

Legislative Journal

MONDAY, JUNE 2, 1980

Session of 1980

164th of the General Assembly

Vol. 2, No. 35

SENATE

MONDAY, June 2, 1980.

The Senate met at 3:00 p.m., Eastern Daylight Saving Time.

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

PRAYER

The Chaplain, the Reverend T. E. HARPER, Pastor of African Methodist Evangelical Church, Philadelphia, offered the following prayer:

Let us pray:

Dear Lord and Father of mankind, forgive our foolish ways.

Reclothe us in our rightful minds, in purer lives,

Thy service find, in deeper reverence, praise.

Drop Thy still dew of quietness, til all our strivings cease.

Take from our souls the strain and stress, and let

Our ordered lives confess, the beauty of Thy peace.

Our Father God, as we come to the opening of this Session of the State Senate, we pause to ask Thy divine blessings upon each Senator here assembled, upon the President pro tempore of this sovereign body and all other officials charged with the awesome responsibility of directing the affairs of this Legislative Assembly.

In their deliberations, grant them, O God, a vision of this State as fair as she might be.

A State of justice, where none shall prey upon others;

A State of plenty, where vice and poverty and corruption shall never be allowed to fester.

A State of brotherhood, where success shall be founded upon service, and honor shall be given to nobleness alone.

A State of peace, where order shall not rest on force, but love.

We pray for this Legislative Body, who, in conjunction with the House of Representatives, will be called upon to solve the knotty problem of enacting a budget for the operation of this State.

Grant we pray Thee, O God, that these Legislators endowed by God, will find a way to maintain all necessary segments of our State Government without excessive taxation.

We pray for the Governor of this sovereign Commonwealth and his Cabinet, for the President of these United States and his Cabinet and all those associated with him in helping to bring about a Nation whose supreme desire is to serve humanity.

Increase in us, O Lord, a true knowledge of Thy Holy Will, that we may devote ourselves to Thy service in words and

deeds; and that doing Thy will with cheerfulness and diligence, and bearing our trials with patience, we may go on, through Thy mercy into the joy of everlasting life.

Hear our prayer and incline thine ears unto us and give us Thy peace in the name of the Father, Son and Holy Ghost we pray. Amen.

The PRESIDENT pro tempore. The Chair thanks Reverend Harper, who is the guest this week of Senator Hankins.

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

LEAVE OF ABSENCE

Senator SCANLON asked and obtained leave of absence for Senator O'PAKE, for the week, for personal reasons.

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 841, 963 and 1176.

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:

CONTROLLER, CHESTER COUNTY

May 29, 1980.

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 Joseph A. Ryan, 2 Downing Circle, Downingtown 19335, Chester County, Nineteenth Senatorial District, for appointment as Controller in and for the County of Chester, to serve until the first Monday

of January, 1982, vice The Honorable Lawrence E. Wood, confirmed as Judge, Court of Common Pleas, Chester County.

DICK THORNBURGH.

DISTRICT JUSTICE

May 29, 1980.

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 Roland M. Checca, Box 63, Cecil 15321, Washington County, Forty-seventh Senatorial District, for appointment as District Justice in and for the County of Washington, Class 3, District 06, to serve until the first Monday of January, 1982, vice Tony Bartkus, resigned.

DICK THORNBURGH.

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 CLINTON COUNTY
BOARD OF ASSISTANCE

May 29, 1980.

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 February 19, 1980, for the appointment of Gary H. Derr (Republican), 215 West Main Street, Lock Haven 17745, Clinton County, Twenty-third Senatorial District, as a member of the Clinton County Board of Assistance, to serve until December 31, 1981, and until his successor is duly appointed and qualified, vice Michael L. Peters, Renova, whose term expired.

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

DICK THORNBURGH.

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 2237** and **2507**, which were referred to the Committee on Appropriations.

He also presented for concurrence **HB 1671**, which was referred to the Committee on Education.

He also presented for concurrence **HB 1460**, which was referred to the Committee on Judiciary.

