

COMMONWEALTH OF PENNSYLVANIA

Legislative Journal

WEDNESDAY, MARCH 16, 1983

SESSION OF 1983

167TH OF THE GENERAL ASSEMBLY

No. 16

SENATE

WEDNESDAY, March 16, 1983.

The Senate met at 10:30 a.m., Eastern Standard Time.

The PRESIDENT pro tempore (Henry G. Hager) in the Chair.

PRAYER

The following prayer was offered by the Secretary of the Senate, Hon. MARK R. CORRIGAN:

God, our Father, grant us the presence of Thyself in the Senate Chamber this morning as the lawmakers come together to establish means for betterment of the citizens of Pennsylvania. May they envision help to establish a better relationship to the citizens throughout the world. Amen.

JOURNAL APPROVED

The PRESIDENT pro tempore. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of March 15, 1983.

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

SENATOR STAUFFER TO VOTE FOR SENATOR CORMAN, SENATOR O'CONNELL, SENATOR WILT AND SENATOR SHAFFER

Senator STAUFFER. Mr. President, I would request legislative leaves of absence for Senator Corman and Senator O'Connell, who are in a joint meeting at the present time. I would ask for legislative leave of absence for Senator Wilt, who is at a meeting of the Joint Air, Water and Pollution Control Committee.

I would ask for a temporary leave of absence for Senator Shaffer who is also at a commission meeting.

The PRESIDENT pro tempore. The Chair hears no objection and the leaves are granted.

SENATOR SCANLON TO VOTE FOR SENATOR REIBMAN AND SENATOR SINGEL

Senator SCANLON. I am requesting temporary legislative leaves of absence for Senator Reibman and Senator Singel, who are attending the same meeting.

The PRESIDENT pro tempore. The Chair hears no objection and the leaves are granted.

GENERAL COMMUNICATIONS

BILLS INTRODUCED AND REFERRED

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

March 15, 1983

Senators FISHER, LINCOLN, GREENLEAF and EARLY presented to the Chair SB 461, 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.

Which was committed to the Committee on ENVIRONMENTAL RESOURCES AND ENERGY, March 15, 1983.

March 16, 1983

Senator TILGHMAN presented to the Chair SB 462, entitled:

An Act providing for additional appropriations from the Federal augmentation funds.

Which was committed to the Committee on APPROPRIATIONS, March 16, 1983.

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL OVER IN ORDER AND RECOMMITTED

SB 62 (Pr. No. 62) — The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, granting billing options to certain electric utility consumers.

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

Pursuant to Senate Rule XI, the bill was recommitted to the Committee on Consumer Protection and Professional Licensure.

REMAINING CALENDAR OVER IN ORDER

All remaining bills on today's Calendar not considered were passed over in their order at the request of Senator JUBELIRER.

EXECUTIVE NOMINATIONS**EXECUTIVE SESSION**

Motion was made by Senator LOEPER,

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

Which was agreed to.

NOMINATION TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I call from the table for consideration certain nomination previously reported from committee and laid on the table.

The Clerk read the nomination as follows:

SECRETARY OF THE COMMONWEALTH

January 18, 1983.

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 William R. Davis, 122 Lancaster Boulevard, Mechanicsburg 17055, Cumberland County, Thirty-first Senatorial District, for reappointment as Secretary of the Commonwealth, to serve until superseded.

DICK THORNBURGH.

On the question,

Will the Senate advise and consent to the nomination?

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

YEAS—44

Andrezeski	Hess	Moore	Singel
Bell	Holl	Musto	Snyder
Bodack	Hopper	O'Connell	Stapleton
Brightbill	Howard	O'Pake	Stauffer
Corman	Jubelirer	Pecora	Stout
Early	Kelley	Reibman	Street
Fisher	Kratzer	Rhoades	Tilghman
Greenleaf	Kusse	Rocks	Wenger
Hager	Lloyd	Ross	Williams
Hankins	Loeper	Scanlon	Wilt
Helfrick	Mellow	Shaffer	Zemprelli

NAYS—0

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

Ordered, That the Governor be informed accordingly.

SPECIAL ORDER OF BUSINESS
CEREMONY IN COMMEMORATION
OF ST. PATRICK'S DAY

The PRESIDENT pro tempore. As a Special Order of Business, the Chair recognizes Senator Scanlon.

Senator SCANLON. Mr. President, for the benefit of the newer Members of the Senate, for many years the Forty-second Senatorial District has been delegated the responsibility of singing "Galway Bay" on the floor of this Senate on St. Patrick's Day or as close as we can get to it while we are in Session.

Historically, I guess it was started by Senator Barney McGinnis, who served in this Senate for probably thirty-two years, at least, and sang it every St. Patrick's Day, although legend has it that he was fortified somewhat by stopping down at the old Penn Harris Hotel before going into Session, but that is purely rumor. After Senator McGinnis retired from the Senate, then Senator Lamb took up the mantle of responsibility to sing "Galway Bay" in this Senate. When Senator Lamb retired from the Senate, back in Pittsburgh they did not have the usual committee endorsement proceedings to pick his successor, rather they had an audition and, fortunately or unfortunately, I was selected as the singer.

Today, my good friend and half Irishman, Senator Romanelli, is in the hospital in Pittsburgh. His mother is a redheaded, blue-eyed Irishwoman. With the hope that Jim gets better very quickly, I am going to sing "Galway Bay," and dedicate it to him and I would like his staff to notify him of that today.

(A musical selection was rendered by Senator Eugene F. Scanlon.)

(Applause.)

The PRESIDING OFFICER (William J. Moore) in the Chair.

THE PRESIDING OFFICER. The Chair thanks the songbird from Allegheny County, Senator Scanlon, the man with the green derby. It was very beautiful.

PERMISSION TO ADDRESS SENATE

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

Senator LINCOLN. Mr. President, I was meeting with constituents during the time of the roll call on the confirmation of William Davis for Secretary of the Commonwealth and I would like to be recorded in the affirmative on that vote, please.

THE PRESIDING OFFICER. The remarks of the gentleman will be spread upon the record.

RECESS

Senator JUBELIRER. Mr. President, I would ask for a recess of the Senate at this time and ask that the Republican Members of the Senate be at ease here for a few moments. It is my understanding the gentleman from Allegheny, Senator Zemprelli, has some suggestions regarding the Democratic Members and I will yield to him at this time. I ask the Republicans to just maintain their seats on the floor if they would.

