Columbia.

As you would assume, I oppose this legislation and this proposed Constitutional Amendment. But, I oppose it, not because I am disinterested in the plight of Washingtonians or because I am insensitive to the racial issue or because I advocate taxation without representation. I oppose this on several strong constitutional grounds.

First and foremost, granting representation to the District of Columbia would be contrary to the intent of the framers of the Constitution. It was clearly the intent of our Founding Fathers that the seat of the national government be located in a special area set aside for that purpose only. It should be outside the jurisdiction of any state, secure from harassment, and free of entangling interests. So, accordingly, they made provision for the establishment of a Federal District over which the Congress would have exclusive legislative authority and plenary power.

The District was not intended by the framers to be a state in the same sense as the members of the Union. This would have created another sovereign power in the Nation's Capitol, a sovereign power which might come in conflict with the Federal government on some issues. Those elected to represent the residents of the District could place the needs and concerns of Washington, D. C. paramount to the national interest. Giving District of Columbia residents more voting leverage in Congress would enable them to put undue pressure on the Congress and the Nation.

In fact, granting the District full representation as though it were a state would violate the Constitution and work a qualitative change upon our Federal system.

The provisions of the Constitution dealing with the Congress and the electoral system are clear that only states can have full representation in the National Legislature. Article I and

Amendment XVII use the word "state" in reference to membership in the Senate and in the House of Representatives. There is no language to suggest that the District or any political entity other than a state would qualify for voting representation in either Chamber.

For purposes of representation in Congress, the District cannot be considered a "state" since it lacks the powers common to the states. It is totally unlike these distinct political entities which are independent and sovereign members of the United States.

Mr. President, to allow the District to elect a United States Representative and two Senators without actually granting it statehood would mean that we are treating a city as a sovereign state. To create a "pseudo-state" or "quasi-state" and grant it full representation would do violence to the Constitution and severely undermine the nature of the Federal system in our Republic.

Granting such full representation would also violate Article V of the Constitution. Article V which provides that, ". . . no State, without its consent, shall be deprived of its equal suffrage in the Senate," was inserted by the framers as a result of a compromise among the delegates at the Constitutional Convention. This insertion was made to ensure that the large states would not, at some future time, change the method for representation in the Senate to deprive the small states of their equal representation in that Body.

To grant the District of Columbia voting representation in Congress would contravene this language and alter the Federalist nature of our Republic. To accord two Senators to an entity of government other than a state, a District purposely set aside for the states, would be to diminish and hence deprive the states of their "equal suffrage" in the Senate.

One could argue that granting the District full representation would be to bestow on a nonstate all the benefits of a state, namely, its own Senators and Representatives, without requiring it also to accept the coincidental burdens of a state.

It could also be argued that the District of Columbia is no more than a city and thus should not be granted representation in the Congress. Although it could not have been foreseen by the Founding Fathers, Washington has developed into a large commercial city and, except for a relatively small Federal enclave, it consists only of that urban center. The framers did not intend that cities should be given representation in Congress; in fact, they specified in the Constitution that only states should have a voice in the Senate and the House.

If the Nation's Capital, with its roughly 750,000 inhabitants and 69.7 square miles, can elect its own member of Congress, it is logical to give every other city in the United States of equivalent size and area the same right of representation.

The fact that residents of other United States cities can already, in effect, elect Representatives to Congress is irrelevant; they must share their Senators with the rest of the people in the state. If the District were granted representation, its residents would have Senators who would be shared with no other people and would speak only for the interests of the District.

Mr. President, as I earlier stated, the District of Columbia is a city full of bureaucrats who do not deserve any more rep-

resentation in the Congress than they already have.

Washington, D. C. is truly a "company town" in which virtually everyone works for or is, in some way, dependent upon the Federal government for his or her livelihood. In 1976 the Federal government directly employed 38.3 per cent of those working in the District, some 223,900 employees. Those industries servicing the government employed about 25 per cent or 150,000 employees. The government's size, power and activities are expanding, assuring the city a prosperous economy and its resident bureaucrats a continued high standard of living.

I would also like to note that granting representation to the District would set a bad precedent for other nonstates. Not every American citizen is in fact represented in Congress. Puerto Rico, Guam, American Samoa and the Canal Zone never have had their own United States Representatives or Senators. Let us not forget that Puerto Rico has three million residents as opposed to the District of Columbia's 750,000 citizens. However, if full representation were granted to a nonstate like the District of Columbia, then the basis would be established to later provide representation in Congress to these United States Territories as well. In fact, granting representation to D. C. residents would perpetuate inequity since many United States citizens, not residents of any state or the District, would remain unrepresented in the Congress.

Finally, Mr. President, I argue that Pennsylvania has a strong parochial interest in maintaining the status quo. Washington's gain could be Pennsylvania's loss. The United States Constitution specifies that the United States House of Representatives must not contain more than 435 Members. To accommodate the District of Columbia's new Congressmen, the total number of Congressmen from the fifty states would have to be decreased.

As things now stand, Pennsylvania stands to lose one Congressman after the 1980 reapportionment. Actually as things now stand, Pennsylvania stands to lose one congressional seat and a portion of another seat. Granting congressional representation to the District of Columbia may very well tip the scales toward Pennsylvania losing two Congressmen. Pennsylvania which had thirty-six Congressmen a half century ago would be down to twenty-three Congressmen and our national influence could continue to decline.

Mr. President, the arguments for voting against ratifying this proposed constitutional change are strong and compelling. I ask my colleagues to defeat this measure and prevent establishment of this unfortunate and very far-reaching precedent.

Senator COPPERSMITH. Mr. President, in response to the remarks of the gentleman from Chester, Senator Stauffer, may I point out that, in my opinion, the character of Washington or its people is irrelevant in determining whether it is entitled to representation in the Senate and the House of Representatives in Washington.

I think whether you admire the residents of Washington or you criticize them because they are bureaucrats, if you determine they are entitled to representation in the Congress, their work and their occupation means nothing because a basic principle of the democratic form of government is that people

are entitled to be represented in the Congress which makes the decisions which affect their lives.

A great deal was made of the money that came back to Washington in comparison to the taxes raised in Washington. Again, the Congress makes decisions other than taxes. It makes decisions on who shall be drafted; it makes decisions which affect the life and, indeed, may cause the death of residents of the Washington area. I certainly think its residents are entitled to participate in those decisions. The people of Washington certainly have, in the wars of this country, performed their share and they are entitled to participate in the decisions that affect what the government does in the years to come.

Right now the people in Washington are entitled to vote for President. I fail to see any basic distinction between voting for President and voting for a Member of the Senate or House of Representatives. A fundamental theory of democratic government is that we are entitled to have representatives, elected by us, participate in the decisions that affect our destiny. This Constitutional Amendment really only carries out that principle.

It is true we are amending the Constitution. However, the gentlemen from Chester, Senator Stauffer, has cited sections of the Constitution as they exist now. They do not contemplate the residents of Washington having representatives in the House or the Senate. That is true, but we have before us a Constitutional Amendment that will change that theory. You must remember that when the Constitution was adopted in 1789, the states were semi-autonomous nations. The whole theory of the Union, of the adoption of the Constitution, was that the states were giving up some sovereignty in order for the thirteen original colonies to band together to form a viable Nation.

At that time it was politically impossible to put the Capital in any state because of the jealousies it would have caused. Therefore, the Federal District was created.

We have long since left that time and that era and the needs for creating the Federal District are not present as they were then. I do not feel that the provisions of the Constitution which did not contemplate representation in the Congress are relevant with regard to this proposed constitutional change.

I would also remind the Members of this Body that only two nations now exclude their capital city from representation in their national parliament or congress. They are the United States and Brazil. One hundred thirteen other nations allow representation from the capital city. I believe the experience of mankind and of nations over the past years has indicated the importance and the value of having this type of representation.

For those reasons, Mr. President, I urge the adoption of this measure.

Senator BELL. Mr. President, we have had a history lesson; then we got into a geography lesson, but I will just say a few words about what I believe is practical life. I believe the very basis of democracy is one man—one vote.

I sat in this Senate of Pennsylvania and I know that the gentleman from Luzerne, Senator Murray, did when we had a Senator from Philadelphia representing 35,000 people. We had another Senator from northeastern Pennsylvania representing 50,000 people. I was here representing 550,000 people. I can

tell my colleagues it is not how many people they represent, it is how many votes they put on the floor that count.

Now we have a situation where I thought the figure was 700,000 people in Washington but apparently it is 750,000 people. In the County of Delaware, from which I come, and from which my colleague, Senator Sweeney, comes, we have 600,000 people. If Washington deserves two Senators for 700,000 people, Delaware County deserves almost two Senators for 600,000; so does Montgomery County and the City of Philadelphia. If the City of Washington deserves two Senators for 750,000 people, the City of Philadelphia deserves five or six Senators.

I am not making jokes because my neighbors who work in the City of Philadelphia and my neighbors from the City of Philadelphia who work in that Philadelphia Navy Yard know very well they are going to lose the Navy aircraft carrier because they do not have the Senatorial votes to back them up and you will see another combination take away more from the northeast because the "Sunbelt States" without the people have the United States Senators.

We just went through this recently in Delaware County when we lost the Vertol contract because the New England States were organized. They had the Senators, we did not. The facts of life today show, whether it be here in Harrisburg or whether it be in Washington, the people with the votes will get the goodies and the goodies which will be denied to the Middle Atlantic area namely, Delaware, New Jersey, Pennsylvania; in the eastern part of the State are the Federal jobs. I can foresee the day when there are two United States Senators for Washington, D. C. and they will not be fighting for jobs in the City of Philadelphia.

Senator McKINNEY. Mr. President, I would just like to take exception to one of the remarks made by my good friend from Chester, Senator Stauffer. I believe he said he had heard some rumors that this is racist, that anybody voting against this amendment is a racist. I have not heard that. Then of course I guess I would not have heard it, being Irish, nobody would have told me that and I do not believe it was told to any of my Irish friends, but I do not believe anything could be further from the truth.

The gentleman also states that Pennsylvania perhaps would lose one-half or a whole Congressman because of the fact that Washington would get Home Rule. I cannot agree with that. We have lost all these Congressmen, as my colleague states, because of the population shift. I think he is aware of that. They are going to Mississippi and California, et cetera.

I believe, as the gentleman from Delaware, Senator Bell, points out, we have had a lesson in geography. I believe the gentleman misstated some of it. If he was trying to give a lesson in geography, I believe it was a poor class. I would just as soon take him on and prove him wrong.

Lastly, I believe it is political rather than racist because we know that Washington, D. C. is about eighty per cent Democratic and we know that the two United States Senators, if they were elected, probably would be Democrats. I also will state that I have heard there are probably two black United States Senators coming from Washington. I do not think so.

Perhaps we will compromise, but I am sure we would get one black out of it and we would all be very proud to see that, including my good friend from Chester, Senator Stauffer.

Senator KELLEY. Mr. President, the gentleman from Cambria began his remarks by saying that the character of the people of the District of Columbia should not be controlling and I well agree with that. I have come to a different conclusion than my friend from Cambria County, however. I tend to feel that maybe if this would come to pass we can all regret the fact that the two murals on either side of the Chair remind us of the fact that Pennsylvania would have lost the opportunity of having the Federal Capital in Philadelphia, Lancaster and York and all the goodies of the economy which spring forth from it.

As a matter of principle, Mr. President, I believe what we are forgetting—I would like to refer to and quote from another section of the Constitution which has not yet been referred to—is Article I, Section 8, Clause 17 of the Federal Constitution which states that the Congress shall have the power "To exercise exclusive legislation in all cases whatsoever. . ." over the District of Columbia, as made by cession by the particular states and we know that was Maryland and Virginia and now it is all Maryland's part.

Mr. President, if we trace the history of the mural on the left, if we trace the Declaration of Independence and the Constitution which flowed from it, the great compromise is still prevalent. The gentleman from Delaware referred to one vote for one man and that is correct everywhere in this Republic at the Federal and state level, except one, and that is in the United States Senate. That is to preserve the quality of the great compromise of the Constitution in this first instance.