HOUSE INSISTS UPON ITS AMENDMENTS NONCURRED IN BY THE SENATE TO SB 86, AND APPOINTS COMMITTEE OF CONFERENCE

He also informed the Senate that the House insists upon its amendments nonconcurrent in by the Senate to **SB 86**, and has appointed Messrs. LEHR, FREIND and F. TAYLOR as a Committee of Conference to confer with a similar committee of the Senate (already appointed) to consider the differences existing between the two houses in relation to said bill.

REPORTS FROM COMMITTEES

Senator SMITH, from the Committee on Appropriations, re-reported, as committed, **SB 265** and **988**; as amended, **SB 989**, **990**, **991** and **992**; reported, as committed, **SB 1432**.

Senator KELLEY, from the Committee on Law and Justice, reported, as committed, **HB 2383**.

Senator MCKINNEY, from the Committee on State Government, reported, as committed, **HB 1408** and **1937**.

RESOLUTIONS REPORTED FROM COMMITTEE

Senator MCKINNEY, from the Committee on State Government, reported without amendment, Senate Resolution, **Serial No. 95**, entitled:

Urging Governor reexamine proposal to utilize proceeds from State Lottery Fund for certain grants and subsidies.

He also, from the Committee on State Government, reported without amendment, Senate Concurrent Resolution, **Serial No. 234**, entitled:

Extending congratulations to Clifford H. McConnell on retirement from State service.

The PRESIDENT pro tempore. The resolutions will be placed on the Calendar.

WELCOME TO SENATOR PAUL MCKINNEY

The PRESIDENT pro tempore. The Chair at this time would like to extend a warm welcome to Senator McKinney. Let us give him a round of applause.

(Applause.)

The PRESIDENT pro tempore. Senator McKinney, we are glad to have you back.

BILLS INTRODUCED AND REFERRED

Senators O'CONNELL, MESSINGER, PRICE, O'PAKE and DWYER presented to the Chair **SB 1436**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," providing for exclusion from tax for the sale at retail of supplies and materials to tourist promotion agencies.

Which was committed to the Committee on Finance.

Senators COPPERSMITH and STAPLETON presented to the Chair **SB 1437**, entitled:

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), entitled "Tax Reform Code of 1971," further providing for an exclusion from tax for the reforestation or the interplanting of woodlots.

Which was committed to the Committee on Finance.

Senator KURY (By Request) presented to the Chair **SB 1438**, entitled:

An Act relating to the licensing of professional sanitarians and the issuance of permits to sanitarian trainees; providing for the establishment of a State Board for Professional Sanitarians and prescribing its authority, responsibilities and func-

tions; regulating sanitarians in general; providing for biennial renewal of licenses; providing methods of enforcement; and establishing penalties for violation of the act.

Which was committed to the Committee on Professional Licensure.

Senators SCHAEFER and MANBECK presented to the Chair **SB 1439**, entitled:

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, establishing a procedure for coroners and medical examiners to provide corneas within the manner of execution of anatomical gifts.

Which was committed to the Committee on Judiciary.

Senators REIBMAN and MESSINGER presented to the Chair **SB 1440**, entitled:

An Act amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for a cost-of-living increase to annuitants.

Which was committed to the Committee on Education.

Senators SCHAEFER, O'CONNELL and BELL presented to the Chair **SB 1441**, entitled:

An Act amending the act of September 27, 1961 (P. L. 1700, No. 699), entitled "Pharmacy Act," providing for deletion of the one year licensure requirement prior to licensure by reciprocity.

Which was committed to the Committee on Professional Licensure.

Senators STAPLETON and HOLL presented to the Chair **SB 1442**, entitled:

An Act amending the act of June 22, 1964 (Sp. Sess., P. L. 84, No. 6), entitled "Eminent Domain Code," making certain provisions of the code inapplicable as to cities of the first and second class.

Which was committed to the Committee on Local Government.

Senator BELL presented to the Chair **SB 1443**, entitled:

An Act amending the act of June 3, 1937 (P. L. 1333, No. 320), entitled "Pennsylvania Election Code," further providing for reporting by candidates and political committees.