Senator ZEMPRELLI. Mr. President, at the time the Republican Majority Leader requests a caucus, if he is going to, it is important that we have a caucus.

Senator JUBELIRER. Republicans do not need to go to caucus, Mr. President. It is our understanding there is to be a Democratic caucus. If that not be the case, we are ready to go.

Senator ZEMPRELLI. Mr. President, earlier I received a message in my office that seemed to be somewhat confused. I called back and I received information that there would be a

Republican caucus immediately upon coming to the floor. I anticipated having a caucus now and I did not know that your game plan had changed. However, Mr. President, notwithstanding the fact that the Republicans do not wish a caucus, it is imperative that my caucus caucus. So, therefore, I am requesting a caucus at this time.

Senator JUBELIRER. Mr. President, I just want to tell you that I enjoyed hearing the gentleman from Allegheny County, Senator Zemprelli, give his caucus instructions to go to caucus.

THE PRESIDING OFFICER. For the purpose of a Democratic caucus, the Senate stands in recess at the call of the Chair.

AFTER RECESS

The PRESIDING OFFICER (D. Michael Fisher) in the Chair.

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

SENATOR JUBELIRER TO VOTE FOR SENATOR HAGER

Senator JUBELIRER. Mr. President, I request a legislative leave of absence for Senator Hager who is on legislative business in his office right now.

The PRESIDING OFFICER. The Chair hears no objection and the leave is granted.

NOMINATION TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I call from the table for consideration certain nomination previously reported from committee and laid on the table.

The Clerk read the nomination as follows:

SECRETARY OF LABOR AND INDUSTRY

January 18, 1983.

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 Barry Stern, 5600 Munhall Road, Pittsburgh 15217, Allegheny County, Forty-third Senatorial District, for reappointment as Secretary of Labor and Industry, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified.

DICK THORNBURGH.

On the question,

Will the Senate advise and consent to the nomination?

Senator ZEMPRELLI. Mr. President, it has been the expressed policy of the Democratic caucus over the number of years that I had been Majority Leader, as well as now in the capacity of Minority Leader, that absent any specific meritorious objections, the Governor should have his nominees to the Cabinet. That is somewhat different than in nonpolicy type appointments or in many of the other things that we haggle about.

We feel very strongly that in those nominees and the appointments when the party served that, if they do not serve properly, then we have the right and the obligation, as a matter of fact, under this great democratic process, to call attention to the problems that have been created by that administration or which that particular administrator is responsible in his official capacity.

Mr. President, Mr. Barry Stern comes to us with an experience record and, as everyone in this room, all fifty of us, comes to learn about the qualifications and the record of a Cabinet official based upon his relationship with the community.

Mr. President, I do not think it is any secret that I probably represent one of the more labor oriented constituencies in the Commonwealth of which I am very proud. I think the Mon Valley is by far a strong labor oriented district. In my capacity as representing that district, my labor people are very outspoken and they let Eddie Zemprelli know how they feel about what is going on in State government.

Mr. President, the track record of the Department of Labor and Industry under the leadership of Secretary Barry Stern is miserable. This department, by the numbers of people who have, in fact, called upon me personally, is one that can be defined as being totally insensitive to the needs of the laboring class of people. When I probed further into the reasons for that conclusion and evaluation by not only the leadership of labor in that area, but also from the laborer on the street, I have been given a litany of cases in point, none of which relate to discretion among the officers who worked for that department, all of which go to the principles and rudiments of common, ordinary administration and that which we should expect from not only the Secretary of the department, but also those who work for him and under him.

Little things like the payment of checks. Little things like servicing the unemployed who desire to make their claims at a point convenient to them so that they do not incur great expenses in travel with monies that they do not have. The little sensitive things that people in need need and that can be accommodated without any substantial payment or cost to the taxpayers of the Commonwealth of Pennsylvania. It is called caring for people in need. Maybe it is not Barry Stern per se that is responsible for that, but the mantel of responsibility rests with the captain of the ship, and there is only one captain and that captain is Barry Stern. He is entitled to both the accolades and he must suffer the brunt of the criticisms that prevail and are justified.

Mr. President, I am not talking about superficialities. I am talking about people who are desperately in need and their numbers are legion. Mr. President, it is for that reason, absent any political considerations, that I oppose the nomination of Barry Stern.

Senator JUBELIRER. Mr. President, just very briefly, a response to the Minority Leader's rather poignant remarks. I would respectfully disagree with my colleague. I think Secretary Stern has come into a department that I think, frankly, was not in the best of the situation. He replaced the first gubernatorial nominee in this Administration, as I recall a Dr.

Myron Joseph, who was in charge of that department, somebody from academia from the City of Pittsburgh, from one of the great universities there. It was not an easy task for Secretary Stern to come in. I think he has done an admirable job. I think he has worked very hard. I think it is unfortunate that the State's largest labor organization has chosen to oppose him, and I suspect that above anything else would be the major reason why we will see no Democratic votes on behalf of Secretary Stern. I do not know that for a fact, but I am suspecting that that is the real reason that we have. I think it is unfortunate, Mr. President, that a special interest group of any kind, and I do not care what they are, has that kind of influence and power in this State.

I believe that Secretary Stern has worked very hard. I think he has tried to serve the people. I think he has tried to be responsive to constituents of ours and I am sure that as the Minority Leader speaks that he speaks from instances that he has been well aware of. I do not know that is the entire situation. Yes, I think the Governor is entitled to have his Cabinet unless there is an integrity problem or something that is overtly wrong with the individual. I find that Secretary Stern is of the highest integrity and is somebody who has worked diligently to bring that department into a responsive situation—perhaps not doing a perfect job, as I know of nobody in this Administration or any other Administration who does—but I think he deserves the opportunity to serve and continue. He is the Secretary of Labor and Industry, if the Governor wants to maintain him, and whether we would provide the votes or not, he would be the Acting Secretary. I would hope, Mr. President, that everybody would give Secretary Stern the opportunity to serve with confirmation, because I think that is important to him. I would hope that this Body would advise and consent to a nomination of somebody who I think has done the only thing that we can expect of anyone in government or anywhere else: He has tried his very best.