Now we are confronted with an opportunity to prostitute that great compromise. It has been mentioned here that the District of Columbia is not a state and, indeed, it is not a state because today the Federal Congress still reserves the right and does indeed pass upon the appropriations to this day. It is not a state because there is not local sovereignty, as the gentleman from Cambria indicated, and the compromising state gave up a little bit of its sovereignty. There has never been any sovereignty in the District of Columbia since it was ceded by the State of Maryland to the Federal government. It is the very principle of the mural to the right of the Chair as we look at it. The Civil War was fought to preserve the concept of the Federal System. Today there are many, many remnants, even the appointment of the Judiciary comes from the President.

I would be supportive of this if, indeed, the Congress had sent to us for ratification representation in the House of Representatives because that is where it is one-man, one-vote. The great compromise was that they are not representing people in the United States Senate but states. Therein lies the rub, Mr. President. I believe the Congress in its overzealous approach here to try to give representation exceeded the very spirit and letter of the great compromise. In our wisdom I believe what we should do is refuse to ratify this resolution of the Congress. We should show leadership in the adoption as did our sister state. Remember, Mr. President, Delaware was the first to ratify the Constitution, we were second. The State of Delaware has had the wisdom to refuse to ratify this resolution. I believe

we should follow the same steps we did in the original ratification and refuse to ratify this because we should not participate in frustrating or prostituting the great compromise which has kept the thread of the sovereignty between the Federal and the state governments together and that means the Federal City will be just that.

Mr. President, I urge a "no" vote.

Senator STAUFFER. Mr. President, I would just like to assure my friend from Philadelphia, Senator McKinney, that I feel very strong and very sincere about this issue and assure him that my objective to this proposal is not based on political considerations. If Washington, D. C. were ninety per cent Republican I would still stand here today and present the same arguments against the ratification of this proposed amendment.

And the question recurring,
Shall the bill pass finally?

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

YEAS—29

Arlene,	Howard,	Nolan,	Schaefer,
Coppersmith,	Kury,	Noszka,	Smith,
Dougherty,	Lewis,	O'Pake,	Stapleton,
Duffield,	Lynch,	Orlando,	Sweeney,
Early,	McKinney,	Reibman,	Zemprelli,
Fumo,	Mellow,	Romanelli,	
Gurzenda,	Messinger,	Ross,	
Hankins,	Murray,	Scanlon,	

NAYS—18

Andrews,	Hager,	Kelley,	Stauffer,
Bell,	Hess,	Kusse,	Stout,
Corman,	Holl,	Manbeck,	Tilghman,
Dwyer,	Hopper,	Moore,	
Gekas,	Jubelirer,	Snyder,	

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.

SENATE RESOLUTION,
SERIAL NO. 96, CALLED UP

Senator MESSINGER, without objection, called up from page 26 of the Calendar, Senate Resolution, Serial No. 96, entitled:

Abolishing Senatorial Scholarships.

On the question,
Will the Senate adopt the resolution?

NOLAN AMENDMENTS

Senator NOLAN offered the following amendments:

Amend First Resolve Clause, lines 3 through 5, by striking out "except for those scholarships currently in effect and extending beyond that time,"

Amend First Resolve Clause, line 7, by striking out "for any period subsequent to" and inserting: to any student who enters any college or university on or after

Amend First Resolve Clause, line 8, by removing the semicolon after "1979" and inserting: and thereafter;
Amend Resolution, by inserting after First Resolve Clause:

RESOLVED, That no student who currently holds a Senatorial scholarship shall be deprived of that scholarship; and be it further

RESOLVED, That any student who enters a college or university before September 1, 1979 shall continue to be eligible for the award of a Senatorial scholarship; and be it further

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

Senator NOLAN. Mr. President, my amendments address themselves to those students who are presently in college on Senatorial Scholarships. If these amendments are adopted those students now in the universities and colleges would be permitted to continue under a yearly scholarship until they graduate or drop out of school, but it will not permit the awarding of any new scholarships to any students who want to enter college this coming September. Mr. President, I ask for the adoption of the amendments.

Senator HAGER. Mr. President, I understand the special appeal of these amendments but it is for that very reason that I ask for a negative vote on them. It is an appeal for special people and that is what is wrong with the Senatorial Scholarship. We should not be awarding scholarships which are special and go only to certain schools and only to certain students for reasons which have very little to do with a common standard having to do with the awarding of scholarships. I would ask for a negative vote on the amendments.

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—17

Arlene,	Lynch,	Noszka,	Scanlon,
Duffield,	McKinney,	Orlando,	Smith,
Fumo,	Murray,	Romanelli,	Stout,
Gurzenda,	Nolan,	Ross,	Zemprelli,
Hankins,			

NAYS—31

Andrews,	Hager,	Kusse,	Reibman,
Bell,	Hess,	Lewis,	Schaefer,
Coppersmith,	Holl,	Manbeck,	Snyder,
Corman,	Hopper,	McCormack,	Stapleton,
Dougherty,	Howard,	Mellow,	Stauffer,
Dwyer,	Jubelirer,	Messinger,	Sweeney,
Early,	Kelley,	Moore,	Tilghman,
Gekas,	Kury,	O'Pake,	

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

And the question recurring,
Will the Senate adopt the resolution?

KELLEY AMENDMENT

Senator KELLEY offered the following amendment:

Amend first resolve clause, line 8, by removing the semicolon after "1979" and inserting: and that the boards of trustees of the above mentioned institutions of higher learning establish a scholarship system based purely on academic merit and financial need, utilizing the funds which would otherwise have been expended for Senatorial scholarships;

On the question,

Will the Senate agree to the amendment?

Senator KELLEY. Mr. President, basically, this amendment sets forth and gives charge to the trustees of those institutions where the scholarships have been utilized to set up scholarships based on scholastic abilities and financial need, to utilize the funds which would otherwise have been utilized by the Senatorial Scholarships.

I believe this is a very fair approach because first, the institutions involved will not be suffering any loss of matriculations, the students will have an opportunity and, by a broad based application and review, an award that is consistent with an educational structure that is used to this kind of an award. I, therefore, believe it is a fair and equitable approach if we are going to eliminate these scholarships. I urge an affirmative vote.

Senator SCHAEFER. Mr. President, I desire to interrogate the gentleman from Westmoreland, Senator Kelley.

The PRESIDENT. Will the gentleman from Westmoreland, Senator Kelley, permit himself to be interrogated?

Senator KELLEY. I will, Mr. President.

Senator SCHAEFER. Mr. President, let me preface my interrogation by saying that I have not had an opportunity to review the gentleman's amendment so that I am going to ask some questions to clarify what the amendment does.

Is the gentleman indicating in his comments that the trustees of the university would establish certain criteria based on financial need and ability?

Senator KELLEY. Mr. President, that is correct. The trustees, as the governing body, would be responsible to direct the administrative officials to set up the scholarships at the institution as they see fit and the standards set forth in the amendment would be that it would be on academic merit and financial need.

Senator SCHAEFER. Mr. President, who would—

The PRESIDENT. Excuse me, Senator, would you yield for just a moment?

Suppose I read the amendment, it might be helpful. ". . . and that the boards of trustees of the above mentioned institutions of higher learning establish a scholarship system based purely on academic merit and financial need, utilizing the funds which would otherwise have been expended for Senatorial scholarships;" that is it.

Senator SCHAEFER. Mr. President, how would these be awarded? In other words—I guess my question has several parts to it—would they be apportioned throughout the Commonwealth on the basis of our Senatorial Districts, would the Senators nominate, subject to the trustees consenting? I am having problems understanding how the system being es-

tablished by this amendment would operate and would it involve Senatorial personnel?

Senator KELLEY. Mr. President, it is the intent of the sponsor of the amendment that the Senators would have no input whatsoever, but nothing would prevent us from participating in making recommendations to these institutions, like any other institutions, of any persons aspiring to any particular qualification for any scholarship at all.

Senator SCHAEFER. It is the gentleman's intent then, Mr. President, to eliminate, other than the reference aspect, the participation of the individual Senators in the administration or awarding of these scholarships?

Senator KELLEY. That is correct, Mr. President. I have not stricken any of the language as it presently appears and was originally introduced by the late Senator Fleming. I believe that this amendatory language takes care of any void that would occur if we just pass it in its present form. We are protecting the institutions where the money is received and are protecting, as well, the opportunities for students who want to matriculate and take advantage of it.

Senator SCHAEFER. Mr. President, in a sense then this amendment is supplementing the current financial assistance programs that are available to students at these institutions. Is this program limited to the current Senatorial Scholarship institutions?

Senator KELLEY. It is, Mr. President.

Senator BELL. Mr. President, I am going to vote against the amendment. I understand if these scholarships are abolished it will mean approximately \$3.1 million to the universities concerned. If we abolish these scholarships it means we do not have to appropriate \$3.1 million to those universities and I believe that might result in a tax saving.

Senator DOUGHERTY. Mr. President, I would simply offer the observation that these are private moneys of the colleges and universities affected. I do not really quite know how we can mandate how they are going to spend their own money. I would think the amendment would be totally inoperative in that we, as a Legislature, are not in a position to mandate how a college will spend money that does not come to it as an appropriation from the State.

Therefore, Mr. President, I feel the amendment is probably inoperative.

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

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

Senator SMITH. I will, Mr. President.

Senator ORLANDO. Mr. President, can the gentleman tell us where the money is that the Senatorial Scholarships come from in the budget of the particular college or university?

Senator SMITH. Mr. President, under the line item of student aid the money is incorporated in that amount. Very simply, if we do not award scholarships—

Senator ORLANDO. Mr. President, can the gentleman tell me if some State money goes into this line item for student aid?

Senator SMITH. Yes, Mr. President, there is State money in there.

Senator ORLANDO. Mr. President, is the entire amount State money?

Senator SMITH. Yes, Mr. President, the entire amount is State money.

Senator ORLANDO. Mr. President, could we conceivably—if this Senatorial Scholarship program is removed from the hands of the Senate—line out the total amount of money in student aid which the Senate and the House appropriate to that particular college or university?

Senator SMITH. No, Mr. President, it would not change it all. I think I might be able to explain it to the gentleman in this way. In that line item of student aid, as I understand it, if we do not reduce the amount, the college or university where we would award a Senatorial Scholarship would then be given to another student. It is that simple. We will not reduce the amount of aid to students in the line item.

Senator ORLANDO. Mr. President, if it is our money can we not take that appropriation away from the university? That is my question.

Senator SMITH. Yes, Mr. President, we could take that money away.

Senator ORLANDO. Therefore, Mr. President, they would not have money available if they wish to continue a scholarship program such as the gentleman from Westmoreland, Senator Kelley, proposes?

Senator SMITH. That is true, Mr. President.

Senator COPPERSMITH. Mr. President, in answer to the gentleman from Philadelphia, Senator Dougherty, I think it is quite clear that if the amount of money is maintained in the student assistance line, the amendment of the gentleman from Westmoreland, Senator Kelley, to the resolution is quite in order. That would then be mandating the universities to set up a scholarship assistance program for the money presently used for Senatorial Scholarships.

I am at a loss to understand the feelings of some of the Senators. We have justified Senatorial Scholarships on the grounds of real service and I feel this is correct as being given to some students who otherwise would not be helped by scholarship assistance. To take away Senatorial Scholarships and turn down the opportunity to use this money for other student assistance, in my opinion, is a complete flip-flop and reversal of the opinion which I believe almost every Senator has, that the scholarship program certainly has been worthwhile in helping many students.

Senator DOUGHERTY. Mr. President, in response to the gentleman I would simply say I am not aware that in the past, when we appropriated money to the various colleges and universities, part of that money was for Senatorial Scholarships. If it had been, we could have then struck down that money in previous appropriations fights.

However, in view of what has been said by the gentleman from Philadelphia, Senator Smith, I would then offer the observations that if this money will go into further student aid, the amendment of the gentleman from Westmoreland, Senator Kelley, is totally unnecessary because if we take away Senator-

ial Scholarships, to follow the response of the gentleman from Philadelphia, Senator Smith, the money then goes into general student aid. This is exactly what the gentleman from Westmoreland, Senator Kelley, is speaking of in his amendment which, to me, means that the amendment is unnecessary.