Which was committed to the Committee on State Government.

He also presented to the Chair **1444**, entitled:

An Act abolishing the Pennsylvania Turnpike Commission and transferring the powers and duties of the Pennsylvania Turnpike Commission to the Pennsylvania Department of Transportation.

Which was committed to the Committee on Transportation.

Senators ROMANELLI and BODACK presented to the Chair **SB 1445**, entitled:

An Act amending the act of July 23, 1970 (P. L. 563, No. 195), entitled "Public Employee Relations Act," adding maintenance of membership and agency shop provisions.

Which was committed to the Committee on Labor and Industry.

CALENDAR

REPORTS OF COMMITTEES OF CONFERENCE

BILL RECOMMITTED TO COMMITTEE OF CONFERENCE

SB 316 (Pr. No. 1850) — Upon motion of Senator SCANLON, and agreed to, the bill was recommitted to the Committee of Conference.

BILLS OVER IN ORDER

SB 518, 985 and 986 — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

BILLS ON CONCURRENCE IN HOUSE AMENDMENTS

BILLS OVER IN ORDER

SB 506, 759 and 843 — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

THIRD CONSIDERATION CALENDAR

BILL OVER IN ORDER

SB 1060 — Without objection, the bill was passed over in its order at the request of Senator SCANLON.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 1145 (Pr. No. 3428) — Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—49

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

NAYS—0

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

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

SB 1305 (Pr. No. 1845) — Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—49

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

NAYS—0

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

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

SB 1341 (Pr. No. 1818) — Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—49

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

NAYS—0

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

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

SB 1342 (Pr. No. 1819) — Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—49

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

NAYS—0

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

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

SB 1343 (Pr. No. 1722) — 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—49

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

NAYS—0

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

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

SB 1344 (Pr. No. 1820) — Considered the third time and agreed to,

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

On the question,
Shall the bill pass finally?

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

YEAS—49

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

NAYS—0

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

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

SB 1345 (Pr. No. 1703) — 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—49

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

NAYS—0

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

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

SB 1346 (Pr. No. 1704) — 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—49

Andrews,	Hankins,	Loeper,	Reibman,
Arlene,	Hess,	Lynch,	Romanelli,

Bell,	Holl,	Manbeck,	Ross,
Bodack,	Hopper,	McKinney,	Scanlon,
Coppersmith,	Howard,	Mellow,	Schaefer,
Corman,	Jubelirer,	Messinger,	Smith,
Dwyer,	Kelley,	Moore,	Snyder,
Early,	Kury,	Murray,	Stapleton,
Fumo,	Kusse,	O'Connell,	Stauffer,
Gekas,	Lewis,	Orlando,	Stout,
Greenleaf,	Lincoln,	Pecora,	Tilghman,
Gurzenda,	Lloyd,	Price,	Zemprelli,
Hager,			

NAYS—0

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

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

SB 1347 (Pr. No. 1705) — 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—49

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

NAYS—0

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

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

BILLS OVER IN ORDER

SB 1375 and 1376 — Without objection, the bills were passed over in their order at the request of Senator SCANLON.

RECESS

Senator SCANLON. Mr. President, I request a recess of the Senate for the purpose of holding a Democratic caucus and a Republican caucus.

The PRESIDENT pro tempore. Are there any objections? The Chair hears no objection, and declares a recess of the Senate.

AFTER RECESS

THE PRESIDING OFFICER (Eugene F. Scanlon) in the Chair.

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

HOUSE MESSAGES

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives being introduced, presented for concurrence **HB 1155**, which was referred to the Committee on Insurance.

He also presented for concurrence **HB 2362**, which was referred to the Committee on Judiciary.

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

BILLS SIGNED

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

HB 1530, 2000, 2028, 2146 and 2191.

The PRESIDING OFFICER (Eugene F. Scanlon) in the Chair.