Senator ZEMPRELLI. Mr. President, I very much, respectfully, have to disagree with the Majority Leader, first of all, as to his factual issue. The truth of the matter is that he replaced a very effective Secretary of Labor and Industry. He replaced Charlie Lieberth. I would suggest to the Members of this Senate that if Charlie Lieberth's name was before us for confirmation, Charlie Lieberth would be consented to forthwith. Charlie Lieberth was a notable Secretary of Labor and Industry who worked through the most difficult of times, and that is when we had a serious problem in 1980 with unemployment compensation. Charlie Lieberth did not leave that department in a shambles. I think Charlie Lieberth would enjoy the support of every Member of this caucus as a person who was the antithesis of Barry Stern because he was a sensitive person and he continues to be a sensitive person and we recognized him as a sensitive person to the needs of people when, in fact, he was asked to be the Secretary of Humanities, or something of that kind, and we confirmed his nomination. Mr. President, that is the factual hierarchy of what has happened to the department and the conclusion is that there has been serious, very serious decay, if you may, or decadence in that department since that time. Again I say, the mantle of

that responsibility belongs to the Secretary who has a record that he is placing before us at this time for confirmation.

Mr. President, I simply reiterate the remarks I have said and I would hope the Majority Leader would understand that he was in error in suggesting the previous Secretary had the problems which were inherited by Mr. Barry Stern. I do not believe that to be the fact. I think it is the absolute opposite of that.

Senator ROCKS. Mr. President, one additional point in a very quick rebuttal to the Majority Leader. Along with both leaders, each of us knows the very difficult political task in opposing a Governor's choice to his own Cabinet. However, that is done traditionally as we know with advise and consent of the Senate.

Organized labor in the State of Pennsylvania has its own place in our history and in our future and, in fact, is a part of the greatness of our State. Whether or not the Chief Executive of this State has been a Republican Governor or a Democratic Governor, there has always been the accessibility, in particular, to that office called Secretary of Labor. The seriousness of that concern expressed by the labor leadership of this State is one we have to address in the action today in opposing the nomination of Barry Stern. All of us log in some years before we get to this Chamber. In my eleven years of involvement in State government, because of the very sensitive nature of the role of the Secretary of Labor, the flow of information, the statistical data on almost a daily basis that is needed to both the business sector of our Commonwealth and to labor, we have always viewed that position with a great deal of sensitivity, especially in how we might approach that office. That is not the feeling the labor leadership of this State has. Based on that and because of the historical and future considerations that we have to give to the working men and women of this Commonwealth, I think it is critically important that we stand today in opposition to that nomination.

Senator LINCOLN. Mr. President, I desire to interrogate the gentleman from Blair, Senator Jubelirer.

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

Senator JUBELIRER. I will, Mr. President.

Senator LINCOLN. Mr. President, in the remarks made by the Majority Leader a short time ago, did I understand correctly the Majority Leader is indicating to us the Governor has made a decision that the Secretary-designate will be in that position whether or not he is confirmed by the Senate?

Senator JUBELIRER. No, Mr. President, I did not say that. I said those are the facts as they are right now and he can continue. That is the law. The Governor has nothing to do with that. That is the way we did it. I do not know whether the Governor will withdraw his nomination or leave him in as Acting Secretary.

Senator LINCOLN. Mr. President, would the Majority Leader indicate to me why he would include those types of remarks in a debate which centers around the confirmation on merit and not whether the person would be there by the Governor's choice whether we confirm him or not?

Senator JUBELIRER. Mr. President, no, I cannot respond to a question like that. How did I offer my debate? I offered my debate as factual and it is a fact that if the Governor is of the mind that Barry will continue, he will continue with or without Senate confirmation until we change the law. The gist of my debate is—and as I emphasized it and if it did not come out that way—I just think the Secretary has done the best job he can under the circumstances. As the gentleman from Allegheny, Senator Zemprelli, pointed out that Charlie Lieberth was in the interim, but Barry Stern was part of the Lieberth administration as well as a deputy secretary, really running the day-to-day operations of his department.

Senator LINCOLN. Mr. President, I hate to interrupt the Majority Leader, but I did ask the floor for interrogation and that was not even beginning to be part of the questions that I was asking. I think, if the Majority Leader would care to make those remarks, perhaps he could make those at the conclusion of this interrogation.

Mr. President, is the Majority Leader indicating then in his remarks that his caucus is choosing to ignore the input of millions of Pennsylvanians who have expressed their displeasure with that choice and regardless of whether twenty-five or twenty-six Senators vote for that confirmation, he feels Stern will continue in that capacity?

Senator JUBELIRER. No, Mr. President.

Senator LINCOLN. Mr. President, does the "no" answer indicate that the gentleman believes he will not continue in that capacity if not confirmed?

Senator JUBELIRER. No, Mr. President.

Senator LINCOLN. Mr. President, for somebody that was so wordy a few minutes ago, he sure has changed his approach. Would it be asking too much, Mr. President, to have the Majority Leader to explain that "no" just a little bit further? Perhaps I am a little dense this morning. I am having a hard time understanding what that "no" means.

Senator JUBELIRER. Yes, Mr. President.

Senator LINCOLN. Mr. President, I am waiting.

The PRESIDING OFFICER. Does Senator Jubelirer consent to interrogation?

Senator JUBELIRER. Mr. President, I consent to interrogation, but I agree with everything the gentleman said so far.

Senator LINCOLN. Mr. President, then the gentleman is clearly saying that he will continue in that office whether he is confirmed or not?

Senator JUBELIRER. I did not say that. Mr. President, I have no idea what the Governor's plans are. The gentleman insists on trying to extract from me that which I cannot provide for him. My debate on Secretary Stern was as to his qualifications. We have an honest disagreement on that with the gentleman from Allegheny, Senator Zemprelli. I am satisfied that one special interest group has done this for whatever purpose they choose. I think Barry has done a good job. I do not know what the Governor is going to do. If there are enough votes here to confirm him, he will be confirmed. If there are not enough votes on the floor to confirm him, that is the Governor's, the Chief Executive of this Commonwealth,

constitutional responsibility to either withdraw him or allow him to continue. I cannot answer the gentleman any more than I have. If the answer is not sufficient, it is going to have to be his problem because it is not mine.