Senator TILGHMAN. Mr. President, perhaps I can put this into perspective for the Members. The student aid item in last year's appropriation for Penn State—do not hold me to the exact figures—is \$1.7 million, of which approximately \$700,000 was for Senatorial Scholarships, leaving \$1 million to pay for that boy, girl, man or woman who waited on the table or whatever they do for student aid. It would seem to me that if this same amount of money, in the wisdom of the General Assembly, were left in Penn State's appropriation for next year, namely \$1.7 million with no Senatorial Scholarships, the \$700,000 could be used to expand the student work program, if you want to call it that, at that university or any of the other universities.

Senator ORLANDO. Mr. President, I would have to oppose that. The fact that the university handled these funds does not help the needy student from my District get the student aid at that particular school even though they show the need. Someone else is directing the aid to that particular student and I would have to oppose that amendment.

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—16

Coppersmith,	Jubelirer,	Mellow,	Schaefer,
Fumo,	Kelley,	Romanelli,	Smith,
Gurzenda,	Lynch,	Ross,	Stout,
Hankins,	McKinney,	Scanlon,	Zemprelli,

NAYS—31

Andrews,	Hager,	Manbeck,	Orlando,
Bell,	Hess,	McCormack,	Reibman,
Corman,	Holl,	Messinger,	Snyder,
Dougherty,	Hopper,	Moore,	Stapleton,
Duffield,	Howard,	Murray,	Stauffer,
Dwyer,	Kury,	Nolan,	Sweeney,
Early,	Kusse,	Noszka,	Tilghman,
Gekas,	Lewis,	O'Pake,	

So the question was determined in the negative, and the amendment was defeated.

And the question recurring,

Will the Senate adopt the resolution?

McCORMACK AMENDMENTS

Senator McCORMACK offered the following amendments:

Amend Resolution Heading, by striking out "ABOLISHING" and inserting: REFORMING THE
Amend fourth and fifth paragraphs of Senate resolution, by striking out both of said paragraphs and inserting:

The program is a meritorious one and should be continued but all aspects of secrecy should be eliminated

and the names and addresses of the recipients should be disclosed; therefore be it

RESOLVED, That every Senator who grants a Senatorial scholarship and every institute of higher learning enrolling students on Senatorial scholarships shall annually disclose to the Secretary of the Senate the full name and address of the student, which disclosure shall become a public record.

On the question,

Will the Senate agree to the amendments?

Senator McCORMACK. Mr. President, I suppose my offering these amendments is an exercise in futility, but I would be less than honest if I did not offer them. In the short time I have been a Member of this august Body, I have read in the newspapers of certain abuses which have taken place with respect to the scholarship program. I find, however, that the little abuse which appears to have taken place in the administration of this privilege appears in the secrecy, the fact that neither the institutions nor the Senators reveal the names and addresses of the recipients. Therein lies the possibility for abuse.

I know, in my District, when I awarded scholarships, four-fifths of those scholarships went to minorities who otherwise would not have been able to attend the universities and, from what I have heard of my brother and sister Senators, the same situation existed. There is pressure in the newspapers, but I feel we should withstand this pressure unless we admit that we have abused this program in other ways.

Therefore, Mr. President, I am offering these amendments which would require both the individual Senators and the institutions to make public the names and addresses of all the recipients. I feel that these are good amendments; they should not be subject to unfair newspaper criticism; and I ask my colleagues on both sides of the aisle to support them.

Senator STAUFFER. Mr. President, I would like to say that in opposing these amendments I do so because the issue before us is whether we would keep the scholarship program or eliminate it completely. I believe the issue of publishing the names, when we are deciding whether we are going to have the program or disband it totally, is an irrelevant one at this point and I believe it is really putting the cart before the horse.

I feel if the majority in this Body votes to keep the program, then amendments such as the gentleman is offering might be very worthwhile considering, but until we decide whether we are going to totally eliminate the program or continue it, I feel they are somewhat irrelevant.

Senator ROMANELLI. Mr. President, I desire to interrogate the gentleman from Chester, Senator Stauffer.

The PRESIDENT. Will the gentleman from Chester, Senator Stauffer, permit himself to be interrogated?

Senator STAUFFER. I will, Mr. President.

Senator ROMANELLI. Mr. President, does the gentleman mean he opposes disclosure?

Senator STAUFFER. No, Mr. President, I do not oppose disclosure. In fact, I would take issue with the remark made by the gentleman from Philadelphia, Senator McCormack, when he said that the problem was that we did not disclose. I have disclosed the names and the addresses of the recipients of my scholarships.

Senator ROMANELLI. Mr. President, the issue before the Senate is whether we will disclose or will not disclose. I am willing to put my vote on the line in that respect. It is an assumption that this resolution will pass. I believe the issue before the Senate is whether we do or do not disclose the names of the people.

And the question recurring,

Will the Senate agree to the amendments?

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

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

The PRESIDENT. The gentleman will be so recorded.

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

The PRESIDENT. The gentleman will be so recorded.

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

YEAS—11

Arlene, Fumo, McCormack,	McKinney, Orlando, Romanelli,	Ross Smith, Stout,	Sweeney, Zemprelli,
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NAYS—37

Andrews, Bell, Coppersmith, Corman, Dougherty, Duffield, Dwyer, Early, Gekas, Gurzenda,	Hager, Hankins, Hess, Holl, Hopper, Howard, Jubelirer, Kelley, Kury,	Kusse, Lewis, Lynch, Manbeck, Mellow, Messinger, Moore, Murray, Nolan,	Noszka, O'Pake, Reibman, Scanlon, Schaefer, Snyder, Stapleton, Stauffer, Tilghman,
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So the question was determined in the negative, and the amendments were defeated.

And the question recurring,

Will the Senate adopt the resolution?

SENATE RESOLUTION, SERIAL NO. 96, ADOPTED

Senator MESSINGER. Mr. President, I move that the Senate do adopt Senate Resolution, Serial No. 96.

On the question,

Will the Senate agree to the motion?

Senator STAUFFER. Mr. President, I have remarks regarding the resolution before us. In the interest of saving time at this late hour, I would like to have them spread on the record.

The PRESIDENT. They will be included in the record, Senator.

(The following prepared statement was made a part of the record at the request of the gentleman from Chester, Senator STAUFFER:)

Mr. President, it is time to abolish the Senatorial Scholarships.

For many years, I was one of the few Senators, along with such people as Senator Bell and the late Senator Wilmot Fleming, who pushed for the end of the Senatorial Scholarship program.

In the 1971-72 Session, I cosponsored Senate Bill No. 1211, which died in the Senate Rules Committee; in 1973-74, I cosponsored Senate Bill No. 64, which died in the Senate Education Committee; in the current session, I cosponsored both Senate Resolution, Serial No. 56 and Serial No. 96.

Senate Resolution, Serial No. 96 is before us today and, for the first time, we have an opportunity on this floor to end a program which has been such a huge embarrassment to the General Assembly. It is also a program that has become a huge burden for Pennsylvania taxpayers.

To be honest, the Senatorial Scholarship program has grown into an administrative and financial monster. It began modestly back in 1881 when each State Senator was allowed to award one scholarship a year to Penn State, our land-grant institution.

Fifty years ago, a Senate resolution permitted each Senator to distribute three scholarships a year to each state-related college. Today the Governor, Lieutenant Governor and each of the fifty State Senators can award twenty-four to each State-related institution, i.e., Penn State, Temple, Penn and Pitt; an unlimited number is available to Lincoln University.

Scholarships can be awarded to undergraduate, graduate and professional students. They can be awarded on a four-year basis, a one-year basis or even on a one-semester basis. They can be awarded on merit or need or simply on whim.

Grants range between \$189 and \$350 per semester. The overall program includes more than 6,000 scholarships, which cost taxpayers \$3 million a year.

Mandated requirements for applicants are minimal: Pennsylvania residency, full-time student status and satisfactory academic standards. I award my scholarships largely on the basis of need. I consider such factors as family size, whether other children attend college, extraordinary expenses a family faces for health care, etc. Where all things are equal, I try to maintain a geographic balance so that no area of the district gets a disproportionate share of the grants.

Many Senators make an effort to give scholarships on objective bases. But, there is no requirement to do so. Obviously, in some instances, these grants degenerate into patronage plums. That is disgraceful, and that is probably the best argument for eliminating the program.

There also is a serious fiscal reason. At a time when the Commonwealth is financially strapped, we cannot afford to spend an additional \$3 million, roughly the state's annual appropriation to Lincoln University, on a program that is generously covered by other programs, notably through the Pennsylvania Higher Education Assistance Agency (PHEAA).

In the 1976-77 academic year, for instance, PHEAA gave 119,000 scholarships totalling \$65 million, a \$5.48 per capita expenditure for Pennsylvanians! During that same year, PHEAA provided additional college assistance with 85,800 guaranteed loans, accounting for \$133.2 million.

Excluding the Senatorial scholarship program, the State

gives or guarantees nearly \$200 million a year to students. This figure, of course, is independent of Federal aid programs such as the Basic Education Opportunity Grants, BEOG, which amounts to more than \$65 million annually.

The PHEAA program is one of the most adequate, if not most generous, in the nation. Their appropriation has increased or remained steady every year since its inception in 1964. With the start of declining college enrollments, this means that more and more money will be available to less and less students.

Further, this agency is administered by professionals, who make grants on the basis of demonstrated need. The job of a legislator is to review laws and, increasingly, provide constituent service. His or her job is not to judge applications for college aid.

Another strong argument against the Senatorial Scholarships is their unequal and discriminatory nature. Pennsylvania has 192 institutions of higher learning. Many of these institutions have broad regional and national reputations. Why should the Commonwealth provide special scholarships to state-related schools and ignore the other fine schools?

Students attending state-related institutions already are being subsidized by taxpayers through reduced tuition. I'm not opposed to publicly-supported colleges. However, I am opposed to taxpayers further supporting these students with senatorial scholarships. The current system widens the gap between public and private higher education costs.

Debate has grown over the actual and potential abuse of Senatorial Scholarships. Investigative reporters are seeking the names of scholarship recipients in an effort to determine any evidence of wrongdoing. The public is increasingly demanding more objective and accountable standards for awarding these 6,000 scholarships.

Such inquiries and concerns are quite proper, but we must look down the road. The fundamental question is: Should the senatorial scholarship program continue? I say no. I believe that no good argument can be made for its continuance.

Senator NOLAN. Mr. President, the resolution upon which we are about to vote is one that was printed on the calendar of the Philadelphia Inquirer today. I hope we address ourselves to the entire calendar as printed in the Inquirer.

I rise in opposition to the elimination of the scholarships. I hear Senators stand on this floor and say they should be eliminated because of the abuses. Are they the ones abusing the scholarship program in the Senate? I do not know. But it seems to me in the past, in my eight years here, when a Senator abused the privileges of the Senate, any privileges they may have enjoyed as a Senator, they could be censured by this Senate.

Mr. President, I say to my fellow Senators that they are being pushed into this by publications in the newspapers, not public reaction because I sat in the Senate dining room last week with approximately fifteen Senators and I asked those Senators how many of them got letters and how many letters did they get from their constituents? The highest number of letters any Senator admitted to receiving was two letters from their constituents. Many Senators have told me they are not opposed to the scholarship fund, they would like to keep the scholarship

fund, but they cannot stand the publicity they are getting in the newspapers. We are letting editorial writers, who were on the campuses during the sixties raising all kinds of hell, who are now newspaper reporters, attack the form of government they attacked in the sixties in a different manner and that is through the newspapers.

Whether we believe it or not—if we look into it—some of the reporters, who are writing that these scholarships should be eliminated, went through college on scholarships. Today they are writing in the papers that they should be eliminated.

I say that any Senator sitting on this floor who did not abuse the scholarship program in this Senate should not be voting to eliminate it. Do not believe that we will save money because, as sure as I am standing at this microphone, when the budget comes up next year, for each and every university in this State, it will call for an increase in student aid and it will be provided whether we like it or not. It will not decrease the amount of money to student aid, so, let us not kid ourselves.

Mr. President, I would not vote for this piece of legislation under any circumstances because, if there is any Senator in this Senate who never abused the scholarship program I happen to be one of them. I always refused and would continue to refuse, as a Member of this Senate, to give any newspaperman the names and addresses of anybody who had a Senatorial Scholarship. Why? Because they would start publishing the names and addresses of those students and the harassment those students would go through on the campus and also in their home districts would be unbelievable.