THIRD CONSIDERATION CALENDAR RESUMED

BILL ON THIRD CONSIDERATION AMENDED

HB 1840 (Pr. No. 3424)— Considered the third time,

On the question,

Will the Senate agree to the bill on third consideration?

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

Amend Sec. 401, page 28, line 12, by inserting after "(a)": (a)

Amend Sec. 401, page 28, by inserting between lines 29 and 30:

(b) The storage, transportation, treatment, and disposal of hazardous waste are hereby declared to be activities, which subject the person carrying on those activities to liability for harm although he has exercised utmost care to prevent harm; regardless whether such activities were conducted prior to the enactment hereof.

Amend Bill, page 61, by inserting between lines 1 and 2:

Section 611. Presumption of law for civil and administrative proceedings.

It shall be presumed as a rebuttable presumption of law that a person or municipality which stores, treats, or disposes of hazardous waste shall be liable, without proof of fault, negligence, or causation, for all damages, contamination or pollution within 2,500 feet of the perimeter of the area where hazardous waste activities have been carried out. Such presumption may be overcome by clear and convincing evidence that the person or municipality so charged did not contribute to the damage, contamination, or pollution.

Amend Sec. 611, page 61, line 2, by striking out "611." and inserting: 612.

Amend Sec. 612, page 61, line 17, by striking out "612." and inserting: 613.

Amend Sec. 613, page 61, line 26, by striking out "613." and inserting: 614.

Amend Sec. 614, page 62, line 5, by striking out "614." and inserting: 615.

Amend Sec. 615, page 62, line 12, by striking out "615." and inserting: 616.

Amend Sec. 616, page 62, line 21, by striking out "616." and inserting: 617.

On the question,

Will the Senate agree to the amendments?

Senator MELLOW. Mr. President, the amendments I just offered are twofold in purpose. They are basically two parts of the original piece of legislation. Through various committee meetings, one being held by the Committee on Environmental Resources and one being held by the Committee on Appropriations, there were two areas of this particular bill that had been deleted.

The first area is Section 401, paragraph (b) which deals with strict liability. The second section is page 61, Section 611, which deals with the presumption of law for civil and administrative proceedings.

Mr. President, when House Bill No. 1840 was originally drafted by the Department of Environmental Resources, it did include both proposals. Throughout the six months of negotiation and debate in the Senate, it was suggested by the Department of Environmental Resources, after a great number of meetings that they had with various people, that Section 401, paragraph (b) and Section 611, both be deleted from the proposal as we currently have it before us. In fact, Mr. President, the Department of Environmental Resources drafted a series of amendments to include the elimination of both of these proposals.

Mr. President, in the newspaper this morning there were several quotes on the part of people who work for the Department of Environmental Resources where they were totally taken by surprise that these particular amendments have been deleted. I would like to read the one quote.

It says, "We cannot tell you why the deletion was made," said an individual who worked there.

"We did not make it. We thought enough of it to put the section in the original draft."

Another quote by an attorney in their Legal Department states "The Department of Environmental Resources fought like crazy to keep these sections in the bill."

The truth of the matter, Mr. President, is the Department of Environmental Resources asked us to have these particular amendments drafted so we could delete Section 401, paragraph (b) and Section 611.

Mr. President, with the reading in the morning newspaper of the complaints as set forth by two employees of the Department, we felt it would be extremely important so that the Senate make absolutely no mistake in their understanding that neither the Committee on Environmental Resources nor the Committee on Appropriations, two particular committees where amendments have taken place, neither committee suggested these particular amendments, the amendments were proposed by the Department of Environmental Resources. Since, in fact, they went on record to point out that they have no understanding, no reason why these particular amendments have been deleted from the proposal, I felt it was incumbent upon me as Chairman of the Committee on Environmental Resources

sources to offer these two amendments back into House Bill No. 1840 so that hopefully we can consider House Bill No. 1840 on final passage tomorrow.

The one particular amendment was removed, as I stated before, in the Committee on Environmental Resources and another part of the amendment was removed in the Committee on Appropriations.

Senator HAGER. Mr. President, I desire to interrogate the gentleman from Lackawanna, Senator Mellow.