Senator LINCOLN. Mr. President, I have a hard time following the debate the Majority Leader is offering us today simply because the gentleman chose to inject into that debate what I would consider a veiled threat that the Secretary will be there whether we vote for him or not. That veiled threat, to me, really means little to this caucus over here, but there are several Members of the Republican caucus that represent very heavy labor oriented areas, and if they choose to ignore that part of their constituency, and if they choose to ignore that part of their constituency simply because they want to follow a party line, which surprisingly they have taken about six weeks to get to this point, the Majority Leader seems to be very impatient to get this over with today. Everyone in the process has been waiting for a long time for his party to put things together to finally come out here and say this is what we are going to do. I would caution all the Members to remember that special interest group he speaks of is a special interest group made up of an awful lot of different types of labor organizations. It is not just one labor organization. The Members who have to make this vote today, I hope they can go back home and explain that to their special interests in their area.

Senator BELL. Mr. President, I was not going to say anything, but I am going to say it now. I am going to vote against Barry Stern and not because of any implications from the gentleman from Fayette, Senator Lincoln. I voted against bringing him to the floor and I am voting against him because the working people in my district do not want him. Also, I felt that some of the labor leaders of some of the unions that supported Thornburgh for Governor do not want him either.

And the question recurring,

Will the Senate advise and consent to the nomination?

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

YEAS—25

Brightbill	Holl	Loeper	Snyder
Corman	Hopper	Moore	Stauffer
Fisher	Howard	O'Connell	Street
Greenleaf	Jubelirer	Pecora	Tilghman
Hager	Kratzer	Rhoades	Wenger
Helfrick	Kusse	Shaffer	Wilt
Hess			

NAYS—20

Andrezeski	Kelley	O'Pake	Singel
Bell	Lincoln	Reibman	Stapleton
Bodack	Lloyd	Rocks	Stout
Early	Mellow	Ross	Williams
Hankins	Musto	Scanlon	Zemprelli

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

Ordered, That the Governor be informed accordingly.

NOMINATION TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I call from the table for consideration certain nomination previously reported from committee and laid on the table.

The Clerk read the nomination as follows:

COMMISSIONER OF THE PENNSYLVANIA
STATE POLICE

January 18, 1983.

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 Daniel F. Dunn, 2941 Greenwald Road, Bethel Park 15102, Allegheny County, Thirty-seventh Senatorial District, for reappointment as Commissioner of the Pennsylvania State Police, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified.

DICK THORNBURGH.

On the question,

Will the Senate advise and consent to the nomination?

Senator WILLIAMS. Mr. President, I rise to express some deep concerns about matters of discrimination within the State Police. I do not intend to dwell on them. I intend to vote for the nominee. I want the record to be clear, however, that within the State Police system there has been a continued problem that I feel has no place in this State with regard to promotion, with regard to treatment, with regard to discrimination based on race.

I would further add that I have, with other Members of this Body, endeavored to get the facts and information and a perspective on that problem. I here now state that the nominee has been more than cooperative, that he and others have grave concern, also, about those matters that continue. I would hope that the Senate would act with me and others to improve and eliminate this condition. I make those remarks because this matter I feel is quite fundamental to our sense of fairness and efficiency in government and, indeed, in law enforcement. Having said that, I want the record to note that I intend to vote for the nominee based on his qualifications and based on his demonstrated substantial concern about this problem, and his promise to work with us to eliminate it.

And the question recurring,

Will the Senate advise and consent to the nomination?

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

YEAS—43

Andrezeski	Hess	Mellow	Singel
Bell	Holl	Moore	Snyder
Bodack	Hopper	Musto	Stapleton
Brightbill	Howard	O'Connell	Stauffer
Corman	Jubelirer	O'Pake	Stout
Early	Kelley	Reibman	Street
Fisher	Kratzer	Rhoades	Wenger
Greenleaf	Kusse	Rocks	Williams
Hager	Lincoln	Ross	Wilt
Hankins	Lloyd	Scanlon	Zemprelli
Helfrick	Loeper	Shaffer	

NAYS—2

Pecora Tilghman

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

Ordered, That the Governor be informed accordingly.

NOMINATION TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I call from the table for consideration certain nomination previously reported from committee and laid on the table.

The Clerk read the nomination as follows:

SECRETARY OF PUBLIC WELFARE

January 18, 1983.

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 Walter W. Cohen, Esquire, 2004 Addison Street, Philadelphia 19146, Philadelphia County, Eighth Senatorial District, for appointment as Secretary of Public Welfare, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified, vice The Honorable Helen B. O'Bannon, Pittsburgh, resigned.

DICK THORNBURGH.

On the question,

Will the Senate advise and consent to the nomination?

Senator ZEMPRELLI. Mr. President, I rise as, more or less, a matter of information as to an understanding of why there may be some negative votes on this side. The question recurs as to the propriety of our acting upon this nomination because of the peculiar circumstance that involves Secretary Cohen. I, for one, am supportive of his candidacy. I think he has done a decent and excellent job and, at our hearings, I was satisfied with the responses that he made.

However, the office that he presently holds has a unique provision in its creation relating to the ability of that party to hold other political office, and I do not want to get into the matter to delay the proceedings here today. It gives rise to the very serious question as to whether he, as the Consumer Advocate, can, in fact, accept the Office of Secretary of Public Welfare, and gives rise to the inherent definition of whether or not that office is a political office.

My personal evaluation, thirty years of practicing the law, is that it is purely a political office. However, that opinion has no standing except as to my own household. The question is that some of us may, however, want to raise this question in a judicial proceeding where it properly belongs. Therefore, there will be at least two votes in the negative on the Democratic side, which are not to be interpreted as being against the nominee on the basis of his credentials and qualifications but, however, to be entered for the purpose of giving rise to a suit which, of necessity, must have parties who voted in opposition to the individual. I will be one of the negative votes for that purpose only.

Senator BELL. Mr. President, for one to vote against Mr. Cohen, the Secretary of Welfare, because of lousy drafts-

manship in a bill that originated in these Chambers to me is punishing the wrong person. Mr. Cohen, without that bill, surely could be appointed. The bill speaks of political office. It does not define what a political office is. Each one of the fifty Senators in here can interpret political office any way they want because we did a sloppy job of draftsmanship and I am one of the ones to blame because I was a Member of the committee, and I do not think that we should visit this blame on Mr. Cohen's back. He is an outstanding man; he has been an outstanding Consumer Advocate. I think we should vote for him and say, "God bless you, because you are going into a job that is nothing but a basket of snakes."