Mr. President, I ask my colleagues to think about this. We will vote more money next year and every Senator who has told me that he favors that program—but because of the pressure of the newspapers—should think long and hard before he votes to eliminate these scholarships.

Senator DUFFIELD. Mr. President, I rise to agree wholeheartedly with my colleague from Allegheny, Senator Nolan. I know that neither one of us could care less whether they are continued because the voters, in their wisdom, have seen fit to defeat both my colleague and myself.

Again we are jumping to the hysteria of the times in permitting a few articles in the newspapers to control our actions. We should be Senators and we should be men and we should stand for what we believe in, regardless of what is written in the papers.

I do not believe I have abused the privilege. I have tried to be just and fair in the awarding of scholarships and believe I have done some good. I have attempted to give scholarships to graduate students who were not eligible for PHEAA. I have attempted not to give scholarships to those who are receiving \$1,500 or \$1,000 from PHEAA because they already have ample State subsidies for their educations.

Every year since I have been in the Senate this bill has come up to cut out Senatorial Scholarships and every year we voted it down, but now, certain Senators are afraid of the adverse publicity. I read the articles in the papers and I could not see too much in there which was detrimental. Personally, politically, I believe the scholarship grant, if I were looking to my political future and was going to remain in the Senate, should be

done away with because for every one you give, you make one ingrate and ten enemies. I am sure that any political advantage gained by giving a Senatorial Scholarship is nil. They do not appreciate it. They believe it is coming to them. If it was not for the hysteria of the moment and the fact that I would be afraid my vote would be influenced by certain news articles, I might vote for this. Basically, it does some good to certain students but they do not appreciate it. You make a lot of enemies, but I will not be a coward.

Why is it that in other years, when this came up, we wanted to retain them? Sometimes it never got out of committee. But, because of certain articles in metropolitan papers, we put our tail between our legs and we run to cover, hoping for favorable publicity which we will not get. They will be after us for something else, ad infinitum.

Mr. President, I do not believe we should be controlled by the hysteria of the times. In regard to letters—we all represent 240,000 to 250,000 people—with all the publicity on scholarships, I have yet to receive one letter from a constituent for or against it. I do not believe, in my section of the State particularly, that the articles which have appeared had any impact upon the voters, upon the constituents. For that reason, I cannot see why we are now rushing so fast to appease certain elements of the press that seem bent on destroying individuals. I believe we are all gentlemen here, and a lady, and if we do not do right the voters will soon find out and get us out. I believe we all try to do our job conscientiously, the best we can and I do not believe we should be subservient to headlines and the fear—if I had the fear of some people I would resign from this Senate tomorrow. They have written everything they could about me but I am still able to smoke my pipe and drink a little liquor and eat something occasionally. I want to be a free man and not be controlled by screaming headlines. Tomorrow it will be something else.

The great thing, also, is this great reform stuff of the wire-tapping and so forth. We reacted to that. We are going to react, of course, to the great demand for immunity and things of that sort.

How in heaven's name have we existed as a State for these many years? How have we existed as the greatest Nation in the World for over 200 years without these recently found great reforms on which everyone is trying to win a Pulitzer Prize and hurt people by innuendo and insinuation and so forth? Our favorable vote will not change it. Sometimes, I believe, I might thank the voters of my District for voting me out because it is just not the atmosphere any more. We need people who will stand on their feet and not be afraid of some person writing an article in the paper.

Senator SCANLON. Mr. President, as we all know and as has been evidenced in the past couple of weeks, the two Chambers of this great Legislature once in a while play games with one another.

I remember distinctly when I was a Member of the other Chamber, about eight years ago or nine years ago there was a feud going on, at this time in the Session, when everyone on both sides of the House and the Senate was trying to look good. For some reason, I do not recall why, the Senate offended the

House and we retaliated by passing a bill unanimously to abolish Senatorial Scholarships. At that time, the Senate reacted like a herd of wounded elephants. We had taken away their prized Senatorial Scholarships.

Mr. President, I do not understand the feeling that is going through this Senate. I will not berate the press or blame it on the press. I do know, in my four years here, the hardest decisions I have made were to sit down once a year and decide to whom I will give scholarships. I do not like it. I try to do it on need. I resent the implication that there is politics involved because frankly, I have had more ward chairmen mad at me over scholarships than anything else and that is true. I think we should take hold of our senses. This is a worthwhile program and we should keep it.

Senator SNYDER. Mr. President, I believe we will all be more comfortable when this resolution passes and we have eliminated Senatorial Scholarships. This is not because there are abuses. I think there may be abuses but that is not the big reason why we should pass this resolution. The truth is, the whole scholarship matter settles down to a very simple fact. There is a built-in fallacy in the system and that is this: The students who hear about them apply for them and get them, at least to the extent that there are enough. The poor student who does not hear about them does not have the opportunity. I often wonder where the guidance counselors are in some of the districts who, one would think, would alert everybody to these scholarships. If they did, of course, it would make our lives intolerable. Nevertheless, the fact that we have only so many applicants is proof that only that many students who are going to the five universities have learned about it.

The late Wilmot Fleming—I wish he were here tonight—was an advocate of this for many years. I believe, if he were here, he would point out that it is basically an unfair distribution and for that very simple reason I think we should end it and pass this resolution.

Senator ORLANDO. Mr. President, I rise in opposition to this particular resolution. First of all, let me say that not too many people in my District, in Erie, read the Philadelphia Inquirer and, by the same token, probably not too many people in Philadelphia read about Erie. I found that out too.

I believe it can best be stated in a comment made by Sandor Vanocur at the Council of State Government meeting out in Denver back in July, when he stated that the Legislature no longer is running government but that government is being run by the media. This is perhaps not the exact wording of his statement but it was pretty darn close to that.

We are reacting to what we read in the Philadelphia Inquirer or in other papers during the past two or three weeks. We did not have too much in the Erie paper relative to the Senatorial Scholarships but what we did have, had more people calling me up requesting applications or asking me how they can get applications for the scholarships. I was one of the Senators who was not mentioned. I do not abuse it but I do find it is very important to me, because many of the students come from that middle income group, blue collar workers, who might just be disqualified from getting a PHEAA scholarship. In many instances, they have more than one student in the school and this

particular scholarship, which I was able to award, made it possible for this student to continue his education, even into professional school where there is no money available for scholarships.

In the last six years, even though I have been here for that short a period, I have had dentists graduate as a result of the help I was able to give them with the Senatorial Scholarship; attorneys, doctors, professional people and non-professional people. These people would not have been able to get their education because they could not afford the tuition paid at many of our State schools as well as our private colleges. Therefore, I must say that I am in favor of the Senatorial Scholarship program and would ask a vote of "no" in opposition to this particular resolution.

Senator SWEENEY. Mr. President, I will vote for Senate Resolution, Serial No. 96 and for reasons which may differ somewhat from some of the comments I heard this evening. It is not because of fear or intimidation or newspaper publicity or the like.

I would like to share with you very briefly what I considered a noble experiment which I conducted concerning this program.

Immediately after I was elected I appointed a totally independent group of people to process, evaluate and, in effect, award the scholarships in my District. The scholarship program was highly publicized. Every media, every area was notified of their availability. In the highest year we averaged 600 applications and those applications were each twelve pages long. I took great pride in the way the scholarship program was handled. I did not, in a single instance, reverse the recommendation of that bipartisan committee. Each student who received a scholarship signed a sworn affidavit that, under no circumstances, were they influenced, did they pay or did they promise to pay, directly or indirectly, anything of economic worth for that scholarship. They were awarded on an annual basis subject to review on academic standards and on need. This, what I would like to characterize as a noble experiment, was highly publicized throughout the District. I think it was successful as were the experiments of some of my colleagues.

I will vote for the abolition of the scholarship program simply because of the public apathy and the indifference that has been manifested in the last several weeks. In a constituency of almost a quarter of a million people, who received aid under this program as I have just indicated, not a single letter and one weak phone call to manifest the approval, if you will, of the program administered in an objective, honorable and decent way. I can only interpret that as an indifference on the part of my constituency in the administration of the scholarship program under those circumstances. It is for that reason that I will vote for the abolition of it and urge my colleagues to do likewise.

Senator HANKINS. Mr. President, in considering the Senatorial Scholarship program I would like to go on record as being opposed to their elimination. I hope my colleagues in the Senate will think about it. The reasons are very simple.

Assistance to my constituents is a privilege which enhances the constituency. I have made every effort to use the scholarships which I have awarded as a motivation. Certainly the

money is only a supplement, but when I look at institutions such as Lincoln University and others who have been in the forefront of education, the majority of individuals who come from my District, I am well aware that the total moneys received by those institutions is helpful to their maintenance and constructive curriculum.

I am well aware of the great difficulty minorities have had in getting scholarship aid through the usual process. Some high school institutions have failed to make awards of all the scholarships they have available. I consider this a fault of the educational system. It is impossible for me to conceive of a specific segment of the American community being mentally deficient and unable to effect good educational information.

I feel that the fault lies in the expectations of many operating the educational process wherein they think that economic circumstances affect mental capabilities. I have, therefore, made it a practice to use the Senatorial Scholarships as a kind of lever which says to many of my constituents who are striving educationally that here are some supplementary funds which will enable them to pursue their desire for higher education. This, despite the educational record made in other secondary institutions.

I urge every Senator to remember that the Senatorial Scholarships give each of us a chance to maintain a concept of the freedom of opportunity. I believe this one program is a major force and should be maintained. The only individuals who could dare oppose Senators maintaining this responsibility are those who seem satisfied with their own economic lot and believe that no one else needs such assistance and such consideration. I am not ashamed to urge the maintenance of the Senatorial Scholarship program.

The PRESIDENT. The Chair in no way means this to limit the debate; we will have as much debate as is necessary. However, in the interest of the hour I would like to remind the Members that for every hour we spend on this floor, the staff will spend about three hours tonight preparing for tomorrow morning's work.

Senator GURZENDA. Mr. President, it seems to me that the main objections to the scholarship program this evening are that we are using taxpayers' money, we are unfair, we are abusing the program and also, perhaps we are being discriminatory in allotting these scholarships.

I believe there is a very close correlation between the nonpreferred appropriations we make, for example, to Dickinson Law School, to the University of Pennsylvania and to others. Let us consider this: When we make our nonpreferred appropriations, why not appropriate money to Lehigh, Lafayette and other schools other than those five who are receiving scholarships. I feel we should consider this when we address ourselves to the budget this coming spring. Perhaps we should eliminate all nonpreferred appropriations to all of these schools.

Senator FUMO. Mr. President, I also rise to speak in opposition to this resolution. I have heard much today about what is fair and that the system we presently have is unfair. I do not know that it is necessarily fair that we allow academic people on campuses to award help. I do not know why they have a certain aura about them that makes that legitimate. I do not know

that it is fair that we penalize, in a sense, students of middle class families who are actually the backbone of this Nation, the people who pay the taxes, and penalize the student who is the so-called "C" student, the one who is not extremely bright and does not receive an academic scholarship.

I believe the system is already built in to assist the bright student. The system is built in to assist those people who are extremely poor and, certainly, the wealthy do not need the assistance. What this program addressed itself to was to help those people who made just enough money so that they could not qualify for financial aid based on economics according to some of the guidelines which we put forth and to help those students who are not extremely bright.

I do not rise to talk against the media. I hope this Body does not get caught up in that hysteria because, if we do, I think we should do away with incumbency. I believe that was the last article I read. However, I do believe that we must stand firm and protect the middle-class taxpayer.

I have heard some people say they did not receive letters on this issue. I did. I received letters in favor of it and I also, as did the gentleman from Erie, Senator Orlando, received more requests for scholarships. Not one single letter did I receive against this program and I live in Philadelphia where the Inquirer has its largest circulation. Not one, gentlemen; not one phone call.

I would hope that today we would vote our conscience and I would hope that today we would vote based on the number of phone calls we received, rather than try to fall all over each other in trying to get an instant line of press. As the newspaper is thrown out with the fish wrapped in it, the issue is all over. Next week there will be a new issue. But, we will have done away with a program which helps a lot of needy people, needy in the sense of working-class people.