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

Senator MELLOW. I will, Mr. President.

Senator HAGER. Mr. President, would the gentleman inform the Senate whether or not he had reason, prior to reading the article in the Philadelphia Inquirer, to believe the Department of Environmental Resources had in fact agreed to the deletion of the two sections which are under question?

Senator MELLOW. Yes, I did, Mr. President.

Senator HAGER. Would the gentleman inform the Senate whether or not in conversations with DER officials, either the chairman of the department or others, he had been so informed that the department had agreed to the deletion in the interest of time and other matters?

Senator MELLOW. I believe not only did they agree in the deletion as I stated before, Mr. President, they also prepared a number of the amendments and these particular amendments had been included in the deletion upon preparation by the Department.

Senator HAGER. Would the gentleman state then, Mr. President, for the edification of the Senate that the statements which he read in the newspaper today as stating the position of DER came as a complete reversal of their position and a complete surprise to him?

Senator MELLOW. That it did, Mr. President.

Senator HAGER. Mr. President, I have a few more questions. Under these amendments, as I read them, Section 401 is amended so that someone who had, if these amendments were to go into the bill, a prior permit from some Federal or State agency to dispose of waste, would now be under these amendments subjected to liability for that should there be any pollution which occurs from that?

Senator MELLOW. That is correct Mr. President.

Senator HAGER. Mr. President, would it also be the gentleman's interpretation of this that even if that entity, be it a person or corporation or some other business interest, had exercised all possible diligence and care and even though at the time the disposition was made, it was fully and completely lawful and the subject of perhaps a legal contract, he or they still could be subjected to liability, is that correct?

Senator MELLOW. It is my understanding, Mr. President, that that would be the strict liability part of it and I think the gentleman is correct.

Senator HAGER. Mr. President, I would like to point out to the gentleman, and I understand he is offering these amendments at request, as he has stated, with some sense of surprise at the change of position on the part of the Department of Environmental Resources that a presumption is created, I believe,

that the person or entity did pollute or create the hazard and then contrary to any current law on any other subject or in any other field that I can think of in order to extricate themselves from that presumption, they must offer proof which is not just the proof required in ordinary action, but proof by clear and convincing evidence, which as I understand it, is the standard for proving fraud and has not a thing to do with extricating yourself from a charge of negligence, is that correct?

Senator MELLOW. That would be correct, Mr. President, under Section 611 of the proposal, not under Section 401.

Senator HAGER. Mr. President, may I point out to the Members of the Senate that a member of my staff was at a series of meetings having to do with House Bill No. 1840 and the deletion of the two sections which have been the subject of this discussion. I have a memo from her in which she, in a very ladylike fashion, characterizes the statement of DER officials that they "fought like crazy to keep the action in this section of the bill," is just not the facts, just not the truth.

Not only was the gentleman from Lackawanna, Senator Mellow, surprised, virtually everybody who worked in this area was surprised by this change in attitude as expressed in the Philadelphia Inquirer. What concerns me is if they were wrong and now wish to change their mind, the language which they are offering it seems to me creates much more in the way of harm than it does good. How can we say to people of this Commonwealth that even though you had a permit and even though you may have had a contract with somebody to dispose of hazardous waste, and even though you did so under the state of the art available at the time and were as careful as ever could it be asked of you, even though you did everything right, if we are going to pass this law which says we are now going to stick you for the cost of cleaning it all up?

We are dealing, it seems to me, in an art form or a science which is developing and those things which went wrong when people did their absolute best at the time are really a public concern and not a concern of that person or entity who did everything possible to see that the job was done correctly.

There is something wrong, it seems to me, in a Legislature saying to people out there that what we tell you is the law today you may not depend upon being the law tomorrow. Those actions you take today, perfectly lawful, under a contract, under a permit, may subject you to liability tomorrow if we change our minds in the Senate of Pennsylvania.

Mr. President, it seems to me that we owe a responsibility to everybody in this Commonwealth doing business or doing anything else in this business to understand that the law is as we say it is and that if you behave in a way consistent with today's law, you will not tomorrow be held guilty for having done so.