Senator KELLEY. Mr. President, I share in joining the comments made by the gentleman from Allegheny, Senator Zemprelli, in this nomination and shall accordingly vote in the negative. I do not want anybody to misconstrue my position as an attempt to punish Mr. Cohen. I do not believe anyone in this Body would want to punish anybody for anything. The question is whether or not we are going to participate and allow the groundwork to be laid for a legitimate test judicially to interpret the law that we may have sloppily constructed, but nonetheless must now be construed. This is the only manner with which we can do it.

Senator PECORA. Mr. President, due to poor legislative draftsmanship, as stated by the gentleman from Delaware, Senator Bell, I feel that this vote, if we approve it, is only to waste taxpayers' dollars with a court case, and I will vote in the negative.

Senator WILLIAMS. Mr. President, I just want to be on record as entirely agreeing with the gentleman from Delaware, Senator Bell.

And the question recurring,
Will the Senate advise and consent to the nomination?

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

YEAS—41

Andrezeski	Holl	Moore	Singel
Bell	Hopper	Musto	Snyder
Bodack	Howard	O'Connell	Stapleton
Brightbill	Jubelirer	O'Pake	Stauffer
Corman	Kratzer	Reibman	Stout
Early	Kusse	Rhoades	Street
Fisher	Lincoln	Rocks	Tilghman
Greenleaf	Lloyd	Ross	Wenger
Hager	Loeper	Scanlon	Williams
Hankins	Mellow	Shaffer	Wilt
Helfrick			

NAYS—4

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

Ordered, That the Governor be informed accordingly.

NOMINATIONS TAKEN FROM THE TABLE

Senator LOEPER. Mr. President, I call from the table for consideration certain nominations previously reported from committee and laid on the table.

The Clerk read the nominations as follows:

SECRETARY OF REVENUE

January 18, 1983.

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 James I. Scheiner, 707 South Front Street, Harrisburg 17104, Dauphin County, Fifteenth Senatorial District, for appointment as Secretary of Revenue, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified, vice The Honorable Robert K. Bloom, Mechanicsburg, resigned.

DICK THORNBURGH.

INSURANCE COMMISSIONER

January 18, 1983.

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 Michael L. Browne, 854 Carpenter Lane, Philadelphia 19119, Philadelphia County, Fourth Senatorial District, for reappointment as Insurance Commissioner, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified.

DICK THORNBURGH.

SECRETARY OF HEALTH

January 18, 1983.

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 H. Arnold Muller, M.D., 354 East Chocolate Avenue, Hershey 17033, Dauphin County, Fifteenth Senatorial District, for reappointment as Secretary of Health, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified.

DICK THORNBURGH.

SECRETARY OF GENERAL SERVICES

January 18, 1983.

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 Walter Baran, 200 Butler Road, Frackville 17931, Schuylkill County, Twenty-ninth Senatorial District, for reappointment as Secretary of General Services, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified.

DICK THORNBURGH.

SECRETARY OF ENVIRONMENTAL RESOURCES

February 7, 1983.

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 Nick DeBenedictis, 642 Randall Circle, Hummelstown 17036, Dauphin County, Fifteenth Senatorial District, for appointment as Secretary of Environmental Resources, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified, vice The Honorable Peter Duncan, III, Millerstown, resigned.

DICK THORNBURGH.
SECRETARY OF EDUCATION

January 18, 1983.

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 Robert C. Wilburn, R. D. 3, Blairsville 15717, Indiana County, Forty-first Senatorial District, for appointment as Secretary of Education, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified, vice The Honorable Robert G. Scanlon, Warminster, resigned.

DICK THORNBURGH.
SECRETARY OF COMMUNITY AFFAIRS

January 18, 1983.

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 Shirley M. Dennis, 1656 Easton Road, Willow Grove 19090, Montgomery County, Twelfth Senatorial District, for reappointment as Secretary of Community Affairs, to serve until the third Tuesday of January, 1987, and until her successor shall have been appointed and qualified.

DICK THORNBURGH.
SECRETARY OF COMMERCE

January 18, 1983.

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 James O. Pickard, Sr., 1263 Wheatland Avenue, Lancaster 19603, Lancaster County, Thirteenth Senatorial District, for appointment as Secretary of Commerce, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified, vice The Honorable Geoffrey Stengel, Haverford, resigned.

DICK THORNBURGH.
SECRETARY OF BANKING

January 18, 1983.

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 Ben McEnteer, 814 North Monroe Street, Titusville 16354, Crawford County, Fiftieth Senatorial District, for reappointment as Secretary of Banking, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified.

DICK THORNBURGH.

SECRETARY OF AGRICULTURE

January 18, 1983.

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 Penrose Hallowell, Route 611, Ottsville 18942, Bucks County, Tenth Senatorial District, for reappointment as Secretary of Agriculture, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified.

DICK THORNBURGH.
SECRETARY OF AGING

January 18, 1983.

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 Gorham L. Black, Jr., 521 Shield Street, Harrisburg 17109, Dauphin County, Fifteenth Senatorial District, for reappointment as Secretary of Aging, to serve until the third Tuesday of January, 1987, and until his successor shall have been appointed and qualified.

DICK THORNBURGH.

On the question,
Will the Senate advise and consent to the nominations?

Senator SINGEL. Mr. President, as a Member of the Committee on Aging and Youth, I have had the opportunity to be actively involved in a range of issues relating to the elderly in Pennsylvania, from the proper disbursement of lottery funds to individual problems in my district. I want to say from the outset that the legislative support that we have gotten from some of the people has been very good and the professional manner of the directors of the area agencies on aging has been outstanding in my viewpoint. I work closely with them.

A problem that I see, Mr. President, is there seems to be an absence of policy direction coming from the Department of Aging in Harrisburg. It is my frank judgment that the current Secretary, Gorham Black, is a bit overcautious and perhaps a little too complacent. I have a few examples that I would like to just briefly mention.