Mr. President, I would hope that the Members would consider those facts very seriously.

Senator KELLEY. Mr. President, briefly I would like to say that I happen to feel as the gentleman from Allegheny, Senator Nolan. I do not feel that I have abused the responsibility of awarding Senatorial Scholarships, but I do not believe it is properly the function of a Member of the Legislative Body. That is one of the reasons I will vote for this resolution.

Mr. President, I desire to interrogate the gentleman from Allegheny, Senator Nolan.

The PRESIDENT. Will the gentleman from Allegheny, Senator Nolan, permit himself to be interrogated?

Senator NOLAN. I will, Mr. President.

Senator KELLEY. Mr. President, I am somewhat perplexed and would like to know if the gentleman would explain what caused him to change his opinion inasmuch as he a sponsor of this resolution?

Senator NOLAN. Mr. President, when the resolution was introduced it was referred to the Committee on Rules and Executive Nominations. At that time it was decided by that committee that the resolution would be referred to a committee to change the resolution from the way it was introduced in order to protect those, at my insistence, who were already in college. So, if we were going to eliminate the Senatorial Scholarships,

we would protect those who were still in college.

Unfortunately, that did not happen. It is not the first time, Mr. President, the gentleman will find a Senator's name on a bill or resolution and in the absence of a change, it is not supported.

Senator KELLEY. Mr. President, do I understand then that the gentleman's position—

The PRESIDENT. Senator, you are treading on very dangerous ground. I have a responsibility to maintain the personal integrity of the intentions of each Member. I think Senator Nolan has answered your question. Do you want to pursue this matter further?

Senator KELLEY. Yes, Mr. President.

The PRESIDENT. Please do so with some care as to his own rights and privileges as a Member of this Senate. You may proceed, Senator.

Senator KELLEY. Mr. President, I am sure the Chair would call me or any Member out of order if he is out of order and I would appreciate it if the Chair did that to me in this case.

The PRESIDENT. I will, Senator. You are dangerously close to being out of order.

Senator KELLEY. Mr. President, if I understand the gentleman's position, from his answer, then assuming the amendments which he offered, which failed, concerning the continuation of the Senatorial Scholarships, the students already receiving these scholarships would be able to complete school, he would then be supportive of the elimination of the Senatorial Scholarship program. Do I understand that correctly?

Senator NOLAN. Mr. President, the gentleman is absolutely correct. I feel an obligation to those students who were in need of these scholarships knowing full well that better than sixty per cent of those students would have to drop out of school next year in the absence of these Senatorial Scholarships.

Senator KELLEY. I thank the gentleman, Mr. President, because I understood from his remarks that his opposition was because of the news media reporting.

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

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

Senator DOUGHERTY. I will, Mr. President.

Senator NOLAN. Mr. President, the gentleman spoke against at least one of the amendments offered here this evening.

Senator DOUGHERTY. Mr. President, I do not believe I have spoken against any of the amendments.

Senator NOLAN. Mr. President, the gentleman did vote against them.

My question would be: If by some quirk the gentleman would defeat Congressman Eilberg would he please introduce a bill in Congress to eliminate the right of Congressmen and United States Senators to recommend anyone to the military schools?

Senator DOUGHERTY. First, Mr. President, I am happy to hear that a Democrat would say I had a chance to beat an incumbent Democratic Congressman. The fact of the matter is, and I think it was discussed on the floor last week, that there are two different kinds of programs. To try to relate the appointments to the Naval Academy and West Point with Sena-

torial Scholarships is like trying to compare apples and oranges. It is not quite the same thing.

Senator ROMANELLI. Mr. President, I, like a number of my colleagues who have come to the microphone tonight, have a very heavy heart. There are a lot of people in my District, some very wealthy, some very poor, but the bulk of it is middle-class Pennsylvania, just that shade over the limit where the student can get aid from PHEAA. Sitting in my chair, listening to people talk and reminiscing about the people who have received scholarships from my predecessors and myself and the program which I have continued, I know two young ladies—especially the one whose mother cries every time she sees me, because her daughter is about to become a doctor. It is happening through the assistance of this scholarship program. She would have never seen medical school if it were not for these scholarships.

Mr. President. I would hope that my colleagues realize what they are doing this evening to that middle-class Pennsylvanian who will have to drop out of school. I think there was a figure of sixty per cent mentioned here tonight; I am sure it will be at least sixty per cent in my District. I am also going to remember one thing. I am going to come back here next year and I am going to tell this body the number of kids who could not go back to school. I am also going to remind them where the prodding for this resolution came from.

Senator SMITH. Mr. President, I believe we established earlier that we will not save one penny in any appropriation made to the line items dealing with the student aid. I am just wondering if these gentlemen who are so rash in pushing to get rid of Senatorial Scholarships will come back to the Chairman of the Committee on Appropriations and ask for an additional appropriation or are they going to follow this through and demand that the Chairman of the Committee on Appropriations cut down the amount allotted under student aid?

Mr. President, if I understand PHEAA correctly—and I can stand corrected on this—the adjusted gross income is \$18,500. Suppose we now decide that we must increase the adjusted gross income to take care of—ninety-six times fifty—4500 to 4800 students. We have 4800 students in colleges on our Senatorial Scholarships.

If some Members have been so frightened that they feel they must give up the Senatorial Scholarships because they have received one or two letters, wait until these 4800 students lay on them to increase the adjusted gross income. Let us say we bring it up to middle class. The middle class income is \$23,000 or \$24,000. Let me tell the Members what we will have to expend to cover that increase. We are giving, I believe, approximately \$68 million to PHEAA; we are giving \$12.6 million for the IAGs. Suppose we have to appropriate another \$10 million to take care of the fumbling tonight? Mr. President, I am not going to stand against the young people who want an adjusted gross income because I represent middle-class America, as someone stated before.

Perhaps we are going to have to come up with \$10 million and not this pittance we are giving up in our Senatorial Scholarships.

I am going to ask the Members to think what they are doing.

They are wearing the "white hats"; they are covering all the bases and someone is going to love you, but do not come to the Chairman of the Committee on Appropriations and tell me, "We must give Penn State X number of dollars." Remember, that is not in my District. We are not going to give Penn X number of dollars; that is not in my District. We are not going to give Pitt X number of dollars; that is not in my District. I do not have a university or college in my District, but I do give out Senatorial Scholarships.

I want those Members, who have pushed so hard because they are right, to remember this evening, but then let the Chairman of the Committee on Appropriations be right when I tell them, no way are we going to increase the funding for these wonderful institutions.

I am not being hard; I am being honest. There must be a basic reason why we are giving up the Senatorial Scholarships. I heard the gentleman from Delaware, Senator Sweeney, say it was not abused. I heard the gentleman from Philadelphia, Senator McCormack, say it was not abused. Well, who is abusing it? I do not know. Have the newspapers abused it by reference? If no one is abusing it, why are we giving it up? So, it will cost us another \$10 million because the the newspapers may say we are not covering middle America.

Again I will repeat: I am the Chairman of the Committee on Appropriations. I am telling the Members, do not come back and plead with me that it is a new day. There will be no taxes. Somewhere we are going to have to cut back. Where do we cut back? Let us cut back with those young people who want to go on and get an education. I am for that. We are going to cut back somewhere. Again I say, the Members have won, I am sure they have won. What have they won? They have won the battle and I think they lost the war.

Senator HAGER. Mr. President, for all of those people who have not spoken this evening and who are going to vote in favor of this resolution and who sponsored it long before there were any newspaper articles on it—

The PRESIDENT. Are there any, Senator? Excuse me, I should not interrupt you, Senator.

Senator HAGER. You are right, Mr. President. You know, Mr. President, there are times when I think you would love to be on this floor, but darn it, you are not, so you have to stay out of these debates.

In the meantime, there are a number of people who have been sponsoring resolutions to get rid of Senatorial Scholarships for a long, long time. To those who keep asking, where are the reasons, I ask them to listen to what the gentleman from Westmoreland, Senator Kelley, said. We were not elected to dispense senatorial favors. We were elected to be Senators. We are not trained as financial aid officers for any institutions and the very fact that those favors exist, the very fact that they came from a kind of political bribe in the first place to incur or to cury senatorial favor for institutions who wanted favorable treatment at appropriation time, poisoned them from their inception.

There may be all kinds of reasons to do the kinds of things for these kids which have been done, but I do not think they can ever be done without the taint of politics so long as they are

done by Senators. It must be from a totally apolitical source.

For those people who want to vote for this resolution for those reasons, I do not think they have to stand ashamed of the kind of implications which have been made about their vote by those who see it differently. There are many, many on this floor, on both sides, who have been for the elimination of Senatorial Scholarships long before it became a cause celebre.

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—31

Andrews,	Hager,	Kusse,	Reibman,
Bell,	Hess,	Lewis,	Schaefer,
Coppersmith,	Holl,	Manbeck,	Snyder,
Corman,	Hopper,	McCormack,	Stapleton,
Dougherty,	Howard,	Mellow,	Stauffer,
Dwyer,	Jubelirer,	Messinger,	Sweeney,
Early,	Kelley,	Moore,	Tilghman,
Gekas,	Kury,	O'Pake,	

NAYS—17

Arlene,	Lynch,	Noszka,	Scanlon,
Duffield,	McKinney,	Orlando,	Smith,
Fumo,	Murray,	Romanelli,	Stout,
Gurzenda,	Nolan,	Ross,	Zemprelli,
Hankins,			

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

THIRD CONSIDERATION CALENDAR RESUMED

HB 1171 CALLED UP

HB 1171 (Pr. No. 3682) — Without objection, the bill, which previously went over in its order temporarily, was called up, from page 6 of the Third Consideration Calendar by Senator MESSINGER.

BILL OVER IN ORDER

HB 1171 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILLS OVER IN ORDER

HB 1714, 1762 and 1824 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1863 (Pr. No. 3702) — 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,	Hager,	Manbeck,	Romanelli,
Arlene,	Hankins,	McCormack,	Ross,
Bell,	Hess,	McKinney,	Scanlon,
Coppersmith,	Holl,	Mellow,	Schaefer,
Corman,	Hopper,	Messinger,	Smith,
Dougherty,	Howard,	Moore,	Snyder,
Duffield,	Jubelirer,	Murray,	Stapleton,
Dwyer,	Kelley,	Nolan,	Stauffer,
Early,	Kury,	Noszka,	Stout,
Fumo,	Kusse,	O'Pake,	Sweeney,
Gekas,	Lewis,	Orlando,	Tilghman,
Gurzenda,	Lynch,	Reibman,	Zemprelli,

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.

BILLS OVER IN ORDER

HB 1949, 2099, 2305, 2314, 2345, 2355, 2369, 2392, 2393, 2397, 2398 and 2399 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

MEETING OF THE COMMITTEE ON
STATE GOVERNMENT

Senator MESSINGER. Mr. President, I have been reminded by the Chairman of the Committee on State Government that he wishes to have a meeting at the present time in the Senate Minority caucus room. It has been agreed to by both parties.

The PRESIDENT. Would the members of the Committee on State Government kindly report now to the Minority caucus room at the rear of the Senate Chamber while we proceed to the orderly consideration of the Second Consideration Calendar?

CONSIDERATION OF CALENDAR RESUMED

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

SB 9, 86, 87, HB 131, 133 and 232 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 404 (Pr. No. 3792) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL OVER IN ORDER

HB 471 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL REREFERRED

HB 552 (Pr. No. 3768) — Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILL ON SECOND CONSIDERATION

HB 648 (Pr. No. 716) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

HB 663 and 1097 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 1115 (Pr. No. 3743) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

HB 1330, 1446 and 1508 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILLS ON SECOND CONSIDERATION

SB 1539 (Pr. No. 1985) and SB 1592 (Pr. No. 2155) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

SB 1603 and 1604 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILLS ON SECOND CONSIDERATION

SB 1608 (Pr. No. 2093) and SB 1630 (Pr. No. 2140) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL OVER IN ORDER

HB 1673 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 1698 (Pr. No. 2058) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

HB 1778, 1785 and 1834 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 1859 (Pr. No. 2267) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

HB 1880 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

HB 1980 (Pr. No. 3687) — The bill was considered.