Mr. President, I would urge a negative vote on these amendments.

Senator TILGHMAN. Mr. President, I would like to tell the Members of the Republican caucus that these are not my amendments that we discussed in caucus a few minutes ago.

Mr. President, I have been sitting here debating as to what to do on these amendments. The amendments that I have drafted and talked to the gentleman from Lackawanna, Senator Mellow, about before we went to caucus, took out the word "ultra-

hazardous." I do not know what that means, I am not even sure it is in the dictionary. It also took out the section that says that a company that tries to do a good job and exercises the utmost care is really guilty if something happens to the product that comes from their plant. This is for the lawyers to decide. I did not have that section in the amendments that I wanted to offer. Mr. President, I have great difficulty in accepting that as I have been sitting here debating as to what to do with these amendments. It is important in my district. I have come to the conclusion that we should vote in the negative on these amendments. We should send a bill that has a great deal of good in it to the House of Representatives with the hope that this problem will be worked out.

Mr. President, let me cite an example as I understand it under these amendments. I have a plant and I have hazardous waste. I put the hazardous waste in a lead container that may be six inches thick. My truck is transporting this hazardous waste to an appropriate landfill. An airplane crashes on the truck. It breaks open the container and harm is done. I, or the company that put it in this container as I understand it under these amendments would be liable. I had no control over the airplane, but there is no question that harm was done because of this hazardous material floating around under the ground. I think there is something wrong in that.

Mr. President, I am not a lawyer; I do not understand all of these words about ultimate liability and all this, but it just seems to me that we should vote down these amendments, although I would like parts of the amendments with the hope that we can correct it in the House.

Senator BELL. Mr. President, these are very important amendments. We are into a situation where we have not trod before. I can see the Republican Leader's position as a lawyer. But I can also see the position like in the city of Chester where some person had transported into a riverfront site thousands of barrels containing an unknown substance. Everything went well until they had a fire down there. Dozens of firemen went into a nearby hospital for skin irritation. Then it was found out that this was a very dangerous substance. On one side we have the legal situation of a person trying to do a job, does everything to meet all the requirements as of that date and then something happens and the facts change, the situation changes and people are endangered.

Mr. President, I will give you an analogy. Three Mile Island was all right until they had the incident. Up until the time of the incident at Three Mile Island everybody was doing everything according to the rules. But once something like that happens, it is a new set of rules. We now have the choice of supporting the amendments of the gentleman from Lackawanna, Senator Mellow, to protect the public at any cost against stuff like this, as against what were the rules before.

Yes, Mr. President, the rules have changed. When the rules are changed and people are endangered, then the people cry out for protection. I think that is where we are right now. This is a very difficult vote but I am going to support the gentleman from Lackawanna, Senator Mellow.

Senator ZEMPRELLI. Mr. President, the more I hear of the problems relating to the amendments, my recollection is that

there is a section in tort that would place this into the category of strict liability and I am wondering whether we are not involved with a subject matter that has not already been covered by the body of the law. I feel it is a proper subject matter of a separate bill rather than an amendment to House Bill No. 1840. For that reason, Mr. President, I am going to vote against it with an open mind as to the impact that it would have on the existing law with respect to products liability.

Senator HAGER. Mr. President, the gentleman from Delaware, Senator Bell, raises the issue as though this is a question of whether or not people will be taken care of should something which we thought was right some years ago would now go wrong. So far as I am concerned that is not the issue. Then it is a public health issue. Insofar as I am concerned it must be dealt with publicly. What I am concerned about is saying to people that you may do business in this Commonwealth, but watch yourself because what we tell you is legal today we are going to hold you liable for tomorrow.

Mr. President, it seems to me this is a public issue not a private one. I join with the gentleman from Allegheny, Senator Zemprelli, in saying that frankly we ought to defeat these amendments, pass this bill and if there is a substantial problem on this, then we should deal with it but deal with it publicly.