Last year the Department of Public Welfare promulgated regulations that would re-define skilled care for patients in our nursing homes. The effect of this regulation is that 17,000 senior citizens are going to be downgraded to just basic levels of nursing home care. I was a little concerned at the hearing of the Committee on Aging and Youth when Secretary Black indicated that that was an acceptable kind of position. I am concerned that there was not a more forceful outcry coming from the Department of Aging at the time those regulations were promulgated.

There is also the problem we have been advocating for several years about the need for prescription drugs for senior citizens and need for a program of co-pay prescription drugs. Without such a system, many of our elderly are going without medicine that they simply cannot afford. Such a program has been suggested by the gentleman from Philadelphia, Senator Lloyd, and others for many years now, and the Secretary has

been lukewarm at best. It has only been in recent weeks that he has embraced the concept which I consider to be an encouraging note, but I think that his support was too little too late.

A third item which disturbs me greatly is that on February 9th, of this year, Secretary Black came out very forcefully and courageously, I thought, opposing the Governor's plan to raid the Lottery Fund to the tune of \$150 million a year to pay for his mortgage assistance program. One day later, on February 10th, Secretary Black was quoted as saying he had reversed himself. I am concerned that the Secretary appears to be malleable when we have such an incredibly important issue to the senior citizens of the Commonwealth. It is not that Gorham Black has made a number of glaring mistakes—far from it—I think he has been a steady team player who has been careful not to make waves. I think he is to be commended for the administration of the department, but I am concerned because what we need for the senior citizens in Pennsylvania is not a caretaker, but an advocate and a strong advocate. For example, the Administration calls for changes in the escheats law. That is going to affect dormant accounts of many senior citizens and there is no particular outcry coming from the Department of Aging. The Administration calls for withholding ten percent of the taxes on savings. Many of our senior citizens have such accounts that will be taxed and the taxes will be withheld. There is no direction coming from the department. These and other things give rise to a concern that I think can be addressed. It is my hope that in the coming weeks and months that we can form a closer working relationship and that we can work more effectively for the good of our senior citizens in this State.

I have already noticed that, during this Session, several people have introduced some far-reaching legislation affecting the elderly with regard to the disbursement of lottery funds. The gentleman from Cumberland, Senator Hopper, has introduced a bill as have the gentleman from Chester, Senator Stauffer, and the gentleman from Philadelphia, Senator Lloyd, and I also have some proposals that are going to greatly call for an expansion of services in the area of both the elderly needs and the youth needs in this State.

The question that arises is, "Is Gorham Black the man for the job?" I think he can be. I like the man personally. I think he has a lot of good personal characteristics and I am hopeful that by serving notice in this manner we can come to a point where he is going to be more aggressive in his service to the senior citizens of this State. I am hoping this will produce that desired effect and I look forward to working closely with him and with the Majority Members of the Committee on Aging and Youth. I intend to vote "yes" and I hope that we can work closer together for the benefit of our senior citizens.

Senator LOEPER. Mr. President, I feel it is incumbent upon me, serving as the former Minority chairman of that committee as well as currently the vice-chairman of that committee, to take issue with my colleague as far as the performance of Secretary Black in his particular capacity in that department. Secretary Black is the first Secretary of that department that was created by this Legislature and put in place in July of 1979. I believe the job he has done in that

short period of time has been a very admirable one. I think if we examine the record we will find he has been one of the most accessible secretaries. He is one that cares about what is going on out in the field. We talk about the area agencies on aging; he is a man that is out there and seeing what is going on in all parts of Pennsylvania. I believe he has certainly set a direction and a goal for that department and has quite well served as an advocate of the senior citizens of this Commonwealth. I think we have made great strides under his leadership in that department. I am certain he will continue to function in that type of capacity. I would ask for an affirmative vote not only for Secretary Black but also for all the previous nominees who are called up at this time.

Senator LLOYD. Mr. President, on the issue of the Secretary of the Department of Aging, I rise as the Minority Chairman of the Committee on Aging and Youth in the Senate and I do not rise to oppose Secretary Black. However, there have been some legitimate expressions of concern that I personally feel, as well, regarding the strength of advocacy on behalf of Pennsylvanians that has taken place by the Secretary and the department. Those concerns must be stated. They must be stated, Mr. President, during a period when the utilization of lottery funds for other purposes, such as the home foreclosure program, have cast an uncertain air above the direction of the lottery funds and their use.

Mr. President, it must be pointed out that when the use of lottery funds to provide the financial base for the area agencies on aging rather than the utilization of the general fund monies for that, represents another concern for Pennsylvania's elderly. Mr. President, when nursing home regulations and guidelines that affect the definitions of skilled versus intermediate care has such a direct impact on Pennsylvania's elderly, we, and the Department of Aging and the Secretary of Aging as an advocate for the elderly, have a responsibility to speak out to present constructive alternatives to defend those things which are so important to Pennsylvania's senior citizens.

In the area of prescription drugs, Mr. President, there has been an ongoing cry by Pennsylvanians, and elderly Pennsylvanians specifically, for help in this area. The position of the department has been unclear and currently is apparently in favor of that program. We would hope that that position is converted into again a strong advocacy on behalf of those who require this help in this important area.

We would hope, Mr. President, that on an ongoing basis on the kinds of issues that the gentleman from Cambria, Senator Singel, has outlined, that the department and the Secretary would not simply respond to things as they come up, but to identify needs to present clearly defined alternatives, to pursue them aggressively in the Executive Branch and the Legislative Branch to carry that message to the people of Pennsylvania so that we can best serve the needs of those over two million people in Pennsylvania who are above the age of sixty. It is on this basis, Mr. President, that I express concerns of myself and some other Members of the Democratic caucus and the community at large.

Again, I do not rise to oppose the Secretary and will be voting in favor of his nomination. However, I must indicate that we will carry the mantel of our responsibility to continue to prod for the type of advocacy we all believe is critical to the process.

And the question recurring,
Will the Senate advise and consent to the nominations?

YEAS—45

Andrezeski	Holl	Moore	Singel
Bell	Hopper	Musto	Snyder
Bodack	Howard	O'Connell	Stapleton
Brightbill	Jubelirer	O'Pake	Stauffer
Corman	Kelley	Pecora	Stout
Early	Kratzer	Reibman	Street
Fisher	Kusse	Rhoades	Tilghman
Greenleaf	Lincoln	Rocks	Wenger
Hager	Lloyd	Ross	Williams
Hankins	Loeper	Scanlon	Wilt
Helfrick	Mellow	Shaffer	Zemprelli
Hess			

NAYS—0

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

Ordered, That the Governor be informed accordingly.