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

AMENDMENTS OFFERED

Senator EARLY offered the following amendments:

Amend Title, page 1, line 9, by inserting after "penalties,"": authorizing certain persons to treat their no-fault insurance as primary;

Amend Sec. 1, page 1, line 16, by inserting after "section 202,"": subsection (d) of section 203,

Amend Sec. 1, page 1, line 18, by inserting after "amended": or added

Amend Bill, page 6, by inserting between lines 18 and 19:

§ 203. Collateral benefits.

(d) An owner or operator of a motor vehicle who is insured under a medicare or other program designed for retired persons may elect to have his no-fault insurance be primary.

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

AMENDMENTS WITHDRAWN

Senator EARLY. Mr. President, I would like to withdraw my amendments.

The PRESIDENT. Without objection, House Bill No. 1980 will go over in its order.

BILLS ON SECOND CONSIDERATION

HB 2027 (Pr. No. 3280), HB 2067 (Pr. No. 2863), HB 2091 (Pr. No. 2641) and HB 2092 (Pr. No. 2642) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

HB 2138, 2142, 2145 and 2149 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILLS ON SECOND CONSIDERATION

HB 2185 (Pr. No. 2786) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL OVER IN ORDER

HB 2207 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILL ON SECOND CONSIDERATION

HB 2214 (Pr. No. 2821) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL OVER IN ORDER

HB 2215 — Without objection, the bill was passed over in its order at the request of Senator MESSINGER.

BILLS ON SECOND CONSIDERATION

HB 2218 (Pr. No. 2825) and HB 2219 (Pr. No. 2826) — Considered the second time and agreed to,
Ordered, To be transcribed for a third consideration.

BILL REREFERRED

HB 2221 (Pr. No. 2828) — Upon motion of Senator MESSINGER, and agreed to, the bill was rereferred to the Committee on Appropriations.

BILL ON SECOND CONSIDERATION AMENDED

HB 2222 (Pr. No. 2829) — The bill was considered.

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

Amend Title, page 1, lines 1 through 21, by striking out all of said lines and inserting:

Establishing a Pennsylvania Ethics Commission, prohibiting conflict of interest activities by elected members of the Legislative, Executive, or Judicial Branch of State Government municipal officers, State employees and former State employees; requiring certain disclosures; and providing penalties.

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Section 601. Nonseverability clause.

Section 602. Effective date.

Amend Bill, page 1, lines 24 through 27; pages 2 through 5; page 6, lines 1 through 8, by striking out all of said lines on said pages and inserting:

CHAPTER 1

SHORT TITLE, PURPOSE, AND DEFINITIONS

Section 101. Short title.

This act shall be known and may be cited as the

“Public Officials Ethics Act.”

Section 102. Purpose.

It is the purpose of this act to balance the dual objectives of protecting the integrity of the State and local governments of the Commonwealth and of facilitating the recruitment and retention of the personnel needed by them by prescribing restrictions against conflicts of interest without creating unnecessary barriers to public service.

Section 103. Definitions.

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Commission.” The Pennsylvania Ethics Commission.

“Contract.” Any contract, option, lease, sale or purchase.

“Contracting party.” Any person, partnership, association, cooperative, corporation or other business entity which is a party to a contract with a municipality.

“Financial interest.” An interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a business entity, or as a result of salary, gratuity, or other compensation or remuneration from any individual, partnership, organization or association.

“Immediate family.” The spouse, dependent children and other dependent relatives living in the same household.

“Legislator.” Any duly elected member of the Senate or House of Representatives during his term of office.

“Municipal officer.” All elected and appointed officers of a municipality, all employees thereof, and specially retained advisors and counselors.

“Municipality.” All political subdivisions, including but not limited to, counties, cities, school districts, authorities, incorporated boroughs, towns and townships.

“State agency.” Any State office, department, commission, board, authority, court or other entity created by the Constitution or statutes of this Commonwealth.

“State employee.” An elected or appointed officer or employee of the executive and an elected or appointed justice or judge of any court or an employee or officer of any court except a legislator but shall include consultants.

“Thing of economic value”:

(1) a property interest, compensation, thing of value, interest in a contract or other chose in action, and any employment or other arrangement involving a right to compensation;

(2) an option, irrespective of the conditions to the exercise of such option;

(3) a promise or undertaking for present or future delivery or procurement; or

(4) and assumption of a debt.

In the case of an option, promise, or undertaking, the time of receipt of the thing of economic value shall be deemed to be, respectively, the time the option becomes fixed, regardless of the conditions of its exercise, and the time the promise or undertaking is made, regardless of the condition to its performance.

“Transaction involving the State.” Any proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other such particular matter which the State employee or former State employee in question believes, or has reason to believe:

(1) is, or will be, the subject of State action;

(2) is one to which the State is or will be a party; or

(3) is one in which the State has a direct and substantial proprietary interest: Provided, That nothing in this definition shall be construed to prohibit legislators who are attorneys at law from:

(i) representing clients in transactions or cases involving the filing of documents or tax returns in the county courthouses of the Commonwealth;

(ii) representing clients before the judicial branch of State Government; or

(iii) representing clients in proceedings or cases involving only the uncontested and routine action of administrative officers or employees of the Commonwealth in issuing or renewing a license, charter, certificate or similar document or involving industrial assistance through nonprofit industrial authorities under the act of May 31, 1956 (1955 P. L. 1911, No. 635), known as the “Industrial Development Assistance Law” or the act of August 23, 1967 (P. L. 251, No. 102), known as the “Industrial and Commercial Development Authority Law.”

CHAPTER 2

COMMISSION CREATED

Section 201. Pennsylvania Ethics Commission created.

There is hereby created the Pennsylvania Ethics Commission and it shall consist of three members all being private citizens. The members shall be appointed by the Governor with the confirmation of two-thirds of the Senate. The terms of the first members shall be one for one year, one for three years and one for five years. No more than two members shall be from the same political party.

Their successors shall be appointed for a term of three years by the original appointing authority. Members shall be eligible for reappointment. No more than two members shall be from the same political party.

The members of the commission shall not be employed by the Commonwealth or any municipality in any capacity whether compensated or not, while serving on this commission.

The members of the commission shall receive no salary but shall be reimbursed for their expenses actually and necessarily incurred in their performance of their duties and a per diem of \$150.

Section 202. Powers and duties of the Pennsylvania Ethics Commission.

The Pennsylvania Ethics Commission shall have the power and its duties shall be:

(1) To receive signed sworn complaints charging a violation under this act signed by a citizen of the Commonwealth. The commission shall notify in writing any person against whom a charge is received, hereinafter referred to as the person charged and afford him an opportunity to explain the conduct alleged to be in violation of the act. The commission shall investigate all charges on a confidential basis, having all the powers herein provided.

(2) To hold hearings, take testimony, issue subpoenas and compel the attendance of witnesses.

(3) To make recommendations and advisory opinions when requested by any member of the General Assembly or any municipal officer on any matter properly before the commission, to issue reports which may include minority reports and to dismiss complaints if evidence so warrants. Reliance on an advisory opinion issued by the commission to a member shall be a defense against any charge arising out of the matter for which the opinion was sought. All recommendations and advisory opinions of the commission shall be treated in a confidential manner.

(4) To require any State agency to forward to the commission, upon request, the names of anyone who has made an appearance before said agency on behalf of any business entity where relevant to an investigation being conducted.

(5) To employ such personnel as the commission deems necessary to perform its duties subject however to its budgetary limitations.

(6) To make recommendations to law enforcement

officials either for criminal prosecution or dismissal of charges arising out of violations of this act.

CHAPTER 3 PROHIBITED ACTS

Section 301. Legislators.

No legislator shall:

(1) Represent for compensation other than compensation received from the Commonwealth any party before a State board or regulatory agency or in any transaction involving the State.

(2) For a thing of economic value seek to influence the awarding of a contract.

(3) Use of official position to secure for himself or others a thing of economic value, except as may be provided by law.

(4) Disclose confidential information acquired by reason of his official position to any person, or group, not entitled to receive such information, nor use such information for his personal gain or benefit.

(5) Sell or cause to be sold, either as an individual or through any business enterprise in which he holds a substantial financial interest, goods or services to any State agency unless the contract is awarded pursuant to competitive bidding procedures.

(6) Receive any compensation for his services as a legislator or his use of influence derived from his capacity as a legislator from any source other than the Commonwealth of Pennsylvania, unless otherwise provided by law. This section shall not be limited to transactions involving the Commonwealth.

(7) Receive or agree to receive compensation for representing or assisting any person or business in any transaction involving the Commonwealth.

(8) Be employed by or receive any commission, fee, or compensation from the State, except the compensation and allowance for expenses provided to a legislator.

(9) Directly or indirectly accept any thing of economic value given for the purpose of influencing such legislator in the discharge of his official duties: Provided, however, That this section shall not apply to bona fide campaign contributions.

Section 302. Municipal officers.

(a) No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, or which may be made for the benefit of his office, or accept, directly or indirectly, any thing of economic value in connection with such contract from any person beneficially interested therein:

(1) A municipal officer shall not be deemed to be interested in a contract if he has only a remote interest in the contract and if the fact and extent of such interest is disclosed to the governing body of the municipality of which he is an officer and noted in the official minutes or similar records of the municipality prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest.

(2) As used in this paragraph "remote interest" means:

(i) That of a nonsalaried officer of a nonprofit corporation.

(ii) That of a holder of less than 3% of the shares of a corporation or cooperative which is a contracting party.

(iii) That of an employee of a contracting party not in a position to influence his employer's decisions.

The provisions of this subsection shall not be applicable to any officer interested in a contract, though his interest be only remote, who influences or attempts to influence another officer of the municipality of which he is an officer to enter into the contract.

(b) No municipal officer shall participate in a trans-

action involving the municipality in the consequences of which he has an economic interest of which he may reasonably be expected to know.

(c) No municipal officer shall participate in a transaction involving the municipality who knows or through the exercise of reasonable diligence should know that any of the following persons has a direct and substantial economic interest:

(1) his immediate family;

(2) a person in whom he has an economic interest of which he knows or through the exercise of reasonable diligence should know;

(3) a person who is his trustee, partner, or employee; or

(4) a person with whom he is negotiating or has an arrangement concerning prospective employment.

(d) A municipal officer shall disqualify himself from participating in a transaction involving the municipality when a violation of this section would otherwise result. An employee's interest shall not include:

(1) The interest of a municipal officer in his grade, salary, or other matters arising solely from his municipal employment.

(2) The interest of a municipal officer or of a person referred to in this section solely as a member of the general public; or any significant economic or any other segment of the general public.

(3) Remote interests as defined in paragraph (2).

(e) No municipal officer shall, except in the course of his official duties or incident thereto, assist another person in any transaction involving the municipality:

(1) in which he has at any time participated; or

(2) if such transaction is or has been under his official responsibility at any time within a period of two years preceding such assistance.

(f) No municipal officer shall share in any compensation received by another for assistance which such municipal officer is prohibited from rendering pursuant to this section.

(g) The prohibited acts of a State employee, officer, or agency detailed in section 303 are hereby incorporated into this section as prohibited acts for municipal officers and employees.

Section 303. State employees and agencies.

(a) No State employee shall:

(1) Directly or indirectly accept any thing of economic value given for the purpose of influencing such employee in the discharge of his official duties: Provided, however, That this section shall not apply to bona fide campaign contributions.

(2) Use his official position to secure for himself or others a thing of economic value, except as may be provided by law.

(3) Disclose confidential information acquired by reason of his official position to any person, group, or others not entitled to receive such confidential information, nor shall he use such information for his personal gain or benefit.

(4) Sell or cause to be sold, either as an individual or through any business enterprise in which he holds a financial interest, goods or services to any State agency or to any business entity licensed by or regulated by the State agency except as provided in this act.

(5) Receive any thing of economic value that would impair his independence of judgment, for his services as an officer or employee of any State agency, from any source other than the Commonwealth, unless otherwise exempted by law or disclosed pursuant to this act.

(6) Accept other employment which would impair his efficiency of independence of judgement in the performance of his public duties unless otherwise exempted by law or disclosed pursuant to this act.