Senator MELLOW. Mr. President, I realize that we can get extremely emotional when discussing this particular type of a proposal. I also further realize that it is something, I believe, if you talk to five different attorneys, you will get five different opinions as to just exactly what strict liability is and if in fact Section 401, paragraph (b) is strict liability.

Mr. President, I believe we have got to take the initiative to consider the amendments for the one particular purpose and that is the fact that the Department of Environmental Resources, which indicated to us several weeks ago that these particular sections of the bill should be eliminated from the bill, that they would have no problem in deleting those particular amendments.

For some reason, Mr. President, they have taken another look at these two particular sections of the proposal and they have indicated to us through a news article that these two areas of House Bill No. 1840 should not have been deleted and they cannot understand why they have been deleted.

I, for one, Mr. President, have absolutely great difficulty because my staff, I believe, did an excellent job in working on the proposal. I have a great deal of difficulty in trying to understand just exactly why did they take that position. But I believe at this point in time, Mr. President, they have taken that position. The experts in the field are not the Senate Committee on Environmental Resources. The experts in the field are not the fifty individuals who are on this floor this afternoon. The experts in the field, Mr. President, are those who work with it every day of the week within the Department of Environmental Resources. They tell us that Section 401 should be put back into the bill. They tell us that Section 611 on page 61 should be put back in the bill. They tell us that so we in Pennsylvania will not have a possibility of a Love Canal and so that taxpayers' dollars will not be used to take care of these problems. We need these two types of provisions in the bill and I support it and I

ask for an affirmative vote on these amendments.

Senator ANDREWS. Mr. President, I would just like to observe that I hope the Department of Environmental Resources does a lot better job handling the problem of hazardous waste than they do in analyzing the legislation under which they are going to be operating.

And the question recurring,

Will the Senate agree to the amendments?

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

YEAS—33

Arlene,	Hess,	Lynch,	Price,
Bell,	Holl,	McKinney,	Reibman,
Bodack,	Kelley,	Mellow,	Romanelli,
Dwyer,	Kury,	Messinger,	Scanlon,
Early,	Lewis,	Murray,	Schaefer,
Fumo,	Lincoln,	O'Connell,	Smith,
Greenleaf,	Lloyd,	Orlando,	Stapleton,
Gurzenda,	Loeper,	Pecora,	Stauffer,
Hankins,			

NAYS—15

Andrews,	Hager,	Kusse,	Stout,
Coppersmith,	Hopper,	Manbeck,	Tilghman,
Corman,	Howard,	Ross,	Zemprelli,
Gekas,	Jubelirer,	Snyder,	

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

The PRESIDING OFFICER. House Bill No. 1840 will go over, as amended.

SECOND CONSIDERATION CALENDAR

BILL OVER IN ORDER

SB 765 — Without objection, the bill was passed over in its order at the request of Senator ZEMPRELLI.

BILLS ON SECOND CONSIDERATION

SB 1253 (Pr. No. 1558), HB 1527 (Pr. No. 3066) and HB 1528 (Pr. No. 2828) — Considered the second time and agreed to,

Ordered, To be transcribed for a third consideration.

BILL REREFERRED

HB 1608 (Pr. No. 2460) — Upon motion of Senator ZEMPRELLI, and agreed to, the bill was rereferred to the Committee on Appropriations.

UNFINISHED BUSINESS

SENATE CONCURRENT RESOLUTION

WEEKLY ADJOURNMENT

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

In the Senate, June 2, 1980.

RESOLVED, (the House of Representatives concurring), That

when the Senate adjourns this week it reconvene on Monday, June 9, 1980 and when the House of Representatives adjourns this week it reconvene on Monday, June 9, 1980.

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

CONGRATULATORY RESOLUTIONS

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

Congratulations of the Senate were extended to Michael Maynosz by Senator Romanelli.

Congratulations of the Senate were extended to the Reverend Edmund R. Cuneo by Senator Bodack.

BILLS ON FIRST CONSIDERATION

Senator ZEMPRELLI. Mr. President, I move that the Senate do not 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 1432, HB 1408, 1937 and 2383.