EXECUTIVE SESSION RISES

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

The motion was agreed to.

UNFINISHED BUSINESS

BILLS IN PLACE

Senator LLOYD presented to the Chair a bill.

Senator HELFRICK presented to the Chair a bill.

RESOLUTION IN PLACE

Senator ROCKS presented to the Chair a resolution.

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 Marty Caruso by Senator Bell.

Congratulations of the Senate were extended to Edwin A. Morin, Ronald Ray Dorula and Eric Jarzynka by Senator Lincoln.

Congratulations of the Senate were extended to the Torresdale Boys Club by Senator Lloyd.

Congratulations of the Senate were extended to David E. Setzer by Senator Mellow.

Congratulations of the Senate were extended to Mr. and Mrs. Wray Lyle and to Mr. and Mrs. Clinton M. Renz by Senator Stout.

PETITIONS AND REMONSTRANCES

Senator SNYDER. Mr. President, this comes as something of an anticlimax to the debate that centered on Secretary Black, but I do think we ought to give some thought to whether we are moving in the right direction of this advocacy within the State government itself. I realize how strongly several of the Members of this Body feel that Secretary Black should be a vigorous, dynamic and articulate advocate of many things for the aged. But, if we expect him to do that, we are going to inevitably find him in conflict with several other departments and we must ask ourselves whether there is any lack of advocacy around. Certainly the Members of this Body have expressed themselves very strongly and there is no lack of ability on their part to do it. There is the added fact that citizens as a whole are very active advocates themselves. They have the right of free speech, they have the right of association, and they certainly exercise it. I think we are putting an undue burden on the Cabinet members if, in addition to asking them to administer their departments and to express their opinions when called upon, and certainly in that case Secretary Black would be an appropriate person to be called upon, we ask them to be constantly exercising their lungs on behalf of causes that some segment or other of the population wants. I think that would be a miscarriage of the system of government we have. I would only ask that the gentlemen who expressed that would rethink their position and, if possible, modify it.

Senator REIBMAN. Mr. President, most of my colleagues in the Senate are aware of my long-term interest in and concern over our State's water resources. Two years ago, as my colleagues will recall, I introduced a series of bills designed to remedy a wide range of water resource problems. Foremost among these was a proposal to float a \$100 million bond issue to provide rehabilitation loans for water supply companies.

On June 1, 1981, the Governor proposed a \$300 million bond issue for essentially the same purposes. This initiative was ultimately approved by the voters and the enabling legislation was enacted.

In an apparent oversight, the Water Facilities Loan Board was not provided funding for its start-up costs. This explains, I believe, in large part, why, to date, no loans have been made and no bonds have been issued. I have introduced a bill to correct this oversight to get the loan program back on track.

However, the reason I rise today is to speak of other critical legislation affecting our water resources. I speak specifically on Senate Bill No. 201, which would give Pennsylvania primary enforcement responsibility for the Federal Safe Drinking Water Act.

A recent Department of Environmental Resources study showed that of the 2,400 water supply systems in Pennsylvania, 255 needed filtration plants; and another 62 have filtration deficiencies. There have been numerous reports of contamination in public water systems throughout the State, including the intrusion of known carcinogens such as TCE and toxaphene. In fact, in every year since 1973 through 1981, Pennsylvania led the Nation in the incidence of water-borne diseases. Since 1981, we have ranked second in the Nation in this terrible category.

The Water Facilities Loan Program will be a significant tool in redressing these problems. State primacy will also be invaluable.

In 1974, the Federal government enacted the Federal Safe Drinking Water Act. The purpose of the act was "to assure that water supply systems serving the public meet minimum national standards for protection of public health."

The Environmental Protection Agency promulgated drinking water standards which are binding on all water companies in each State. The Federal act, however, envisioned that the States would assume reenforcement responsibility for the act.

Historically, acting as the overseer of local water systems has traditionally been a State function. In the wake of enactment of the Federal Safe Drinking Water Act, most States did accept primacy. Only five States in the Nation do not now have primacy. Only one industrial State does not have primacy; that State being Pennsylvania.

Instead, Pennsylvania continues to operate under an outdated archaic 1905 statute. We are in the ironic position of having strong Federal standards with no Federal enforcement capability, at the same time that we have weak State standards with a strong State enforcement program. Consequently, local governments and water companies are trapped by duplicative overlapping programs. Managerial efficiency and eliminating bureaucratic overlap alone are sufficient reasons for seeking primacy. But there are other more compelling reasons for seeking primacy.

Perhaps the most compelling argument for primacy is the public health concern. Pennsylvania has more untreated surface water supply systems than any other State in the Nation. We have led, as I said, or been second among the States in the incidence of water-borne diseases. The health consequences to the public and the economic consequences of water-borne illness should be of concern to those of us who set public policy.

It is a wonder to me that Pennsylvania has not accepted primacy, but we have not.

Over the years there have been three arguments used against accepting primacy. First, it has been charged that the Department of Environmental Resources lacks the talent and equipment to rigorously enforce the Federal standards. While this may have been true as recently as three years ago, it is not true today. Over the past three years the State of Pennsylvania has accepted over \$1 million in Federal funds to upgrade departmental staff and services in anticipation of Pennsylvania accepting primacy. The department today is well-equipped to run a safe drinking water program.

Secondly, there has been a concern that acceptance of primacy would cost the State an inordinate amount of money. This is also untrue. For fiscal year 1983-84, there will be \$886,900 available from the Federal government to operate a safe drinking water program. If we do not accept primacy this money will not be available to the State.

The Federal support will permit DER to move employees from State funded to Federally funded positions. Of course, if Federal funds were not forthcoming, the State would have to bear the entire personnel costs associated with primacy.

According to DER sources, if the State were to assume full fiscal responsibility for enforcement under the Federal act, the additional cost to the State would only be \$100,000. This \$100,000 would be a small price to pay for safe drinking water.