(b) No State agency shall:

(1) Enter into any contract with an employee of the

agency, or with a business in which such person shall have a financial interest unless the contract is made after public notice and competitive bidding. The provisions hereof shall not apply to a contract of employment with the State.

(2) Enter into a contract with or make any ruling or take any action in favor of any person or business which is represented before such agency by a former State employee who, while a State employee, participated in the same matter before the agency.

(3) Purchase real property from an employee of the State agency or from a person who within two years prior to such purchase held such a position, unless the property is acquired by condemnation proceedings or the price to be paid for such property is approved in writing by the head of the agency acquiring such property and the Governor.

(c) No State employee shall, except in the course of his official duties or incident thereto, assist another person in any transaction involving the State:

(1) in which he has at any time participated; or

(2) if such transaction is or has been under his official responsibility at any time within a period of two years preceding such assistance.

(d) No State employee shall share in any compensation received by another for assistance which such State employee is prohibited from rendering pursuant to the provisions of this act.

(e) No partnership of which a State employee is a partner and no partner or employee of such a partnership, shall assist another person in any transaction involving the State if such State employee is prohibited from doing so by the provisions of this act.

(f) No State employee shall participate in a transaction involving the State in the consequences of which he has an economic interest of which he knows or through the exercise of reasonable diligence should know.

(g) No State employee shall participate in a transaction involving the State in the consequences of which, he knows or through the exercise of reasonable diligence should know that any of the following persons has a direct and economic interest:

(1) His immediate family.

(2) A person in which he has an economic interest.

(3) A person who is his trustee, partner, or employee.

(4) A person with whom he is negotiating or has an arrangement concerning prospective employment.

(5) A person who is a party to an existing contract with such State employee or an obligee of such State employee as to a thing of economic value and who, by reason thereof, is in a position to affect directly and substantially such employee's economic interests.

(h) Every State employee shall disqualify himself from participating in a transaction involving the State when a violation of this act would otherwise result. An employee's economic interest shall not include:

(1) The interest of a State employee in his grade, salary, or other matters arising solely from his State employment.

(2) The interest of a State employee or a person referred to in this section solely as a member of the general public.

(3) If the public interest so requires, the Governor may issue an order suspending the operation of this section in whole or in part, as to a particular employee in a specified transaction involving the State, by expressing the suspension and the reasons for it in writing. The writing shall be filed with the Secretary of the Commonwealth and shall be open to public inspection.

(i) No regular State employee shall receive any thing of economic value, other than compensation for his services to the Commonwealth, for or in consideration of his personal services rendered, or to be ren-

dered, to or for any person during the term of his State employment unless such services meet the following qualifications:

(1) The services are bona fide and actually performed by such employee.

(2) The services are not within the course of his official duties.

(3) The services are not prohibited by the provisions of this act or by applicable laws or regulations governing nonstate employment for such employee.

(4) The services are not performed for or compensated for by a person from whom such employee would be prohibited by the provisions of this section from receiving a gift or alternately, the services and compensation are fully disclosed in writing to the head of the employee's agency and are approved in writing by him.

(j) The provisions of this section shall not prevent a State employee from receiving compensation from the United States, another state or country, or municipality if:

(1) The compensation is received pursuant to arrangements entered into between such state, country, municipality, or the United States and such employee's agency.

(2) The compensation and the services for which it is received are fully disclosed in writing to the head of the employee's agency and are approved in writing by him.

(3) Exceptions to the provisions of this section may be made by regulations in situations where the circumstances do not lead to the inference that the official judgment or action of the State employee receiving, directly or indirectly, the gift, gratuity, or favor was intended to be influenced thereby.

(4) For the purposes of this section, the term "regular State employee" shall not include a State employee who, in accordance with the terms of his appointment, is serving without compensation from the Commonwealth of Pennsylvania, or is receiving from the State only reimbursement of expenses incurred or a predetermined allowance for such expenses.

(k) No State employee shall receive, accept, take, seek, or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person if such State employee has reason to believe the donor would not give the gift, gratuity, or favor but for such employee's office or position with the State.

(l) No regular State employee shall receive, accept, take, seek or solicit, directly or indirectly, any thing of economic value as a gift, gratuity, or favor from any person, or from an officer or director of a corporation, if he knows or through the exercise of reasonable diligence should know that such person:

(1) has or is seeking to obtain contractual or other business or financial relationships with such employee's agency;

(2) conducts operations or activities which are regulated by such employee's agency; or

(3) has interests which may be substantially affected by such employee's performance or nonperformance of official duty.

(m) No former State employee shall assist another person in a transaction or service purchase contract involving the State in which he at any time participated during his State employment, not to exceed a period of two years. He shall not, within a period of two years after termination of employment with an agency, appear before the agency at which he was employed.

(n) No former State employee shall share in any compensation received by another person for assistance which such former State employee is prohibited from rendering by the provisions of this section.

(o) No State employee shall, except in the course of his official duties or incident thereto, use the power or

authority of his office or position with the State in his relationships with a person mentioned in this section in a manner intended to induce or coerce such person to provide such State employee or any other person with any thing of economic value. This section shall apply to relationships with a person or an officer or director of a corporation from whom such State employee, if he were a regular State employee, would be prohibited by this act from receiving a gift.

(p) No person shall give, pay, loan, transfer, or deliver, directly or indirectly, to another any thing of economic value who knows or through the exercise of reasonable diligence should know that there exist circumstances making the receipt thereof a violation of this act.

(q) No person shall give, transfer, or deliver, directly or indirectly, to a State employee, any thing of economic value as a gift, gratuity, or favor if:

(1) such person would not give the gift, gratuity, or favor but for such employee's office or position with the State; or

(2) such person is in a status specified in this chapter.

CHAPTER 4 DISCLOSURE

Section 401. Interests required to be disclosed.

All persons subject to this act shall file a sworn statement of economic interests with the commission. The public disclosure statement shall contain the following information for the preceding calendar year concerning the public servant and members of his immediate family, unless otherwise noted, but no dollar amount or value need be attributed thereto:

(1) Name, position held with a State agency of the public servant.

(2) Occupations or professions of the public servant and his immediate family.

(3) The name, relationship, salary, position and agency of any member of his immediate family who is employed by a State agency or a municipality.

(4) Direct or indirect sources, by name, of any income in excess of \$500, including capital gains, whether or not taxable, received during the preceding year.

(5) Direct or indirect interests in real estate situate in the Commonwealth by location; provided a public servant's primary residence shall not be included.

(6) The name of each creditor to whom is owed in excess of \$5,000 and the interest rate thereon: Provided, That loans or credit extended between members of the immediate family and mortgages of public record shall not be included: And provided further, That any loan or extension of credit regardless of the amount thereof used for the purpose of conducting a political campaign, including the last campaign for a Statewide elective office of the Commonwealth of Pennsylvania, the interest rate thereon, the method of repayment and the source of the funds used for such repayment.

(7) Direct or indirect financial interests exceeding 5% of the equity or \$5,000 at fair market value in any legal entity engaged in business for profit; for which doing business with the Commonwealth represents a significant portion of the total business of such entity; or which is licensed or regulated by the Commonwealth or its agencies; or which is subject to the rate making or other nonministerial process of the Commonwealth or its agencies; except, however, that this section shall not apply to proceedings involving only the uncontested and routine action of administrative officers or employees of the Commonwealth in issuing or renewing a license, charter, certificate or similar document.

(8) Any office, directorship or employment of any nature whatsoever in any business entity; doing business with the Commonwealth or which is licensed

or regulated by the Commonwealth or its agencies; or which is subject to the rate making or nonministerial process of the Commonwealth or its agencies; however, this clause shall not apply to proceedings involving only the uncontested and routine action of administrative officers or employees of the Commonwealth in issuing or renewing a license, charter, certificate or similar document.

(9) Clients or customers of a public servant engaged in a profession or business, including but not limited to the professions or businesses of insurance agent or broker, sales representative, architect, attorney or accountant, which he actually represented appeared for or interceded in behalf of for compensation in a transaction involving the Commonwealth or its agencies; or for which doing business with the Commonwealth represents a significant portion of the total business of the client or customer; where the service performed for the client or customer bears a reasonable relationship to the business being done with the Commonwealth; or which are licensed or regulated by the Commonwealth or its agencies, where the service performed for the client or customer bears a reasonable relationship to the business being done with the Commonwealth; or which are subject to rate making or other nonministerial process where the service performed for the client or customer bears a reasonable relationship to the business being done with the Commonwealth; however, this paragraph shall not apply to proceedings involving only the uncontested and routine action of administrative officers or employees of the Commonwealth in issuing or renewing a license, charter, certificate or similar document.

Section 402. Disclosure statements containing information in excess of the requirement of this act.

(a) Nothing in this act shall prohibit the Governor from requiring any public servant that he has appointed to a public office from filing with the Governor a statement requiring disclosure of information in excess of the requirements of this act.

(b) Nothing in this act shall be construed as prohibiting a public servant from filing with the commission additional information in excess of the requirements of this act.

Section 403. Interest of family deemed interest of public servant.

The interest of the immediate family of a public servant shall be considered the same interest as that of the public servant.

Section 404. Disclosure statements to be public record.

The commission shall maintain all disclosure statements filed by public servants as public records which shall be available to the public for examination and copying at all reasonable times. Such disclosure statements shall remain on file for four years from the initial date of filing.

Section 405. Procedures.

(a) The disclosure statement shall be filed by the public servant with the commission by April 15 pertaining to interests maintained by the public servant in the preceding calendar year. In the case of persons seeking elective office in the Executive, Legislative or Judicial Branches of the Commonwealth, such persons shall file a disclosure statement with the commission and the Secretary of State within ten days after filing nomination papers.

(b) Once an economic interest statement has been filed under this act, such statement may be updated annually by filing a supplemental statement thereto.

(c) The commission shall prepare a disclosure statement which shall be a regulation subject to the provisions of the Commonwealth Documents Law. Each State agency shall inform all public servants within

its jurisdiction of their duty to comply with the provisions of this act, and shall provide such public servants with a disclosure statement form. Failure by a public servant to receive a copy of a disclosure statement form from the commission shall not constitute a defense for noncompliance with the provisions of this act.

CHAPTER 5 PENALTIES

Section 501. Void contracts.

(a) A contract made in violation of the provisions of this act shall be void except that the rights of nonmoving, innocent contracting parties shall be terminated only as of the date of the discovery of the violation. The performance thereafter, by an innocent, nonmoving contracting party or any performance by the moving, contracting party, in whole or in part shall not be the basis of any claim against the municipality.

(b) In any action to avoid a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account.

Section 502. Forfeiture of office.

In addition to any other penalty provided for in this act or by law, a State or municipal official or employee convicted of a violation of this act shall thereby, except where the Constitution provides the exclusive procedure for removal, forfeit his office or position which shall thereupon be deemed vacant.

Section 503. Unlawful employment.

It shall be unlawful for any member of the immediate family of any elected members of the Legislative, Executive or Judicial Branch of State Government or municipal officer to seek or accept any employment with any State or municipal agency which falls under the board classification of executive, legislative or judicial branch of government when the legislator, State employee or municipal officer works for or is employed by a State or municipal agency falling within the same classification.

Section 504. Fine and imprisonment.

Any person who willfully or knowingly, or who has reason through the exercise of reasonable diligence to know, or who intentionally violates any of the provisions of this act is guilty of a felony and shall, upon conviction thereof, be sentenced to pay a fine not less than \$1,000 and as great as the trial judge in his discretion finds to be an adequate penalty for the crime, taking into consideration the value of the interests involved, and to undergo imprisonment for not more than three years.

CHAPTER 6 NONSEVERABILITY CLAUSE; EFFECTIVE DATE

Section 601. Nonseverability clause.

If any word, phrase, clause, sentence, section or provision of this act is for any reason held to be unconstitutional, the remaining provisions of this act shall be void. It is hereby declared as the legislative intent that this act would not have been adopted had such unconstitutional word, phrase, clause, sentence, section or provision thereof been included herein.

Section 602. Effective date.

The act shall take effect July 1, 1979.

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.