And said bills having been considered for the first time,

Ordered, To be laid aside for second consideration.

ANNOUNCEMENTS BY THE SECRETARY

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

SENATE OF PENNSYLVANIA

COMMITTEE MEETINGS

TUESDAY, JUNE 3, 1980

10:00 A.M.	JUDICIARY (to consider Senate Bill No. 1410; House Bills No. 1624, 2184, 2261 and the nomination of Clarence Morrison, Esq., as Judge of the Court of Common Pleas, Dauphin County)	Room 461, 4th Floor Conference Rm., North Wing
11:00 A.M.	URBAN AFFAIRS AND HOUSING (to consider Senate Bills No. 1273, 1368 and House Bill No. 1753)	Room 459, 4th Floor, Conference Rm., North Wing
off the floor	RULES AND EXECUTIVE NOMINATIONS (to consider House Bill No. 1673 and certain Executive Nominations)	Rules Committee Conference Room
4:00 P.M.	Conference Committee on Senate Bill No. 86	Room 459, 4th Floor Conference Rm., North Wing

WEDNESDAY, JUNE 4, 1980

- 9:30 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on House Bill No. 2044) Auditorium, Wm. Penn Memorial Museum, Harrisburg, PA
- 12:00 Noon PUBLIC HEALTH AND WELFARE (to consider Senate Bill No. 778 and House Bill No. 2012) Auditorium, William Penn Memorial Museum, Harrisburg, PA

THURSDAY, JUNE 5, 1980

- 10:00 A.M. LABOR AND INDUSTRY to (Public Hearing on Senate Bills No. 141, 147, 548, 556, 557, 639, 656, 698, 712, 713, 714, 715, 716, 717, 718, 719, 793, 839, 884, 895, 1128 and 1164) Room 461, 4th Floor Conference Rm., North Wing

TUESDAY, JUNE 10, 1980

- 10:00 A.M. EDUCATION (to consider Senate Bills No. 1199, 1204, 1283, 1354 and House Bill No. 586) Room 461, 4th Floor Conference Rm., North Wing
- 10:30 A.M. LABOR AND INDUSTRY (to consider Senate Bills No. 793, 796, 941; House Bills No. 421 and 1859) Room 460, 4th Floor Conference Rm., North Wing
- 11:30 A.M. INSURANCE (to consider Senate Bills No. 1141, 1406 and House Bill No. 2204) Room 460, 4th Floor Conference Rm., North Wing

WEDNESDAY, JUNE 11, 1980

- 10:00 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on House Bill No. 2044) Auditorium, Wm. Penn Memorial Museum, Harrisburg, PA

THURSDAY, JUNE 12, 1980

- 9:00 A.M. LOCAL GOVERNMENT to (Public Hearing on Senate Bills No. 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337 and 1338) Room 461, 4th Floor Conference Rm., North Wing

THURSDAY, JUNE 19, 1980

- 10:00 A.M. Special Senate Committee to Investigate the Laws and Regulations Affecting the Taxation of Public Utilities, which is Senate Resolution No. 68 (Public Hearing) Room 461, 4th Floor Conference Rm., North Wing

FRIDAY, JUNE 20, 1980

- 10:00 A.M. Special Senate Committee to Investigate the Laws and Regulations Affecting the Taxation of Public Utilities, which is Senate Resolution No. 68 (Public Hearing) Room 461, 4th Floor Conference Rm., North Wing

THURSDAY, JUNE 26, 1980

- 10:00 A.M. PUBLIC HEALTH AND WELFARE (Public Hearing on House Bill No. 2044) Auditorium, Wm. Penn Memorial Museum, Harrisburg, PA

ADJOURNMENT

Senator ZEMPRELLI. Mr. President, I move that the Senate do now adjourn until Tuesday, June 3, 1980, at 1:00 p.m., Eastern Daylight Saving Time.

The motion was agreed to.

The Senate adjourned at 6:40 p.m., Eastern Daylight Saving Time.