The final argument which has been used against accepting primacy is the fear that primacy will impose extraordinary cost on water companies. First let me say that accepting primacy does not change the obligations currently imposed on a water company, it only changes who is responsible for enforcing those obligations. A 1981 consultant study prepared for DER found that "the economic impact of the Safe Drinking Water Act on these small water systems is less than \$10 million." Of course, the needs of water supply companies go beyond bringing existing facilities in conformance with safe drinking water standards. But that is the very reason that we pass a \$300 million loan program and the Community Facility Grant Program, the State is, therefore, making a significant financial commitment to these companies. Moreover, Federal funds are indeed available and, if the State accepts primacy, additional Federal money will be available to these same water companies.

There are compelling reasons to support primacy. There are not strong reasons to oppose it. There is one final argument in favor of primacy.

One need not look beyond the newspaper headlines of the past few weeks to realize the folly of relying on the Environmental Protection Agency to enforce safe drinking water standards. Regardless of party affiliation, we should all realize that we cannot afford to rely on that Federal agency to enforce a statute which they were never intended to enforce in the first place.

Mr. President, on several occasions I have said that enactment of a Pennsylvania safe drinking water law will be my first priority this Session. I would hope that my colleagues in the General Assembly would join me in this effort. Together we can help ensure that future generations of Pennsylvanians receive a birthright of safe, clean drinking water, which will also enhance the economic climate of this Commonwealth.

Senator BELL. Mr. President, yesterday the Committee on State Government had a rather heated dialogue concerning Senate Bill No. 175, and this bill has been reported to the floor. The only reason I am taking up this "happy hour" time is to alert the Members of the Senate who are concerned what this bill does. This bill attempts to do indirectly what is prohibited to be done directly. It is entitled "Freedom of Speech of Candidates," and what it really is aimed at is to rescind one of the canons of judicial ethics as prescribed by the rule of the Supreme Court. Namely, that a judicial candidate cannot engage in controversial subjects such as a judge coming out and campaigning, or a judicial candidate coming out and campaigning that if he is elected judge every murderer will burn, and things like that.

I stated to the committee, although I voted to bring the bill out so all of us could make a decision, that only the Supreme Court has a right to determine this item which is a matter of a canon which had been adopted by rule. I call attention of the

Senate to Article V, Section 10(c) which gives the Supreme Court the power to prescribe general rules. They did so with the canons of judicial conduct. The last sentence of that paragraph reads, "All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions."

So, here under the guise of freedom of speech, under an amendment to the election law is an attempt to circumvent what has been prescribed by rule of the Supreme Court, and I think that this matter should be brought up to both caucuses and, very frankly, I think the bill ought to go to the Committee on Judiciary where they would have the lawyers go over it.

Senator ROCKS. Mr. President, I had a bit of a debate with myself regarding this year's St. Patrick's Day. In growing up Irish and Catholic in the City of Philadelphia, I have come to know St. Patrick's Day as a day of great joy, lighthearted merrymaking, much fun, singing and dancing, and the sharing of a heritage on a day when the whole country turns Irish.

I was reading the final paragraph of a well known novel called "Trinity" last night. I will share it with you. The final paragraph says, "When all this was done, a republic eventually came to pass but the sorrows and troubles have never left that tragic lovely land. For, you see, in Ireland there is no future only the past happening over and over."

As the spirit of St. Patrick's Day entered our own Chamber today with the very beautifully rendered "Galway Bay" in the terrific tradition of the Senate of Pennsylvania as given by the gentleman from Allegheny, Senator Scanlon, I continued to debate with myself because a subtle change certainly has crept into part of the celebration. It was evidenced on Sunday in the City of Philadelphia at the great St. Patrick's Parade where the Honorary Grand Marshal for that parade was Michael O'Rourke.

Then I was jarred yesterday by a very well-known black columnist in the Philadelphia Daily News, Chuck Stone. And Chuck Stone put it very succinctly when he said, "This year the Irish decided to get serious about their holiday."

The debate is going on within myself because it certainly is a great day for the Irish tomorrow, a great day to share that very beloved heritage and all the honored and happy traditions which we know that as a people we share a faith that unites us in life and death, and certainly in a life to come. But somehow today, I must make comment along with the resolution that has received the support of both Democratic and Republican Senators from our own State. The comment, I guess, links me to my very own grandfather, Patrick Rocks, a Tyrone man, definitely an American, a railroad worker. His son was a fireman in the City of Philadelphia. In understanding our tradition, understanding where we all came from, there is a particular great honor to stand on this floor today for sure. My grandfather did not live to see that. My father has, and I shared the debate I have been having with myself with my own father on Sunday morning at breakfast. He was a little upset with me that I would infringe on what is the happiness and the joy-making in the great Irish spirit of St. Patrick's Day by making comment of what is so obviously a controversial issue.

I have concluded the debate with myself with submitting a resolution that, in fact, memorializes the United States Congress to investigate the activities of the Bureau of Immigration and Naturalization regarding the detention of Michael O'Rourke in a Federal prison since 1979, charged with overstaying his visa, denied the right to counsel, held in continuous detention without bail, denied visitors and other obvious harassments.

In explaining this for these few moments today, I am very, very aware of my own heritage as are the Scanlons, the Stapletons and the Kelleys, and many others in this very Chamber. Mr. President, I feel compelled, given that great tradition, to remember that my grandfather, who worked on the Pennsylvania Railroad, because if you spoke a little funny brogue that is where you worked unless you were sent to the mines of the great northeast of Pennsylvania or unless your grandmother, in order to make it all come together, signed on for tidying up some other person's home after cleaning her very own. Having come from that tradition in the American experience, having, each of us, served our own time in giving to this Nation and, very, very proudly as an Irish-American today on the floor of this Senate, to know that an injustice can exist in our very own system by our very own Federal government, that goes without much attention, has brought me to a conclusion of the debate with myself.

I hope and I pray, along with all those celebrating the great St. Patrick's Day tomorrow, that the resolution before this Senate of Pennsylvania will be considered by the United States Congress and that for the sake of all that is free in this world and that we as a Nation have come to stand for, we address that issue.

Chuck Stone perhaps said it best yesterday with his concluding paragraph when he said, "Let Erin go bragh, Ireland forever, find justice when everybody in Northern Ireland can enjoy freedom."

ADJOURNMENT

Senator JUBELIRER. Mr. President, I move that the Senate do now adjourn until Monday, March 21, 1983, at 2:00 p.m., Eastern Standard Time.

The motion was agreed to.

The Senate adjourned at 1:16 p.m., Eastern Standard Time.