BILLS ON SECOND CONSIDERATION

HB 2223 (Pr. No. 2830), HB 2224 (Pr. No. 2831) and HB 2225 (Pr. No. 2832) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL RECOMMITTED

HB 2226 (Pr. No. 3788) — Upon motion of Senator MESSINGER, and agreed to, the bill was recommitted to the Committee on Judiciary.

BILLS ON SECOND CONSIDERATION

HB 2227 (Pr. No. 2834), HB 2228 (Pr. No. 2835), HB 2229 (Pr. No. 2836), HB 2231 (Pr. No. 2838), HB 2232 (Pr. No. 2839), HB 2233 (Pr. No. 2840), HB 2234 (Pr. No. 2841), HB 2235 (Pr. No. 2842), HB 2236 (Pr. No. 2843), HB 2237 (Pr. No. 2844), HB 2238 (Pr. No. 2845), HB 2239 (Pr. No. 2846), HB 2339 (Pr. No. 3744), HB 2340 (Pr. No. 3745), HB 2341 (Pr. No. 3746), HB 2342 (Pr. No. 3747), HB 2344 (Pr. No. 3748), HB 2346 (Pr. No. 3750), HB 2347 (Pr. No. 3751), HB 2348 (Pr. No. 3752), HB 2349 (Pr. No. 3753), HB 2350 (Pr. No. 3754), HB 2351 (Pr. No. 3755), HB 2352 (Pr. No. 3756), HB 2353 (Pr. No. 3757), HB 2354 (Pr. No. 3758), HB 2356 (Pr. No. 3760), HB 2357 (Pr. No. 3761), HB 2358 (Pr. No. 3762), HB 2359 (Pr. No. 3763), HB 2360 (Pr. No. 3764) and HB 2437 (Pr. No. 3791) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILLS OVER IN ORDER

HB 2487, 2488, 2489, 2490 and 2506 — Without objection, the bills were passed over in their order at the request of Senator MESSINGER.

BILLS ON SECOND CONSIDERATION

HB 2542 (Pr. No. 3359) and HB 2586 (Pr. No. 3827) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

SENATE RESOLUTION, SERIAL NO. 112, CALLED UP

Senator MESSINGER, without objection, called up from page 26 of the Calendar, Senate Resolution, Serial No. 112, entitled:

Memorializing the President, Congress, Department of Health, Education and Welfare and Community Services Administration to issue proper regulations pertaining to one-time grant program for low income families unpaid energy bills to avoid discrimination effects.

On the question,
Will the Senate adopt the resolution?

SENATE RESOLUTION, SERIAL NO. 112, ADOPTED

Senator MESSINGER. Mr. President, I move that the Senate do adopt Senate Resolution, Serial No. 112.

The motion was agreed to and the resolution was adopted.

**SENATE RESOLUTION,
SERIAL NO. 114, CALLED UP**

Senator MESSINGER, without objection, called up from page 26 of the Calendar, Senate Resolution, Serial No. 114, entitled:

Amending Senate Rules regarding status of Members indicted or convicted of a crime.

On the question,

Will the Senate adopt the resolution?

SENATE RESOLUTION, SERIAL NO. 114, AMENDED

Senator LEWIS offered the following amendment:

Amend Rule 38, section 3, second and third lines, by striking out "CONVICTION OF A MEMBER," and inserting: a finding or verdict of guilt by a judge or jury, plea or admission of guilt or plea of nolo contendere of a member of the Senate of a crime, the gravamen of which relates to the member's conduct as a Senator, and upon imposition of sentence,

On the question,

Will the Senate agree to the amendment?

It was agreed to.

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

**HOUSE CONCURRENT RESOLUTION
NO. 196, CALLED UP**

Senator MESSINGER, without objection, called up from page 27 of the Calendar, House Concurrent Resolution No. 196, entitled:

General Assembly urge Olympic Committee halt the exclusion of Israel from the 1980 Olympic games.

On the question,

Will the Senate concur in the resolution?

**SENATE CONCURS IN HOUSE CONCURRENT
RESOLUTION NO. 196**

Senator MESSINGER. Mr. President, I move that the Senate do concur in House Concurrent Resolution No. 196.

The motion was agreed to and the resolution was concurred in.

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

**UNFINISHED BUSINESS
REPORTS FROM COMMITTEES**

Senator O'PAKE, from the Committee on Judiciary, reported, as committed, **HB 1523**; as amended, **HB 1521** and **2007**.

Senator KURY, from the Committee on Consumer Affairs, reported, as committed, **HB 2200**.

Senator ROMANELLI, from the Committee on Urban Affairs and Housing, reported, as committed, **SB 1623** and **HB 2029**.

Senator McKINNEY, from the Committee on State Government, reported, as committed, **HB 1076** and **2740**.

SENATE RESOLUTION

**REQUESTING STATE TRANSPORTATION
COMMISSION TO DETERMINE FEASIBILITY OF
MAKING THE UNFINISHED PORTIONS OF THE
BEAVER VALLEY EXPRESSWAY A TOLL ROAD**

Senators DWYER, ROSS and ANDREWS offered the following resolution (Serial No. 123), which was read and referred to the Committee on Transportation:

In the Senate, September 25, 1978.

WHEREAS, The use of toll roads as a means of generating capital necessary to provide for the construction and maintenance of highways has been successful in the past; and

WHEREAS, The completion of the Beaver Valley Expressway is being delayed due to the lack of adequate funding; and

WHEREAS, The completion of the Beaver Valley Expressway would facilitate and expedite the flow of traffic in the area between Sharon and the Greater Pittsburgh International Airport and would also stimulate commerce which would benefit the Commonwealth as a whole; therefore be it

RESOLVED, That the Senate of Pennsylvania requests the State Transportation Commission to prepare a study to determine the feasibility of making the unfinished portions of the Beaver Valley Expressway a toll road; and be it further

RESOLVED, That the State Transportation Commission shall use existing manpower and resources to complete the feasibility study and shall use existing resources from the Department of Transportation, the Pennsylvania Transportation Advisory Committee and the Pennsylvania Transportation Institute at Pennsylvania State University; and be it further

RESOLVED, That the commission shall also use whatever Federal funds available for highway planning to the extent such funds are available; and be it further

RESOLVED, That the State Transportation Commission shall report the results of the feasibility study and shall submit a plan to make the unfinished portions of the Beaver Valley Expressway a toll road to the General Assembly of the Commonwealth of Pennsylvania within one hundred twenty days of the adoption of this resolution.

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Abraham Zolotorow and to Mr. and Mrs. Robert Francis Dougherty by Senator Dougherty.

Congratulations of the Senate were extended to Mr. and Mrs. Boleslaw Kwapinski, Mayme Brooky and to Bob Garbark by Senator Dwyer.

Congratulations of the Senate were extended to Mr. and Mrs. Andrew Kreiser, Thomas Menear and to Andrea Yannone by Senator Gekas.

Congratulations of the Senate were extended to Reverend John Herbster by Senator Hager.

Congratulations of the Senate were extended to Naomi Gority by Senator Jubelirer.

Congratulations of the Senate were extended to Daniel Lerro and to Mr. and Mrs. Nicholas Braconaro by Senator Lynch.

Congratulations of the Senate were extended to Amos L. Spangler, W. Herbert Orner, George F. Weaver, D. Edwin Benner, John S. Funt and to Dorothy Epley Kime by Senator Moore.

Congratulations of the Senate were extended to Mr. and Mrs.

Joseph F. Matkovic by Senator Murray.

Congratulations of the Senate were extended to Stanley Fowler by Senator Stout.

HOUSE MESSAGES

SENATE BILLS RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives being introduced, returned to the Senate **SB 743** and **744**, with the information that the House has passed the same with amendments in which the concurrence of the Senate is requested.

The **PRESIDENT**. The bills, as amended, will be placed on the Calendar.

BILL SIGNED

The President (Lieutenant Governor Ernest P. Kline) in the presence of the Senate signed the following bill:

HB 2371.

BILLS ON FIRST CONSIDERATION

Senator **DOUGHERTY**. 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 1623, HB 1076, 1521, 1523, 2007, 2029, 2200 and 2740.

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

PETITIONS AND REMONSTRANCES

Senator **KUSSE**. Mr. President, today at 3:00 o'clock, one of my twin daughters, Jacqueline Moore Kusse, was married to Steven Barnett at the home of her sister in Asheville, North Carolina.

I regret that it was impossible for either my wife or me to be there, but Jackie knows the reasons why we could not and she knows our thoughts were with her.

I am sure my colleagues join me in wishing Jackie and Steve every happiness during their life together. They will be pleased to know the record of their marriage is now a part of the history of Pennsylvania.

(Applause.)

The **PRESIDENT**. Thank you, very much, Senator Kusse.

That record should show also that you have displayed some remarkable dedication to your duties as a Senator in staying here. I think your daughter should be very proud of you.

Senator **BELL**. Mr. President, on September 19th on the floor of the Senate, the gentleman from Berks, Senator O'Pake, called the attention of the Senate to the activities of a newspaper reporter who, at least in my way of thinking, broke the law in order that he could obtain a story. At that time I said I did not think the end justified the means.

Although I have not been able to get my hands on the news reporter's story, I have taken an extract of the Senate Journal and I have forwarded it to the Attorney General of Pennsylvania seeking his advice as to whether the activities of the reporter are illegal in getting a phony Medicaid card and then apparently going to doctors with that card and going to pharmacies with the Medicaid card and receiving prescriptions. I have forwarded the extract copy of the Journal to the Attorney General seeking his advice as to whether such constitutes a crime or not.

I have also requested the Attorney General to refer this matter to the District Attorney of Philadelphia County where the incident took place to see what should be done about it.

I am coming back to the floor of the Senate for this reason: I apparently have hit the sacred calf. The editor of that newspaper made all kinds of derogatory remarks about me, defending swindlers, fraudulent people and everyone else, because I dared to say that a reporter, when he writes a story, should obtain his facts without breaking the law.

Over the weekend I had occasion to put a speech together for a fire company as to what happened thirty-five years ago when the company was founded. I was taken back into the history of World War II. Basically, the ends never justify the means. Otherwise, a man who had a wonderful end, namely the great glory of his country, would have been justified in the extermination of the Jewish race. I am talking of Adolf Hitler who used the same philosophy that any end justifies any means.

My fellow Senators, I do not think that any reporter has the privilege to go out and break the law in order to get a story. Otherwise, what is to stop a reporter from burglarizing my home, your home to find some juicy items to put in a news story?

I am putting this into the record because something was stated earlier—I may have misinterpreted that—that some of us did not have any guts, or something to that effect. I can assure you, Mr. President, every Senator in this room has plenty of intestinal fortitude to say what we believe in and fight for what is right.

ANNOUNCEMENT BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, SEPTEMBER 26, 1978

10:00 A.M.	LOCAL GOVERNMENT (to consider Senate Bills No. 467, 862, 966, 1508; House Bills No. 1022, 1589, 1780, 1936, 2124, 2291 and 2439)	Senate Minority Caucus Room
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10:30 A.M. PUBLIC HEALTH AND WELFARE (to consider House Bills No. 49 and 500) Senate Majority Caucus Room

11:00 A.M. STATE GOVERNMENT (to consider Senate Bills No. 780, 1203, 1639; House Bills No. 406, 1243, 1989, 2362, 2434, 2492 and 2675) Room 350

12:00 Noon RULES AND EXECUTIVE NOMINATIONS (to consider certain Executive Nominations, Senate Resolution No. 122 and House Bill No. 2404) Rules Committee Conference Room

12:30 P.M. EDUCATION (to consider Senate Bills No. 319, 1158, 1638; House Bill No. 2181, 2559 and the agenda from the recessed meeting of Sept. 19th will be completed) Room 188

off the floor LABOR AND INDUSTRY (to consider Senate Bill No. 1636 and House Bill No. 1846)

WEDNESDAY, SEPTEMBER 27, 1978

9:30 A.M. CONSUMER AFFAIRS (Hearing on acts No. 215, 216 of 1976) Senate Majority Caucus Room

ADJOURNMENT

Senator MESSINGER. Mr. President, I move that the Senate do now adjourn until Tuesday, September 26, 1978, at 1:00 p.m., Eastern Daylight Saving Time.

The motion was agreed to.

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